

Drug Policy

**San Francisco's Arrest Rates of African Americans for Drug Felonies Worsens**

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**Summary**

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The following publication details a 40+ year pattern of San Francisco's racially discriminatory arrest practices against African Americans, which recently increased in intensity. Specifically, the publication finds:

- African Americans experienced felony drug arrest rates 19 times higher than other races in San Francisco, and 7.3 times higher than African Americans elsewhere in California.
- San Francisco's explosion in drug felony arrests of African Americans, during the 1995-2009 period, did not occur elsewhere in the state, nor for other racial categories in the city.
- The city's African American female youth account for over 40% of the felony drug arrests of African American female youths in California, and have arrest rates 50 times higher than their counterparts in other counties.
- More than half of all youth drug felonies involved African Americans, who constitute 9% of the city's youth; and one-third Latino males, who comprise 11% of the city's youth.
- Despite disproportionately high drug arrest rates among young African Americans in San Francisco, of the more than 2,000 residents and nonresidents in the city who have died from abuse of illicit drugs in the last decade, 6 in 10 were non-Latino Whites, and more than 7 in 10 were age 40 and older.

The Center on Juvenile and Criminal Justice (CJCJ) respectfully recommends that the San Francisco Human Rights Commission and San Francisco Board of Supervisors investigate and respond to these racially disparate trends of policing and arrest. It is arguable that this violates the human rights of African Americans under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the anti-discriminatory clause of the International Covenant on Civil and Political Rights (ICCPR), both signed and ratified by the United States. This publication concludes with three recommendations for consideration by the San Francisco Human Rights Commission and Board of Supervisors, to investigate and adequately address the concerns highlighted throughout this publication.

## Background

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### *Previous Findings and Reports*

A decade ago, CJCJ reporting showed San Francisco's arrest rate of African Americans for drug offenses far exceeded that of other racial categories, and of African Americans elsewhere in California (CJCJ, 2002, 2004, 2004a, 2005). Using detailed arrest figures for 2000-2002, CJCJ found staggering racial disparities in local policing that far surpasses the worst practices for other cities and counties. During that time, San Francisco's African American female youth were arrested for drug offenses at rates 19 times those of local female youth of other races and at 29 times the drug felony rate of African American female youth elsewhere in California. This disproportionate policing of African American female youth for drug offenses did not correspond with local drug use. Of the thousands of deaths over the last decade from illicit drug overdoses, 60% involved non-Latino whites, overwhelmingly concentrated in men and those over 30 years of age. Research by the American Civil Liberties Union of Northern California (2002) produced similar findings on racial profiling by San Francisco authorities in drug law enforcement.

CJCJ's findings in 2002 led to presentations to the San Francisco Board of Supervisors (CJCJ, 2004; updated 2005: see Appendix A) in an April 2004 hearing called specifically "to consider why the arrest and incarceration rates for young African American women are the highest of any California jurisdiction," along with a complaint to the city's Human Rights Commission (CJCJ, 2004a, see Appendix A). These studies and complaints resulted in various committee and department referrals, but did not facilitate concrete action, to this organization's knowledge.

CJCJ also submitted these findings to the San Francisco Commission and Department on the Status of Women (2003), established under United Nations covenants, for their report on the city's female youth. Yet, the Commission's *A Report on Girls in San Francisco*, failed to analyze this critical issue, but rather stated it was simply a problem "among girls" who were becoming more criminal:

An alarming trend among girls in San Francisco defies national and local trends for boys. San Francisco girls, as well as girls coming to San Francisco from neighboring communities, are getting arrested in higher numbers and for more serious crimes than girls in other parts of the state (p. 6).

The Commission noted that, "While African American girls make up 12.5% of the 10-17 year old girls in San Francisco, they accounted for over half (57.1%) of the girls being arrested or cited for law violations in 2000" (p. 15). However, it did not examine alternative explanations for their disproportionate arrest rates, nearly 10 times that of other female youth in the city. Issues of discriminatory policing and policies were not raised in the manner one would expect from an investigatory body charged with enhancing the status of women. CJCJ's critique of the report in a letter to the Commission expressed dismay,

...that the report states that girls actually are committing these crimes without raising the alternative possibility of a shift in police and program attention. There are reasons within the arrest trends to suggest official policy change rather than girls' behavior—evidence that girls' assaults charged as misdemeanors elsewhere are charged as felonies in SF, the absolutely unbelievable "fact" that SF girls are 10 times more likely to be arrested for drugs and robberies than LA girls, the fact that 1 in 4 African-American girls age 10-17 are arrested every year, etc. I hope that press and officials are not left to assume (as they have so far) that girls (that is, black girls) are factually and obviously becoming more criminal (CJCJ, 2002, p. 2).

