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## “Get on the Ground!”

Policing, Poverty, and Racial Inequality in Tulsa, Oklahoma



# **“Get on the Ground!”: Policing, Poverty, and Racial Inequality in Tulsa, Oklahoma**

**A Case Study of US Law Enforcement**

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## **A Case Study of US Law Enforcement**

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## Summary

Isabella Shadrack (pseudonym), a schoolteacher, was leaving a friend's home in North Tulsa with her 7-year-old daughter in the car when police signaled for her to stop. She pulled her car to the side of the road, knowing she had done nothing wrong and wondering why police were stopping her. She consoled her frightened daughter, telling her everything would be fine.

An officer slowly walked up to her. More police cars pulled up, with bright lights shining on her. She became increasingly scared. Then, she heard a voice over a megaphone telling her “step out of the car with hands visible.” She obeyed, then saw guns pointed at her. The officers signaled her to walk to the curb. They took her identification, still pointing guns at her. Her daughter rolled down a window and cried out, “Please don’t shoot my mom!”

After a while, one officer came up and said her car visually matched one reported stolen, but she did not match the suspect. The car belonged to Shadrack and had not been reported stolen, so running the license plate, something officers easily do from their patrol cars, would have quickly confirmed it was hers. There was nothing unusual about the car to otherwise raise suspicion.

The officers eventually holstered their guns and let Shadrack leave, but she was badly shaken.

This encounter caused her to change driving habits so she could avoid going through North Tulsa, which she described as “over-policed.” Though she grew up in that section of town, which has the highest concentration of black residents in the city, and has friends and family there, she now stays away as much as possible. If police are behind her, she proactively pulls over to let them pass.

Her daughter suffered extreme anxiety for about a year after the incident, hyperventilating when she would see police cars, putting her fingers in her ears and telling her mother to slow the car. Her daughter told Shadrack that she would not want to go to the police if something happened because she worried that they might think she had done something

wrong and might shoot her. Shadrack regrets that she cannot reassure her daughter that they would not harm her.

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Shadrack's experience with the police, as a black person, is not unusual in North Tulsa and in other parts of the city where black people and poor people live. In fact, Shadrack's experience is not unusual for people of color throughout the country. Nor is it a new experience—the United States has a long history of unjustified police intimidation and violence, particularly directed against people of color and poor people.

Several killings of civilians by Tulsa law enforcement officers in recent years have received prominent local and national attention, especially the killings of Terence Crutcher and Joshua Barre. Crutcher, an unarmed black man, was killed by an officer on a North Tulsa street in video-taped incident. Barre was shot by both Tulsa Police and Tulsa Sheriffs who had followed him for about a mile without containing him as he walked to a store carrying two kitchen knives. These killings have sparked angry, though peaceful, protests. They have also prompted city-wide conversations about the role and conduct of police, and about inequalities in Tulsa. These conversations are part of a larger debate throughout the US about the role of police in addressing societal problems, and about how fairly police treat poor people and people of color.

Tulsa has a serious crime problem, in particular high rates of homicide, rape, and domestic assault. Tulsa's rates of violent crime are well over the national average. However, police tactics have bred distrust and driven a wedge between and law enforcement and affected local communities, making provision of public security more difficult and raising questions about whether these tactics are effective in stopping crime. Many of the problems that contribute to elevated crime rates, including homelessness, drug abuse and lack of support for people with mental illnesses, demand solutions that do not depend on police.

This report is, in many respects, a case study of abusive, overly aggressive policing in the US. While it looks at high-profile police killings in Tulsa that have brought attention to policing in the city, it also looks at higher frequency police interactions with civilians, including use of non-lethal force, police conduct of stops and searches, issuance of citations, enforcement of court debt (unpaid fees, fines, and costs), and, more generally, how police behave in day-to-day interactions with people.

This report focuses on policing primarily as it impacts black communities in Tulsa, and especially poor black communities, that face policing in its most intensive forms. As will be made clear throughout the report, poverty, regardless of race, is a substantial factor in understanding interactions between civilians and law enforcement, predicting frequency of arrest, detentions and possibly uses of physical force. Court debt and its enforcement by police pressure poor people of all races. Poverty and race overlap significantly, as a much greater percentage of black than white people are poor, in Tulsa and throughout the US. However, black people, even regardless of wealth or poverty, disproportionately receive aggressive treatment by police.

Human Rights Watch found that, beyond the statistical disparities of treatment by police of the different races, black people nearly all had personal experiences of abusive policing, ranging from extreme violence towards themselves or family members, to more mundane harmful interactions like unnecessary traffic stops, coercive searches and intimidating encounters. Black leaders reported that fear of police and experience of mistreatment by police are facts of life in their communities.

The investigation leading to this report found evidence of racial bias in policing outcomes, but not proof of pervasive racism. No doubt, there are officers and commanders who hold and act on racist viewpoints, whether explicit or implicit. There is evidence of racial bias in the descriptions of the treatment of black people by police and in the difference described about policing in primarily black parts of North Tulsa. There is evidence of racial bias in the disparities in racial impact of policing encounters.

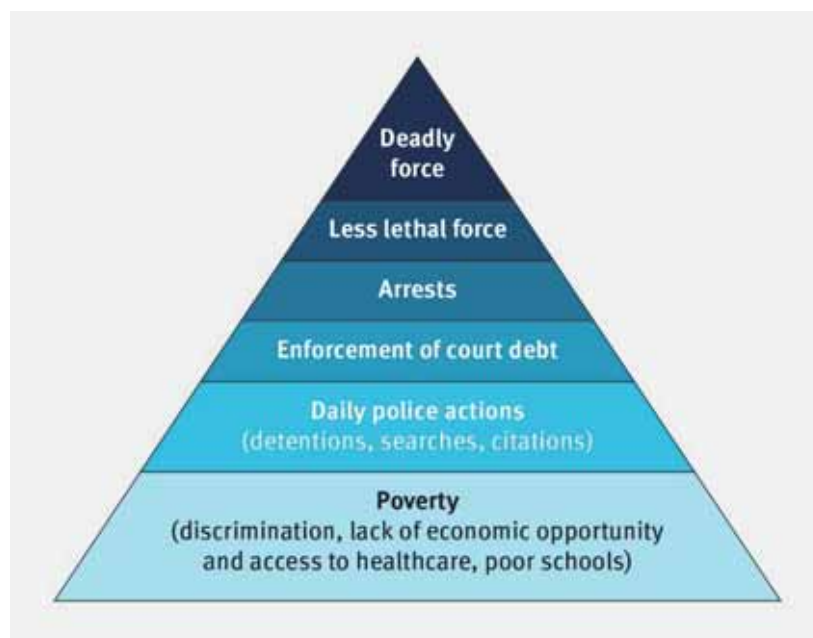
However, these disparities are also partly explained by concentrated policing in high poverty neighborhoods, which are more frequently communities of color and which have more frequent calls for service. This report does explore economic class differences in policing outcomes, to the extent the data allows it. The confluence of race, poverty and crime leads to larger questions of structural racism: why are black people in Tulsa, and in the US as a whole, relegated to poverty at such a high rate? What power dynamics and policies have created and perpetuated this situation? Is policing, even with more community-oriented officers, a proper response as opposed to allocating scarce resources directly toward addressing the problems leading to poverty?



Tulsa has its own unique history of racial oppression, dating back at least to the 1921 Greenwood Massacre, through the period of legalized segregation and on to the *de facto* segregation that currently exists. Modern day policing in Tulsa exists within this context, just as policing in every other US jurisdiction exists within the context of its own, often oppressive, racial and class relations. Tulsa's history, along with more recent racially charged incidents and recognition of many of the issues by the city government, make it a useful jurisdiction in which to study policing and race.

In addition to detailed analysis of many aspects of the relationship between police and Tulsa's black communities, the report devotes a chapter to the unique problems with policing faced by the growing Latino immigrant community. Data limitations make it impossible to analyze arrest and stop patterns in this community.

The report is not a comprehensive view of all aspects of policing in Tulsa. It narrowly focuses on the Tulsa Police Department, with only passing reference to the other law enforcement jurisdictions that impact people's lives there, including Tulsa Sheriff's Department, Oklahoma Highway Patrol, the various tribal police agencies, and the school and university police agencies. The report does not offer in-depth analysis of how policing uniquely impacts Tulsa's Native American population.



Levels of Forceful Police Actions © 2019 Human Rights Watch

Investigations of police killings are essential, but can shed light on only part of the picture: such incidents can be thought of as the top tier of a pyramid of forceful interactions between police and community members. As argued in this report, one also needs to examine the other tiers of that pyramid, including the socio-economic context in which policing exists, to best assess what needs to be done to improve policing, community relations, and public security in Tulsa.

Police use of lethal force, though far from an everyday occurrence, is a serious issue in Tulsa and in Oklahoma more generally. The state has, in recent years, consistently had among the highest per capita rates of police killings in the country. What has attracted far less scrutiny is the Tulsa police's everyday use of less lethal force through tasers, biting dogs, baton blows, pepper-spray, punches and kicks, twisting people's wrists, or pushing them into walls. In some cases, documented by Human Rights Watch, it appears that the police deployed this force without justification, frequently injuring, humiliating, and intimidating people.

Beyond physical force, police also use their authority on a daily basis to stop, detain, and search people, sometimes making arrests or issuing citations, sometimes, as in the Shadrack incident, to "investigate." While these powers are part of their law enforcement mandate and can be useful tools for controlling crime when properly directed, in Tulsa they are also used to effect pretextual stops and searches, and as intimidation tactics. There is strong evidence that these tactics are used more aggressively against black residents and people in North Tulsa, a relatively impoverished area with the city's largest black population.

Aggressive enforcement often leads to debt. People arrested or cited for violations ranging from infractions, like expired license tags, to serious felonies, like robbery, are assessed a vast array of fees, fines, and costs by the courts that process their cases. This debt, weighing disproportionately on the poorest segment of society, is enforced aggressively by Tulsa Police, who regularly arrest people on warrants for failure to pay debt owed as a result of past violations including for minor offenses. The debt strips money and assets from poor communities, trapping people in a cycle of arrest, jail, debt, warrant, arrest, jail, and further debt.

This aggressive policing and debt enforcement occur in the most poverty-stricken parts of Tulsa, where there is far less business development, higher unemployment, poorer educational outcomes, lower life expectancy, and worse overall health among its residents than in wealthier parts of the city. This contributes to desperation and need that lead to more crime. Such crime in turn becomes the rationale for more aggressive policing, which increases poverty that leads to more crime.

## Physical Force

There are significant racial disparities in police use of force and violence towards civilians in Tulsa. Our analysis of 2012-2017 data provided by the Tulsa Police Department, shows that black people in Tulsa are 2.7 times more likely to be subjected to physical force by police officers than white people on a per capita basis. Though only 17 percent of the population, black Tulsans were at the receiving end of 39 percent of police uses of force; white Tulsans were 65 percent of the population but subject to only 55 percent of force incidents. When comparing use of force demographics with demographics of people arrested by Tulsa police, instead the overall population, racial disparities still exist, though they are smaller.

We found no racial disparities in the use of force against people arrested for violent crimes when matching use of force data to arrest data. However, black arrestees were subject to force at nearly twice the rate of white arrestees when the violation that led to the force incident was a less serious “public order” crime or drug sale and at three times the rate for arrests on a warrant, a large portion of which were for missing court dates or payments on low-level violations.

North Tulsa residents repeatedly reported having experienced or witnessed aggressive policing, as did black people throughout the city. Former and current Tulsa Police officers said that the Department polices more aggressively in North Tulsa than in other areas. Data provided to us by the Tulsa Police Department on police use of force had limited information about the incidents themselves. It also did not include uses of lower-level force, as when officers inflict pain by twisting handcuffed wrists or push people against cars, that people described to us. Several people reported being shoved against their cars for no apparent reason while handcuffed during arrests.

According to data provided by the department, of the 1700 incidents and 3,364 distinct “non-deadly” force actions reported by police from 2012 through 2017, the Tulsa Police Department found only two forceful acts that were not “within policy.” They imposed no discipline in either case. Internal Affairs reports for those years indicated that all but five forceful acts were “within policy,” and only one resulted in discipline.

## Arrests

Black people in Tulsa are also 2.3 times more likely than white people to be arrested on a citywide per capita basis. They are 17 percent of the population but make up 35 percent of all people arrested. Arrest rate racial disparities exist across the city, and arrest rates correlate to the percentage of the population that is black in a given area. They also correlate, at a higher rate, to the percentage of the population that is poor.

Poverty and race intersect strongly, and analysis suggests that poverty has a much stronger relationship with arrest rates for the white population of Tulsa than it does for the black population. Arrests are more frequent throughout North Tulsa and certain neighborhoods in South and East Tulsa. However, black people appear to have been arrested more frequently across the spectrum of wealth, while arrests of white people were confined almost entirely to poor people.

Though national studies show that drug use and sales are roughly the same across racial lines, Tulsa Police arrest black people 2.4 times more frequently than white people for drug crimes, and at substantially greater rates for marijuana. Close to 40 percent of all Tulsa Police Department arrests are based on outstanding county and municipal warrants, including a high percentage of warrants for failure to pay court fees, fines and costs.

Seventeen percent of all arrests are for municipal warrants—low-level misdemeanor and traffic ticket type offenses—including “failure to pay” warrants. The warrant arrests are most frequent in higher poverty sections of the city. Police arrest black people for warrants at a rate 2.6 times greater than white people, reflecting higher poverty rates among black people, but also suggesting possible bias in police investigative tactics. There are substantial racial disparities in arrests for violent crimes like robbery, assault and rape. Violent crimes make up less than 10 percent of all arrests.

## Vehicle and Pedestrian Stops

Black residents in Tulsa described experiences in which police officers stopped them, drew guns on them, or at least had hands on guns in an intimidating way, searched them and their car, spoke to them disrespectfully, and treated them roughly.

Former and current officers acknowledged that they had witnessed similar behaviors. Officers and civilians described Tulsa officers aggressively pressuring people to submit to searches of their bodies and their cars, even when they lacked legal justification to conduct a search.

Data provided by the Tulsa Police Department did not include the race of the person stopped, a problem in itself, but it showed that police were conducting more frequent and prolonged vehicle and pedestrian stops or “detentions” in North Tulsa and other areas with higher non-white populations than in other parts of the city, fitting with what people reported. One neighborhood in North Tulsa, defined as a census tract 62, 80 percent black with a low median income, experienced an annual average of 227 stops per 1,000 people from 2014 through 2017; in contrast, census tract 30 in West Tulsa, 77 percent white but also with a low median income, had a significantly lower stop rate of 50 per 1,000 people. And some well-to-do census tracts in South Tulsa, almost entirely white, had virtually no such stops by police: one experienced only 2 stops per 1,000 people over the same period, and another only 6 stops. Analysis of the data shows that black people live in greater concentrations in the census tracts which had the highest rates of recorded detentions.

While searches and abusive treatment are not recorded in the data on vehicle and pedestrian stops, Human Rights Watch was able to calculate the average length of stops as a way to approximate their intensity. A stop that results in removing a person from the car, handcuffing, and searching them or their property, is likely to take much longer than writing a ticket or giving a warning. The longest average stops were concentrated in North Tulsa census tracts; stops in some tracts there were twice the length of average stops in South Tulsa census tracts.

Several Tulsans have also alleged abuses by the specialized police gang unit, describing their aggressive style of stopping groups of or individual black men for search and questioning without apparent justification.

## Citations

Black residents of Tulsa described being followed by police and frequently stopped and given citations for minor violations, like missing taillights or having the wrong type of license plate. These citations cost people time and money to resolve, contributing to their poverty.

A review of data on citations issued by Tulsa police officers shows racial disparities, though less pronounced than those present in use-of-force and arrest data. Black people are cited for violations at 1.4 times the rate of white people on a per capita basis. Citations for speeding and other observable traffic violations were roughly even across racial lines, proportionate to population share. Moving violations are detected through police observation, sometimes leading to a vehicle stop and citation.

There were strong racial disparities in citations for suspended or missing driver's license and for proof-of-insurance violations. These offenses often reflect poverty, as poor people cannot pay insurance premiums or lose their license due to non-payment of court debt. Police discover such violations only after stopping a driver for some other reason, either a violation of traffic laws or because of some other suspicion of unlawful activity. Driver's license/proof-of-insurance citations with no accompanying moving violations showed greater racial disparities than those with moving violations. This disparity could suggest racial bias in underlying patterns of traffic stops but further research and data would be necessary to reach definitive conclusions.

According to a former Tulsa police officer, a police colleague in North Tulsa referred to tickets as "warrant applications" because the recipient would likely not be able to pay, which would later result in a warrant being issued for their arrest.

## Criminal Legal System Debt

Arrests and citations lead to imposition of criminal court debt, including fines, fees, and court costs. The courts assess costs on people even if their case is dismissed. In recent years, the number and amount of these assessments have expanded greatly, and are used to fund the court system, the prosecutor, the crime lab, and various other government agencies. For example, some people in Tulsa are required to pay \$40 per month to the

District Attorney's office for "prosecution fees," in addition to other court costs. The court assessed \$83 in costs to one man after dismissing the charges against him.

Laws requiring courts to consider poverty and "ability to pay" in enforcing collection of these costs, an attempt to minimize some of the harms, lack strong standards. In 2017, the Tulsa County District Court set up a "cost docket" where individuals can seek to lower their payments or substitute them with community service. However, large numbers of people are not using it and continue to struggle with sometimes debilitating debt. A prominent study found that court debt is concentrated primarily in the North Tulsa zip codes where poverty rates and the percentages of black residents are highest. The enforcement of this debt strips those already poor of money and assets, which negatively impacts the communities in which they live more generally.

Courts issue arrest warrants to those who do not pay. The Tulsa Police Department aggressively enforces these warrants. From 2012 through 2017, in 38 percent of arrests, the most serious charge for which the person was arrested was a warrant: 21 percent from the county courts and 17 percent for municipal violations. The municipal violations are invariably for low-level misdemeanors and traffic infractions not covered by state law; many of them are for "failure to pay" from previous cases. While the county warrants include some for very serious crimes, others are for low-level charges and many are for "failure to pay" as well. Data was not available to determine how many were for "failure to pay." Black people are disproportionately the subject of these warrant arrests.

Arrest for failing to pay leads to more debt. People arrested for "failure to pay" frequently must pay bail to get out of jail. If they cannot, they risk losing their jobs, which can result in inability to pay the costs of rent, child-care, and other essentials. In addition to the original amount owed, after people get arrested for "failure to pay," the court assesses more fees, fines, and costs. The result is that people get caught in a cycle of debt they often cannot escape. Those convicted of crimes have trouble getting work to pay their debt. Many revert to criminal activity, like drug sales, to pay the debt and to support themselves and their families. Despite the rise in fees, fines, and costs, studies have shown limited increases in revenue collection. The harm done by imposition of excessive fees and fines and enforcement of "failure-to-pay warrants" is devastating to individuals, families, and communities.

## **Policing and People with Mental Health Conditions**

Tulsa, and the entire state of Oklahoma, have high rates of residents with mental health conditions, including schizophrenia, bipolar disorder, post-traumatic stress disorder, anxiety and depression.

Mental health services, in Tulsa and throughout Oklahoma, are vastly underfunded and lack resources to meet the need. Without a strong social services and mental health system that can support people with mental health conditions on an ongoing basis and respond appropriately in cases of crises, police are left to respond to emergencies.

Tulsa Police receive thousands of calls a year concerning people with mental health conditions, many of whom are not acting aggressively or necessarily violating any law. Not all of these calls merit a law enforcement response.

Though Tulsa Police now receive more training related to mental health than most police departments, some residents reported to Human Rights Watch that officers often responded inappropriately to people in mental health crisis, including using aggressive and commanding tactics that escalated the situations. Some people said that they did not call police to respond to a loved one in crises, fearing the police would harm them. To its credit, the City of Tulsa and the Tulsa Police Department have recognized the need for more supportive responses and are exploring options to promote more appropriate services, including participating in a pilot program that puts a paramedic, a social worker, and an officer with specialized mental health training together in a car to respond to mental health related calls. This program has shown promise, but the Tulsa Police Department currently only deploys this team for two shifts a week.

## **The Latino Immigrant Community**

Tulsa city officials have said the city welcomes immigrants. And under Mayor Bynum's leadership the city has taken important steps to live up to that declaration. The Tulsa Police Department has a policy that it will not enforce federal immigration laws; Deputy Chief Jonathan Brooks has said that the department does not intend to add immigration enforcement to its duties. However, in a variety of ways, the police department continues to fail the immigrant community.



Tulsa police officers themselves do not arrest people for immigration violations, but when arresting and booking them in jail for other crimes, including low-level warrants and traffic violations, officers are required to inquire about their immigration status and advise the Sheriff's Department if they are undocumented. The Sheriff Department has a contract with ICE under section 287(g) of the Immigration and Nationality Act that places ICE agents in the jail and pays the Sheriff's Department to house immigrants detained for deportation proceedings. When Tulsa officers advise the Sheriff's Department that a person in their custody is undocumented, the people identified can be detained after their criminal charges are resolved and put in deportation proceedings.

Despite the stated policy, members of the immigrant community fear interacting with police, even when they are witnesses or victims of crimes. Advocates describe incidents in which people were unwilling to call or otherwise cooperate with police because they might be identified and deported.

According to lawyers working in the immigrant community and one former officer, some individual officers ask questions of people that expose their immigration status, in violation of the spirit of the policy and some officers display personal bias towards Latino people and immigrants. Deputy Chief Brooks says that officers may ask questions related to immigration status if pertinent to the investigation or to identifying a person who lacks identification.

Despite recruitment efforts, the Tulsa Police Department does not have sufficient numbers of Spanish-speaking officers to address the community's needs. Sometimes officers are unable to understand people they attempt to interview during calls. There are reports that this inability to understand has led to calls being ignored or arrests of the wrong person.

## **Policing and Poverty**

Tulsa once had a thriving, affluent, black community in the Greenwood section of the city, the part of North Tulsa closest to downtown. In 1921, when a group of black men from Greenwood, including World War I veterans, stood up to attempts to lynch a young black man accused of assaulting a white woman, a heavily armed mob of white men, enabled and even supported by police, invaded Greenwood, murdered hundreds of people, burned down black-owned homes and businesses, and stole property. Though residents of

Greenwood were able to rebuild to some degree, policy decisions and economic factors have resulted in the area's decline as an affluent black neighborhood. The destruction of the Greenwood community continues to be felt in the present day. Black neighborhoods remain underdeveloped and under resourced. Mistrust of police is a legacy of the massacre. Aggressive policing in the present serves as a reminder and even an extension of the past.

Large percentages of black people in Tulsa live in North Tulsa, above the 244 Freeway and Admiral Boulevard, and in smaller enclaves throughout the city like the area around 61<sup>st</sup> and Peoria Street, which has a large number of public housing projects. The geographic segregation tends to track poverty rates. North Tulsa is significantly poorer than other parts of the city. There are few businesses and few large-scale employers there. Investment in the community has been greatly lacking. Some 33.5 percent of North Tulsans live in poverty, compared to 13.4 percent in South Tulsa. Unemployment overall for black people is 2.4 times the rate for white people. There are huge differences in life expectancy between north and south. North Tulsa has no traditional supermarkets with fresh meats and produce, and it is hard to find nutritional foods. Schools in Oklahoma, in general, are underfunded and in crisis. Tulsa schools are extremely segregated, with black students far more likely to be in schools characterized by high rates of poverty and high absenteeism, drop-out, and turnover rates. Black students are suspended from school much more frequently than white students.

Tulsa Mayor GT Bynum has recognized these significant inequalities and is taking important steps to address them. However, the city budget remains tilted towards policing. Over one-third of the city's general fund goes to the police department, whose budget continues to grow. The city recently approved an additional sales tax to pay for a major expansion of the police department.

## **Reform Efforts**

Several reform initiatives have been introduced over the years but they have met with resistance from powerful institutions in Tulsa, including the Fraternal Order of Police, the police department itself, and elected officials opposed to change. They have not achieved much success.

- Former Chief of Police Drew Diamond attempted to institute reforms aimed at building relationships with people and reducing reliance on aggressive tactics. He resigned under pressure in 1991.
- In 1994, an association of black officers in Tulsa brought a federal lawsuit alleging racial bias towards them as officers as well as patterns of biased policing toward the community. The lawsuit led to a federal consent decree that ordered the department to gather detailed data about police stops and required policy changes aimed at improving accountability. Following termination of the consent decree, the department appears to have stopped gathering the data with the same diligence.
- In 2001, a coalition of civil rights advocates demanded an investigation into racially biased policing in Tulsa and asked for the creation of a civilian oversight body. The city eventually formed the Mayor's Police and Community Coalition ("MPACC"), an advisory body that serves as a "go-between" for the department and the community but does not have any oversight function.

### *Current Reform Efforts*

In the wake of the killing of Terence Crutcher in September 2016 and other incidents over the years, Tulsa's black communities and allies throughout the city have mobilized to form active organizations to demand change. This movement has generated momentum for reform. Upon taking office in December 2016, Mayor Bynum announced an initiative to embrace "community policing" having made addressing societal inequities a stated policy priority. He created a commission to quickly formulate reform policy, which developed a list of 77 recommendations, ranging from requiring implicit bias training and body-worn cameras to conducting public opinion surveys. The department is in the process of implementing these recommendations and, according to its public dashboard, is already 97 percent of the way there.

While giving the mayor credit for taking on this difficult issue, community members have raised significant criticisms of the commission. They describe it as having been dominated by high ranking officers in the Tulsa Police Department and as not including sufficiently representative community voices. The recommendations of the commission tend to reflect the department's position that it was already adequately carrying out "community policing," often calling for continuation of ongoing practices. Even potentially useful

recommendations for new policies lack standards or measures for successful implementation.

The commission did not adopt community activists' call for the creation of an oversight body with meaningful authority and subpoena power. Instead, it recommended creation of advisory boards that lack real power.

Deputy Chief Brooks said that the 77 recommendations were designed in part to organize policing practices already used by the department. He and Mayor Bynum have said that they are intended as a starting point for reform.

### *Proposed Office of the Independent Monitor*

To address some of the shortcomings of the 77 recommendations, Mayor Bynum has proposed formation of an Office of the Independent Monitor (OIM) which would provide some oversight of the department's investigations into use-of-force incidents, analyze data and recommend policy, and serve a community relations function. As proposed, the OIM would review police department Internal Affairs Division investigations but not participate in them. It would not have subpoena or disciplinary power. Without these powers, there is a risk that it will not be a mechanism for meaningful oversight and that it will be dependent on support from the police chief and from city elected officials. Even so, the Fraternal Order of Police has registered strong objections to the OIM.

### *Additional Officers*

While many policymakers agree that the Tulsa Police Department needs to be transformed into one that engages effectively with the community and has its trust, the most significant change since the Crutcher killing has been the commitment to add 160 more officers. Without more fundamental reforms, one should expect these additional officers to carry out the same or a similar type of policing as do those currently deployed, resulting in more use-of-force incidents, more stops and citations, and more debt and debt enforcement.

Three of the top concerns Tulsa police are called upon to deal with are mental health, substance abuse and homelessness. Each of these three problems could be addressed more effectively through approaches not driven by law enforcement. While Tulsa commits significant additional resources to more policing, resources for affordable housing, drug

treatment and support for people with mental health conditions lag locally and at the state and federal levels.

## **Policing Across the US**

While this report generally does not compare Tulsa to other cities, it does show that policing in the US follows many of the same patterns. Disparities in incidents of deadly force, non-deadly force, arrests, stops, and citations exist across the country. Other cities and states have imposed excessive court fees, fines and costs on their residents, the enforcement of which has contributed to abusive policing. The fear of police within immigrant communities, driven by arrests leading to deportation for even low-level crimes, is similarly a national phenomenon. High profile killings by police, like the killing of Terence Crutcher, have occurred in many cities nationwide, raising protests and calls for reform.

While Tulsa's unique history, current social conditions and political dynamics set it apart from any other city, its policing problems are not uncommon. Tulsa has the opportunity, then, to embark on effective, and not superficial, reform, to change its policing culture to one of accountability, and, more importantly, to solve societal problems through services and support rather than often abusive police enforcement action. Tulsa has the opportunity to lead policing change in the US.

## Methodology

This report is based on research conducted from October 2016 through July 2019. Findings are based on interviews of 132 people, including multiple interviews with many of them.

Fifty-seven of the people interviewed were community members who had either direct personal experiences with police in Tulsa, were impacted by a family member's direct experience, or personally witnessed incidents. Many of the others interviewed, including lawyers, journalists, church leaders and elected officials, also relayed personal experiences with police.

Human Rights Watch interviewed eleven Tulsa law enforcement officers, including six who are currently employed by the Tulsa Police Department, the current Deputy Chief of Police, and one former Chief of Police. They described their experiences working for the Department and the culture of the Department. The Deputy Chief of Police engaged in several interviews and answered many follow-up questions by e-mail and text. Tulsa Police Chief Chuck Jordan declined to speak to Human Rights Watch, despite our offer to share our findings with him, citing pending litigation.<sup>1</sup> Human Rights Watch reached out to the president of the Tulsa chapter of the Fraternal Order of Police in March 2019, who asked that we send written questions. We immediately sent detailed questions but have received no response.

We met with four elected officials, including Mayor G.T. Bynum, and five officials in the City of Tulsa administration. We spoke to the Fire Department commander in charge of paramedics.

We interviewed 23 lawyers practicing in Oklahoma generally, primarily Tulsa. They described experiences of their clients and communities with Tulsa Police, as well as in the county courtrooms. We interviewed five journalists who spoke of research and stories related to policing and police reform. We spoke to 10 Tulsa social services providers or administrators who described the challenges their clients face in relation to police and

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<sup>1</sup> Human Rights Watch email correspondence with Chief Chuck Jordan, chief of police, Tulsa Police Department, February 18, 2019 (on file with Human Rights Watch).

courts. We interviewed 10 church leaders and 7 community organizers, who described how their communities have been treated by police and by the City of Tulsa administration, and their efforts to participate in reform initiatives.

Human Rights Watch identified people to interview through a variety of sources, including connections made through community meetings, referrals from organizers, religious leaders, and social services providers, and through referrals from people within the government. Researchers spent time in court, observing proceedings, and travelling through the various neighborhoods of Tulsa. While some interviews were conducted over the telephone, most, particularly of community members directly impacted by policing, occurred in their homes or in the neighborhoods where they lived.

Of the people interviewed, 71 identified racially as black. Sixteen identified ethnically as Latino.<sup>2</sup> Forty-five were white. Almost all of those relaying negative incidents with police were black or Latino, though some white people did describe negative impacts of policing on themselves and their families.

Human Rights Watch uses pseudonyms for the individuals interviewed and their family members who have had personal experiences with police to respect their privacy, minimize the impact of revealing an encounter with the police and court system, and to protect those who are vulnerable. Some people we spoke to were in prison, on probation, or otherwise vulnerable to retaliation for speaking out about injustices they have experienced. Human Rights Watch honored the request of some people that we use their true names; others had been involved in incidents that had been publicized already, so using a pseudonym would not protect their identity. In those cases, we used their true names with their permission.

Most law enforcement and former law enforcement officers requested anonymity, as did some government officials. Some interviewees asked not to be attributed at all and spoke only “on background.” Human Rights Watch honored these requests. Those who asked for anonymity did so in order to speak more freely without fear of retribution.

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<sup>2</sup> In Tulsa, it is more common for Latino people to be referred to and to refer to themselves as Hispanic. However, as Human Rights Watch is an international organization, we will use the term Latino in this report.

In addition to the interviews, representatives from Human Rights Watch attended City Council meetings on relevant topics, observing the Council’s decision-making process and listening to public comments. We attended several meetings in North Tulsa in which residents discussed their experiences with police. A representative of Human Rights Watch participated in a “ride-along” with a Tulsa Police Department officer in the Gilcrease Division, which provided the opportunity to observe policing directly and hear this officer’s perspective and that of some other officers in the Division. The report does not quote the officers we spoke to during the ride-along and it does not refer directly to any observations of police contact with civilians.

All documents cited in this report are publicly available or are on file with Human Rights Watch.

This report focuses specifically on the Tulsa Police Department. There are several other law enforcement agencies active in or near Tulsa County, some with overlapping jurisdictions, that impact policing the communities referenced, including the Tulsa Sheriff’s Department, school police, Tulsa University and Oklahoma University police departments and various tribal authorities, as well as federal law enforcement agencies. The report makes some reference to other law enforcement, but intentionally focuses on the Tulsa Police Department.

The report does not comprehensively compare the Tulsa Police to law enforcement in other jurisdictions and does not make relative judgements as to whether policing is less or more rights respecting in Tulsa than elsewhere.

## **Data Analysis**

Human Rights Watch requested detailed data from the Tulsa Police Department, the Tulsa County Sheriff, and the City of Tulsa about a broad variety of police functions, including detentions and stops, arrests, citations, checkpoints, uses of force, gang enforcement, officer demographics, department budget, lawsuits, complaints, and jail bookings.

Tulsa authorities responded to these requests in varying degrees, with different datasets. Each dataset provided some of the information requested, but not all. The Tulsa



County Sheriff provided booking data of everyone booked into the Tulsa County jail over a two-year period.

### *Geocoding*

Several of the separate datasets included an open-text address column but no standardized addresses, locations, or longitude/latitude coordinates to describe the location of a stop, arrest, or citation. In total, the different datasets included over 200,000 unique addresses (after accounting for typographical errors and different ways of writing the same address).

Human Rights Watch was able to geocode 88 percent of the traffic and pedestrian stops.<sup>3</sup> Of the addresses that were impossible to geocode, most were stops along highways. Traffic and pedestrian stops, arrests, and citations geocoded to locations beyond the city limits were filtered out.

All geocoded data was joined to census data on population demographics and economics. The census data used was the American Community Survey five-year estimates (2013-2017).<sup>4</sup>

Human Rights Watch received conflicting descriptions of the exact eastern boundary of “North Tulsa.” For purposes of analysis of data received from the Tulsa Police Department, Human Rights Watch uses all areas of the city of Tulsa that are north of Highway 244, as they coincide with the eastern boundary of the Tulsa Police Department’s Gilcrease Division.

### *Matching*

The datasets provided by the Tulsa Police Department did not have identification variables that we could use to link traffic stops to arrests or citations or to identify which events in each of the datasets referred to the same police encounter. Additionally, the police

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<sup>3</sup> Geocoding is the process of converting addresses into geographic coordinates. Geocoding was done using ESRI ArcGIS software.

<sup>4</sup> United States Census Bureau, “American Community Survey, 2017,” *US Department of Commerce*, <https://www.census.gov/acs/www/data/data-tables-and-tools/data-profiles/2017/> (accessed July 24, 2019). The same five-year ACS estimates were used for each year of the analysis.

department did not include data on the race of drivers or pedestrians that were stopped; the department included race data only in the arrest and citation datasets.

Human Rights Watch used the addresses provided, as well as timestamps, to link traffic and pedestrian stops from 2016 and 2017 to any arrests or citations that were within a quarter mile and one hour of a stop.<sup>5</sup> In total, Human Rights Watch matched nearly 15,000 police stops to a citation and/or an arrest.<sup>6</sup> We have not tried to use these matches to assess the proportion of police stops that end in an arrest or citation, however, because there appear to be serious issues with missing data. We know, for example, that the traffic stop data does not include every traffic stop. Large proportions of arrests for DUI or traffic-related offenses, as well as citations for driving, moreover, had no corresponding record within the traffic stop data within the distance and timeframe windows. While the ratio of stops to arrests/citations in the nearly 15,000 matches we were able to make cannot be interpreted as representing the true proportion of stops that result in an arrest or citation, the matches do provide evidence of the types of arrests and citations that result from a traffic or pedestrian stop, as well as the demographics of those stopped and arrested or cited for certain behavior.

### *Recoding*

To facilitate meaningful analysis, Human Rights Watch organized and recoded the data we received, grouping offenses into offense type categories. The offense type categories were then ranked in the following order of seriousness: 1. Violent or potentially violent offenses; 2. Weapons offenses; 3. Theft or property offenses; 4. Non-violent sex offenses; 5. Public order offenses; 6. Drug offenses; 7. Other offenses; 8. Warrant offenses. For each individual arrest, the offense with the highest ranking was selected as the most serious offense charged. If there were multiple offenses charged within the same rank, the first offense in the dataset was used as the most serious offense for the arrest.

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<sup>5</sup> The vast majority of stop to arrest/citation matches were much closer in proximity than the full quarter mile or one-hour windows. However, Human Rights Watch opted to use conservative time and geography windows to include any potential matches. This window would make any stop and arrest that occurred around street corners from each to be positively matched.

<sup>6</sup> Of the matched stops, 9,910 were matched to a citation, 4,645 were matched to an arrest and 314 were matched to both an arrest and citation.

Human Rights Watch also grouped offenses whether they were more likely call/victim-initiated, such as assault, or whether they are offenses that are discovered through “pro-active” police work—police stopping people, searching them, and finding contraband or finding that there is an outstanding warrant for their arrest. All processing and descriptive analysis code, as well as raw data, is included on a linked Github page.

## Race and Data

Addressing race posed a methodological challenge in our research, largely because the Tulsa Police Department and the US census categorize race differently. To make even simple race-oriented comparisons and produce rates per population, Human Rights Watch thus needed to recode both police and census data into similar race categories.

The greatest challenge is that the Census Bureau does not consider “Hispanic or Latino” a race but rather an ethnicity.<sup>7</sup> About 15.4 percent of Tulsa city has an ethnicity of “Hispanic or Latino” and the majority (58 percent) of that population identified as white when asked to identify their race in the census.<sup>8</sup> Another 1.4 percent said their race was black, 2.4 percent said it was Native American, 5.3 percent said it was two or more races, and 32 percent said “other.”<sup>9</sup>

White-Hispanic/Latinos, black-Hispanic/Latinos, and “other”-Hispanic/Latinos, moreover, are coded differently in different Tulsa police datasets. In the citations data, Latino was included as a race and accounted for 2.1 percent of citations, a disparity from the 15.4 percent of the city population identifying as having Hispanic/Latino ethnicity large enough to make it unlikely to be an accurate reflection of citations rates for Latinos. While Hispanic/Latino was not included as a race in the arrest dataset, there was a separate ethnicity column indicating whether the arrestee was Hispanic/Latino and almost all arrested individuals with Hispanic/Latino ethnicity, 4.8 percent of total arrestees, were coded as “white” in the race column. Unfortunately, a majority of the data (53 percent) had

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<sup>7</sup> US Census Bureau, “Race & Ethnicity,” *US Department of Commerce*, January 2017, <https://www.census.gov/mso/www/training/pdf/race-ethnicity-onepager.pdf> (accessed July 24, 2019).

<sup>8</sup> See this article on the increasing Hispanic/Latino population: Curtis Killman and Casey Smith, “Oklahoma, Tulsa County’s Hispanic population increases,” *Tulsa World*, June 26, 2014, [https://www.tulsaworld.com/news/local/oklahoma-tulsa-county-s-hispanic-population-increases/article\\_d9ce69f1-f1af-569d-86d7-b385cdfa5e23.html](https://www.tulsaworld.com/news/local/oklahoma-tulsa-county-s-hispanic-population-increases/article_d9ce69f1-f1af-569d-86d7-b385cdfa5e23.html) (accessed July 24, 2019).

<sup>9</sup> See this article for more information on race and ethnicity in the Census: Jens Manuel Krogstad and D’Vera Cohn, “U.S. Census looking at big changes in how it asks about race and ethnicity,” *Pew Research Center*, March 14, 2014, <http://www.pewresearch.org/fact-tank/2014/03/14/u-s-census-looking-at-big-changes-in-how-it-asks-about-race-and-ethnicity/> (accessed July 24, 2019).

no information in the ethnicity column whatsoever and Human Rights Watch was unable to impute the missing data because the limited information available to us.

A common method for interpreting race in census data is to treat all people of “Hispanic or Latino” ethnicity as racially Hispanic/Latino, even those who say their race is white, and consider only non-Hispanic white or black people in determining the proportion of the population that is white or black. Applying this method to the analysis would skew any arrest or stop rates considerably because police do not accurately track data on Hispanic/Latino ethnicity and because we know that police identify most of the Hispanic/Latino individuals they arrest as white: to count all Hispanic/Latinos as racially as well as ethnically Hispanic/Latino would lead to a systematic undercounting of the white population. In computations of arrest rates, moreover, the method would end up treating most Hispanic/Latinos as white in the numerator (because police arrest data classifies most of them as white) and as Hispanic/Latino in the denominator (because the city/tract census data classifies them as Hispanic/Latino), introducing a significant distortion. Because it is impossible to determine Hispanic/Latino ethnicity in the arrest or other police data, we did not treat Hispanic/Latino ethnicity as a race in either the police datasets or the census data.

To further complicate matters, the census data has a “two or more races” category, but the police data does not. In the census data, 7.9 percent of the Tulsa population identifies as belonging to two or more races. Of this group, 50.6 percent identify as white and Native American, 15 percent as black and Native American, 15 percent as black and white, 5 percent as white and Asian and the remainder as some other combination of race.

In order to obtain census race categories that are comparable to the police race categories, Human Rights Watch needed to recode the “two or more races” populations and recompute the proportions of the population that belong to different races. Human Rights Watch opted to re-code the two or more race respondents as single race: black-white respondents were re-coded as black, black-Native American as black, white-Native American as Native American and white-Asian as Asian. This coding makes the assumption that multi-racial people are more likely to be coded as a minority in the police database and it also results in the most conservative estimate of black to white arrest disparities because it increases the black population but not the white population in the denominator of any calculations of arrest rates.

In our analyses of race and policing throughout this report, the numbers we present are based on application of this methodology and thus differ slightly at all levels (whether citywide, zip code, or census tract) from the proportions typically reported using census data. There are two main ramifications of these data limitations and the methodology used to address these complexities and create a common baseline across the datasets. First, it is impossible to use Tulsa Police Department data to examine policing of Hispanic/Latino communities. Additionally, the absolute numbers of arrests and citations of white Tulsans include people who are Hispanic/Latino. White arrest rates are computed with Hispanic/Latinos in both the numerator (arrests) and denominator (population). This may overinflate white arrest rates. Finally, reported arrest rates may differ from the true rates because all multi-racial people in both the arrest and census data have been coded within single race categories.

## Key Recommendations

Human Rights Watch recommends concrete short-term changes that can be implemented immediately:

The Tulsa city government should:

- Form an independent community oversight body with meaningful powers of access, subpoena, investigation and discipline.
- Fund more non-law enforcement mental health professionals to conduct outreach and to provide support for people with mental health conditions, as well as to respond more comprehensively to emergencies that may be related to these conditions.

The Tulsa Police Department should:

- Impose strict reporting requirements for all police contacts with the public, including stops and “consensual encounters,” tracking who they contacted and what actions were taken;
- End the practice of questioning arrestees about their citizenship following arrests;
- Establish a system to avoid arresting people on “failure to pay” warrants.

Beyond the short-term changes, Human Rights Watch recognizes that true reform requires fundamental changes in the role police play in the community and how communities achieve public safety. We recommend moving away from many of the police tactics that alienate the community, as well as a policy shift away from viewing policing as the primary answer to many of Tulsa’s most challenging public safety problems.

Effective change requires investments in local community economic development that bring wealth and opportunities into poor sections of the city. It requires programs that significantly improve services for people with mental health conditions and substance abuse disorders or those experiencing homelessness, and an end to discriminatory and abusive law enforcement practices. Human Rights Watch recommends that the city, state and federal government prioritize direct response to societal problems like homelessness and mental illness through appropriate services and investment, including job

development and educational opportunities. Adding more police officers without a significant change in how they operate and with insufficient accountability is likely to enhance, not ameliorate, existing problems.

More detailed recommendations are set forth at the end of this report.

## I. Background: The Greenwood Massacre

On May 31, 1921, police in Tulsa arrested Dick Rowland, a young black man who lived in the Greenwood section of town, for an alleged assault on a white woman.<sup>10</sup> Though the evidence against him was not strong,<sup>11</sup> the Tulsa Tribune printed an editorial that afternoon calling for a lynching.<sup>12</sup> A mob of white men converged on the county lock-up.<sup>13</sup>

At the time, lynching of black people was common throughout the US—61 were reported in 1919; 61 in 1920; and 57 in 1921.<sup>14</sup> Violent white mobs had rioted and attacked black people, killing them and destroying their property, in cities throughout the US.

When news of the lynch-mob reached Greenwood, a prosperous black community just north and west of downtown, community members, including many World War I veterans, armed themselves and went to the courthouse to protect Rowland, but were told by the Sheriff to leave.<sup>15</sup> After the black men left, the crowd outside the courthouse grew to over two thousand, many of them armed.<sup>16</sup> Tulsa police made no effort to de-escalate the situation or disperse the crowd.<sup>17</sup>

Later that night, the men from Greenwood returned, offering to help the sheriff protect Rowland.<sup>18</sup> This time, a fight broke out and some shooting began, lasting through the night.<sup>19</sup>

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<sup>10</sup> Tim Madigan, *The Burning: Massacre, Destruction, and the Tulsa Race Riot of 1921* (New York: Thomas Dunne Books, 2001), p. 52-54.

<sup>11</sup> Hannibal B. Johnson, *Black Wall Street: From Riot to Renaissance in Tulsa's Historic Greenwood District* (Fort Worth: Eakin Press, 2007), p. 37.

<sup>12</sup> Madigan, *The Burning*, p. 69-71; Johnson, *Black Wall Street*, p. 199.

<sup>13</sup> Madigan, *The Burning*, p. 76.

<sup>14</sup> Johnson, *Black Wall Street*, p. 27-28. The numbers reported are likely vast underestimates of the number of black people in the US killed through racially motivated violence in those years, as there was no official mechanism to accurately record all the incidents.

<sup>15</sup> Madigan, *The Burning*, p. 89-98.

<sup>16</sup> Madigan, *The Burning*, p. 98-99.

<sup>17</sup> Johnson, *Black Wall Street*, p. 40.

<sup>18</sup> Johnson, *Black Wall Street*, p. 39-40.

<sup>19</sup> Madigan, *The Burning*, p. 101-103, 120-121; Mary E. Jones Parrish, *Events of the Tulsa Disaster* (Tulsa: John Hope Franklin Center for Reconciliation, 2016), p. 37.



Early the next morning, a large mob of white men and boys invaded Greenwood, outnumbering its defenders by ten to one.<sup>20</sup> Witnesses said that people in airplanes flew over Greenwood dropping firebombs and shooting at people.<sup>21</sup>

The attack lasted throughout the day. The mob drove through Greenwood, shooting and killing black people, looting and burning their homes and businesses.<sup>22</sup> Many black residents fought back, but they were greatly outnumbered and outgunned. Many fled, while thousands were taken prisoner.<sup>23</sup> At best, Tulsa Police took no action to prevent the massacre. Reports indicate that some police, in fact, actively participated in the violence and looting.<sup>24</sup>

The mob destroyed 35 square blocks of Greenwood, burning down over 1,115 homes, over 60 businesses, a school, a hospital, a public library, and a dozen churches.<sup>25</sup> Hundreds of homes that were not burned down were looted as well.<sup>26</sup> Some estimates put the death toll at 300,<sup>27</sup> while others believe it was much higher.<sup>28</sup>

The Tulsa City Commission issued a report two weeks after the massacre saying: “Let the blame for this negro uprising lie right where it belongs—on those armed negroes and their followers who started this trouble and who instigated it and any persons who seek to put half the blame on the white people are wrong ....”<sup>29</sup> A grand jury similarly blamed black Greenwood residents,<sup>30</sup> indicting 57 for crimes against white people, and recommending more policing and more regulation of the black community.<sup>31</sup>

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<sup>20</sup> Madigan, *The Burning*, p. 120, 125-126.

<sup>21</sup> Johnson, *Black Wall Street*, p. 45-46; Jones Parrish, *Events of the Tulsa Disaster*, p. 48; Madigan, *The Burning*, p. 131.

<sup>22</sup> Jones Parrish, *Events of the Tulsa Disaster*, p. 48.

<sup>23</sup> Madigan, *The Burning*, p. 203.

<sup>24</sup> Madigan, *The Burning*, p. 145; Jones Parrish, *Events of the Tulsa Disaster*, p. 62.

<sup>25</sup> Madigan, *The Burning*, p. 221.

<sup>26</sup> Madigan, *The Burning*, p. 221.

<sup>27</sup> Johnson, *Black Wall Street*, p. 54.

<sup>28</sup> Human Rights Watch interview with Stephen Williams, Tulsa, Oklahoma, March 27, 2019.

<sup>29</sup> Tulsa City Commission Meeting Minutes, June 14, 1921, excerpted in Johnson, *Black Wall Street*, p. 239.

<sup>30</sup> Johnson, *Black Wall Street*, p. 62.

<sup>31</sup> Madigan, *The Burning*, p. 228-232.

Black Tulsans rebuilt Greenwood in the wake of the massacre. However, due to a complex set of factors, including economic trends and policy decisions that are beyond the scope of this report, Greenwood declined over the years.<sup>32</sup>



Interstate 244 running through the Greenwood neighborhood. © 2018 John Raphling/Human Rights Watch

The damage caused by the massacre to Tulsa’s black community, especially in North Tulsa, continues to be felt in the present day. Black neighborhoods remain underdeveloped and under resourced. Mistrust of police is a legacy of the massacre.<sup>33</sup> Aggressive policing in the present serves as a reminder and even an extension of the past.

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<sup>32</sup> Human Rights Watch interview with Hannibal Johnson, August 30, 2017. See also, Kendrick Marshall, “Signs of Gentrification’: Greenwood community worries residents being pushed out, history disrespected,” *Tulsa World*, June 6, 2019, [https://www.tulsaworld.com/news/local/racemassacre/signs-of-gentrification-greenwood-community-worries-residents-being-pushed-out/article\\_267776fe-ac92-57ef-ao48-5e1eoc72ae8o.html](https://www.tulsaworld.com/news/local/racemassacre/signs-of-gentrification-greenwood-community-worries-residents-being-pushed-out/article_267776fe-ac92-57ef-ao48-5e1eoc72ae8o.html) (accessed July 12, 2019).

Some say that gentrification, urban renewal, development projects, freeway construction and zoning laws have led to Greenwood’s decline.

<sup>33</sup> Human Rights Watch interview with Hannibal Johnson, August 30, 2017.

## II. Background: Policing in a City Segregated by Race and Economic Class

The racial and class dynamics of modern-day policing in Tulsa exist in the context of a highly segregated city.<sup>34</sup> Racial divisions and economic underdevelopment, particularly in North Tulsa, contribute to crime which serves as a rationale for aggressive police activity. Imposition and enforcement of criminal debt takes money from poor people, and people of color in Tulsa, who tend to be poor, draining resources from their families and communities.

The poverty and lack of economic development of North Tulsa result from a variety of factors, including historical neglect dating back to the destruction of Greenwood in 1921. Reverend Gerald Davis said that there is a great deal of investment in economic development in South Tulsa, including street improvements, bus lines, sewer lines, and other infrastructure, but politicians tend to ignore North Tulsa.<sup>35</sup> A prevalent attitude among people with political and economic power is “you don’t want to go there, build there, buy there.”<sup>36</sup>

Davis attributes this neglect, in large part, to “systemic racism,” and says that it has persisted from the time of legalized racial segregation.<sup>37</sup> Systemic or structural racism is caused by public policies, institutional practices, cultural representations, and other norms working in various, often reinforcing, ways to perpetuate racial group inequity.<sup>38</sup> These policies, practices and norms serve to benefit and privilege white people while

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<sup>34</sup> Human Rights Watch telephone interview with Pastor Ray Owens, Metropolitan Baptist Church, Tulsa, Oklahoma, April 12, 2018; Human Rights Watch interview with Edward Malone (pseudonym), Tulsa, Oklahoma, November 1, 2017.

<sup>35</sup> Human Rights Watch telephone interview with Reverend Gerald Davis, Church of the Restoration, Tulsa, Oklahoma, October 4, 2017.

<sup>36</sup> Human Rights Watch telephone interview with Reverend Gerald Davis, October 4, 2017, and Eddie Evans, 100 Black Men, Tulsa, Oklahoma, January 4, 2018; Human Rights Watch interview with Drew Diamond, executive director, Jewish Federation of Tulsa, former chief, Tulsa Police Department, Tulsa, Oklahoma, September 27, 2017.

<sup>37</sup> Human Rights Watch telephone interview with Reverend Gerald Davis, October 4, 2017.

<sup>38</sup> Institute Staff, “11 Terms You Should Know to Better Understand Structural Racism,” post to “Racial Equity” (blog), *The Aspen Institute*, July 11, 2016, <https://www.aspeninstitute.org/blog-posts/structural-racism-definition/> (accessed July 14, 2019); Jenee Desmond-Harris, “Finally, an explanation of systemic racism that won’t put you to sleep,” *Vox*, April 23, 2015, <https://www.vox.com/2015/4/23/8482799/systemic-racism-explained-examples> (accessed July 14, 2019).

denying basic rights and limiting opportunities for people of color. Systemic racism does not depend on racism of individuals or on overt discriminatory intent, but it can exist even in a culture that disavows racial bias.

Many community leaders from North Tulsa agree on the need for structural change in the neighborhoods where crime occurs, including investment in education, job training, infrastructure, business development, entrepreneurship, and employment opportunities, not more abusive policing.<sup>39</sup>

## Poverty and Race in Tulsa

Poverty, race, and geography correlate substantially in Tulsa. The line dividing North Tulsa from the rest of the city is often recognized as Admiral Place and Interstate 244, which run alongside each other east to west across the city.<sup>40</sup> About half of all black people in Tulsa live in North Tulsa, though this section only has 21 percent of the city's total population.<sup>41</sup>

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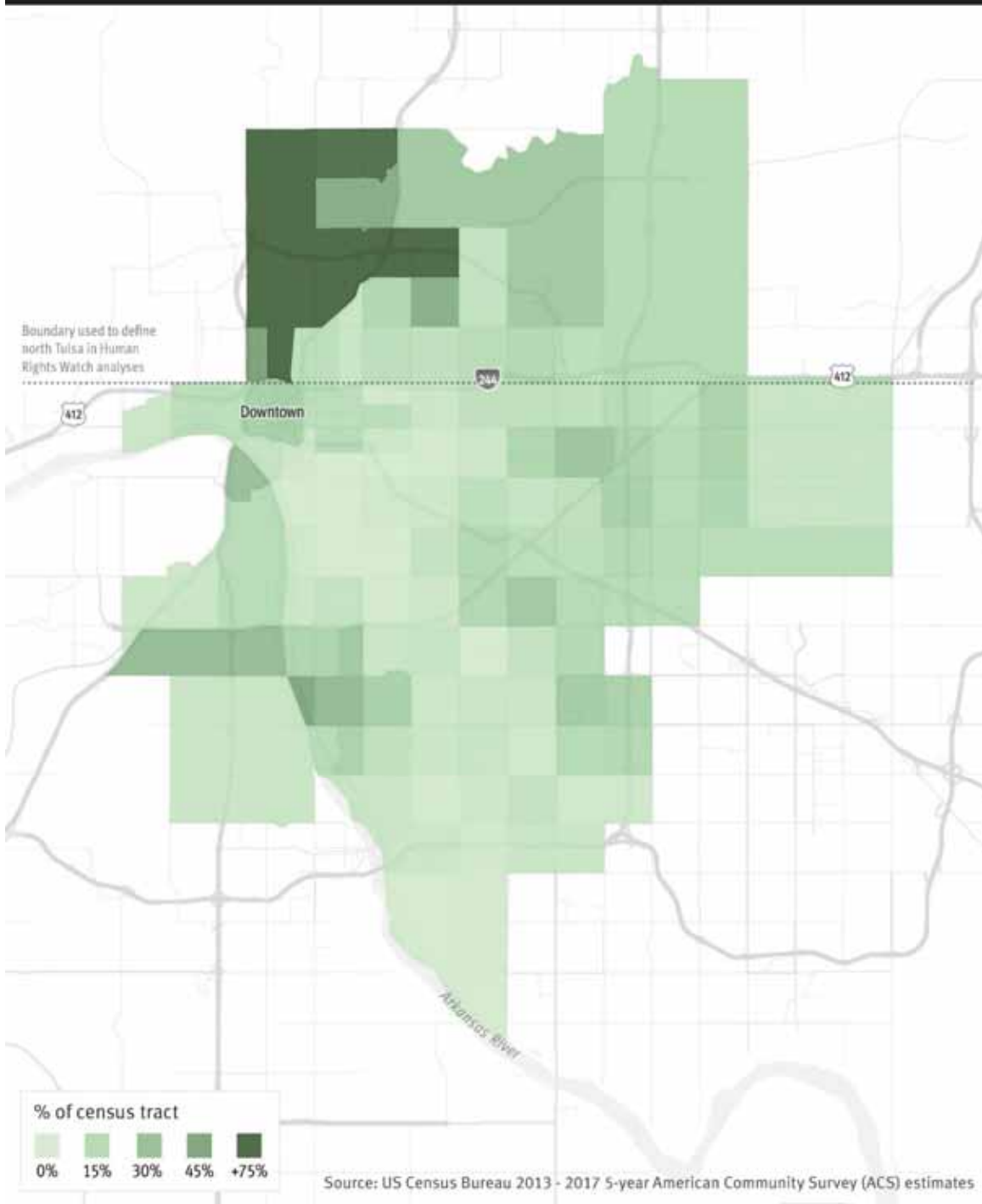
<sup>39</sup> Human Rights Watch telephone interview with Reverend Gerald Davis, October 4, 2017, and Pastor Rodney Goss, Morningstar Baptist Church, Tulsa, Oklahoma, August 30, 2017, and Eddie Evans, January 4, 2018, and Senator Kevin Matthews, Oklahoma State Senate, District 11, Tulsa, Oklahoma, October 12, 2017, and Dr. Tiffany Crutcher, Terence Crutcher Foundation, April 11, 2018; Human Rights Watch interview with Pastor Arlando Jasper, Bernsen Family Life Center, Tulsa, Oklahoma, March 19, 2018.

<sup>40</sup> Human Rights Watch telephone interview with Eddie Evans, January 4, 2018.

<sup>41</sup> Ryan Gentzler, "Millions of dollars in court debt hang over residents of Oklahoma's poorest neighborhoods," post to "Race and Equity" (blog), *Oklahoma Policy Institute*, August 23, 2017, <https://okpolicy.org/millions-of-dollars-in-court-debt-hangs-over-oklahomas-poorest-zip-codes/> (accessed July 14, 2019). Human Rights Watch calculated these percentages based on the population data in the OK Policy report.

## Black Percentage of Population

Proportion of census tract population that is Black



42

The seven zip codes identified<sup>43</sup> as comprising North Tulsa have a total population of approximately 85,000 people according to recent census data.<sup>44</sup> The median yearly household income for this entire area is \$28,867.<sup>45</sup> By contrast, the six zip codes identified with South Tulsa have a total population of just over 127,000 people, and a median yearly household income almost double, at \$59,908. Median household income for black households throughout Tulsa is below \$30,000; it is above \$50,000 for white households.<sup>46</sup>

Just over one third of people living in North Tulsa are below the poverty line, and 35.7 percent are black.<sup>47</sup> Just 13.4 percent of South Tulsans are below the poverty line, and only 9.14 percent of South Tulsans are black. In North Tulsa, 36 percent of the black population and 32 percent of the white population are below the poverty line.<sup>48</sup>

Individual zip codes within North Tulsa that have higher percentages of black residents also have higher poverty rates. Zip code 74106 is made up of 67.2 percent black residents. It has the highest poverty level of any Tulsa zip code at 41. percent.<sup>49</sup> Zip code 74126, just north of 74106, has the second highest percentage of black residents in Tulsa at 57.2 percent, and has a poverty level of 38.5 percent. By contrast, South Tulsa zip code 74137, with only 3.1 percent black residents, has only 7.6 percent of its population living in

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<sup>42</sup> North Tulsa is generally recognized as being the section of the city north of Interstate 244 and Admiral Boulevard. The eastern border is unclear, according to people interviewed by Human Rights Watch. For purposes of our analysis, Human Rights Watch defines North Tulsa as all areas within the city limits north of Interstate 244.

<sup>43</sup> Community Service Council, "Tulsa Equality Indicators: Annual Report, 2018," *City of Tulsa*, 2018, [https://www.tulsaei.org/webdocs/Tulsa\\_Equality\\_Indicators\\_Annual\\_Report\\_2018\\_Web.pdf](https://www.tulsaei.org/webdocs/Tulsa_Equality_Indicators_Annual_Report_2018_Web.pdf) (accessed July 14, 2019), p. 38.

<sup>44</sup> Gentzler, "Millions of dollars in court debt hang over residents of Oklahoma's poorest neighborhoods," *Oklahoma Policy Institute*. Some of these zip codes extend past the exact borders of the city of Tulsa, and the total population numbers here include people in such areas as there is no way to break down the numbers more precisely from this dataset. The slight overcounting does not detract from the overall trend. Census data in this report comes from this survey: "US Census Bureau 2011-2015 American Community Survey 5-Year Estimates," 2015, <https://www.census.gov/programs-surveys/acs/technical-documentation/table-and-geography-changes/2015/5-year.html> (accessed July 14, 2019).

<sup>45</sup> Community Service Council, "Tulsa Equality Indicators: Annual Report, 2018," *City of Tulsa*, p. 38

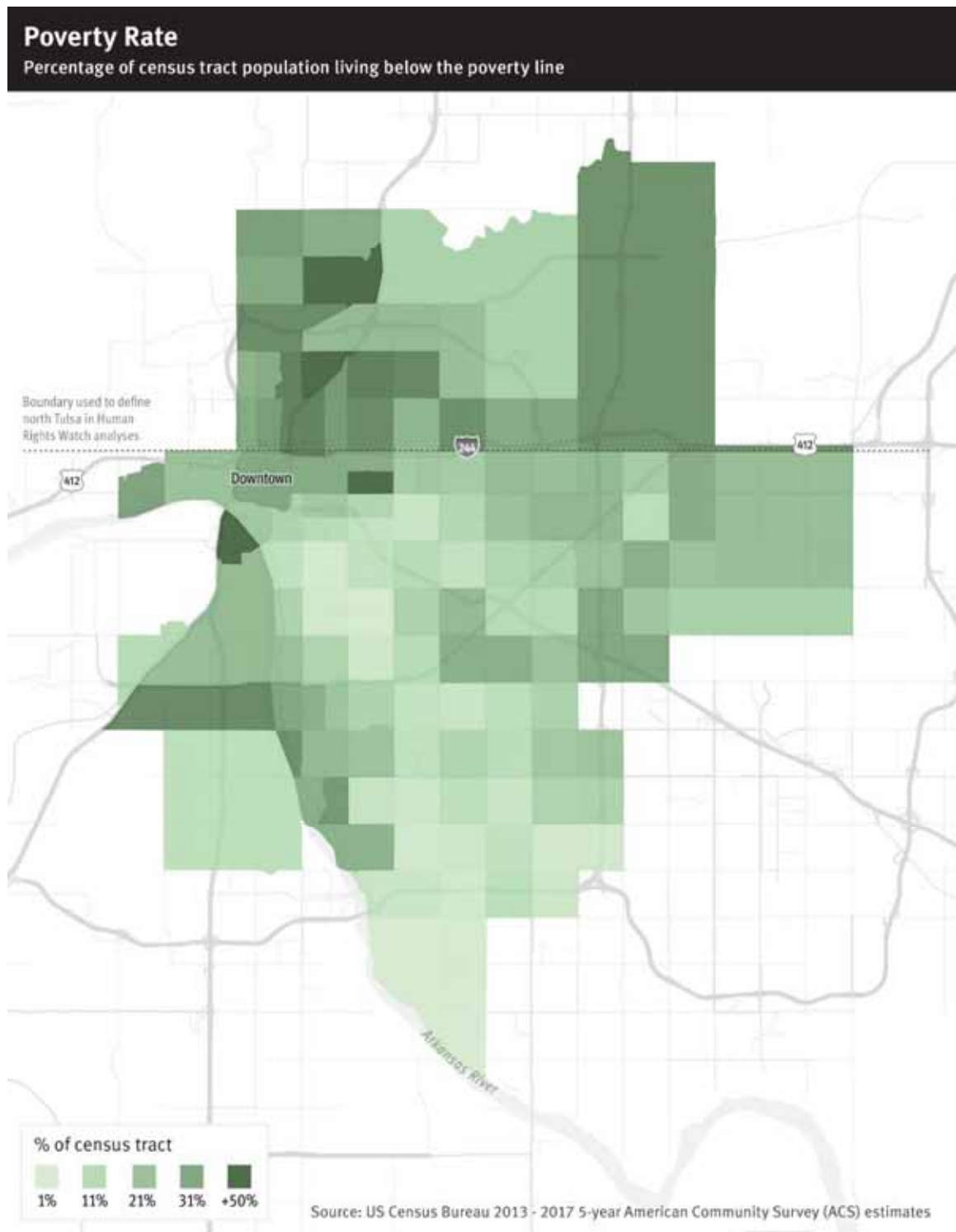
<sup>46</sup> Community Service Council, "Tulsa Equality Indicators: Annual Report, 2018," *City of Tulsa*, p. 16. This disparity in wealth reflects a national disparity between white and black people and is not unique to Tulsa. According to an analysis of 2010 census data, median net worth for white households was \$110,729, compared to \$4,955 for black households, a more than 22-fold difference. Tami Luhby, "Worsening wealth inequality by race," *CNN/Money*, June 21, 2012, <https://money.cnn.com/2012/06/21/news/economy/wealth-gap-race/> (accessed July 14, 2019).

<sup>47</sup> Gentzler, "Millions of dollars in court debt hang over residents of Oklahoma's poorest neighborhoods," *Oklahoma Policy Institute*. Human Rights Watch calculated these percentages based on the population data in the OK Policy report.

<sup>48</sup> Human Rights Watch data analysis.

<sup>49</sup> Gentzler, "Millions of dollars in court debt hang over residents of Oklahoma's poorest neighborhoods," *Oklahoma Policy Institute*. Human Rights Watch calculated these percentages based on the population data in the OK Policy report.

poverty. Overall, the black population of North Tulsa is about 48,700; the white population is 48,400.





Data from 2017 shows that white people made up 38 percent of all people living in poverty in Tulsa; black people were 20.7 percent; Latinos, 18.2 percent; people identified as multi-racial, 9.1 percent and Native Americans, almost 3.9 percent.<sup>50</sup> However, the poverty rate for black people throughout the city is about 33.5 percent, while the rate for white people is just under 13 percent.<sup>51</sup>



A boarded-up house in North Tulsa. © 2018 John Raphling/Human Rights Watch

North Tulsa has relatively few businesses and shopping districts, compared to other parts of the city.<sup>52</sup> They tend to be small and do not provide many employment opportunities.

According to a city study on inequality, South Tulsa had a two-and-a-half times greater presence of small businesses per resident than North Tulsa; East Tulsa's rate was almost double.<sup>53</sup> The study found that North Tulsa had many payday lenders, which typically carry extortionate rates of interest that often keep poor people trapped in debt, and few banks

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<sup>50</sup> Data USA, "Tulsa Oklahoma," 2017, <https://datausa.io/profile/geo/tulsa-ok/> (accessed July 14, 2019).

<sup>51</sup> World Population Review, "Tulsa, Oklahoma Population 2019," 2019, <http://worldpopulationreview.com/us-cities/tulsa-population/> (accessed July 14, 2019).

<sup>52</sup> Human Rights Watch telephone interview with Eddie Evans, January 4, 2018.

<sup>53</sup> Community Service Council, "Tulsa Equality Indicators: Annual Report, 2018," *City of Tulsa*, p. 14.