An updated Commission (2009) report also failed to address racially disproportionate arrest issues. In the few instances when authorities discussed the issue, they did not consider alternative explanations for the city's arrest trends or engage in a comprehensive analysis of policing policies. As a result, San Francisco's pattern of significant racial disparities in drug law enforcement persists, at least through 2009<sup>1</sup>.

### *Defining Racism and Racial Discrimination*

Racism is defined by critical race theorists as “a complex system and process of oppression and privilege along the socially constructed lines of ‘race’” (Ostertag & Armaline, 2001, p. 267-8). Rather than reducible to the sum of individual attitudes or interpersonal bigotry, racism is a pervasive and resilient social system that constructs and structurally favors a dominant group (those constructed as white) while imposing exploitation and structural disadvantage on those constructed as the racial other (people of color). Further, racism is understood by social scientists as a historically dynamic system that continues to change over time.

Today, what is called “contemporary systemic racism” or racism in the “post-civil rights era” is particularly unique in comparison to eras past. Contemporary systemic racism is now institutionalized and no longer requires the actions of conscious “racist” actors for its perpetuation or effect(s). For example, scholars such as Michelle Alexander (2010) point to the generic ‘color blind’ discourse that accompanies state criminal justice policies and practices, which result in massive racial disparities and inequalities. Further, U.S. agencies and courts have self-imposed limitations as to what constitutes ‘racism’ or ‘racial discrimination’ such that it is difficult, if not impossible, to address racial inequality in the contemporary era. As Alexander (2010, p. 113) summarizes,

In the years following *McCleskey [v. Kemp]*, lower courts consistently rejected claims of race discrimination in the criminal justice system, finding that gross racial disparities do not merit strict scrutiny in the absence of evidence of explicit race discrimination—the very evidence unavailable in the era of colorblindness.

Generally speaking, charges of racial discrimination directed at public authorities in the United States require some proof of conscious racial animus. Case history suggests that this is particularly true for any attempt to address racial disparities in policing or sentencing. *However, no such burden of proof is required to legitimate claims of racial discrimination under formal human rights instruments incorporated into international law.*

The United States signed (1965) and ratified (1994) the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), with a mixed record of compliance since that time. This partly results from the differences in how ‘racial discrimination’ is defined under international and federal (U.S.) law and in the apparent problems in getting the U.S. government to “protect, respect and fulfill” its legal obligations according to human rights instruments. Policy researchers Fellner and Mauer (1998, p. 22) pointed out these legal differences over a decade ago:

ICERD wisely does not impose the requirement of discriminatory intent for a finding of discrimination. It requires states’ parties to eliminate laws or practices which may be race-neutral on their face but which have “the purpose or effect” of restricting rights on the basis of race. Regardless therefore, of whether they were enacted with racial animus...they

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<sup>1</sup> Unfortunately, the city's arrest figures for 2010 are too incomplete and inconsistent to determine if this trend continued.

unnecessarily and unjustifiably create significant racial disparities in the curtailment of an important right.

The conceptualization of racial discrimination under ICERD<sup>2</sup> is clearly informed by social scientific research on the definition of contemporary systemic racism and how it perpetuates any number of inequalities and injustices. U.S. policy is far less informed. CJCJ includes this brief discussion on the concept of systemic racism because San Francisco proactively adopted the practical, results-based international definition. Moreover the city established a local Human Rights Commission to defend human rights within its borders.

Where the San Francisco Human Rights Commission (SF-HRC) is in place to promote compliance for human rights instruments within city limits, as a Commission under the San Francisco Charter (section 3.699-5), and where the SF-HRC was originally inspired by an effort to address racial discrimination in San Francisco, the disturbing trends in city drug policing seem to fall well within the scope of the SF-HRC to take necessary actions.

## **Method**

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Data for this report draws from San Francisco Police (SFPD) and Sheriff's Department (SFSO) arrest statistics for 2009, as well as comparable statewide statistics, published by the state Criminal Justice Statistics Center (CJSC) (2011). San Francisco's 2010 arrest numbers appear severely underreported due to technical glitches, so 2009 data are used instead. CJCJ is also seeking more detailed data for 2010 and 2011 to conduct a closer analysis and update these findings. SFPD data have other shortcomings. Alone among California's counties, SDPD and SFSO do not separate arrests by Hispanic ethnicity but instead distribute them among White and Other racial categories. This failing renders San Francisco arrest statistics for Whites, Hispanics, and Asians largely useless, incomparable to state arrests, and slightly distorts state arrest totals.

Thus, statistics from the San Francisco Juvenile Probation Department (SFJPD) (2011) on duplicated juvenile drug arrest counts in 2009 by gender, race/ethnicity, and offense are used to estimate the correct proportions by race for this report. No similar adjustments appear possible for adult arrestees. Rates of arrest are calculated by dividing totals by populations for each age group, gender, and race/ethnicity from the Bureau of the Census's 2010 Census of Population for San Francisco and statewide.

Figures for drug mortality by county, race, ethnicity, gender, and age are from the Center for Health Statistics (CHS) (2010) Death Public Use files for 2000-09. Included are all deaths that occurred in San Francisco and/or involved residents of San Francisco.

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<sup>2</sup> See specifically ICERD General Recommendation XIV (42), Article 1, paragraph 1.

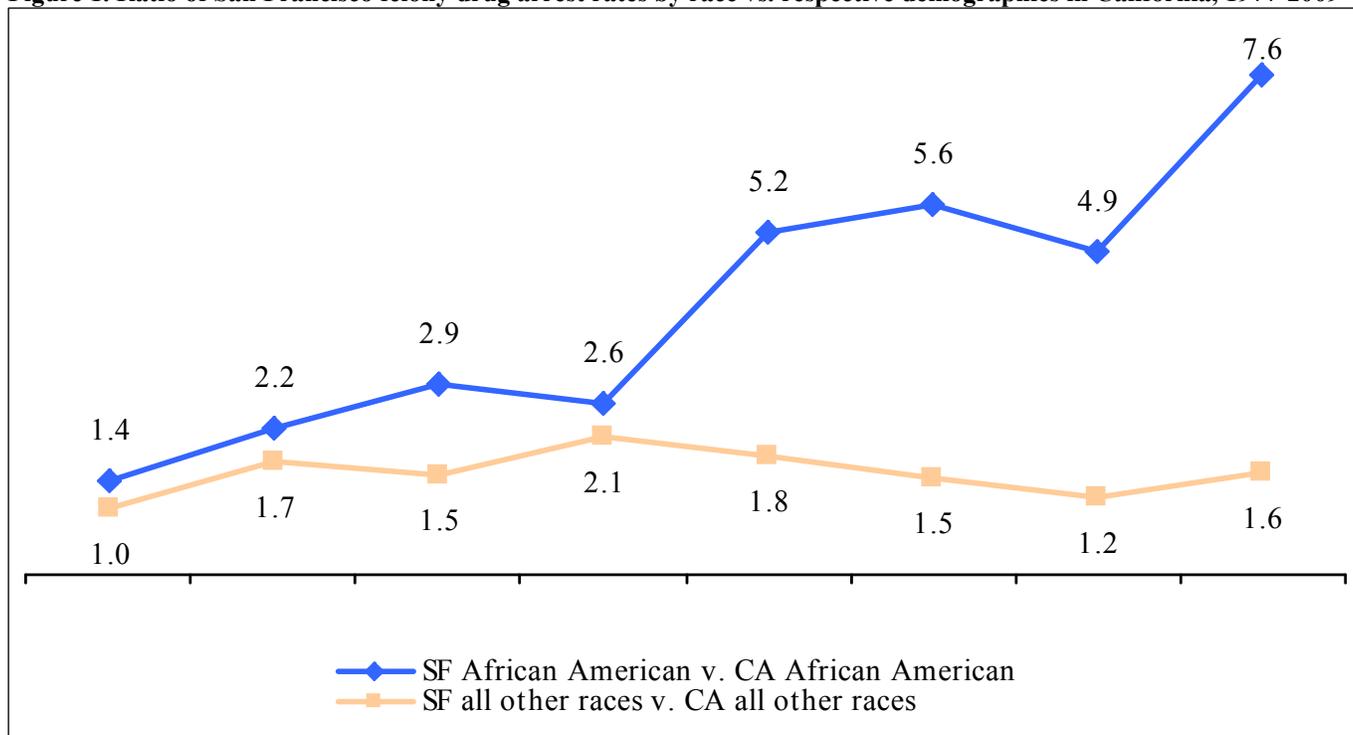
## Analysis

### *San Francisco drug felony enforcement, 1970s-present*

San Francisco's policing of drug felonies (manufacture, sale, and large-quantity drug possession) falls into two distinct periods of interest: the late-1980s and the post-1995 period. Significant fluctuations marked city drug law enforcement, primarily involving African American arrest rates. Sudden eruptions in drug arrests characterized both of these periods.