A boarded-up business in North Tulsa. © 2018 John Raphling/Human Rights Watch

that might invest in community development.<sup>54</sup> North Tulsa has large numbers of dilapidated residential and commercial properties.<sup>55</sup>

According to the city study, North Tulsa had the lowest labor force participation and fewest jobs of any region of the city.<sup>56</sup> Overall unemployment, defined as the rate of individuals participating in the labor force but unable to find work, is 2.37 times higher for black than for white Tulsans.<sup>57</sup> The unemployment rate in North Tulsa only is 14 percent for black people and 11 percent for white people.<sup>58</sup>

<sup>54</sup> Ibid., p. 14. Payday lenders give short-term loans to poor people with strict and onerous conditions, including high interest rates. Borrowers often have to take out new loans to pay back the original loan. Their business model is to profit from people in immediate financial crisis by advancing money for rent, medical bills, car payments, court fines, bail and other survival needs. People who depend on these short-term loans get stuck in a cycle of debt that keeps them in poverty. Human Rights Watch email correspondence with Joshua Zinner, chief executive officer, Interfaith Center on Corporate Responsibility, New York, New York, November 6, 2018. On file with Human Rights Watch. East Tulsa also had high levels of payday lenders.

<sup>55</sup> Human Rights Watch telephone interview with Eddie Evans, January 4, 2018.

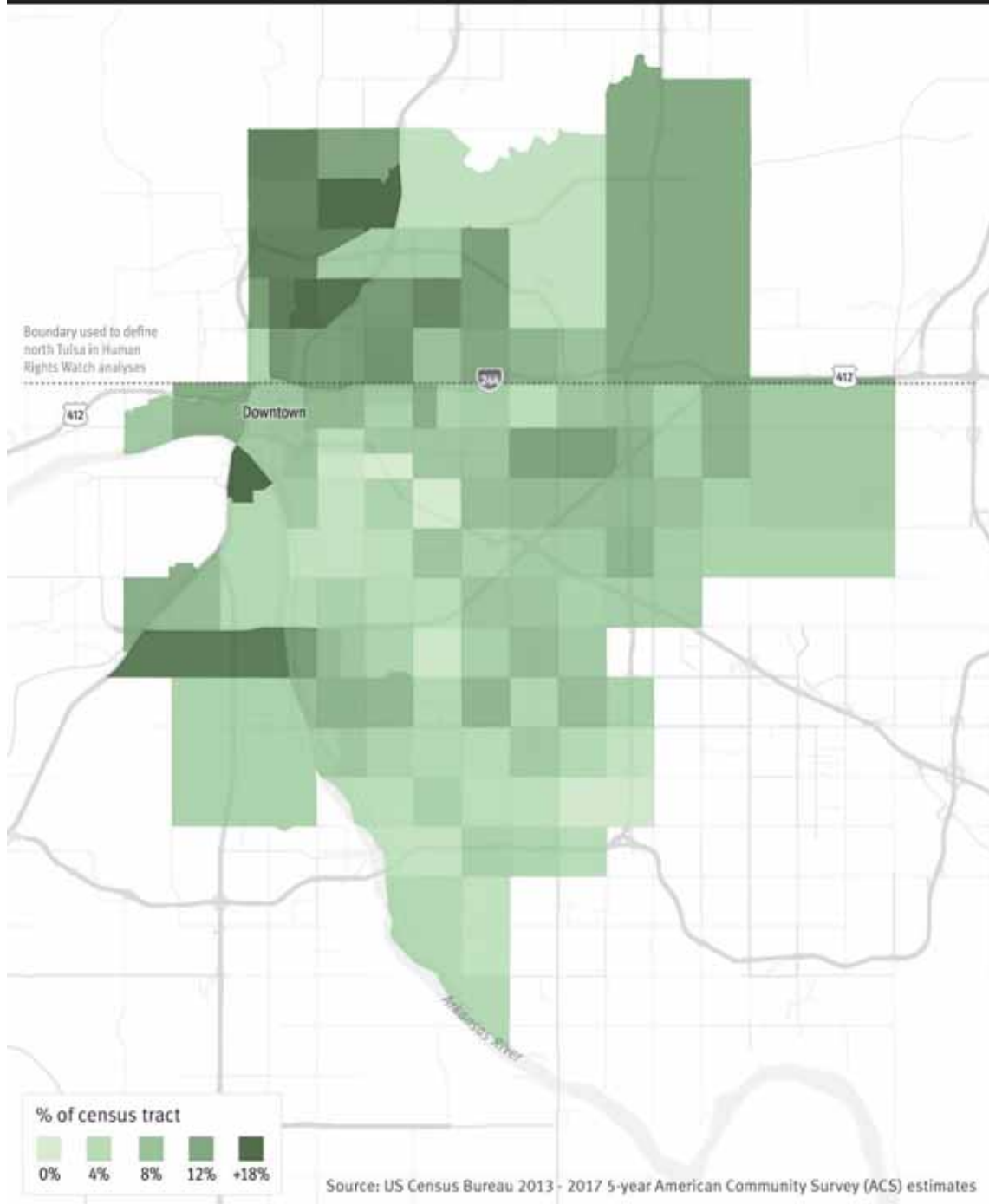
<sup>56</sup> Community Service Council, “Tulsa Equality Indicators: Annual Report, 2018,” *City of Tulsa*, p. 15. Labor force participation is defined as people either working or actively seeking employment, as opposed to those who are unable to work due to disability, age or other reasons, and those who have given up on finding employment.

<sup>57</sup> Ibid., p. 15.

<sup>58</sup> Human Rights Watch data analysis.

## Unemployment Rate

Percentage of census tract labor force that is unemployed



Crime and law enforcement impact economic opportunities. People with criminal records face serious barriers to getting jobs.<sup>59</sup> Those coming out of jail or prison have few options and are often burdened by court-imposed debt that can result in further arrest for failure to pay, and loss of employment opportunities.<sup>60</sup>

## Quality of life

### *Health*

Tulsa's racial and economic class segregation is reflected in differences in "quality of life" factors between different sections of the city. A 2015 study conducted by Virginia Commonwealth University's Center on Society and Health found the lowest life expectancy in Tulsa in the poorest areas with the greatest concentration of black residents.<sup>61</sup>

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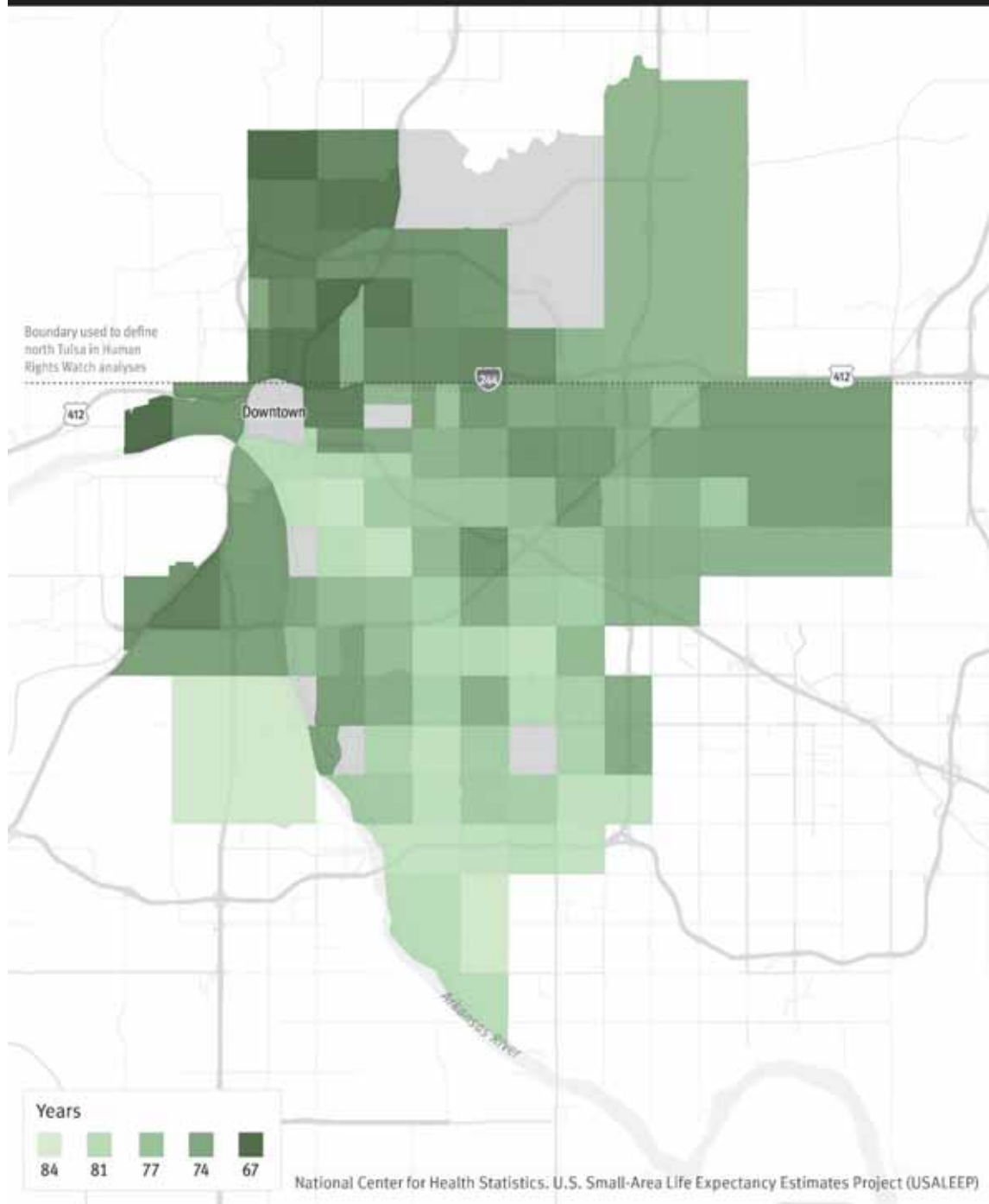
<sup>59</sup> Human Rights Watch interview with Kristi Williams, vice chair, African American Affairs Commission, Tulsa, Oklahoma, March 20, 2018.

<sup>60</sup> Human Rights Watch telephone interview with Dr. Tiffany Crutcher, April 11, 2018; Human Rights Watch interview with LaRoy Jordan (pseudonym), Tulsa, Oklahoma, September 28, 2017, and Marcus Harrington (pseudonym), Tulsa, Oklahoma, March 21, 2018, and Solomon MacArthur (pseudonym), Tulsa, Oklahoma, September 26, 2017.

<sup>61</sup> Center on Society and Health, "Tulsa Live Expectancy Methodology and Data Table," *Virginia Commonwealth University*, <https://societyhealth.vcu.edu/media/society-health/pdf/LE-Map-Tulsa-Methods.pdf> (accessed July 14, 2019). This disparity of lifespan based on wealth is pervasive in the US. Jessica Glenza, "Rich Americans live up to 15 years longer than poor peers, studies find," *The Guardian*, April 6, 2017, <https://www.theguardian.com/us-news/2017/apr/06/us-healthcare-wealth-income-inequality-lifespan> (accessed July 14, 2019).

## Life Expectancy

Life expectancy at birth in each census tract



The North Tulsa zip code 74106, with the city's highest percentages of black population and of residents living in poverty, had an average life expectancy of 70 years.<sup>62</sup> South Tulsa zip codes 74133 and 74137, both with poverty rates below 10 percent and black populations at 7.5 percent and 3.1 percent respectively, had average lifespans of 81 years.<sup>63</sup>

Throughout Tulsa, infant mortality rates for black people are almost triple that for white people.<sup>64</sup> Rates of heart disease are considerably higher, and rates of low birth weight children are nearly twice as high for black people as for white people.<sup>65</sup>

"Social and economic factors are well known to be strong determinants of health outcomes,"<sup>66</sup> according to the St. Johns Health System community needs assessment, which identified nearly all of the North Tulsa zip codes as locations in Tulsa County with the greatest need.<sup>67</sup>

### *Nutrition*

Nutrition and access to nutritious food is an important contributing factor to the overall health of an individual and a community. The state of Oklahoma as a whole suffers from a high rate of food insecurity, with 15.5 percent of all households lacking sufficient nutrition,

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<sup>62</sup> Center on Society and Health, "Tulsa Live Expectancy Methodology and Data Table," *Virginia Commonwealth University*.

<sup>63</sup> The Tulsa Health Department measured a 13.8-year disparity in average lifespans between people living in the wealthy, overwhelmingly white South Tulsa 74137 zip code and the low-income, majority-black North Tulsa 74126 zip code in a study of 2000-2002 data (80.6 years vs. 66.8 years). While that difference had narrowed by about three years in a study of 2011-2013 data, other zip codes reflected widening gaps. "Narrowing the Gap," *Tulsa Health Department*, May 26, 2015, [https://www.tulsa-health.org/sites/default/files/page\\_attachments/Life%20Expectancy%20Report.pdf](https://www.tulsa-health.org/sites/default/files/page_attachments/Life%20Expectancy%20Report.pdf) (accessed July 14, 2019).

<sup>64</sup> Community Service Council, "Tulsa Equality Indicators: Annual Report, 2018," *City of Tulsa*, p. 29.

<sup>65</sup> *Ibid.*, p. 30-31.

<sup>66</sup> Annie Smith, "St. John Medical Center: 2016 Community Health Needs Assessment," *St. John Medical Center*, 2016, [https://www.stjohnhealthsystem.com/media/file/CHNA2017/FINAL\\_SJMC\\_2016\\_Community\\_Health\\_Needs\\_Assessment\\_Updated.pdf](https://www.stjohnhealthsystem.com/media/file/CHNA2017/FINAL_SJMC_2016_Community_Health_Needs_Assessment_Updated.pdf) (accessed July 14, 2019), p. 127. Oklahoma has among the highest percentages of people without health insurance of US states. "Health Insurance Coverage of the Total Population," *Kaiser Family Foundation*, 2019, <https://www.kff.org/other/state-indicator/total-population/?currentTimeframe=0&sortModel=%7B%22colld%22:%22Uninsured%22,%22sort%22:%22desc%22%7D> (accessed July 14, 2019).

<sup>67</sup> Annie Smith, "St. John Medical Center: 2016 Community Health Needs Assessment," *St. John Medical Center*, p. 128-120.

### Lack of Grocery Stores

Instead of grocery stores with adequate supplies of fresh produce, North Tulsa has “Dollar” convenience stores, that primarily sell processed foods with little nutritional value.<sup>74</sup> Activists in North Tulsa, including City Councilor Vanessa Hall-Harper, have called for regulations to limit the number of these stores. Hall-Harper and the Tulsa Economic Development Corporation are spearheading effort to use Community Development Block Grant money to develop a traditional grocery store in a central North Tulsa location.<sup>75</sup>

Residents of North Tulsa now must drive great distances to get healthy food.<sup>76</sup> Some do not own cars, while many that do are not able to afford extra gas. Some have had their licenses suspended due to warrants or criminal court debt. Driving exposes people to aggressive police enforcement tactics.

significantly higher than the national average.<sup>68</sup> Food insecurity and hunger, most prevalent in impoverished communities, increase illness and health-care costs, decrease academic achievement and weaken the labor force, all exacerbating the existing poverty.<sup>69</sup>

“Food deserts are geographic areas where grocery stores are scarce and are void of fresh produce, usually found in low-income areas.”<sup>70</sup> About 19 percent of Tulsa County residents live in areas considered “food deserts,”<sup>71</sup> and 45 percent of Tulsa’s population have low access to nutritious food.<sup>72</sup> The areas considered food deserts are primarily in North Tulsa.<sup>73</sup>

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<sup>68</sup> Hunger Free Oklahoma, “Ending Hunger in Oklahoma: An assessment of food insecurity and resources in Oklahoma,” April 4, 2017, [http://hungerfreeok.org/wp-content/uploads/2017/04/OklahomaAssessment\\_4.4.17.pdf](http://hungerfreeok.org/wp-content/uploads/2017/04/OklahomaAssessment_4.4.17.pdf) (accessed July 14, 2019), p. 10.

<sup>69</sup> Hunger Free Oklahoma, “Ending Hunger in Oklahoma: An assessment of food insecurity and resources in Oklahoma,” p. 10-11.

<sup>74</sup> Human Rights Watch telephone interview with Reverend Gerald Davis, October 4, 2017.

<sup>75</sup> Kevin Canfield, “New grocery store to be built at Shoppes at Peoria,” *Tulsa World*, March 2, 2018, [https://www.tulsaworld.com/business/retail/new-grocery-store-to-be-built-at-shoppes-at-peoria/article\\_43e6cde5-34d3-5d3f-95d2-d3bc996d01ef.html](https://www.tulsaworld.com/business/retail/new-grocery-store-to-be-built-at-shoppes-at-peoria/article_43e6cde5-34d3-5d3f-95d2-d3bc996d01ef.html) (accessed July 14, 2019).

<sup>76</sup> Human Rights Watch telephone interview with Eddie Evans, January 4, 2018.



A Dollar Store in North Tulsa. © 2018 John Raphling/Human Rights Watch

## *Education*

Oklahoma schools are underfunded; Oklahoma teacher pay ranked ahead of only Mississippi and South Dakota in 2016;<sup>77</sup> 20 percent of the state's schools were reduced to

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<sup>73</sup> United States Department of Agriculture, Economic Resource Service, "Go to the Atlas," May 18, 2017, <https://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas/> (accessed July 14, 2019).

<sup>74</sup> Human Rights Watch telephone interview with Reverend Gerald Davis, October 4, 2017.

<sup>75</sup> Kevin Canfield, "New grocery store to be built at Shoppes at Peoria," *Tulsa World*, March 2, 2018, [https://www.tulsaworld.com/business/retail/new-grocery-store-to-be-built-at-shoppes-at-peoria/article\\_43e6cde5-34d3-5d3f-95d2-d3bc996d01ef.html](https://www.tulsaworld.com/business/retail/new-grocery-store-to-be-built-at-shoppes-at-peoria/article_43e6cde5-34d3-5d3f-95d2-d3bc996d01ef.html) (accessed July 14, 2019).

<sup>76</sup> Human Rights Watch telephone interview with Eddie Evans, January 4, 2018.

<sup>77</sup> National Education Association, "Rankings of the States 2016 and Estimates of School Statistics 2017," May 2017, [http://www.nea.org/assets/docs/2017\\_Rankings\\_and\\_Estimates\\_Report-FINAL-SECURED.pdf](http://www.nea.org/assets/docs/2017_Rankings_and_Estimates_Report-FINAL-SECURED.pdf) (accessed July 14, 2019), p. 108-109. In April 2018, teachers across the state went on strike, and pressured legislation to raise taxes to pay for additional funding, including an average \$6,100 raise. Emily Wendler, "Lawmakers Pass Rare Tax Increase For Education, But Funding Falls Short of Teachers' Demands," *StateImpact Oklahoma, National Public Radio (NPR)*, March 29, 2018, <https://stateimpact.npr.org/oklahoma/2018/03/29/lawmakers-pass-rare-tax-increase-for-education-but-funding-falls-short-of-teachers-demands/> (accessed July 14, 2019); Paul Waldman, "Republicans want to turn the entire country into Oklahoma," *Washington Post*, February 8, 2018, [https://www.washingtonpost.com/blogs/plum-line/wp/2018/02/08/republicans-want-to-turn-the-entire-country-into-oklahoma/?utm\\_term=.23fbc5549d8c](https://www.washingtonpost.com/blogs/plum-line/wp/2018/02/08/republicans-want-to-turn-the-entire-country-into-oklahoma/?utm_term=.23fbc5549d8c) (accessed July 14, 2019). While this amount will help retain more teachers, Tulsa Public School officials have said that the new funding will not be enough to materially change the districts' financial situation. Samuel Hardiman, "'Not going to be enough for our circumstances': School finances have changed little despite walkout," *Tulsa World*, April 28, 2018, [https://www.tulsaworld.com/eedition/page-a/page\\_2e84d424-c117-5247-a97d-7edbf89e7c2.html](https://www.tulsaworld.com/eedition/page-a/page_2e84d424-c117-5247-a97d-7edbf89e7c2.html) (accessed July 14, 2019).



four-day weeks in 2018 due to budget cuts.<sup>78</sup> The Tulsa schools lost 628 teachers in the 2016-2017 school year, due in large part to low salaries.<sup>79</sup> Schools lack adequate funding for textbooks and repairs.<sup>80</sup>

Over the past decade, Oklahoma schools have lost 30 percent of their funding, adjusting for inflation.<sup>81</sup> The state legislature cannot raise taxes without a three-quarters majority,<sup>82</sup> making it extremely difficult to raise revenue through taxation.

Inadequate school funding negatively impacts low-income schools much more than those with wealthier student populations.<sup>83</sup> Local schools raise money from their communities and benefit from parents contributing for supplies, sports, music programs, and other activities to enrich the lives of students. Schools in very low-income communities, such as North Tulsa, lack this alternative source of income.

Along with segregated neighborhoods come segregated schools. The Tulsa area has 12 schools with greater than 75 percent black enrollment, 19 schools with greater than 50 percent black enrollment, mostly in the city of Tulsa, and 71 schools, almost all in suburban school districts, with less than 6 percent black enrollment.<sup>84</sup>

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<sup>78</sup> Moriah Balingit, “Oklahoma governor compares striking teachers to ‘a teenage kid that wants a better car,’” *Washington Post*, April 4, 2018, [https://www.washingtonpost.com/news/education/wp/2018/04/04/oklahoma-governor-compares-striking-teachers-to-a-teenage-kid-that-wants-a-better-car/?utm\\_term=.cob9370aa400](https://www.washingtonpost.com/news/education/wp/2018/04/04/oklahoma-governor-compares-striking-teachers-to-a-teenage-kid-that-wants-a-better-car/?utm_term=.cob9370aa400) (accessed July 14, 2019).

<sup>79</sup> Samuel Hardiman, “Far fewer Tulsa Public Schools teachers exit the district this year; proposed pay raise cited by officials,” *Tulsa World*, June 22, 2018, [https://www.tulsaworld.com/news/local/education/far-fewer-tulsa-public-schools-teachers-exit-the-district-this/article\\_925c1e1e-3e20-5515-ae4f-ba93f93b2fcd.html](https://www.tulsaworld.com/news/local/education/far-fewer-tulsa-public-schools-teachers-exit-the-district-this/article_925c1e1e-3e20-5515-ae4f-ba93f93b2fcd.html) (accessed July 14, 2019).

<sup>80</sup> Balingit, “Oklahoma governor compares striking teachers to ‘a teenage kid that wants a better car,’” *Washington Post*.

<sup>81</sup> Waldman, “Republicans want to turn the entire country into Oklahoma,” *Washington Post*.

<sup>82</sup> *Ibid.*

<sup>83</sup> Janie Boschma and Ronald Brownstein, “The Concentration of Poverty in American Schools,” *The Atlantic*, February 29, 2016, <https://www.theatlantic.com/education/archive/2016/02/concentration-poverty-american-schools/471414/> (accessed July 14, 2019). The article quoted Stanford University professor of education Sean Reardon, saying “... [S]chool poverty turns out to be a good proxy for quality of a school.... [S]chools serving poor kids tend to have fewer resources, both economic and social capital resources.”

<sup>84</sup> David Blatt, “Schools, housing & poverty: Thoughts on segregation in Tulsa,” *Oklahoma Policy Institute*, September 11, 2014, <https://okpolicy.org/schools-housing-poverty-thoughts-segregation-tulsa/> (accessed July 14, 2019). These numbers indicate progress from the late 1960s when Tulsa’s ranked as one of the most racially segregated school systems in the country.



The percentage of students eligible for free and reduced school lunches is often used as a proxy for the percentage of its students living in poverty. The average black student in Tulsa public schools attends a school where over 81 percent of students are eligible for free and reduced school lunch, as compared to 77 percent for the average Latino student, and 55 percent for the average white student.<sup>85</sup>

High poverty schools have much greater rates of absenteeism and students are more likely to leave after one year than are students at predominantly white lower poverty schools.<sup>86</sup> Turnover and interruption in attendance in a school make it difficult for all students to learn,<sup>87</sup> and reflect the stresses of poverty that greatly impact scholastic achievement, including poor health, hunger, and exposure to crime and violence.<sup>88</sup>

Black students receive school suspensions at a rate 2.5 times greater than white students, and at a significantly greater rate than Latino students.<sup>89</sup> Despite recent policy changes to de-emphasize removing children from school,<sup>90</sup> which have reduced overall suspensions,<sup>91</sup> there remain significant differences in suspension, dropout, and mobility rates based on race and wealth.<sup>92</sup>

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<sup>85</sup> David Blatt, “Schools, housing & poverty: Thoughts on segregation in Tulsa,” *Oklahoma Policy Institute*.

<sup>86</sup> David Blatt, “Schools, housing & poverty: Thoughts on segregation in Tulsa,” *Oklahoma Policy Institute*.

<sup>87</sup> McLain High School, in North Tulsa, has a majority black student body with another 25 percent of students, Latino. Students miss an average of 26.7 days each school year. It has a “mobility rate” (percentage leaving the school after each year) of 83.3 percent. It has high rates of suspensions and students dropping out of school. Not surprisingly, the 10<sup>th</sup> grade achievement scores are extremely low. By contrast, Booker T. Washington High School has a 3.3 percent “mobility rate” and an absentee rate of about one-third that of McLain. Its students are suspended far less frequently and very few of them drop out of school. This school’s achievement scores are about seven times higher. Office of Educational Quality and Accountability: 2017 School Profiles, “McLain HS for Science and Technology,” 2017, <https://www.edprofiles.info/doc/profiles/2017/reports/src/201772i001720.pdf> (accessed July 14, 2019); Office of Educational Quality and Accountability: 2017 School Profiles, “Booker T. Washington High School,” <https://www.edprofiles.info/doc/profiles/2017/reports/src/201772i001735.pdf> (accessed July 14, 2019).

<sup>88</sup> David Blatt, “Schools, housing & poverty: Thoughts on segregation in Tulsa,” *Oklahoma Policy Institute*.

<sup>89</sup> Civil Rights Data Collection, US Department of Education, “School and District Search: Tulsa, OK,” 2015 <https://ocrdata.ed.gov/Page?t=d&eid=29907&syk=8&pid=2278> (accessed July 14, 2019).

<sup>90</sup> Editorial Writers, “Tulsa World Editorial: TPS discipline guidelines de-emphasize suspensions: TPS implements new policy,” *Tulsa World*, July 22, 2016, [https://www.tulsaworld.com/opinion/editorials/tulsa-world-editorial-tps-discipline-guidelines-de-emphasizes-suspensions/article\\_f37890c3-ced9-55ec-9757-1384b01e57a5.html](https://www.tulsaworld.com/opinion/editorials/tulsa-world-editorial-tps-discipline-guidelines-de-emphasizes-suspensions/article_f37890c3-ced9-55ec-9757-1384b01e57a5.html) (accessed July 14, 2019).

<sup>91</sup> Samuel Hardiman, “Tulsa Public Schools data: Special-needs students are suspended disproportionately more than others,” *Tulsa World*, September 16, 2018, [https://www.tulsaworld.com/news/education/tulsa-public-schools-data-special-needs-students-are-suspended-disproportionately/article\\_5b924efb-e959-5364-ba2d-043422f471cd.html](https://www.tulsaworld.com/news/education/tulsa-public-schools-data-special-needs-students-are-suspended-disproportionately/article_5b924efb-e959-5364-ba2d-043422f471cd.html) (accessed July 14, 2019).

<sup>92</sup> Community Service Council, “Tulsa Equality Indicators: Annual Report, 2018,” *City of Tulsa*, p. 18.

These educational deficiencies, all problems in Tulsa’s under-resourced low-income public schools, are likely contributors to crime,<sup>93</sup> as young people who fail in school have fewer economic opportunities, are more likely to be unemployed, lack legal options for survival, and have to deal with other stresses that accompany poverty.<sup>94</sup>

## Police Funding in Tulsa

Tulsa devotes much of its budget to policing. Policing has accounted for about one-third of the outlays from the general fund, the city’s primary operating fund,<sup>95</sup> over the past five years.

FY 2013-2014<sup>96</sup>—31.6 percent

FY 2014-2015<sup>97</sup>—34 percent

FY 2015-2016<sup>98</sup>—34.5 percent

FY 2016-2017<sup>99</sup>—34.8 percent

FY 2017-2018<sup>100</sup>—34.6 percent

FY 2018-2019<sup>101</sup>— 35.1 percent<sup>102</sup>

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<sup>93</sup> Alliance for Excellent Education, “Crime Rates Linked to Educational Attainment, 2013 Alliance Report Finds,” September 12, 2013, <https://all4ed.org/press/crime-rates-linked-to-educational-attainment-new-alliance-report-finds/> (accessed July 14, 2019).

<sup>94</sup> Brian Gentry, Rishab Mokkalapati and Kiran Rampersad, “Impact of Educational Attainment on Crime in the United States: A Cross-Metropolitan Analysis,” *Georgia Institute of Technology*, November 17, 2016, [https://smartech.gatech.edu/bitstream/handle/1853/56029/gentry\\_mokkalapati\\_rampersad\\_-\\_educational\\_attainment\\_and\\_crime.pdf](https://smartech.gatech.edu/bitstream/handle/1853/56029/gentry_mokkalapati_rampersad_-_educational_attainment_and_crime.pdf) (accessed July 14, 2019).

<sup>95</sup> City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2017-2018,” <https://www.cityoftulsa.org/media/4455/annualbudgetfy2017-2018.pdf> (accessed July 14, 2019), p. 85.

<sup>96</sup> City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2013-2014,” <https://www.cityoftulsa.org/media/2904/fy2013-14.pdf> (accessed July 14, 2019).

<sup>97</sup> City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2013-2015,” <https://www.cityoftulsa.org/media/2905/fy2014-15.pdf>, (accessed July 14, 2019).

<sup>98</sup> City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2015-2016,” <https://www.cityoftulsa.org/media/2906/fy2015-16.pdf> (accessed July 14, 2019).

<sup>99</sup> City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2016-2017,” <https://www.cityoftulsa.org/media/1418/fy16-17annualbudget.pdf> (accessed July 14, 2019).

<sup>100</sup> City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2017-2018,” <https://www.cityoftulsa.org/media/4455/annualbudgetfy2017-2018.pdf> (accessed July 14, 2019).

<sup>101</sup> City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2018-2019,” <https://www.cityoftulsa.org/media/8388/fy18-19-annual-budget.pdf>, (accessed July 14, 2019), p. 87-90.

<sup>102</sup> Human Rights Watch is not making a comparative analysis with other cities and the percentages that they spend on policing.

The police department has received by far the largest general fund outlays. In FY 2018-2019, the General Fund budget lines were as follows:<sup>103</sup>

<b>Public Safety and Protection (which includes police, municipal courts, fire and emergency management):</b>	\$173,400,000	62.3 percent of total <sup>104</sup>
<b>Cultural Development and Recreation:</b>	\$21,412,000	7.8 percent of total
<b>Social and Economic Development:</b>	\$11,784,000	4.2 percent of total
<b>Public Works and Transportation:</b>	\$26,412,000	9.6 percent of total <sup>105</sup>
<b>Administrative and Support Services:</b>	\$41,682,000	15.2 percent of total
<b>Transfers out:</b>	\$3,138,000	1.1 percent of total
<b>Total General Fund Budget:</b>	\$278,139,000	

Overall funding for the Tulsa police, including from sources outside of the general fund, has increased steadily from \$88.2 million in FY 2013-2014 to \$114.8 million in FY 2018-2019.<sup>106</sup> When city revenues dropped significantly in FY 2014-2015, the mayor had other city departments take cuts to allow for increases in the police department.<sup>107</sup> Both city<sup>108</sup>

<sup>103</sup> City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2018-2019,” p. 87-90.

<sup>104</sup> The General Fund budget for police was \$97,689,000 or 35.1 percent, as noted above.

<sup>105</sup> “Public works and transportation” receive large amounts of funding from sources outside of the general fund and take up a much larger share of the overall budget.

<sup>106</sup> City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2018-2019,” p. 202. In FY 2015-2016 and for several previous years, Tulsa increased general fund money for police to replace money lost from the expiration of federal grants. City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2015-2016,” p. 25.

<sup>107</sup> City of Tulsa, “Annual Budget and Capital Plan: Fiscal Year 2014-2015,” p. 10.

<sup>108</sup> Kevin Canfield, “Opening of city’s new jail scheduled for March as operating cost estimates rise,” *Tulsa World*, January 3, 2018, [https://www.tulsaworld.com/homepagelatest/opening-of-city-s-new-jail-scheduled-for-march-as/article\\_f92b88c2-4101-5077-926f-40f144e3f083.html](https://www.tulsaworld.com/homepagelatest/opening-of-city-s-new-jail-scheduled-for-march-as/article_f92b88c2-4101-5077-926f-40f144e3f083.html) (accessed July 15, 2019). Mayor Bynum argues that operating a separate city jail will save Tulsa the cost of paying the county to house these prisoners.

and county<sup>109</sup> authorities have recently put public money into building, renovating, expanding, and operating jails.

A survey of police budgets in 10 major US cities for fiscal year 2017 found a range of spending from New York City, NY spending 8.2 percent of their general fund to Oakland, CA spending 41.2 percent.<sup>110</sup> Chicago, IL spent a higher percentage than Tulsa, at 38.6 percent, while Los Angeles, CA spent 25.7 percent. Tulsa's percentage was about in the middle of the surveyed cities, though it is not possible to draw firm conclusions due to the differences in size, crime rates, poverty rates, total budgets, geography and other factors.

A study of police staffing from 1990 through 2013 found that Tulsa's force has been stable in size relative to population over this time period, and that it is "moderate" in size compared to other cities.<sup>111</sup>

In 2016, Tulsa voters approved a sales tax increase with revenues directly earmarked for the police and fire departments.<sup>112</sup> This Public Safety Tax Fund gave the Tulsa Police Department \$8.4 million in FY 2017-2018 in addition to its general fund outlays and \$10.2 million in FY 2018-2019.<sup>113</sup> Voters approved this sales tax<sup>114</sup> in order to increase the police

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<sup>109</sup> Jaclyn Cosgrove, "Tulsa, Oklahoma counties address jail changes, mentally ill inmates," *The Oklahoman*, January 22, 2017, <https://newsok.com/article/5535086/tulsa-oklahoma-counties-address-jail-changes-mentally-ill-inmates> (accessed July 15, 2019); "Tulsa County Voters Approve Sales Tax to Improve Jails," *Channel 9 News*, April 1, 2014, <http://www.news9.com/story/25135966/tulsa-county-votes-to-approve-sales-tax-to-improve-jails> (accessed July 15, 2019).

<sup>110</sup> Kate Hamaji, et al., "Freedom to Thrive: Reimagining Safety and Security in Our Communities," undated, <https://populardemocracy.org/sites/default/files/Freedom%20To%20Thrive%2C%20Higher%20Res%20Version.pdf> (accessed on July 14, 2019), p. 2.

<sup>111</sup> Nicholas Corsaro et al., "Crime and Staffing Analysis for the Tulsa Police Department: A Final Report," *University of Cincinnati Institute of Crime Science*, September 10, 2015, [https://www.uc.edu/content/dam/cech/centers/ccjr/docs/4a\\_Tulsa%20-%20Final%20Report.pdf](https://www.uc.edu/content/dam/cech/centers/ccjr/docs/4a_Tulsa%20-%20Final%20Report.pdf), (accessed July 15, 2019), p. 5, 49-52.

<sup>112</sup> City of Tulsa, "Annual Budget and Capital Plan: Fiscal Year 2016-2017," p. 108.

<sup>113</sup> City of Tulsa, "Annual Budget and Capital Plan: Fiscal Year 2017-2018," p. 202; City of Tulsa, "Annual Budget and Capital Plan: Fiscal Year 2018-2019," <https://www.cityoftulsa.org/media/8388/fy18-19-annual-budget.pdf> (accessed July 15, 2019), p. 202.

<sup>114</sup> Use of sales taxes, unlike graduated income taxes, disproportionately burdens poor people, as someone living in poverty pays the same added percentage for each purchase as someone who is wealthy. Tanvi Misra, "How Local Sales Taxes Target the Poor and Widen the Income Gap," *City Lab*, January 20, 2015, <https://www.citylab.com/life/2015/01/how-local-sales-taxes-target-the-poor-and-widen-the-income-gap/384643/> (accessed July 15, 2019); The Institute on Taxation and Economic Policy, "Who Pays: A Distributional Analysis of the Tax Systems in All 50 States," March 2018, <https://itep.org/whopays/> (accessed July 15, 2019).

force by 160 officers within a few years, as well as increase the number of firefighters.<sup>115</sup> The FY 2017-2018 budget was designed to add 90 officers, using sales tax and general fund money.<sup>116</sup>

## Racialized Poverty is a National Problem

The harmful effects of poverty, particularly as it impacts black communities, exist throughout the country, much as they do in Tulsa, though these measures of poverty are high in Tulsa.

According to US census data, the racial divide in household income in Tulsa reflects a similar divide across the country, with the median black household being under \$40,000 and the median white household over \$65,000.<sup>117</sup> The black poverty rate, nationally, is 22 percent, while the white rate is 8.8 percent, both considerably lower than Tulsa's rates, but indicative of a racial wealth divide across the country.<sup>118</sup> Nearly 11 percent of black people in the US are below 50 percent of the poverty threshold, indicating a great depth of poverty.<sup>119</sup> Black unemployment rates are nearly twice as high as white unemployment rates across the country.<sup>120</sup>

This racial poverty divide is reflected in other measures of quality of life throughout the US, as it is in Tulsa. White life expectancy is measurably higher than black life expectancy, though the gap nationally appears to be less than it is in Tulsa.<sup>121</sup> Race and socio-economic

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<sup>115</sup> Editorial Board, "Tulsa World Editorial: Vision tax working as Tulsa police, fire departments add to their numbers," *Tulsa World*, April 15, 2018, [https://www.tulsaworld.com/opinion/editorials/tulsa-world-editorial-vision-tax-working-as-tulsa-police-fire/article\\_aba6c883-efe2-5411-89cf-7382882fb78a.html](https://www.tulsaworld.com/opinion/editorials/tulsa-world-editorial-vision-tax-working-as-tulsa-police-fire/article_aba6c883-efe2-5411-89cf-7382882fb78a.html) (accessed July 15, 2019).

<sup>116</sup> Jarrel Wade, "Mayor's budget proposal includes new programs, hiring police officers, raises for some employees," *Tulsa World*, April 30, 2017, [https://www.tulsaworld.com/news/government/mayor-s-budget-proposal-includes-new-programs-hiring-police-officers/article\\_oecoaf51-5db6-5715-b8a2-5d2df9c70263.html](https://www.tulsaworld.com/news/government/mayor-s-budget-proposal-includes-new-programs-hiring-police-officers/article_oecoaf51-5db6-5715-b8a2-5d2df9c70263.html) (accessed July 15, 2017).

<sup>117</sup> Jessica L. Semega, Kayla R. Fontenot, and Melissa A. Kollar, "Income and Poverty in the United States: 2016: Current Population Reports," *US Department of Commerce, Economics and Statistics Administration, US Census Bureau*, September 2017 <https://www.census.gov/content/dam/Census/library/publications/2017/demo/P60-259.pdf> (accessed July 15, 2019), p. 5-7. This is data for 2016.

<sup>118</sup> *Ibid.*, p. 12.

<sup>119</sup> *Ibid.*, p. 17.

<sup>120</sup> Bureau of Labor Statistics, "Labor Force Statistics from the Current Population Survey," *US Department of Labor*, July 5, 2019, [https://www.bls.gov/web/empsit/cpsee\\_e16.htm](https://www.bls.gov/web/empsit/cpsee_e16.htm) (accessed July 15, 2019).

<sup>121</sup> Elizabeth Arias and Jiaquan Xu, "Nation Vital Statistics Reports, United States Live Tables, 2017," *US Department of Health and Human Services*, June 24, 2019, [https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68\\_07-508.pdf](https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68_07-508.pdf) (accessed July 15, 2019).

status are highly correlated with access to affordable healthy food in the US.<sup>122</sup> Communities of color throughout the US have lower access to healthy food, and rely on unhealthy foods as in Tulsa.<sup>123</sup> Food insecurity and food deserts afflict poor and especially minority communities throughout the country.<sup>124</sup>

Black and Latino students across the country are much more likely to attend high poverty schools than white students.<sup>125</sup> High poverty schools generally result in far worse educational outcomes than wealthier schools.<sup>126</sup> Black students receive suspensions and other serious discipline at much higher rates than white students nationally.<sup>127</sup> Racial segregation in schools is widespread throughout the US.<sup>128</sup>

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15, 2019), p. 5. The gap between white and black life expectancy in 2017 was 3.5 years. Tulsa zip codes with higher percentage black populations had much bigger life expectancy differentials from zip codes with low black populations, though the differences also relate to poverty.

<sup>122</sup> Lindsey Haynes-Maslow, “The Devastating Consequences of Unequal Food Access,” *Union of Concerned Scientists*, April 2016, <https://www.ucsusa.org/sites/default/files/attach/2016/04/ucs-race-income-diabetes-2016.pdf> (accessed July 15, 2019), p. 2

<sup>123</sup> Haynes-Maslow, “The Devastating Consequences of Unequal Food Access,” *Union of Concerned Scientists*, p. 5.

<sup>124</sup> Elsadig Elsheikh and Nadia Barhoum, “Structural Racialization and Food Insecurity in the United States: A report to the U.N. Human Rights Committee on the International Covenant on Civil and Political Rights,” *Haas Institute for a Fair and Inclusive Society, University of California, Berkeley*, September 2013, <https://haasinstitute.berkeley.edu/sites/default/files/Structural%20Racialization%20%20%26%20Food%20Insecurity%20in%20the%20US-%28Final%29.pdf> (accessed July 15, 2019); New York Law School, Racial Justice Project and ACLU, “Unshared Bounty: How Structural Racism Contributes to the Creation and Persistence of Food Deserts,” June 2012, <https://www.racialjusticeproject.com/wp-content/uploads/sites/30/2012/06/NYLS-Food-Deserts-Report.pdf> (accessed July 15, 2019). This report documented food deserts in black communities in a variety of major US cities.

<sup>125</sup> National Center for Education Statistics, “Concentration of Public School Students Eligible for Free or Reduced-Price Lunch,” *US Department of Education*, May 2019, [https://nces.ed.gov/programs/coe/indicator\\_clb.asp](https://nces.ed.gov/programs/coe/indicator_clb.asp) (accessed July 15, 2019); National Equity Atlas, “School poverty,” PolicyLink and the USC Program for Environmental and Regional Equity,” 2018, [https://nationalequityatlas.org/indicators/School\\_poverty](https://nationalequityatlas.org/indicators/School_poverty) (accessed July 15, 2019); US Government Accountability Office, “Report to Congressional Requesters: K-12 Education: Better Use of Information Could Help Agencies Identify Disparities and Address Racial Discrimination,” April 2016, <https://www.gao.gov/assets/680/676745.pdf> (accessed July 15, 2019).

<sup>126</sup> Janie Boschma and Ronald Brownstein, “The Concentration of Poverty in American Schools,” *The Atlantic*, February 29, 2016, <https://www.theatlantic.com/education/archive/2016/02/concentration-poverty-american-schools/471414/> (accessed July 15, 2019)

<sup>127</sup> US Government Accountability Office, “Report to Congressional Requesters: K-12 Education, Discipline Disparities for Black Students, Boys, and Students with Disabilities,” March 2018, <https://www.gao.gov/assets/700/690828.pdf> (accessed July 15, 2019), p. 5. This report suggested that “implicit bias” may be a substantial contributing factor to the differences in discipline rates.

<sup>128</sup> Erika Frankenberg et al., “Harming our Common Future: America’s Segregated Schools 65 Years after Brown,” *The Civil Rights Project, UCLA*, May 10, 2019, <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/harming-our-common-future-americas-segregated-schools-65-years-after-brown/Brown-65-050919v4-final.pdf> (accessed July 15, 2019).

All of these poverty factors greatly influence crime and public safety throughout the US, as they do in Tulsa, calling for solutions that directly address poverty and raising the question of whether aggressive policing as currently practiced is the appropriate response to crime in poor communities.

### III. Deadly Force by Police

In the heart of North Tulsa, on the evening of September 16, 2016, Tulsa Police officer Betty Shelby stopped her patrol car a short distance from a cream-colored SUV which was parked in the middle of North 36<sup>th</sup> Street, straddling the double yellow line, just west of Lewis Street, with its motor running.<sup>129</sup> She looked inside the SUV and saw no one there.<sup>130</sup> Then she saw a man walking towards her and the SUV. Though he was neither belligerent nor aggressive,<sup>131</sup> she drew her gun and ordered him to take his hands out of his pocket. After initially hesitating, he took his hands out and raised them above his head.<sup>132</sup> She ordered him to “get on the ground.”<sup>133</sup>

Terence Crutcher did not get down. With his hands up, he continued to walk slowly towards the SUV. Crutcher’s family has explained that his hearing was impaired.<sup>134</sup> By this time, a Tulsa Police helicopter was flying above at a low altitude, filming. One of the officers in the helicopter, seeing Crutcher walking with his hands up, and stopping at the driver’s side of the SUV, knowing not much about him other than what he looked like, said: “That looks like a bad dude, too.”<sup>135</sup>

In fact, Terence Crutcher was well loved by his family and many in his North Tulsa community. His surviving family members say he was a good father to his four children.<sup>136</sup> His twin sister is a community doctor in Alabama.<sup>137</sup> His father is a reverend at a local

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<sup>129</sup> Tom Cleary, “Watch: Video Shows Shooting of Terence Crutcher by Tulsa Police,” *Heavy*, September 22, 2016, <https://heavy.com/news/2016/09/terence-crutcher-betty-shelby-tulsa-oklahoma-police-shooting-video-full-uncensored-youtube-audio-unarmed-hands-arms-up/> (accessed July 15, 2019).

<sup>130</sup> Julia Jacobo, “Tulsa Police Officer Shares Her Side of the Story in Terence Crutcher’s Shooting,” *ABC News*, September 21, 2016, <https://abcnews.go.com/US/tulsa-police-officer-shares-side-story-terence-crutchers/story?id=42243843> (accessed July 15, 2019).

<sup>131</sup> Bill Whitaker, “Officer Betty Shelby on Terence Crutcher Shooting,” *CBS News*, April 2, 2017, <https://www.cbsnews.com/news/terence-crutcher-unarmed-black-man-shooting-60-minutes-2/> (accessed July 15, 2019).

<sup>132</sup> Julia Jacobo, “Tulsa Police Officer Shares Her Side of the Story in Terence Crutcher’s Shooting,” *ABC News*.

<sup>133</sup> Bill Whitaker, “Officer Betty Shelby on Terence Crutcher Shooting,” *CBS News*.

<sup>134</sup> Human Rights Watch interview with Reverend Joey Crutcher and Leanna Crutcher, parents of Terence Crutcher, Tulsa, Oklahoma, March 20, 2018.

<sup>135</sup> Tom Cleary, “Watch: Video Shows Shooting of Terence Crutcher by Tulsa Police,” *Heavy*.

<sup>136</sup> Human Rights Watch interview with Reverend Joey Crutcher and Leanna Crutcher, March 20, 2018.

<sup>137</sup> Human Rights Watch telephone interview with Dr. Tiffany Crutcher, April 11, 2018.



church. Crutcher was enrolled in classes at Tulsa Community College. He was a singer who loved gospel music; he was on his way to a music workshop at Antioch Baptist Church, where his mother and father were waiting for him the night of his death.<sup>138</sup> He had struggled with drugs during his life and was trying to get into a drug rehabilitation program at the time.<sup>139</sup> A friend described him as a “gentle giant,” somebody who was always helping people, and a person with good, respectful values.<sup>140</sup>

Shortly after Crutcher reached the driver’s side of the SUV and lowered his right arm to his side,<sup>141</sup> Shelby shot him.

She later claimed in television interviews and trial testimony that she thought he was reaching into the open window of the SUV. Video footage from the helicopter is inconclusive as to whether the window was open.<sup>142</sup> She said she feared he had a weapon.<sup>143</sup> Crutcher died from the gunshot wounds.

Crutcher had no weapon on his person or in his car. In addition to the police helicopter circling overhead, there were three other armed, trained officers with Shelby right before

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<sup>138</sup> Human Rights Watch interview with Reverend Joey Crutcher and Leanna Crutcher, March 20, 2018.

<sup>139</sup> Human Rights Watch interview with Reverend Joey Crutcher and Leanna Crutcher, March 20, 2018.

<sup>140</sup> Human Rights Watch telephone interview with Pastor Arlando Jasper, July 22, 2019.

<sup>141</sup> Tom Cleary, “Watch: Video Shows Shooting of Terence Crutcher by Tulsa Police,” *Heavy*. The video does not clearly show what he does with his left arm.

<sup>142</sup> Tom Cleary, “Watch: Video Shows Shooting of Terence Crutcher by Tulsa Police,” *Heavy*.

<sup>143</sup> Bill Whitaker, “Officer Betty Shelby on Terence Crutcher Shooting,” *CBS News*; Kassie McClung, “Shelby: Crutcher would still be alive if he would have communicated, listened to commands,” *The Frontier*, May 15, 2017 <https://www.readfrontier.org/stories/faster-shelby-testifies-decision-to-shoot/> (accessed July 15, 2019).

she fired, including one who shot Crutcher with a taser.<sup>144</sup> Shelby never attempted to take cover.<sup>145</sup> Instead she had walked closer to Crutcher.<sup>146</sup>

In her trial testimony and her television interview, Shelby said the killing was Crutcher's fault: "If he would've complied...If he would've just done as I asked him to do, we would not be here."<sup>147</sup>

## National Deadly Force Data

Terence Crutcher was one of at least 963 people shot and killed by police in the US in 2016.<sup>148</sup> For the years 2015 through 2018, the *Washington Post* documented 3,943 people shot and killed by police.<sup>149</sup> Of those whose race is known, 24 percent were black, though black people make up only 13.4 percent of the overall national population. White people made up 48 percent and Latino people were 17 percent of those shot and killed, though, in the last census, people identifying themselves as white made up 76.6 percent of the overall population and those who identify themselves as white and not Latino were 60.7 percent.<sup>150</sup> In the US, police kill black people at a rate of 2.9 times that of white people.

The racial disparity is greater when considering the killing of unarmed people like Terence Crutcher. Of unarmed people killed by police from 2015 through 2018, 36.8 percent were black, 41.4 percent were white, and 18 percent were Latino.<sup>151</sup>

### Tracking of Police Killings

Data collection on killings by police nationally has been inconsistent and deficient. Some departments simply do not report killings that occur in police custody or during police actions. Others misclassify those killings.<sup>152</sup> Researchers determined, in a 2015 study, that Oklahoma officials misclassified all of its law enforcement related deaths.<sup>153</sup> In 2014, Congress passed the Death in Custody Reporting Act of 2013, which requires all US police agencies to gather data about police killings and other deaths and report them to the federal government.<sup>154</sup> Unfortunately, only some federal and state agencies have done so,<sup>155</sup> and the Department of Justice has delayed implementation of its data collection requirements until 2020.<sup>156</sup> Without accurate, accessible data, it is difficult to evaluate with certainty the scope of the problem of killings by police.

## Oklahoma Deadly Force Data

Police in Oklahoma kill people at one of the highest per capita rates in the US. Oklahoma was fourth in the country in the rate of police killings in 2015 and third in 2016.<sup>157</sup> From 2015 through 2018, police in the state shot and killed 118 people.<sup>158</sup> Black people were 20 percent of those killed; 66 percent were white; 6 percent were Latino; and the rest were

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<sup>144</sup> Taser is the most common brand of “electronic control device” used by law enforcement in the US. Tulsa Police use tasers. Their function is described in detail in later chapters.

<sup>145</sup> Many policing experts recommend officers taking a position of cover in situations of perceived danger in order to de-escalate the situation. “Critical Issues in Policing Series: Guiding Principles on Use of Force,” *Police Executive Research Forum*, March 2016, <https://www.policeforum.org/assets/30%20guiding%20principles.pdf> (accessed July 15, 2019), p. 54-55: “Whenever possible, officers should be trained to use distance and cover to ‘slow the situation down’ and create more time for them to continue communicating and developing options;” Mike Wood, “What cops need to consider about armed citizens: The presence of a gun does not always indicate a threat,” *PoliceOne.com*, November, 30, 2018, <https://www.policeone.com/concealed-carry/articles/482233006-What-cops-need-to-consider-about-armed-citizens/>: “Use cover, concealment and other good tactics—like issuing commands from behind cover, triangulating with the help of other officer, or making an approach from a direction that gives you an advantage—to help increase the amount of time you have to identify the intentions of the armed person, gain his attention and compliance, and make good decisions.”

<sup>146</sup> Tom Cleary, “Watch: Video Shows Shooting of Terence Crutcher by Tulsa Police,” *Heavy*.

<sup>147</sup> Bill Whitaker, “Officer Betty Shelby on Terence Crutcher Shooting,” *CBS News*; Kassie McClung, “Shelby: Crutcher would still be alive if he would have communicated, listened to commands,” *The Frontier*.

<sup>148</sup> “Fatal Force,” *Washington Post*, 2016, <https://www.washingtonpost.com/graphics/national/police-shootings-2016/> (accessed July 15, 2019). A different database tracked all police killings in 2016, not just shootings, and found that 1,093 were killed nationwide: “The Counted: People killed by police in the US,” *The Guardian*, <https://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-police-killings-us-database#> (accessed July 15, 2019).

<sup>149</sup> “Fatal Force,” *Washington Post*, 2016.

<sup>150</sup> US Census Bureau, “Quick Facts: United States,” <https://www.census.gov/quickfacts/fact/table/US/PST045217> (accessed July 15, 2019). The database on police killings only categorizes by “white,” “black,” “Hispanic,” “other,” and “unknown,” and does not account for white people who also identify as Latino.

<sup>151</sup> “Fatal Force,” *Washington Post*, 2016.

<sup>152</sup> Jamiles Lartey, “US police killings undercounted by half, study using Guardian data finds,” *The Guardian*, October 11, 2017, [https://www.theguardian.com/us-news/2017/oct/11/police-killings-counted-harvard-study?CMP=edit\\_2221](https://www.theguardian.com/us-news/2017/oct/11/police-killings-counted-harvard-study?CMP=edit_2221) (accessed July 15, 2019).

<sup>153</sup> Justin Feldman et al., “Quantifying underreporting of law-enforcement-related deaths in United States vital statistics and news-media-based data sources: A capture-recapture analysis,” *PLOS: Medicine*, October 10, 2017, <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002399> (accessed July 15, 2019). “Law enforcement related deaths” is defined as fatalities due to injuries inflicted by law enforcement.

<sup>154</sup> “Death in Custody Reporting Act of 2013,” Public Law No: 113-242, December 18, 2014, <https://www.congress.gov/bill/113th-congress/house-bill/1447> (accessed July 15, 2019).

<sup>155</sup> Office of the Inspector General, “Review of the Department of Justice’s Implementation of the Death in Custody Act of 2013,” *US Department of Justice*, December 2018, <https://oig.justice.gov/reports/2018/e1901.pdf> (accessed July 15, 2019).

<sup>156</sup> Department of Justice, “Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: Death in Custody Reporting Act Collection,” 83 Fed. Reg. 27,023, 27,024, June 11, 2018, <https://www.gpo.gov/fdsys/pkg/FR-2018-06-11/pdf/2018-12503.pdf> (accessed July 15, 2019).

<sup>157</sup> “The Counted: People killed by police in the US,” *The Guardian*.

<sup>158</sup> “Fatal Force,” *Washington Post*.

identified as “other.”<sup>159</sup> Oklahoma has a population of just under four million, of whom 7.8 percent are black, while 65.7 percent are non-Hispanic white, and 10.6 percent identify as Latino.<sup>160</sup> In relation to their numbers, black people in Oklahoma are 2.7 times more likely than white people to be shot and killed by police officers.

## Tulsa Deadly Force Incidents

In 2016, eight people died following force incidents with Tulsa Police officers. Two of those, Terence Crutcher and Ollie Brooks,<sup>161</sup> (see below) were black. Neither Crutcher nor Brooks were armed.

These killings have raised skepticism about the officers’ tactics and justifications, as well as their decisions leading up to the killings that may have made use of lethal force more likely. Other police killings in Tulsa have raised questions:

- Tulsa Police Sergeant Mark Wollmershauer, Jr., shot and killed Deandre Starks on March 25, 2014. Officers were executing a search warrant at a house on East Young Street in North Tulsa. Starks was inside the house along with several others. Police investigators told reporters that he did not comply with commands and “made movements with his body and hands that officers deemed a threat to them.”<sup>162</sup> Starks was not armed, and no guns were found in the house. Police say they did find drugs on Starks and in the house, though they made no arrests.<sup>163</sup> Starks’ family’s lawyer said that the autopsy report showed that police shot him in the

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<sup>159</sup> “Fatal Force,” *Washington Post*.

<sup>160</sup> “Quick Facts: Oklahoma,” United States Census Bureau, <https://www.census.gov/quickfacts/ok> (accessed July 15, 2019).

<sup>161</sup> Corey Jones, “Family of Tulsa man who died after officers used Taser want answers,” *Tulsa World*, June 4, 2016, [https://www.tulsaworld.com/news/local/family-of-tulsa-man-who-died-after-officers-used-taser/article\\_6455c5d7-2756-5a4f-b4cd-d6dd1483ed5c.html](https://www.tulsaworld.com/news/local/family-of-tulsa-man-who-died-after-officers-used-taser/article_6455c5d7-2756-5a4f-b4cd-d6dd1483ed5c.html) (accessed July 15, 2019). Human Rights Watch lacks sufficient information to determine with any certainty whether or not the use of force by police was the proximate cause of Brooks’ death.

<sup>162</sup> “Tulsa Police Identify Man Killed and Officer Involved in Shooting,” *News on 6*, March 26, 2014, <http://www.newson6.com/story/25076272/tulsa-police-identify-man-killed-in-officer-involved-shooting> (accessed July 15, 2019).

<sup>163</sup> Dylan Goforth, “Tulsa killed in police shooting apparently unarmed, police say,” *Tulsa World*, March 27, 2014, [https://www.tulsaworld.com/news/local/government-and-politics/tulsa-killed-in-police-shooting-apparently-unarmed-police-say/article\\_390d4b09-cef1-5001-bdce-cfod74173c9f.html](https://www.tulsaworld.com/news/local/government-and-politics/tulsa-killed-in-police-shooting-apparently-unarmed-police-say/article_390d4b09-cef1-5001-bdce-cfod74173c9f.html) (accessed July 15, 2019).

back.<sup>164</sup> Starks' aunt described him as someone who liked to make people happy, and as very family oriented, caring for his children and frequently checking on his grandmother. She said, "Now his kids will grow up without a father. They won't remember the genuine person he was."<sup>165</sup>

- Tulsa Police officers and Tulsa Sheriff's deputies together shot and killed Joshua Barre on the morning of June 9, 2017, in North Tulsa. The Deputies were serving a non-criminal order from a judge to bring him to the hospital to receive an evaluation and mental health treatment.<sup>166</sup> They called in Tulsa Police for support.<sup>167</sup> They did not call a mental health professional to assist them despite knowing his condition, even after they saw Barre walking down the street carrying two kitchen knives. Instead, they followed him for over a mile without engaging him in a way that accounted for his mental health condition and current distress. When Barre opened the door to a convenience store, Tulsa Police Officer Donnie Johnson and two Tulsa Sheriff's Deputies opened fire, killing him.<sup>168</sup> They explained the killing by saying they feared he might harm someone inside the store. People who knew Barre are skeptical of the fear expressed by police, saying that he was harmless<sup>169</sup> and "never bothered anyone."<sup>170</sup> They said he did this same walk to the store every day, and because he was extremely fearful, he sometimes would carry a hammer or metal pipe for protection against threats he perceived.<sup>171</sup> Barre was an intelligent young man with a mental health condition that started while he was in

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<sup>164</sup> "Family of Man Killed By Tulsa Police Officer Suing City," *News on 6*, June 13, 2014, <https://www.newson6.com/story/25775511/family-of-man-killed-by-tulsa-police-officer-suing-city>; The city has apparently settled a lawsuit with Starks' family over his death with a \$350,000 payment, but no admission of fault. Kevin Canfield, "Mayor stands by using Office of the Independent Monitor to review police use-of-force incidents," *Tulsa World*, June 20, 2019, [https://www.tulsaworld.com/news/local/government-and-politics/mayor-stands-by-using-office-of-the-independent-monitor-to/article\\_8aa65beb-f230-5726-9b96-3fe58756622b.html](https://www.tulsaworld.com/news/local/government-and-politics/mayor-stands-by-using-office-of-the-independent-monitor-to/article_8aa65beb-f230-5726-9b96-3fe58756622b.html) (accessed July 15, 2019).

<sup>165</sup> Human Rights Watch interview with Angelia Cherry, Tulsa, Oklahoma, November 1, 2017.

<sup>166</sup> Human Rights Watch telephone interview with Ella Barre, mother of Joshua Barre, November 2, 2017. Court ordered medical and mental health treatment may violate the rights of individuals. However, Human Rights Watch lacks sufficient information to address this particular instance, and the issue is beyond the scope of this report.

<sup>167</sup> Kyle Hinchey, "Protest erupts after authorities kill mentally ill man carrying knives in north Tulsa," *Tulsa World*, June 9, 2017, [https://www.tulsaworld.com/news/crimewatch/protest-erupts-after-authorities-kill-mentally-ill-man-carrying-knives/article\\_aff3fcde-393b-5e87-a429-1b6ddeec66d.html](https://www.tulsaworld.com/news/crimewatch/protest-erupts-after-authorities-kill-mentally-ill-man-carrying-knives/article_aff3fcde-393b-5e87-a429-1b6ddeec66d.html) (accessed July 15, 2019).

<sup>168</sup> "Tulsa Police identify officer, deputies involved in fatal officer-involved shooting of Joshua Barre," *KJRH Channel 2 News*, June 15, 2017, <https://www.kjrh.com/news/local-news/tulsa-police-identify-officer-deputies-involved-in-fatal-officer-involved-shooting-of-joshua-barre> (accessed July 15, 2019); Kyle Hinchey, "Protest erupts after authorities kill mentally ill man carrying knives in north Tulsa," *Tulsa World*.

<sup>169</sup> Human Rights Watch telephone interview with Ella Barre, November 2, 2017.

<sup>170</sup> Human Rights Watch interview with (name withheld), neighbor of Joshua Barre, Tulsa Oklahoma, September 26, 2017.

<sup>171</sup> Human Rights Watch interview with Leon Barre, grandfather of Joshua Barre, Tulsa, Oklahoma, November 2, 2017.

college. He recently had trouble finding the right medications. Though he could seem threatening carrying two knives, according to family members, most of the neighbors understood that he was not dangerous.<sup>172</sup>

- On August 24, 2018, Tulsa Police officers, responding to calls about someone causing a disturbance, tasered Joshua Harvey, who had been diagnosed with bipolar disorder<sup>173</sup> and had been using methamphetamine, multiple times after he ran from them and broke a glass door. He was unarmed. Harvey died three days later.<sup>174</sup> Harvey left behind a 4-year-old son with whom he had a close relationship.<sup>175</sup> (See a more detailed discussion of this incident below.)

Between 2016 and 2018, there have been at least 16 people killed by police shootings in Tulsa, a city of 401,800 people, equaling an annual rate of 1 per 100,000 people.<sup>176</sup> This is much greater than the rates found in similarly-sized US cities: 0.18 per 100,000 in Oakland, California (pop. 425,204); 0.24 per 100,000 in Minneapolis, Minnesota (pop. 422,326); and 0.38 per 100,000 in Arlington, Texas (pop 396,407).<sup>177</sup>

It is difficult to fairly evaluate individual police killings in isolation. Often, they result from judgement calls made during rapidly unfolding encounters. Officers almost always articulate a justification that they were in fear of some greater harm—Barre might have used the knife; Starks might have had a weapon; Crutcher might have been reaching for a gun.

In weighing whether lethal force was legally justified, officers have a distinct advantage. Their fellow officers generally conduct the investigation, meaning that unlike with any other homicide, the investigators may have personal or institutional biases in favor of the

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<sup>172</sup> Human Rights Watch interview with Leon Barre, November 2, 2017; Human Rights Watch telephone interview with Ella Barre, November 2, 2017.

<sup>173</sup> Human Rights Watch interview with Roma Presley, mother of Joshua Harvey, Tulsa, Oklahoma, March 25, 2019.

<sup>174</sup> Reece Ristau, “Body camera footage released of altercation with man who died 3 days after being tased by officers,” *Tulsa World*, September 1, 2018, [https://www.tulsaworld.com/news/local/homicide-detective-s-testimony-emotional-video-highlights-of-first-week/article\\_70ce3991-1bfe-5250-a879-d896dee6a9a2.html](https://www.tulsaworld.com/news/local/homicide-detective-s-testimony-emotional-video-highlights-of-first-week/article_70ce3991-1bfe-5250-a879-d896dee6a9a2.html) (accessed July 15, 2019).

<sup>175</sup> Human Rights Watch interview with Roma Presley, mother of Joshua Harvey, Tulsa, Oklahoma, March 25, 2019.

<sup>176</sup> “Fatal Force Database,” *Washington Post*, <https://github.com/washingtonpost/data-police-shootings> (accessed August 25, 2019).

<sup>177</sup> All rates computed using the 2017 ACS 5-year population estimate for the all-ages population. US Census Bureau; American Community Survey, 2017 American Community Survey 1-Year Estimates, table B03002.

suspect, based on a desire to protect a colleague or protect the department from liability. Additionally, officers may have legal or contractual rights that give them advantages when being investigated. Unlike most homicide suspects, for example, Officer Shelby was not taken into custody and immediately interrogated; instead she had three days to prepare with her attorney and she was allowed to view the videotape during questioning.<sup>178</sup>

### Police Officer Deaths

According to the National Law Enforcement Memorial Fund's tracking data, 158 law enforcement officers in the US died on duty in 2018, down from 171 in 2017 and just below the average of 163 from 2014-2018.<sup>179</sup> Violent means caused 55 of those deaths in 2018, 53 in 2017 and 70 in 2016. Automobile, motorcycle and other accidents caused 51, 50 and 58 respectively. Over those three years, job related illnesses killed an average of 51 officers over those three years. Over the past ten years, the total number of deaths has ranged from a low of 140 in 2009 to a high of 185 in 2011.

The Officer Down Memorial Page similarly tracks officer deaths and has slightly different total. According to their data, 11 Oklahoma law enforcement officers have died on duty from 2016 through 2018, four by violence.<sup>180</sup> The Tulsa Police Department has had 40 on-duty deaths in its history, according to this tracker, 29 by violent means.<sup>181</sup> However, no deaths have occurred since 1996.

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<sup>178</sup> Reece Ristau, "Body camera footage released of altercation with man who died 3 days after being tased by officers," *Tulsa World*.

<sup>179</sup> "Causes of Law Enforcement Deaths," *National Law Enforcement Officers Memorial Fund*, March 29, 2019, <https://nleomf.org/facts-figures/causes-of-law-enforcement-deaths> (accessed July 30, 2019). Federal Bureau of Investigations (FBI) data indicates substantially fewer on duty deaths of officers: 106 in 2018, 51 of which died in accidents and 55 as a result of felonious acts. FBI National Press Office, "FBI Releases 2018 Statistics on Law Enforcement Officers Killed in the Line of Duty," May 6, 2019, <https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2018-statistics-on-law-enforcement-officers-killed-in-the-line-of-duty> (accessed July 30, 2019).

<sup>180</sup> "Fallen Officers," *Officer Down Memorial Page*, 2016, <https://www.odmp.org/search/year?year=2016> (accessed July 30, 2019).

<sup>181</sup> *Ibid*.

The Tulsa Police Department provided Human Rights Watch with limited data on 56 recorded incidents of “deadly force” between March 2012 and August 2018.<sup>182</sup> All but one of the incidents involved guns, though two involved force with a “vehicle” as well as guns. In one incident, the officer apparently used a knife. Although there have been deaths linked to incidents with taser use, Tulsa Police do not consider tasers to be deadly force and do not include their use in the relevant database.<sup>183</sup>

Annual incidents in this database range in number from two in 2015 to 13 in 2016. In 12 of the 56 incidents, no civilian was injured. For the other 44 incidents, the data provided by the department does not describe the extent of injuries or say which incidents resulted in death. The database indicated that four officers were not injured, and the rest were marked “unknown.” No officers were noted to have been injured. The department has found all but one of the deadly force incidents to be “within policy,” though six incidents, including the Crutcher killing, had not been decided as of when the database was disclosed to us.<sup>184</sup>

The data is incomplete and, in places, noticeably inaccurate. There is a column for “UOF reason,” but every entry says “NA.”<sup>185</sup> The entry for Terence Crutcher indicates that two officers used firearms, when all accounts including the video indicate that one officer fired a gun, the other a taser.<sup>186</sup> The entry for Charles Day says that Tulsa Police did not arrest him, when, in fact, he was under police guard while at the hospital, then taken to jail.<sup>187</sup> Police made arrests in 12 of the incidents, according to the database. The database

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<sup>182</sup> Tulsa Police Department data (on file with Human Rights Watch). “A deadly force incident” is defined by the Tulsa Police Department as the intentional use of deadly force against a person. Presumably, this represents all incidents that meet the department’s definition of “deadly force incident,” that occurred during this time. Tulsa Police Department, “Internal Affairs 2017 Annual Report,” 2017, [https://www.tulsapolice.org/media/165177/IA\\_Annual\\_Report\\_2017.pdf](https://www.tulsapolice.org/media/165177/IA_Annual_Report_2017.pdf) (accessed July 15, 2019), p. 12.

<sup>183</sup> Human Rights Watch email correspondence with Gerald Bender, litigation division manager, City of Tulsa Legal Department, January 21, 2019 (on file with Human Rights Watch).

<sup>184</sup> Human Rights Watch received this deadly force dataset from the Tulsa Legal Department on January 18, 2019.

<sup>185</sup> A representative of the City of Tulsa Legal Department explained to Human Rights Watch that “no ‘reason’ was compiled in regard to the deadly force incidents.” Human Rights Watch email correspondence with Gerald Bender, June 24, 2019 (on file with Human Rights Watch).

<sup>186</sup> See Tom Cleary, “Watch: Video Shows Shooting of Terence Crutcher by Tulsa Police,” *Heavy*. Officer Shelby is described as “Native American Female.”

<sup>187</sup> Human Rights Watch interview with Reshanda Day, sister of Charles Day, Tulsa, Oklahoma, November 2, 2017; Human Rights Watch telephone interview with Charles Day, February 5, 2018. The database also says that there was no video documentation of the Day incident when in fact Tulsa Police had released dashboard camera video of the initial encounter, showing Day running away from the officer. The video also includes the sounds of the officer shooting Day.



provided street names for the locations of the incidents, but no addresses, making it impossible to map locations.

Police were responding to “disturbance/weapon” calls in 11 instances; were making traffic stops in 7; investigating armed robberies in 6; serving warrants in 5; investigating auto thefts in 3; and stopping pedestrians in 2.

In 29 percent of the 56 incidents, the person exposed to the use of deadly force was black, a high number compared to the 17 percent of Tulsa’s overall population that is black. The data supplied on these incidents is insufficient and too flawed to allow definitive conclusions about Tulsa Police Department’s overall use of deadly force.

While police killings and deadly force incidents do provide a view into overall policing practices, they are too few in overall numbers—lacking sufficient, accurate data and often too hard to prove fault definitively—to allow for decisive conclusions about policing as a whole. It is more useful to look at patterns in the killings. For example, the Barre and Harvey killings raise questions about how Tulsa police are handling people impacted by mental health conditions. The Crutcher and Starks killings may point towards the need to change police tactics that lead to the use of deadly force.

## IV. Policing and Court Debt

Ollie Brooks was a 64-year-old black man who lived in Tulsa. He worked for himself when he could find jobs trimming trees and sometimes would look for jobs with his son, Ollie Brooks, Jr. The elder Brooks was divorced and had six children.<sup>188</sup> He had been to prison in the 1990s, but he had not been arrested for a crime since 2002.<sup>189</sup> His son described him as “a good person, social, friendly, liked to work.”<sup>190</sup>

On May 28, 2016, he was staying in the Super 8 Motel at 1011 S. Garnett Road on the east side of Tulsa.<sup>191</sup> There are several low-cost motels in this area where poor and homeless people stay, as well as churches that provide services. The area has a large population of homeless people.<sup>192</sup>

That evening, Tulsa Police officers Larry Crawford and Barry Hamm went to the Super 8 Motel lobby at 1011 S. Garnett Avenue, obtained the guest register and checked the names against a database of people with municipal and other warrants,<sup>193</sup> something Tulsa police frequently do (see below). They found that Brooks had a warrant. Tulsa Police Chief Chuck Jordan said, in a June 2016 press conference, that it was a 2015 Tulsa municipal warrant for

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<sup>188</sup> Human Rights Watch telephone interviews with Ollie Brooks, Jr., July 10, 2018 and March 7, 2019.

<sup>189</sup> Ollie Brooks entry in the Oklahoma State Courts Network database, <http://www.oscn.net/dockets/Results.aspx?db=all&number=&lname=brooks&fname=ollie&mname=lee&DoBMin=1%2F1951&DoBMax=1%2F1952&partytype=&apct=&dcct=&FiledDateL=1968&FiledDateH=2018&ClosedDateL=&ClosedDateH=&iLC=&iLCType=&iYear=&iNumber=&citation=> (accessed July 15, 2019). Oklahoma State Courts Network is a website maintained by the state courts with information about them, including a database of court cases.

<sup>190</sup> Human Rights Watch telephone interviews with Ollie Brooks, Jr., July 10, 2018 and March 7, 2019. People who knew him also told journalists he was a likeable person and not perceived as violent. Philip Smith, “The Tragic Killing of Ollie Lee Brooks is Exhibit A in the Case for Ending America’s Drug War,” *AlterNet*, June 5, 2016, <https://www.alternet.org/drugs/tragic-killing-ollie-lee-brooks-exhibit-case-ending-americas-drug-war> (accessed July 15, 2019). He did have a misdemeanor assault conviction on his record from 2001 and a felony assault on a police officer from 1999.

<sup>191</sup> Brooks had applied for and was waiting on permanent housing. He stayed at the Salvation Army and other locations, sometimes staying in motels for a few days at a time when he had money. Human Rights Watch telephone interview with Ollie Brooks, Jr., March 7, 2019.

<sup>192</sup> Human Rights Watch interview with Pastor Sharyn Crosby, October 31, 2017.

<sup>193</sup> Paighen Harkins, “Man dies after Tulsa police officer pepper sprays, shocks him with Taser during arrest attempt,” *Tulsa World*, June 2, 2016, [https://www.tulsaworld.com/news/crimewatch/man-dies-after-tulsa-police-officer-pepper-sprays-shocks-him/article\\_d8d5b3f7-a624-573c-8c79-c20bc546dc66.html](https://www.tulsaworld.com/news/crimewatch/man-dies-after-tulsa-police-officer-pepper-sprays-shocks-him/article_d8d5b3f7-a624-573c-8c79-c20bc546dc66.html) (accessed July 15, 2019).

failure to appear on a jay-walking ticket.<sup>194</sup> The officers decided that the warrant was worth pursuing, went to his room, and knocked on his door.

Brooks was in the privacy of his room. When the officers arrived, he opened the door. The officers claim that they saw a glass pipe used for smoking narcotics. They moved to arrest him. There is no body camera or other known video footage of the incident.<sup>195</sup> The officers said that Brooks struggled with them to avoid arrest, and that they pepper-sprayed him, but he continued to struggle. They tasered him twice,<sup>196</sup> but he got away, running down the steps. The officers chased, tackled, and handcuffed him.<sup>197</sup> No independent witnesses have publicly confirmed or contradicted the officers' version of events. No independent agency has investigated the incident.

Shortly after being taken into custody, Brooks, who had a pre-existing heart condition, went into medical distress. He died a short time later.<sup>198</sup>

Brooks' case highlights a significant policing issue in Tulsa that goes beyond questions about whether the physical confrontation was necessary. These officers were enforcing warrants many of which are issued to collect fines, fees, and court costs imposed on poor people like Brooks, who often cannot afford to pay.

According to court records, Brooks had not been charged with or convicted of any felony or misdemeanor since 2002, but he had been to jail several times since then for failing to pay

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<sup>194</sup> Corey Jones, "Family of Tulsa man who died after officers used Taser want answers," *Tulsa World*, June 4, 2016, [https://www.tulsaworld.com/news/local/family-of-man-fatally-tasered-by-police-retain-attorney-to/article\\_6455c5d7-2756-5a4f-b4cd-d6dd1483ed5c.html](https://www.tulsaworld.com/news/local/family-of-man-fatally-tasered-by-police-retain-attorney-to/article_6455c5d7-2756-5a4f-b4cd-d6dd1483ed5c.html) (accessed July 15, 2019).

<sup>195</sup> Corey Jones, "Family of Tulsa man who died after officers used Taser want answers," *Tulsa World*.

<sup>196</sup> According to Tulsa Police Chief Chuck Jordan, the taser prongs did not stick to Brooks, thus limited their effectiveness. Corey Jones, "Family of Tulsa man who died after officers used Taser want answers," *Tulsa World*.

<sup>197</sup> Paighen Harkins, "Man dies after Tulsa police officer pepper sprays, shocks him with Taser during arrest attempt," *Tulsa World*.

<sup>198</sup> *Ibid.* Chief Jordan has made clear the department's position that the use of force by the officers was not the cause of Brooks' death and that it was "a medical issue." Political Woodstock, "Tulsa Police Chief Chuck Jordan: Death of Ollie Brooks Sr.," video clip, YouTube, August 20, 2017, [https://www.youtube.com/watch?v=lprQF35Lq\\_Q](https://www.youtube.com/watch?v=lprQF35Lq_Q) (accessed July 15, 2019), at 8:20-9:00. A police spokesperson told the *Tulsa World* that a preliminary report from the state's medical examiner indicated the likely cause of death was exertion compounded by Brooks' heart condition. Human Rights Watch lacks sufficient information to form an opinion on the cause of death.

fines, fees, and costs associated with his previous criminal convictions.<sup>199</sup> In 2002, he had pled “no contest” to a misdemeanor charge of possession of drug paraphernalia.<sup>200</sup> Along with the jail time served, the court ordered him to do 40 hours of labor and to pay fees, fines, and costs as follows:

- 1) Council on Law Enforcement Education and Training “CLEET”<sup>201</sup> Penalty-- \$3
- 2) CLEET Penalty Assessment-- \$7
- 3) Sheriff’s Arrest Fee-- \$5
- 4) Court Cost on Misdemeanor-- \$78
- 5) Fine to the County-- \$200
- 6) Law Library Fee-- \$6
- 7) Forensic Science Improvement Assessment-- \$5
- 8) Court Fund Assessment-- \$50
- 9) Victim’s Compensation Assessment-- \$50
- 10) Court Clerk Administrative Fee-- \$1.50

His total for the case was \$405.50. A few months after his guilty plea, when he did not pay this amount, the court issued a “failure to pay” warrant, adding \$35 to his total debt on the case.

This debt added on to close to \$7,500 debt he had accumulated from other cases since the late 1980s.<sup>202</sup> In one of those cases, a 2001 public intoxication charge which was dismissed, the court assessed him \$83, which quickly grew to \$153, as the court added

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<sup>199</sup> Ollie Brooks entry in the Oklahoma State Courts Network database, <http://www.oscn.net/dockets/Results.aspx?db=all&number=&lname=brooks&fname=ollie&mname=lee&DoBMin=1%2F1951&DoBMax=1%2F1952&partytype=&apct=&dcct=&FiledDateL=1968&FiledDateH=2018&ClosedDateL=&ClosedDateH=&iLC=&iLCType=&iYear=&iNumber=&citation=> (accessed July 15, 2019).

<sup>200</sup> Ibid. He had been in custody for 10 days, lacking the money needed to pay bail, and his plea offer was “time served,” meaning he would be released that day if he pled guilty. Had he maintained his “not guilty” plea and exercised his right to litigate the case and go to trial, he might or might not have been convicted, but he would have had to remain in jail until the case was over. Instead of waiting in jail, he accepted the conviction.

<sup>201</sup> CLEET is the Oklahoma state government agency responsible for training police officers. Some of their funding comes from collection of court fees.

<sup>202</sup> Ollie Brooks entry in the Oklahoma State Courts Network database, <http://www.oscn.net/dockets/Results.aspx?db=all&number=&lname=brooks&fname=ollie&mname=lee&DoBMin=1%2F1951&DoBMax=1%2F1952&partytype=&apct=&dcct=&FiledDateL=1968&FiledDateH=2018&ClosedDateL=&ClosedDateH=&iLC=&iLCType=&iYear=&iNumber=&citation=> (accessed July 15, 2019).

“failure to pay” warrant assessments.<sup>203</sup> In some of the cases, his county fines alone were \$500.<sup>204</sup> Even after Brooks served time in prison, the debt for those cases continued to follow him.

After his 2002 paraphernalia conviction, Brooks was jailed repeatedly for not paying off his debt.<sup>205</sup> The court held hearings and found him guilty of “willful failure to pay,”<sup>206</sup> jailed him and credited days he spent in jail against some of his debt, and ordered him to make monthly payments of \$75 and \$150.<sup>207</sup> The officers who knocked on his motel room door were likely to take him to jail again.

Raids to enforce warrants and low-level public order crimes, like the one that resulted in Brooks’ death, are common in Tulsa.<sup>208</sup> Chief Jordan, in a press conference responding to questions about Brooks’ death, acknowledged that officers frequently conduct this type of warrant enforcement action at motels in the area.<sup>209</sup> He said that people were using the rooms to use and sell drugs, and that this enforcement priority was intended to stop violent crimes like robberies.<sup>210</sup>

Jordan said his officers “did not have a lot of options” in making warrant arrests. He emphasized that arresting people for “failure to pay” warrants was part of “maintaining

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<sup>203</sup> Ibid.

<sup>204</sup> Ibid.

<sup>205</sup> Ibid.

<sup>206</sup> Former district court judge William Kellough told the *Tulsa World* that judges often regard any nonpayment as “willful” without making a proper determination. Corey Jones, “Informal work group aims to reform Oklahoma’s reliance on fines, fees to fund court system,” *Tulsa World*, January 8, 2019, [https://www.tulsaworld.com/news/local/crime-and-courts/informal-work-group-aims-to-reform-oklahoma-s-reliance-on/article\\_315e8718-4d52-5cod-a557-a49084d99066.html](https://www.tulsaworld.com/news/local/crime-and-courts/informal-work-group-aims-to-reform-oklahoma-s-reliance-on/article_315e8718-4d52-5cod-a557-a49084d99066.html) (accessed July 15, 2019). Human Rights Watch does not have sufficient information to comment on the quality of the “willful failure to pay” determination made in Brooks’ case.

<sup>207</sup> Ollie Brooks entry in the Oklahoma State Courts Network database, <http://www.oscn.net/dockets/Results.aspx?db=all&number=&lname=brooks&fname=ollie&mname=lee&DoBMin=1%2F1951&DoBMax=1%2F1952&partytype=&apct=&dcct=&FiledDateL=1968&FiledDateH=2018&ClosedDateL=&ClosedDateH=&iLC=&iLCType=&iYear=&iNumber=&citation=> (accessed July 15, 2019).

<sup>208</sup> Human Rights Watch email correspondence with Jill Webb, legal director, ACLU of Oklahoma, May 8, 2018 (on file with Human Rights Watch).

<sup>209</sup> Political Woodstock, “Part 2: Tulsa Police Chief Chuck Jordan: Death of Ollie Brooks Sr.,” video clip, YouTube, August 20, 2017, <https://www.youtube.com/watch?v=Zldtekunss> (accessed July 15, 2019).

<sup>210</sup> Political Woodstock, “Tulsa Police Chief Chuck Jordan: Death of Ollie Brooks Sr.,” video clip, YouTube, August 20, 2017, at 0:40-1:12.

law and order” and making sure people pay their fines.<sup>211</sup> In fact, the police do have a choice: they do not have to deploy officers to check registered guests for failure-to-pay warrants at motels where poor people stay.

From 2012 through 2017, Tulsa Police made 115 arrests at this motel alone, according to Tulsa Police Department data.<sup>212</sup> In this six-year stretch, there were almost no arrests for violent incidents. Over two-thirds of the arrests at the motel (70 percent) included a warrant, split roughly evenly between city and county warrants.<sup>213</sup> Of those arrests for warrants, over 80 percent were only for warrants and not for any other violation. The other crimes for which arrests were made were primarily for drugs, public intoxication, prostitution, and disorderly conduct. Only 3 arrests at the motel in that time were for violence, all simple assaults.<sup>214</sup>

## Criminal Legal System Debt Enforces Social Inequality

Drew Diamond, who was Tulsa Chief of Police from 1987 until 1991, described a crucial aspect of policing in Tulsa: “You write tickets till people can’t pay them, then they get warrants and you can arrest them.”<sup>215</sup> Often, he said, people fear going to jail and losing their jobs or suffering other consequences when detained by police, so they resist or run, leading to more serious criminal charges or to more violent encounters, as happened to Brooks.

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<sup>211</sup> Political Woodstock, “Tulsa Police Chief Chuck Jordan: Death of Ollie Brooks Sr.”, video clip, YouTube, August 20, 2017, at 6:08-6:40.

<sup>212</sup> Human Rights Watch analysis of arrest data received from Tulsa Police Department. Human Rights Watch cannot vouch for the completeness of this data or for the quality of the department’s record keeping. Over this same time period, these same records indicate another 129 arrests at 1100 S. Garnett Road, which appears to indicate the intersection of S. Garnett Road and E. 11<sup>th</sup> Street, and another 76 at 1000 S. Garnett Road, which is an undefined location across the street from the motel where Brooks was arrested. These less specific location addresses may also refer to arrests made in relation to this motel, though a large percentage of them were for traffic violations and DUIs.

<sup>213</sup> The data provided by the department did not state what the underlying offenses for the warrants were. City warrants are issued only for low level misdemeanors and traffic violations; county warrants can be for low level violations, including failure to pay warrants. Some county warrants are issued for more serious offenses, including violent crimes. Jail booking data for Tulsa Police Department arrests indicate that failure to pay court costs is the third most common reason for booking, which suggests that a large percentage of warrant arrests are for failure to pay, as opposed to having been issued for new substantive crimes.

<sup>214</sup> There have been relatively few arrests for violent crimes in the immediate area of the motel. From 2012 through 2017, only 6 percent of all arrests within a quarter mile radius of the motel have been for violent or potentially violent offenses. Just over 41 percent have been for warrants and another 18 percent for public order violations, like public intoxication. Only 4 percent have been for drug sales.

<sup>215</sup> Human Rights Watch interview with Drew Diamond, September 27, 2017.

People convicted of crimes in Oklahoma, including misdemeanors and infractions or traffic tickets, are typically ordered to pay fines, court costs, and a variety of fees. Fines are assessed as punishment according to amounts statutorily fixed by the legislature; court costs and fees are imposed according to schedules set by local and state law. In addition, courts can order defendants placed on probation to pay \$40 per month for two years to the prosecutor for “supervision fees”<sup>216</sup> or to compensate for the costs of prosecution.<sup>217</sup>

These fines, costs, and fees can add up to hundreds and even thousands of dollars. If the assessed person pays immediately, then no further charges accrue.<sup>218</sup> Poor people, like Brooks, often cannot afford to pay. They can ask the court for a payment plan through the Cost Administration Department or they can convert the payment to work at a rate of \$8.50 per hour through the Tulsa County Work Program.<sup>219</sup> However, people typically do not affirmatively come to court to make that request.<sup>220</sup>

Many poor people with fines, fees, and costs assessed do not come to court and simply fail to pay. There are reasons for this approach—people lack an understanding of the process, fear punitive consequences of appearing in court, or are unable to take off work or find child-care, for example.

Failure to pay results in the court issuing an arrest warrant.<sup>221</sup> Eventually, the warrant can lead to arrest and incarceration. The person must stay in jail unless they pay a bond, adding to their financial burden, or they appear in court and are released by the judge,

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<sup>216</sup> Okla.Stat.tit. 22 section 991d (2016), <https://law.justia.com/codes/oklahoma/2016/title-22/section-22-991d/> (accessed July 15, 2019).

<sup>217</sup> Quinn Cooper, et al., “Assessing the Cost: Criminal Fines, Court Costs, and Procedure versus Practice in Tulsa County,” *University of Tulsa College of Law*, April 2014, <https://law.utulsa.edu/wp-content/uploads/sites/3/2014/12/Final-Report-Assessing-the-Cost.pdf> (accessed July 15, 2019), p. 11; Okla.Stat.tit. 22 section 991c; <https://law.justia.com/codes/oklahoma/2014/title-22/section-22-991c/> (accessed July 15, 2019).

<sup>218</sup> Cooper, et al., “Assessing the Cost: Criminal Fines, Court Costs, and Procedure versus Practice in Tulsa County,” *University of Tulsa College of Law*, p. 12.

<sup>219</sup> Cooper, et al., “Assessing the Cost: Criminal Fines, Court Costs, and Procedure versus Practice in Tulsa County,” *University of Tulsa College of Law*, p. 13.

<sup>220</sup> Cooper, et al., “Assessing the Cost: Criminal Fines, Court Costs, and Procedure versus Practice in Tulsa County,” *University of Tulsa College of Law*, p. 15. See below explanation of the Rule 8 process.

<sup>221</sup> Cooper, et al., “Assessing the Cost: Criminal Fines, Court Costs, and Procedure versus Practice in Tulsa County,” *University of Tulsa College of Law*, p. 15-16.

often with new costs added.<sup>222</sup> For poor people who have faced criminal charges, it becomes a cycle of arrest, jail, and indebtedness.

In 2017, then Tulsa County Public Defender Robert Nigh calculated that there were 33,428 active outstanding “failure to pay” warrants in Tulsa County.<sup>223</sup> The court clerk estimated between 10,000 and 20,000 such warrants.<sup>224</sup> In a 2013 study of booking data from the David L. Moss Criminal Justice Center, Tulsa’s county jail, reporters calculated that in July 2013, 29 percent of all non-felony state law bookings were for “failure to pay.”<sup>225</sup> A 2017 study by the Vera Institute found that Tulsa County has a steadily increasing incarceration rate that has surpassed the national average in recent years.<sup>226</sup> Court costs were the fourth most common charge leading to admission in the Tulsa County jail, trailing only drug possession, public intoxication, and DUI, and nearly twice the number booked for domestic assault and battery, the fifth leading charge.<sup>227</sup> Court costs were the third most common offense charge on county jail bookings for arrests made by the Tulsa Police Department.<sup>228</sup>

Data on arrests provided by the Tulsa Police Department indicated which were for warrants generally, but did not specify how many were for “failure to pay.”<sup>229</sup> The high number of jail

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<sup>222</sup> Ibid.

<sup>223</sup> Tulsa County Public Defender Robert Nigh, “Tulsa County Public Defender View of Certain Aspects of the Imposition and Collection of Fines and Costs on Indigent Criminal Defendants Sentenced to Probation,” report to Tulsa County Courts, March 2017 (on file with Human Rights Watch). This calculation is based on a warrant list provided to the public defender by Tulsa Police Officer Charles Wulff, crime and intelligence analyst.

<sup>224</sup> “Tulsa County recalling failure to pay warrants in exchange for donations,” *KJRH Channel 2 News*, November 13, 2017, <https://www.kjrh.com/news/local-news/tulsa-county-recalling-failure-to-pay-warrants-in-exchange-for-donations> (accessed July 15, 2019).

<sup>225</sup> Casey Smith and Cary Aspinwall, “Increasing number going to jail for not paying fines,” *Tulsa World*, November 3, 2013, [https://www.tulsaworld.com/news/local/increasing-number-going-to-jail-for-not-paying-fines/article\\_8b8d2229-c7ad-5e7f-aea2-baeb13390880.html](https://www.tulsaworld.com/news/local/increasing-number-going-to-jail-for-not-paying-fines/article_8b8d2229-c7ad-5e7f-aea2-baeb13390880.html) (accessed July 15, 2019); Cooper, et al., “Assessing the Cost: Criminal Fines, Court Costs, and Procedure versus Practice in Tulsa County,” *University of Tulsa College of Law*, p. 5.

<sup>226</sup> Nancy Fishman et al, “Report to Tulsa County Stakeholders on Jail Reduction Strategies,” *Vera Center on Sentencing + Corrections*, August 2017, <https://tulsacounty.org/documents/vera2017.pdf> (accessed July 15, 2019), p. 9. The study revealed that Tulsa County’s incarceration rate has increased by more than 150 percent in the past 25 years. However, it is still below the rate for the rest of the state of Oklahoma. The problem of incarceration for unpaid criminal justice debt exists throughout Oklahoma, contributing to the state’s high incarceration rate.

<sup>227</sup> Fishman et al, “Report to Tulsa County Stakeholders on Jail Reduction Strategies,” *Vera Center on Sentencing + Corrections*, p. 13.

<sup>228</sup> Fishman et al, “Report to Tulsa County Stakeholders on Jail Reduction Strategies,” *Vera Center on Sentencing + Corrections*, p. 20.

<sup>229</sup> Human Rights Watch data received from Tulsa Police Department.



bookings for arrests based on “court costs” documented in the Vera study indicates that the number of “failure to pay” warrants is high. The arrest data does distinguish between state and municipal warrants. Municipal warrants are entirely for lower level misdemeanors and infractions, while state warrants also include felony crimes. Both types of warrants can include “failure to pay.”

## Oppressive Debt Amounts

Solomon MacArthur (pseudonym) said that he has been arrested several times based on criminal system debt. He said, “It’s all about some money.” He said he left prison in 2015 having served time for a drug offense, owing thousands of dollars. He said that he had difficulty finding work to pay off this debt and to pay for basic necessities, and that the probation department collected money from him but did nothing to help him find work.<sup>230</sup>

In the 1990s, Oklahomans approved a ballot measure that requires a three-fourths vote in both legislative houses or a majority vote in a general election to pass any tax increase. Following this measure, the state began to rely on a variety of user fees to fund government services, including courts.<sup>231</sup> Increased collection of fines, costs, and fees for criminal cases have been used to try to make up for the budget gaps.<sup>232</sup>

A 2016 study by the Vera Institute of Justice found that there were over 103 different statutory fines, fees, and costs imposed on people charged with and convicted of crimes under Oklahoma state law, in addition to local fines, fees, and costs for representation by public defenders, jail costs, and probation fees.<sup>233</sup>

These fines, fees, and costs had grown considerably over the preceding 25 years. Oklahoma Policy Institute tracked these changes in typical cases. A 1992 infraction charge

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<sup>230</sup> Human Rights Watch interview with Solomon MacArthur (pseudonym), September 26, 2017.

<sup>231</sup> “Revenue Dilemma at Heart of Rising Offender Fees,” *Oklahoma Watch*, February 8, 2015, <http://oklahomawatch.org/2015/02/08/revenue-dilemma-at-heart-of-rising-offender-fees/> (accessed July 15, 2019).

<sup>232</sup> National Center for State Courts, “Oklahoma: Budgets & Funding,” undated, [https://www.ncsc.org/INformation-and-Resources/Budget-Resource-Center/Budget\\_Funding/oklahoma.aspx](https://www.ncsc.org/INformation-and-Resources/Budget-Resource-Center/Budget_Funding/oklahoma.aspx) (accessed July 15, 2019).

<sup>233</sup> Nancy Fishman, et al., “Report to the Greater Oklahoma City Chamber Criminal Justice Task Force, *Vera Center on Sentencing + Corrections*, December 2016, [https://storage.googleapis.com/vera-web-assets/downloads/Publications/oklahoma-city-chamber-criminal-justice-task-force-report/legacy\\_downloads/OK-chamber-final-report.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/oklahoma-city-chamber-criminal-justice-task-force-report/legacy_downloads/OK-chamber-final-report.pdf) (accessed July 15, 2019), p. 55.

for speeding resulted in a base fine of \$30, court costs of \$49, and five other fees for a total of \$107. In 2016, for the same charge, the base fine only went up to \$35 and courts costs increased to \$88, but 10 additional fees were added for a total of \$265.25.<sup>234</sup> For a 1992 misdemeanor DUI case, the court assessed \$607, including a base fine of \$200, court costs of \$149, and eight other fees. In 2016, for the same charge, the total increased to \$1,528.<sup>235</sup> The base fine remained the same, but court costs more than doubled to \$333 and the state added 12 new fees ranging from \$3 for the “Child Abuse Multidisciplinary Account,” to \$155 for “DPS Patrol Vehicle Fund.”<sup>236</sup>

The same study showed 2015 fines, fees, and costs for a two-count felony conviction of cultivation and possession of paraphernalia totaled \$4,516, including a \$1,000 base fine for each count, \$960 for two years of District Attorney supervision, \$250 for “cost of representation,” \$186 for court costs, and a multitude of other fees for different government agencies.<sup>237</sup>

Marcus Harrington (pseudonym), a black man in his early thirties, has been working and trying to provide for his family since discharging from parole several years ago. However, he owes over \$8,000 from the criminal case that sent him to prison and from traffic tickets. He has a payment plan, but money gets added when he is late paying. He has been arrested several times for “failure to pay” warrants, and has lost jobs because of those arrests.

LaRoy Jordan (pseudonym), a black man in his late twenties was in the car driven by his wife Julia, along with his three young daughters. He said that police stopped the car, identified him and found a warrant for an unpaid traffic ticket. They arrested him. His wife had an unpaid ticket which had led to her license being suspended. Police arrested both of

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<sup>234</sup> After controlling for inflation, this represents a 44 percent increase (\$107 in 1992 is the equivalent of \$183.71 in 2016): <https://data.bls.gov/cgi-bin/cpicalc.pl>.

<sup>235</sup> After controlling for inflation, this represents a 47 percent increase (\$607 in 1992 is the equivalent of \$1,042.19 in 2016): <https://data.bls.gov/cgi-bin/cpicalc.pl>.

<sup>236</sup> Ryan Gentzler, “The Cost Trap: How Excessive Fees Lock Oklahomans Into the Criminal Justice System without Boosting State Revenue,” *Oklahoma Policy Institute*, February 2017, <https://okpolicy.org/wp-content/uploads/The-Cost-Trap-How-Excessive-Fees-Lock-Oklahomans-Into-the-Criminal-Justice-System-without-Boosting-State-Revenue-updated.pdf?x43134> (accessed July 15, 2019), p. 3-4. “DPS” is the Department of Public Safety.

<sup>237</sup> Gentzler, “The Cost Trap: How Excessive Fees Lock Oklahomans Into the Criminal Justice System without Boosting State Revenue,” *Oklahoma Policy Institute*, p. 5.

them, taking them to jail requiring them to have to pay additional money on the debt owed, in addition to \$350 and \$400 bond to secure their release.

Robert Nigh, the former Tulsa County Public Defender from 2015 to 2017, described these fines, fees, and costs as a “life sentence,”<sup>238</sup> as many people can never pay them entirely and they end up constantly working just to keep up payments and stay out of jail.

### A Day in Court

The Tulsa court system has a variety of ways of taking money from poor people who are accused of crimes. In July 2017, representatives from Human Rights Watch sat in a courtroom in the Tulsa County Courthouse to observe proceedings. A number of people who appeared in court were out of custody because they had posted bail.<sup>239</sup> Under Oklahoma law, the court may consider the fact that a person posted bail to get out of jail while their court case was pending as a factor in deciding whether they qualify for appointment of a public defender, even if someone else paid the bail amount.<sup>240</sup> In practice, according to one public defender, the presumption is that defendants lose their appointed lawyer if they bail out of jail.<sup>241</sup>

When the judge called the case of a person who had been able to post bail, if that person did not have an attorney, the judge ordered them to come back in two weeks and advised them that if they did not have an attorney, she would put them back in jail. One person attempted to explain that he did not have money for an attorney and that his relative had paid his bail. The judge told him to have the relative pay for the attorney.

During the course of the morning session, four people appeared on their return date, having been ordered to come back with attorneys, but did not have one. The judge ordered each one into custody, had them sit down in the jury box at the front of the

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<sup>238</sup> Human Rights Watch telephone interview with Robert Nigh, former Tulsa County public defender, March 6, 2017.

<sup>239</sup> A bail amount is set, and the accused person can either pay the full amount or pay a non-refundable fee for a bond, usually around 10 percent, to a bail bondsman to be released from jail.

<sup>240</sup> OK Statute, Title 22, Section 1335A(D), <http://www.oscn.net/applications/OCISWeb/DeliverDocument.asp?CiteID=214842> (accessed July 15, 2019).

<sup>241</sup> Human Rights Watch interview with Patrice James, attorney, Still She Rises, Tulsa, Oklahoma, July 25, 2017.

courtroom, and had the bailiff shackle them, as she continued calling the court calendar. We observed a private lawyer (not a public defender) talking to the four in the front of the courtroom as the judge finished the other cases. When all other cases were done, the judge re-called the cases of all four she had taken into custody. Each of the four of them had agreed to hire the private attorney who had been talking to them in the front of the room. The judge warned, as she released them, that this attorney would not represent them if they did not pay him and she would put them in jail if they came back unrepresented. In the hallway after the court closed, we heard the attorney telling the group of four that they needed to bring him cash.

## Private Companies Profit from Court Debt and Police Enforcement

Oklahoma law allows local jurisdictions to contract with private debt collection companies to pursue outstanding court fines, fees, and costs.<sup>242</sup> In these cases, the criminal justice debtor is required to pay an “administrative cost” equal to thirty percent of the outstanding criminal justice debt. This amount is ultimately payable to the debt collection firm. This administrative cost can only be reduced or waived by order of the court.<sup>243</sup>

The most prominent debt collection agency is Aberdeen Enterprizes II,<sup>244</sup> which has contracted with Tulsa County. Aberdeen is currently the subject of a racketeering lawsuit that alleges the company “conspired to extract as much money as possible from indigent people through a pattern of illegal and unconscionable behavior.”<sup>245</sup> Debt collection firms have more leverage when collecting these criminal justice debts when compared to civil debts because “failure to pay” warrants have the possible consequence of arrest and incarceration if the person does not pay.<sup>246</sup> In court pleadings, Aberdeen explained that they do not seek warrants, but instead, “... Aberdeen uses its best efforts to collect amounts already owed which have been identified by county officials and notes whether a

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<sup>242</sup> 11 OK Stat. sec. 11-22-138, <https://law.justia.com/codes/oklahoma/2014/title-11/section-11-22-138/> (accessed July 15, 2019).

<sup>243</sup> 19 OS sec. 514.5 (OSCN 2019) (on file with Human Rights Watch).

<sup>244</sup> Aberdeen Enterprizes II, home page, [http://www.aberdeen-2.com/Aberdeen/Aberdeen\\_\\_C%26M\\_Home.html](http://www.aberdeen-2.com/Aberdeen/Aberdeen__C%26M_Home.html) (accessed July 15, 2019).

<sup>245</sup> Kelly Weill, “Debt Company Makes Sheriffs Rich by Jailng the Poor, Lawsuit Claims,” *Daily Beast*, November 9, 2017, <https://www.thedailybeast.com/debt-company-makes-sheriffs-rich-by-jailing-the-poor-lawsuit-claims?via=ios> (accessed July 15, 2019). Aberdeen denies these allegations.

<sup>246</sup> Weill, “Debt Company Makes Sheriffs Rich by Jailng the Poor, Lawsuit Claims,” *Daily Beast*.

person has or has not paid amounts due.”<sup>247</sup> The increased fees and the privatization of collection add to the impact of court debt.

Curtis Richardson (pseudonym) was cited for allowing an unlicensed driver to drive a go-cart<sup>248</sup> in the summer of 2013. He pled no contest a few weeks later, and accepted fees and fines amounting to \$231.50. He began making payments of \$50 each month in the fall that year, paying off \$200 by the end of the year.<sup>249</sup> He could not make payments for the next few months, as he was surviving on a small pension and working odd jobs.<sup>250</sup> By April 2014, though he only owed \$31.50 on this case, the court issued a warrant and added \$80 to his debt. The court then sent the case to Aberdeen for collection. Aberdeen added \$33.45 or 30 percent of the debt as their collection fee. They sent him a letter saying he owed \$144.95 for this case, advising him of the possibility of bench warrants. Aberdeen had three other cases of Curtis’ assigned to them, two felonies from the mid-1990s, one misdemeanor from 2001, with total amounts owed close to \$6,800.<sup>251</sup> He has been paying as much and as steadily as possible since Aberdeen contacted him, but still owes just under \$4,000.<sup>252</sup> He is over 65 years old, still working as much as he can, but unable to save for any type of retirement. He says of the payments: “It’s been a burden to me.”

### **Driver’s License Suspensions**

One collateral consequence of having a “failure to pay” warrant issued on a traffic ticket is a driver’s license suspension.<sup>253</sup> Often the person whose license is suspended drives nonetheless out of necessity and gets arrested for driving, which leads to jail time and additional fines, fees, and costs. Arrests for suspended or revoked driver’s license violations were the fifth leading charge for booking into the county jail by Tulsa police in 2016.<sup>254</sup> Getting the license re-instated can cost additional amounts in fees to the Department of Motor Vehicles, depending on the reason for the suspension. If the reason is an unpaid warrant, the person must pay off the court debt first before being eligible for reinstatement.<sup>255</sup> Poor people who have to reinstate their licenses also miss work making payments, further inhibiting their ability to pay.<sup>256</sup>

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<sup>253</sup> Human Rights Watch telephone interview with Robert Nigh, March 6, 2017. 22 Okla.Stat. Ann. section 983; <https://law.justia.com/codes/oklahoma/2014/title-22/section-22-983/> (accessed July 15, 2019); 22 Okla.Stat. Ann. section 6-206; <https://law.justia.com/codes/oklahoma/2015/title-47/section-47-6-206/> (accessed July 15, 2019).

People with suspended licenses, including those who cannot afford to pay off fines and re-instatement fees, either do not drive or risk arrest going to work, taking their children to school, or driving to the grocery store. Ron Waters (pseudonym) told Human Rights Watch that his suspended license due to unpaid court fines had prevented him from getting a high paying out-of-state job that would have allowed him to pay off the tickets more easily and provide for his family.<sup>257</sup>

## The Court System's Funding Depends on Fees, Fines, and Costs

These fines, fees, and costs fund the very agencies and departments that are involved in the decisions to impose them.<sup>258</sup> According to a study by the Oklahoma Policy Institute, “About half the total amount [of fees collected in Oklahoma] goes towards maintenance of District Court facilities and paying court employees, including judges, bailiffs, and court reporters.”<sup>259</sup>

Since 2005, people placed on probation supervision by the District Attorney (primarily misdemeanor defendants), instead of the Department of Corrections, are required to pay \$40 each month to the District Attorney's office as a “supervision” fee. Those convicted,

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<sup>248</sup> 47 O.S. 6-305

<sup>249</sup> Curtis Richardson (pseudonym) entry in Oklahoma State Courts Network, <http://www.oscn.net/dockets/GetCaseInformation.aspx?> (accessed July 15, 2019). The docket does not indicate that the court held any “ability to pay” (Rule 8) hearing. Because HRW uses a pseudonym to protect his privacy, we do not cite to a specific page in the OSCN database.

<sup>250</sup> Human Rights Watch interview with Curtis Richardson (pseudonym), Tulsa, Oklahoma, March 20, 2018.

<sup>251</sup> Letter from Aberdeen Enterprizes II to Curtis Richardson (pseudonym), November 4, 2014, on file at Human Rights Watch.

<sup>252</sup> Aberdeen Enterprizes II payment receipt, on file at Human Rights Watch.

<sup>253</sup> Human Rights Watch telephone interview with Robert Nigh, March 6, 2017. 22 Okla.Stat. Ann. section 983; <https://law.justia.com/codes/oklahoma/2014/title-22/section-22-983/> (accessed July 15, 2019); 22 Okla.Stat. Ann. section 6-206; <https://law.justia.com/codes/oklahoma/2015/title-47/section-47-6-206/> (accessed July 15, 2019).

<sup>254</sup> Fishman et al, “Report to Tulsa County Stakeholders on Jail Reduction Strategies,” *Vera Center on Sentencing + Corrections*, p. 20.

<sup>255</sup> 22 Okla.Stat. Ann. section 6-206; <https://law.justia.com/codes/oklahoma/2015/title-47/section-47-6-206/> (accessed July 15, 2019).

<sup>256</sup> Human Rights Watch interview with Celia Tucker (pseudonym), Tulsa, Oklahoma, November 1, 2017.

<sup>257</sup> Human Rights Watch telephone interview with Ron Waters (pseudonym), Tulsa, Oklahoma, July 23, 2018.

<sup>258</sup> Gentzler, “The Cost Trap: How Excessive Fees Lock Oklahomans Into the Criminal Justice System without Boosting State Revenue,” *Oklahoma Policy Institute*, p. 11-14.

<sup>259</sup> Gentzler, “The Cost Trap: How Excessive Fees Lock Oklahomans Into the Criminal Justice System without Boosting State Revenue,” *Oklahoma Policy Institute*, p. 11: “In 2014, \$74 million of the \$152 million collected by court clerks funded the District Courts.”

but placed on unsupervised probation, still must pay the District Attorney each month for two years “for the costs incurred during the prosecution,” pursuant to the “District Attorney Supervision 991 Program” passed by the state legislature in 2013.<sup>260</sup> While District Attorneys should waive supervision fees for indigent people and may waive part of prosecution fees “in the interest of justice,”<sup>261</sup> lawyers interviewed by Human Rights Watch said they rarely do.<sup>262</sup> About half of the budgets for District Attorneys statewide come from fees collected directly from the people they prosecute.<sup>263</sup>

Because judges’ salaries, funding for courts, and funding for agencies within the justice system, like the District Attorney, are dependent on fines, fees, and costs extracted from defendants in criminal courts, there exist incentives to impose and aggressively collect these fees, and not to waive them despite hardships.<sup>264</sup>

In addition to paying fines, fees and costs, poor people accused of crimes in Oklahoma are assessed for the services of their appointed attorney, unless waived by the court for “good cause.”<sup>265</sup> The statutory amounts range from \$150 for a guilty plea on a misdemeanor and \$250 for a guilty plea on a felony to \$500 for a misdemeanor jury trial and \$1,000 for a felony jury trial. This fee structure is likely to discourage people asserting their right to a trial.

It is not clear that the approach is serving its intended purposes. An Oklahoma Policy Institute study found that collections from criminal cases statewide did not rise from 2003

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<sup>260</sup> Ibid.

<sup>261</sup> 22 Okla.Stat. section 22-991c(A); <https://law.justia.com/codes/oklahoma/2014/title-22/section-22-991c/>

<sup>262</sup> Lawyers in Tulsa say that they have never seen the District Attorney waive supervision fees. Human Rights Watch telephone interview with Robert Nigh, March 6, 2017; Human Rights Watch telephone interview with Sara Cherry and Adrienne Wall, Oklahoma Legal Aid Society, February 27, 2017.

<sup>263</sup> Gentzler, “The Cost Trap: How Excessive Fees Lock Oklahomans Into the Criminal Justice System without Boosting State Revenue,” *Oklahoma Policy Institute*, p. 13.

<sup>264</sup> Tulsa District Attorney Steven Kunzwiler has called the system “dysfunctional” and “immoral,” though his office continues to fund itself through fine and fee collection. Nicholas Kristof, “Is it a Crime to Be Poor?,” *New York Times*, June 11, 2016, <https://www.nytimes.com/2016/06/12/opinion/sunday/is-it-a-crime-to-be-poor.html> (accessed July 15, 2019); Curtis Killman, “Local DAs meet with lawmakers to talk about criminal justice reform, funding at legislative breakfast,” *Tulsa World*, January 26, 2019, [https://www.tulsaworld.com/news/local/crime-and-courts/local-das-meet-with-lawmakers-to-talk-about-criminal-justice/article\\_207ac165-8209-5bc5-ac06-54e0b78c41b4.html?utm\\_medium=social&utm\\_source=twitter&utm\\_campaign=user-share](https://www.tulsaworld.com/news/local/crime-and-courts/local-das-meet-with-lawmakers-to-talk-about-criminal-justice/article_207ac165-8209-5bc5-ac06-54e0b78c41b4.html?utm_medium=social&utm_source=twitter&utm_campaign=user-share) (accessed July 15, 2019).

<sup>265</sup> 22 Okla.Stat. section 22-1355.14, <https://law.justia.com/codes/oklahoma/2014/title-22/section-22-1355.14/> (accessed July 15, 2019).

through 2015, despite increases in the amounts and numbers of those fees.<sup>266</sup> And all along this financially charged enforcement is negatively impacting poor people in Tulsa, contributing to a cycle of poverty and generating animosity towards law enforcement.

## Legal Protections Have Not Been Effective

Oklahoma law requires courts to conduct a “Rule 8 hearing” to determine an individual’s ability to pay their fees and fines.<sup>267</sup> In theory, under Rule 8, individuals unable to pay fines or costs due to physical disability or poverty should be relieved of the requirement and ordered to come back at a future date for the judge to determine if they can resume payments.<sup>268</sup> Those who do not pay or who fail to appear in court to explain why they did not pay will have warrants issued and will be subject to incarceration.<sup>269</sup> Those who do appear may get more time to pay.<sup>270</sup> However, if the judge finds that the failure to pay is “willful,” the judge may take the person into custody.<sup>271</sup> Much depends on the discretion of the individual judge, as some are more willing to waive fees than others.<sup>272</sup>

According to Oklahoma Policy Institute, many courts in Oklahoma do not even hold Rule 8 hearings to determine ability to pay at the time of conviction, as required by law.<sup>273</sup> Researchers found that Tulsa County courts in 2014 did not hold such hearings regularly upon sentencing, instead having collections processed through the court clerk’s office.<sup>274</sup> The Oklahoma Policy Institute found, in 2017, that Tulsa County courts were not holding hearings upon conviction, but were having people fill out forms to give to the Court Clerk’s

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<sup>266</sup> Gentzler, “The Cost Trap: How Excessive Fees Lock Oklahomans Into the Criminal Justice System without Boosting State Revenue,” *Oklahoma Policy Institute*, p. 16.

<sup>267</sup> Okla. Stat.section 22-18, Rule 8.1. <http://www.okcca.net/online/rules/rulesrvr.jsp?r=60> (accessed July 16, 2019). Rules 8.1 through 8.8 establish the “procedures relating to district and municipal courts relating to imprisonment for nonpayment of fines and costs.” They apply to all criminal courts in Oklahoma.

<sup>268</sup> Okla. Stat.section 22-18, Rule 8.5.

<sup>269</sup> Okla. Stat.section 22-18, Rule 8.6.

<sup>270</sup> Okla. Stat.section 22-18, Rule 8.4.

<sup>271</sup> Okla. Stat.section 22-18, Rule 8.6.

<sup>272</sup> Human Rights Watch telephone interview with Brady Henderson, legal director, ACLU of Oklahoma, October 17, 2016.

<sup>273</sup> Gentzler, “The Cost Trap: How Excessive Fees Lock Oklahomans Into the Criminal Justice System without Boosting State Revenue,” *Oklahoma Policy Institute*, p. 8-9.

<sup>274</sup> Gentzler, “The Cost Trap: How Excessive Fees Lock Oklahomans Into the Criminal Justice System without Boosting State Revenue,” *Oklahoma Policy Institute*, p. 9.



office to set up payment plans.<sup>275</sup> Court hearings were held only after a person had been arrested for a “failure to pay” warrant. The person so held can stay in jail for many days and even weeks waiting for the hearing,<sup>276</sup> or has to pay an additional bond amount to get out of jail.

In March 2017, former Tulsa County Public Defender Robert Nigh sent a detailed memorandum to the court administration addressing their failure to hold statutorily required Rule 8 hearings at sentencing, when collection of fines and fees begins.<sup>277</sup> The memorandum reminded the court that amounts owed by people without means to pay them are not enforceable through incarceration and must be converted to civil judgments.<sup>278</sup>

Tulsa courts have set up a “cost docket” in which people with outstanding court debt, and even those with warrants, can come to court and explain their financial hardships.<sup>279</sup> Judges on the cost docket often lower monthly payments to more manageable amounts or have people pay them off by working.<sup>280</sup> Sometimes, judges suspend costs for people who receive Social Security Disability payments.<sup>281</sup> The cost docket occurs in Tulsa courts two days a week and has a huge demand. It may lack the capacity to address all the people with court debt who need accommodations for their inability to pay.<sup>282</sup>

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<sup>275</sup> Gentzler, “The Cost Trap: How Excessive Fees Lock Oklahomans Into the Criminal Justice System without Boosting State Revenue,” *Oklahoma Policy Institute*, p. 8-9.

<sup>276</sup> Cooper, et al., “Assessing the Cost: Criminal Fines, Court Costs, and Procedure versus Practice in Tulsa County,” *University of Tulsa College of Law*, p. 9.

<sup>277</sup> Tulsa County Public Defender Robert Nigh, “Tulsa County Public Defender View of Certain Aspects of the Imposition and Collection of Fines and Costs on Indigent Criminal Defendants Sentenced to Probation,” report to Tulsa County Courts, March 2017.

<sup>278</sup> Okla. Stat. section 28-101, <https://law.justia.com/codes/oklahoma/2014/title-28/section-28-101/> (accessed July 16, 2019).

<sup>279</sup> Human Rights Watch telephone interview with Jill Webb, September 25, 2018.

<sup>280</sup> Human Rights Watch email correspondence with Ryan Gentzler, director, Open Justice Oklahoma, Oklahoma Policy Institute, June 19, 2019; Human Rights Watch telephone interview with Jill Webb, September 25, 2018. Conversion of excessive fees and fines to work raises forced labor concerns that are beyond the scope of the research for this report but should not be dismissed. To the extent there is systematic imposition of fines leading to uncompensated work, there may be violations of human rights.

<sup>281</sup> Human Rights Watch telephone interview with Jill Webb, September 25, 2018. An informal task force has formed in Tulsa, including attorneys, retired judges, a policy researcher and two businesspeople, to consider legislative and judicial initiatives to reform the criminal debt system. Jones, “Informal work group aims to reform Oklahoma’s reliance on fines, fees to fund court system,” *Tulsa World*.

<sup>282</sup> Human Rights Watch email correspondence with Ryan Gentzler, June 19, 2019. Glen Blake, an attorney with Tulsa County Public Defenders, told Human Rights Watch that the cost docket courts were effective, but only operating twice a week and

## Impact of Fines and Fees on Poor People

A former Tulsa Police officer, who spoke to Human Rights Watch on condition of anonymity, said that a training officer<sup>283</sup> in North Tulsa’s Gilcrease Division was writing vastly more traffic tickets than the training officer in South Tulsa’s Riverside Division.<sup>284</sup> The North Tulsa training officer would hide in one place and stop cars for speeding or not signaling turns, writing about five tickets a day, while the South Tulsa officer wrote less than 10 in six weeks.

The former officer said that the North Tulsa training officer referred to these tickets as “warrant applications,” and explained that “no one can afford to pay tickets, so they go to warrant, which allows arrests.”<sup>285</sup>

Human Rights Watch analyzed Tulsa Police Department data from 2012 through 2017 and found that in almost four of every 10 arrests, the most serious arrest charge was a warrant, making warrants by far the most common reason for arrest.<sup>286</sup> Twenty-one percent of them were county-issued warrants and 17 percent municipal warrants. It was not possible to determine how many of these were for “failure to pay” costs, court fees, or fines. However, many county and city warrants relate to “failure to pay,” as evidenced by booking data cited previously. City warrants are for low-level misdemeanor charges or for citations, including basic traffic violations, and for “failure to pay” fees, fines and costs on those types of charges. In 33,721 of these arrests, the majority, a warrant was the only charge.

There is no data to determine how many people arrested on these warrants were poor, but especially considering the prevalence of “failure to pay” warrants, it is likely that a large percentage were. Police arrest black people in Tulsa for warrants at a rate 2.6 times the

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scheduled full so that they were only taking people with active warrants. He indicated that there is great demand for the court and that each days’ docket is very large. Human Rights Watch email correspondence with Glen Blake, attorney, Tulsa County Public Defenders, June 19, 2019.

<sup>283</sup> The Tulsa Police Department assigns certain experienced officers to be “training officers.” They patrol with new officers and teach them policing practices and policies.

<sup>284</sup> Ticketing practices vary from officer to officer.

<sup>285</sup> Human Rights Watch interview with (name withheld), former officer, Tulsa Police Department, June 9, 2018.

<sup>286</sup> Human Rights Watch analysis of arrest data provided by the Tulsa Police Department and City of Tulsa. Human Rights Watch ranked all offenses charged to determine the most serious offense charged in each arrest. The data did not allow Human Rights Watch to distinguish between the underlying charge for the warrant, so it was not possible to determine how many were for failure to pay costs, court fees, or fines. Both county and municipal warrants can include failures to pay.

rate that they arrest white people.<sup>287</sup> Warrant arrests, while most frequent in Downtown Tulsa, occurred disproportionately in North Tulsa and in pockets of South Tulsa with larger black and poor populations.<sup>288</sup> These geographic disparities are even clearer for arrests where the only charge is for a warrant.

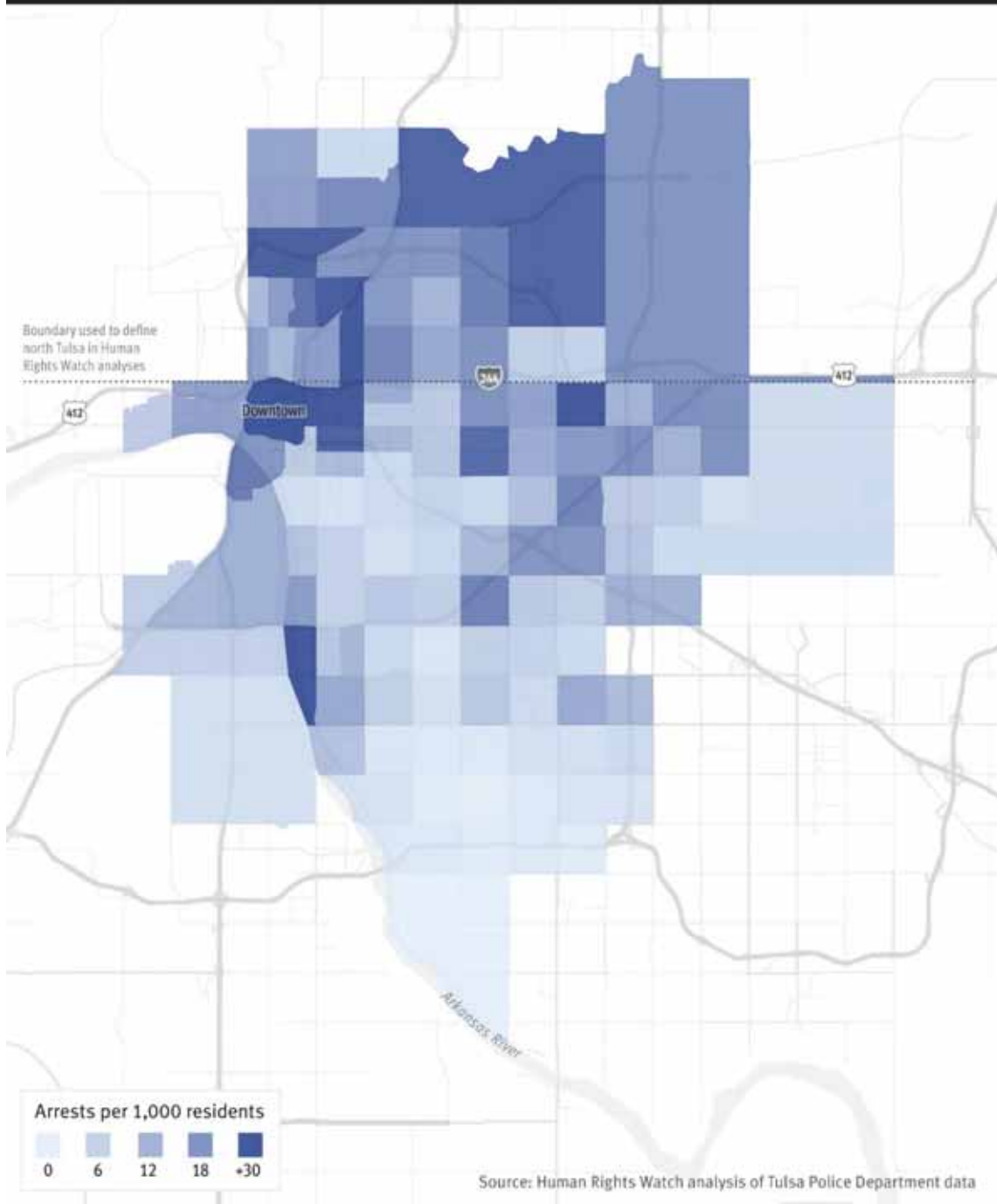
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<sup>287</sup> See Chapter V below, “Arrests, Detentions and Citations.”

<sup>288</sup> Human Rights Watch analysis of arrest data provided by the Tulsa Police Department and City of Tulsa.

## Warrant-only Arrest Rate

Number of arrests per 1,000 census tract residents where the only charge was for a warrant



The Oklahoma Policy Institute examined data from felony and misdemeanor cases filed from 2011 through 2016 and compared amounts owed for fees, fines, and costs, not including supervision fees, across zip codes.<sup>289</sup> The study found that criminal debt was highly concentrated in zip codes with high poverty rates. These zip codes, primarily in North Tulsa, also had the highest percentages of black residents. The zip codes with more white people and lower poverty rates had significantly less criminal debt.

Zip Code	Total Population	Poverty Rate	Black Population	% of Population Owning Court Debt	Per Capita (Adult) Amount Owed
74106 (NT)	18,175	41.7%	67.2%	16%	\$467.23
74126 (NT) <sup>290</sup>	9,797	38.5%	57.2%	21.4%	\$590.65
74114 (ST)	16,141	7.1%	3%	2.4%	\$47.12
74119 (ST)	3,486	20.6%	9.15	5.2%	\$102.54

Lester Mayes (pseudonym), a resident North Tulsa, said he found it very difficult to be supportive of the police when they constantly ticket him and others in his low-income neighborhood near the University of Tulsa for low level offenses. He called the police action “strong-arm” tactics.<sup>291</sup>

## Steps to Fix the Problem

Many officials in Tulsa have recognized the injustice of the system of excessive court fees fines and costs. The District Attorney has called it “immoral” to have his office funded through collection of fees from people they prosecute.<sup>292</sup> However, his lawyers continue to

<sup>289</sup> Gentzler, “Millions of dollars in court debt hang over residents of Oklahoma’s poorest neighborhoods,” *Oklahoma Policy Institute*, May 2, 2019, <https://okpolicy.org/millions-of-dollars-in-court-debt-hangs-over-oklahomas-poorest-zip-codes/> (accessed July 16, 2019).

<sup>290</sup> Most, but not all of this zip code is within the City of Tulsa. All is in Tulsa County.

<sup>291</sup> Human Rights Watch telephone interview with Lester Mayes (pseudonym), January 3, 2018.

<sup>292</sup> Kristof, “Is it a Crime to Be Poor?,” *New York Times*; Killman, “Local DAs meet with lawmakers to talk about criminal justice reform, funding at legislative breakfast,” *Tulsa World*.

request these fees. Deputy Police Chief Jonathan Brooks referred to it as “the continued cycle.”<sup>293</sup> While he said the police do not have authority to change the system, as much of the fee and fine structure is dictated by state law, they can be partners in reforming it. He has joined a “collaborative” workgroup with a deputy mayor, the district attorney and other stakeholders to explore ways to improve the system and avoid “paupers’ jail.”<sup>294</sup>

Brooks suggested expanding specialty courts that paired people with services and encouraged waiver of fees, supporting re-entry programs like Women in Recovery,<sup>295</sup> reducing pretrial incarceration and working with judges to lower fine amounts, as ways to mitigate the system. He acknowledged that solutions like the specialty courts currently do not have the scale needed to sufficiently impact the system.<sup>296</sup>

Oklahoma City, facing similar problems with poor people being arrested and held in jail for inability to pay criminal court debt, has experimented with a system of bringing people found to have warrants for “failure to pay” directly to the municipal courthouse to schedule an indigency hearing.<sup>297</sup> The Vera Institute, having documented the high frequency of jailing for “failure to pay,” has suggested creating a mechanism for officers in the field to distinguish which warrants are for “failure to pay” and to issue summonses to the cost docket in those instances.<sup>298</sup> According to Jonathan Brooks, deputy chief of the Tulsa Police Department, when police learn of a warrant in the field, depending on the jurisdiction of origin of the warrant, they know if it is for “failure to pay.” For Tulsa Municipal warrants, officers will know and have discretion to arrest or not.<sup>299</sup>

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<sup>293</sup> Human Rights Watch interview with Jonathan Brooks, deputy chief, Tulsa Police Department, April 24, 2019.

<sup>294</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>295</sup> Family & Children’s Services, “Women in Recovery,” <https://www.fcsok.org/services/women-in-recovery/> (accessed July 16, 2019). Women in Recovery is an outpatient program for women facing prison sentence for “non-violent drug-related offenses.” It provides supervision, substance abuse and mental health treatment, education, job training and family reunification services.

<sup>296</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>297</sup> Laura Eastes, “Municipal court reforms protect the poor from undue punishment,” *Oklahoma Gazette*, December 15, 2016, <https://www.okgazette.com/oklahoma/municipal-court-reforms-protect-the-poor-from-undue-punishment/Content?oid=2981663> (accessed July 16, 2019).

<sup>298</sup> Fishman et al, “Report to Tulsa County Stakeholders on Jail Reduction Strategies,” *Vera Center on Sentencing + Corrections*, p. 46.

<sup>299</sup> Human Rights Watch electronic communications with Jonathan Brooks (on file with Human Rights Watch).

## A Nationwide Problem

The use of criminal court debt to fund government functions in Tulsa and in Oklahoma more generally is not unique within the US. A 2017 report by the US Commission on Civil Rights found that doing so to fund government functions was pervasive throughout the country. “[U]nchecked discretion or stringent requirements to impose fines or fees,” the report found, “can lead and have led to discrimination and inequitable access to justice when not exercised in accordance with the protections afforded under the Due Process and Equal Protection Clauses of the United States Constitution.”<sup>300</sup> The commission warned that police may have an incentive to stop and cite as many people as possible, rather than focus on actual public safety needs.<sup>301</sup> Data reviewed by the commission revealed that, as in Tulsa, “the impacts of these practices have been borne by communities of color, along with the poor.”<sup>302</sup>

Following the killing of Michael Brown and subsequent protests in Ferguson, Missouri, in 2014, the US Department of Justice investigated policing there and issued a report finding that enforcement of criminal debt, as well as aggressive and racially biased ticketing, were significant community grievances.<sup>303</sup>

The report found, further, that this enforcement influenced other aspects of police interactions with community members: “Officers expect and demand compliance even when they lack legal authority. They are inclined to interpret the exercise of free-speech rights as unlawful disobedience, innocent movements as physical threats, indications of mental or physical illness as belligerence.”<sup>304</sup> This style of policing, combined with a lack of meaningful discipline, results in violations of constitutional rights against unlawful searches and seizures and unlawful uses of force, including killings.<sup>305</sup>

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<sup>300</sup> United States Commission on Civil Rights, briefing report, “Targeted Fines and Fees Against Low-Income Communities of Color: Civil Rights and Constitutional Implications,” September 2017, [https://www.usccr.gov/pubs/2017/Statutory\\_Enforcement\\_Report2017.pdf](https://www.usccr.gov/pubs/2017/Statutory_Enforcement_Report2017.pdf) (accessed July 16, 2019).

<sup>301</sup> Ibid., p. 71.

<sup>302</sup> Ibid., p. 3.

<sup>303</sup> US Department of Justice, Civil Rights Division, “Investigation of the Ferguson Police Department,” March 4, 2015, [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf) (accessed July 16, 2019).

<sup>304</sup> United States Commission on Civil Rights, briefing report, “Targeted Fines and Fees Against Low-Income Communities of Color: Civil Rights and Constitutional Implications,” p. 2.

<sup>305</sup> Ibid., p. 2.

This approach to law enforcement, directed disproportionately at black residents, “both reflects and reinforces racial bias,” and shows evidence of intentional racial discrimination.<sup>306</sup> It undermines the legitimacy of law enforcement in the community and diminishes community partnerships that could enhance public safety.<sup>307</sup>

While police in Tulsa may not have the same financial incentives as those detailed in Ferguson, their enforcement actions have led to similar criticisms by community leaders, regular citizens, elected officials, and former police officers about policing in Tulsa.

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<sup>306</sup> Ibid., p. 4.

<sup>307</sup> Ibid., p. 5-6.



## V. Arrests, Detentions, and Citations

A veteran Tulsa police officer, speaking to Human Rights Watch on condition of anonymity, described an incident in recent years that started when two white officers saw a black man walking out of a store and down a major North Tulsa street.<sup>308</sup> They decided to conduct a “pedestrian check,” and told him to stop. The man chose not to stop.<sup>309</sup> The veteran officer heard the officers call for support over the radio. The call said the man was not cooperating and was walking away from them, but it did not state why he was a suspect.

When the veteran officer got to the scene, there were seven or eight white officers surrounding the man, who had become agitated and was saying he was tired of being harassed by police. The veteran officer asked the initiating officer what the man had done to justify the pedestrian check. The officer said, “We just wanted to find out who he was.”

The veteran officer told the other officers to leave, which they reluctantly did, and had two neighbors who were watching and who knew the man help calm him as he was set free to go about his business. According to our source, the officers who stopped this black man had no right to do so and were simply exercising their power: “Just walking down the street and being black is not being suspicious.”

The veteran officer said that he has witnessed situations like this often, particularly when working in North Tulsa. This officer has heard other officers say, “there’s no good black people in North Tulsa” and that people in that part of town are “all maggots.”<sup>310</sup>

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<sup>308</sup> Human Rights Watch telephone interview with (name withheld), officer, Tulsa Police Department, February 15, 2018.

<sup>309</sup> Police do not have the right to detain and question a person without sufficient reason to believe that person is involved in criminal activity. *Brown v. Texas* 443 US 47 (1979). *Terry v. Ohio* 392 US 1 (1968) authorizes police, under the Fourth Amendment, to conduct a brief investigatory stop only if they can articulate a “reasonable suspicion” that the person they are stopping is involved in criminal activity. Absent that level of suspicion, police may approach a person and engage in voluntary conversation, or “consensual encounter,” but the person approached has an absolute right to walk away or simply ignore the officer. Refusing to stop for or speak to an officer in a “consensual encounter” cannot ever provide the officer with sufficient suspicion to justify a detention. Despite the legal regulation, “consensual encounters” can be extremely coercive, as people often fear asserting the right to refuse to speak with police will lead to negative consequences.

<sup>310</sup> Another officer who spoke to Human Rights Watch on condition of anonymity claimed to have never seen or heard any evidence of racism by Tulsa Police officers in over a decade with the department. Human Rights interview with (name withheld), officer, Tulsa Police Department, March 22, 2018.

Former Police Chief Diamond said that policing is carried out “differently” in North Tulsa than in the rest of the city, and that officers in North Tulsa regularly conduct unnecessary stops of black people.<sup>311</sup>

## Disparities in Arrest Rates

Human Rights Watch examined arrest data in Tulsa and found significant disparities between races.

From 2012-2017, for every 1,000 white people in Tulsa, police arrested 35 per year on average; for every 1,000 black people, Tulsa Police arrested 79, a rate 2.3 times greater. Making up roughly 17 percent of the city’s population, black people accounted for 36 percent of all arrests. White people make up about 65 percent of the population, but only 58 percent of arrests.