From the 1970s to the mid-1990s, San Francisco's racial patterns in enforcement of drug laws roughly resembled those statewide. While the city's African Americans had considerably higher rates of drug felony arrest than African Americans elsewhere in California, so did the city's other racial categories (Figure 1). Much like African Americans statewide, those in San Francisco were 4 to 5 times more likely to be arrested for drug felonies prior to the mid 1990s than their proportions of the total population would predict (CJSC, 2011; Demographic Research Unit, 2012; Bureau of the Census, 2012). Thus, while evidencing troubling racial disparities, San Francisco's drug law enforcement arrests by race were in the range of other major cities and patterns statewide, ones that also affected, to a much lesser degree, San Franciscans of other races.

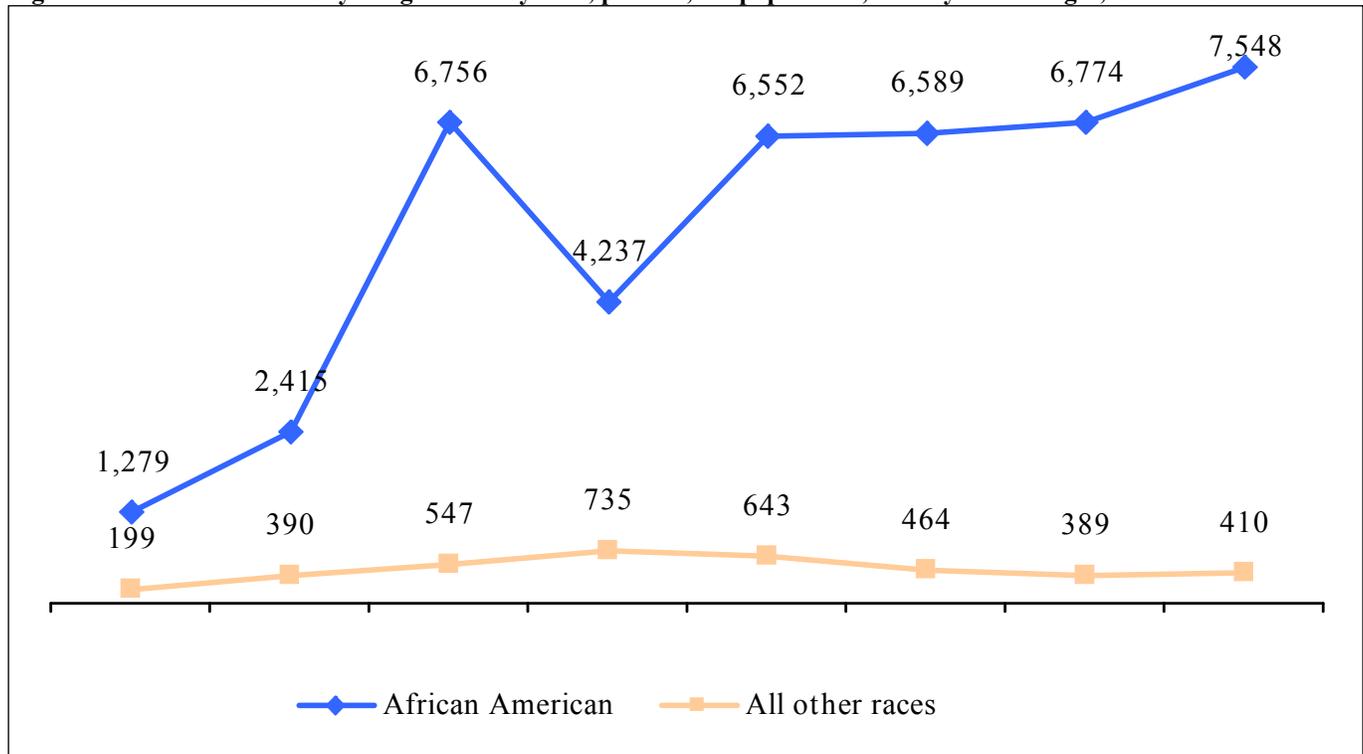
**Figure 1. Ratio of San Francisco felony drug arrest rates by race vs. respective demographics in California, 1977-2009**



Sources: Criminal Justice Statistics Center (2011); Demographic Research Unit (2012); Bureau of the Census (2012).