**Table: Tulsa Police Department Arrests 2012 – 2017**

Race	Number of arrests	Percent of arrests	Percent of Tulsa population	Avg. annual arrest rate per 1,000 people
Asian	467	1%	4%	5
Black	33,004	36%	17%	79
Native American	4,478	5%	8%	23
Unknown	1,339	1%	NA	NA
White	53,671	58%	65%	35
Other	NA	NA	6%	NA

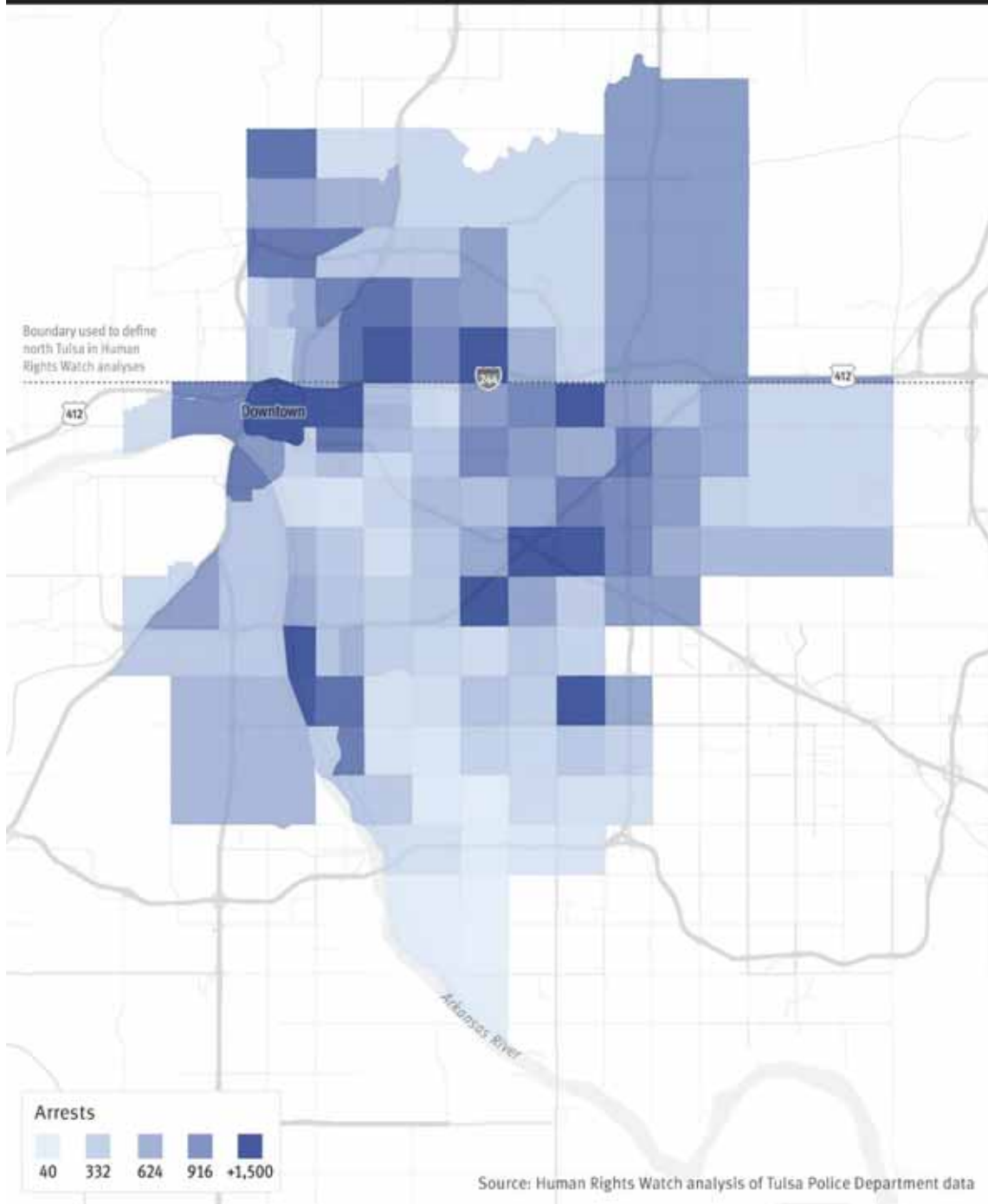
The data revealed that arrest rates for people identified as Native American coincided fairly closely with their share of the overall population. As explained in the Methodology section, it is difficult to draw conclusions about disparities due to the complexity of coding people as Latino and different standards for the police and for the census.

<sup>311</sup>Human Rights Watch interview with Drew Diamond, September 27, 2017.

Reflecting Tulsa's racial and economic class divisions, arrests are not evenly distributed throughout the city, but tend to be concentrated in certain geographic regions. Human Rights Watch charted arrest rates by census tract and found that the higher rates were concentrated in North Tulsa tracts and in isolated tracts throughout South and East Tulsa with greater non-white populations and greater percentages of people living in poverty. Most of South Tulsa experienced significantly lower overall rates of arrest than North Tulsa, but racial disparities in arrest rates exist throughout the city, with black people being arrested at higher rates than white people in all but a few census tracts.

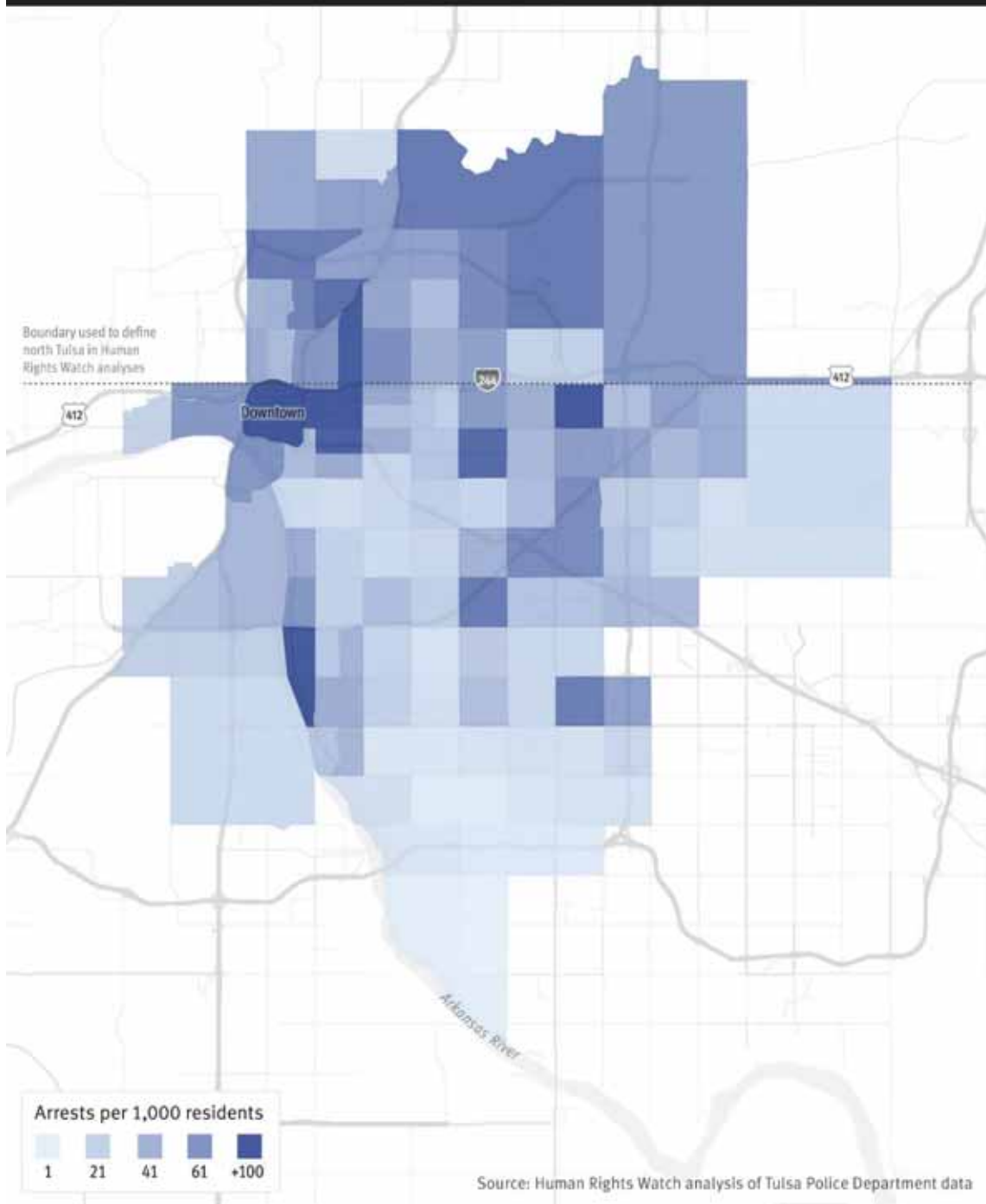
## Total Arrests

Number of arrests that occurred in each census tract



## Arrest Rate

Number of arrests per 1,000 census tract residents



Arrest rates in Tulsa, when broken down at the census tract level, correlate with race, as the trend is for higher arrest rates in tracts with higher percentages of non-white populations.<sup>312</sup> Economic variables, including unemployment rates,<sup>313</sup> median income,<sup>314</sup> and percentage below the poverty line,<sup>315</sup> which co-correlate with each other and with race,<sup>316</sup> have an even stronger connection with arrest rates, suggesting that economic disparities are a serious factor in arrest rates, and that poor people regardless of race have a greater exposure to arrest than those with more wealth.

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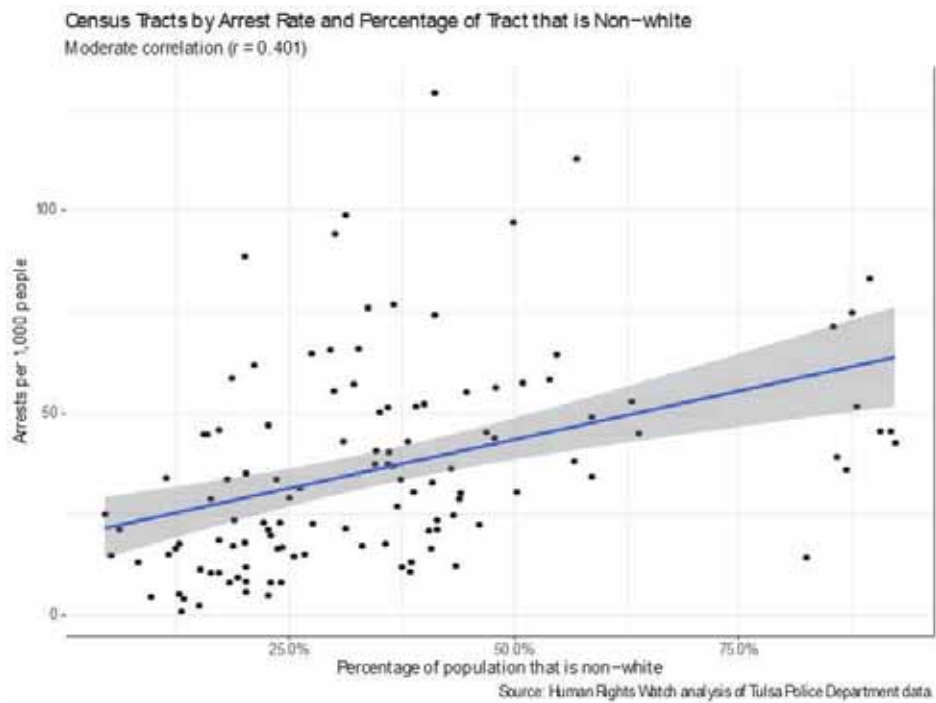
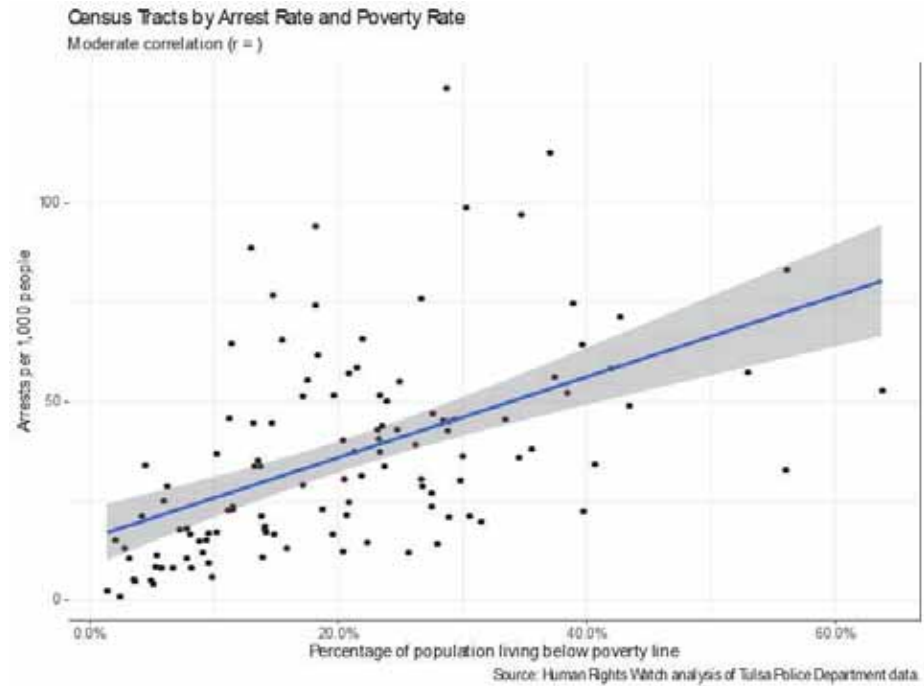
<sup>312</sup>  $r = .401$ . The correlation coefficient ( $r$ ) measures the strength and direction of the relationship between two variables. The value is always between -1 and 1 and the closer the value is to -1 or 1, the stronger the relationship.

<sup>313</sup>  $r = .411$

<sup>314</sup>  $r = -.511$ .

<sup>315</sup>  $r = .517$ .

<sup>316</sup> See "Background: Policing in a City Segregated by Race and Economic Class."



The interplay between poverty, race, crime and policing are complex. To better understand its effects in Tulsa, Human Rights Watch analyzed the relationship between race-specific arrest rates and race-specific median household income using simple regression models.<sup>317</sup> This analysis revealed that income has a much stronger relationship with arrest rates within the white population than it does for the black population. Arrest rates for black people have little relationship to the median income of black households within each census tract, while areas with higher household income for white people experience lower arrest rates for white people.

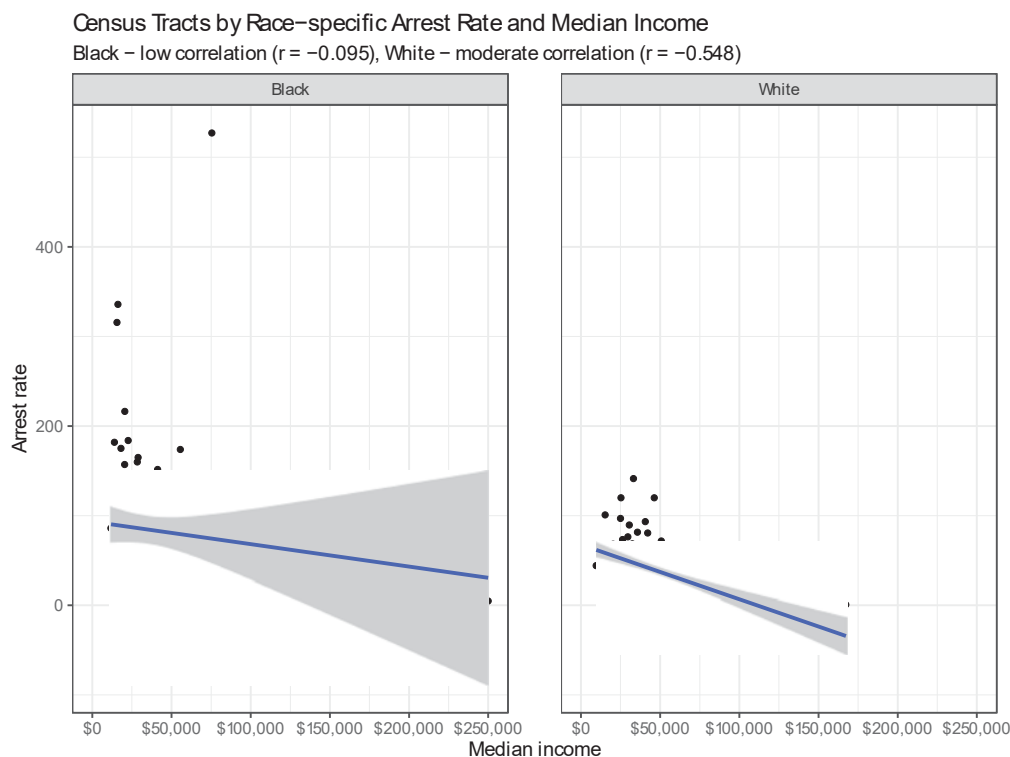
Median income is a statistically significant predictor of arrest rates for white people, but not for black people.<sup>318</sup> The median income for white households can account for 30 percent of the variation in white arrest rates while black median income only explains 0.9 percent of the variation in black arrest rates. Income is predicted to reduce the arrest rate 2.44 times faster for the white population than the black population. For every increase in \$10,000 in white median income, the white arrest rate is reduced by 0.6 per 1,000 people. For the black population, a \$10,000 difference in tract median income only predicts an arrest rate reduction of 0.3 per 1,000.

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<sup>317</sup> Seven outlier census tracts out of 119 total were removed—five because their black populations were less than 1 percent of the total, and two, a downtown tract and a shopping district with high numbers of arrests at a Walmart, because of extremely high arrest numbers relative to population.

<sup>318</sup> See Human Rights Watch analysis of arrest data provided by Tulsa Police Department. Models and data available on the report's GitHub page: <https://github.com/brianroot/HRW-us-tulsa-publication>.





Source: Human Rights Watch analysis of Tulsa Police Department data.

Tulsa Police Chief Jordan, responding to a *Tulsa World* analysis of 2012-2016 police data showing disparities in arrest rates, disputed that discrimination was the cause.<sup>319</sup> He said: “I think history has proven that we’re going to have more crime problems from that [economically disenfranchised] community. I think that’s a societal problem that I absolutely think we need to fix. I’m a firm believer that if we are able to level the playing field economically, a lot of this other stuff is going to go away.”<sup>320</sup> Human Rights Watch data analysis supports his claim that arrest rates do reflect economic disadvantage, to some extent, and certainly as to white people. However, the data shows that black people are subject to arrest more frequently across the economic spectrum. Jordan also did not address the extent to which enforcement of criminal debt and disparities in policing contribute to the economic inequalities that he believes drive crime.

<sup>319</sup> Corey Jones and Curtis Killman, “Black people arrested about twice as much as other races, analysis of Tulsa Police data shows,” *Tulsa World*, June 5, 2017, [https://www.tulsaworld.com/news/crimewatch/black-people-arrested-about-twice-as-much-as-other-races/article\\_4b564e68-eb76-5059-9198-969de8eb71dd.html](https://www.tulsaworld.com/news/crimewatch/black-people-arrested-about-twice-as-much-as-other-races/article_4b564e68-eb76-5059-9198-969de8eb71dd.html) (accessed July 16, 2019).

<sup>320</sup> Jones and Killman, “Black people arrested about twice as much as other races, analysis of Tulsa Police data shows,” *Tulsa World*.

Deputy Chief Brooks said that the disparities in arrests and force incidents (see below) did not reflect race, but “behavior.”<sup>321</sup> He cited to 2017 data that showed more violent crime in the Gilcrease Division (North Tulsa and Downtown) than in other parts of the city.<sup>322</sup> However, the top 10 custodial arrest charge types did not include violent crimes. City warrants, which are for low-level misdemeanors and traffic infractions, including “failure to pay” warrants, was the leading arrest charge, followed by county warrants, then traffic offenses. Warrants made up about two-thirds of all arrests in the top 10 charge types.<sup>323</sup> Gilcrease Division had about 50 percent more arrests in these top 10 charge types, all non-violent offenses, than Mingo Valley Division, and nearly double the number for South Tulsa’s Riverside Division. The police department data indicated, for those 10 categories of arrest charges, that black people were over 38 percent of arrestees, a number significantly higher than their share of the population.<sup>324</sup>

In June 2018, Major Travis Yates, former commander of the Gilcrease Division “unequivocally” denied allegations of racial bias in Tulsa’s policing. He said, responding to allegations of unfair policing towards North Tulsa residents, that officers simply respond to calls for service, which are an indicator of criminal activity, and that the vast majority of arrests do not come from police “proactivity”<sup>325</sup>: stopping, questioning and searching people when on patrol.<sup>326</sup>

However, Yates has previously said of Gilcrease Division and North Tulsa: “People think it’s the highest crime [area]. People think there’s mayhem going on and its simply not

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<sup>321</sup> Human Rights Watch interview with Jonathan Brooks, March 27, 2019.

<sup>322</sup> “2017 Tulsa Police Briefing Book,” data submitted to the Tulsa City Council, March 2019, file:///C:/Users/raphlij/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/AYY2A3TE/2017\_TPD\_BriefingBook\_v2%20(002).pdf (on file with Human Rights Watch).

<sup>323</sup> “2017 Tulsa Police Briefing Book.”

<sup>324</sup> “2017 Tulsa Police Briefing Book.” The document does not explain the methodology used to calculate these percentages.

<sup>325</sup> The term “pro-active” or “pro-activity” has different meanings in this report and in the general consideration of policing styles. In one sense, it contrasts with “reactive” policing, which is defined as responding to call and complaints. In this context, pro-active policing means officer-initiated actions, including making stops, conducting searches, approaching people for investigatory purposes, that may result in arrests, citations or gathering information. Major Yates appears to be using the term in this way. Another way “pro-active” is used is in the context of one definition of “community policing.” In that context it means officers initiating conversations with community members to build relationships with them.

<sup>326</sup> Travis J. Yates, Tulsa Fraternal Order of Police—FOP Public Page, “An Open Letter To My Brothers & Sisters,” *Facebook*, June 3, 2018, <https://www.facebook.com/TulsaFOPpublicpage/posts/in-a-letter-written-to-tulsa-mayor-gt-bynum-and-city-councilors-the-president-of/1872997089418762/>. Human Rights Watch data analysis below casts doubt on Yates’ claim that the majority of arrests are not made by “pro-active” or police-initiated policing actions.

true...This perception is not accurate.”<sup>327</sup> Of the three geographic divisions of the Tulsa Police Department, according to the news story quoting Yates, Gilcrease Division, which covers North Tulsa and downtown, has had the lowest crime rate per 100,000 residents, despite its reputation among many Tulsans as an unsafe place.<sup>328</sup> Yates said that Gilcrease Division had high rates of gun and drug crime arrests because his officers aggressively pursued those types of cases.

### *Arrest types and disparities*

Human Rights Watch found that county and city warrants made up just over 38 percent of all Tulsa Police Department arrests between 2012 and 2017. While some of the county warrants may have been for serious crimes, jail booking evidence cited to previously suggests that a large portion of them were for “failure to pay” court costs or other fees and fines. The city warrants, making up close to 18 percent of all arrests, were all for low-level misdemeanors and infractions, like traffic tickets, including “failure to pay.” Warrants are discovered by police-initiated enforcement actions—an officer contacts a person, generally through a detention, identifies that person, and determines the existence of the warrant. Weapons possession charges, drug possession charges, and many public order offenses similarly mostly result from police-initiated contacts, as opposed to calls from victims or witnesses.<sup>329</sup>

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<sup>327</sup> Lori Fullbright, “Numbers Show North Tulsa Crime is Lowest in the City”, *News on 6*, July 21, 2015, <https://www.newson6.com/story/29601041/numbers-show-north-tulsa-crime-is-lowest-in-the-city> (accessed July 16, 2019).

<sup>328</sup> Fullbright, “Numbers Show North Tulsa Crime is Lowest in the City,” *News on 6*.

<sup>329</sup> Timbre Wulf and Robert Meier, “Public Order Crimes,” *Oxford Bibliographies*, May 29, 2015, <https://www.oxfordbibliographies.com/view/document/obo-9780195396607/obo-9780195396607-0019.xml> (accessed July 16, 2019). The legal status of public order crimes varies from jurisdiction to jurisdiction. Because there is often no complainant in such offenses, they are detected only as a result of proactive police operations that specifically target them. *Encyclopedia Britannica*, “Detection of Crime,” <https://www.britannica.com/topic/crime-law/Detection-of-crime> (accessed July 16, 2019): “Certain crimes—in particular those that involve a subject’s assent, such as dealing in illicit drugs or prostitution, or those in which there may be no identifiable victim, such as obscenity—are often not discovered unless the police take active steps to determine whether they have been committed.” Micael Tonry and Matthew Melewski, “The Malign Effects of Drug and Crime Control Policies on Black Americans,” *Crime and Justice*, vol. 37, no. 1, 2008, <https://faculty.washington.edu/matsueda/courses/371/Readings/Tonry%20and%20Melewski.pdf> (accessed July 16, 2019), p. 14: “... [F]or some crimes, arrest differences have no necessary link to offending differences; drug arrests are the most important example. Police can arrest street-level inner-city drug dealers almost at will, meaning that arrests are more a measure of police than of criminal activity. Disparities in arrests for drug offenses are the result of police policy choices.” H. Williams, “Drug control strategies of United States law enforcement,” *United Nations Office on Drugs and Crime*, January 1, 1990, [https://www.unodc.org/unodc/en/data-and-analysis/bulletin/bulletin\\_1990-01-01\\_1\\_page004.html](https://www.unodc.org/unodc/en/data-and-analysis/bulletin/bulletin_1990-01-01_1_page004.html) (accessed July 16, 2019). Most drug-related arrests rely on street-level enforcement. Joseph F. Winterscheid, “Victimless Crimes: The Threshold Question and Beyond,” *Notre Dame Law Review*, vol. 52, Issue 5, June 1, 1977, <https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=2685&context=ndlr> (accessed July 16, 2019), p. 49: “Moreover,

While black people are 2.3 times more likely to be arrested than white people in Tulsa, in general, black people are 2.6 times more likely to be arrested for warrant charges. Human Rights Watch does not have data on the rates of issuance of warrants. Rates of issuance of “failure to pay” warrants reflect arrest rates, court outcomes and poverty—disproportionate arrest patterns will lead to more court debt being assessed; poor people are less able to pay that debt. Higher levels of poverty in the black community are likely to increase their number of “failure to pay” warrants. Additionally, patterns of police stops and detentions that disproportionately target black people will discover more warrants among black people, resulting in more such arrests. Unfortunately, as discussed below, Tulsa Police Department data on stops does not include race data. However, mapping the location of stops indicates that they occur substantially more often in black communities and low-income communities.<sup>330</sup>

Weapons offenses, also discovered primarily by police stops and searches as opposed to by police responding to calls, have high racial disparities, with black people arrested 4.3 times more frequently than white people.<sup>331</sup> Tulsa Police arrested black people for drug

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the lack of a complaining witness [for ‘victimless’ crimes like drugs, public order offenses and prostitution] usually places the entire burden of producing evidence on-law enforcement agencies. These two facts have led to ‘creative’ enforcement techniques which have made victimless crimes the greatest single source of civil liberties’ violations.” Jonathan Blanks, “The War on Drugs Has Made Policing More Violent,” *Cato Institute*, July 19, 2016, <https://www.cato.org/publications/commentary/war-drugs-has-made-policing-more-violent> (accessed July 16, 2019): “The ‘pretextual’ or ‘investigatory’ stop is a common police tactic to investigate potential criminal activity—particularly drug possession and trafficking—in situations where there is no legal reason to suspect a crime is occurring.” Wade Goodwyn, “Ex-Drug Officer Shows Users How to Avoid Arrest,” *NPR*, October 31, 2007, <https://www.npr.org/templates/story/story.php?storyId=14470003> (accessed July 16, 2019). National Institute of Justice, Office of Justice Programs, “Gun Recovery Strategies,” June 30, 2008, <https://www.nij.gov/topics/crime/gun-violence/pages/recovery-strategies.aspx#note1> (accessed July 16, 2019): “Although traffic and pedestrian stops are deemed the least likely to get guns, they account for the majority of gun seizures because of the sheer volume of these stops — literally thousands per year.” Human Rights Watch email correspondence with Drew Diamond, May 22, 2019.

<sup>330</sup> See section “Detentions and Traffic Stops” below.

<sup>331</sup> There is no way to know definitively to what extent, if at all, the disparity in weapons possession arrests reflects an actual racial disparity in illegal weapons possession. White people report owning guns at considerably higher rates than black people: Kim Parker et al, “America’s Complex Relationship with Guns,” June 22, 2017, <https://www.pewsocialtrends.org/2017/06/22/the-demographics-of-gun-ownership/> (accessed July 16, 2019). One study of rates of illegally carrying guns by adolescent males found no significant racial or economic class disparities: Alan J. Lizotte et al, “Patterns of Illegal Gun Carrying Among Urban Males,” *Valparaiso University Law Review*, vol. 31, no. 2, <https://scholar.valpo.edu/cgi/viewcontent.cgi?article=1855&context=vulr> (accessed July 16, 2019), p. 387. Commentators have pointed out that detection of illegal gun possession, as opposed to other crimes committed with guns, depends largely on police investigative discretion in decisions of who to stop and who to search and where to focus enforcement activities: Radley Balko, “Shanee Allen, race and gun control,” *Washington Post*, July 22, 2014, [https://www.washingtonpost.com/news/the-watch/wp/2014/07/22/shaneen-allen-race-and-gun-control/?noredirect=on&utm\\_term=.bd11374caa2e](https://www.washingtonpost.com/news/the-watch/wp/2014/07/22/shaneen-allen-race-and-gun-control/?noredirect=on&utm_term=.bd11374caa2e) (accessed July 16, 2019).

offenses at a rate 2.4 times greater than white people; marijuana possession, at a rate 4.3 times greater, though data indicates that rates of illegal drug use and sales are roughly even across racial groups and possibly higher for white people than black people nationwide.<sup>332</sup>

Arrests for violent crimes, including rapes, murders, robberies and assaults, also have substantial racial disparities: black people are arrested for these types of offenses at triple the rate of white people. These arrests generally occur after reports or calls from victims and witnesses, as opposed to discovery through police-initiated actions.<sup>333</sup> They make up less than 10 percent of the total arrests made by Tulsa police and may reflect a variety of socio-economic inequities existing in Tulsa that impact the frequency of these types of crimes.<sup>334</sup>

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<sup>332</sup> Research Triangle Institute (RTI) International, “Results from the 2017 National Survey on Drug Use and Health: Detailed Tables,” *Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality*, September 7, 2018, <https://www.samhsa.gov/data/sites/default/files/cbhsq-reports/NSDUHDetailedTabs2017/NSDUHDetailedTabs2017.pdf> (accessed July 16, 2019), Table 1.29B. This data shows national illicit drug use and does not indicate Tulsa-specific rates, though there is no reason to believe that Tulsa is significantly different from the rest of the country. It also indicates that drug use is roughly the same for employed and unemployed people, and that it is slightly higher for people with higher levels of education. While these two datapoints do not provide a definitive understanding of the differences in drug use by economic class, they do suggest that poverty does not correlate to increased drug use. RTI International, “Results from the 2017 National Survey on Drug Use and Health: Detailed Tables,” *Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality*, Table 3.15D. This data refers only to youth drug sales, finding them to be roughly even across racial lines. The National Academies of Sciences, Engineering, Medicine, “The Growth of Incarceration in the United States: Exploring Causes and Consequences,” *The National Academies Press*, 2014, <https://www.nap.edu/read/18613/chapter/4#60> (accessed July 16, 2019), p. 60.

<sup>333</sup> Office of Justice Programs, Bureau of Justice Statistics, “Data Collection: National Crime Victimization Survey,” 2017, <https://www.bjs.gov/index.cfm?ty=dcdetail&iid=245> (accessed July 16, 2019).

<sup>334</sup> Erika Harrell, et al., “Household Poverty and Nonfatal Violent Victimization, 2008-2012,” *Office of Justice Programs, Bureau of Justice Statistics*, November 18, 2014, <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5137> (accessed July 16, 2019): Bureau of Justice Statistics showed that poor households had double the rate of crime victimization as wealthier households, and higher levels of violence. They also showed that poor urban black people had similar, but slightly lower, violence rates as poor urban white people. US Department of Housing and Urban Development, Office of Policy Development, “Evidence Matters: Neighborhoods and Violent Crime,” Summer 2016, <https://www.huduser.gov/portal/periodicals/em/summer16/highlight2.html> (accessed July 16, 2019): “Neighborhoods with more concentrated disadvantage tend to experience higher levels of violent crime. Numerous studies, for instance, show that neighborhoods with higher poverty rates tend to have higher rates of violent crime.” Robert J. Sampson and Charles Loeffler, “Punishment’s place, the local concentration of mass incarceration,” *Daedalus*, 2010, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3043762/> (accessed July 16, 2019): This study found that in poor, segregated and disadvantaged communities there was increased crime and increased incarceration which led to further poverty and disadvantage to the community, thus increasing crime.

Police prioritizing stops and searches that target warrants, aggressively enforcing drug laws, and otherwise focusing on public order crimes are approaches that do not necessarily help reduce violent crime.<sup>335</sup> Such enforcement may contribute to poverty and community disenfranchisement that breeds violent crime. Additionally, investment in arrest and policing for warrants and lower level crimes replaces investment in other crime prevention strategies that may directly address violence in communities and within families.

### Domestic Violence

Data from the Tulsa Police Department revealed that, in 2017, “aggravated assault” was by far the most common violent crime for which they received reports, especially in the Gilcrease Division covering North Tulsa and Downtown.<sup>336</sup> A study by researchers from the University of Cincinnati determined that a large percentage of those assaults and of homicides and some of the rapes involved domestic violence.<sup>337</sup> Research has found that there are underlying factors that increase the likelihood of domestic violence, including poverty, abuse, unemployment, early parenthood, poor neighborhood support, lack of strong community institutions and emotional distress.<sup>338</sup> Police have a role in responding to incidents of domestic violence as they occur.<sup>339</sup> However, policing and holding perpetrators accountable does not address

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<sup>335</sup> Christopher M. Sullivan & Zachary, “Evidence that curtailing proactive policing can reduce major crime,” *Nature Human Behavior*, September 25, 2017, <https://www.nature.com/articles/s41562-017-0211-5> (accessed July 16, 2019); Monica Bell, “Police Reform and Dismantling of Legal Estrangement,” *The Yale Law Journal*, June 16, 2019, <https://www.yalelawjournal.org/essay/police-reform-and-the-dismantling-of-legal-estrangement> (accessed July 16, 2019); Dan Werb, et al., “Effect of drug law enforcement on drug market violence: A systematic review,” *International Journal of Drug Policy*, 2011, [https://www.hri.global/files/2011/03/25/ICSDP\\_Violence\\_and\\_Enforcement\\_Report\\_March\\_2011.pdf](https://www.hri.global/files/2011/03/25/ICSDP_Violence_and_Enforcement_Report_March_2011.pdf) (accessed July 18, 2019).

<sup>336</sup> “2017 Tulsa Police Briefing Book.”

<sup>337</sup> Corsaro et al., “Crime and Staffing Analysis for the Tulsa Police Department: A Final Report,” *University of Cincinnati Institute of Crime Science*, p. 44. The study found that domestic violence accounted for 18.1 percent of all Part I violent crimes in Tulsa.

<sup>338</sup> Center for Disease Control and Prevention, “Risk and Protective Factors for Perpetration,” October 23, 2018, <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/riskprotectivefactors.html> (accessed July 29, 2019); National Institute of Justice, “Causes and Consequences of Intimate Partner Violence,” October 24, 2007, <https://www.nij.gov/topics/crime/intimate-partner-violence/Pages/causes.aspx> (accessed July 29, 2019)

<sup>339</sup> National Institute of Justice, “Intimate Partner Violence,” October 24, 2007, <https://www.nij.gov/topics/crime/intimate-partner-violence/interventions/Pages/welcome.aspx> (accessed July 29, 2019).

the root causes of domestic violence and should not take resources away from other prevention initiatives. Efforts to curb domestic violence should be holistic and prioritize prevention efforts, including addressing underlying causes, coordinating resources, fostering and initiating change in individuals, families, and society.<sup>340</sup>

## Detentions and Traffic Stops

Human Rights Watch interviewed several black Tulsans who described being stopped without legitimate reason or harassed by police.<sup>341</sup>

- In February 2018, mid-day, in North Tulsa, Michael Williams (pseudonym) said a group of more than five gang officers with hands on their guns walked up to him and two friends and ordered them to stop.<sup>342</sup> Williams said the officers took his identification and demanded to know where he was coming from, what gang he was in, and what information he would give them. They eventually released him, after threatening to take him to jail, but said “we’ll see you again.”
- Dontre Stillwater (pseudonym) said he has been stopped in North Tulsa and told by police “don’t come to this part of town,” on several occasions when officers found that he did not live there.<sup>343</sup>
- Troy Mitchell (pseudonym), a college student, said he was ordered out of his car by police when he stopped his car in front of the driveway at his uncle’s home.<sup>344</sup>

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<sup>340</sup> National Institute of Justice, “Intimate Partner Violence.”; National Criminal Justice Reference Service, Office of Justice Programs, “Special Feature: Family Violence,” <https://www.ncjrs.gov/family-violence/> (accessed July 29, 2019); Centers for Disease Control and Prevention, “Preventing Intimate Partner Violence,” February 26, 2019, <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html> (accessed July 29, 2019). The Center for Disease Control and Prevention has proposed a “multi-level, multi-sector approach” to preventing domestic violence that relies on empowerment and education, creating protective environments, strengthening household finances and providing support to victims. Police and legal protections are only one part of this approach.

<sup>341</sup> Human Rights Watch interview with DeAndre Houston (pseudonym), Tulsa, Oklahoma, September 1, 2017, and Dontre Stillwater (pseudonym), Tulsa, Oklahoma, November 2, 2017, and Edward Malone (pseudonym), Tulsa, Oklahoma, November 1, 2017, and Veronica Miller (pseudonym), Tulsa, Oklahoma, August 31, 2017, and Yolanda Bird (pseudonym), Tulsa, Oklahoma, March 20, 2018; Human Rights Watch telephone interview with Lester Mayes (pseudonym), January 3, 2018, and Patricia Raymond (pseudonym), October 12, 2017, and Catherine Cooper (pseudonym), January 4, 2018, and Isabella Shadrack (pseudonym), October 20, 2017, and Julian Givens (pseudonym), March 15, 2017. Givens said he was pulled over at gunpoint, told he “fit the description,” and threatened with jail.

<sup>342</sup> Human Rights Watch telephone interview with Michael Williams (pseudonym), February 14, 2018.

<sup>343</sup> Human Rights Watch interview with Dontre Stillwater (pseudonym), November 2, 2017.

<sup>344</sup> Human Rights Watch telephone interview with Troy Mitchell (pseudonym), November 12, 2017.



When he did not cooperate immediately, the police handcuffed him, bent him over the trunk of his car, searched him and the car, before letting him leave. The officers told his uncle that he seemed a suspicious person.<sup>345</sup>

- Sandra Rousseau (pseudonym), who lived in North Tulsa, described how her son was treated as a young man.<sup>346</sup> Though he had never been in trouble or part of a gang, she said Tulsa Police officers stopped him and two friends, took pictures of them, and labelled her son a gang affiliate. On many weekends when her son went out with friends, she said, police would stop them and check for warrants.
- Solomon MacArthur said Gang Task Force officers have frequently detained him and his friends without cause. During these stops, he said they frequently ask accusatory questions about what they are doing and why, about gang membership, about guns, and about what others in the neighborhood are doing.<sup>347</sup>
- In January 2016, Catherine Cooper (pseudonym) said Gang Task Force officers in an unmarked car pulled up behind her and her fiancé Donald as they drove into a North Tulsa car wash.<sup>348</sup> The officers approached the car with hands over their guns, and started asking Donald questions about where he worked and if he was using drugs. They told Cooper that Donald was a felon, asked why she was “hanging around with him,” and demanded her identification, though she said she had not violated any law. Donald told her that these officers constantly stop him for minor violations or for no reason at all.

Some people told Human Rights Watch that they were afraid to expose themselves to these types of experiences and chose to stay out of North Tulsa, not drive in Tulsa altogether, or drive with exaggerated caution.<sup>349</sup>

North Tulsa’s State Representative, Regina Goodwin, said she regularly hears from constituents about being pulled over by Tulsa Police for no reason and receiving abusive

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<sup>345</sup> Human Rights Watch telephone interview with Marvin Cain (pseudonym), November 12, 2017.

<sup>346</sup> Human Rights Watch interview with Sandra Rousseau (pseudonym), Tulsa, Oklahoma, March 19, 2018.

<sup>347</sup> Human Rights Watch interview with Solomon MacArthur (pseudonym), September 26, 2017.

<sup>348</sup> Human Rights Watch telephone interview with Catherine Cooper (pseudonym), January 4, 2018.

<sup>349</sup> Human Rights Watch telephone interview with Catherine Cooper (pseudonym), January 4, 2018, and Gerald Price (pseudonym), July 10, 2018, and Isabella Shadrack (pseudonym), October 20, 2017; Human Rights Watch interview with Yolanda Bird (pseudonym), March 20, 2018, and Walter Howard (pseudonym), Tulsa, Oklahoma, March 22, 2018.



treatment.<sup>350</sup> Other community leaders expressed that such experiences were not unusual and that they have experienced, witnessed or been told about many incidents.<sup>351</sup> Pastor Rodney Goss said that many young people are afraid to encounter police and that there is disparate treatment based on race and geography.<sup>352</sup> Goodwin said, adding that it has happened to her, “Everyone has a story.”

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<sup>350</sup> Human Rights Watch interview with Senator Regina Goodwin, Oklahoma State House of Representatives, District 73, Tulsa, Oklahoma, July 27, 2017.

<sup>351</sup> Human Rights Watch interview with Vanessa Hall-Harper, City Councilor, District 1, Tulsa, Oklahoma, July 27, 2017, and Pastor Rodney Goss, August 30, 2017; Human Rights Watch email communication with Drew Diamond, September 27, 2019.

<sup>352</sup> Human Rights Watch interview with Pastor Rodney Goss, August 30, 2017.

## Gang Task Force

Gang violence is a significant problem in Tulsa. The Tulsa Police Department has a designated Gang Task Force, a unit assigned specifically to address gangs throughout the city. Several people within the black community who spoke to Human Rights Watch about this unit accused these officers of violations of rights,<sup>353</sup> including racial discrimination.<sup>354</sup>

Human Rights Watch requested data about the Gang Task Force, including information about arrests, detentions and uses of force.<sup>355</sup> The police department responded that they do not keep such records specifically about the Gang Task Force.<sup>356</sup> They did provide demographic information about the officers in the unit from 2012 through 2018.<sup>357</sup> During that period, not a single black officer served; all the officers were male; there have been a couple of Latino officers, but none since 2016.

One part of the Gang Task Force's enforcement work involves officers patrolling and stopping and questioning people they suspect of being gang members, either in

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<sup>353</sup> In 2011, three Tulsa Gang Task Force officers were convicted of federal corruption-related charges, including drug conspiracy, and sentenced to prison. "Four Sentence in Tulsa Police Corruption Case," *Officer.com*, December 6, 2011, <https://www.officer.com/investigations/news/10472988/four-sentenced-in-tulsa-police-corruption-case> (accessed July 16, 2019). Several other officers were unindicted co-conspirators. Associated Press, "Ex-Officers Sentenced in Tulsa Police Corruption Scandal," *FoxNews.com*, December 6, 2011, <https://www.foxnews.com/us/ex-officers-sentenced-in-tulsa-police-corruption-scandal> (accessed July 16, 2019). The abuses that led to the scandal and prosecutions generally occurred in North Tulsa's black community. Justin Juozapavicus, "Power struggle adds to more chaos in Tulsa," *The Norman Transcript*, Norman, Oklahoma, January 31, 2011, [https://www.normantranscript.com/news/power-struggle-adds-to-more-chaos-in-tulsa/article\\_c24d5c19-cd9f-5715-9cce-10648030706b.html](https://www.normantranscript.com/news/power-struggle-adds-to-more-chaos-in-tulsa/article_c24d5c19-cd9f-5715-9cce-10648030706b.html) (accessed July 16, 2019). Dozens of people who had been convicted of various crimes, including drug trafficking, were released from prison and had convictions removed from their record, because the gang officers' dishonesty had tainted the court proceedings. Associated Press, "Fallout Continues From Tulsa Police Corruption Scandal," *News on 6*, October 30, 2011, <http://www.newson6.com/story/15908490/fallout-continues-from-tulsa-police-corruption-scandal> (accessed July 16, 2019).

<sup>354</sup> Human Rights Watch interview with Melinda Johnson (pseudonym), Tulsa, Oklahoma, September 26, 2017, and Celia Tucker (pseudonym), November 1, 2017, and Linda Jones (pseudonym), Tulsa, Oklahoma, January 11, 2018, and Solomon MacArthur (pseudonym), September 26, 2017, and DeAndre Houston (pseudonym), September 1, 2017, and Bonnie White (pseudonym), Tulsa, Oklahoma, September 26, 2017; Human Rights Watch telephone interview with Julian Givens (pseudonym), March 18, 2018.

<sup>355</sup> Human Rights Watch Open Records Act request letter, January 7, 2018 (on file with Human Rights Watch).

<sup>356</sup> Tulsa Police Department, website, "Tulsa Police Open Records Data," <https://www.tulsapolice.org/police-report/report-a-crime-online/open-records-act.aspx> (also on file at Human Rights Watch) (accessed July 15, 2019). See section on "Gang Enforcement," for Open Records Data.

<sup>357</sup> Tulsa Police Department, website, "Tulsa Police Open Records Data." See section on "Gang Enforcement," for Open Records Data.

“consensual encounters”<sup>358</sup> or for detentions often based on relatively low-level violations, such as traffic infractions or warrants stemming from past minor infractions.<sup>359</sup> In the course of these detentions, task force members will conduct searches.<sup>360</sup> Sometimes they find guns, drugs, or other evidence of crime. Other times, they find nothing. Without data, it is impossible to evaluate their success rate.

Former Tulsa Chief of Police Drew Diamond said that Gang Task Force officers regularly engage in what he described as “jump out” behavior, defined as officers “jumping out” of their cars, detaining everyone in the area, often without cause, asking aggressive questions about what they are doing and who they hang out with, conducting searches, often coerced or unjustified, taking pictures, checking identifications, and checking for warrants.<sup>361</sup> He said that they stop lots of young black men for “looking like a gang banger,” and then generate large numbers of “field interview” cards identifying them as gang members.<sup>362</sup> Human Rights Watch spoke to several individuals who had experienced this type of policing from Gang Task Force officers<sup>363</sup> and community leaders who had witnessed or heard about this type of policing.<sup>364</sup> One person described the Gang Task Force as policing like a gang itself.<sup>365</sup>

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<sup>358</sup> See footnote 309, above.

<sup>359</sup> Human Rights Watch interview with Drew Diamond, September 27, 2017; Samantha Vicent, “Getting an eyeful: Spend a shift on Tulsa streets with Gang Unit officers,” *Tulsa World*, November 15, 2015, [https://www.tulsaworld.com/news/courts/getting-an-eyeful-spend-a-shift-on-tulsa-streets-with/article\\_of037e23-5f94-5b66-9d7f-e4782fba8fb6.html](https://www.tulsaworld.com/news/courts/getting-an-eyeful-spend-a-shift-on-tulsa-streets-with/article_of037e23-5f94-5b66-9d7f-e4782fba8fb6.html) (accessed July 16, 2019).

<sup>360</sup> They may have legal justification to search, for example, if they are making an arrest or may ask for consent to search from the person they have stopped. People have reported that they also conduct searches without apparent justification and without permission.

<sup>361</sup> Human Rights Watch interview with Drew Diamond, September 27, 2017.

<sup>362</sup> Human Rights Watch interview with Drew Diamond, September 27, 2017; Human Rights Watch interview with Jill Webb, August 29, 2017.

<sup>363</sup> Human Rights Watch interview with Solomon MacArthur (pseudonym), September 26, 2017; Human Rights Watch telephone interview with Julian Givens (pseudonym), March 15, 2018, and Troy Mitchell (pseudonym), November 12, 2017, and Michael Williams (pseudonym), February 14, 2017, and Catherine Cooper (pseudonym), January 4, 2018.

<sup>364</sup> Human Rights Watch interview with Marq Lewis, We the People, Tulsa, Oklahoma, August 30, 2017, and Bobby Eaton, Jr., Tulsa, Oklahoma, September 28, 2017, and Jill Webb, August 29, 2017, and Pastor Rodney Goss, August 30, 2017.

<sup>365</sup> Human Rights Watch interview with Marq Lewis, August 30, 2017.

Deputy Chief Brooks said that officers engaging in “jump out” policing are not detaining random people, but are following up on tips or other information.<sup>366</sup>

The US Department of Justice released a report on gang prevention in 2010 that outlined a varied approach to addressing gang problems that focused primarily on prevention services, including therapy and mentoring, for gang-involved youth, reserving targeted law enforcement suppression for the small percentage of people who commit serious and violent crimes.<sup>367</sup> The “jump out” policing style practiced by the Gang Task Force may miss the nuances of gang affiliation and treat too many people as though they are criminals.

A poster hangs in the Tulsa Police Department’s Gang Task Force that is a disturbing reflection of the perceptions of many in the community about their tactics.<sup>368</sup>



A poster in the Tulsa Police Department’s Gang Task Force office. © 2018 Sean Larkin/Instagram

## Disparities in Traffic and Pedestrian Stops

Human Rights Watch requested detailed data on traffic and pedestrian stops by Tulsa Police, including the date, time, duration, reason for the stop, disposition of the stop, demographic description of the person stopped, and other information. Tulsa authorities responded with limited data about 157,000 traffic stops and 20,000 pedestrian stops that occurred from 2014 through 2017.

The data provided did not give the precise location of the stops, demographic data about the people stopped, or information describing the reasons for the

<sup>366</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>367</sup> James C. Howell, “Gang Prevention: An Overview of Research and Programs,” *US Department of Justice, Office of Justice Programs*, December 2010, <https://www.ncjrs.gov/pdffiles1/ojdp/231116.pdf> (accessed July 16, 2019).

<sup>368</sup> Sean Larkin (@sean\_c\_larkin), photo on *Instagram* account, [https://www.instagram.com/p/BjFjrS3AwGE/?taken-by=sean\\_c\\_larkin](https://www.instagram.com/p/BjFjrS3AwGE/?taken-by=sean_c_larkin) (accessed July 16, 2019).

stops, among other things. However, using the information available, Human Rights Watch was able to geocode 88 percent of them.<sup>369</sup>

The significantly higher number of traffic stops than pedestrian stops in the dataset reflects the nature of Tulsa as a driving city, as opposed to a walking city. Pedestrian stops were highest in downtown Tulsa. The lower overall number of pedestrian stops also may reflect lack of police documentation of encounters with people who are not in vehicles, many of which may be characterized as “consensual encounters,” as opposed to formal detentions.

Because no data was provided indicating the race of people detained in either traffic or pedestrian stops, Human Rights Watch could not calculate the comparative rates of exposure to stops between people of different races.<sup>370</sup> However, we were able to map rates by census tracts and compare percentages of each race in the populations of those tracts.<sup>371</sup>

### *Traffic Stops*

The distribution of traffic stops by census tract was uneven, with the majority of tracts experiencing low rates of stops, sometimes under 100 per year, while a small number of tracts had much higher rates.

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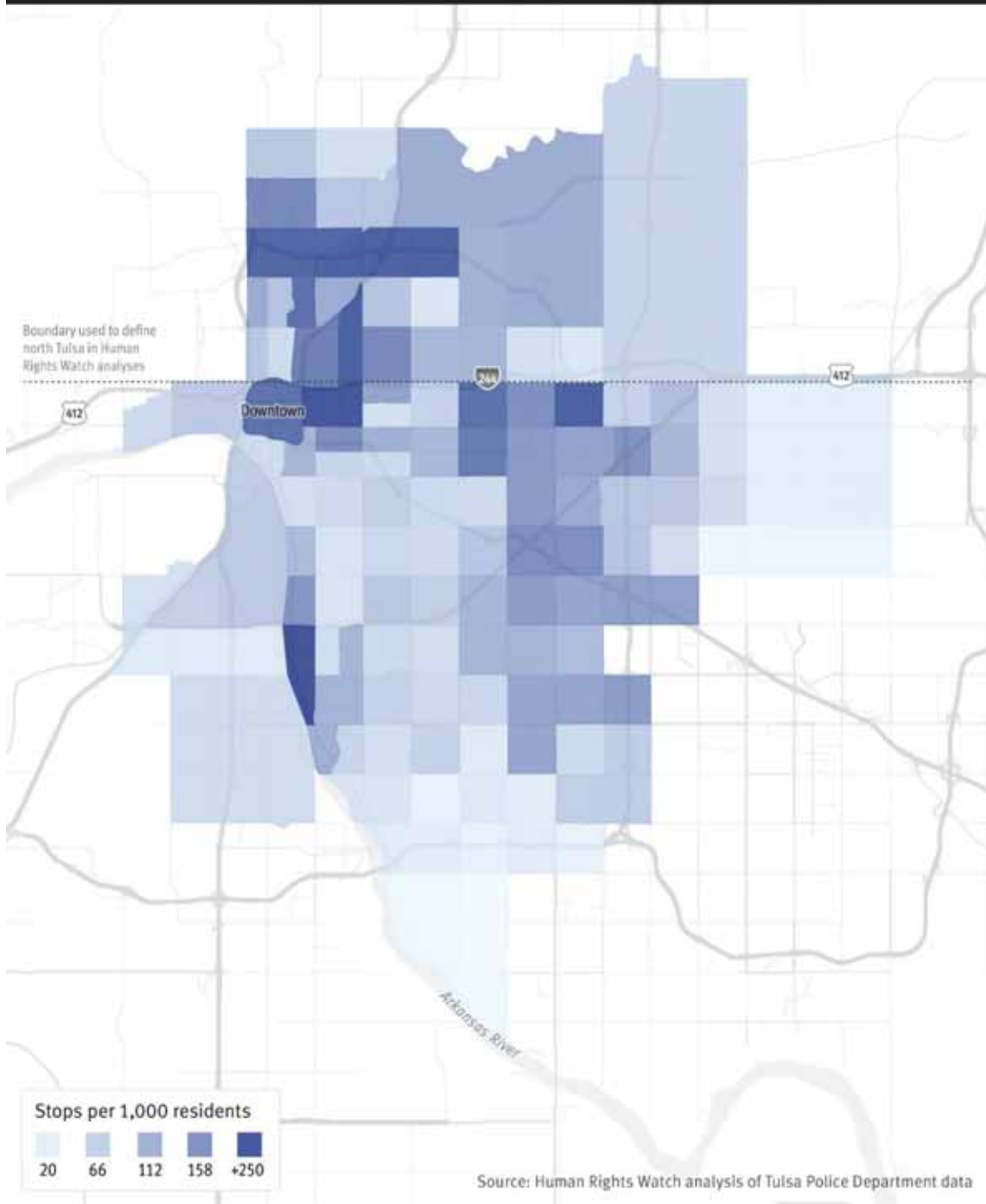
<sup>369</sup> Geocoding is the process of converting addresses into geographic coordinates (see Methodology section). The locations that were impossible to geocode were primarily along highways.

<sup>370</sup> Unfortunately, TPD did not provide any identification variables to link the stops data with the arrest or citation data. However, Human Rights Watch used the addresses provided, as well as timestamps, to link traffic and pedestrian stops from 2016 and 2017 to any arrests or citations that were within a quarter mile and one hour of a stop. In total, Human Rights Watch matched nearly 15,000 police stops to a citation and/or an arrest. The stops matched to an arrest or citation provided race data. The race of drivers and pedestrians stopped in the matched showed similar racial disparities to the general arrest data.

<sup>371</sup> Though imperfect, as people may be stopped in areas where they do not live, it does give an aggregate sense of Tulsans' exposure to police stops.

## Traffic Stop Rate

Number of traffic stops per 1,000 census tract residents



Traffic Stop Rates - Highest and Lowest Tracts <sup>372</sup>					
Census Tract	Annual traffic stop rate per 1K residents	Percent Black	Percent White	Median Household Income	Poverty Rate
68.01 South Tulsa	257	18%	69%	\$32,861	30%
76.08 South Tulsa	257	43%	43%	\$28,309	37%
23.01 East of Downtown	252	13%	59%	\$27,563	29%
13 North Tulsa	237	6%	50%	\$26,813	35%
83 East Tulsa	237	12%	68%	\$36,875	22%
2 North Tulsa	235	85%	12%	\$35,714	23%
62 North Tulsa	227	80%	12%	\$22,788	39%
6 North Tulsa	213	81%	15%	\$20,927	43%
17 East Tulsa	213	11%	70%	\$45,129	17%
25 Downtown	206	20%	67%	\$35,938	29%
76.37 South Tulsa	2	2%	87%	\$170,278	2%
76.38 South Tulsa	6	1%	85%	\$168,194	1%
90.07 South/east Tulsa	10	14%	61%	\$47,191	16%
76.31 South Tulsa	15	2%	90%	\$102,500	4%
76.30 South Tulsa	16	6%	77%	\$72,500	5%

<sup>372</sup> See City of Tulsa, “City of Tulsa Low-Mod Census Tracts,” 2014, <https://www.cityoftulsa.org/media/3747/2014-cot-low-mod-censustracts.pdf> (accessed July 21, 2019).

There were 10 tracts that had per capita stop rates higher than 200 per 1,000 residents. At the other end of the spectrum, the five tracts with the lowest rates all had fewer than 17 stops per 1,000 residents per year.

The tracts with the most detentions were predominantly low-income and mostly, though not entirely, had higher populations of non-white people.

Other tracts, primarily in South Tulsa with extremely high percentages of white residents, have significantly lower rates of police stops. For example, tract 76.37 in South Tulsa, which includes Southern Woods Estate and South Oaks, is 87 percent white and has a median income of over \$170,000, experienced only 2 stops per 1,000 residents per year. Tract 76.38 just to its west is 85 percent white and has a median income of \$168,000 and experienced only 6 traffic stops per 1,000 residents. Tract 76.31, also in the south, including the Forest Creek, Thousand Oaks and Harvard Pointe neighborhoods, is 90 percent white, has a median income of \$102,000 and had a rate of 15 stops per 1,000 residents per year.

Some tracts that are primarily white, but also extremely poor, have significantly lower rates of detentions than those with larger black populations. For example, Tract 30, in West Tulsa, with 1,896 total people, 77 percent of whom are white, with a median income of \$30,839, has a stop rate of 50 per 1,000 people.

Dividing Tulsa census tracts into quartiles based on the rate of traffic stops reveals significant racial and economic class disparities in exposure to those stops. Thirty percent of Tulsa's population lives in a census tract in the quartile with the lowest rate of traffic stops. This population is notably whiter and wealthier than those in other tracts. The two quartiles with the highest rate of stops have only 45 percent of Tulsa's total population, but 61 percent of the black population. A quarter of the people in the quartile with the highest rate of stops live in poverty, as compared to 17 percent in the quartile with the least stops. The black population of the highest stop quartile of census tracts is also nearly double the black population of the lowest stop quartile of tracts.



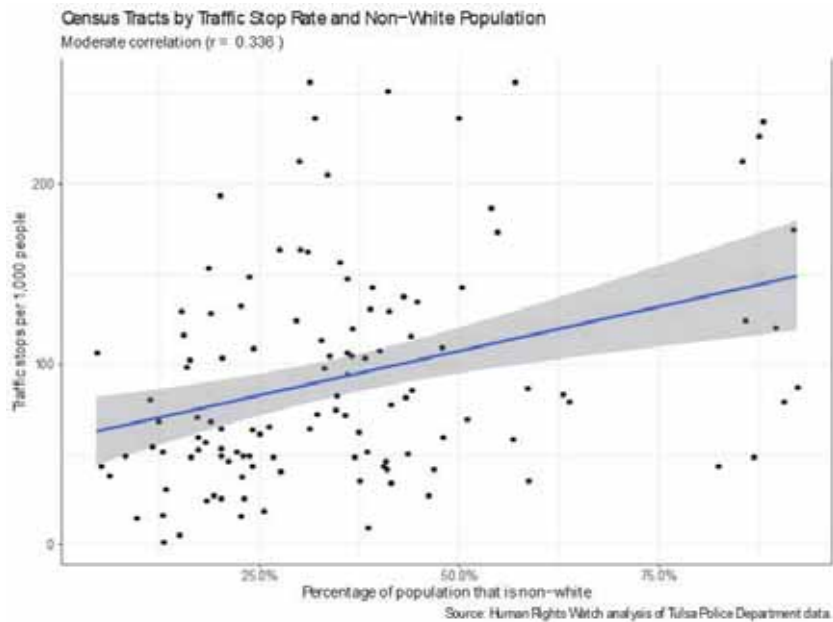
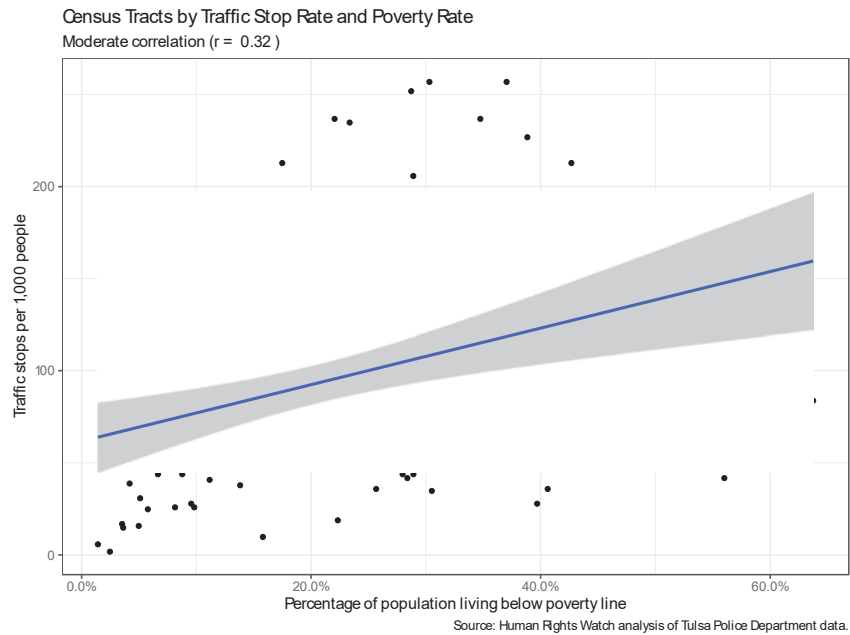
Racial and Class Demographics of Areas Experiencing the Most and Least Traffic Stops							
Census Tract Traffic Stop Rate Quartiles	Total Population	Percent of Total Tulsa Population	Percent of Tulsa's Black Population	Percent of Quartile Population is Black	Percent of Quartile Population is Non-White	Average Tract Median Income	Average Tract Percentage Below Poverty Rate
Lowest rate of traffic stops	114,299	30%	23%	13%	30%	\$63,243	17%
Second quartile	96,065	25%	16%	11%	29%	\$56,802	17%
Third quartile	88,411	23%	32%	23%	42%	\$41,895	23%
Highest rate of traffic stops	82,576	22%	29%	22%	43%	\$36,980	25%

Overall non-white population levels generally correlate to a higher frequency of traffic stops, as do percentages of people living below the poverty line.<sup>373</sup> Traffic stop rates have a moderate negative correlation with median household income, meaning as the average income of an area increases, the rate of traffic stops decreases.<sup>374</sup> This correlation is nearly

<sup>373</sup> Traffic stop per capita rates moderately correlate with the percentage of the tract that is not white ( $r = 0.336$ ) and the poverty rate ( $r = 0.32$ ).

<sup>374</sup>  $r = -.405$

identical when using only the median income of white households.<sup>375</sup> However, the correlation is much weaker when using only the median income of black households, indicating the geographic relationship between wealth and traffic stops is stronger for white households than black households.<sup>376</sup>



<sup>375</sup>  $r = -.409$

<sup>376</sup>  $r = -.224$

### Driving Under the Influence (DUI) Checkpoints

Tulsa Police periodically establish DUI checkpoints on city streets. Unlike regular street enforcement, which to some extent reflects where officers find evidence of crime, checkpoints are entirely discretionary-- police simply choose where to locate them. Even with street patrols, of course, the locations where officers are deployed and who they choose to detain and search to some extent determines what crimes they uncover, particularly for drug and gun possession, public order offenses, warrants, and traffic violations. It makes sense to locate a DUI checkpoint near bar districts where people gather to drink alcohol and may be caught driving home.

Checkpoints generally involve police setting up a road-block for several hours at night and requiring every driver to stop, answer questions, possibly provide license and registration, and allow the police officer to determine if there is suspicion of another crime, including driving under the influence of alcohol or drugs. Suspicion of another crime or failure to produce a valid license or registration may justify further investigation, including search of the car or person or request for field sobriety tests. Though the original car stop is not based on suspicion and would otherwise violate Fourth Amendment rights, drunk driving checkpoints are an exception to the rule against suspicion-less car stops.<sup>377</sup>

Tulsa Police provided Human Rights Watch with some data from all checkpoints established and executed in 2016 and 2017.<sup>378</sup> There were 15 in total. The checkpoints were in place for around four hours on their night of operation, generally starting around 10 p.m., continuing until 2:00 a.m. the next morning. All but one was conducted in the Gilcrease Division area, which patrols parts of downtown and all of North Tulsa. The other checkpoint was set up in South Tulsa or Riverside Division.

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<sup>377</sup> In *Michigan Dept. of State Police v. Sitz* (1990) 496 US 444, the US Supreme Court authorized police to conduct checkpoints that involved stopping every driver passing through, if the checkpoint specifically targeted impaired or drunk driving. The Supreme Court qualified this authorization in *Indianapolis v. Edmond* (2000) 531 US 32, saying that checkpoints targeting general enforcement of the law were not legal. However, police may arrest people for violations of other laws discovered while investigating at a DUI checkpoint. This means police simply have to say that their checkpoint is a sobriety checkpoint to allow them to suspend some Fourth Amendment limitations on their authority at a given location and time.

<sup>378</sup> Tulsa Police Department, website, "Tulsa Police Open Records Data."

At these 15 checkpoints, Tulsa Police made 145 arrests for driving under the influence. They arrested 65 people for misdemeanor warrants<sup>379</sup> and 8 for felony warrants. They recovered 4 stolen cars, made 20 felony drug arrests, 7 firearm arrests, and 23 other misdemeanor arrests. They issued 2,088 citations, revealing a primary impact of the checkpoints. The data does not indicate how many people total were stopped at the checkpoints, how many were subject to searches, or how long the stops lasted.

The location of seven of the Gilcrease Division (North Tulsa and downtown) checkpoints made obvious sense as a tactic for drunk driving enforcement. These seven were set up near freeway entrances surrounding the downtown bar districts where they could stop people driving home after a night of drinking. These locations included 400 S. Elgin Avenue, 700 S. Cincinnati Avenue, 400 E. 8<sup>th</sup> Street, 1300 S. Cincinnati Avenue, and 900 S. Denver Avenue. They averaged 10.2 DUI arrests each, though it is hard to evaluate their efficiency without knowing the number of cars stopped. There are other bar districts in the city, particularly in South Tulsa, that did not have checkpoints set up near them.

The other Gilcrease Division checkpoints were in North or North-East Tulsa and were not tied to bar districts. For example, the one on April 10-11, 2016 was located at 1601 Peoria Street at the intersection of Pine and Peoria. This location is in the heart of North Tulsa, in a zip code where the population is over 67 percent black and the poverty rate is 41.7 percent. There are churches, restaurants, a few small businesses, and homes near this intersection, but no high concentration of bars. Other locations chosen by Tulsa Police included 3300 E. Pine Street at the corner of Pine and Harvard (twice), 1500 North Lewis Avenue, and other locations in north and northeast Tulsa, none of which were near any concentrations of bars, liquor stores, or other such locations. All of the checkpoints, except the ones located in downtown Tulsa, were placed in areas with relatively high poverty rates. They were not necessarily placed in the areas where Tulsa police have made the most DUI arrests over the past several years.<sup>380</sup>

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<sup>379</sup> It is unknown how many were for “failure to pay.”

<sup>380</sup> See Human Rights Watch data analysis (on file with Human Rights Watch).

Former North Tulsa City Councilor Joe Williams described these locations as “gateway arterial streets to all parts of North Tulsa.”<sup>381</sup> These checkpoints netted<sup>382</sup> significantly more citations for violations on average. It is likely these were mostly license, registration and insurance type violations, since cars are stopping at the checkpoint and unlikely to incur moving violations.

The placement of these checkpoints in areas of high poverty and with relatively high black populations or on roads leading to areas with relatively high black populations, when no comparable checkpoints were set up in predominantly white neighborhoods or even near bar districts in South Tulsa<sup>383</sup>, raises questions about fairness and bias by the police. Deputy Chief Brooks, responding to a request for explanations of the reasons for the choice of each checkpoint location said that most checkpoints were chosen in coordination with the Oklahoma Highway Safety Office, with intent to reduce impaired driving in areas with a high propensity for drunk driving, based on data about collisions, injuries and fatalities.<sup>384</sup>

The large number of citations issued during these checkpoints adds to the court debt imposed on North Tulsa and other poor residents.

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<sup>381</sup> Human Rights Watch email correspondence with Joe Williams, 100 Black Men, former Tulsa City councilor, September 27, 2016 (on file with Human Rights Watch).

<sup>382</sup> The checkpoints near the downtown bar district averaged about 106 citations; the others averaged over 160 per checkpoint. Human Rights Watch analysis of checkpoint data supplied by the Tulsa Police Department. Tulsa Police Department, website, “Tulsa Police Open Records Data.”

<sup>383</sup> The one checkpoint in South Tulsa, at 4400 E. Sheridan Road, was not close to one of South Tulsa’s bar districts, but located in an area with shopping and industry, with above average rates of poverty for South Tulsa.

<sup>384</sup> Human Rights Watch email correspondence with Jonathan Brooks, July 25, 2019 (on file with Human Rights Watch).

## Abusive Traffic Stops

In addition to making more vehicle stops in North Tulsa and other areas where more black people live than in other parts of the city, several people interviewed by Human Rights Watch said that police conduct these stops more intrusively and aggressively than in other parts of the city.<sup>385</sup>

One evening in the late summer of 2017, Bobby Eaton was standing outside his small radio studio in North Tulsa. He watched officers stop a black man with dreadlocks in a beat-up car.<sup>386</sup> They pulled him out of the car and had him bent over the trunk while they searched him and his car. When the officers saw Eaton watching them, they seemed to ease up on the man, eventually letting him go. After the man drove away, Eaton walked up to the officers and asked them why they had stopped this man. The officers responded: “Routine check.”

It is difficult to quantify the scope of abusive and unjustified stops because detentions or searches that do not result in citation or arrest may not be documented in any police record.<sup>387</sup> Similarly, police may not document the specific details of the stop—including whether the occupants of the car were ordered out, handcuffed, pushed over the trunk of the car or up against a wall, spoken to in abusive and demeaning ways, or held at gun-point. Such aggressive, threatening, relatively low-level violent acts were reported by several other North Tulsa residents we spoke with, even for traffic stops that ordinarily would not merit such extreme actions.<sup>388</sup>

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<sup>385</sup> Human Rights Watch telephone interview with (name withheld), officer, Tulsa Police Department, February 15, 2018, and (name withheld), former officer, Tulsa Police Department, October 10, 2017, and (name withheld), former officer, Tulsa Police Department, June 9, 2018; Human Rights Watch interview with Vanessa Hall-Harper, July 27, 2017, and Marq Lewis, August 30, 2017; Human Rights Watch interview with Drew Diamond, September 27, 2017.

<sup>386</sup> Human Rights Watch interview with Bobby Eaton, Jr., September 28, 2017. Eaton said that there are good and bad officers, but he has observed much of what he believes to be racial profiling.

<sup>387</sup> Human Rights Watch telephone interview with (name withheld), officer, Tulsa Police Department, February 15, 2018.

<sup>388</sup> Another black resident of Tulsa described being handcuffed with his wife during a traffic stop while police searched his car, before releasing them with no ticket. He said, “They always search the car.” Human Rights Watch telephone interview with Gerald Price (pseudonym), July 10, 2018. Others described similar experiences. Human Rights Watch interview with Melinda Johnson (pseudonym), September 26, 2017, and Jordan Mazoriegos, Tulsa, Oklahoma, September 26, 2017; Human Rights Watch telephone interview with Isabella Shadrack (pseudonym), October 10, 2017, and Troy Mitchell (pseudonym), November 12, 2017, and Catherine Cooper (pseudonym), January 4, 2018, and Ira Wilkins, July 23, 2018, and (name withheld), officer, Tulsa Police Department, February 15, 2018; Human Rights Watch interview with Pastor Rodney Goss, August 30, 2017.

Human Rights Watch requested data from the Tulsa Police Department about traffic stops, including information on whether a search was conducted, how many officers were involved, and whether force was used. As noted above, the Tulsa Police Department provided partial data for about 157,000 vehicle and about 20,000 pedestrian stops. The data provided did not include important information about the stops that we had requested, but did include start times and “call closed” times.<sup>389</sup> With this information, Human Rights Watch calculated the average length of the stops. While an imperfect proxy, a longer stop means more interaction with police, more likelihood of questioning and searches, and more disruption to the person being stopped.

Human Rights Watch found a strong correlation between the average length of a traffic stop in a given census tract and the percentage of its residents below the poverty line.<sup>390</sup> Length of traffic stops also correlated with the percentage of the population that is non-white.<sup>391</sup>

The longest stops were most concentrated in North Tulsa. For example, Tract 5, just east of Peoria, between Pine and Apache (90 percent non-white; 56 percent living below the poverty line), and Tract 79, west of Peoria and North of 46<sup>th</sup> Street, ( 91 percent non-white; 33 percent living below the poverty line) had average stop times of 42 and 44 minutes, respectively. Tract 76.19, in South Tulsa, west of South Memorial Drive between E. 81<sup>st</sup> Street and E. 71<sup>st</sup> Street, which has is 15 percent non-white and has only 5 percent living below the poverty line, had an average stop time of 20 minutes.

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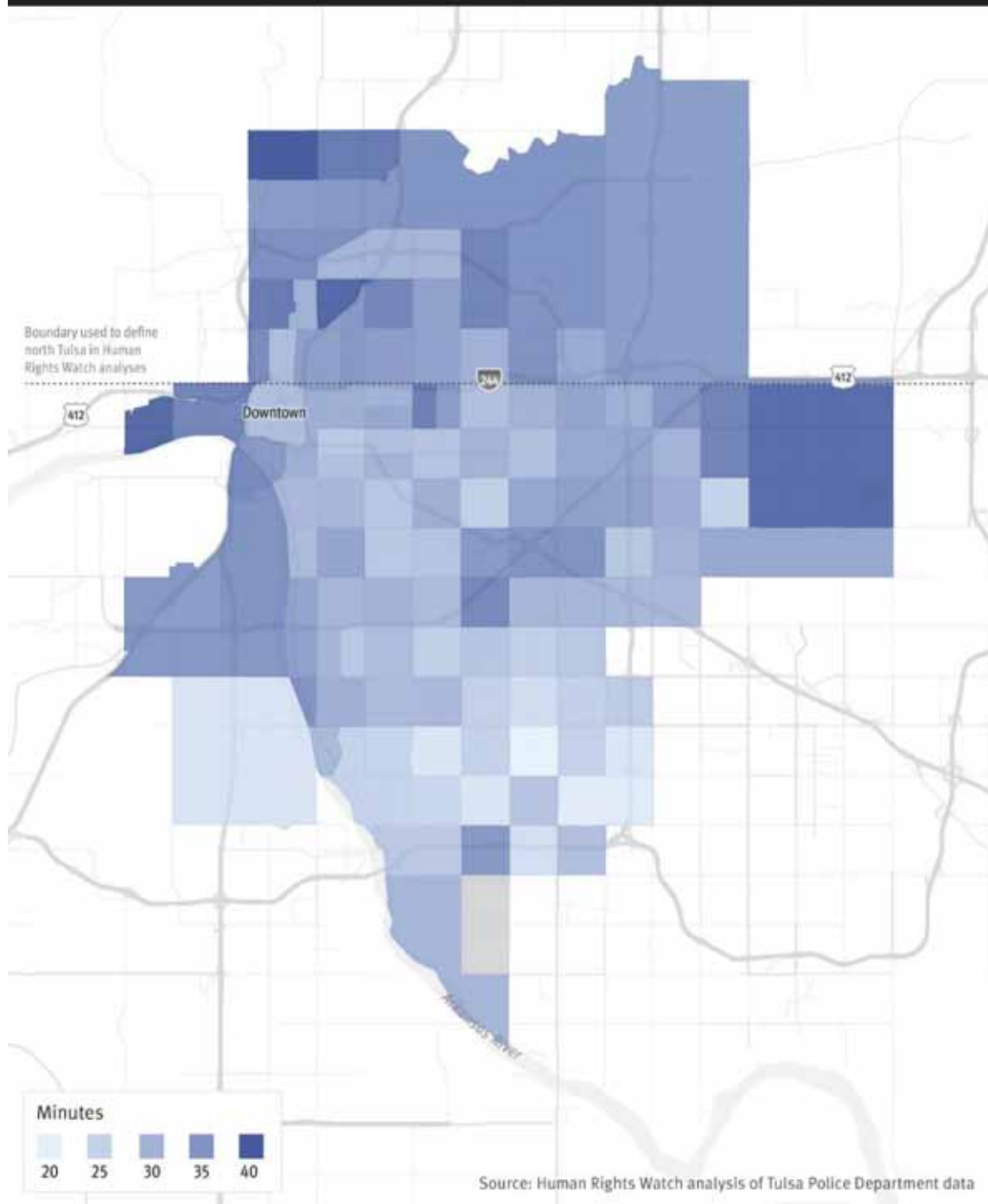
<sup>389</sup> The record of start and close times do not definitively show the duration of any individual stop, as individual officers may not mark the call complete at exactly the end time. However, as an aggregate, it gives a relative understanding of the lengths of stops in different parts of the city.

<sup>390</sup>  $r = .532$ .

<sup>391</sup>  $r = .476$ .

## Length of Traffic Stops

Average length of time (minutes) of traffic stops in each census tract





### Coercive Traffic Stops

Jordan Mazariegos was a college student who has lived in Tulsa his entire life.<sup>392</sup> He is Latino. He drives an older car that has dents and, as he put it, “needs a paint job.” One late afternoon in August 2017, he said, Tulsa Police officers pulled him over in a parking lot near Pine and Harvard in northeast Tulsa for an expired license plate tag. The officer aggressively questioned Mazariegos, asking “Do you know why I pulled you over?” and “Were you born in Tulsa?”<sup>393</sup> Mazariegos said the officer asked, “Do you have drugs in your car?” The officer told Mazariegos that he would not get a ticket, but immediately asked in a firm voice, “Do you mind if I search the car?” Mazariegos believed the implication of the request, given its tone and timing, was that he did not have a choice. He was being offered a deal—agree to the search or get a ticket.

Mazariegos knew he had the theoretical right to refuse to consent to the search, but he feared getting the ticket. As a college student with no extra money, the cost of asserting his rights was too great. He thought to himself that he needed to “flow with this and report it later”—be submissive to get through the immediate encounter. Humiliated, he agreed to let the officer search his car.

Mazariegos said the officer immediately, and without his consent, searched him, then ordered him to lean against the car while the officer searched it. Meanwhile, another officer arrived and questioned Mazariegos further about where he was going, where he was coming from and if he was stealing cars.

After the officer completed his search and told him he was free to go, Mazariegos asked why the officer had asked to search his car. The officer said, “we ask everyone.” When police have stopped him in other parts of the city, he said, they have always treated him more respectfully.<sup>394</sup>

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<sup>392</sup> Human Rights Watch interview with Jordan Mazariegos, September 26, 2017.

<sup>393</sup> This question, possibly targeting his citizenship status, runs counter to stated Tulsa Police Department policy not to inquire about immigration status (see below).

<sup>394</sup> Human Rights Watch interview with Jordan Mazariegos, September 26, 2017.

## *Coercive Pressure to Search*

Other black residents of North Tulsa recounted experiences of police insisting on searching their cars or themselves during routine traffic and pedestrian stops, including in incidents dating back many years.<sup>395</sup> A Tulsa Police Officer who worked in North Tulsa told Human Rights Watch that his fellow officers pressured people they detained into “consenting” to allow them to search their vehicles, even though such pressure negated the voluntariness of the permission to search.<sup>396</sup> In one instance, the person being stopped asked, “Do I have to?” and the officer responded, “If you have nothing to hide.”

One Tulsa reverend explained to Human Rights Watch that this has led many young black people in Tulsa to feel as though law enforcement is not on their side, but, rather, it is out to get them.<sup>397</sup>

## **Citations and Racial Disparities**

Because of the high prevalence of outstanding arrest warrants, including “failure to pay” warrants, police have strong odds of finding cause to arrest people in poor and non-white communities when they stop a person, even for a minor traffic violation. Or police run license plates to see if the plate returns to a warrant which would justify detention and arrest.<sup>398</sup>

Once officers make warrant arrests, they can search the person arrested and their car for drugs or weapons or other evidence of crime.<sup>399</sup> The use of tickets and criminal justice debt that go to warrant gives police expanded power to make arrests and control the population.

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<sup>395</sup> Human Rights Watch telephone interview with Ron Waters (pseudonym), July 23, 2018, and Julian Givens (pseudonym), March 15, 2018, and Patricia Raymond (pseudonym), October 12, 2017; Human Rights Watch interview with Melinda Johnson (pseudonym), September 26, 2017, and Dontre Stillwater (pseudonym), November 2, 2017, and Edward Malone (pseudonym), November 1, 2017, and Richard Baxter, director, Racism Stinks, Tulsa, Oklahoma, September 26, 2017.

<sup>396</sup> Human Rights Watch telephone interview with (name withheld), officer, Tulsa Police Department, February 15, 2018.

<sup>397</sup> Human Rights Watch interview with Pastor Rodney Goss, August 30, 2017.

<sup>398</sup> Police are allowed to run license plates without restriction, as the act of checking the plates does not involve any seizure that would implicate the Fourth Amendment. However, if police are checking license plates of people of one race only, this would indicate biased policing. Available data from the Tulsa Police Department does not allow Human Rights Watch to evaluate whether officers check license plates in a discriminatory manner.

<sup>399</sup> Human Rights Watch interview with (name withheld), former officer, Tulsa Police Department, Tulsa, Oklahoma, June 9, 2018.

Human Rights Watch analyzed data for citations issued for driving violations. Citations are tickets for relatively low-level violations of the law, usually considered infractions. Primarily, these are traffic violations. They involve issuance of a ticket rather than formal arrest absent some other warrant. These include, for example, citations for moving violations, driving without a proper license, driving without proof of insurance, and others (see table below).<sup>400</sup> The Tulsa Police Department provided Human Rights Watch with time, date, and place information, as well as demographic data and type of violations, on 121,520 citations issued in over 86,000 police encounters<sup>401</sup> in 2016 and 2017. Overall, this reflects an annual rate of over 612 citations per 1,000 residents.

There is a racial disparity in ticketing patterns, though not as severe as the disparity in arrests and uses of force.<sup>402</sup> Black people are about 17 percent of Tulsa’s population, but they receive 25 percent of the citations, and are cited at an average annual rate of 880 per 1,000, a rate 1.4 times higher than the rate for white people.<sup>403</sup>

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<sup>400</sup> Human Rights Watch analysis of citation data provided by the Tulsa Police Department. Tulsa Police Department, website, “Tulsa Police Open Records Data.”

<sup>401</sup> Some encounters resulted in tickets for multiple violations.

<sup>402</sup> Each of these are discussed further in this report.

<sup>403</sup> Human Rights Watch is not aware of any evidence that black Tulsans violate traffic laws or drive more recklessly than white Tulsans in a way that would justify the disparity in ticketing. There is a study from New Jersey that found black drivers on the New Jersey Turnpike violated speed laws at much greater rates than white people. Heather MacDonald, “The Racial Profiling Myth Debunked,” *City Journal*, Spring 2002, <https://www.city-journal.org/html/racial-profiling-myth-debunked-12244.html> (accessed July 16, 2019). However, the Department of Justice, in 2002, citing methodological flaws, raised objections to public release of that study. David Kocieniewski, “Study Suggests Racial Gap in Speeding in New Jersey,” *New York Times*, March 21, 2002, <https://www.nytimes.com/2002/03/21/nyregion/study-suggests-racial-gap-in-speeding-in-new-jersey.html> (accessed July 16, 2019). A 2009 study reviewed the findings from that study and found them “erroneous,” instead confirming evidence that racially biased policing accounted for disparities in stops in New Jersey. Joseph B. Kadane and John Lamberth, “Are blacks egregious speeding violators at extraordinary rates in New Jersey?” *Law, Probability and Risk*, 2009, [https://watermark.silverchair.com/mgpo14.pdf?token=AQECAHi2o8BE49Ooang9kkhW\\_Ercy7Dm3ZL\\_9Cf3qfKAc485ysgAAAJQwggIwBgkqhkiG9w0BBwagggIhMIIChQIBADCCAhyGCSqGSib3DQEhATAeBgIghkgBZQMEAS4wEQQM6GCXdCIIoz8Fp1hAAgEQglIB5yKmBTXQ2oFKIWZrwA\\_BBxYkylaar3ova-voiSecgIKQpnwACQqRjMSza8ZlItPsCe6Pm89a9DVzRToxyliDhX9jDb45cu8OmcwG2X-Cn4mnbevQAWhv8Wgo8A2iM23c2qMgOzNMAO5H-rBkTeDUFavIL0tuN7dFISTucXQo6jj4MZjgm-vaNyZbeUAdWdfZsCnhrCcSZeYHFTS36ity3kGwiq6oLSNp8hSVfxZ3ZzoVIKDbTQnp3LWroyaKFOF6okjViyok\\_Y44K5hdEoKagBz-snBu1aRTL7CsyUOv4T4tJpdfa6xrKrm8sO-yNQdYM\\_jU7T53SkUSRzyFcMHKQ3ydp8CIPyn5GYhoOkhd994F\\_ouNdfvFLxBpgQhkcSeX-NodkTXtwSuw1oQ6mhFnlgZquM3ywnkmhYupjto5bcCdcz5SUuqSdqBjQd5RaZDE1\\_n6kfkpHldqnD1io-YFj5j8AH5GZmF2Rh2qVCTvFVAHL4S8RNXBq65r2OY3-523rcYr8I8RldN88ZpIVVKS9BUxswCLPDJA1i4uqFH8W-LTs1oBKEJL9XIFmlb18EaQhBfOLguZOaKfMXb-er9g3iHBu4P5zDIgtqJhnPT9hWVYjnTb\\_natJ3uDCEmzWnozyAYHQYvs](https://watermark.silverchair.com/mgpo14.pdf?token=AQECAHi2o8BE49Ooang9kkhW_Ercy7Dm3ZL_9Cf3qfKAc485ysgAAAJQwggIwBgkqhkiG9w0BBwagggIhMIIChQIBADCCAhyGCSqGSib3DQEhATAeBgIghkgBZQMEAS4wEQQM6GCXdCIIoz8Fp1hAAgEQglIB5yKmBTXQ2oFKIWZrwA_BBxYkylaar3ova-voiSecgIKQpnwACQqRjMSza8ZlItPsCe6Pm89a9DVzRToxyliDhX9jDb45cu8OmcwG2X-Cn4mnbevQAWhv8Wgo8A2iM23c2qMgOzNMAO5H-rBkTeDUFavIL0tuN7dFISTucXQo6jj4MZjgm-vaNyZbeUAdWdfZsCnhrCcSZeYHFTS36ity3kGwiq6oLSNp8hSVfxZ3ZzoVIKDbTQnp3LWroyaKFOF6okjViyok_Y44K5hdEoKagBz-snBu1aRTL7CsyUOv4T4tJpdfa6xrKrm8sO-yNQdYM_jU7T53SkUSRzyFcMHKQ3ydp8CIPyn5GYhoOkhd994F_ouNdfvFLxBpgQhkcSeX-NodkTXtwSuw1oQ6mhFnlgZquM3ywnkmhYupjto5bcCdcz5SUuqSdqBjQd5RaZDE1_n6kfkpHldqnD1io-YFj5j8AH5GZmF2Rh2qVCTvFVAHL4S8RNXBq65r2OY3-523rcYr8I8RldN88ZpIVVKS9BUxswCLPDJA1i4uqFH8W-LTs1oBKEJL9XIFmlb18EaQhBfOLguZOaKfMXb-er9g3iHBu4P5zDIgtqJhnPT9hWVYjnTb_natJ3uDCEmzWnozyAYHQYvs) (accessed July 16, 2019).

The Tulsa Police Department does not track citations for equipment violations, like having a broken tail-light or a malfunctioning headlight.<sup>404</sup> Several black residents in Tulsa reported being stopped and sometimes cited for equipment violations.<sup>405</sup> Catherine said officers followed her for over a mile before stopping her and citing her a tag-light violation. She told Human Rights Watch that her light was working fine, but she still had to pay to have an inspection to verify it and she had to miss work to go to court to get the ticket dismissed.<sup>406</sup>

Examination of the locations of citations reveals that there are clusters in certain parts of the city. Over the two-year period for which the Tulsa Police Department provided data, more than 1,000 citations were issued at each of three locations: 4100 E. 41<sup>st</sup> Street, 7400 E. 71<sup>st</sup> Street, and 6100 S. Memorial Drive, all in the southern part of the city.<sup>407</sup> The vast majority of citations in these locations were for moving violations, particularly speeding, indicating a clear focus on traffic enforcement as opposed to using traffic stops as a pretext to investigate for other crimes.

Human Rights Watch found that 28 percent of all citations issued during this two year period were for a driver's license and liability insurance violations, including driving on a suspended license. Speeding tickets were 34 percent of the total. Other moving violations accounted for 11 percent of the citations; license plate violations, 11 percent; and seatbelt violations, 7 percent.

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The American Council on Science and Health recently released data on fatal car crashes showing black and white people suffer them at very similar rates, suggesting that drivers of neither race are significantly more reckless than the other. Alex Berezow, "Most Dangerous Drivers Ranked by State, Age, Race, and Sex," *American Council on Science and Health*, August 10, 2018, <https://www.acsh.org/news/2018/08/10/most-dangerous-drivers-ranked-state-age-race-and-sex-13300> (accessed July 16, 2019).

<sup>404</sup> Commission on Accreditation for Law Enforcement Agencies (CALEA), Inc., "Tulsa (OK) Police Department Assessment Report, 2017," August 2017, <https://bloximages.newyork1.vip.townnews.com/tulsaworld.com/content/tncms/assets/v3/editorial/7/e7/7e73b981-35cb-521d-b52f-62f60588554b/5c67657c799da.pdf.pdf> (accessed July 16, 2019), p. 9. Human Rights Watch found only a small number of equipment violations in the citations data provided by the department. Of those, the vast majority had moving or other non-equipment violations as well. A very small number of equipment violations are independently entered in the data, but, apparently, most are not. They do not have data on warnings for equipment violations. Human Rights Watch interview with Jonathan Brooks, March 27, 2019.

<sup>405</sup> Human Rights Watch telephone interview with Catherine Cooper (pseudonym), January 4, 2018, and Patricia Raymond (pseudonym), October 12, 2017; Human Rights Watch interview with Veronica Miller (pseudonym), August 31, 2017.

<sup>406</sup> Human Rights Watch telephone interview with Catherine Cooper (pseudonym), January 4, 2018.

<sup>407</sup> These locations are all in South or southeast Tulsa, are on major thoroughfare, not far from freeway entrances. They are generally in business districts.

The rates of violations related to observable driving behavior, like speeding, are roughly even between black and white Tulsans. However, there are substantial disparities for license/insurance violations, which are likely to be more prevalent in poorer and more heavily policed areas because they often stem from previous arrests or citations and from inability to pay fees and insurance premiums.<sup>408</sup> Black people received these types of citations at twice as high a rate as white people.<sup>409</sup> This disparity indicates a disparate racial impact of poverty. It may also suggest that officers are stopping black drivers to investigate more frequently than white drivers and finding these violations only after the stop. In one quarter of the driver’s license/insurance related tickets, there was no accompanying moving violation, raising questions as to the reason for the initial stops.<sup>410</sup> The racial disparity in issuance of such citations was greater than the racial disparity when a moving violation was also present.<sup>411</sup>

	Proportion Black	Proportion White
Tulsa city population	17%	65%
Speeding citations	18%	76%
Driver’s license/liability insurance-related	35%	59%

<sup>408</sup> Poor people have trouble paying for registration and insurance or paying off court debt to reinstate their licenses.

<sup>409</sup> Human Rights Watch did not find Tulsa specific data, but a study of 2008 seatbelt use found that overall, black people aged 25 to 69 used seatbelts 80 percent of the time, compared to 91 percent for white people, and black people ages 16 to 24 used seatbelts slightly more than white people. Timothy Pickrell and Tony Jianqiang Ye, “Traffic Safety Facts: Seat Belt Use in 2008—Race and Ethnicity Results Among Occupants Travelling With Children,” *US Department of Transportation, National Highway Traffic Safety Administration*, April 2009, “<https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/811107>” (accessed July 16, 2019).

<sup>410</sup> It is possible that officers in some instances simply did not cite for the moving violation, or that they made the stop for an equipment violation that was not recorded in the data. According to the Tulsa Police Department’s 2017 Commission on Accreditation for Law Enforcement Agencies (CALEA) Certification report, officers gave zero warnings from 2014 through 2016. The report said, “The agency only allows warnings to be given on equipment violations, which are not tracked.” Deputy Chief Brooks says that officers may only give written warnings on equipment violation but can give verbal warnings for moving violations. Human Rights Watch interview with Jonathan Brooks, March 27, 2019. CALEA, Inc., “Tulsa (OK) Police Department Assessment Report, 2017,” p. 9. Tulsa Police Department policy indicates that verbal warnings may be available non-equipment violations. Tulsa Police Department, “Violation of Traffic Ordinances,” Procedural File No. 31-114A, approved, May 21, 2013, [https://www.tulsapolice.org/media/161292/public\\_policy\\_manual121217.pdf](https://www.tulsapolice.org/media/161292/public_policy_manual121217.pdf) (accessed July 16, 2019), p. 152.

<sup>411</sup> Black people were 1.95 times as likely as white people to get driver’s license/insurance citations with moving violations, and 2.1 times as likely as white people to get these citations without an observable violation.

The greater racial disparity in these cases supports claims by people that spoke to Human Rights Watch that officers are stopping black drivers to investigate for violations, rather than to address traffic safety hazards. It further indicates the disparate impact of poverty and the effects of failure-to-pay warrants on people's ability to maintain their licenses.

Proportion of citations					
Citation type	Tulsa total	North Tulsa	Non-		
			North Tulsa	Top 3 locations	Top 10 officers
Speeding	32%	18%	35%	68%	50%
Driver's license/liability insurance related	28%	40%	26%	20%	26%
Seatbelt	7%	13%	6%	7%	11%
License plate related	11%	10%	12%	5%	8%
Non-moving violation	2%	2%	2%	0%	1%
Moving violation (non-speeding)	12%	10%	12%	0%	4%
Other violation	8%	7%	7%	0%	0%

The top 10 ticket writing officers, presumably assigned to traffic enforcement,<sup>412</sup> and the officers who make stops at the top three ticket locations referred to above, all in primarily white middle-income areas in South Tulsa, issue tickets much more frequently for moving violations, like speeding, that are observable without stopping the car first. In North Tulsa, police officers issue tickets for license/liability or seatbelt violations, offenses more likely discovered after the stop, much more frequently than they do throughout the city overall.

Chief Jordan, addressing the disparities in citations, said “I don’t feel our officers are discriminating and writing tickets to African-Americans.”<sup>413</sup> He went on to say that officers generally do not know the race of the person they are stopping, as they are using radar or stopping people from behind. This explanation may apply to speeding tickets or other

<sup>412</sup> Traffic officers are focused on enforcing moving violations, so they will have high numbers of citations. Human Rights Watch interview with Jonathan Brooks, March 27, 2019.

<sup>413</sup> Jones and Killman, “Black people arrested about twice as much as other races, analysis of Tulsa Police data shows,” *Tulsa World*.

observable moving violations,<sup>444</sup> which reflect population percentages, but not necessarily to the license offenses which have greater disparities. Without further data on the reasons for stops, it is impossible to reach definitive conclusions.

## Racial Disparities in Stops, Searches, Arrests, and Citations Across the US

Police throughout the US arrest black people at higher rates than they do white people. USA Today conducted a study of 3,500 police departments based on 2011-2012 data from the FBI, and found that, like Tulsa, 95 percent of these departments arrested black people at higher rates than they arrested white people.<sup>445</sup> Some of those departments arrested black people at rates 10 times higher than they arrested white people. In fact, Tulsa was considered to have relatively low levels of disparities when compared to other cities. The disparities existed for arrests in almost every type of crime.

In-depth studies of other jurisdiction throughout the US have found significant racial disparities in arrests, stops and searches, some even finding evidence of racial profiling.<sup>446</sup> Human Rights Watch found that, while black and white people use drugs at approximately the same rate, police arrest black people for drug possession and use at considerably

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<sup>444</sup> An officer who spoke to Human Rights Watch anonymously disputed Jordan's contention, saying that officers are trained to observe and generally can tell the race of the driver they are stopping. Human Rights Watch telephone interview with (name withheld), February 15, 2018.

<sup>445</sup> Brad Heath, "Racial gap in US arrest rates: 'Staggering disparity,'" *USA Today*, November 18, 2014, <https://www.usatoday.com/story/news/nation/2014/11/18/ferguson-black-arrest-rates/19043207/> (accessed July 16, 2019). The FBI data does not include a category for "Hispanic," so rates of arrests for black people are compared to "non-black" people.

<sup>446</sup> Lance Hannon, "An Exploratory Multilevel Analysis of Pedestrian Frisks in Philadelphia," *Sage Journals*, September 22, 2017, <https://journals.sagepub.com/doi/abs/10.1177/2153368717730106?journalCode=raja> (accessed July 16, 2019): This study found that disparities in "stop and frisk" actions by police in Philadelphia did not track violent crime rates, reflect neighborhood stigmatization, and resulted in a high proportion of black people stopped with no contraband found. Benjamin Hardy, "New Jersey Report on Racial Profiling," *OLR Research Report*, May 11, 1999, <https://www.cga.ct.gov/PS99/rpt%5Colr%5Chtm/99-R-0591.htm> (accessed July 16, 2019): Researchers conducted a study of stops and searches by state troopers in New Jersey and found racial disparities and evidence of racial profiling. Joel Rubin and Ben Poston, "L.A. County deputies stopped thousands of innocent Latinos on the 5 Freeway in hopes of their next drug bust," *Los Angeles Times*, October 4, 2018, <https://www.latimes.com/local/lanow/la-me-sheriff-latino-drug-stops-grapevine-20181004-htmstory.html> (accessed July 16, 2019): Los Angeles Sheriff's Department deputies stopped a vastly disproportionate number of Latino drivers on Interstate 5 from 2012 through 2017. Christopher Dunn and Michelle Shames, "Stop-and-Frisk in the de Blasio Era," *New York Civil Liberties Union*, March 2019, [https://www.nyclu.org/sites/default/files/field\\_documents/20190314\\_nyclu\\_stopfrisk\\_singles.pdf](https://www.nyclu.org/sites/default/files/field_documents/20190314_nyclu_stopfrisk_singles.pdf) (accessed July 16, 2019): A study of stops and searches in New York City found that police stopped and frisked a disproportionate number of black and Latino males, but were less likely to find weapons on them.

higher rates.<sup>417</sup> This disparity suggests that black people are subject to more stops and searches that would lead police to detect drug possession.

A US Department of Justice Bureau of Justice Statistics analysis of police stops found that white drivers were stopped for speeding at much higher rates than black drivers.<sup>418</sup> It found that black drivers were stopped more frequently for “vehicle defects” and for “record checks,” both possible signs of investigative stops as opposed to traffic enforcement.<sup>419</sup> The study found that 7 percent of all black drivers had received citations, compared to 5 percent of white drivers,<sup>420</sup> and that police searched only 2 percent of white drivers, but searched 6 percent of black drivers and 7 percent of Latino drivers.<sup>421</sup> Twice the proportion of black than white drivers stopped by police were released with no enforcement action, not even a warning, though a very high percentage of those so released believed that they had been treated unfairly, suggesting “pro-active” investigatory stops that may have lacked legal basis.<sup>422</sup>

A true understanding of the extent of racial disparities in police enforcement actions, their causes and whether they present evidence of racial discrimination in policing itself, as opposed to overall societal disadvantage to people of color, is greatly hampered by inadequate data on police actions.<sup>423</sup>

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<sup>417</sup> Human Rights Watch, *Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States* (New York: Human Rights Watch, 2016), <https://www.hrw.org/report/2016/10/12/every-25-seconds/human-toll-criminalizing-drug-use-united-states>, p. 6.

<sup>418</sup> Lynn Langton and Matthew Durose, “Police Behavior during Traffic and Street Stops, 2011,” *US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics*, October 27, 2016, <https://www.bjs.gov/content/pub/pdf/pbtss11.pdf> (accessed July 16, 2019), p. 4. Fifty percent of stops for white people were for speeding, while only 37.7 percent of stops for black people were.

<sup>419</sup> Langton and Durose, “Police Behavior during Traffic and Street Stops, 2011,” *US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics*, p. 4.

<sup>420</sup> *Ibid.*, p. 6.

<sup>421</sup> *Ibid.*, p. 9.

<sup>422</sup> *Ibid.*, p. 6.

<sup>423</sup> US Commission on Civil Rights, briefing report, “Police Use of Force: An Examination of Modern Policing Practices,” November 2018, <https://www.usccr.gov/pubs/2018/11-15-Police-Force.pdf> (accessed July 16, 2019), p. 7.



## VI. Police Violence

Ira Wilkins was driving home to Tulsa after visiting family in Texas in early February 2017.<sup>424</sup> He was almost home, but he was so tired he struggled to keep his eyes open. He played loud music on his radio to help him stay awake. Rather than risk a crash, he pulled off the freeway and stopped his car in a parking lot for a quick nap. Once safely parked, engine running, music playing, he fell fast asleep.

A security guard at the parking lot called the police. Several officers arrived in patrol cars. They found Wilkins asleep, woke him, and ordered him out of the car. A video from a body camera worn by one of the officers, obtained by Human Rights Watch from Wilkins' attorney, depicts the following sequence of events.<sup>425</sup> It shows that when he got out of his car, police immediately cuffed his hands behind his back and pushed him up against the side of the car, searching his pockets, searching his car, and asking him questions.

Later, one of the officers, describing what happened to a supervisor, said "we put him in handcuffs, he's already giving us shit."<sup>426</sup> The video shows one officer saying to Wilkins, "Quit, quit clutching up on me. You're not going to like what happens." Wilkins says, "What are you all doing?" The officers pushed him against the car.

One officer said, "Don't play with me."

Wilkins responded, "OK, why the fuck is you bending my wrists up like that?"

The other officers laughed. "I'm gonna bend them a lot more if you keep acting like that."

Wilkins moved slightly and the officer pushed him against the car, saying "Quit!"

"Quit what?"

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<sup>424</sup> Human Rights Watch telephone interview with Ira Wilkins, July 23, 2018.

<sup>425</sup> The video is on file with Human Rights Watch: <https://vimeo.com/230208726>.

<sup>426</sup> Ibid.

“Quit clutching up on me!”

Wilkins said, “Man, what the fuck are you talking about, man?” Then, “Please, man, stop, y’all!” as the officer apparently continued bending his wrists and pushing him against the car.

Then the three officers threw him to the ground getting on top of him, as he yelled, “Ok, man, stop! I’m not doing nothing to y’all!” He begged them to stop, complaining that they were breaking his wrists as one officer pushed his head into the ground. The officers were giving him no discernible commands while he was on the ground.

Wilkins said, “Please, Lord, please! Please, in the name of Jesus Christ!”

Then one of the officers, a training officer, said, “You have spray? Spray him.”

His trainee, the one who had been pushing Wilkins against the car, drew his canister and pepper-sprayed Wilkins in the face. He cried in pain. He rolled a little bit in agony, and the training officer repeatedly threatened to spray him again, telling him he was “stupid.” Many more officers arrived in their patrol cars, including a supervisor. The training officer claimed the incident was a “fight,” and that it would still be going on if he had not used the spray.

The search of his car and person appeared to find nothing incriminating. They arrested Wilkins for assault and battery on a police officer, a charge that can carry up to five years in prison.<sup>427</sup> However, the prosecutor dismissed the charges.<sup>428</sup>

Wilkins’ experience had several troubling aspects, beyond the apparently unnecessary violence officers deployed against him. The officer who initiated Wilkins’ violent treatment was a trainee, new to the department. But his training officer, presumably one with experience and whose role is to correct mistakes and provide positive guidance,

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<sup>427</sup> Okla. Stat. section 21-649, <https://law.justia.com/codes/oklahoma/2016/title-21/section-21-649/> (accessed July 16, 2019); Wilkins entry in Oklahoma State Courts Network, <http://www.oscn.net/dockets/GetCaseInformation.aspx?db=tulsa&number=CF-2017-1014&cmid=3024981> (accessed July 16, 2019).

<sup>428</sup> Wilkins entry in Oklahoma State Courts Network; Human Rights Watch telephone interview with Ira Wilkins, July 23, 2018.

encouraged his trainee's aggressive conduct and did not practice de-escalation techniques. In the video, the training officer referred to it as a "fight," exaggerating Wilkins' resistance, and enthusiastically recounting the struggle. The violence seemed not to be in response to any threat from a handcuffed man, but as punishment for his lack of submissiveness. Arresting Wilkins for assault and battery served to draw attention away from their own misconduct, put Wilkins on the defensive, and circumvented their own accountability.<sup>429</sup>

An officer who spoke to Human Rights Watch anonymously said that while people in the community sometimes show officers disrespect, some officers look to provoke fights, that it gives them something to brag about to their colleagues.<sup>430</sup> The officer said that this mentality has existed within the department for many years and described one incident during which he and another officer were responding to a call of a disturbance at a house. The man in the house was yelling at the officer through the door, and the officer responded by beating on the door and threatening to beat up the man. When the partner officer suggested it would be better to keep the suspect calm, the other officer expressed a desire to have a "good fight."

## Less Lethal Force

Department policy requires completion of a "Use of Force Report" for the following types of less lethal force: OC spray (sometimes known as "pepper-spray"), Electronic Control Devices (tasers), Pepper Ball launchers, physical control holds resulting in injury requiring medical attention or alleged injury, impact weapons (including fists and, presumably, feet or knees), police canine bite, KO1 kinetic baton and 12-gauge flexible baton, vehicle containment, chemical munitions and flash sound diversionary devices.<sup>431</sup> Forceful actions

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<sup>429</sup> Attorney Jill Webb, who has practiced extensively in Tulsa's criminal courts, said that when police beat someone, they frequently file "assault on a police officer" type charges, though the evidence of such assaults is at times weak and the person accused is usually the one who is injured. Human Rights Watch telephone interview with Jill Webb, March 6, 2019.

<sup>430</sup> Human Rights Watch telephone interview with (name withheld), officer, Tulsa Police Department, Tulsa, OK, February 15, 2018.

<sup>431</sup> The Tulsa Police Department refers to these types of forceful actions as "non-deadly" force. We use the term "less lethal," because these types of force can cause death, though less frequently than gunshots, which are categorized by the department as "deadly force." Tulsa Police Department, "Use of Force," Procedural File No. 31-101A, approved, August 15, 2014 [https://www.tulsapolice.org/media/161292/public\\_policy\\_manual121217.pdf](https://www.tulsapolice.org/media/161292/public_policy_manual121217.pdf) (accessed July 16, 2019), p. 9. Intentional gunshots by police officers are classified separately as "deadly force," and require a different reporting procedure. Although tasers have been associated with deaths following their use, they are considered "non-deadly" force.

like “firm grips” and control holds that do not result in injury are categorized as “low force,” and do not require reporting.<sup>432</sup>

It is extremely hard to evaluate individual use-of-force incidents. Officers often write their reports in ways that justify the force, while subjects of force may describe the incidents in a way that is favorable to themselves. Frequently, there is video, as in the Wilkins incident. But video, especially from police body worn cameras, can miss critical details. Therefore, it is useful to look for patterns and that requires aggregate data.

Human Rights Watch received and analyzed data provided, at our request, by the Tulsa Police Department on less lethal or “non-deadly” force incidents from 2012 through 2017 (see below). The data did not include street numbers where the events occurred, just the street names. Therefore, it is impossible to accurately map their precise locations. The data given to Human Rights Watch included minimal details about the reasons for the force incident or the type of encounter (e.g., arrest, detention, consensual encounter) that led to it.

This dataset included 1,700 incidents involving less lethal force between 2012 and 2017, which included 3,364 distinct force actions.<sup>433</sup> The number of incidents generally remained steady over time, with an average of 23 per month.<sup>434</sup>

“Electronic control devices,” often referred to as “tasers,” were the most common type of force used, accounting for nearly one-fifth of the total. “Physical control holds” made up 15 percent; pepper-spray, 13 percent; and dog bites, 12 percent. The rest was made up of various types of punches, kicks, and knee strikes, and use of other weapons, such as batons and pepper-ball launchers.

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Human Rights Watch email correspondence with Gerald Bender, litigation division manager, City of Tulsa Legal Department, January 18, 2019.

<sup>432</sup> Tulsa Police Department, “Use of Force.”

<sup>433</sup> One incident could have several distinct uses of force. For example, an officer may use a knee strike and a Taser. There were at least two incidents that Human Rights Watch is aware of through witness interviews and other evidence that fit the criteria for reportable “non-deadly” uses of force, but that were not included in the dataset supplied by the department. These apparent omissions may be explainable, may be a mistake in record-keeping or may indicate a larger deficiency in the department’s accounting of uses of force. Human Rights Watch inquired of the City of Tulsa Legal Department about these apparent omissions but had not received a response as of July 2019.

<sup>434</sup> Human Rights Watch analysis of Use of Force Data provided by the Tulsa Police Department.

Tulsa Police reported injuries to the civilians subjected to use of force in 46 percent of the incidents, and injuries to officers in 8 percent. They did not distinguish severity of the injuries in the data provided, so these percentages reveal little.

Force incidents occurred across a broad range of types of police encounters or activities. The most common were investigations of domestic assaults or disturbances (12 percent of incidents), “other disturbances” (11 percent), burglary investigations (10 percent), traffic stops (8 percent), warrant service (7 percent), and pedestrian checks (5 percent). In 66 percent of all incidents Tulsa police gave “resisting” as the justification for the police use of physical force. In 13 percent, the justification was “eluding.” Neither term is clearly defined. In 2.5 percent of use-of-force incidents, Tulsa police claimed an assault or battery on an officer as justification for police use of less lethal force.

In 90 percent of the incidents provided by the Tulsa Police Department, officers arrested the person. Though the dataset of the 1,700 incidents did not include information to directly evaluate these arrests,<sup>435</sup> Human Rights Watch was able to use street names and times of arrest to match 648 of them with more detailed information from an arrest dataset. Using this information, we found that the most common arrest offenses in these use of force cases tended not to be violent charges.<sup>436</sup> In 21 percent of the arrests, the most serious charge was some form of “disorderly conduct;” assault on an officer, 14 percent; public intoxication accounted for 11 percent; weapons possession, 7 percent; other assault, about 6 percent.

## Racial Disparities in Force Incidents

A former Tulsa police officer said that policing culture in North Tulsa is more aggressive than in other parts of the city.<sup>437</sup> The officer said that a prevailing sentiment is that North Tulsa is a tough place to work and only the “hardest” and even “meanest” officers can

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<sup>435</sup> The data provided street names but not addresses for where the force incidents occurred. It gave dates, times, demographic information about the officers and the subjects of the force, type of force, whether there were injuries, whether the force use was within policy, and what if any disciplinary action was taken. There is a category for “reason” for the use of force, but the entries provided little information.

<sup>436</sup> The rate at which police used force during arrests for violent offenses was higher than the rate at which police used such force during arrests for less serious crimes, like drug offenses or warrants, but the overall number of arrests for violent offenses was low.

<sup>437</sup> Human Rights Watch telephone interview with (name withheld), former officer, Tulsa Police Department, June 9, 2018.

work there. This former officer said that police use force more often in North Tulsa, while in South Tulsa situations were “taken slower.”

This former officer witnessed contrasting responses to similar situations. In South Tulsa, officers approached a skinny, young, white man outside a coffee shop who appeared extremely high, had drugs on him, and was acting aggressively. Officers drew their tasers, but never pointed them at the man. Instead, a training officer talked to him, using de-escalation skills, until he agreed to let them handcuff him without using force.

In North Tulsa, this former officer and fellow officers encountered a black teenager acting similarly. Rather than take their time and talk him down, one officer ordered him to “come here.” When he did not respond right away, they grabbed him and threw him down, three officers piling on top of him, as he screamed at them to stop hurting him.<sup>438</sup> While these contrasting tactics may simply reflect different styles of the individual officers or nuances of the two situations that were not apparent to our source, they fit the pattern of racial disparities revealed by the data on uses of force.

According to the data Tulsa police provided to Human Rights Watch, the rate with which police use physical force against black people in Tulsa is 2.7 times greater than the rate used against white people on a per capita basis. There were 16 documented incidents per 10,000 black people during this time period as compared to 6 per 10,000 white people. While making up about 17 percent of Tulsa’s population, black people are subject to almost 40 percent of police violence.<sup>439</sup>

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<sup>438</sup> Human Rights Watch telephone interview with former Officer (name withheld), officer, Tulsa Police Department, June 9, 2018.

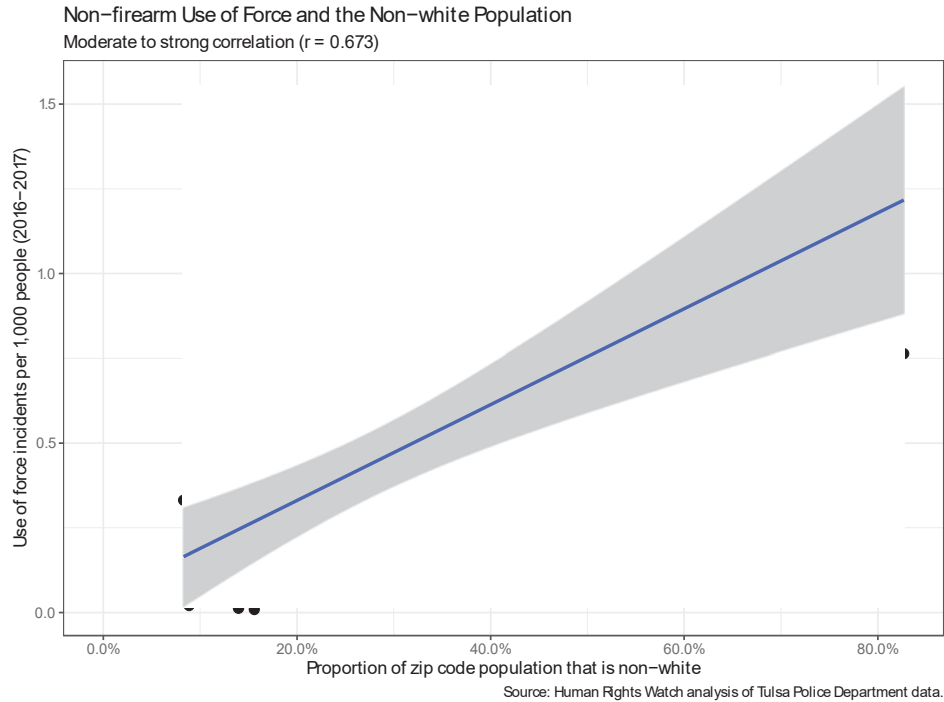
<sup>439</sup> An analysis of use of force incidents in 2014 and 2015 by the newspaper *The Frontier* is fairly consistent with HRW’s analysis and supports the impression that police are more aggressive in North Tulsa and with black residents. Of 564 force incidents disclosed to *The Frontier*, 169 or 30 percent occurred in Gilcrease Division (primarily North Tulsa). The South Tulsa division (Riverside Division) only accounted for 88 incidents, less than 16 percent, and East Tulsa (Mingo Valley Division) only had 103 or about 18 percent. The article analyzed force incidents from 2014 by race, compared them to overall population data, and found that, of the incidents in which race could be determined, black people were four times as likely to be subjected to physical force by police. Kassie McClung, “Data drop: TPD use of force 4 times higher for blacks than whites,” *The Frontier*, September 22, 2016, <https://www.readfrontier.org/stories/tpd-use-of-force-higher-for-black-citizens-than-whites/> (accessed July 16, 2019).

Tulsa Police Department Use of Force Incidents 2012-2017						
Race <sup>440</sup>	Number of Incidents	Annual rate of incidents per 10,000 people	Annual rate of incidents per 1,000 arrests	Number of arrests per use of force incident	Percent of use of force incidents	Percent of Tulsa population
Black	670	16	20	49	39%	17%
Native American	69	3	15	65	4%	8%
Unknown	32	NA	24	42	2%	NA%
White	929	6	17	58	55%	65%

Tulsa Police redacted addresses in the data, but they did give zip codes for 75 percent of incidents from 2016 and 2017, the last two years for which data was provided. Using census data to calculate rates of force used within each zip code, Human Rights Watch found that areas with higher percentages of non-white people correlated<sup>441</sup> to higher rates of police violence.

<sup>440</sup> There is no category for Latino people due to shortcomings in the Tulsa Police Department data, as well as US Census data. Human Rights Watch's analysis groups the Latino population with the white population in both police data and population data. See Methodology section.

<sup>441</sup>  $r=.673$ .



Racial disparities are reflected in the types of use of force. Police used pepper-spray on black people at 3.6 times the rate they used it on white people on a per capita basis. They used tasers on black people 2.9 times as frequently, and they ordered police dogs to bite them 2.1 times as often.<sup>442</sup>

Deputy Chief Brooks acknowledged that there are racial disparities in Tulsa Police uses of force, but said it is more accurate to compare the racial breakdown of force incidents to arrest and 911 call data rather than overall census data, as this method would account for the people officers are contacting.<sup>443</sup> If data existed on every police contact with citizens, it could be used to produce rates of force per interaction and could determine the extent of any racial disparities. However, this data does not exist and we have had to work with data on arrests, which the Tulsa Police Department did provide.

Human Rights Watch analyzed how often force is used per arrest by calculating rates of force used per 1,000 arrests. While the disparity in force used per arrest is lower than force

<sup>442</sup> The racial disparities persist to a lesser degree when looking at rates of use per arrest. Tasers were used 1.3 times more often per arrest of black people than white people and pepper spray 1.6 times more often. K-9's are used slightly more (0.9) often per arrest of white people than of black arrestees.

<sup>443</sup> Human Rights Watch interview with Jonathan Brooks, March 27, 2019.



used per capita, black arrestees were subjected to force at a rate 18 percent higher than white arrestees. Further, since there are significant disparities in the underlying arrest rates that derive in part from policing practices and from larger societal inequalities, the higher rate of police violence towards black people reflects the larger unequal treatment.

In the subset of use of force data that matched to arrest data, there were no racial disparities in the use of force against people arrested for violent crimes. However, black arrestees were subject to force at nearly twice the rate of white arrestees when the violation that led to the force incident was a less serious “public order” crime or drug sale and at three times the rate for arrests on a warrant, some portion of which were for missing court dates or payments on low-level violations. These categories of offenses tend to be relatively less serious crimes and are often detected by police-initiated activity (see above), like traffic stops followed by searches. That they show substantially larger differences in force rates may indicate that officers are handling more routine encounters with black people more aggressively. The disparity reflects the descriptions of overly aggressive policing towards black people given to Human Right Watch in the course of this investigation.

## Unreported Police Violence

Several people said police had used unnecessary physical force against them, such as pushing them against patrol cars or other rough treatment, or that they had observed such treatment directed at others.<sup>444</sup> These violent actions may not be reported to the department, but they serve to intimidate residents, an assertion of threatening authority by the officers. Low-level forceful or violent actions can sometimes provoke a resistance, which results in more forceful and aggressive tactics by the officer and more serious

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<sup>444</sup> Human Rights Watch interview with Marcus Harrington (pseudonym), March 21, 2018: Harrington described being slammed against the side of his car in front of his seven- and eight-year-old daughters during a traffic stop and search that resulted in an arrest for unpaid court debt; Human Rights Watch telephone interview with Troy Mitchell (pseudonym), November 12, 2017, and Benjamin Stone (pseudonym), November 1, 2017, and Ira Wilkins, Tulsa, Oklahoma, July 23, 2018; Human Rights Watch interview with Bobby Eaton, Jr., September 28, 2017.

criminal charges.<sup>445</sup> The department's written use-of-force policy explicitly forbids officers using tactics solely to justify an escalation of force.<sup>446</sup>

Some Tulsans reported to Human Rights Watch that police have approached them with hands on guns<sup>447</sup> or even with guns out on what appeared to be routine traffic stops.<sup>448</sup> Solomon MacArthur described being stopped for an expired tag while driving with his girlfriend and 8-year-old daughter, and having officers pull guns on him when they found that he had a warrant, though it was for "failure to pay" restitution from an old case.<sup>449</sup> A former officer said that they are not trained to draw their guns during traffic stops and acknowledged that drawing a gun is a very high escalation of the situation.<sup>450</sup> The Tulsa Police Department policy manual does not appear to say anything specific about when and when not to draw a firearm or keep a hand on it.<sup>451</sup>

While there are situations of extreme danger when it may be advisable to have guns drawn, officers should be careful to avoid this dangerous tactic unless truly necessary. A drawn gun compresses decision-making time, increasing the danger of deadly force.

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<sup>445</sup> The US Supreme Court recently overturned the 9<sup>th</sup> Circuit's "provocation rule," that said if police officers recklessly provoke a violent confrontation by violating the 4<sup>th</sup> Amendment (including using unreasonable force), they could be held liable for ensuing forceful actions even if those on their own were reasonable. The Court did say, however, that the subsequent use of force could lead to liability if it was a foreseeable consequence of the initially unreasonable action. *County of Los Angeles v. Mendez*, 137 S.Ct. 1539 (2017), [https://www.supremecourt.gov/opinions/16pdf/16-369\\_09m1.pdf](https://www.supremecourt.gov/opinions/16pdf/16-369_09m1.pdf); David G. Savage, "Supreme Court lets stand \$4-million verdict against L.A. County deputies in shooting," March 4, 2019, <https://www.latimes.com/politics/la-na-pol-supreme-court-police-shooting-los-angeles-20190304-story.html> (accessed July 16, 2019). See also US Commission on Civil Rights, briefing report, "Police Use of Force: An Examination of Modern Policing Practices," p. 10-11.

<sup>446</sup> Tulsa Police Department, "Use of Force."

<sup>447</sup> Deputy Chief Jonathon Brooks said that officers sometimes rest their hands on their guns when they approach people because it is a comfortable position for their arms. He said that they train officers to hold their hands together in front of their chests as a "ready" position. Human Rights Watch interview with Jonathon Brooks, March 27, 2019.

<sup>448</sup> Human Rights Watch interview with Sandra Rousseau (pseudonym), March 19, 2018, and Edward Malone (pseudonym), November 1, 2017, and Celia Tucker (pseudonym), November 1, 2017 and Pastor Rodney Goss, August 30, 2017; Human Rights Watch telephone interview with Julian Givens (pseudonym), March 15, 2018, and Pastor Mareo Johnson, October 4, 2017, and Isabella Shadrack (pseudonym), October 20, 2017; Goss said that members of his church have told him of incidents. See also Dylan Goforth, "TPD officer under investigation after pointing firearm at woman during traffic stop," June 16, 2017, <https://www.readfrontier.org/stories/tpd-officer-under-investigation-after-pointing-firearm-at-woman-during-traffic-stop/> (accessed July 16, 2019): This video depicts a Tulsa police officer making a traffic stop of a very nervous young woman on the freeway and drawing his gun when she fails to follow his orders to roll down her window. Human Rights Watch requested data from the Tulsa Police Department about instances in which officers draw their guns. The department provided no such data and apparently does not keep records of these incidents.

<sup>449</sup> Human Rights Watch interview with Solomon MacArthur (pseudonym), September 26, 2017.

<sup>450</sup> Human Rights Watch telephone interview with (name withheld), former officer, Tulsa Police Department, June 9, 2018.

<sup>451</sup> Tulsa Police Department, "Use of Force."

Officers drawing their guns or even just approaching people with hands on their guns unnecessarily contributes to the fear people have towards the police and the sense that the police pose a threat rather than provide protection.

Brandishing or pointing a gun is not identified in the Tulsa Police Department's manual on the continuum of force options that range from low force, like verbal commands or a "firm grip" designed to gain compliance, to deadly force.<sup>452</sup> It is not likely to be reported as a use of force.

### Unnecessary Force

Edward Malone (pseudonym) said he was walking to a restaurant in downtown Tulsa one afternoon several years ago, when he saw a man running.<sup>453</sup> Some distance back, a police officer was chasing. The officer called out, "Stop or I'll shoot!" The man immediately stopped, put his hands up and got down on the ground. The officer kept running towards him and after he reached him, as the man lay prone, the officer jumped on the man's back, knee first and smashed the back of the man's head with his elbow. Then the officer yelled "Get down!"

## Use of Force Policy

The Tulsa Police Department has a use-of-force policy<sup>454</sup> that uses language typical of such policies elsewhere in the United States, one that generally tracks the federal standard on reasonable force outlined by the US Supreme Court.<sup>455</sup> The policy promises: "The use of unnecessary or excessive force will result in departmental discipline .... Actions that do not meet the spirit of this policy will neither be condoned nor tolerated ...."

Of 3,364 separate acts of "non-deadly" force in 1,700 incidents reported by the Tulsa Police Department for the 2012-2017 period, authorities concluded that only two were "out

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<sup>452</sup> Tulsa Police Department, "Use of Force," p. 9-16. Tulsa Police Department defines dog bites, pepper-spray, impact weapon strikes, tasers shocks and others as "intermediate force."

<sup>453</sup> Human Rights Watch interview with Edward Malone (pseudonym), November 1, 2017.

<sup>454</sup> Tulsa Police Department, "Use of Force."

<sup>455</sup> *Tennessee v. Garner* (1985) 471 US 1, <https://supreme.justia.com/cases/federal/us/471/1/> (accessed July 16, 2019).

of policy.” The data the department provided indicates that neither of the two resulted in disciplinary action.<sup>456</sup> The publicly available yearly internal affairs reports for the years 2012 through 2017 indicate the department found a total of five force actions out of policy and imposed discipline in one. These reports give no specific details about the incidents.<sup>457</sup>

## Dog Bite Incidents

The Tulsa Police Department policy on deployment of police dogs gives little specific guidance to officers beyond that included in the overall policy on use of force.<sup>458</sup> It defines “police canine bites” as one type of force police may use, along with “physical control holds” and “pepperball launches,” for example.<sup>459</sup> It says dogs may be used to apprehend a felony suspect or “in certain serious misdemeanor situations.”<sup>460</sup> This standard leaves officers with considerable discretion about when and how to use dogs in connection with arrests or investigations. Officers are to consider the seriousness of the suspected crime, whether the person exposed is a threat to harm anyone, and whether the person is actively resisting or “evading.”

The force incident data provided to Human Rights Watch documents that between 2012 and 2017, there were 333 police dog bite incidents,<sup>461</sup> nearly one every six days, almost all of which were reported to have caused injury. These figures accounted for one quarter of

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<sup>456</sup> Human Rights Watch analysis of “Use of Force” data provided by Tulsa Police Department (on file with Human Rights Watch).

<sup>457</sup> Tulsa Police Department, Internal Affairs, “2012 Annual Report,”

[https://www.tulsapolice.org/media/146301/IA\\_Annual\\_Report\\_2012.pdf](https://www.tulsapolice.org/media/146301/IA_Annual_Report_2012.pdf) (accessed July 29, 2019); Tulsa Police Department, Internal Affairs, “2013 Annual Report,” [https://www.tulsapolice.org/media/153338/IA\\_Annual\\_Report\\_2013a.pdf](https://www.tulsapolice.org/media/153338/IA_Annual_Report_2013a.pdf) (accessed July 29, 2019); Tulsa Police Department, Internal Affairs, “2014 Annual Report,”

[https://www.tulsapolice.org/media/157955/IA\\_Annual\\_Report\\_2014.pdf](https://www.tulsapolice.org/media/157955/IA_Annual_Report_2014.pdf) (accessed July 29, 2019); Tulsa Police Department, Internal Affairs, “2015 Annual Report,” [https://www.tulsapolice.org/media/161281/IA\\_Annual\\_Report\\_2015.pdf](https://www.tulsapolice.org/media/161281/IA_Annual_Report_2015.pdf) (accessed July 29, 2019); Tulsa Police Department, Internal Affairs, “2016 Annual Report,”

<https://www.tulsapolice.org/media/163107/ia%20annual%20report%202016a.pdf> (accessed July 29, 2019); Tulsa Police Department, Internal Affairs, “2017 Annual Report,” [https://www.tulsapolice.org/media/165177/IA\\_Annual\\_Report\\_2017.pdf](https://www.tulsapolice.org/media/165177/IA_Annual_Report_2017.pdf) (accessed July 29, 2019).

<sup>458</sup> Tulsa Police Department, “Use of K-9,” Procedural File No. 31-117A, approved, August 15, 2003

[https://www.tulsapolice.org/media/161292/public\\_policy\\_manual121217.pdf](https://www.tulsapolice.org/media/161292/public_policy_manual121217.pdf) (accessed July 16, 2019).

<sup>459</sup> Tulsa Police Department, “Use of Force.”

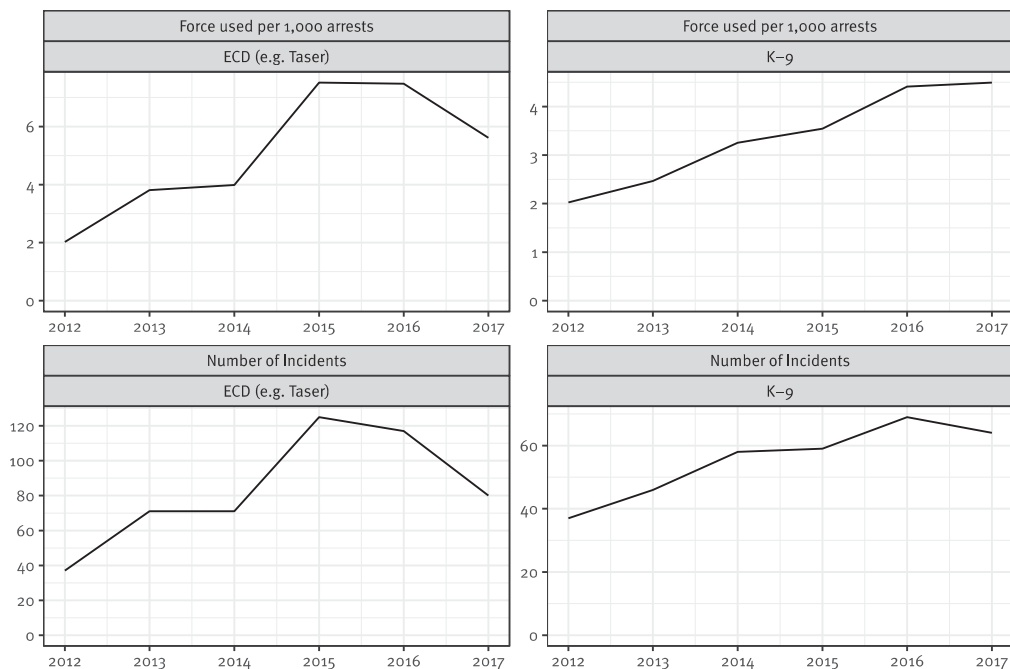
<sup>460</sup> Police send dogs into to people’s homes during warrant service. Human Rights Watch interview with Marq Lewis, July 27, 2017.

<sup>461</sup> Human Rights Watch analysis of “Use of Force” data provided by Tulsa Police Department (on file with Human Rights Watch).

all injuries to civilians reported by the department. Canine bites were used on black people at 2.1 the per capita rate they were used on white people.

The Tulsa Police Department’s “2015 Use of Force Analysis” revealed a dramatic and steady increase in dog bite uses of force from 29 in 2011 to 69 in 2015, despite a steadily decreasing number of calls involving police dogs.<sup>462</sup> The data provided to Human Rights Watch differs slightly from the department’s report but still shows a clear increasing trend in the overall number of dog bite incidents and the rate of dog bites per arrest.

Increased Taser and K–9 Use



Source: Human Rights Watch analysis of Tulsa Police Department data.

An investigator for criminal defense attorneys told Human Rights Watch that these attorneys received reports in some cases in which their clients were bitten by dogs.<sup>463</sup> They typically are bandaged from the injuries, and some of the bites became infected.

<sup>462</sup> Tulsa Police Department, from Sgt. Malcolm Wightman to Chief Chuck Jordan, “Interoffice Correspondence: 2015 Use of Force Analysis,” September 21, 2016, [https://drive.google.com/drive/folders/1ji\\_QB1WD2pHrP8V\\_D1FcgdDKjwuq-4Ko](https://drive.google.com/drive/folders/1ji_QB1WD2pHrP8V_D1FcgdDKjwuq-4Ko) (accessed July 16, 2019).

<sup>463</sup> Human Rights Watch interview with (name withheld), investigator Tulsa, Oklahoma, January 10, 2018.

In 2013, after a dispute with his ex-wife in which neighbors called the police, Clay Ijams, a white man, was bitten by a police dog after he had hidden from officers who were pursuing him.<sup>464</sup> The dog bit Ijams on the left arm above the elbow, causing a deep gash and several smaller wounds.<sup>465</sup> Ijams estimated that the dog was on him for about 10 seconds, ripping his flesh before the officer called the dog off. The wound became infected. He still has a large scar.<sup>466</sup>



Injuries sustained by Clay Ijams on his left arm after being bitten by a police dog in 2013.

© 2013 Clay Ijams

## Taser Incidents

A common type of force is the use of tasers to stun suspects with a powerful electrical current. The taser is considered a “less lethal” weapon for police, meaning that, while it is less likely to cause death than a

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<sup>464</sup> Human Rights Watch telephone interview with Clay Ijams, October 19, 2018.

<sup>465</sup> Photos on file with Human Rights Watch, provided by Clay Ijams.

<sup>466</sup> Police arrested Ijams for, among other charges, “striking a police dog.” Ijams denies kicking the dog but he pled guilty to the charge as part of a plea deal that reduced his “eluding” charge to a misdemeanor and suspended the sentence so he eventually could have the convictions removed from his record. Ijams also pled guilty to misdemeanor driving under the influence of alcohol. A burglary charge against him had previously been dismissed. Bill Braun, “Former Tulsa County public defender gets probation for DUI, eluding police,” *Tulsa World*, July 4, 2014, [https://www.tulsaworld.com/news/courts/former-tulsa-county-public-defender-gets-probation-for-dui-eluding/article\\_239db227-8d4a-526e-a20f-2fe8b1a03b75.html](https://www.tulsaworld.com/news/courts/former-tulsa-county-public-defender-gets-probation-for-dui-eluding/article_239db227-8d4a-526e-a20f-2fe8b1a03b75.html) (accessed July 16, 2019). Ijams told Human Rights Watch that he had surrendered before the dog bit him, making the use of force unnecessary and excessive. Human Rights Watch telephone interview with Clay Ijams, October 19, 2018. The investigator who spoke to Human Rights Watch recounted that his clients also alleged that they had surrendered prior to being bitten. Human Rights Watch interview with (named withheld), investigator, January 10, 2018.

gun, there is still a risk that the person shot with the taser could die.<sup>467</sup> Use of tasers, sometimes called “electronic control devices” or “conducted electricity weapons,” is considered an “intermediate” use of force by the Tulsa Police Department, allowing for their use in situations that would not justify the use of deadly force.<sup>468</sup>

They are used in two modes. The first is “drive stun” in which the muzzle of the taser is pushed into the person’s flesh and delivers a painful electric shock. Drive stun is a form of “pain compliance,” a police tactic in which officers inflict pain to get a person to obey or submit to commands.