These patterns changed suddenly and radically after the early 1990s. From the early to late 1990s, the rate of San Franciscan African American drug felony arrests rose by 54% as that of other races fell by 12% (Figure 2). Over the next decade, the rate of drug felonies among San Francisco African Americans continued to rise (up 17%), even as they plummeted (down 35%) among other races in the city.

**Figure 2. San Francisco felony drug arrests by race, per 100,000 population, multi-year averages, 1977-2009**



Sources: Criminal Justice Statistics Center (2011); Demographic Research Unit (2012); Bureau of the Census (2012).

San Francisco’s explosion in drug felony arrests of African Americans, during the 1995-2009 period did not occur elsewhere in the state. From 2.6 times the state average in the early 1990s, San Francisco’s African American drug felony arrest rate abruptly rose to 5.1 times higher by the late 1990s, and **7.6 times higher by 2009**.

Even as the city’s African American population declined precipitously from 88,000 (11% of the city’s population) in 1990 to 48,000 (6%) in 2010 (Demographic Research Unit, 2012), the proportion of African American felony drug arrestees in San Francisco rose from around 45% in the 1990s to 55% in the 2000s, with little variation over the decade.

If increasing arrest rates for African Americans in San Francisco were part of a broader effort to reduce drug use, one would expect arrest rates for other racial categories to rise similarly. This is not the case. While the city’s African American drug felony totals have generally risen (by around 500 in annual arrests) since the 1990s, those for other measured racial categories declined (by about 1,500 arrests) (CJSC, 2011). In fact, the city’s non-African American residents displayed significant reductions in drug felony rates during the period, which declined even faster than for non-African Americans statewide. While non-African American San Franciscans were twice as likely to be arrested as their statewide counterparts in the early 1990s, by 2009, they were 1.6 times more arrest prone.

San Francisco law enforcement has displayed an increasing tendency to arrest African Americans for serious drug offenses even as the same rates in other California jurisdictions decreased, and even as San Francisco showed declining arrests of non-African American citizens for drug felonies. Further, when the city conducted a periodic crackdown on drugs, arrest increases nearly always focused wholly or overwhelmingly on African Americans—a pattern not found elsewhere in the state. CJJC is unable to find an empirical basis for this sharp increase in city arrests of African Americans.

Possible explanations? If city law enforcement authorities were responding to a generalized drug abuse crisis, arrests of other races should have risen sharply as well. If they were responding to a drug abuse crisis specific to African Americans, such a race-specific crisis is not in evidence from public health data discussed below. The unique explosion in arrests of San Francisco African Americans for drugs in the post-1995 period compared to residents of other races and compared to African Americans elsewhere in California stems from imperatives or policies so far unexplained.

### *Drug Mortality*

Who abuses drugs in San Francisco? This is a more relevant question than simply who uses drugs, given San Francisco’s de-emphasis on policing mere drug possession (note the city’s generally low level of misdemeanor drug arrests, shown in Tables 3 and 4). It is also more difficult to determine, since drug “abuse” is an expansive term that is not coextensive with mere drug “use” as measured on self-reporting surveys. In fact, surveys tend to be dominated by high rates for milder drugs such as marijuana. These are notoriously inaccurate measures of drug abuse, which tends to involve more rarely-used addictive and lethal drug, polydrug, and drug/alcohol use.

Although dying from overdose or organic failure due to abusing illicit drugs is a limited measure of drug abuse, it is an appropriate and accessible index that is reasonably and consistently applied across demographic groups and over time. **Of the more than 2,000 San Francisco residents and nonresidents in the city who have died from abuse of illicit drugs (a large majority of these from poisoning by overdose) in the last decade, 6 in 10 were non-Latino Whites, around one-fourth were African American, and more than 7 in 10 were age 40 and older (Table 1).**

**Table 1. Illicit drug-abuse death rates per 100,000 population by race/ethnicity and age, 2000-2009 (10-year rates)**

<u>Age</u>	<u>Total</u>	<u>White</u>	<u>Latino</u>	<u>African American</u>	<u>Asian</u>	<u>All other</u>
<20	23.0	51.8	35.9	0.0	4.0	32.8
20-29	117.0	188.5	60.6	199.9	30.7	70.0
30-39	253.4	347.2	201.9	787.4	57.4	86.3
40-49	539.7	690.1	408.2	2,252.1	72.5	340.1
50-59	550.3	731.2	450.0	2,249.2	52.0	219.4
<u>60+</u>	<u>356.2</u>	<u>489.5</u>	<u>237.1</u>	<u>1,232.7</u>	<u>70.3</u>	<u>268.1</u>
Total	312.8	435.7	209.1	1,215.9	49.4	145.2

Sources: Center for Health Statistics (2011); Demographic Research Unit (2012); Bureau of the Census (2012).