The second mode is called “probe deployment,” in which the officer fires two barbed metal darts into the person’s flesh. These darts are connected by conductive wires to the taser gun. When they penetrate and stick into the skin, they form a circuit and deliver a strong, steady electrical pulse through the person’s body. The pulse is painful and, more importantly, causes the person’s muscles to contract such that the person loses control of their body. A standing person will fall to the ground.

This process is called “neuromuscular incapacitation.” While being shocked, through probe deployment, the person cannot move voluntarily and cannot obey commands. The incapacitation gives officers a chance to take control of the person and handcuff them. Officers are trained to handcuff people while or immediately after they are incapacitated by the taser. Probe deployment is not to be used as pain compliance.

Prolonged or repeated infliction of the electrical current, simultaneous use of more than one taser, or use on people who are highly agitated, intoxicated, or have over-exerted themselves, can cause physiological or metabolic changes which risk causing or contributing to sudden death.

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<sup>467</sup> Axon Enterprise, Inc., “TASER Handheld CEW Warning, Instruction and Information: Law Enforcement,” May 19, 2017 (on file with Human Rights Watch). An attorney for the City of Tulsa explained that “TASER deployments are not deadly force under TPD policy.” Human Rights Watch email correspondence with Gerald Bender, January 18, 2019 (on file with Human Rights Watch). Human Rights Watch is aware of two people who have died following taser usage against them by Tulsa police. However, Human Rights Watch does not have sufficient information to form an opinion as to whether the taser usage caused or contributed to the deaths.

<sup>468</sup> Tulsa Police Department, “Use of Force.”

The US Department of Justice and the Police Executive Research Forum created guidelines for taser usage in 2011 that have been widely distributed to US police departments. The guidelines inform officers “that exposure to the [Electronic Control Weapon] for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury.”

Tulsa Police disclosed some data about 501 taser deployments between 2012 and 2017, about 18 percent of all physical force actions in the dataset and the most common type of force disclosed. Officers used tasers at an annual per capita rate of 5 per 10,000 black people and 1.7 per 10,000 white people, a disparity of about 2.9 times.

### Joshua Harvey

Joshua Harvey, age 25, lost consciousness, was hospitalized and eventually died after repeated shocks from Tulsa Police officers’ tasers on August 24, 2018.<sup>469</sup> The incident, captured on video, shows the potential danger of these tools and the importance of developing and following clear policies that account for known risks from their use.<sup>470</sup>

Harvey grew up near Tulsa. According to his mother, he had gone to college for one year, had worked various jobs, including landscaping and upholstering, attended church regularly, and was very close with his family, especially his 4-year-old son.<sup>471</sup> When Harvey was in ninth grade, doctors diagnosed him with bi-polar disorder. He later became addicted to methamphetamine and was working through the rehabilitation process when he died.<sup>472</sup>

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<sup>469</sup> Kyle Hinchey, “Attorney: Police tasing of man who later died appears excessive, violates policy,” *Tulsa World*, September 10, 2018, [https://www.tulsaworld.com/news/local/attorney-police-tasing-of-man-who-later-died-appears-excessive/article\\_d991975e-5000-59bo-b416-a80bo8201dab.html](https://www.tulsaworld.com/news/local/attorney-police-tasing-of-man-who-later-died-appears-excessive/article_d991975e-5000-59bo-b416-a80bo8201dab.html) (accessed July 16, 2019). Human Rights Watch lacks sufficient information to form an opinion as to the proximate cause of Harvey’s death. As outlined below actions by the officers may have increased his risk of harm.

<sup>470</sup> Megan Bell, “Graphic Video: Tulsa police release video of officers tasing suspect who died 3 days later,” *KTUL News*, September 2, 2018, <https://ktul.com/news/local/graphic-video-tulsa-police-release-video-of-officers-tasing-suspect-who-died-3-days-later> (accessed July 16, 2019).

<sup>471</sup> Human Rights Watch interview with Roma Pressley, mother of Joshua Harvey, Tulsa, Oklahoma, March 25, 2019.

<sup>472</sup> Human Rights Watch interview with Roma Pressley, March 25, 2019.



On that day, he was extremely agitated.<sup>473</sup> Responding to calls reporting him walking in the middle of the road and taking off his clothes, police attempted to physically detain him. He broke free from their grasp and ran to a local bank, where he pulled at the glass door, causing it to shatter. At the point when he broke the glass door, he may have been extremely difficult to subdue without use of the physical force, and the taser, if properly used, may have been an appropriate choice.<sup>474</sup>

Taser's own product warning advises of increased risk of sudden death when used on agitated people,<sup>475</sup> so the officers should have been trained to be extremely careful in deployment of the device and, especially, in how they handled Harvey after deployment.

Two officers fired tasers at him, using probe deployment mode, despite warnings and policy<sup>476</sup> against simultaneous use. The officers wrote in their reports that they did not believe both tasers were delivering electrical shocks, therefore necessitating use of both tasers. Human Rights Watch does not have information with which to dispute or support this claim.

Harvey immediately fell to the ground, indicating that the electrical shock had successfully incapacitated him. Tulsa taser use policy says: "Unless exigent circumstances exist, backing officers should use each 5-second [Conducted Electronic Weapons] cycle as a 'window of opportunity' to establish control/cuff the suspect while they are affected or immediately after the CEW cycle has ended. The need for multiple 5-second cycles or extended/prolonged CEW exposures may be avoided or

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<sup>473</sup> An Oklahoma state medical examiner reported finding methamphetamine in Harvey's blood. Harrison Grimwood, "Meth, heart disease contributed to death of man Tased by police, autopsy report notes," *Tulsa World*, December 17, 2018, [https://www.tulsaworld.com/news/local/meth-heart-disease-contributed-to-death-of-man-tased-by/article\\_b344842b-8388-5f10-8ee8-225241893d11.html](https://www.tulsaworld.com/news/local/meth-heart-disease-contributed-to-death-of-man-tased-by/article_b344842b-8388-5f10-8ee8-225241893d11.html) (accessed July 16, 2019). According to the news report, they found the probable cause of death to be "methamphetamine toxicity in the setting of physical exertion/restraint."

<sup>474</sup> Human Rights Watch telephone interview with John Burton, attorney, taser policy expert, September 2018.

<sup>475</sup> Axon Enterprise, Inc., "TASER Handheld CEW Warning, Instruction and Information: Law Enforcement."

<sup>476</sup> Tulsa Police Department, "Use of Conducted Electrical Weapons," Procedural File No. 31-101E, approved, May 8, 2014, [https://www.tulsapolice.org/media/161292/public\\_policy\\_manual121217.pdf](https://www.tulsapolice.org/media/161292/public_policy_manual121217.pdf) (accessed July 16, 2019), p. 23; Axon Enterprise, Inc., "TASER Handheld CEW Warning, Instruction and Information: Law Enforcement."

reduced by controlling/cuffing during the ‘window of opportunity’ that the 5-second CEW cycle provides.”<sup>477</sup>

There were four officers present as shown in the video. Rather than move in on Harvey and gain control of him after he had fallen, they stood and waited. When Harvey attempted to get up, the officers with the tasers cycled electricity through him again, incapacitating him again. Still, the other officers did not move in to control him and put on handcuffs. They repeated this process multiple times. The reports indicate that one officer cycled his taser 16 times for a total of 35 seconds of electronic “arc;” the other cycled his 11 times for 29 seconds.<sup>478</sup>

The officers may have been waiting for him to surrender and stop moving before they cuffed him. If so, they were using the taser, in probe deployment mode, as “pain compliance”—something taser’s product warning forbids.<sup>479</sup> Eventually, after multiple cycles, the officers did grab hold of Harvey as he was on the ground. Harvey resisted their efforts to pull his arms behind his back, but, after some struggle, they handcuffed him and cuffed his ankles.<sup>480</sup> Harvey continued to be agitated, calling for help after he was restrained.

Once cuffed, the officers held him down and did not turn him on his side to allow for ease of breathing, but instead kept him face down in the restrained position for almost 15 minutes. This position impairs breathing and greatly increases the danger of sudden death following taser use.<sup>481</sup> The US Department of Justice National Law

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<sup>477</sup> Tulsa Police Department, “Use of Conducted Electrical Weapons.” This policy is consistent with TASER’s warning to “control and restrain immediately,” to “minimize CEW cumulative effects...” Axon Enterprise, Inc., “TASER Handheld CEW Warning, Instruction and Information: Law Enforcement.”

<sup>478</sup> Tulsa Police Department, website, “Tulsa Police Open Records Data.”

<sup>479</sup> Axon Enterprise, Inc., “TASER Handheld CEW Warning, Instruction and Information: Law Enforcement.” The officers’ report indicates that they believed the tasers were only partially effective and that Harvey kept getting up or moving after they completed cycles of electricity. The video shows him falling to the ground as the taser cycled and the officers giving him commands to “roll over” and put his hands behind his back. It would have been less risky for the officers and less physically demanding if he had simply surrendered in response to the pain from the taser. However, the taser’s purpose is to temporarily incapacitate and then allow officers to more easily subdue a person who is struggling with them.

<sup>480</sup> Tulsa Police Department, website, “Tulsa Police Open Records Data.” Police reports about the incident.

<sup>481</sup> National Law Enforcement Technology Center, “Positional Asphyxia—Sudden Death,” *US Department of Justice, Office of Justice Programs, National Institute of Justice*, June 1995, <https://www.ncjrs.gov/pdffiles/posasph.pdf> (accessed July 16,

Enforcement Technology Center has issued a bulletin warning of the danger of keeping people in Harvey's situation handcuffed on their stomachs, advising officers to turn people on their sides as soon as possible.<sup>482</sup>

On this issue, Tulsa Police Department policy is not precise. The policy on taser use says officers must not use any restraint technique that impairs breathing.<sup>483</sup> It does not specify what techniques do so, and it is unknown if the officers' training advised them of the danger of being cuffed behind the back, lying face down, particularly in Harvey's circumstances. The policy on handcuffing and custodial transportation says: "Officers will not leave or hold a detainee face down after being placed under control/restraint unless that detainee is closely monitored for signs of respiratory distress."<sup>484</sup> Rather than requiring immediately turning a detainee on their side, as recommended by the Department of Justice, the policy relies on the officers' judgement of the detainee's medical condition.

After about 15 minutes of Harvey being restrained, face down, one of the officers said that they should turn him over on his side.<sup>485</sup> Seconds later, an officer observed that he had lost consciousness.<sup>486</sup> Harvey was taken to the hospital and died three days later.<sup>487</sup>

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2019); Long exposures to the taser's electronic current greatly increases lactic acid levels in the blood. Eun-Jung Park, et al., "Repetitive TASER X26 Discharge Resulted in Adverse Physiologic Events with a Dose- Response Relationship Related to the Duration of Discharge in Anesthetized Swine Model," *Journal of Forensic Sciences*, 2012, <https://www.charlydmiller.com/LIB15/2012JoffForensicSciRepetitiveTaser15Oct.pdf> (accessed July 16, 2019).

<sup>482</sup> National Law Enforcement Technology Center, "Positional Asphyxia—Sudden Death," p. 2-3.

<sup>483</sup> Tulsa Police Department, "Use of Conducted Electrical Weapons."

<sup>484</sup> Tulsa Police Department, "Handcuffing and Custodial Transportation" Procedure File No. 31-101F, approved, June 25, 2009, [https://www.tulsapolice.org/media/161292/public\\_policy\\_manual121217.pdf](https://www.tulsapolice.org/media/161292/public_policy_manual121217.pdf) (accessed July 16, 2016), p. 29.

<sup>485</sup> Bell, "Graphic Video: Tulsa police release video of officers tasing suspect who died 3 days later," *KTUL News*."

<sup>486</sup> Bell, "Graphic Video: Tulsa police release video of officers tasing suspect who died 3 days later," *KTUL News*."

<sup>487</sup> Human Rights Watch lacks sufficient information to form an opinion on the actual cause of Harvey's death.

## National Racial Disparities in Police Use of Force

The racial disparities in forceful actions by police against civilians found in Tulsa reflect the realities of policing across the country. A study by the US Department of Justice, Bureau of Justice Statistics analyzing 2015 policing data found that, out of 53.5 million people who had some contact with police, 985,300 experience non-fatal force or threats of force.<sup>488</sup> Black people were threatened or exposed to police violence in 3.3 percent of their contact, while white people experienced it only 1.3 percent of the time. Latino people experienced force or threats in 3 percent of their police contacts.<sup>489</sup> Black people described the force to which they were exposed as “excessive” 60 percent of the time, while white people described it so only 42.7 percent of the time.<sup>490</sup>

A study by the Center for Policing Equity, reviewing data on police force incidents in 12 representative cities across the country, found that police used force against black people at a rate almost four times greater than for white people, when compared to the overall population.<sup>491</sup> When the study compared use of force rate against the numbers of people arrested, it still found racial disparities, though not nearly as pronounced.<sup>492</sup> The author of the study pointed out that arrest rates themselves may be influenced by racially biased policing practices.<sup>493</sup> The study also revealed that black people are exposed to more severe force than white people.<sup>494</sup>

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<sup>488</sup> Elizabeth Davis, Anthony Whyde, Lynn Langton, “Contacts Between Police and the Public, 2015,” *US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics*, October 2018, <https://www.bjs.gov/content/pub/pdf/cpp15.pdf>, (accessed July 16, 2019), p. 16.

<sup>489</sup> Ibid. A statistical analysis of data from 2003 through 2011, made roughly the same findings. Shelly Hyland, Lynn Langton, and Elizabeth Davis, <https://www.bjs.gov/content/pub/pdf/punfo211.pdf>, (accessed July 16, 2019), p. 1.

<sup>490</sup> Davis, Whyde and Langton, “Contacts Between Police and the Public, 2015,” *US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics*.

<sup>491</sup> Goff, et al., “The Science of Justice: Race, Arrests, and Police Use of Force,” *Center for Policing Equity*, <https://www.issuelab.org/resource/the-science-of-justice-race-arrests-and-police-use-of-force.html>, p. 16.

<sup>492</sup> Ibid., p. 17.

<sup>493</sup> Ibid., p. 17.

<sup>494</sup> Ibid., p. 23.

## VII. Policing and People with Mental Health Conditions

In Tulsa, and jurisdictions across the United States,<sup>495</sup> police are called upon to respond to situations involving people with mental health conditions, often at the moment when those people are experiencing some kind of crisis.<sup>496</sup> Nationwide, as many as 20 percent of police calls for service involve people with mental health conditions.<sup>497</sup> In some of these situations, drug use is exacerbating the distress.

According to the Oklahoma Department of Mental Health and Substance Abuse Services, Oklahoma has some of the highest rates for both mental health conditions and for substance use in the country.<sup>498</sup> According to Mental Health America's 2016 report,<sup>499</sup> nationally 57 percent of "adults with mental illness" receive no treatment.<sup>500</sup> It ranked Oklahoma 46<sup>th</sup> highest among all states for percentage of "adults with any mental illness."<sup>501</sup> Oklahoma ranked 38<sup>th</sup> highest among all states for "adults [with any mental

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<sup>495</sup> US Commission on Civil Rights, briefing report, "Police Use of Force: An Examination of Modern Policing Practices," p. 50.

<sup>496</sup> US Commission on Civil Rights, briefing report, "Police Use of Force: An Examination of Modern Policing Practices," p. 50.

<sup>497</sup> Doris Fuller, et al., "Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters," *Treatment Advocacy Center, Office of Research & Public Affairs*, December 2015, <http://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf> (accessed July 16, 2019), p. 5.

<sup>498</sup> Oklahoma Department of Mental Health and Substance Abuse Services, "Statistics and Data," February 23, 2017, [https://www.ok.gov/odmhsas/Additional\\_Information/Statistics\\_and\\_Data/](https://www.ok.gov/odmhsas/Additional_Information/Statistics_and_Data/) (accessed July 16, 2019).

<sup>499</sup> Teresa Nguyen, et al., "Prevention and Early Intervention B4Stage4: The State of Mental Health in America, 2016," *Mental Health America*, <http://www.mentalhealthamerica.net/sites/default/files/2016%20MH%20in%20America%20FINAL.pdf> (accessed July 16, 2019), p. 7. This report took national surveys from the US Department of Health and Human Services' Substance Abuse and Mental Health Services Administration's National Survey of Drug Use and Health and the Center for Disease Control's Behavioral Risk Factor Surveillance System, that use large sample sizes to calculate statewide estimates.

<sup>500</sup> Nguyen, et al., "Prevention and Early Intervention B4Stage4: The State of Mental Health in America, 2016," *Mental Health America*, p. 5.

<sup>501</sup> *Ibid.*, p. 21. "Any mental illness" is defined as having a diagnosable mental, behavioral, or emotional disorder, other than a developmental or substance abuse disorder. It includes people with "serious mental illness," which is approximately 4 percent of the population. People with mild mental health conditions can worsen without access to needed support and care. *Ibid.*, p. 19. See also, Rachel Lipari, et al., "The CBHSQ Report: State and Substate Estimates of any Mental Illness from the 2012-2014 National Surveys on Drug Use and Health," *Substance Abuse and Mental Health Services Administration*, July 20, 2017, [https://www.samhsa.gov/data/sites/default/files/report\\_3189/ShortReport-3189.html](https://www.samhsa.gov/data/sites/default/files/report_3189/ShortReport-3189.html) (accessed July 16, 2019), ranking Oklahoma as among the states with the highest rates of mental illness according to 2012-2014 data.

illness] who did not receive treatment,” with just over 60 percent.<sup>502</sup> It ranked Oklahoma 42<sup>nd</sup> of all states in overall access to care.<sup>503</sup>

In recent years, Oklahoma has significantly cut funding for mental health services, including case management, therapy and programs.<sup>504</sup> The Department of Mental Health and Substance Abuse Services (“DMHSAS”) is the state’s “safety net mental health and substance use treatment services system.”<sup>505</sup> It provides or supports in-patient hospitalization, community mental health centers, community-based crisis centers, substance abuse treatment and recovery services, criminal justice diversion programs and prevention services.<sup>506</sup> In the 2016 fiscal year, its budget was cut by \$23 million, causing loss of services to approximately 73,000 Oklahomans, according to DMHSAS Lead Administrator Terri White.<sup>507</sup> These cuts were part of a longer term pattern of cuts, including the loss of \$80.4 million in federal matching funds.<sup>508</sup> Mental health professionals and law enforcement leaders have warned that these cuts in services will likely result in more unsupported people, which may cause an increase in acute crises and subsequent strains on police.<sup>509</sup>

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<sup>502</sup> Nguyen, et al., “Prevention and Early Intervention B4Stage4: The State of Mental Health in America, 2016,” *Mental Health America*, p. 28.

<sup>503</sup> Ibid., p. 16.

<sup>504</sup> Laura Eastes, “Without a state budget solution, funding cuts pose challenges for mental health consumers, their families and local agencies,” *Oklahoma Gazette*, November 1, 2017, <https://www.okgazette.com/oklahoma/without-a-state-budget-solution-funding-cuts-pose-challenges-for-mental-health-consumers-their-families-and-local-agencies/Content?oid=2993506> (accessed July 17, 2019); Tim Talley, “Oklahoma to Slash Mental Health, Drug Abuse Programs,” *US News and World Report*, October 18, 2017, <https://www.usnews.com/news/best-states/oklahoma/articles/2017-10-18/oklahoma-mental-health-agency-to-cut-75-million-from-budget> (accessed July 17, 2017).

<sup>505</sup> Oklahoma Department of Mental Health and Substance Abuse Services, “Agency Overview,” [https://www.ok.gov/odmhsas/Additional\\_Information/Agency\\_Overview/index.html](https://www.ok.gov/odmhsas/Additional_Information/Agency_Overview/index.html) (accessed July 17, 2019).

<sup>506</sup> Oklahoma Department of Mental Health and Substance Abuse Services, “Agency Overview.”

<sup>507</sup> The Oklahoma Department of Mental Health and Substance Abuse Services, “Appropriations Document FY 18,” 2018, [http://appropriation.oksenate.gov/SubHealth/Agencies/2018/DMHSAS\\_BPR.pdf](http://appropriation.oksenate.gov/SubHealth/Agencies/2018/DMHSAS_BPR.pdf) (accessed July 17, 2019);

Kassie McClung, “‘Unprecedented’: Mental health advocates, state leaders prepare for the worst as mental health cuts loom,” *The Frontier*, October 18, 2017, <https://www.readfrontier.org/stories/unprecedented-mental-health-advocates-state-leaders-prepare-worst-mental-health-cuts-loom/> (accessed July 17, 2019).

<sup>508</sup> Meg Wingerter, “State of Oklahoma: Historic lack of investment has hurt mental health,” *The Oklahoman*, April 29, 2018, <https://oklahoman.com/article/5592623/state-of-oklahoma-lack-of-investment-hurts-mental-health> (accessed July 17, 2019); For FY 2019, the state restored some funding to the mental health system, but it remains tenuous. Mireya Garcia, “Mental Health funding still thin across Oklahoma,” *Fox 25*, April 29, 2019, <https://okcfox.com/news/local/mental-health-funding-still-thin-across-oklahoma> (accessed July 17, 2019).

<sup>509</sup> McClung, “‘Unprecedented’: Mental health advocates, state leaders prepare for the worst as mental health cuts loom,” *The Frontier*.

In 2017, the Tulsa Police Department received over 13,000 calls involving people with mental health conditions.<sup>510</sup> Deputy Chief Brooks said that responding to people with mental health conditions is one of the most pressing concerns for the department.<sup>511</sup> He said, further, that generally that it should be treated as a health issue and not a law enforcement issue, though there are some instances in which a police response is necessary.

The Tulsa Police Department requires officers to undergo just under 40 hours of mandatory training related to mental health as part of a 25-week police academy course, and two hours additionally each year.<sup>512</sup> This training is an increase over past requirements. Additionally, the department has specifically designated certain officers “Mental Health Response Officers” or MHROs. These MHROs have advanced training in communicating with people in mental health crisis.<sup>513</sup> According to Brooks, there are approximately 170 officers with the advanced mental health training.<sup>514</sup> They do not automatically assign MHROs to calls in which they are responding to a situation involving a person with an actual or perceived mental health condition, but officers responding to such calls can ask for one of these officers to help respond.<sup>515</sup>

Even with additional training, police are poorly equipped to respond to people with mental health conditions in crisis.<sup>516</sup> While at times people in crisis can pose a danger which may require law enforcement intervention, often they need support better provided by trained mental health professionals. Frequently police are the first and often only responders to

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<sup>510</sup> Family & Children’s Services, “Community Response Team Receives Funding to Continue Program to Help Tulsans in Need,” January 11, 2018, <https://www.fcsok.org/community-response-team-receives-funding-to-continue-program-to-help-tulsans-in-need/> (accessed July 17, 2019).

<sup>511</sup> Human Rights Watch interview with Jonathan Brooks, March 27, 2019.

<sup>512</sup> Michael Purdy, “Tulsa Police Release Mental Health Training Details for Officers,” *KRMG News*, December 29, 2017, <https://www.krmg.com/news/local/tulsa-police-release-mental-health-training-details-for-officers/cod7CD8KYxxjQL9PUYZz/> (accessed July 17, 2019). According to Deputy Chief Brooks, Tulsa Police Department offers an additional 40-hour course of “crisis intervention training” for select officers. Human Rights Watch interview with Jonathan Brooks, March 27, 2019.

<sup>513</sup> Tulsa Police Department, “Emotionally Disturbed/Non-Criminal,” Procedure File No. 31-116A, approved November 1, 2016, [https://www.tulsapolice.org/media/161292/public\\_policy\\_manual121217.pdf](https://www.tulsapolice.org/media/161292/public_policy_manual121217.pdf) (accessed July 16, 2019), p. 179.

<sup>514</sup> Human Rights Watch interview with Jonathan Brooks, March 27, 2019.

<sup>515</sup> Human Rights Watch interview with Jonathan Brooks, March 27, 2019.

<sup>516</sup> Alex S. Vitale, *The End of Policing*, (New York: Verso, 2017), p. 81-86.

people experiencing mental health crises or who are otherwise displaying behaviors symptomatic of a mental health condition.

The primacy of that police response can lead to danger. According to one national tracker of police killings by gunfire, in 2018 of the 998 total shooting and killings, 21 percent involved the shooting or killing of a person with a mental health condition.<sup>517</sup> In 2017, the figure was 24 percent; in 2016, 25 percent.<sup>518</sup> It is unclear how many of these deaths could have been avoided by mental health professionals equipped with different training and skills providing a more supportive and calming response.

Separate from the police department, Tulsa has a mobile mental health crisis team called Community Outreach Psychiatric Emergency Services or COPES that is intended to be available any time of the day to respond to people in psychiatric crises, including people who are engaging in aggressive behavior or injuring themselves.<sup>519</sup> COPES has medical and social work professionals with expertise in crisis intervention.

Depending on police to respond to situations involving people with mental health conditions is a costly and dangerous substitute for a functioning mental health system.<sup>520</sup> Wherever appropriate, civilian mental health workers should be the preferred option for responding to people with mental health conditions, as they are trained extensively to respond without using force and violence, as opposed to police officers, whose training is more oriented towards command and control.<sup>521</sup>

Recognizing that officers are over-burdened with these calls, Deputy Chief Brooks said that the department is working on diverting many mental health calls to COPES and embedding

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<sup>517</sup> “Fatal Force,” *Washington Post*, 2015-2018.

<sup>518</sup> “Fatal Force,” *Washington Post*, 2015-2018.

<sup>519</sup> Family & Children’s Services, “Crisis Services,” 2018, <https://www.fcsok.org/services/crisis-services/> (accessed July 17, 2019).

<sup>520</sup> Fuller, et al., “Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters,” *Treatment Advocacy Center, Office of Research & Public Affairs*: “Given the prevalence of mental illness in police shootings, reducing encounters between on-duty law enforcement and individuals with the most severe psychiatric diseases may represent the single most immediate, practical strategy for reducing fatal police shootings in the United States.”

<sup>521</sup> Vitale, *The End of Policing*, p. 89.



a mental health professional in the 911 call center to better evaluate calls that should be directed to mental health specialists.<sup>522</sup>

The Joshua Harvey case may have turned out differently had the call been diverted to mental health specialists. Tulsa officers responded to descriptions of Harvey “wandering in the street, ranting, stripping clothes off.”<sup>523</sup> When police arrived at the scene, Harvey was in just his shorts and was not wearing shoes.<sup>524</sup> This behavior could have been an indication of a mental health condition or of drug use or both, either of which might have called for a more therapeutic response.

One North Tulsa resident said that she feared calling Tulsa Police when her husband, who she said was diagnosed as paranoid schizophrenic, became extremely agitated and stormed around the house with a baseball bat looking for her.<sup>525</sup> Based on previous bad experiences with police, she feared that they might kill him. She said she had called COPES a few days earlier, during a previous episode, but they had not responded. She was able to escape the house to safety on her own.

Melinda Johnson (pseudonym) described an incident in which she felt she was losing control of herself due to a mental health condition and someone in her home called the police.<sup>526</sup> She said officers came to her house and began giving her orders in rude and abusive tones, while preventing her from speaking to her family members, making the situation worse. Then, a different officer came to the scene and began speaking calmly to her. This officer spoke with empathy and patience, gaining Johnson’s trust. Eventually, Johnson agreed to be taken to the hospital for treatment.

Tulsa has taken important steps to improve response to mental health emergencies. It has created a pilot Community Response Team that includes police officers, fire department paramedics and COPES mental health counselors together responding to calls involving

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<sup>522</sup> Human Rights Watch interview with Jonathan Brooks, March 27, 2019.

<sup>523</sup> Tulsa Police Department, website, “Tulsa Police Open Records Data.” Harvey reports on the TPD website.

<sup>524</sup> Tulsa Police Department, website, “Tulsa Police Open Records Data.”

<sup>525</sup> Human Rights Watch interview with Linda Jones (pseudonym), Tulsa, Oklahoma, January 11, 2018.

<sup>526</sup> Human Rights Watch interview with Melinda Johnson (pseudonym), September 26, 2017.

people with mental health conditions.<sup>527</sup> While insisting that police officers are able to address these calls on their own, Tulsa Police Captain Shellie Seibert, the officer in charge of the Community Response Team, supports the program and acknowledged to reporters: “We’re police officers first, not therapists.”<sup>528</sup> This program, while still involving officers, moves away from a strictly law enforcement solution, that may sometimes exacerbate a situation, towards providing appropriate services and response. According to Fire Department Chief of Emergency Medical Services Michael Baker, who oversees his department’s involvement in the program, it has a good success rate in stabilizing people in crisis without having to admit them to hospitals, it has helped divert people from the criminal justice system, and has freed other emergency responders, including police, to take “higher priority calls.”<sup>529</sup>

While the Community Response Teams represent an evolution in the city’s approach towards a more supportive and less law enforcement response to people with mental health conditions,<sup>530</sup> they only operate two days a week and have limited capacity.<sup>531</sup> Funding, beyond costs for designated Community Response Team officers, has not come from the city budget but depends on charitable contributions.<sup>532</sup> Mental health professionals in Tulsa believe the Community Response Teams work well and should be scaled up.<sup>533</sup> Deputy Chief Brooks said they are considering options for expanding the program.<sup>534</sup>

The Tulsa Fire Department, in partnership with area health providers, has created the Community Assistant Referral and Educations Services program (“CARES”) to proactively

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<sup>527</sup> Corey Jones, “Grant to help Tulsa’s Community Response Team expand beyond pilot program,” *Tulsa World*, February 11, 2018, [https://www.tulsaworld.com/news/crimewatch/grant-to-help-tulsa-s-community-response-team-expand-beyond/article\\_of183e3e-5070-53df-a452-ca014a425f64.html](https://www.tulsaworld.com/news/crimewatch/grant-to-help-tulsa-s-community-response-team-expand-beyond/article_of183e3e-5070-53df-a452-ca014a425f64.html) (accessed July 17, 2019).

<sup>528</sup> Jones, “Grant to help Tulsa’s Community Response Team expand beyond pilot program,” *Tulsa World*.

<sup>529</sup> Human Rights Watch telephone interview with Chief Michael Baker, director of EMS, Tulsa Fire Department, June 24, 2019.

<sup>530</sup> Family & Children’s Services, “Community Response Team Receives Funding to Continue Program to Help Tulsans in Need,” January 11, 2018, <https://www.fcsok.org/community-response-team-receives-funding-to-continue-program-to-help-tulsans-in-need/> (accessed July 17, 2019).

<sup>531</sup> Jones, “Grant to help Tulsa’s Community Response Team expand beyond pilot program,” *Tulsa World*.

<sup>532</sup> Human Rights Watch interview with Jonathan Brooks, March 27, 2019.

<sup>533</sup> Human Rights Watch telephone interview with Melissa Baldwin, director of Criminal Justice Reform, Mental Health Association Oklahoma, February 13, 2019.

<sup>534</sup> Human Rights Watch interview with Jonathan Brooks, March 27, 2019.

identify people with high mental health and other support needs, who frequently require emergency response, and connect them to ongoing services, medical and otherwise.<sup>535</sup> The idea behind it is to meet people's service needs before they require emergency response from police or paramedics, thus reducing the work load of those agencies while solving problems within the community.<sup>536</sup> This program has had promising results.<sup>537</sup> Mayor GT Bynum did support the program by funding a new social worker position; otherwise it depends entirely on using existing resources within the department and lacks capacity to fully meet the need.<sup>538</sup>

The county courts have taken steps to reduce the criminalization of people with mental health conditions by establishing a mental health court for certain low-level crimes, like trespassing, that diverts people out of the criminal legal system and its negative consequences.<sup>539</sup> While this type of court program provides harm mitigation, it is not a substitute for effective, sustainable mental health services, and it continues a model of criminalizing people with mental health conditions.

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<sup>535</sup> Tulsa Fire Department C.A.R.E.S., "Community Assistance Referral & Education Services, Making Connections for Tulsans in Need," September 2018, <https://45e2ly1gtqp9jmme2fiw751-wpengine.netdna-ssl.com/wp-content/uploads/sites/3/2018/09/TFD-CARES-Program.pdf> (accessed July 17, 2019); Human Rights Watch telephone interview with Melissa Baldwin, February 13, 2019. See also Colorado Springs Fire Department, "Community and Public Health (CARES)," <https://coloradosprings.gov/fire-department/page/community-and-public-health-cares> (accessed July 17, 2019).

<sup>536</sup> Human Rights Watch telephone interview with Chief Michael Baker, June 24, 2019. Chief Baker said that the program is helping reduce 911 calls and that he is getting positive feedback from his staff.

<sup>537</sup> Kassie McClung, "Fire Department misuse by 'super users' appears to be going down. Here's why," *The Frontier*, June 2, 2017, <https://www.readfrontier.org/stories/fire-department-misuse-by-super-utilizers-appears-to-be-going-down-heres-why/> (accessed July 17, 2019).

<sup>538</sup> Human Rights Watch telephone interview with Chief Michael Baker, June 24, 2019. Tulsa Fire Department C.A.R.E.S., "Community Assistance Referral & Education Services, Making Connections for Tulsans in Need."

<sup>539</sup> Community Service Council, "Providing Mentally Ill Offenders the Treatment They Need to Live Productive Lives," 2019, <https://csctulsa.org/mental-health-court/> (accessed July 17, 2019).

## VIII. Tulsa Police and the Latino Immigrant Community

From 2000 to 2010, the share of the Latino population of Oklahoma grew from 5.2 to 8.9 percent; the share of immigrants, from 3.8 to 5.1 percent.<sup>540</sup> Tulsa's rapidly growing Latino community, centered in East Tulsa, now comprises over 15 percent of the city's population.<sup>541</sup> Many Latinos in Tulsa are not US citizens and significant numbers of that population do not speak English or do not speak it well.<sup>542</sup> The great majority of non-citizens in Tulsa are from Latin America.<sup>543</sup> They face challenges in securing police services and protection, and many fear that any interaction with law enforcement will result in imprisonment and deportation, in addition to the harms experienced by citizens, as described above.

In 2007, Oklahoma passed HB 1804, an anti-immigrant law that, among other things, makes it a crime to knowingly transport, shelter, or harbor undocumented immigrants and requires jail authorities to verify citizenship of people jailed for felonies and for drunk driving.<sup>544</sup>

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<sup>540</sup> Juan Manuel Pedroza, "Mass Exodus from Oklahoma? Immigrants and Latinos Stay and Weather a State of Capture," *Journal of Latino-Latin American Studies*, vol. 4.1, 2012, <https://www.questia.com/library/journal/1P3-2712018841/mass-exodus-from-oklahoma-immigrants-and-latinos> (accessed July 17, 2019).

<sup>541</sup> US Census Bureau, "Quick Facts: Tulsa city, Oklahoma, Tulsa County, Oklahoma," <https://www.census.gov/quickfacts/fact/table/tulsacityoklahoma,tulsacountyoklahoma/PST045217> (accessed July 17, 2019). Because of shortcomings in Tulsa Police Department data, police data on Latino residents is generally included with the white population. See Methodology section.

<sup>542</sup> TownCharts, "Tulsa city—OK, Oklahoma Demographics Data," 2019, <https://www.towncharts.com/Oklahoma/Demographics/Tulsa-city-OK-Demographics-data.html> (accessed July 17, 2019).

<sup>543</sup> World Population Review, "Tulsa, Oklahoma Population 2019," July 9, 2019, <http://worldpopulationreview.com/us-cities/tulsa-population/> (accessed July 17, 2019). Approximately 75 percent of non-citizens in Tulsa are from Latin America. Asians make up 18.4 percent.

<sup>544</sup> Enrolled H.B. No. 1804, [http://webserver1.lsb.state.ok.us/cf\\_pdf/2007-08%20ENR/hB/HB1804%20ENR.PDF](http://webserver1.lsb.state.ok.us/cf_pdf/2007-08%20ENR/hB/HB1804%20ENR.PDF), Section 5(A) (accessed July 17, 2019); Vallery Brown, "How HB 1804 came to pass in Oklahoma," *The Oklahoman*, May 30, 2010, <https://newsok.com/article/3464802/how-hb-1804-came-to-pass-in-oklahoma> (accessed July 17, 2019).

Police have aggressively enforced the law, including using checkpoints to stop and identify people.<sup>545</sup> Small numbers of people left Oklahoma in response to this law; most, instead, adopted strategies to avoid detection from law enforcement.<sup>546</sup>

The law and its enforcement engendered fear among immigrant Latino Tulsans, causing an erosion of trust in police and leading people to avoid reporting crimes to police.<sup>547</sup>

In the ensuing years, national authorities, first under President Obama and more drastically under President Trump, have increased enforcement of federal laws against undocumented people and increased deportations.<sup>548</sup> This aggressive federal action, often in conjunction with local law enforcement, has enhanced fear and harmed the relationship between Tulsa's Latino residents and the police.

## A Welcoming City

Tulsa Mayor G.T. Bynum recently affirmed that “immigrants are valuable members of our community that contribute to our City’s overall success.”<sup>549</sup> He appointed a respected advocate from the Latino community, Christina Starzl Mendoza, to his administration and has repeatedly expressed his policy that Tulsa be a welcoming place for immigrants to live, work, and thrive.<sup>550</sup> He has implemented the New Tulsans Initiative designed to partner

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<sup>545</sup> Human Rights Watch interview with Pastor Julian Rodriguez, Coalition for the American Dream, Tulsa, Oklahoma, January 9, 2018.

<sup>546</sup> Pedroza, “Mass Exodus from Oklahoma? Immigrants and Latinos Stay and Weather a State of Capture,” *Journal of Latino-Latin American Studies*.

<sup>547</sup> Human Rights Watch interview with Pastor Julian Rodriguez, January 9, 2018, and Estela Figueroa (pseudonym), Tulsa, Oklahoma, January 22, 2018.

<sup>548</sup> Human Rights Watch, *The Deported: Immigrants Uprooted from the Country They Call Home*, (New York: Human Rights Watch, 2017), <https://www.hrw.org/report/2017/12/05/deported/immigrants-uprooted-country-they-call-home#5fofeg>; Lindsey Bever and Deanna Paul, “Deportations under Trump are on the rise but still lower than Obama’s, ICE report shows,” *Washington Post*, December 14, 2018, [https://www.washingtonpost.com/nation/2018/12/14/deportations-under-trump-are-rise-still-lower-than-obamas-ice-report-shows/?utm\\_term=.e588f467bcd6](https://www.washingtonpost.com/nation/2018/12/14/deportations-under-trump-are-rise-still-lower-than-obamas-ice-report-shows/?utm_term=.e588f467bcd6) (accessed July 17, 2019). Deportations under Trump remain below the record set under Obama, but the Trump administration’s elimination of enforcement priorities set by Obama in the later years of his administration have made every unauthorized immigrant a target for deportation and heightened vulnerability and fear.

<sup>549</sup> Clayton Youngman, “Bynum: Tulsa to identify workforce opportunities, promote integration for immigrants, September 20, 2017, *KTUL News*, <https://ktul.com/news/local/tulsa-mayor-announces-new-workforce-opportunities> (accessed July 17, 2019).

<sup>550</sup> Human Rights Watch interview with Christina Starzl Mendoza, assistant to the Mayor for Community Development and Policy, City of Tulsa, November 3, 2017.

with community groups "to develop a strategic plan focused on promoting socially responsible immigrant integration."<sup>551</sup>

Mayor Bynum responded to President Trump's executive order condemning "sanctuary cities" and threatening to withhold federal funding for those that do not comply with his priorities on immigration enforcement by saying, "... [I]t is so important to me that law-abiding Tulsans know they can call our Police when they need help. I want our immigrant community in Tulsa to feel safe, feel welcome and feel this is a place of opportunity for future generations of their families."<sup>552</sup>

In keeping with this position and attitude, the Tulsa Police Department has maintained a policy to not seek out undocumented people.<sup>553</sup> Chief Jordan said the Department is not "in the business of enforcing immigration laws."<sup>554</sup> The department's policy, issued in 2007, says "Officers shall not stop, question, arrest, or detain anyone solely because they are suspected of being in the United States illegally."<sup>555</sup>

People in the immigrant community and their advocates have said they appreciate the intentions of the mayor and the police chief.<sup>556</sup> Some have said they have more trust in the Tulsa police than in other departments, particularly the sheriffs, who are seen as more aggressive in seeking out undocumented people, though many people in the community do not distinguish between the different agencies.<sup>557</sup> However, there continues to be great

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<sup>551</sup> Clayton Youngman, "Bynum: Tulsa to identify workforce opportunities, promote integration for immigrants," *KTUL News*.

<sup>552</sup> "Tulsa Mayor, Police Chief Respond To President's Executive Order On Immigration," *News on 6*, January 26, 2017, <http://www.newson6.com/story/34357801/tulsa-mayor-police-chief-respond-to-presidents-executive-order-immigration> (accessed July 17, 2019).

<sup>553</sup> Human Rights Watch interview with Moises Echevarria, Oklahoma Council of Christians and Jews, Tulsa, Oklahoma, August 29, 2017. Presumably this policy must still conform to the requirements of HB 1804.

<sup>554</sup> "Tulsa Mayor, Police Chief Respond To President's Executive Order On Immigration," *News on 6*. Deputy Chief Brooks said police are commissioned to address crime and disorder and did not want to add immigration enforcement to their duties. However, he was clear that Tulsa should not be labelled a "sanctuary city."

<sup>555</sup> Tulsa Police Department, "Handling of Foreign Nationals," Procedure File No. 31-138, approved October 30, 2007, [https://www.tulsapolice.org/media/161292/public\\_policy\\_manual121217.pdf](https://www.tulsapolice.org/media/161292/public_policy_manual121217.pdf) (accessed July 16, 2019). This policy does not, however, explicitly bar officers from asking about immigration status.

<sup>556</sup> Human Rights Watch interview with Estela Figueroa (pseudonym), March 22, 2018.

<sup>557</sup> Human Rights Watch telephone interview with Linda Allegro, New Sanctuary Movement, December 8, 2017, and Mimi Marton, University of Tulsa, Immigrant Resource Network, March 12, 2018. Mayor Bynum has no authority over the Tulsa Sheriff's Department, as they are a county, not city, agency.

concern about how the policies are being implemented and concern that, in practice, the department does not live up to the welcoming talk.<sup>558</sup>

## Individual Officers

Some individual officers continue to demand to know the immigration status of people they contact, including people reporting crimes as victims or witnesses.<sup>559</sup> Elizabeth Edwards, an attorney in Tulsa who assists people in the immigrant community, says that some officers are sympathetic to immigrants, while others are not, and the officers have discretion in how they treat people.<sup>560</sup>

Edwards knows, through her clients and other community sources, of several incidents, including one she witnessed personally, in which Tulsa police officers asked people reporting crimes about their immigration status.<sup>561</sup>

A former officer told Human Rights Watch that some officers ask for social security numbers during arrests and car stops.<sup>562</sup> In this officer's experience, they only ask when the detainee or arrestee is a Latino person. If a person does not have a social security number, they will not have a valid driver's license, making them arrestable following a traffic stop.<sup>563</sup> The former officer sometimes was able to intercede and convince the arresting officer to issue a citation instead of making a custodial arrest.

This former officer said one of their training officers expressed highly negative views about Latino immigrants, believing that they all came to the US to sell drugs. The former officer felt that this attitude was common among individuals in the department.<sup>564</sup>

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<sup>558</sup> Human Rights Watch interview with Blanca Zavala, Coalition for the American Dream, Tulsa, Oklahoma, January 9, 2018.

<sup>559</sup> Human Rights Watch interview with (name withheld), city official, City of Tulsa, (date withheld).

<sup>560</sup> Human Rights Watch telephone interview with Elizabeth Edwards, attorney, Tulsa, Oklahoma, May 16, 2018.

<sup>561</sup> Ibid.

<sup>562</sup> Human Rights Watch telephone interview with (name withheld), former officer, Tulsa Police Department, June 1, 2018.

<sup>563</sup> Human Rights Watch telephone interview with (name withheld), former officer, Tulsa Police Department, Tulsa, Oklahoma, June 1, 2018

<sup>564</sup> Ibid.

The former officer responded to a situation in which two men were fighting. Both had similar minor injuries, mainly scratches. Each accepted responsibility for starting the fight and said the other was not to blame. The former officer felt that they should arrest both men or neither, but the lead officer chose to arrest only the one determined to be undocumented.<sup>565</sup>

Deputy Chief Brooks said that officers may ask questions that appear related to immigration status if they are pertinent to the investigation or if they may help to identify someone.<sup>566</sup> For example, he said, an officer may ask place of birth for a person with a common name who does not have sufficient ID and the officer needs more specific identifying information. He acknowledged that people may perceive this type of questioning as an interrogation about status.

## **Tulsa Police Cooperation with Tulsa County’s Section 287(g) Enforcement**

The Tulsa Police Department policy forbids detention or arrest solely due to suspicion around citizenship status, but requires officers to “make inquiries about a person’s citizenship or immigration status when a full custody arrest has been made and the arrestee is being booked into the appropriate jail facility.”<sup>567</sup> Officers are to report the person to the Sheriff if citizenship is “questionable,” with the understanding that the Sheriff will contact the ICE “Detention and Removal Operations” unit.<sup>568</sup>

While Tulsa Police may not explicitly arrest someone because of an immigration violation, any arrest, including traffic tickets and failure to pay warrants, that leads to booking in the County Jail exposes the person to being placed in ICE custody and facing deportation.<sup>569</sup>

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<sup>565</sup> Ibid.

<sup>566</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>567</sup> Tulsa Police Department, “Handling of Foreign Nationals.” This policy goes beyond the requirement of Oklahoma state law created by HB 1804, which requires police or jailers to make efforts to determine citizenship status for anyone confined in jail for a felony or driving under the influence charge, but not for the full range of misdemeanors. Okla.Stats. Section 22-171.2, <https://law.justia.com/codes/oklahoma/2016/title-22/section-22-171.2/> (accessed July 17, 2019). Deputy Chief Brooks confirmed that this policy remains in effect. Human Rights Watch email correspondence with Jonathan Brooks, July 25, 2019.

<sup>568</sup> Tulsa Police Department, “Handling of Foreign Nationals.”

<sup>569</sup> Human Rights Watch telephone interview with Linda Allegro, December 8, 2017; and (name withheld), social services provider, Tulsa, Oklahoma, February 9, 2018.



A crucial factor in the relationship between the immigrant community and police in Tulsa is that the Tulsa Sheriff's Department has entered into a contract with federal immigration officials under section 287(g).<sup>570</sup>

The federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 added section 287(g) to the Immigration and Nationality Act, authorizing the director of Immigration and Customs Enforcement ("ICE") to enter into agreements with local law enforcement agencies allowing designated local officers to perform federal law enforcement functions, including investigating and detecting undocumented people and jailing them.<sup>571</sup> According to ICE, 78 local agencies in 20 states carry out these agreements.<sup>572</sup>

The Tulsa Sheriff's Department participates in the 287(g) program under a memorandum of understanding signed in June 2016.<sup>573</sup> Under that contract, select Tulsa Sheriff's deputies are trained and supervised by ICE officers to identify people subject to deportation according to ICE's civil enforcement priorities, and to hold and process them for removal.<sup>574</sup>

ICE's civil enforcement priorities have expanded greatly under the Trump administration, widening the pool of people vulnerable to exposure and detention under this program. The Tulsa Sheriff's Department is to hold arrestees until resolution of their criminal charges, then transfer that custody formally to ICE.<sup>575</sup> The federal government pays the sheriff \$69 per day per detainee.<sup>576</sup> A 2017 *Tulsa World* story said that the Sheriff's Department received about \$3.5 million in fiscal year 2017 from ICE.<sup>577</sup> The article noted

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<sup>570</sup> US Immigration and Customs Enforcement and Tulsa Board of County Commissioners, "Memorandum of Agreement," June 20, 2016, [https://www.ice.gov/doclib/287gMOA/r\\_287gtulsacountyso.pdf](https://www.ice.gov/doclib/287gMOA/r_287gtulsacountyso.pdf) (accessed July 17, 2019).

<sup>571</sup> US Immigration and Customs Enforcement, "Immigration Enforcement: Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act," July 1, 2019, <https://www.ice.gov/287g> (accessed July 17, 2019).

<sup>572</sup> *Ibid.*

<sup>573</sup> US Immigration and Customs Enforcement and Tulsa Board of County Commissioners, "Memorandum of Agreement."

<sup>574</sup> *Ibid.*

<sup>575</sup> *Ibid.*

<sup>576</sup> Tulsa County Purchasing Department Memorandum from Linda Dorrell to Board of County Commissioners, "Intergovernmental Service Agreement—Immigration and Customs Enforcement (ICE)," March 29, 2017, <https://www.tulsacounty.org/agendalinks/BOCCo40317/Agreement-%20Sheriff-%20ICE.pdf> (accessed July 18, 2019).

<sup>577</sup> Paighen Harkins and Curtis Killman, "Tulsa Jail ICE detainees double in a year as immigrant enforcement partnership nets millions for Sheriff's Office," *Tulsa World*, October 9, 2017, [https://www.tulsaworld.com/news/government/tulsa-jail-ice-detainers-double-in-a-year-as-immigrant/article\\_1fe71baa-e054-57df-912c-771f49b9edf6.html](https://www.tulsaworld.com/news/government/tulsa-jail-ice-detainers-double-in-a-year-as-immigrant/article_1fe71baa-e054-57df-912c-771f49b9edf6.html) (accessed July 18, 2019).

that the number of ICE detainees in the Tulsa County jail had doubled from the previous year.

Critics of the section 287(g) program have raised various complaints about its use throughout the country, including that it often targets people who have committed low-level crimes, encourages racial profiling, costs more than the money it brings in, and erodes trust between police and immigrant communities, jeopardizing public safety.<sup>578</sup> Jailing people for immigration violations and deporting them causes great harm to those individuals, their families, and their communities.<sup>579</sup>

While the Tulsa Police Department does not formally participate in the Sheriff Department's Section 287(g) program, by questioning people they detain about their immigration status and reporting possibly undocumented people to the Sheriff, they feed into it.

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<sup>578</sup> American Immigration Council, "The 287(g) Program: An Overview," March 15, 2017, <https://www.americanimmigrationcouncil.org/research/287g-program-immigration> (accessed July 18, 2019).

<sup>579</sup> Human Rights Watch, *The Deported: Immigrants Uprooted from the Country They Call Home*; "US: Immigrants 'Afraid to Call 911,'" Human Rights Watch news release, May 14, 2014, <https://www.hrw.org/news/2014/05/14/us-immigrants-afraid-call-911>; Amy Braunschweiger (Human Rights Watch), "Nashville Immigrants Too Scared to Call the Police," *New American Media*, May 19, 2014, <https://www.hrw.org/news/2014/05/19/nashville-immigrants-too-scared-call-police#> (accessed July 18, 2019).

### ICE Detention

In January 2018, Juanita Hernandez (pseudonym), an undocumented woman, had an argument with her boyfriend over some possessions he wanted to take out of her apartment. It became heated, and Hernandez said her boyfriend called the police, hoping they would help him get his property.<sup>580</sup> She said that Tulsa Police officers arrived, spoke briefly to him though he spoke very little English, and then, without questioning her, handcuffed her and put her in the back of their patrol car. Hernandez also spoke little English and struggled to communicate.<sup>581</sup> She and her sister, who was also present, begged the officers not to arrest her, telling them that she was undocumented but had a pending application for asylum.

She said the officers arrested her for assault and battery and took her to jail. They had her fill out booking forms in the jail, and within a short time, an ICE officer interviewed her.

The next day, she went to court, but apparently the criminal charges either were dismissed or they were not filed at all.<sup>582</sup> She had no warrants, no other charges, and no other reason to be held in jail, except that ICE had put a detainer on her. She was immediately transferred to ICE custody, though kept in the same jail pod where she had been. This pod had eight women on ICE holds and approximately 80 non-ICE people facing regular criminal charges.

Hernandez described conditions in the jail as “dehumanizing.” There were air-conditioning vents over her bed that kept her cold constantly. The guards would conduct cell searches and take any extra clothing, sheets, or towels that they were able to obtain. She had to sleep in the same clothing she wore during the day. She did not have fresh underwear. The dirty clothing gave her a rash.<sup>583</sup>

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<sup>580</sup> Human Rights Watch interview with Juanita Hernandez (pseudonym), Tulsa, Oklahoma, March 22, 2018.

<sup>581</sup> Hernandez said that the officer told her he did not speak English when she asked him to loosen the handcuffs, but later spoke to her in Spanish.

<sup>582</sup> Human Rights Watch has a document from Tulsa Police confirming her arrest. Court records do not indicate that any criminal charges were filed, though these court records may not be perfectly accurate. Hernandez believes that no charges were filed.

<sup>583</sup> These conditions generally exist for prisoners in the jail, not just those in ICE custody.

She and the other ICE detainees were at the bottom of the “pecking order” and were fearful of the other prisoners. She said other prisoners stole their phone cards and toilet paper.

She said the guards ignored them, refusing to respond to their needs. Mostly, she and the other ICE detainees lived in fear that they would be deported.

For Hernandez, one of the worst aspects of being in jail was that she never knew what was happening with her case. No one explained the process to her; she had no access to anyone who might answer her questions.

After she had been in jail for over a month, she was brought to court on her immigration case. It lasted about 20 minutes and resulted in the judge delaying the hearing for over two more months. She got little explanation from her lawyer. After the hearing, deputies took her back to her cell.

Finally, after two months in jail, Hernandez said advocates from an immigrants’ rights organization were able to pay a bond to get Hernandez released while her case was pending. After she was released, she faced debt from rent, other bills, her lawyer, and support for her children. She lost her job. Luckily, her boyfriend made payments to her landlord, so she did not lose her apartment.

Hernandez felt fortunate that she had gotten out of jail. She said others she met in a similar situation to hers felt pressured into signing “voluntary departure” agreements, waiving their right to contest the deportation, just so they could resolve the case and leave the miserable jail conditions, even though it meant being expelled from the country.

Most of the prisoners in the Tulsa County Jail, run by the Sheriff's Department, were arrested by Tulsa police, including most who have ICE detainees.<sup>584</sup> Some prisoners with ICE detainees were arrested originally for low-level crimes and violations and some for more serious offenses.<sup>585</sup> Wrongful arrests can result in ICE detainees even after the underlying charges have been rejected or dismissed.<sup>586</sup> People with these detainees often stay in jail long after their criminal case is resolved.<sup>587</sup>

Human Rights Watch received data on every person booked into the Tulsa County Jail in 2016 and 2017. Over those two years, at least 4,109 people were transferred from jail custody into ICE custody. About 86 percent of these non-citizens were not booked due to an arrest by Tulsa law enforcement officials for a new charge; rather, they were already in ICE custody and were held in the local jail under an Intergovernmental Support Agreement with ICE.<sup>588</sup> The remaining 14 percent, or 570 people, were arrested by a local police agency, including the Tulsa Police Department, and were then turned over to ICE after they served a sentence or otherwise resolved their criminal case, including dismissals or no filing of charges. The most prevalent arrest offenses for those 570 were: 207, for driving under the influence of alcohol; 74, for driver's license, registration, or license plate violations; 36, for public intoxication; 32, for domestic battery; 16, for gun possession; 12, for no proof of insurance; 12, for moving violations; and 11, for drug sales.<sup>589</sup> In total, 70 percent of the people ICE issued detainees for were arrested for a public order charge while only 13 percent were arrested for violent or potentially violent offenses, including domestic battery, the most common violent offense.<sup>590</sup>

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<sup>584</sup> Human Rights Watch telephone interview with Christopher Shoaf, Oklahomans for Equality, October 11, 2017. This does not include those that were already in ICE custody and who were transferred to Tulsa County Jail for detention as part of the Intergovernmental Service Agreement the Tulsa County Sheriff signed with ICE. Shoaf has tracked bookings in the Tulsa County Jail on the Sheriff's public website.

<sup>585</sup> Human Rights Watch telephone interview with Christopher Shoaf, October 11, 2017, and Mimi Marton, March 12, 2018, and Amy Ariza, December 11, 2017; Human Rights Watch interview with Carlos Garcia (pseudonym), Tulsa, Oklahoma, March 21, 2018.

<sup>586</sup> Human Rights Watch telephone interview with Christopher Shoaf, October 11, 2017.

<sup>587</sup> Human Rights Watch telephone interview with Mimi Marton, March 12, 2018; Human Rights Watch telephone interview with (name withheld), social services provider, Tulsa, Oklahoma, February 9, 2018.

<sup>588</sup> People released to ICE were identified in the Tulsa County jail dataset because their release reason was coded as "873 - ICE Federal Agency." Within this group, people transferred into the jail data by ICE were identified because their charge description is "Hold for ICE" or "Hold for other agency."

<sup>589</sup> Human Rights Watch analysis of Tulsa County Jail custody and booking data (on file with Human Rights Watch).

<sup>590</sup> Ibid.

Sheriff Vic Regalado told immigration advocates at a March 2018 meeting that he would not discontinue the Section 287(g) program.<sup>591</sup> He said he would reconsider this position if he believed that most ICE detainees were traffic violators and had no criminal history. He then cited to Sheriff Department data showing that, as of a few days earlier, there were 187 people in the Tulsa County jail with ICE holds, only 22 of whom were from Tulsa County, arguing minimal impact on local residents and saying that all but one of the 22 was held on felony charges. He said the one person who was not charged with a felony had a serious prior felony record. As stated above, Human Rights Watch analysis of data covering a two-year period indicates, in fact, that many detainees are held for low level offenses.

### **Tulsa Municipal Jail**

Following an ongoing dispute with Tulsa County over the cost of housing jail prisoners, the City of Tulsa opened its own city jail to house people arrested for violations of municipal laws.<sup>592</sup> They renovated the old city jail, located in the downtown courthouse, and opened it in March 2018. Deputy Chief Brooks said that in its first year of operation, close to 4,400 individuals were booked on almost 5,500 arrests for municipal warrants. He said that city jail officials did not check immigration status or even for ICE holds. While he could not say how many of the people booked into the city jail were undocumented, he expected that many were and that, because they were not taken to the county jail, they had a better chance of escaping exposure to ICE detention.<sup>593</sup> Officers still take people accused of state level offenses, even low-level offenses and warrants, to the county jail where their immigration status is checked. The city jail does not house people who have been sentenced—they are sent to Okmulgee County jail, which does have a Section 287(g) contract.<sup>594</sup>

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<sup>591</sup> Tulsa County Sheriff Vic Regalado spoke to a group of community leaders in a meeting sponsored by the Coalition for the American Dream in Tulsa, Oklahoma, on March 21, 2018. Human Rights Watch attended this meeting.

<sup>592</sup> Minutes from meeting, Tulsa County Criminal Justice Sales Tax Overview Committee, January 29, 2018, <https://www.tulsacounty.org/minutes/2018/592018-TCCJASTOCMinutes1-29-2018.pdf> (accessed July 18, 2019).

<sup>593</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>594</sup> Memorandum of Agreement, Okmulgee County Board of Commissioners and US Immigration and Customs Enforcement, January 25, 2018, <https://www.ice.gov/doclib/287gMOA/287g-OkmulgeeCounty.pdf> (accessed July 18, 2019).

## Immigrant Community Fear of Police

People in the Latino and immigrant community fear being stopped for minor violations and exposed to deportation.<sup>595</sup> Some parents who are undocumented are even afraid to drive their children to school due to the risk of exposure to law enforcement.<sup>596</sup>

Further, many Latino Tulsans are afraid to call police when they are crime victims.<sup>597</sup> Close to 70 percent of Latino's who responded to a survey by the Coalition for the American Dream, an advocacy and civic engagement organization that supports Tulsa's Latino and immigrant community, said that they lacked confidence in the Tulsa Police.<sup>598</sup> Almost 60 percent said that they would not report a crime if they witnessed one. The Tulsa Police Department has acknowledged that fear of deportation reduced crime reporting by undocumented immigrant communities.<sup>599</sup>

A Tulsa officer who works in the Mingo Valley Division, which has a large Latino population, said that people tell him they are afraid to report crimes because they believe Tulsa Police will check their identities and find that they are undocumented.<sup>600</sup> The officer described having to convince people it was safe to make a report.

Immigrant community advocates described the following interactions reported to them that promote a climate of fear and mistrust:

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<sup>595</sup> Human Rights Watch interview with Estela Figueroa (pseudonym), March 22, 2018; Kevin Canfield, "Palpable fear: Community leaders speak out against sheriff's participation in ICE 287(g) program," *Tulsa World*, May 14, 2019, [https://www.tulsaworld.com/news/palpable-fear-community-leaders-speak-out-against-sheriff-s-participation/article\\_64bbcade-47a7-5252-ae61-b1d674ecb474.html](https://www.tulsaworld.com/news/palpable-fear-community-leaders-speak-out-against-sheriff-s-participation/article_64bbcade-47a7-5252-ae61-b1d674ecb474.html) (accessed July 18, 2019): This article quotes numerous advocates from Tulsa's Latino community speaking of the pervasive fear of reporting crime or of being stopped for traffic violations resulting in deportation. Sheriff Regalado is quoted denying that it is a significant problem and suggesting that his department has not done a good job convincing the community not to be afraid.

<sup>596</sup> Human Rights Watch interview with Pastor Julian Rodriguez, January 9, 2018. Pastor Rodriguez has ministered to Latino congregations in the Tulsa area for many years. He is a leader in the immigrants' rights organization, Coalition for the American Dream. In both capacities, he has learned of community concerns about law enforcement and immigration policy.

<sup>597</sup> Human Rights Watch interview with Blanca Zavala, January 9, 2018, and Moises Echevarria, August 29, 2017; Human Rights Watch telephone interview with Professor Elizabeth McCormick, University of Tulsa, October 31, 2017.

<sup>598</sup> Human Rights Watch interview with Blanca Zavala, January 9, 2018. Survey results on file with Human Rights Watch.

<sup>599</sup> Ashli Lincoln, "Tulsa police: Immigrants less likely to report crimes against them for fear of deportation," *Fox 23 News*, March 27, 2017, <https://www.fox23.com/news/tulsa-police-immigrants-less-likely-to-report-crimes-against-them-for-fear-of-deportation/506491909> (accessed July 18, 2019). Deputy Chief Brooks said he was aware of apprehension within the community: Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>600</sup> Human Rights Watch interview with (name withheld), officer, Tulsa Police Department, March 22, 2018.

- A young man described to an advocate that he was assaulted and robbed while walking home from school. His mother called the police, who demanded to see her identification when they responded. She asked why and they gave her a ticket.<sup>601</sup>
- An advocate was told that officers investigating a traffic accident asked for driver's licenses from Latino witnesses and issued citations when they failed to produce them.<sup>602</sup>
- A social services provider reported that a woman who only spoke Spanish told her that she called police to report her boyfriend beating her. The officers spoke to the boyfriend in English and immediately arrested her. In jail, ICE placed a detainer on her and she was deported.<sup>603</sup>

Because undocumented Latino people, especially in East Tulsa, fear calling the police and frequently carry cash because they have difficulty opening bank accounts, they are easy targets for criminals.<sup>604</sup> Christopher Shoaf witnessed one incident in which police responded to a theft call, but the undocumented victim refused to make a report after finding out she would have to appear in court as a witness.<sup>605</sup>

Officer Jesse Guardiola, who serves as a liaison between the police and the Latino community, said: "Anytime you have a neighborhood that doesn't report crime, that's a problem for the entire city."<sup>606</sup>

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<sup>601</sup> Human Rights Watch telephone interview with Amy Ariza, December 11, 2017. Ariza is an advocate and resource for the Latino immigrant community in Tulsa. She works for a law firm that serves that community and is someone that people come to help solve problems.

<sup>602</sup> Human Rights Watch telephone interview with Amy Ariza, December 11, 2017.

<sup>603</sup> Human Rights Watch telephone interview with (name withheld), social services provider, Tulsa, Oklahoma, February 9, 2018.

<sup>604</sup> Human Rights Watch interview with Jesse Guardiola, officer, Tulsa Police Department, September 29, 2017. Guardiola pointed out that many undocumented workers tend to carry cash, as it is difficult to open a bank account without government issued identification. Predatory criminals take this as an opportunity, even referring to cash carrying Latinos as "ATMs." Human Rights Watch interview with Moises Echevarria, August 29, 2017.

<sup>605</sup> Human Rights Watch telephone interview with Christopher Shoaf, October 11, 2017.

<sup>606</sup> Reece Ristau, "TPD officer, a first-generation American, to speak in Switzerland about bridging police-immigrant divide," *Tulsa World*, July 1, 2018, [https://www.tulsaworld.com/eedition/page-a/page\\_790b8a6a-f2a6-56d5-bcd5-bb76d518e837.html](https://www.tulsaworld.com/eedition/page-a/page_790b8a6a-f2a6-56d5-bcd5-bb76d518e837.html) (accessed July 18, 2019).



## Language Barrier

The lack of Spanish-speaking Tulsa police officers further interferes with their ability to provide adequate services to the city's immigrant population.<sup>607</sup> According to Guardiola, as of July 2018, only 37 of approximately 760<sup>608</sup> officers spoke Spanish in a city of approximately 400,000 people.<sup>609</sup> Only 3.9 percent of the force were Latino as of 2016.<sup>610</sup> Deputy Chief Brooks agreed that the department needs more Spanish speaking officers and said they are committed to improving recruiting to fill the need, though recruiting has been difficult.<sup>611</sup>

Guardiola pointed out that most officers do their best to overcome the language barrier, but said he has received reports that some have responded to a call, found that the caller did not speak English, and left without taking a report.<sup>612</sup> Advocates in the immigrant community have heard similar complaints. Attorney Elizabeth Edwards has spoken to several domestic violence victims who were unable to make reports to the police due to the language barrier.<sup>613</sup>

Officers who do speak Spanish sometimes have to respond to calls throughout the city to serve as a translator, and do not get credit for this work in job evaluations.<sup>614</sup> One officer knew of instances when officers used children to translate or simply ignored the Spanish

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<sup>607</sup> "Tulsa Police Trying to Strengthen Relationship with Hispanic Community," *NewsOn6*, October 21, 2018, <http://www.newson6.com/story/39327596/tulsa-police-trying-to-strengthen-relationship-with-hispanic-community> (accessed July 18, 2019). Human Rights Watch interview with Jesse Guardiola, September 29, 2017; Human Rights Watch telephone interview with Linda Allegro, December 8, 2017, and Professor Elizabeth McCormick, October 31, 2017.

<sup>608</sup> Tulsa Police Department, "Internal Affairs 2017, Annual Report," [https://www.tulsapolice.org/media/165177/IA\\_Annual\\_Report\\_2017.pdf](https://www.tulsapolice.org/media/165177/IA_Annual_Report_2017.pdf) (accessed July 18, 2019), p. 2.

<sup>609</sup> Ristau, "TPD officer, a first-generation American, to speak in Switzerland about bridging police-immigrant divide," *Tulsa World*.

<sup>610</sup> Tulsa Police Department, "Internal Affairs 2016, Annual Report," <https://www.tulsapolice.org/media/163107/ia%20annual%20report%202016a.pdf> (accessed July 18, 2019). Not all Latino officers speak Spanish, and not all Spanish speaking officers are Latino, but this demographic reflects the lack of diversity in the department, especially considering 2010 Census calculation of the Latino population at 14.1 percent.

<sup>611</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>612</sup> Human Rights Watch interview with Jesse Guardiola, September 29, 2017.

<sup>613</sup> Human Rights Watch telephone interview with Elizabeth Edwards, May 16, 2018.

<sup>614</sup> Human Rights Watch telephone interview with (name withheld), former officer, Tulsa Police Department, Tulsa, Oklahoma, June 1, 2018.

speaking people they encountered.<sup>615</sup> An attorney who serves the immigrant community, including crime victims, said that many tell her that they have stopped calling the police.<sup>616</sup> While there are always multiple perspectives on a given incident, it is impossible for police officers to conduct fair and effective investigations if they are unable to speak to witnesses due to language barriers.

## Hispanic Outreach

Officer Guardiola created the Hispanic Outreach program to provide a designated officer who serves as a liaison between the Latino community and the police.<sup>617</sup> However, Guardiola is just one officer. He is responsible for the outreach program engaging the city's entire growing Latino population. He is also tasked with cultural competence instruction, intended to teach other officers how to understand and serve distinct Latino cultures. And he recruits Latino officers, which means he is away from the city much of the time on recruiting trips.<sup>618</sup>

Guardiola believes that some within the chain of command of the Tulsa Police Department do not value his outreach work and that some may even be hostile to it and take steps to interfere with it.<sup>619</sup> Deputy Chief Brooks said that he hoped to expand the Hispanic Outreach program, making it a full-time position.<sup>620</sup> He said officers ask for help with outreach. Guardiola said that some officers do not provide support for his work, while others understand the value of building a trusting relationship with the Latino community.<sup>621</sup>

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<sup>615</sup> Ibid.

<sup>616</sup> Human Rights Watch telephone interview with Professor Elizabeth McCormick, October 31, 2017.

<sup>617</sup> Human Rights Watch interview with Officer Jesse Guardiola, September 29, 2017.

<sup>618</sup> Ibid.

<sup>619</sup> Ibid.

<sup>620</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>621</sup> Human Rights Watch interview with Officer Jesse Guardiola, September 29, 2017.

### Raul Gomez's (pseudonym) Story

In May 2017, according to his partner Yesenia Florez (pseudonym),<sup>622</sup> police arrested Raul and booked him into the Tulsa County Jail.<sup>623</sup> The district attorney filed charges against him for possession of methamphetamine with intent to sell, possession of narcotics paraphernalia, traffic offenses, and driving without a valid license. The court set bail, and Raul remained incarcerated. His lawyer encouraged him to plead guilty, but Raul refused, insisting on litigating his case.

Jail was miserable for him and his family, Yesenia said. Raul had back pain from a spinal injury made worse by his uncomfortable jail bed. Yesenia could not visit Raul because they were not formally married, though they had been together for eight years and raised two children as a family.<sup>624</sup> Phone calls were costly, and the phones did not always work. He lost communication with his family. Raul had always worked, primarily as a cook. Now Yesenia and her family went into debt without Raul's financial contribution.

In November, all criminal charges were dismissed.<sup>625</sup> However, ICE had placed a hold on Raul because he was undocumented. An immigration agent pressured him to sign voluntary deportation paperwork so he could get out of the jail quicker, but he refused, insisting on fighting his case. In February, a judge ordered him deported. February 2018, immigration officials removed Raul to Mexico, where he had not lived for over 20 years, where he had no family and no connections. He had no money, and was wandering aimlessly, unsure what to do. Yesenia believes he needs therapy to help him cope with the trauma this experience caused him.

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<sup>622</sup> Human Rights Watch interview with Yesenia Florez (pseudonym), Tulsa, Oklahoma, March 22, 2018.

<sup>623</sup> Raul Gomez (pseudonym) was not arrested by the Tulsa Police Department, so his story does not directly reflect on the department. However, his experience is illustrative of what happens to undocumented people arrested in Tulsa County and, had Tulsa police officers arrested him, they would have turned him over to ICE custody per police policy.

<sup>624</sup> Only spouses, children (accompanied by legal guardians) and parents are allowed to visit prisoners in the county jail. Tulsa County Sheriff's Office, "DLMCJC Visitation," 2019, <https://www.tulsacounty.org/DLMVisitation/tblRegisters/NewRegistration> (accessed July 18, 2019).

<sup>625</sup> Raul Gomez (pseudonym) entry in Oklahoma State Courts Network, <http://www.oscn.net/dockets/GetCaseInformation.aspx?> (accessed July 15, 2019). Because HRW uses a pseudonym to protect his privacy, we do not cite to a specific page in the OSCN database.

Yesenia, who is also undocumented, fears that she will be detained, leaving her 6- and 8-year-old children, both of whom are citizens, without their parents. Since Raul went to jail and was taken from them, she has noticed profound changes in the children's behavior. She has struggled with debt caused by the separation and loss of Raul's emotional and financial support.

## Immigrants and Police in the US

The challenges faced by Tulsa's Latino immigrant community concerning the police are faced by immigrants throughout the country. Over the past 30 years, more and more immigrants have come to the US and spread throughout the country, rather than just settling in gate-way cities like Los Angeles and New York.<sup>626</sup> Many of the new immigrants do not speak English, requiring police departments to take steps to effectively communicate with them.<sup>627</sup>

There are communities throughout the country that have agreements with ICE pursuant to Section 287(g) that facilitate deportations,<sup>628</sup> though there is some opposition to this cooperation from city governments and from law enforcement.<sup>629</sup> The presence of Section

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<sup>626</sup> Susan Shah, Insha Rahman and Anita Khashu, "Overcoming Language Barriers: Solutions for Law Enforcement," *Vera Institute of Justice*, 2007, <https://www.criminaljustice.ny.gov/ops/training/bcpo/veralanguagebarrierle.pdf> (accessed July 18, 2019), p. 3-4.

<sup>627</sup> *Ibid.*, p. 4. The problem of providing services to non-English speaking people is a challenge to police throughout the country, including such diverse places as New York City (Julie Turkewitz, "Language Barrier Continues to Thwart Victims of Crimes," *New York Times*, May 11, 2014, <https://www.nytimes.com/2014/05/12/nyregion/language-barrier-continues-to-thwart-victims-of-crimes.html> (accessed July 18, 2019)); Little Rock, Arkansas (Katlyn Gardehire, "Bilingual police officers help to break language barriers in Little Rock," *THV11*, June 5, 2018, <https://www.thv11.com/article/news/local/bilingual-police-officers-help-to-break-language-barriers-in-little-rock/91-561421472> (accessed July 18, 2019)); and Maine (Brandon Doyen, "As Maine's immigrant population slowly increases, police adapt to bridge language barrier," *WAB/5*, March 19, 2018, <https://www.wabi.tv/content/news/As-Maines-immigrant-population-slowly-increases-police-adapt-to-bridge-language-barrier-477306723.html> (accessed July 18, 2019)).

<sup>628</sup> US Immigration and Customs Enforcement, "Immigration Enforcement: Delegation of Immigration Authority Section 287(g) Immigration and Nationalist Act," August 5, 2019, <https://www.ice.gov/287g> (accessed August 25, 2019).

<sup>629</sup> For example, the Sheriff in Houston, Texas recently withdrew from the program. James Pinkerton and St. John BARNED-Smith, "Sheriff cuts ties with ICE program over immigrant detention," *Houston Chronicle*, February 21, 2017, <https://www.houstonchronicle.com/news/houston-texas/houston/article/Sheriff-cuts-ties-with-ICE-program-over-immigrant-10949617.php> (accessed July 18, 2019). Mayors and police chiefs have expressed opposition to having police departments engage in immigration enforcement and cooperating directly with immigration authorities. However, many in law enforcement, including the Fraternal Order of Police support such cooperation. Tom Jackman, "Big city police chiefs, mayors troubled by Trump immigration order, police union and sheriffs untroubled," *Washington Post*, January 26, 2017,

287(g) agreements and other forms of cooperation between local law enforcement and federal immigration authorities has contributed to mistrust and fear of police by immigrants throughout the country, just as it has in Tulsa.<sup>630</sup> Linking immigration enforcement to a system that has a disproportionate impact on minorities and poor people, through 287(g) and other similar programs, reinforces the dangerous myth, repeated by numerous US politicians and policymakers, that reducing illegal immigration is necessary to reduce crime.<sup>631</sup>

Deportations of people convicted of relatively minor crimes, as has been seen in Tulsa, has occurred nationally for many years, through both Democrat- and Republican-led federal administrations.<sup>632</sup> Human Rights Watch found that from 1997 through 2007, 72 percent of those deported based on criminal records only had non-violent histories.<sup>633</sup> Nationally, ICE detention for serious crimes has decreased, while detention for minor crimes and detention of people with no criminal conviction have increased.<sup>634</sup> Jurisdictions using Section 287(g) contribute to this harmful enforcement that damages families and communities and damages trust between immigrant communities and local government.

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[https://www.washingtonpost.com/news/true-crime/wp/2017/01/26/big-city-police-chiefs-mayors-troubled-by-trump-immigration-order-police-union-untroubled/?utm\\_term=.c87de640968b](https://www.washingtonpost.com/news/true-crime/wp/2017/01/26/big-city-police-chiefs-mayors-troubled-by-trump-immigration-order-police-union-untroubled/?utm_term=.c87de640968b) (accessed July 18, 2019).

<sup>630</sup> Tom K. Wong, “Sanctuary cities don’t ‘breed crime.’ They encourage people to report crime,” *Washington Post*, April 24, 2018, [https://www.washingtonpost.com/news/monkey-cage/wp/2018/04/24/sanctuary-cities-dont-breed-crime-they-encourage-people-to-report-crime/?utm\\_term=.73b195a67bc9](https://www.washingtonpost.com/news/monkey-cage/wp/2018/04/24/sanctuary-cities-dont-breed-crime-they-encourage-people-to-report-crime/?utm_term=.73b195a67bc9) (accessed July 18, 2019); Tanvi Misra, “Harsh Policing of Immigrants Is Bad for Everyone,” *City Lab*, January 26, 2016, <https://www.citylab.com/equity/2016/01/immigration-policing-enforcement-287g-durham-alamance-north-carolina/423723/> (accessed July 18, 2019).

<sup>631</sup> Kristin F. Butcher, Anne Morrison Plehl, and Jay Liao, Public Policy Institute of California, “Crime, Corrections, and California: What Does Immigration Have to Do With It?,” February 2008, <http://www.ppic.org/main/publication.asp?i=776> (accessed August 15, 2019).

<sup>632</sup> Daniel Kanstroom, “Stop Deporting Immigrants for Minor Offenses,” *New York Times*, September 12, 2016, <https://www.nytimes.com/roomfordebate/2016/09/12/is-any-immigration-reform-possible-in-this-political-climate/stop-deporting-immigrants-for-minor-offenses> (accessed July 18, 2019); Human Rights Watch, *Forced Apart (By the Numbers): Non-Citizens Deported Mostly for Nonviolent Offenses*, (New York: Human Rights Watch, 2015), <https://www.hrw.org/report/2009/04/15/forced-apart-numbers/non-citizens-deported-mostly-nonviolent-offenses> (accessed July 18, 2019).

<sup>633</sup> Human Rights Watch, *Forced Apart (By the Numbers): Non-Citizens Deported Mostly for Nonviolent Offenses*. Unlawful entry and drunk driving were the two most common charges.

<sup>634</sup> TRAC Immigration, “ICE Focus Shifts Away from Detaining Serious Criminals,” *Syracuse University*, June 25, 2019, <https://trac.syr.edu/immigration/reports/564/> (accessed July 19, 2019).

## IX. Reform and Accountability

Within a few days of the killing of Terence Crutcher, following peaceful protests,<sup>635</sup> Tulsa Police Chief Chuck Jordan released the videos of the killing, calling them “very disturbing” and saying “we will achieve justice.”<sup>636</sup> Mayor-elect Bynum expressed sympathy for Crutcher’s family, praised the department for their transparency, and promised to address the underlying inequities people in North Tulsa faced.<sup>637</sup>

Less than a week after the killing, District Attorney Steve Kunzweiler announced that he had filed criminal charges—first degree manslaughter<sup>638</sup>—against Shelby, the officer who shot and killed the unarmed Crutcher.<sup>639</sup>

However, the Fraternal Order of Police (“FOP”), the union for Tulsa officers, fought hard against the prosecution of Shelby, running social and traditional media campaigns expressing support for the officer, and taking legal and political action against the District Attorney.<sup>640</sup>

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<sup>635</sup> Parris Burris, “Protesters continue push for community policing, arrest of officer who shot Terence Crutcher,” *Tulsa World*, September 21, 2016, [https://www.tulsaworld.com/news/local/protesters-continue-push-for-community-policing-arrest-of-officer-who/article\\_0fa8e622-9dac-58dd-a42f-2eb576d4a829.html](https://www.tulsaworld.com/news/local/protesters-continue-push-for-community-policing-arrest-of-officer-who/article_0fa8e622-9dac-58dd-a42f-2eb576d4a829.html) (accessed July 18, 2019).

<sup>636</sup> Samantha Vicent and Corey Jones, “Justice will be achieved in Terence Crutcher shooting, Tulsa police chief assures community,” *Tulsa World*, September 20, 2016, [https://www.tulsaworld.com/news/crimewatch/justice-will-be-achieved-in-terence-crutcher-shooting-tulsa-police/article\\_ceb93e3d-2ce1-539b-bb89-b849a224e16f.html](https://www.tulsaworld.com/news/crimewatch/justice-will-be-achieved-in-terence-crutcher-shooting-tulsa-police/article_ceb93e3d-2ce1-539b-bb89-b849a224e16f.html) (accessed July 18, 2019).

<sup>637</sup> Jessica Remer, “Tulsa mayor-elect on Terence Crutcher’s shooting: ‘People should expect to feel safe,’” *KTUL*, September 20, 2016, <https://ktul.com/news/local/tulsa-mayor-elect-on-terence-crutchers-shooting-people-should-expect-to-feel-safe> (accessed July 18, 2019).

<sup>638</sup> Okla. Stat. section 21-711, <http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=69314> (accessed July 18, 2019).

<sup>639</sup> Paighen Harkins, “We the People Oklahoma founder at rally: ‘The system has worked today for black lives,’” *Tulsa World*, September 23, 2016, [https://www.tulsaworld.com/news/courts/we-the-people-oklahoma-founder-at-rally-the-system-has/article\\_163c7cfc-aa01-5912-9bd9-3c3a17b21d59.html](https://www.tulsaworld.com/news/courts/we-the-people-oklahoma-founder-at-rally-the-system-has/article_163c7cfc-aa01-5912-9bd9-3c3a17b21d59.html) (accessed July 18, 2019).

<sup>640</sup> Human Rights Watch interview with Moises Echevarria, August 29, 2017. Tulsa Fraternal Order of Police-FOP Public Page, “Press Release,” *Facebook*, July 14, 2017, <https://www.facebook.com/TulsaFOPpublicpage/photos/a.507177196000765/1551289884922819/?type=1&theater> (accessed July 18, 2019); Jessica Remer, “Crutcher family, pastors call out the Tulsa FOP, Shelby’s defense,” *KTUL*, May 16, 2017, <https://ktul.com/news/local/crutcher-family-pastors-call-out-the-tulsa-fop-shelbys-defense> (accessed July 18, 2019); “Tulsa Fraternal Order of Police hold press conference on charges filed against Ofc. Betty Shelby,” *Channel 2 News*, May 4, 2017, <https://www.kjrh.com/news/local-news/tulsa-fraternal-order-of-police-to-hold-press-conference-on-charges-filed-against-ofc-betty-shelby> (accessed July 18, 2019); Samantha Vicent, “Oklahoma Bar Association declines to evaluate complaint against Betty Shelby prosecutor after police union’s request,” *Tulsa World*, July 17, 2017, <https://www.tulsaworld.com/news/bettyshelby/oklahoma-bar-association-declines-to-evaluate-complaint-against-betty>

During the subsequent trial, Detective Dave Walker, who investigated the killing, criticized Kunzwiler for filing the case without consulting him,<sup>641</sup> told the jury that Crutcher had “failure to pay” warrants, had been arrested in the past, and stated that he, as the detective investigating the case, would not have referred it for prosecution.<sup>642</sup>

The jury found Shelby not guilty in May 2017.

Following the verdict, Mayor Bynum continued to speak about racial disparities in Tulsa, and to call for continued efforts to institute “community policing.”<sup>643</sup> In this post-verdict statement, he also referenced the need to give more resources to the Tulsa Police Department.

The story of the Crutcher case and the response from city officials, the police, and others reflects both the opportunities that exist in Tulsa to make meaningful change in policing practices and the continuing significant barriers to that change.

## Key Stakeholders

### *Mayor GT Bynum*

The mayor has publicly stated that he wants to reform policing in Tulsa as part of his overall agenda of making the City more equitable and of addressing poverty within the black community.<sup>644</sup> He has taken positive steps to do so, including appointing staff members to carry out these efforts and making tangible policy decisions like expanding

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shelby/article\_d614b5e6-9083-55fc-bf87-9cd6081cb457.html (accessed July 18, 2019); Kendrick Marshall, “Tulsa police union endorses Ben Fu for DA,” *Tulsa World*, May 7, 2018, [https://www.tulsaworld.com/news/courts/tulsa-police-union-endorses-ben-fu-for-da/article\\_322cc03f-6082-5b70-8eca-057d1aedaecd.html](https://www.tulsaworld.com/news/courts/tulsa-police-union-endorses-ben-fu-for-da/article_322cc03f-6082-5b70-8eca-057d1aedaecd.html) (accessed July 18, 2019).

<sup>641</sup> Kyle Hinchey, “Homicide detective’s testimony, emotional video highlights of first week of Betty Shelby trial,” *Tulsa World*, May 13, 2017, [https://www.tulsaworld.com/news/bettysbelby/homicide-detective-s-testimony-emotional-video-highlights-of-first-week/article\\_70ce3991-1bfe-5250-a879-d896dee6a9a2.html](https://www.tulsaworld.com/news/bettysbelby/homicide-detective-s-testimony-emotional-video-highlights-of-first-week/article_70ce3991-1bfe-5250-a879-d896dee6a9a2.html) (accessed July 18, 2019).

<sup>642</sup> “Homicide sergeant again implies Shelby shouldn’t have been charged in final day of testimony,” *The Oklahoman*, May 16, 2017, <https://newsok.com/article/5549423/homicide-sergeant-again-implies-shelby-shouldnt-have-been-charged-in-final-day-of-testimony> (accessed July 18, 2019).

<sup>643</sup> GT Bynum, “Racial disparity is the great moral issue of our time in Tulsa,” *Tulsa World*, May 19, 2017, [https://www.tulsaworld.com/opinion/columnists/g-t-bynum-racial-disparity-is-the-great-moral-issue/article\\_95cd09fo-813e-5ff3-8cdo-8cof2ce62140.html](https://www.tulsaworld.com/opinion/columnists/g-t-bynum-racial-disparity-is-the-great-moral-issue/article_95cd09fo-813e-5ff3-8cdo-8cof2ce62140.html) (accessed July 18, 2019).

<sup>644</sup> GT Bynum, “Racial Disparity is the great moral issue of our time in Tulsa,” *Tulsa World*.

bus service to, and working to develop an industrial park in, North Tulsa.<sup>645</sup> He has initiated a police reform program (discussed below).

He appointed DeVon Douglass to be “Chief Resilience Officer”<sup>646</sup> for his administration and tasked her with writing a report on inequality in Tulsa.<sup>647</sup> Following release of the report, which detailed significant racial and other inequalities, Bynum announced an action plan to address inequality through economic development, implicit bias training for police officers, and other steps.<sup>648</sup> Among the specific proposals that relate to the criminal legal system are: 1) launch a campaign to encourage hiring people with criminal records; 2) remove questions about criminal records from City of Tulsa job applications; 3) put “de-escalation” language into the police department’s policy manual; and 4) promote “community policing.”<sup>649</sup> It remains to be seen to what extent the city will follow through with these initiatives and if the initiatives themselves will produce significant change.

Bynum also worked with Councilor Vanessa Hall-Harper to create the Greater Tulsa Area African-American Affairs Commission to elevate the needs of the black community within Tulsa’s government, including promoting “community policing.”<sup>650</sup> Though they serve an advisory function only, Bynum takes them seriously and meets with them directly.<sup>651</sup>

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<sup>645</sup> Kevin Canfield, “City unveils Bus Rapid Transit stop that ‘will open the entire city’ from downtown, official says,” *Tulsa World*, January 16, 2019, [https://www.tulsaworld.com/news/local/city-unveils-bus-rapid-transit-stop-that-will-open-the/article\\_d7cddbdo-0396-59f4-9400-f9cd89c48235.html](https://www.tulsaworld.com/news/local/city-unveils-bus-rapid-transit-stop-that-will-open-the/article_d7cddbdo-0396-59f4-9400-f9cd89c48235.html) (accessed July 18, 2019); Rhett Morgan, “Local manufacturer brings \$50 million expansion to Peoria-Mohawk Business Park,” *Tulsa World*, February 8, 2019, [https://www.tulsaworld.com/news/local/local-manufacturer-brings-million-expansion-to-peoria-mohawk-business-park/article\\_3a8c3446-8201-5c67-87a2-774ce697b75b.html](https://www.tulsaworld.com/news/local/local-manufacturer-brings-million-expansion-to-peoria-mohawk-business-park/article_3a8c3446-8201-5c67-87a2-774ce697b75b.html) (accessed July 18, 2019).

<sup>646</sup> The Chief Resilience Officer, created through a grant from the Rockefeller Foundation, is tasked with creating and implementing a “resilience strategy” to address inequalities that exist in Tulsa. 100 Resilient Cities, “Mayor G.T. Bynum and 100 Resilient Cities Unveil Tulsa’s First Resilience Strategy,” June 5, 2018, <https://www.100resilientcities.org/mayor-g-t-bynum-and-100-resilient-cities-unveil-tulsas-first-resilience-strategy/> (accessed July 18, 2019).

<sup>647</sup> Community Service Council, “Tulsa Equality Indicators: Annual Report, 2018,” *City of Tulsa*.

<sup>648</sup> Kevin Canfield, “Mayor G.T. Bynum to unveil major plan Tuesday to move city forward,” *Tulsa World*, June 4, 2018, [https://www.tulsaworld.com/eedition/page-a/page\\_5b478651-48a7-51a8-ac44-971d12e4a422.html](https://www.tulsaworld.com/eedition/page-a/page_5b478651-48a7-51a8-ac44-971d12e4a422.html) (accessed July 18, 2019).

<sup>649</sup> 100 Resilient Cities, “Resilient Tulsa: An equitable, action-oriented and collaborative roadmap for all of Tulsa, City of Tulsa,” June 2018, <http://www.100resilientcities.org/wp-content/uploads/2018/06/Resilient-Tulsa-Digital.pdf> (accessed July 18, 2019).

<sup>650</sup> Bill Sherman, “Greater Tulsa Area African-American Affairs Commission convenes for the first time,” *Tulsa World*, December 15, 2017, [https://www.tulsaworld.com/homepagelatest/greater-tulsa-area-african-american-affairs-commission-convenes-for-first/article\\_b995d2b5-dd9a-5792-a2b4-3de86d95b497.html](https://www.tulsaworld.com/homepagelatest/greater-tulsa-area-african-american-affairs-commission-convenes-for-first/article_b995d2b5-dd9a-5792-a2b4-3de86d95b497.html) (accessed July 18, 2019).

<sup>651</sup> Human Rights Watch interview with Kristi Williams, March 20, 2018.



### *Chief Chuck Jordan*

Previous Mayor Dewey Bartlett appointed Chuck Jordan as police chief in 2010.<sup>652</sup> He had been an officer with the Tulsa Police Department from 1969 through 2001, rising to the rank of sergeant.<sup>653</sup> Jordan has taken conciliatory stands, including speaking out against the Crutcher killing, apologizing for the role of Tulsa police in the 1921 massacre,<sup>654</sup> and publicly distancing himself and the department from the FOP.<sup>655</sup>

He has rejected allegations of racial bias and brutality by his department.<sup>656</sup> Though he speaks publicly about the need for reform and for implementation of “community policing,” some community leaders have called on him to resign, citing what they say is his tolerance of a culture of brutality within the department.<sup>657</sup>

### *Fraternal Order of Police (FOP)*

The FOP is the largest national police association in the US, claiming about 2,200 local chapters and over 330,000 members.<sup>658</sup> They engage in political lobbying at the local, state and national level. Some of the legislation they support relates to working conditions, compensation, and benefits, as would any labor union. They negotiate contracts for officers (when they are the official bargaining unit). They also support legislation to expand police powers, increase criminal penalties, and shield officers from liability and accountability.<sup>659</sup> They provide defense for individual officers, like Shelby, accused of misconduct in their capacity as police officers, in administrative, criminal, and

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<sup>652</sup> Tulsa Police Department, “Meet the Chief,” undated, <https://www.tulsapolice.org/content/meet-the-chief.aspx> (accessed July 18, 2019).

<sup>653</sup> “Palmer Out, Jordan Interim TPD Chief,” *Fox 23 News*, January 22, 2010, <https://www.fox23.com/news/breaking-news/palmer-out-jordan-interim-tpd-chief/254463138> (accessed July 18, 2019). Human Rights Watch interview with Drew Diamond, September 27, 2017.

<sup>654</sup> Human Rights Watch interview with Hannibal Johnson, August 30, 2017.

<sup>655</sup> The United League for Social Action-TULSA, live video, *Facebook* <https://www.facebook.com/wearetulsa.org/videos/1535725549807090/> (accessed July 18, 2019).

<sup>656</sup> “Tulsa Police Chief denies department has ‘personality of brutality,’” *Tulsa World*, October 24, 2017, [https://www.tulsaworld.com/homepagelatest/tulsa-police-chief-denies-department-has-personality-of-brutality/article\\_co215787-0157-5994-bbc8-d4c76da27cd2.html](https://www.tulsaworld.com/homepagelatest/tulsa-police-chief-denies-department-has-personality-of-brutality/article_co215787-0157-5994-bbc8-d4c76da27cd2.html) (accessed July 18, 2019); Jones and Killman, “Black people arrested about twice as much as other races, analysis of Tulsa Police data shows,” *Tulsa World*.

<sup>657</sup> “Tulsa Police Chief denies department has ‘personality of brutality,’” *Tulsa World*.

<sup>658</sup> Fraternal Order of Police, “About the Fraternal Order of Police,” <https://www.fop.net/CmsPage.aspx?id=223#> (accessed July 18, 2019).

<sup>659</sup> Fraternal Order of Police, “Legislation Supported by the FOP in the 116<sup>th</sup> Congress,” undated, <https://www.fop.net/CmsPage.aspx?id=36> (accessed July 18, 2019).

civil proceedings.<sup>660</sup> The FOP is extremely influential in the politics of policing and police reform.<sup>661</sup>

## Past Reforms in Tulsa

### *A Reformist Chief*

Efforts to reform the Tulsa Police Department and to impose accountability and oversight over the past 30 years have had limited success.

Drew Diamond, a Tulsa officer since 1969, was chief from 1987 through 1991. He was committed to the concept of “community policing” and implemented a variety of programs designed to increase accountability and to make the department more responsive to and engaged with the communities it served. These initiatives included setting up foot and bicycle patrols, establishing a complaint center, pairing youth with police mentors, and attempting to change racial dynamics within the department, while de-emphasizing arrest numbers.<sup>662</sup>

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<sup>660</sup> Fraternal Order of Police, “Legal Defense Plan,” undated, <http://www.foplegal.com/> (accessed July 18, 2019). Justifying their aggressive report for Officer Shelby, prosecuted for killing Crutcher, Jared Lindsey, a ranking official with the Tulsa FOP, said: “I have yet to come across any situations where our officers are not in the right. We have right on our side 99 times out of 100.” Kevin Canfield “Tulsa police union criticizes city councilor after she makes ‘crooked a—cop’ comment on Facebook,” *Tulsa World*, December 30, 2017, [https://www.tulsaworld.com/homepagelatest/tulsa-police-union-criticizes-city-councilor-after-she-makes-crooked/article\\_8dd4c0c2-2f6f-5691-8317-ca080d4f03ba.html](https://www.tulsaworld.com/homepagelatest/tulsa-police-union-criticizes-city-councilor-after-she-makes-crooked/article_8dd4c0c2-2f6f-5691-8317-ca080d4f03ba.html) (accessed July 18, 2019); Burt Mummolo, “Councilor’s comments stir controversy with cops,” *KTUL*, December 29, 2017, <https://ktul.com/news/local/councilors-comments-stir-controversy-with-cops> (accessed July 18, 2019).

<sup>661</sup> Nicole Marshall, “‘Top cop’ takes his leave,” *Tulsa World*, July 4, 2002, [https://www.tulsaworld.com/archives/top-cop-takes-his-leave/article\\_0ae246b8-0184-523e-939e-2c077af43aa9.html](https://www.tulsaworld.com/archives/top-cop-takes-his-leave/article_0ae246b8-0184-523e-939e-2c077af43aa9.html) (accessed July 18, 2019); FOP orchestrated “no confidence” vote against reformist Chief Diamond. Zack Stoycoff, “Tulsa Fraternal Order of Police speaks out against Bartlett,” *Tulsa World*, November 5, 2013, [https://www.tulsaworld.com/news/elections/tulsa-fraternal-order-of-police-speaks-out-against-bartlett/article\\_9365a4ec-d657-5da4-a8a0-1899b8f7131e.html](https://www.tulsaworld.com/news/elections/tulsa-fraternal-order-of-police-speaks-out-against-bartlett/article_9365a4ec-d657-5da4-a8a0-1899b8f7131e.html) (accessed July 18, 2019); “A War of Words Between FOP & Tulsa Mayor,” *Fox 23 News*, March 25, 2012, <https://www.fox23.com/news/breaking-news/a-war-of-words-between-fop-tulsa-mayor/254439636> (accessed July 18, 2019); FOP opposed Mayor Bartlett when he considered reducing the police budget. Canfield, “Tulsa police union criticizes city councilor after she makes ‘crooked a—cop’ comment on Facebook,” *Tulsa World*; Mummolo, “Councilor’s comments stir controversy with cops,” *KTUL*: FOP threatened repercussions for City Councilor Hall-Harper’s criticism of Tulsa officers.

<sup>662</sup> Human Rights Watch interview with Joe Williams, September 28, 2017; “Tulsa Police Chief Quits, Cites Political Harassment,” *The Oklahoman*, October 12, 1991, <https://newsok.com/article/2371793/tulsa-police-chief-quits-cites-political-harassment> (accessed July 18, 2019); Human Rights Watch telephone interview with Ziva Branstetter, senior editor, *Reveal*, former editor, *The Frontier*, October 3, 2017; Human Rights Watch interview with Drew Diamond, September 27, 2017, and Reverend Gerald Davis, November 1, 2017.

Though Diamond was well respected in Tulsa's black community, powerful constituencies felt he was "soft on crime," that he underestimated the gang problem, and that he catered too much to the black community.<sup>663</sup> The FOP denounced him with a no-confidence vote.<sup>664</sup> In 1991, citing political harassment, Diamond stepped down as chief.<sup>665</sup> His replacement, Ronald Palmer, immediately distanced himself from Diamond and reversed his predecessor's community policing policies, returning to a more traditional approach.<sup>666</sup>

### *Black Police Officers' Association Lawsuit*

In 1994, an association of black Tulsa police officers filed a class action lawsuit on behalf of all current and future black officers against the City of Tulsa, alleging racial discrimination in the police department's employment practices, including a segregated work environment, discriminatory hiring and promotions, retaliation for complaints, and failure of other officers to back them up on calls.<sup>667</sup>

After extensive litigation, the plaintiffs and the city entered a federal consent decree in 2003 that was intended to address employment discrimination within the department.<sup>668</sup> It also addressed police treatment of the community by requiring the department to meet

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<sup>663</sup> This perception was described by several Tulsans who were active in public affairs at the time. Human Rights Watch telephone interview with Ziva Branstetter, senior editor, *Reveal*, former editor, *The Frontier*, October 3, 2017; Human Rights Watch interview with Pastor Sharyn Cosby, October 31, 2017, and Drew Diamond, August 31, 2017.

<sup>664</sup> "Tulsa Police Chief Quits, Cites Political Harassment," *The Oklahoman*.

<sup>665</sup> "Tulsa Police Chief Quits, Cites Political Harassment," *The Oklahoman*. Another reason for Diamond to leave this job was to take a position with the Police Executive Research Forum, a national organization devoted to promoting community policing and other law enforcement "best practices." Human Rights Watch interview with Drew Diamond, August 31, 2017; Police Executive Research Forum, "About PERF," <https://www.policeforum.org/about> (accessed July 18, 2019).

<sup>666</sup> Human Rights Watch interview with Drew Diamond, August 31, 2017, and Reverend Gerald Davis, November 1, 2017; Human Rights Watch interview with (name withheld), (name withheld) agency, Tulsa, Oklahoma, (date of interview withheld).

<sup>667</sup> *Johnson v. City of Tulsa*, Oklahoma, 93 93 US Court of Appeals, Tenth Circuit, No. 05-5064, decided June 14, 2007, <https://caselaw.findlaw.com/us-10th-circuit/1491296.html> (accessed July 18, 2019); "Tulsa, black officers seek to settle lawsuit," *The Oklahoman*, November 15, 2002, <https://newsok.com/article/2815127/tulsa-black-officers-seek-to-settle-lawsuit> (accessed July 18, 2019).

<sup>668</sup> The FOP intervened in the lawsuit, attempting to block the consent decree by arguing that it interfered with their collective bargaining agreement, but the court overruled their objections. David Harper, "Federal judge gives final approval to settlement in Tulsa black officers' lawsuit," *Tulsa World*, September 9, 2010, [https://www.tulsaworld.com/news/courts/federal-judge-gives-final-approval-to-settlement-in-tulsa-black/article\\_d7625e78-c16f-53eb-98fd-5232421b9ab6.html](https://www.tulsaworld.com/news/courts/federal-judge-gives-final-approval-to-settlement-in-tulsa-black/article_d7625e78-c16f-53eb-98fd-5232421b9ab6.html) (accessed July 18, 2019); *Johnson v. City of Tulsa*, Case No. 94-CV-39-H(M), "Order," filed May 12, 2003, <https://www.clearinghouse.net/chDocs/public/EE-OK-0049-0004.pdf> (accessed July 18, 2019).

certain standards of service delivery and to collect detailed data about each individual officer, their actions in the field, and any complaints or discipline.<sup>669</sup>

The court terminated the consent decree in 2010.<sup>670</sup> The final order included an agreement for the city to install cameras in patrol cars. It is hard to evaluate the effectiveness and durability of the reforms imposed by the consent decree. Some agree that it did make positive changes.<sup>671</sup> Others believe the lawsuit made little difference.<sup>672</sup> After the court terminated the consent decree, the Tulsa Police Department appears to have stopped collecting much of the crucial data they had been required to collect or at least discontinued making the data publicly available, including data about detentions that could be used to evaluate racial bias in stops.<sup>673</sup>

### *Mayor's Police and Community Coalition*

In 2001, civil rights groups in Tulsa demanded an investigation into the Tulsa Police Department, alleging “racial profiling; selective enforcement of the law; unnecessary use of force; the role that race plays in the use of force.”<sup>674</sup> They advocated for creation of a civilian review board that would have oversight powers.<sup>675</sup>

In response to this complaint, and in the context of the black officers’ lawsuit, the mayor put together a task force to discuss forming an oversight body.<sup>676</sup>

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<sup>669</sup> *Johnson v. City of Tulsa*, Oklahoma, 93 93 US Court of Appeals, Tenth Circuit, No. 05-5064.

<sup>670</sup> Harper, “Federal judge gives final approval to settlement in Tulsa black officers’ lawsuit,” *Tulsa World*.

<sup>671</sup> Rev. Davis pointed to the importance of the data collection requirement of the consent decree and the lawsuit’s exposure of racism within the department. Human Rights Watch telephone interview with Reverend Gerald Davis, February 8, 2019.

<sup>672</sup> Human Rights Watch interview with Stephen Williams, Tulsa, Oklahoma, September 28, 2017; Human Rights Watch telephone interview with Louis Bullock, attorney, Tulsa, Oklahoma, July 26, 2019. Bullock was the lead attorney representing the Black Police Officers’ Association. He said that the lawsuit has improved the treatment of black officers within the department, but has not made lasting or meaningful changes in police treatment of the black community.

<sup>673</sup> Human Rights Watch telephone interview with (name withheld), officer, Tulsa Police Department, (date withheld); Human Rights Watch telephone interview with (name withheld), former officer, Tulsa Police Department, October 10, 2017; Human Rights Watch telephone interview with Ziva Branstetter, October 3, 2017.

<sup>674</sup> “Investigation sought into Tulsa police: The NAACP requested the probe,” *OU Daily*, April 5, 2001, [http://www.oudaily.com/investigation-sought-into-tulsa-police-the-naacp-requested-the-probe/article\\_6d60a6de-089a-5920-8566-a9ae1e5b60e7.html?utm\\_medium=social&utm\\_source=email&utm\\_campaign=user-share](http://www.oudaily.com/investigation-sought-into-tulsa-police-the-naacp-requested-the-probe/article_6d60a6de-089a-5920-8566-a9ae1e5b60e7.html?utm_medium=social&utm_source=email&utm_campaign=user-share) (accessed July 18, 2019); Human Rights Watch interview with Reverend Melvin Easily, Southern Christian Leadership Conference, Tulsa, Oklahoma, August 31, 2017.

<sup>675</sup> Human Rights Watch interview with Reverend Melvin Easily, August 31, 2017.

<sup>676</sup> Human Rights Watch interview with Hannibal Johnson, August 30, 2017. Ginnie Graham, “Building trust with Tulsa police started nearly a decade ago in this little-known city group,” *Tulsa World*, June 17, 2017,

By 2006-2007, however, the police chief had downplayed calls for civilian authority over police in favor of a body that would serve a community relations and advisory function.<sup>677</sup> The city council and Mayor Taylor followed his lead and ultimately decided against a review board, feeling it would lead to an “adversarial process,” instead of creating something more “collaborative.”<sup>678</sup>

The result was the formation of the Mayor’s Police and Community Coalition (MPACC) in 2008.<sup>679</sup> MPACC still meets and is comprised of a group of citizens, including business owners, former elected officials, faith leaders, heads of city commissions, city employees, and other community leaders.<sup>680</sup> Their bi-monthly meetings feature briefings from the chief about relevant current events in policing<sup>681</sup> and presentations by someone from the police department about “a topic of interest.”<sup>682</sup>

MPACC is not an oversight body at all; they have no access to police records or say in disciplinary matters; they do not review or investigate complaints.<sup>683</sup> Coalition members are expected to go back to their communities and explain police actions, providing the police department’s perspective.<sup>684</sup> MPACC’s mission is building trust, but it has no role in accountability.<sup>685</sup>

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[https://www.tulsaworld.com/homepagelatest/ginnie-graham-building-trust-with-tulsa-police-started-nearly-a/article\\_ff37169d-482a-52df-ac7d-ad9b3bea04ec.html](https://www.tulsaworld.com/homepagelatest/ginnie-graham-building-trust-with-tulsa-police-started-nearly-a/article_ff37169d-482a-52df-ac7d-ad9b3bea04ec.html) (accessed July 18, 2019).

<sup>677</sup> Human Rights Watch interview with Hannibal Johnson, August 30, 2017; Human Rights Watch interview with Reverend Gerald Davis, November 1, 2017.

<sup>678</sup> Human Rights Watch interview with Hannibal Johnson, August 30, 2017.

<sup>679</sup> Ginnie Graham, “Building trust with Tulsa police started nearly a decade ago in this little-known city group,” *Tulsa World*; Human Rights Watch interview with Hannibal Johnson, August 30, 2017.

<sup>680</sup> Human Rights Watch interview with Moises Echevarria, August 29, 2017.

<sup>681</sup> Human Rights Watch interview with Hannibal Johnson, August 30, 2017, and Moises Echevarria, August 29, 2017.

<sup>682</sup> Human Rights Watch interview with Hannibal Johnson, August 30, 2017. There have been presentations from the gang unit, from a rookie officer, and about recruitment, for example.

<sup>683</sup> Human Rights Watch interview with Moises Echevarria, August 29, 2017; “Tulsa police considering creation of citizens advisory board,” *The Frontier*, September 26, 2017, <https://www.readfrontier.org/stories/tulsa-police-considering-creation-of-citizens-advisory-board/> (accessed July 18, 2019).

<sup>684</sup> Human Rights Watch interview with Moises Echevarria, August 29, 2017; Human Rights Watch telephone interview with Eddie Evans, January 4, 2018.

<sup>685</sup> Ginnie Graham, “Building trust with Tulsa police started nearly a decade ago in this little-known city group,” *Tulsa World*.

## *Mayor Bynum's Community Policing Commission*

### **Commission members and process**

Mayor Bynum convened the Tulsa Commission on Community Policing quickly after taking office in December 2016. The commission was to study and make recommendations for how the Tulsa Police Department could promote the concept of “community policing.”<sup>686</sup> The commission’s mission was tied to the planned addition of 160 new officers.<sup>687</sup> It generated its report and recommendations after 90 days.<sup>688</sup>

Of the 23 commission members signing on to its final recommendations, nine were Tulsa Police personnel, including Chief Jordan, Deputy Chief Brooks and two other deputy chiefs, three majors, one sergeant, and one officer.<sup>689</sup> There were five city councilors, and three members of Bynum’s administration including the mayor himself. There were six community representatives, mostly business-people, and the director of MPACC.

The commission did not include: community organizers; church leaders particularly from the black churches in North Tulsa; social services providers; independent civil rights advocates<sup>690</sup>; attorneys, including criminal defense attorneys who address police practices in their work; or any independent experts on police practices.<sup>691</sup>

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<sup>686</sup> Jarrel Wade, “Mayor Bynum creates commission focused on community policing,” *Tulsa World*, December 16, 2016, [https://www.tulsaworld.com/news/local/mayor-bynum-creates-commission-focused-on-community-policing/article\\_2d378e2e-980e-57af-95fd-c1123168e53d.html](https://www.tulsaworld.com/news/local/mayor-bynum-creates-commission-focused-on-community-policing/article_2d378e2e-980e-57af-95fd-c1123168e53d.html) (accessed July 18, 2019); Corey Jones, “Community policing task force to organize citizen advisory panels,” *Tulsa World*, January 14, 2017, [https://www.tulsaworld.com/homepagelatest/community-policing-task-force-to-organize-citizen-advisory-panels/article\\_dc85dfcf-b1aa-5a8a-9de9-2cc095e6765e.html](https://www.tulsaworld.com/homepagelatest/community-policing-task-force-to-organize-citizen-advisory-panels/article_dc85dfcf-b1aa-5a8a-9de9-2cc095e6765e.html) (accessed July 18, 2019).

<sup>687</sup> Wade, “Mayor Bynum creates commission focused on community policing,” *Tulsa World*.”

<sup>688</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” March 10, 2017, <https://www.cityoftulsa.org/media/3298/community-policing-commission-executive-summary.pdf> (accessed July 18, 2019).

<sup>689</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing.”

<sup>690</sup> DeVon Douglas and Christina Starzl Mendoza, both on the Commission and part of the Bynum administration, are recognized as civil rights advocates.

<sup>691</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing.” Bynum met with him privately, but he did not include former Chief Diamond on the Commission, though Diamond is a nationally recognized expert on community policing. Human Rights Watch interview with Drew Diamond, August 31, 2017.

According to several members of the commission, their deliberations were dominated by police members.<sup>692</sup> On the first day, commission members were asked to give their thoughts on community policing. When each had taken a turn to say something, Deputy Chief Brooks presented the Tulsa Police Department's vision of community policing, saying, to a large extent, that they were already doing it.<sup>693</sup>

Though representatives of the communities most impacted by policing were not well represented on the commission, some advocates did attend their public meetings. Reverend Gerald Davis of The United League for Social Action (TULSA) appeared at meetings and called for the formation of an independent oversight body with subpoena power and authority to discipline.<sup>694</sup> The commission did not take up the call for independent oversight.<sup>695</sup>

### Commission Recommendations

The commission organized its recommendations around the structure of the “Final Report of the President’s Task Force on 21<sup>st</sup> Century Policing,” created under the Obama administration.<sup>696</sup> That report, and the Tulsa Commission, developed recommendations divided into six categories or “pillars”: 1) building trust and legitimacy; 2) policy and oversight; 3) technology and social media; 4) community policing and crime reduction; 5) training and education; 6) officer wellness and safety. The Tulsa Commission, following the national model, but applying locally relevant factors, generated 77 recommendations that were released to the public on March 10, 2017.<sup>697</sup>

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<sup>692</sup> Human Rights Watch interview with (name withheld), Community Policing Commission member, Tulsa, Oklahoma, (date withheld); Human Rights Watch interview with (name withheld), Community Policing Commission member, Tulsa, Oklahoma, (date withheld); Human Rights Watch telephone interview with Councilor Vanessa Hall-Harper, January 28, 2019.

<sup>693</sup> Human Rights Watch interview with (name withheld), Community Policing Commission member, Tulsa, Oklahoma, (date withheld). Brooks explained to Human Rights Watch that the department already had major components of “community policing” in place, but they needed to be organized and monitored better. He said that rank and file officers feel that they are already doing “community policing.” Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>694</sup> Human Rights Watch interview with Reverend Gerald Davis, November 1, 2017; Human Rights Watch interview with Laura Bellis, TULSA, Tulsa, Oklahoma, November 1, 2017; Human Rights Watch interview with (name withheld), Tulsa, Oklahoma, (date withheld).

<sup>695</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing.”

<sup>696</sup> President’s Task Force on 21<sup>st</sup> Century Policing, “Final Report of the President’s Task Force on 21<sup>st</sup> Century Policing,” *Office of Community Oriented Policing Services*, 2015, [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf) (accessed July 18, 2019).

<sup>697</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing.”



The 77 recommendations are an impressive effort to address a broad range of policing issues with a goal of making the department more responsive to community needs. They fall within Mayor Bynum’s stated goal of addressing racial inequalities in the city. They promote values of transparency, community engagement and unbiased policing. The 77 recommendations hold much promise for reform.

However, the 77 recommendations strongly reflect the police department’s assertion that they were already implementing community policing.<sup>698</sup> For example, “Pillar Two: Policy and Oversight,” a critical topic for accountability, included 13 recommendations. Nine of those recommendations said the department “should continue” what they were already doing. For example, Recommendation #1 said they “should continue to collaborate with community members to develop policies and strategies...” Recommendation #6 said they “should continue to collect, maintain, and analyze demographic data on all detentions...”<sup>699</sup>

“Pillar Four: Community Policing and Crime Reduction” has several recommendations using “should continue to” language, including “should continue to develop and adopt strategies that reinforce community engagement...” and “should continue working with neighborhood residents...”<sup>700</sup> This language indicates a sense that the department is already implementing “community policing.”

In “Pillar One: Building Trust and Legitimacy,” four of the nine recommendations in this section use the phrase “should continue to,” suggesting the department was already performing satisfactorily.<sup>701</sup> In “Pillar Five: Training and Education,” of the 14 recommendations, eight use the “should continue” language, including two that say

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<sup>698</sup> Human Rights Watch interview with (name withheld), Community Policing Commission member, Tulsa, Oklahoma, (date withheld); Human Rights Watch interview with (name withheld), Community Policing Commission member, Tulsa, Oklahoma, (date withheld). City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing.”

<sup>699</sup> Despite the language that suggests data collection is sufficient, sources within the department have indicated that data collection is insufficient. Human Rights Watch telephone interview with (name withheld), officer, Tulsa Police Department, December 12, 2017. Deputy Chief Brooks expressed the need to improve data collection on stops, arrests and other police contacts. Human Rights Watch interview with Jonathan Brooks, April 25, 2019. Human Rights Watch found some inadequacies in the data provided by the department, as outlined in the Methodology section in sections discussing specific data analysis.

<sup>700</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar Four.

<sup>701</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar One.



current de-escalation training should continue, as opposed to be expanded, changed, or even emphasized.<sup>702</sup> The commission could have called for strengthening de-escalation training.

Other recommendations tended to be vague. Recommendation #12, Pillar Two, said that the department should establish procedures for searches and seizures of LGBTQ people, without providing any guidelines for what those procedures should accomplish.

Recommendation #13 said the department should reinforce its policy against bias through training, but it does not give any direction for what that training should involve or how it would improve outcomes. “Pillar One: Building Trust and Legitimacy” is similarly vague, expressing aspirations, but setting forth few concrete steps to achieve those goals.

Recommendation #5 says simply: “Tulsa Police Department should increase officer visibility in neighborhoods as its workforce allows.” Recommendation #1 says, among other things, that the department should “provid[e] further transparency” and “work[] harder on procedural justice principles,” without providing any specifics for what these goals mean. This vagueness and lack of direction allows the police department to determine what the scope of compliance will be.

In some instances, the recommendations are more specific, calling on the department to “continue to conduct surveys,”<sup>703</sup> “engage with the 1921 Tulsa Race Riot Centennial Commission,”<sup>704</sup> or “expand access to Citizens Police Academy by developing a condensed 8-hour one-day curriculum and inviting community leaders to participate.”<sup>705</sup> However, many of these specific recommendations focus on better relations with the community, rather than changing actual police practices.

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<sup>702</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar Five, Recommendations #1 and #8.

<sup>703</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar One, Recommendation #7.

<sup>704</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar One, Recommendation #3.

<sup>705</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar Five, Recommendation #3.

Recommendation #8 under Policy and Oversight is the only one that addresses civilian or independent oversight.<sup>706</sup> It says the department “should establish civilian oversight of law enforcement through semi-annual community meetings and community advisory groups in each ... Division.” Semi-annual community meetings may have some public relations benefits, but they occur too infrequently to provide meaningful sharing of information. Advisory groups, like the MPACC, are not oversight. The commission could have recommended establishing a meaningful oversight body outside of the police department, but instead it settled for advisory groups.

Even where the recommendations cite to definable goals, they lack details on implementation and accountability. They call for officers to wear body cameras<sup>707</sup> but say nothing about formulating policy for their use. They call for a more diverse workforce,<sup>708</sup> but set no goals or timelines.<sup>709</sup>

### **Implementation of the Recommendations**

The city created an online “dashboard” designed to track progress in implementing the recommendations.<sup>710</sup> Each recommendation gets a mark noting: “TPD is fully implementing this effort on an ongoing basis”; “TPD is working to implement this effort”; “TPD has recommended this effort and is working to identify resources.” Deputy Chief Brooks meets periodically with the mayor’s staff to update them on progress for each recommendation. Sometimes there are documents that indicate progress, other times there is just verbal confirmation.<sup>711</sup> There are no more detailed metrics of progress displayed. The city has no other metrics to measure progress beyond the categories on the dashboard.<sup>712</sup>

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<sup>706</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing.”

<sup>707</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar One, Recommendation #1.

<sup>708</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar One, Recommendation #8.

<sup>709</sup> Human Rights Watch interview with (name withheld), official, City of Tulsa, (date withheld); Human Rights Watch telephone interview with Dr. Tiffany Crutcher, April 11, 2018.

<sup>710</sup> City of Tulsa, “Community Policing Dashboard,” February 6, 2019, <https://www.cityoftulsa.org/government/performance-strategy-and-innovation/dashboards/community-policing/> (accessed July 18, 2019).

<sup>711</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>712</sup> Human Rights Watch email correspondence with James Wagner, chief of performance, Strategy and Innovation, Office of the Mayor, City of Tulsa, August 11, 2017 (on file with Human Rights Watch).

In July 2017, Mayor Bynum said: “I think by the time we are done implementing this, we will be a national model for shifting a department to community policing....”<sup>713</sup> More recently, he said that the 77 recommendations are just the start of reform efforts.<sup>714</sup> As of December 2018, the dashboard claimed that the city was “fully implementing” 97 percent of the recommendations, and “working to implement” the remaining 3 percent.<sup>715</sup> This claim has raised questions about what “full implementation” means.<sup>716</sup> Since many of the recommendations are vague, it is difficult to assess implementation. However, it is worth analyzing the more concrete recommendations.

The department says it has fulfilled the requirement to use body-worn cameras. However, it has not formulated a discrete set of policies for the use of these cameras, instead relying on an existing policy related to patrol car video recordings.<sup>717</sup> This policy states that the video recordings are made to “provide[] A/V evidence and help[] defend against civil litigation....”<sup>718</sup> It stipulates that they are considered police records and may not be released without the chief’s consent, but officers may look at them. The program objectives included in the policy do not include their use to monitor officers for misconduct. In fact, the policy provides that supervisors may not review the video for misconduct unless they already have “reasonable suspicion” that misconduct occurred.<sup>719</sup>

These regulations severely limit the value of the videos as an oversight and accountability tool.<sup>720</sup> Further, the policy defines no consequences for failure to use the cameras. Deputy

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<sup>713</sup> Kim Jackson, “Tulsa community police plans move forward,” *KTUL*, July 19, 2017, <https://ktul.com/news/local/tulsa-community-police-plans-move-forward> (accessed July 18, 2019).

<sup>714</sup> Human Rights Watch interview with G.T. Bynum, April 25, 2019. Deputy Chief Brooks similarly says that the recommendations are a “starting point.” Human Rights Watch interview with Jonathan Brooks, April 25, 2019.

<sup>715</sup> City of Tulsa, “Community Policing Dashboard.”

<sup>716</sup> TULSA: The United League for Social Action, “Future Indefinite: A Study in 79 Shoulds or 77 Claims,” November 2017, <https://wearetulsa.files.wordpress.com/2017/11/future-indefinite.pdf> (accessed July 18, 2019).

<sup>717</sup> Tulsa Police Department, “Mobile Video Recording,” Procedural File No. 31-202B, approved, May 24, 2012, [https://www.tulsapolice.org/media/161292/public\\_policy\\_manual121217.pdf](https://www.tulsapolice.org/media/161292/public_policy_manual121217.pdf) (accessed July 16, 2019), p. 325. Human Rights Watch email correspondence with James Wagner, August 11, 2017 (on file with Human Rights Watch).

<sup>718</sup> Tulsa Police Department, “Mobile Video Recording.”

<sup>719</sup> Tulsa Police Department, “Mobile Video Recording,” Regulation 7.

<sup>720</sup> Allowing officers an unlimited right to review the video allows dishonest officers to conform their testimony to fit what is observable on film, and to come up with explanations for misconduct more easily. Requiring “reasonable suspicion” to even investigate misconduct on the video allows supervisors to use their discretion not to inquire; allowing the department to choose which incidents will be viewed publicly gives the department the option to withhold damaging video.

Chief Brooks explained that the policy is designed to conform with policy for patrol car dashboard cameras.<sup>721</sup>

“Pillar Five: Training and Education,” Recommendation #10, says the department should offer “implicit bias training for all officers.” As of August 2018, the dashboard said that “TPD is fully implementing...” However, it then said, “TPD is working to identify a trainer to conduct implicit bias training in-house trainers to teach all TPD officers.”<sup>722</sup> Deputy Chief Brooks explained that, as of April 2019, they had completed training for in-house trainers and were in the process of having the in-house trainers work with the rest of the officers.<sup>723</sup> Reverend Davis expressed frustration that the training is not comprehensive enough to have impact.<sup>724</sup>

As part of “Pillar Two: Police and Oversight” Recommendation #8, the department is supposed to establish “civilian oversight of law enforcement.” through advisory boards, not civilian review bodies that would have the power to independently investigate police misconduct.<sup>725</sup> The Gilcrease Division advisory board, in North Tulsa, has not met frequently and lacks power, according to one advisory board member.<sup>726</sup> Another advisory board member says that she met resistance from police when she attempted to address an issue of policing policy at an advisory board meeting.<sup>727</sup>

The recommendations of the Commission on Community Policing promote some admirable aspirations, like working with schools to promote restorative justice strategies as an alternative to suspensions and expulsions<sup>728</sup> or engaging multi-disciplinary community

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<sup>721</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>722</sup> City of Tulsa, “Community Policing Dashboard.”

<sup>723</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>724</sup> Human Rights Watch telephone interview with Reverend Gerald Davis, February 8, 2019.

<sup>725</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar Two, Recommendation #8. Human Rights Watch interview with Pastor Sharyn Cosby, October 31, 2017.

<sup>726</sup> Human Rights Watch telephone interview with Reverend Gerald Davis, February 8, 2019, and Vanessa Hall-Harper, January 28, 2019; A member of the Gilcrease Division board advised Human Rights Watch that they rarely meet. Human Rights Watch text and email correspondence with Nehemiah Frank, Black Wall Street Times, Tulsa, Oklahoma, May 26, 2019 (on file with Human Rights Watch).

<sup>727</sup> Human Rights Watch telephone interview with Jill Webb, March 6, 2019.

<sup>728</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar Four, Recommendation #10. However, to accomplish this change in disciplinary approach, they recommend more police officers (“school resource officers”) in the schools. A better strategy would be to provide schools with non-law enforcement

teams to respond to complex situations.<sup>729</sup> But, they do not provide a framework for oversight and accountability. The recommendations emphasize that the Tulsa Police Department believes it is already implementing “community policing,” should continue to do so, and just needs to do a better job communicating to the community how much they are doing.<sup>730</sup>

### Independent Monitor Proposal

In January 2019, Bynum announced plans to create an Office of the Independent Monitor (“OIM”) to provide some measure of oversight for the Tulsa Police Department.<sup>731</sup> He told Human Rights Watch that this proposal was designed to address some of the shortcomings of the 77 recommendations, which he said were just a start to his reform program.<sup>732</sup>

The OIM would have three main responsibilities: 1) review Internal Affairs investigations of force incidents; 2) make policy recommendations related to the community policing program; and 3) engage in citizen outreach.<sup>733</sup> The OIM would not have disciplinary authority or subpoena power.<sup>734</sup> The OIM is intended to be based on a similar institution in Denver, Colorado,<sup>735</sup> though, unlike that model, the Tulsa OIM would not be allowed to be present during investigations and would only review reports given to it by Internal Affairs

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resources to address the roots of disciplinary problems, including adding counselors and support staff, providing tutoring and other services and additional training for teachers. Vitale, *The End of Policing*, p. 70-75.

<sup>729</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing,” Pillar Four, Recommendation #3.

<sup>730</sup> City of Tulsa, “Findings and Recommendations of the Tulsa Commission on Community Policing.” In Pillar Four: Community Policing and Crime Reduction, Recommendation #6 calls for “community education relative to the practice of policing”; #8 calls for forums and meetings for residents to meet with police; #9 calls for ride-alongs, joint training, and citizen academies; #21 calls for programs to promote positive interactions between youth and police. Human Rights Watch interview with Jonathan Brooks, April 24, 2019: Brooks expressed that the department was doing a great deal of community policing and needed to communicate that fact better.

<sup>731</sup> Kevin Canfield, “Police use-of-force incidents need outside scrutiny, mayor says in proposing independent monitor,” *Tulsa World*, January 17, 2019, [https://www.tulsaworld.com/news/local/police-use-of-force-incidents-need-outside-scrutiny-mayor-says/article\\_652210a1-df63-5ed1-9866-2db2d24dd5df.html](https://www.tulsaworld.com/news/local/police-use-of-force-incidents-need-outside-scrutiny-mayor-says/article_652210a1-df63-5ed1-9866-2db2d24dd5df.html) (accessed July 18, 2019).

<sup>732</sup> Human Rights Watch interview with G.T. Bynum, Mayor, April 25, 2019.

<sup>733</sup> GT Bynum, “Mayor’s letter to police,” re-printed in *Tulsa World*, January 16, 2019, [https://www.tulsaworld.com/mayor-s-letter-to-police/pdf\\_744743a0-5e03-5d9b-90c0-067168e1fa75.html](https://www.tulsaworld.com/mayor-s-letter-to-police/pdf_744743a0-5e03-5d9b-90c0-067168e1fa75.html) (accessed July 18, 2019).

<sup>734</sup> GT Bynum, “Mayor’s letter to police,” *Tulsa World*.

<sup>735</sup> GT Bynum, “Mayor’s letter to police,” *Tulsa World*.

investigators.<sup>736</sup> The OIM will keep officers' names confidential; their investigations will be privileged; the timing of public release of information will be up to the OIM and will not be allowed to influence litigation.<sup>737</sup> Bynum has said that the purpose of the OIM is to build trust with the community.<sup>738</sup>

The Tulsa Black Officers Coalition has spoken in favor of the proposal, agreeing with the principle of civilian oversight to change the culture of the police department.<sup>739</sup> The FOP immediately objected to the proposal<sup>740</sup> and is actively working to defeat it or at least render the oversight function ineffective.<sup>741</sup>

The OIM, under the current proposal, would have some potentially useful functions. It would have data analysts looking at policies and trends in order to recommend improvements.<sup>742</sup> Bynum said that the OIM will help him monitor the progress of the department's implementation of the community policing recommendations.<sup>743</sup> They would also be able to conduct audits of the department.<sup>744</sup>

However, the OIM's lack of subpoena power, inability to participate in investigations, and reliance on Internal Affairs to provide information about incidents may defeat its oversight function and undermine its authority to address problems. It will have access to records given it by the department's Internal Affairs Division, but will lack authority to compel

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<sup>736</sup> "Mayor G.T. Bynum discusses the City of Tulsa's proposed Office of the Independent Monitor," *Tulsa World*, February 6, 2019, [https://www.youtube.com/watch?v=T8xj\\_F65QL4](https://www.youtube.com/watch?v=T8xj_F65QL4) (accessed July 18, 2019).

<sup>737</sup> "Mayor G.T. Bynum discusses the City of Tulsa's proposed Office of the Independent Monitor," *Tulsa World*.

<sup>738</sup> GT Bynum, "Mayor's letter to police."

<sup>739</sup> Kevin Canfield, "Tulsa Black Officers Coalition says it supports mayor's plan for independent oversight of police investigations," *Tulsa World*, February 4, 2019, [https://www.tulsaworld.com/eedition/page-a/page\\_26677fde-fda8-5bdf-8c34-07e9f10401fe.html](https://www.tulsaworld.com/eedition/page-a/page_26677fde-fda8-5bdf-8c34-07e9f10401fe.html) (accessed July 18, 2019).

<sup>740</sup> Mark Secrist, Tulsa FOP President, "FOP opposition letter," re-printed in *Tulsa World*, January 16, 2019, [https://www.tulsaworld.com/fop-opposition-letter/pdf\\_a216c4cd-d1c8-5661-9752-bb1708139762.html](https://www.tulsaworld.com/fop-opposition-letter/pdf_a216c4cd-d1c8-5661-9752-bb1708139762.html) (accessed July 18, 2019). The FOP says that Tulsa Police are heavily scrutinized but resist monitoring from an independent entity. Later, the FOP supported a competing oversight plan that would have the Oklahoma State Bureau of Investigation review Internal Affairs investigations. This plan has not been adopted. Kevin Canfield, "Councilor offers alternative to mayor's police monitoring proposal, wants OSBI to follow up on Internal Affairs investigations," *Tulsa World*, June 19, 2019, [https://www.tulsaworld.com/eedition/page-a/page\\_8f8cd764-56c3-5ad5-a7f1-60e1a5212ea8.html](https://www.tulsaworld.com/eedition/page-a/page_8f8cd764-56c3-5ad5-a7f1-60e1a5212ea8.html) (accessed July 18, 2019).

<sup>741</sup> Human Rights Watch telephone interview with Vanessa Hall-Harper, January 28, 2019.

<sup>742</sup> Human Rights Watch telephone interview with Laura Bellis, The United League for Social Action, Tulsa, Oklahoma, February 11, 2019.

<sup>743</sup> Human Rights Watch interview with G.T. Bynum, April 25, 2019.

<sup>744</sup> Human Rights Watch interview with G.T. Bynum, April 25, 2019.

disclosure. Instead, it will rely on the Chief of Police, and ultimately the mayor and city council to guarantee disclosure.<sup>745</sup> Mayor Bynum and Deputy Chief Brooks both expressed belief that this arrangement would be sufficient to guarantee access to records. But, OIM will remain dependent on political support to fulfill its mission. If the director and the staff of OIM are not assertive in how they interpret and implement their oversight function or if political leadership turns against them, they will have limited effect.

### **Community Demands for Reform**

In recent years, there have been community-based initiatives calling for policing reform, particularly in wake of the killing of Terence Crutcher.

North Tulsa City Councilor Vanessa Hall-Harper has advocated for reform initiatives directly focused on the Tulsa Police Department, including her December 2018 call for the City Council to hold public hearings on racial disparities in policing practices that were outlined in the City's 2018 Tulsa Equality Indicators report.<sup>746</sup> The City Council has been holding these hearings over the course of the summer of 2019, following negotiations about their format and content.<sup>747</sup>

Hall-Harper and about 50 other prominent Tulsa advocates, community leaders, attorneys, citizens, officials, church leaders, and the representatives from the NAACP Legal Defense Fund signed a letter to Mayor Bynum and the chair of the city council drawing attention to the disparities highlighted in the "Equality Indicators" report, saying that they are "well-

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<sup>745</sup> Human Rights Watch interview with G.T. Bynum, and Jonathan Brooks, April 24, 2019.

<sup>746</sup> Kevin Canfield, "City Attorney's Office: Councilor Hall-Harper can't participate in public hearings on police practices," *Tulsa World*, July 16, 2018, [https://www.tulsaworld.com/eedition/page-a/page\\_276b58e6-f2fe-56ea-872b-c6f12a52d70b.html](https://www.tulsaworld.com/eedition/page-a/page_276b58e6-f2fe-56ea-872b-c6f12a52d70b.html) (accessed July 18, 2019). The City Attorney has issued a memorandum stating that Hall-Harper should not be allowed to participate in reviews of police practices because her husband is an officer. She is the strongest critic of policing on the Tulsa City Council, so silencing her would remove an important voice for reform and accountability. The city withheld funding for her to attend a conference on community oversight of police. However, supportive residents of Tulsa contributed money and she was able to attend and bring back ideas that she has shared with the mayor. Human Rights Watch telephone interview with Councilor Vanessa Hall-Harper, January 28, 2019.

<sup>747</sup> Kevin Canfield, "Equality Indicators public meetings will be held May through August," *Tulsa World*, March 18, 2019, [https://www.tulsaworld.com/news/local/government-and-politics/equality-indicators-public-meetings-will-be-held-may-through-august/article\\_gebo3f1e-ba32-58d5-9843-7e287016389b.html](https://www.tulsaworld.com/news/local/government-and-politics/equality-indicators-public-meetings-will-be-held-may-through-august/article_gebo3f1e-ba32-58d5-9843-7e287016389b.html) (July 18, 2019); Randy Krehbiel, "City Councilors, panelists dig into Equality Indicators data on juvenile justice and race," *Tulsa World*, June 27, 2019, [https://www.tulsaworld.com/news/local/city-councilors-panelists-dig-into-equality-indicators-data-on-juvenile/article\\_3192b41f-ob27-5f25-809d-b4a56a9bbe2f.html](https://www.tulsaworld.com/news/local/city-councilors-panelists-dig-into-equality-indicators-data-on-juvenile/article_3192b41f-ob27-5f25-809d-b4a56a9bbe2f.html) (accessed July 23, 2019); KWGS News, "Council Takes Up Police Use of Force in Equality Hearing," *Public Radio Tulsa*, July 18, 2019, <https://www.publicradiotulsa.org/post/council-takes-police-use-force-equality-hearing> (accessed July 23, 2019).

known to residents and City officials, as previous research, litigation and news reports have documented [them] for decades.”<sup>748</sup>

Dr. Tiffany Crutcher, Terence’s twin sister and president of the Terence Crutcher Foundation,<sup>749</sup> was one of the driving forces behind the letter, along with the NAACP-Legal Defense Fund. It set forth a series of reform demands:

- Revise Tulsa Police Department policies and training to emphasize de-escalation and alternatives to arrest.
- Require independent investigations of police force incidents that result in death or injury.
- Create use-of-force policies that clearly state what information will be released relating to incidents.
- Establish a review board for serious incidents that includes community members as well as police personnel.
- Contribute to the National Decertification Index that tracks officers who have had their law enforcement credential revoked or suspended.
- Retain a nationally recognized implicit bias trainer to work with the entire department to change discriminatory practices and culture.
- Hold public hearings on racially biased policing practices.

The department added de-escalation to its use of force police, but it has not instituted other reforms. After months of advocacy and public pressure, including a community-led hearing on racial disparities in policing found in the city's Equality Report, the City Council held public hearings on racially biased policing practices.<sup>750</sup>

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<sup>748</sup> Letter from Sherrilyn A. Ifill, President & Director Counsel NAACP Legal Defense Fund, Inc., et al., to Mayor G.T. Bynum and City Council Chair David Patrick, May 31, 2018, <https://bloximages.newyork1.vip.townnews.com/tulsaworld.com/content/tncms/assets/v3/editorial/b/c7/bc77495a-1878-5192-8f7f-a7302feb8728/5b109ce4dad66.pdf.pdf> (accessed July 18, 2019).

<sup>749</sup> Terence Crutcher Foundation, Inc., “About Us,” <https://terencecrutcherfoundation.org/about-us> (accessed July 18, 2019). The Crutcher family, with community support, started the Terence Crutcher Foundation in his memory. Its mission is to combat racial inequality and help people, especially black men, access educational, employment, and other opportunities.

<sup>750</sup> Human Rights Watch email correspondence with Monique Dixon, deputy director of policy and director of state advocacy, NAACP-Legal Defense Fund, March 8, 2019 (on file with Human Rights Watch). Kevin Canfield, “Council hears from passionate residents before voting to hold public meeting on 2018 Equality Indicators report,” *Tulsa World*, March 13, 2019, [https://www.tulsaworld.com/news/local/government-and-politics/council-hears-from-passionate-residents-before-voting-to-hold-public/article\\_fe71e8ed-b71e-56e5-8a48-5aa885938142.html](https://www.tulsaworld.com/news/local/government-and-politics/council-hears-from-passionate-residents-before-voting-to-hold-public/article_fe71e8ed-b71e-56e5-8a48-5aa885938142.html) (accessed August 26, 2019).



The United League for Social Action (“TULSA”) is a grassroots coalition of people organizing to combat racial-profiling, over-policing, and police brutality.<sup>751</sup> They articulate three primary demands of the Tulsa Police Department:

- Transparency and accountability.
- Implicit bias and trauma informed training.
- Creation of a Citizen Oversight Board with subpoena power.

Their intention is to achieve transparency and accountability through formation of an effective citizen oversight board.<sup>752</sup>

In 2017, a group of residents of North Tulsa, led by former City Councilor Joe Williams, presented the mayor with a slate of police reform measures, including oversight and accountability, de-escalation training and more resources for the community. The mayor has been receptive to the demands, but has not acted on them.

In addition to these organizations and leaders who have formally presented demands for reform, there are many community leaders, academics, lawyers and church leaders who are raising the issue of biased, abusive policing, and underdevelopment of the poorer sections of Tulsa. Some prefer to work in collaborative ways with city authorities, while others take a more confrontational approach.

Examples of community leaders and activists who are working for change in Tulsa related to policing, public safety and community empowerment include Nehemiah Frank, who runs the independent news magazine, *The Black Wall Street Times*, and has organized around a variety of issues in his community; We The People, OK, a civil rights organization, has pushed for reform at both the Tulsa County Sheriff’s Department and the Tulsa Police Department; Tulsa’s Black Lives Matter chapter, led by Pastor Mareo Johnson, has been calling for police accountability; Richard Baxter has formed a non-profit called Racism Stinks, that educates civilians and law enforcement about the effects of racism; The Tulsa branch of the Southern Christian Leadership Conference, led by Reverend Melvyn Easily, has been calling for economic development in North Tulsa. There are many other organizations and individuals who are actively working to improve police and community interactions and seeking oversight and accountability.

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<sup>751</sup> We Are TULSA, “Who We Are,” <https://www.wearetulsa.org/about/> (accessed July 18, 2019).

<sup>752</sup> Human Rights Watch telephone interview with Reverend Gerald Davis, February 8, 2019.

A variety of community organizations, church groups, advocacy organizations, social services providers, academics and lawyers have pressed for reforms that would improve policing outcomes for members of the immigrant community, including calling for an end to the Sheriff Department's Section 287(g) contract.<sup>753</sup>

These many organizations, stakeholders, and advocates provide some counterweight to the entrenched political and economic forces that resist changes in policing practices in Tulsa. The election of Mayor Bynum, who has expressed a desire to change his police force, may enhance the opportunity for reform to succeed, but only if he is willing to take political risks and challenge powerful institutions like the Fraternal Order of Police and the department itself.

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<sup>753</sup> ACTION Tulsa, "The Campaign to End 287(g) Continues," undated, <https://actiontulsa.nationbuilder.com/> (accessed July 18, 2019). There are many individual advocates within Tulsa's Latino and immigrant community working to uphold their safety and rights. The New Sanctuary Network and Coalition for the American Dream are among the organizations that have been advocating for immigrant rights.

## X. Community Policing Visions

### Individual Officers Building Relationships

In July 2017, Catherine Cooper's car stalled while she was driving in downtown Tulsa. She was unable to get it to re-start.<sup>754</sup> An officer drove past her, then made a u-turn and headed back in her direction. Having had numerous bad interactions with police as a black woman living in Tulsa, Cooper's first reaction was fear. She expected this officer would give her a ticket or possibly impound her car. Instead, the officer pulled up to her, took out cables and helped her jump-start her car.

Cooper said, "Of course, it was Popsey. He's what a police officer should be. He's there to help."

Officer Amley "Popsey" Floyd grew up in Tulsa and joined the Tulsa Police Department in 2011, where he worked Gilcrease Division in North Tulsa.<sup>755</sup> The department assigned Floyd as their first "community resource officer" (CRO), expecting him to implement community policing in the South Tulsa neighborhood around 61st Street and Peoria.<sup>756</sup>

Floyd saw his role as building relationships with people, including many who feared and mistrusted the police, and learning from them how best to address crime in the neighborhood—as opposed to simply carrying out enforcement actions.<sup>757</sup> Much of what he did was letting people know about services that were available to them to improve their lives, like health care clinics or help with expunging convictions.<sup>758</sup> He believed that crime decreased in the area with increased community engagement.

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<sup>754</sup> Human Rights Watch telephone interview with Catherine Cooper (pseudonym), Tulsa, Oklahoma, January 4, 2018.

<sup>755</sup> Kyle Hinchey, "Community Resource Officer 'Popsey' Floyd to resign from Tulsa Police Department," *Tulsa World*, October 2, 2018, [https://www.tulsaworld.com/news/crimewatch/community-resource-officer-popsey-floyd-to-resign-from-tulsa-police/article\\_fa83e304-4096-501c-9044-4b8c9f6020f3.html](https://www.tulsaworld.com/news/crimewatch/community-resource-officer-popsey-floyd-to-resign-from-tulsa-police/article_fa83e304-4096-501c-9044-4b8c9f6020f3.html) (accessed July 18, 2019).

<sup>756</sup> Hinchey, "Community Resource Officer 'Popsey' Floyd to resign from Tulsa Police Department," *Tulsa World*.

<sup>757</sup> The United League for Social Action, video of Tulsa Forum, "Community Policing: Collaborating for a Safer Tulsa," *Facebook*, 2017, <https://www.facebook.com/wearetulsa.org/videos/1535686949810950/> (accessed July 18, 2019).

<sup>758</sup> Corey Jones, "Tulsa Officer 'Popsey' Floyd highlights sustainable successes in outreach efforts at 61<sup>st</sup> and Peoria," *Tulsa World*, April 11, 2018, [https://www.tulsaworld.com/news/crimewatch/tulsa-officer-popsey-floyd-highlights-sustainable-successes-in-outreach-efforts/article\\_a97e25b3-be0c-5940-8df5-c56boae1b8f6.html](https://www.tulsaworld.com/news/crimewatch/tulsa-officer-popsey-floyd-highlights-sustainable-successes-in-outreach-efforts/article_a97e25b3-be0c-5940-8df5-c56boae1b8f6.html) (accessed July 18, 2019).

However, Floyd was only one officer.<sup>759</sup> He recently left the Tulsa Police Department to better balance his work and family life.<sup>760</sup>

There are individual officers, like Floyd, who do seek to develop relationships with people in the communities where they patrol. Human Rights Watch spoke to officers who described their own personal styles of policing that involve getting to know the people in the areas that they patrol and turning to those people for help in de-escalating situations, gathering information to solve crimes, or simply finding solutions to problems without making arrests.<sup>761</sup>

According to the commander of the Gilcrease Division, many officers have built up these relationships in the neighborhoods that they patrol and do work with their communities to address problems.<sup>762</sup>

An officer from a different division described a situation in which a belligerent, drunk person confronted him. A neighbor of that person, with whom the officer had a relationship, stepped in, calmed the man down, and took him inside. The officer described community policing: it's about "being a decent person, wanting the community to have your back."<sup>763</sup> He said of his long-time patrol assignment, "I know my people."

As previously noted, Officer Guardiola, the Hispanic Outreach Officer, serves a community policing function, as his job is to build relationships within Tulsa's Latino community.<sup>764</sup> Because he is trusted in the community, people report problems to him and give him tips that help solve crimes.<sup>765</sup>

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<sup>759</sup> Human Rights Watch telephone interview with Eddie Evans, January 4, 2018; Human Rights Watch telephone interview with Pastor Ray Owens, April 12, 2018.

<sup>760</sup> Hinchey, "Community Resource Officer 'Popsey' Floyd to resign from Tulsa Police Department," *Tulsa World*.

<sup>761</sup> Human Rights Watch telephone interview with (name withheld), officer, Tulsa Police Department, February 15, 2018; Human Rights Watch interview with (name withheld), officer, Tulsa Police Department, (date withheld).

<sup>762</sup> Human Rights Watch interview with Wendell Franklin, Major, Tulsa Police Department, Tulsa, Oklahoma, March 27, 2019. Franklin is commander of the Gilcrease Division, covering North Tulsa.

<sup>763</sup> Human Rights Watch interview with (name withheld), officer, Tulsa Police Department, Tulsa, Oklahoma, (date withheld).

<sup>764</sup> Human Rights Watch interview with Jesse Guardiola, officer, Tulsa Police Department, Tulsa, Oklahoma, September 29, 2017.

<sup>765</sup> Ibid.

The department is in the process of expanding the number of CROs. They have replaced Floyd, have assigned a team of CROs to work downtown, and are looking to increase their number in the schools and parks.<sup>766</sup> However, the expansion of CROs would still be only a small percentage of the department's personnel, and not reflective of the policing style of the rest of the department. Further, much of the work CROs do to help the community, particularly connecting people to services, may be accomplished better by social workers or other service providers, rather than police officers.<sup>767</sup>

## Tulsa Police Department and Community Policing

Some in Tulsa see having the police department practice “community policing” as at least part of the answer to the problems of abusive policing.<sup>768</sup>

Deputy Chief Jonathon Brooks spelled out the Tulsa Police Department's definition of community policing in a public forum in Tulsa in October 2017.<sup>769</sup> He called it, “A strategy of policing that focuses on police building relationships and working closely with members of the community to prevent and resolve crime.” He stressed a partnership between citizens and police that requires trust, communication, and reliability. He told Human Rights Watch that community policing is about having officers in a position to work with community partners to solve problems.<sup>770</sup>

One officer who spoke to Human Rights Watch said that he believed the Tulsa Police Department as a whole is not committed to this vision of community policing and very few officers engage with the people in their patrol areas.<sup>771</sup> He said that a supervisor even told him he should not be building relationships with people in the community.

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<sup>766</sup> Human Rights Watch interview with Jonathan Brooks, April 25, 2019.

<sup>767</sup> Bell, *Police Reform and the Dismantling of Legal Estrangement*, *The Yale Law Journal*: “Yet even police officers complain that the system expects them to play an outsized role in poor people's daily lives, performing functions that supplant work ideally done by the welfare state and social services. This work—responding to mental health crisis, truancy, homelessness, and more—is done by civil servants who are authorized to carry guns and use lethal force. It is done by civil servants who, through the mechanisms of self-selection, institutional culture, and perhaps more, may be more punitive or less empathetic than the average civil servant.”

<sup>768</sup> Human Rights Watch interview with Vanessa Hall-Harper, July 27, 2017, and Drew Diamond, September 27, 2017.

<sup>769</sup> The United League for Social Action, video of Tulsa Forum, “Community Policing: Collaborating for a Safer Tulsa,” *Facebook*.

<sup>770</sup> Human Rights Watch interview with Jonathan Brooks, April 24, 2019.

<sup>771</sup> Human Rights Watch telephone interview with (name withheld), officer, Tulsa Police Department, February 2018.

According to community leaders, former Police Chief Diamond, and members of the Tulsa community, many officers, particularly in North Tulsa, tend to hover around the outskirts of the communities they police and only enter in response to a call or to make a stop, approaching people not as citizens but as suspects.<sup>772</sup>

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<sup>772</sup> Human Rights Watch telephone interview with Pastor Ray Owens, April 12, 2018; Human Rights Watch interview with Drew Diamond, August 31, 2017, and Edward Malone (pseudonym), November 1, 2017, and Stephen Williams, Tulsa Oklahoma, September 29, 2017.

### Warriors and Guardians

Deputy Chief Brooks described Tulsa police officers as needing to have a “guardian,” as opposed to a “warrior,” mindset.<sup>773</sup> This formulation comes from a trend in policing philosophy promoted as integral to community policing: that officers are “trained to cultivate a ‘warrior mindset’” and that solving problems of policing requires switching to the role of “guardian.”<sup>774</sup>

Many police departments promote a “warrior mindset” by training officers along military models to see the world as highly dangerous and to treat all encounters as potentially lethal.<sup>775</sup> This mindset encourages officer to require people with whom they interact accede to their authority and do what they are told, while officers exercise “unquestioned command.”<sup>776</sup> This approach interferes with efforts to build trust and relationships with people that are essential to community policing.<sup>777</sup> This command and control approach tends to escalate encounters, risking officer safety as well as the safety of the subject of the contact, and builds community resentment that damages cooperation with police, hindering crime fighting.<sup>778</sup>

Tulsa Police Department’s pattern of aggressive stops for minor or non-existent violations, coerced consent to search, enforcement of failure-to-pay and other low-level warrants, and elevation of force levels as outlined above, demonstrates that this mindset is prevalent.<sup>779</sup> And there is evidence that the

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<sup>773</sup> The United League for Social Action, video of Tulsa Forum, “Community Policing: Collaborating for a Safer Tulsa,” *Facebook*.

<sup>774</sup> Seth Stoughton, “Law Enforcement’s ‘Warrior’ Problem,” *Harvard Law Review Forum*, vol. 128, no. 225, April 10, 2015, <https://harvardlawreview.org/2015/04/law-enforcements-warrior-problem/> (accessed July 18, 2019). This vision of police as “guardians” as opposed to “warriors” underlies The President’s Task Force on 21<sup>st</sup> Century Policing, which served as a template for Bynum’s Commission on Community Policing.

<sup>775</sup> Stoughton, “Law Enforcement’s ‘Warrior’ Problem,” *Harvard Law Review Forum*; Susan Rahr and Stephen K. Rice, “From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals,” *New Perspectives in Policing*, April 2015, <https://www.ncjrs.gov/pdffiles1/nij/248654.pdf> (accessed July 18, 2019).

<sup>776</sup> Stoughton, “Law Enforcement’s ‘Warrior’ Problem,” *Harvard Law Review Forum*, p. 8-9.

<sup>777</sup> *Ibid*.

<sup>778</sup> Stoughton, “Law Enforcement’s ‘Warrior’ Problem,” *Harvard Law Review Forum*.

<sup>779</sup> For example, as recently as March 2018, there was a poster hanging in the Tulsa Police Training Center that said: “We have to be WARRIORS!! FIGHT, and make damn sure you go home at night. NOT TODAY!! ‘Where you go, is up to you...Jail,

warrior mentality is directed disproportionately at people of color in Tulsa. The “guardian” approach to policing stresses police having non-enforcement interactions with people to build trust and rapport, using communication instead of commands, and exercising “tactical restraint” to avoid creating dangerous situations.<sup>780</sup> The question remains whether police can ever really be “guardians” when their mission in large part calls on them to wage “wars” on drugs and gangs. A further and related question is whether even a police culture that fully embraces the “guardian” approach is the proper response to many of the societal problems that police are asked to address.



Posters inside a Tulsa Police Department training facility. © 2016 Black Wall Street Times<sup>781</sup>

## Police Staffing and Community Policing

The city is in the process of adding 160 new officers.<sup>782</sup> The recommendations of the Community Policing Commission were premised on the addition of these officers under the assumption promoted by the department that they

Hospital or Morgue. Doesn't matter to us because we're going home!' I WILL NOT BE A STATISTIC." This poster is next to another one that shows the barrel of a gun pointed at the viewer, saying "NOT TODAY" and "I will not be caught unaware." The United League for Social Action, "A Call to Action for the Tulsa Police Department," *Black Wall Street Times*, <https://theblackwallsttimes.com/2018/07/23/a-call-to-action-for-the-tulsa-police-department/> (Accessed July 18, 2019).

<sup>780</sup> Stoughton, "Law Enforcement's 'Warrior' Problem," *Harvard Law Review Forum*, p. 10-12.

<sup>781</sup> Photo courtesy of Black Wall Street Times; Members of The United League for Social Action (Tulsa), "A Call to Action for the Tulsa Police Department," *Black Wall Street Times*, <https://theblackwallsttimes.com/2018/07/23/a-call-to-action-for-the-tulsa-police-department/> (accessed August 25, 2019).

<sup>782</sup> Corey Jones, "Here are some ways that Tulsa Police Department wants to better interact with you and your neighbors," *Tulsa World*, March 26, 2017, [https://www.tulsaworld.com/news/crimewatch/here-are-some-ways-the-tulsa-police-department-wants-to/article\\_f81abce9-79ee-5bee-af80-6dd807f60571.html](https://www.tulsaworld.com/news/crimewatch/here-are-some-ways-the-tulsa-police-department-wants-to/article_f81abce9-79ee-5bee-af80-6dd807f60571.html) (Accessed July 18, 2019). Deputy Chief Brooks



were too understaffed to adopt community policing.<sup>783</sup>

Chief Jordan said that he wants Tulsa police to have better relationships with the community, but that he needs considerably more officers to do so.<sup>784</sup> Jordan's representative, responding to a report that traffic citations were greatly reduced, said that the department had too few officers to engage in the type of "proactive" policing that Jordan favored, indicating that there were not enough officers writing citations on traffic patrols.<sup>785</sup> This position raises questions about whether more officers will build relationships with community members or simply take more enforcement actions.

"Proactive policing" that increases stops, citations and arrests may only increase existing tensions between police and black and poor communities. The interaction described above in the "Arrests, Detentions and Citations" section, for example, could fit this version of "proactive" policing. Officers stopped a man they did not recognize who was walking in North Tulsa, to find out who he was. They did not have any reasonable suspicion that he was violating the law, but still used their authority to stop him and to demand identification. More of this type of coercive interaction would not improve police relations with the community.

Deputy Chief Brooks said that officers need more "unassigned" time—time not responding to calls—to do a different kind of "proactive" work, including driving through neighborhoods and making contacts with people.<sup>786</sup> He defined these contacts as talking

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said that the compromise number is now set at 120 new officers. Human Rights Watch interview with Jonathan Brooks, April 25, 2019.

<sup>783</sup> Jarrel Wade, "Mayor Bynum creates commission focused on community policing," *Tulsa World*, December 16, 2016, [https://www.tulsaworld.com/news/local/mayor-bynum-creates-commission-focused-on-community-policing/article\\_2d378e2e-980e-57af-95fd-c1123168e53d.html](https://www.tulsaworld.com/news/local/mayor-bynum-creates-commission-focused-on-community-policing/article_2d378e2e-980e-57af-95fd-c1123168e53d.html) (accessed July 18, 2019). This premise would seem to contradict the idea that they are already implementing community policing.

<sup>784</sup> Jones, "Here are some ways that Tulsa Police Department wants to better interact with you and your neighbors," *Tulsa World*. Human Rights Watch interview with Drew Diamond, August 31, 2017, and Hannibal Johnson, August 30, 2017; Human Rights Watch telephone interview with Eddie Evans, January 4, 2018.

<sup>785</sup> Curtis Killman, "Tulsa police writing fewer traffic tickets," *Tulsa World*, January 3, 2017, [https://www.tulsaworld.com/news/local/crime-and-courts/tulsa-police-writing-fewer-traffic-tickets/article\\_8439c481-83ee-5a39-90fc-17e1cae28ac4.html](https://www.tulsaworld.com/news/local/crime-and-courts/tulsa-police-writing-fewer-traffic-tickets/article_8439c481-83ee-5a39-90fc-17e1cae28ac4.html) (accessed July 18, 2019).

<sup>786</sup> Human Rights Watch interview with Jonathan Brooks, April 25, 2019.

to people, and not just conducting investigations and making detentions. He suggested officers should be well trained to understand the difference.<sup>787</sup>

Not everyone agrees with the assessment that more officers are needed. Former Chief Diamond says that officers need to be deployed more efficiently.<sup>788</sup> He said that too often more officers than are necessary respond to calls and supervisors do not send them back into the field quickly. He has also criticized the use of specialized units, like the Gang Task Force and others, that take officers out of patrol deployments and contribute to shortages.<sup>789</sup> He called for a management study to figure out how best to allocate officers.

An officer who spoke to Human Rights Watch, while not disagreeing with the need for more officers, suggested the current number of officers could be better deployed.<sup>790</sup>

A study of police staffing in Tulsa by University of Cincinnati's Institute of Crime Science, funded by the George Kaiser Family Foundation, was released in 2015.<sup>791</sup> This study found high levels of crime in Tulsa and recommended adding over 200 officers to the department, with emphasis on patrol officers.<sup>792</sup> Jordan has used this study to support his call for more officers.<sup>793</sup>

The study indicates that, from 1990 through 2013, the Tulsa police force has been very stable in size relative to population, and that its size has been “moderate” compared to

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<sup>787</sup> The difference is significant, as investigatory contacts tend to be coercive and assume the person contacted is a likely suspect, while the contacts Brooks seems to be describing should be non-coercive and collaborative.

<sup>788</sup> Human Rights Watch interview with Drew Diamond, August 31, 2017. Sam Jones, “Perspectives: Drew Diamond—Community Policing,” *RSU Public TV*, November 3, 2017, <https://www.youtube.com/watch?v=kkt-K9n3a3U> (accessed July 18, 2019). Diamond said: “Community policing is not dependent on how many officers you have. It’s dependent on how they police, how they are led and trained and what the messaging is to them.”

<sup>789</sup> Drew Diamond, “Ending Racially Biased Policing,” *TEDx Talks*, May 24, 2017, <https://www.youtube.com/watch?v=AGKBeVTNAVk&index=6&list=PLZequSdwU3QIdMYccNqP28f26ayvaMefD&t=11s> (accessed July 18, 2019).

<sup>790</sup> Human Rights Watch telephone interview with (name withheld), officer, Tulsa Police Department, February 15, 2018.

<sup>791</sup> Corsaro et al., “Crime and Staffing Analysis for the Tulsa Police Department: A Final Report,” *University of Cincinnati Institute of Crime Science*; “City needs 175 police officers, but how will it pay for them?” *The Frontier*, October 6, 2015, <https://www.readfrontier.org/stories/city-needs-175-police-officers-but-how-will-it-pay-for-them/> (accessed July 18, 2019).

<sup>792</sup> Corsaro et al., “Crime and Staffing Analysis for the Tulsa Police Department: A Final Report,” *University of Cincinnati Institute of Crime Science*.

<sup>793</sup> “City needs 175 police officers, but how will it pay for them?” *The Frontier*.

police forces in other cities.<sup>794</sup> It has been somewhat smaller than midwestern and southern cities of comparable size and larger than western cities of comparable size.<sup>795</sup>

While the size of the Tulsa police force remained steady over the period of the study, crime rates in general dropped considerably.<sup>796</sup> However, violent crime has remained higher in Tulsa than in other cities with comparable officer to total population ratios, though property crime rates were about the same.<sup>797</sup> Citing this observation about violent crime, the study's authors concluded that the department was understaffed.<sup>798</sup> The University of Cincinnati study of Tulsa policing offers no basis for the assumption that adding more officers reduces crime.<sup>799</sup> Other studies overall have supported the conclusion that increasing the number of officers does not impact crime rates.<sup>800</sup>

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<sup>794</sup> Corsaro et al., "Crime and Staffing Analysis for the Tulsa Police Department: A Final Report," *University of Cincinnati Institute of Crime Science*, p. 5, 49-52.

<sup>795</sup> Corsaro et al., "Crime and Staffing Analysis for the Tulsa Police Department: A Final Report," *University of Cincinnati Institute of Crime Science*, p. 48.

<sup>796</sup> Corsaro et al., "Crime and Staffing Analysis for the Tulsa Police Department: A Final Report," *University of Cincinnati Institute of Crime Science*, p. 13. Kassie McClung, "Data drop: Violent crime on the decline in Tulsa," *The Frontier*, October 16, 2016, <https://www.readfrontier.org/stories/data-drop-violent-crime-tulsa/> (accessed July 18, 2019). The drop in crime rates has been subject to fluctuations over the years, but has been significant from the early 1990s until the present.

<sup>797</sup> Corsaro et al., "Crime and Staffing Analysis for the Tulsa Police Department: A Final Report," *University of Cincinnati Institute of Crime Science*, p. 49-52.

<sup>798</sup> Corsaro et al., "Crime and Staffing Analysis for the Tulsa Police Department: A Final Report," *University of Cincinnati Institute of Crime Science*, p. 5. Their analysis of response times and staffing also contributed to their conclusion that the department is understaffed.

<sup>799</sup> Corsaro et al., "Crime and Staffing Analysis for the Tulsa Police Department: A Final Report," *University of Cincinnati Institute of Crime Science*, p. 51. The chart in this study shows a correlation between higher officer to resident ratios and higher violent crime rates. It shows a similar, though less consistent correlation with property crime rates. This data alone should not lead to any conclusions about optimal size of police forces but does call for questioning the assumption that more police will necessarily reduce crime.

<sup>800</sup> John E. Eck, Yongjei Lee, and Nicolas Corsaro, "Adding More Police is Unlikely to Reduce Crime: A Meta-Analysis of Police Agency Size and Crime Research," *Translational Criminology*, Spring 2017, <https://cebc.org/wp-content/TCmagazine/TC12-Spring2017> (accessed July 18, 2019); A frequently cited "meta-study" or review of all existing studies, by criminologists from the University of Cincinnati, found that some studies said increased police lowered crime, some said it had no effect, and others said it increased crime. The study reviewed all of these studies and determined that increasing the size of police departments has little effect on crime rates, and that policing strategies are more important. Yongjei Lee, John E. Eck and Nicholas Corsaro, "Conclusions from the history of research into the effects of police force size on crime—1968 through 2013: a historical systematic review," *Journal of Experimental Criminology*, vol. 12, Issue 3, September 2016, <https://link.springer.com/article/10.1007/s11292-016-9269-8> (accessed July 18, 2019). See also, John E. Eck and Edward R. Maguire, "Have Changes in Policing Reduced Violent Crime? An Assessment of the Evidence," in Blumstein and Wallman, eds., *The Crime Drop in America* (Cambridge: Cambridge University Press, 2005), <https://www.cambridge.org/core/books/crime-drop-in-america/have-changes-in-policing-reduced-violent-crime-an-assessment-of-the-evidence/5328AA42B6C2D7B93137EDB4DE9F10BB> (accessed July 18, 2019) ("The police do not prevent crime. This is one of the best kept secrets of modern life. Experts know it, the police know it, but the public does not know it. Yet the police pretend that they are society's best defense against crime and continually argue that if they are given more

While recommending adding more officers, especially for patrol, and more civilian employees,<sup>801</sup> the study said that officers were spending a disproportionate amount of their time responding to calls for service, and thus were unable to focus on “pro-active” problem solving.<sup>802</sup> It did not examine whether that time was being spent efficiently or if the calls were related to problems better solved by non-law enforcement agencies.<sup>803</sup>

To the extent that “pro-active” policing involves making more stops, conducting more searches and issuing more citations, there is some evidence that it may cause more harm than good.<sup>804</sup> While some studies support the idea that “pro-active” policing lowers crime, others have found this type of aggressive policing can actually increase criminality in those subjected to it.<sup>805</sup> As an example, a meta-study, reviewing all available studies on

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resources, especially personnel, they will be able to protect communities against crime. This is a myth.”), and Troy C. Payne, “How Do You Determine the Right Size of a Police Department: Don’t Look to Crime Rates,” *Alaska Justice Forum*, vol. 34, Issue 2, Fall 2017, <https://scholarworks.alaska.edu/bitstream/handle/11122/8083/ajf.342c.police-and-crime-rates.pdf> (accessed July 18, 2019). There are dissenting studies that say more police officers will reduce crime: Steven Mello, “More COPS, Less Crime,” *Princeton University, Industrial Relations Section*, February 25, 2018, <http://www.princeton.edu/~smello/papers/cops.pdf> (accessed July 18, 2019), and Aaron Chalfin and Justin McCrary, “Are US Cities Underpoliced? Theory and Evidence,” *Review of Economics and Statistics*, vol. 100, no. 1, March 2, 2018, [https://www.mitpressjournals.org/doi/abs/10.1162/REST\\_a\\_00694](https://www.mitpressjournals.org/doi/abs/10.1162/REST_a_00694) (accessed July 18, 2019). However, the Chalfin and McCrary study assumes that police deter homicides. Professor William Spelman has criticized that premise, arguing that most homicides occur between people with existing relationships and in spaces that police do not patrol like homes, thus limiting the effectiveness of additional police officers as deterrence. William Spellman, “The Murder Mystery: Police Effectiveness and Homicide,” *Journal of Quantitative Criminology*, vol. 33, Issue 4, July 25, 2016, [https://www.researchgate.net/publication/305645810\\_The\\_Murder\\_Mystery\\_Police\\_Effectiveness\\_and\\_Homicide](https://www.researchgate.net/publication/305645810_The_Murder_Mystery_Police_Effectiveness_and_Homicide), (accessed July 18, 2019).

<sup>801</sup> Corsaro et al., “Crime and Staffing Analysis for the Tulsa Police Department: A Final Report,” *University of Cincinnati Institute of Crime Science*, p. 5-6.

<sup>802</sup> Corsaro et al., “Crime and Staffing Analysis for the Tulsa Police Department: A Final Report,” *University of Cincinnati Institute of Crime Science*, p. 78. The Spellman study (see footnote 808 above), while finding that increasing police officers would not decrease crime, acknowledged that more officers would free more time for “pro-active” police work: Spellman, “The Murder Mystery: Police Effectiveness and Homicide,” *Journal of Quantitative Criminology*, p. 883.

<sup>803</sup> Many incidents police respond to are not crimes. They may be neighbor disputes, traffic accidents, disturbance calls and others. Often police are asked to provide social services. Payne, “How Do You Determine the Right Size of a Police Department: Don’t Look to Crime Rates,” *Alaska Justice Forum*.

<sup>804</sup> Studies of “pro-active” policing, in the form of aggressive stops and searches, conducted in New York City, found that it had the effect of increasing crime. Bob Yirka, “Study suggests proactive policing may do more harm than good,” *Phys.org*, September 26, 2017, <https://phys.org/news/2017-09-proactive-policing-good.html> (accessed July 18, 2019); Christopher M. Sullivan and Zachary P. O’Keeffe, “Evidence that curtailing proactive policing can reduce major crime,” *Nature Human Behaviour*, 2017, <https://www.nature.com/articles/s41562-017-0211-5> (accessed July 18, 2019), p. 730-737; David Weisburd, “Proactive policing and crime control,” *Nature Human Behaviour*, 2017, <https://www.nature.com/articles/s41562-017-0227-x> (accessed July 18, 2019), p. 707-708.

<sup>805</sup> Juan Del Toro, et al., “The criminogenic and psychological effects of police stops on adolescent black and Latino boys,” *Proceedings of the National Academy of Sciences of the United States of America*, April 23, 2019, <https://www.pnas.org/content/116/17/8261> (accessed July 18, 2019), p. 1: “Our findings raise concern that police stops may increase the likelihood that adolescents will engage in subsequent delinquent behavior.”

the topic, determined that increased drug enforcement resulted in more violent crime.<sup>806</sup> At the very least, more officers performing this type of “pro-active” enforcement can be expected to result in more stops, tickets, arrests, criminal convictions that make people less employable, and added court debt. It can be expected to enhance the racial disparities in policing outcomes detailed in this report and the reports of harmful encounters with police.

To make this “proactive” policing fit a community engagement model, prioritizing non-enforcement interactions, as Deputy Chief Brooks suggested, would require a significant cultural change within the department. So far, the recommendations of the Community Policing Commission have not signaled such a change, and the currently proposed oversight body lacks sufficient power or independence to pressure that change. Additionally, even assuming a change in police culture away from aggressive enforcement, police still would not necessarily be the best resource to address many of the societal problems assigned to them.<sup>807</sup>

## Shortcomings of Community Policing

Members of the organization TULSA recognize that overreliance on police to solve societal problems is a failure: “Due to consistent cuts to community resources, [the police] are faced with the growing challenge of assuming responsibilities outside of their core role which they may not be fully equipped or supported to manage.”<sup>808</sup>

“Police—and more broadly, the criminal justice system—have become the primary vehicle through which the state responds to social deprivation.”<sup>809</sup> Unfortunately, the ideals of police, even with a “guardian” mindset, engaging with community members to solve

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<sup>806</sup> Dan Werb, et al., “Effect of drug law enforcement on drug market violence: A systematic review,” *International Journal of Drug Policy*, 2011, [https://www.hri.global/files/2011/03/25/ICSDP\\_Violence\\_and\\_Enforcement\\_Report\\_March\\_2011.pdf](https://www.hri.global/files/2011/03/25/ICSDP_Violence_and_Enforcement_Report_March_2011.pdf) (accessed July 18, 2019).

<sup>807</sup> Justice Policy Institute, “Rethinking the Blues: How We Police in the US and at What Cost,” May 2012, [http://www.justicepolicy.org/uploads/justicepolicy/documents/rethinkingtheblues\\_final.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/rethinkingtheblues_final.pdf) (accessed July 18, 2019), p. 49: “Research shows that investing in services and programs that keep people out of the justice system is more effective at improving community well-being than investing in law enforcement.” Justice Policy Institute, “Pruning Prisons: How Cutting Corrections Can Save Money and Protect Public Safety,” May 2009, [http://www.justicepolicy.org/images/upload/09\\_05\\_REP\\_PruningPrisons\\_AC\\_PS.pdf](http://www.justicepolicy.org/images/upload/09_05_REP_PruningPrisons_AC_PS.pdf) (accessed July 18, 2019).

<sup>808</sup> The United League for Social Action, “A Call to Action for the Tulsa Police Department,” *Black Wall Street Times*.

<sup>809</sup> Bell, “Police Reform and Dismantling of Legal Estrangement,” *The Yale Law Journal*.

neighborhood problems runs into the reality that the inherent function of police is to enforce laws, including by force. William Bratton, former commissioner of the New York Police Department, chief of the Los Angeles Police Department, and prominent proponent of “community policing,” said “In a nutshell, cops like making arrests. That’s what they do.”<sup>810</sup>

The University of Cincinnati study’s authors recommend further investment in social services that may address crime and community problems outside of the law enforcement context.<sup>811</sup> While not mentioned in the study, promoting non-law enforcement community and services solutions to problems such as homelessness, drug abuse, and mental health conditions would lower the officers’ workload.

Deputy Chief Brooks identified homelessness,<sup>812</sup> mental health, and drug use as among the most pressing problems his department must address.<sup>813</sup> But police do not provide

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<sup>810</sup> William J. Bratton, et al., “This Works: Crime Prevention and the Future of Broken Windows Policing,” *Civic Bulletin*, Center for Civic Innovation at the Manhattan Institute, no. 36, April 2004, [https://media4.manhattan-institute.org/sites/default/files/cb\\_36.pdf](https://media4.manhattan-institute.org/sites/default/files/cb_36.pdf) (accessed July 18, 2019), p. 5. Some critics of community policing see it as an attempt to improve community relations without changing the punitive and coercive nature of police interactions with people. Vitale, *The End of Policing*, p. 16-17. Some critics see community policing as a mechanism to co-opt some local leaders while targeting others, increase neighborhood surveillance and impose aggressive tactics like “stop and frisk” and “broken windows” style policing. See Jordan Camp and Christina Heatherton, ed. *Policing the Planet*, (Verso: New York, 2016).

<sup>811</sup> Corsaro et al., “Crime and Staffing Analysis for the Tulsa Police Department: A Final Report,” *University of Cincinnati Institute of Crime Science*, p. 88-89. It is worth noting that one of the lead authors of this study helped conduct another study in Tulsa finding that investment in early childhood schooling had a favorable impact on violent crime. Arelys Madero, et al., “Examining the Impact of Early Childhood School Investment on Neighborhood Crime,” *Justice Quarterly*, vol. 34, no. 5, September 2016, [https://www.researchgate.net/publication/308012994\\_Examining\\_the\\_Impact\\_of\\_Early\\_Childhood\\_School\\_Investments\\_on\\_Neighborhood\\_Crime](https://www.researchgate.net/publication/308012994_Examining_the_Impact_of_Early_Childhood_School_Investments_on_Neighborhood_Crime) (accessed July 18, 2019).

<sup>812</sup> A count by the Community Service Council found that there are over 5,600 homeless people in Tulsa, including a large percentage who are employed. Michael Overall, “Annual ‘point in time’ homeless count: Having a job doesn’t guarantee having a place to live in Tulsa,” *Tulsa World*, July 1, 2019, [https://www.tulsaworld.com/edition/page-a/page\\_5a90070b-b6d7-5adb-970c-77b1e63381d3.html](https://www.tulsaworld.com/edition/page-a/page_5a90070b-b6d7-5adb-970c-77b1e63381d3.html) (accessed July 18, 2019). Deputy Chief Brooks said that the department receives many calls about homeless people have limited ability to help. They are attempting to partner with social services agencies to connect homeless people to services. He acknowledged that “in a perfect world” other agencies besides the police would address homelessness. Human Rights Watch interviews with Jonathan Brooks, March 27, 2019. See also Vitale, *The End of Policing*, p. 102-107.

<sup>813</sup> Human Rights Watch interview with Jonathan Brooks, March 27, 2019 and April 24, 2019.

housing,<sup>814</sup> services,<sup>815</sup> or treatment,<sup>816</sup> which would be the most direct ways to fix these problems. While community service officers can make referrals to social services, professional social workers and others with specialized training are better equipped to build rapport with individuals, properly diagnose the problems, make referrals and follow-up on treatment access and support networks—assuming that government and the private sector have adequately invested in services to address these problems. The same argument has been made about addressing gangs—early intervention through schools and social services, and investment in alternatives and opportunities is an effective approach to directing young people away from gangs.<sup>817</sup> In the same way that the department is exploring ways to divert calls for people with mental health conditions away from police and to appropriate services,<sup>818</sup> the city could as well turn to other types of services and investments for other types of problems. The city, as well as state and federal governments should prioritize investment in these areas.

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<sup>814</sup> Alex Gray, “Here’s how Finland solved its homelessness problem,” *World Economic Forum*, February 13, 2018, <https://www.weforum.org/agenda/2018/02/how-finland-solved-homelessness/> (accessed July 18, 2019); Fredrick Kunkle, “‘Housing first’ approach works for homeless, study says,” *Washington Post*, March 4, 2015, [https://www.washingtonpost.com/news/local/wp/2015/03/04/housing-first-approach-works-for-homeless-study-says/?utm\\_term=.070640c49737](https://www.washingtonpost.com/news/local/wp/2015/03/04/housing-first-approach-works-for-homeless-study-says/?utm_term=.070640c49737) (accessed July 18, 2019); Kelly McEvers, “Utah Reduced Chronic Homelessness by 91 Percent; Here’s How,” *National Public Radio*, December 10, 2015, <https://www.npr.org/2015/12/10/459100751/utah-reduced-chronic-homelessness-by-91-percent-heres-how> (accessed July 18, 2019). Discussing the volume of calls Tulsa police get concerning homeless people, Deputy Chief Brooks said that, ideally, other agencies should be addressing these problems. Human Rights Watch interview with Jonathan Brooks, March 27, 2019, 2019.

<sup>815</sup> See previous section on “Policing and People with Mental Health Conditions.”

<sup>816</sup> Lloyd Sederer, “Take Action Against Addiction: Drug abuse affects all of us, and we must act to prevent more unnecessary deaths,” *US News and World Report*, February 1, 2016, <https://www.usnews.com/opinion/blogs/policy-dose/articles/2016-02-01/10-ways-to-combat-americas-drug-abuse-problem> (accessed July 18, 2019); National Institute on Drug Abuse, “Treatment Approaches for Drug Addiction,” January 2019, <https://www.drugabuse.gov/publications/drugfacts/treatment-approaches-drug-addiction> (accessed July 18, 2019);

William R. Kelly, “The Drug Problem in the US Is Not What We Think It Is,” *Psychology Today*, September 26, 2018, <https://www.psychologytoday.com/us/blog/crime-and-punishment/201809/the-drug-problem-in-the-us-is-not-what-we-think-it-is> (accessed July 18, 2019); Doug McVay, Vincent Schiraldi and Jason Ziedenberg, “Treatment or Incarceration?: National and State Findings on the Efficacy and Cost Savings of Drug Treatment Versus Imprisonment,” *Justice Policy Institute*, January 2004, [http://www.justicepolicy.org/uploads/justicepolicy/documents/04-01\\_rep\\_mdtreatmentorincarceration\\_ac-dp.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/04-01_rep_mdtreatmentorincarceration_ac-dp.pdf) (accessed July 18, 2019); Gary A. Zarkin, et al., “Benefits and Costs of Substance Abuse Treatment Programs for State Prison Inmates: Results from a Lifetime Simulation Model,” *Health Economics*, vol. 21, no. 6, 2012, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3165106/> (accessed July 18, 2019); “Study: Replacing Prison Terms with Drug Abuse Treatment Could Save Billions in Criminal Justice Costs,” *RTI International*, January 8, 2013, <https://www.rti.org/news/study-replacing-prison-drug-treatment-could-save> (accessed July 18, 2019); Nena Messina, Eric Wish, Susanna Nemes, “Therapeutic Community Treatment May Reduce Future Incarceration: A Research Note,” *Federal Probation*, vol. 65, no. 3, December 2001, [https://www.uscourts.gov/sites/default/files/65\\_3\\_8\\_0.pdf](https://www.uscourts.gov/sites/default/files/65_3_8_0.pdf) (accessed July 18, 2019).

<sup>817</sup> Howell, “Gang Prevention: An Overview of Research and Programs,” *US Department of Justice, Office of Justice Programs*; Vitale, *The End of Policing*, p. 170-175.

<sup>818</sup> See above section on Policing and People with Mental Health Conditions.



To his credit, Mayor Bynum has also stressed education, infrastructure, and economic development, including emphasizing economic development for North Tulsa as part of his plan.<sup>819</sup> However, the most tangible impact of Tulsa’s community policing initiative so far is to invest in large numbers of new officers without providing a meaningful structure for accountability to the community.

## Community Empowerment

There are approaches to public safety that do not rely exclusively on law enforcement officers but could be defined as community policing—the community literally policing itself.

In 1999, the Chicago Project for Violence Prevention at the University of Illinois School of Public Health, applying public health theories to violence prevention, started a program called CeaseFire to address gang killings.<sup>820</sup> Hiring people with felony convictions and histories of gang involvement who had credibility in the communities where violence was occurring, they sought to mediate conflicts and provide services to others with similar histories to improve their lives. In some of Chicago’s neighborhoods with high levels of violent crime, the program achieved significant reductions in shootings and killings.<sup>821</sup>

The city of Baltimore has a similar program, called Safe Streets, that also hires people with credible ties to the streets and the people they serve to mediate conflict without simply

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<sup>819</sup> Kevin Canfield, “State of the city: Bynum to focus on education, infrastructure and development in the coming year,” *Tulsa World*, November 8, 2018, [https://www.tulsaworld.com/news/government/state-of-the-city-bynum-to-focus-on-education-infrastructure/article\\_32efc4cd-d4c9-5268-9950-dd013ecac9df.html](https://www.tulsaworld.com/news/government/state-of-the-city-bynum-to-focus-on-education-infrastructure/article_32efc4cd-d4c9-5268-9950-dd013ecac9df.html) (accessed July 18, 2019); Rhett Morgan, “Tulsa wanted to see \$1.1B in new developments by 2020. It met its goal two years early, with thousands of jobs created,” *Tulsa World*, December 28, 2018, [https://www.tulsaworld.com/business/tulsa-wanted-to-see-b-in-new-developments-by-it/article\\_108b5f07-1b49-5268-b60d-6a07aae128e2.html](https://www.tulsaworld.com/business/tulsa-wanted-to-see-b-in-new-developments-by-it/article_108b5f07-1b49-5268-b60d-6a07aae128e2.html) (accessed July 18, 2019). Tulsa has attracted large-scale businesses, including Amazon and Greenheck, to open their operations in the city. It remains to be seen if they will greatly benefit North Tulsa and poor people in general, or whether the city should focus more on helping small, locally owned businesses.

<sup>820</sup> Nancy Ritter, “CeaseFire: A Public Health Approach to Reduce Shootings and Killings,” *NIJ Journal*, Issue 264, November 2009, <http://www.narrowthegap.org/images/documents/228386.pdf> (accessed July 18, 2019).

<sup>821</sup> Wesley Skogan, et al., “Evaluation of CeaseFire Chicago, National Institute of Justice,” *Office of Justice Programs*, March 20, 2008, <https://www.ncjrs.gov/pdffiles1/nij/grants/227181.pdf> (accessed July 18, 2019). Unfortunately, the program has been de-funded in recent years. “Anti-violence programs shut down as Chicago shootings climb,” *Chicago Tribune*, October 9, 2015, <https://www.chicagotribune.com/news/ct-ceasefire-funds-frozen-as-chicago-shootings-climb-20151009-story.html> (accessed July 18, 2019).



calling in police.<sup>822</sup> A 2012 study of Safe Streets credited it with reductions of shootings and killings in the Baltimore neighborhoods where they concentrated their efforts.<sup>823</sup> Similarly, Louisville, Kentucky has a civilian “violence interrupter” program.<sup>824</sup>

A 2017 study found that community-based organizations that address underlying causes of crime improve social cohesion in neighborhoods and have been effective in reducing murder rates, violent crime and property crime.<sup>825</sup> Another study revealed that investing in an early childhood school in a low-income North Tulsa neighborhood resulted in significant reductions in violent crime, even when controlling for city-wide crime trends.<sup>826</sup>

In Tulsa, there are a variety of initiatives, both formal and informal, through which civilians have addressed crime, violence, and the social conditions that lead to them. For example, the organization 100 Black Men provided mentoring, help finding jobs and gang intervention for young black men.<sup>827</sup> Taking It to The Streets has offered arts, music, sports,

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<sup>822</sup> Ian Duncan, “Three Baltimore neighborhoods picked for new Safe Streets anti-violence sites,” *The Baltimore Sun*, December 14, 2018, <https://www.baltimoresun.com/news/crime/bs-md-ci-safe-streets-expansion-20181214-story.html> (accessed July 18, 2019).

<sup>823</sup> Daniel W. Webster, et al., “Evaluation of Baltimore’s Safe Streets Program: Effects on Attitudes, Participants’ Experiences, and Gun Violence,” *Johns Hopkins Bloomberg School of Public Health*, January 11, 2012, <http://cureviolence.org/wp-content/uploads/2017/09/Safe-Streets-full-evaluation.pdf> (accessed July 18, 2019). Recently, this program suffered a serious blow when two employees were convicted of using the Safe Streets office to conduct gang-related criminal activity, including drug dealing and solicitation for murder. Rick Ritter, “Safe Streets’ Program Under Fire After BGF Member Used Their Office For Gang Activity,” *CBS Baltimore*, November 8, 2018, <https://baltimore.cbslocal.com/2018/11/08/safe-streets-gang-member/> (accessed July 18, 2019). While there is a risk in hiring people with felony convictions and past gang history, and these programs must vet their employees carefully, these convictions should not negate the overall success of the program.

<sup>824</sup> Darcy Costello, “LMPD chief: Restoring police funding shouldn’t come at the expense of violence ‘interrupters,’” *Louisville Courier Journal*, May 31, 2019, [https://www.courier-journal.com/story/news/politics/metro-government/2019/05/31/louisville-kentucky-budget-police-chief-defends-interrupter-program/1293888001/?utm\\_source=The+Marshall+Project+Newsletter&utm\\_campaign=972c2003a6-EMAIL\\_CAMPAIGN\\_2019\\_06\\_04\\_11\\_38&utm\\_medium=email&utm\\_term=0\\_5e02cdad9d-972c2003a6-174364053](https://www.courier-journal.com/story/news/politics/metro-government/2019/05/31/louisville-kentucky-budget-police-chief-defends-interrupter-program/1293888001/?utm_source=The+Marshall+Project+Newsletter&utm_campaign=972c2003a6-EMAIL_CAMPAIGN_2019_06_04_11_38&utm_medium=email&utm_term=0_5e02cdad9d-972c2003a6-174364053) (accessed July 18, 2019). The police chief said: “Interrupters, properly trained and working as they are supposed to, have the potential to change the lives of young people in our community and make them safer.” See also, Cure Violence, “The Cure Violence Health Model,” <http://cureviolence.org/the-model/essential-elements/> (accessed July 18, 2019).

<sup>825</sup> Patrick Sharkey, Gerard Torrats-Espinosa and Delaram Takyar, “Community and Crime Decline: The Causal Effect of Local Nonprofits on Violent Crime,” *American Sociological Review*, vol. 82, no. 6, 2017, <http://www.rootcausecoalition.org/wp-content/uploads/2018/08/Community-and-the-Crime-Decline-The-Causal-Effect-of-Local-Nonprofits-on-Violent-Crime.pdf> (accessed July 18, 2019), p. 1215, 1218, 1234.

<sup>826</sup> Madero, et al., “Examining the Impact of Early Childhood School Investment on Neighborhood Crime,” *Justice Quarterly*. This study found mixed results for property crimes, but it found no “displacement” of crime to other areas.

<sup>827</sup> Human Rights Watch telephone interview with Eddie Evans, January 4, 2018; Human Rights Watch interview with Joe Williams, September 28, 2017.

and computer activities for North Tulsa youth as a form of gang intervention, with little support from the city.<sup>828</sup>

Programs like Women in Recovery<sup>829</sup> and 1<sup>st</sup> Step Male Diversion<sup>830</sup> have helped people stay out of prison by facilitating programming to help them stop using drugs and get them into employment that will reduce recidivism. These programs seek to help people achieve productive crime-free futures. Various churches have gang intervention and prison re-entry programs as well.

Tulsa City Councilor Vanessa Hall-Harper and several other community leaders recently held a legal clinic to help people remove or expunge criminal convictions from their records to make themselves more employable and less likely to engage in future criminal activity.<sup>831</sup>

The University of Cincinnati study on police staffing referred to various social service providers, including the Family and Children Services, and local neighborhood leaders as important to reducing crime.<sup>832</sup>

There are also informal community initiatives that serve to combat crime and violence, including residents mediating neighborhood disputes on their own, without police involvement, or providing productive opportunities for people.

Bobby Eaton, for example, has a small local radio station in North Tulsa that serves as an unofficial youth center and neighborhood hub.<sup>833</sup> Eaton produces public service programs,

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<sup>828</sup> Human Rights Watch telephone interview with Mary Riggins, Taking it to the Streets, Tulsa, Oklahoma, October 12, 2017; “Community Works to Take It To The Streets,” *News on 6*, June 30, 2007, <http://www.newson6.com/story/7724157/community-works-to-take-it-to-the-streets> (accessed July 18, 2019).

<sup>829</sup> Family & Children’s Services, “Women in Recovery,” 2018, <https://www.fcsok.org/services/women-in-recovery/> (accessed July 18, 2019).

<sup>830</sup> 1<sup>st</sup> Step Male Diversion Program, 2018, <http://1ststepmdp.com/> (accessed July 18, 2019);

<sup>831</sup> “‘Expungement Expo’ Held in Tulsa to Give People a 2<sup>nd</sup> Chance,” *News on 6*, March 19, 2018, <http://www.newson6.com/story/37761433/expungement-expo-held-in-tulsa-to-give-people-a-2nd-chance> (accessed July 18, 2019).

<sup>832</sup> Corsaro et al., “Crime and Staffing Analysis for the Tulsa Police Department: A Final Report,” *University of Cincinnati Institute of Crime Science*, p. 94.

<sup>833</sup> Human Rights Watch interview with Bobby Eaton Jr., September 28, 2017; “The Bobby Eaton Show,” *Facebook*, <https://www.facebook.com/thebobbyeatonshow/> (accessed July 18, 2019).

but also allows young people in the neighborhood a chance to express themselves on the radio and to learn about art and broadcasting.<sup>834</sup> Creative outlets like this invest in the talents and abilities of the youth, making them less likely to turn to gangs and crime.

Unfortunately, these programs and initiatives often lack resources to expand their impact. The City of Tulsa could be supporting them as a positive approach to reducing crimes.

Ultimately, success in reforming policing and improving public safety will depend on empowering the communities where both policing and crime have their heaviest impacts and by investing in those communities to allow them to solve their problems in humane and non-punitive ways. Continuing to treat community problems related to poverty and deprivation as primarily law enforcement problems will simply continue that cycle of desperation, crime, punishment and deeper despair, and people of color and poor people in Tulsa will continue to feel its traumatic effects.

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<sup>834</sup> “The Juice Radioshow,” *Facebook*, <https://www.facebook.com/thebobbyeatonshow/photos/a.1495028223909132/1495028280575793/?type=3&theater> (accessed July 18, 2019).

## International Human Rights Law and Standards

This report describes a range of abusive practices that violate rights guaranteed under international law. These implicate the responsibilities of the police, the courts and elected officials in Tulsa.

Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which the US has ratified, guarantees the right to liberty and security of person. It also includes a prohibition against, and a right to compensation for, any unlawful arrest or detention.<sup>835</sup> US obligations under the ICCPR apply not only to the US federal government but to all state and local government authorities as well.<sup>836</sup>

The right to security of person requires limitations on the use of force by law enforcement personnel. Law enforcement officers should, as far as possible, apply non-violent means before resorting to any use of force. They should use force only when other means are ineffective at achieving a legitimate aim.<sup>837</sup> Where the use of force is unavoidable, law enforcement officers should: exercise restraint and ensure that any force used is proportionate to the seriousness of the offense and the legitimate objective to be achieved; minimize any injury; respect and preserve human life; and ensure that medical assistance is provided to any injured persons.<sup>838</sup> Authorities should ensure that any arbitrary or abusive use of force by law enforcement officers is punished as a criminal offense under law.<sup>839</sup> Officers use of non-lethal incapacitating weapons, including tasers, should be carefully controlled.<sup>840</sup>

This report documents numerous instances where Tulsa police officers appear to have used force in an arbitrary, abusive or disproportionate manner. The evidence suggests that such incidents occur frequently. Yet, as discussed above, authorities purport to have

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<sup>835</sup> ICCPR, Art. 9.

<sup>836</sup> ICCPR, Art. 50.

<sup>837</sup> UN Basic Principles, para. 4.

<sup>838</sup> Ibid., para 5.

<sup>839</sup> Ibid., para 7.

<sup>840</sup> Ibid., para. 3. Other relevant instruments include the Code of Conduct for Law Enforcement Officials (“Code of Conduct”), UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (“Basic Principles-Victims”).

detected only two uses of non-lethal force in recent years that deviated from established protocols—imposing no discipline in either instance. Human Rights Watch’s analysis is that Tulsa authorities have failed to take effective steps to prevent officers from using force in an abusive manner, while also failing to adequately investigate and hold officers accountable for abuses.

Another key finding of this report is that the brunt of criminal law enforcement activity in Tulsa falls disproportionately and unjustifiably on black residents and, in some cases, may show evidence of deliberate racial bias. The ICCPR guarantees the right to equal treatment before the law, and to the equal protection of the law without any discrimination along racial and other lines.<sup>841</sup> The UN Human Rights Committee, an expert body charged with interpreting and monitoring state compliance with the ICCPR, has clarified that the term “discrimination” should be understood to include “any distinction, exclusion, restriction or preference” that has the “purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.”<sup>842</sup>

The Convention on the Elimination of Racial Discrimination (CERD), defines prohibited acts of racial discrimination in substantially similar terms.<sup>843</sup> CERD obligates US authorities to prohibit and eliminate racial discrimination, generally as well as with specific regard to “the right to security of person and protection by the state against violence or bodily harm, whether inflicted by government officials or by any individual group or institution.”<sup>844</sup> CERD makes clear that the state’s obligations extend not only to deliberate acts of racial discrimination, but also to all laws and policies “which have the effect of creating or perpetuating racial discrimination.”<sup>845</sup>

The UN’s Committee on the Elimination of Racial Discrimination, which is charged with interpreting and monitoring state compliance with CERD, has expressed concern at the

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<sup>841</sup> ICCPR, Art. 26

<sup>842</sup> General Comment 18, para. 7.

<sup>843</sup> CERD, Art. 1, defines prohibited discrimination as including, “any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”

<sup>844</sup> CERD, Art. 5.

<sup>845</sup> CERD, Art. 2.

prevalence across the US of “brutality and excessive use of force by law enforcement officials against racial and ethnic minorities, including against unarmed individuals,” which the committee found to have a disparate impact on black communities in particular. The committee has called on the US government to ensure better efforts to prevent, and investigate, police abuses.<sup>846</sup> Human Rights Watch believes that the disparate impact and apparent bias this report describes, reflect and are in line with these larger, nationwide concerns.

This report also describes evidence that courts in Tulsa do not take adequate steps to assess whether people sentenced to pay fines and fees, have the ability to pay those costs. The result of that failure is that people are arrested and incarcerated for their supposedly willful “failure” to pay fines and costs, in situations where the court should in fact have waived or reduced those costs due to inability to pay.<sup>847</sup>

Under international law, governments are required to respect individuals’ right to adequate housing, food and other basic needs that are recognized as economic, social and cultural rights. States are obligated to refrain from interfering with people’s ability to access and enjoy these rights.<sup>848</sup> The practical import of these rights here, is that courts should refrain from incarcerating offenders for the sole reason that they do not pay fines, court costs, and probation fees, when doing so would impair their ability to feed, clothe, house or provide healthcare for themselves and their dependents.

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<sup>846</sup> CERD, “Concluding observations on the combined seventh to ninth periodic reports of United States of America,” August 29, 2014, [https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/CERD\\_C\\_USA\\_CO\\_7-9\\_18102\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/CERD_C_USA_CO_7-9_18102_E.pdf), para. 14.

<sup>847</sup> The US Supreme Court has held that it is a violation of rights guaranteed under the US Constitution, to imprison a person simply because they are genuinely unable to pay a fine. *Bearden v. Georgia* 461 US 660 (1983).

<sup>848</sup> A state is also required to work towards the progressive realization of these economic, social and cultural rights over time “to the maximum of its available resources:” International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc A/6316 (1966), 993 U.N.T.S. 3, entered into Force January 3, 1976, art. 2.1. The United States is not a party to the International Covenant on Economic, Social, and Cultural Rights, which elucidates these rights in the greatest detail. However, it does endorse the Universal Declaration of Human Rights, a foundational document of the United Nations that also states these basic rights, and which is commonly considered a statement of customary international law.

## Recommendations

To ensure that the Tulsa Police Department respects the rights of all people equally and without discrimination, Human Rights Watch offers the following recommendations. Many of these recommendations reflect requests made by local community members and leaders who are pursuing reform of the Tulsa Police Department and city institutions. The recommendations are divided into immediate steps the department, city administration, state legislators, and others can take that will improve the quality of policing, and more fundamental long-term changes needed to promote public safety and justice.

### Immediate Reforms

#### *To the City of Tulsa:*

- Establish an independent community body that has meaningful oversight powers over the police, including subpoena power, access to police records, funding to hire professional staff with appropriate expertise and independence, the ability to impose discipline, and authority to conduct independent investigations of individual cases and audits of department-wide policies and practices. Members of this body should come from a diverse cross-section of the city and the selection process should be democratic and not be subject to the police department's or the mayor's control.
- Establish an effective, independent disciplinary body, possibly as part of the community oversight body described above, to address complaints against the police. The body should not be part of the police department or financially tied to the department.
- Provide neutral locations, accessible to all communities, where people can file complaints about the police department. Such locations should not be staffed by employees of the police department.
- Audit the department regularly to determine the extent of disparate treatment of people by race, gender, ethnicity, or other characteristics.
- Audit the department regularly to assess the quality of investigations into use-of-force incidents and other complaints.
- Fund more non-law enforcement mental health professionals to conduct outreach and to provide support for people with mental health conditions, as well as to

respond more appropriately to emergencies that may be related to these conditions.

- Support the creation of an agency of non-law enforcement community mediators who can help address disputes within Tulsa neighborhoods.
- Conduct early, non-punitive and supportive, voluntary interventions for youth who are considered at-risk of joining criminal gangs, or who are already identified as being in gangs.

*To the Tulsa Police Department:*

- Strengthen reporting requirements so that officers must provide information about all encounters with civilians, including arrests, citations, detentions, “consensual encounters,” searches and uses of force (actual physical force of any type as well as threatened force, such as drawing a weapon). The data should include precise location data for each encounter, demographic information about the subject of the encounter (to the extent it is available), and justifications for actions taken by the officers. This information should be available to the oversight body and to the public, with appropriate privacy protections. It should be used both for investigations of individual officers and for audits of department-wide practices.
- Track officers involved in high numbers of force incidents to determine if they need re-training or discipline; provide the oversight body with that tracking data.
- Ensure that any DUI checkpoints are set up solely for the purpose of deterring or detecting drunk drivers, and not in order to create a pretext justifying large numbers of stops that allow police to detect outstanding warrants or other offenses.
- Ensure that officers and other employees have adequate language skills (or access to resources with such skills) and cultural competency to interact with all communities in Tulsa.
- Train officers to render appropriate first aid following force incidents, including requiring proper aid and treatment following firearm, chemical agent, dog bite and taser incidents.
- Impose limits on the use of police dogs to prevent unnecessary biting, including limiting their use to apprehending suspects by signaling instead of biting.
- Require officers to advise civilians of their rights at the beginning of all encounters. This disclosure requirement should include advising them of their right to refuse to engage in a “consensual encounter” and their right to withhold consent to



searches of their person, property, or vehicles when officers do not have a legal justification to search. If a person is detained or placed under arrest, the officer should advise them of their detained status and explain their rights at the earliest opportunity that does not jeopardize safety. Officers violating this policy should be subject to discipline.

- End the policy of inquiring about the citizenship of people arrested by Tulsa Police officers and booked at the county jail.
- Ensure that officers are providing adequate services to non-English speaking civilians, regardless of citizenship.
- Commit full support to the Hispanic Outreach Program.
- Discipline and re-train officers found to discriminate by mistreating or providing sub-standard services to people, including on the basis of race, ethnicity, language abilities, gender, sexual orientation, or religion.
- Create a mechanism for officers in the field to distinguish which warrants are for “failure to pay” and to issue summonses to the cost docket in those instances.

*To the Tulsa County Courts:*

- Prior to sentencing, conduct thorough indigency hearings to determine whether fines and fees should be waived or reduced.
- Ensure that there is an effective system to notify police that a given warrant is for “failure to pay,” as opposed to for a substantive crime or some other cause.
- Create an outreach program to advise people who have “failure to pay” warrants of the availability of the cost docket to help them manage their debt.
- Hold cost docket court frequently enough to meet the need and at a variety of days and times to allow people to attend without missing work.

*To the Tulsa Sheriff's Department:*

- Terminate the federal Section 287(g) contract and stop participation in the enforcement of federal immigration laws against undocumented people.

## Fundamental Changes

### *To the City of Tulsa, County of Tulsa and State of Oklahoma:*

- Fund, promote, and encourage local initiatives and enterprises that engage people in impoverished communities, including North Tulsa, with employment, training, education, and recreation.
- Fund, promote, and encourage local initiatives and enterprises that engage formerly incarcerated people with employment, training, education, and recreation in North Tulsa and other impoverished areas.
- Provide sufficient re-entry services for all people coming out of jail and prison.
- Improve the quality of schools in impoverished communities.
- Maintain an effective, functioning mental health system that is based on access to voluntary ongoing services and comprehensive support for people with mental health conditions and for emergency services. The emergency service should not rely on police involvement and where appropriate, should be the primary response option for calls related to mental health conditions.
- Reform the use of court costs and fees. Discontinue the practice of using these levies to fund court and any other government services. Establish and follow a more effective system to determine “ability to pay” for fines that are imposed.
- Prioritize social services and community development in impoverished neighborhoods that target the needs of the people living there over expanding the police force.
- Develop and preserve affordable housing for low-income people who are homeless or at risk of homelessness, including housing with services for those who need them.
- Develop sufficient community-based voluntary drug treatment facilities to meet the needs of all who seek treatment.

### *To the Tulsa Police Department:*

- Diligently uphold people’s constitutional rights, including by stopping coercive encounters between police and civilians. The department should develop policies that forbid “pretext” stops using small infractions as an excuse to detain and search people, pressuring people to consent to stops and searches, or stopping and searching people without adequate legal justification.

- Develop and implement a plan, with specific metrics, to reduce disparate treatment of Tulsans based on race, poverty, and geography. This plan would include analyzing data to understand the disparities, and changing enforcement priorities away from the aggressive tactics used primarily in poor, heavily minority communities.
- Move away from policing that uses overly aggressive practices. Discontinue using “jump out” tactics that involve contacting, stopping, and searching large numbers of people, which cause deep mistrust and diminish people’s feeling of security and liberty.

*To the State of Oklahoma:*

- Reduce the number, scope and amount of fees and costs that are imposed on poor people accused and convicted of crimes and that are used to fund the criminal legal system.
- Repeal HB 1804.
- Ensure that sufficient health care facilities, hospitals, mental health care and drug treatment are easily accessible to all people throughout the state, and that health care coverage is widely available.
- Improve the quality of schools, including services within the schools.
- De-criminalize the possession of drugs for personal use and develop non-punitive, supportive approaches to assist people with harmful addictions.

*To the Federal Government:*

**United States Congress**

- Congress should support states and local jurisdictions to promote improved education, job training, mental health support and care, economic development for low-income communities, affordable housing for low-income people, drug treatment programs, support for victims of crime and re-entry services for people returning from jails and prisons.
- Congress should make federal funding for any law enforcement agency contingent on that agency’s compliance with data collection and reporting standards, including collection of data on police use of force incidents, arrests, detentions, citations, searches and consensual encounters, disaggregated by race, ethnicity,

gender and other relevant demographic markers. This data collection should be anonymized to preserve privacy.

- Congress should amend federal statutes so that no adverse collateral consequences attach by law to convictions for drug possession, including barriers to welfare assistance and subsidized housing. It should support evidence-based, voluntary treatment options and harm reduction services in the community.

#### **Department of Justice**

- Renew and bolster commitment to Department of Justice Civil Rights Division “pattern and practice” investigations into local police departments that show evidence of systemic rights violations.

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# “Get on the Ground!”

## Policing, Poverty, and Racial Inequality in Tulsa, Oklahoma

Nearly 100 years after one of the worst racial massacres in US history, the city of Tulsa, Oklahoma remains highly segregated, with black residents living in poverty at much higher rates than white people, subjected to worse health, shorter life spans, higher crime and aggressive policing. A series of high-profile killings by police of black people in Tulsa led Human Rights Watch to investigate police interactions with the black community. Ahead of the anniversary one of these killings, that of Terrence Crutcher three years ago on September 16, 2016, we are releasing our report finding racial disparities in physical force, arrests, stops, and citations. Black and poor people in Tulsa often experience the police not as a protective force, but as a cause of fear of violence and of harassing, abusive enforcement actions. Arrests and citations lead to court debt that poor people cannot pay, resulting in arrest warrants, further imprisonment, and added debt. Services to help impoverished communities lack support, while the city adds more police officers. Community advocates have pressed for reforms, but the city government has only made surface changes.



*Tulsa Police officers approach Terence Crutcher, an unarmed black man on a North Tulsa street, shortly before shooting and killing him.*

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