However, the city’s lethal-drug abusing population differs from its drug arrestee population in several respects. African Americans do have the highest rates of drug abuse mortality, though not among its youth. Deaths are concentrated in older age groups; a number equivalent to over 2% of San Francisco’s African Americans ages 40-59 died from illicit-drug abuse during the decade. The second highest mortality rate is found among non-Latino Whites.

In fact, if drug deaths predicted drug arrest rates, African Americans would constitute 23% (not 43%) of the city’s drug arrests—still highly disproportionate to their population (6%), but at least reflective of drug abusing proportions by race. Youths would comprise less than 1% of drug arrests (instead of 3%), with White youth accounting for half of these and African American youth practically none. Young adults ages 18-39 would account not for 58% of drug arrests as at present, but 28%. Conversely, those over age 60 would comprise 13% of arrestees (instead of 3%) and those ages 40-59, 60% of drug arrests, not 36% as they do now.

Below is a more in depth review of San Francisco’s most complete and recent drug arrest data, distinguishing distinct trends in San Francisco’s policing practices.

*2009: Youth Drug Felonies*

In 2009, a San Francisco African American youth was 9 times more likely, and an Hispanic youth nearly 4 times more likely, to be arrested for drugs than their respective African American and Hispanic counterparts statewide (CJSC, 2011; Demographic Research Unit, 2012; Bureau of the Census, 2012). **Though less than 9% of the city’s youth population, African Americans comprise 56% of San Francisco’s juvenile drug felony arrests.** Hispanics show a smaller, but still disproportionate felony drug arrest rate.

These large anomalies are not just because San Francisco is a major city, with crime and drug arrest levels normally higher than for counties with suburban and rural residents. In fact, the city’s non-Latino white youths were only slightly more and Asian youths slightly less likely compared to their counterparts in other counties to be arrested for drug felonies. Races other than African Americans were just 1.6 times more likely (that is, 60% more likely) than their counterparts statewide to be arrested for drug felonies, due almost entirely to high arrest rates among the city’s Hispanic youth (CJSC, 2011; Demographic Research Unit, 2012; Bureau of the Census, 2012).

San Francisco female youth are 6 times more likely to be arrested for drug felonies than female youth elsewhere in California; male youth, 2.5 times more likely. That San Francisco female youth, and to a much lesser extent males, show unusually high rates of felony drug arrest is attributable to high rates of African American and Hispanic felonies.

The city’s African American female youth account for over 40% of the felony drug arrests of African American female youths in California and have arrest rates 50 times higher than their counterparts in other counties (Table 2). African American and Hispanic male youths and Asian female youths also show disproportionate drug felony levels. Hispanic females and Asian males, in contrast, are less subject to drug felony arrest than their counterparts statewide.

**The city’s African American female youth have drug felony arrest rates 50 times higher than their counterparts in other counties.**

**Table 2. Juvenile felony drug arrests per 100,000 population age 10-17, San Francisco vs. the rest of California, 2009<sup>3</sup>**

Felony drug Arrest rate	Male				Female			
	<u>African American</u>	<u>White</u>	<u>Hispanic</u>	<u>Asian</u>	<u>African American</u>	<u>White</u>	<u>Hispanic</u>	<u>Asian</u>
San Francisco	2,531.6	237.9	915.1	92.7	2,419.4	69.3	20.8	38.4
California outside SF	486.6	200.6	211.0	120.8	48.1	61.9	29.9	19.4
Ratio, San Francisco’s drug felony rate versus rest of California	5.2	1.2	4.3	0.8	50.3	1.1	0.7	2.0

Sources: San Francisco Juvenile Probation Department (2012); Criminal Justice Statistics Center (2011); Demographic Research Unit (2012); Bureau of the Census (2012).

In 2000-2010, the SFJPD reports 2,134 petitions filed for felony drug offenses by juveniles, a number roughly comparable to arrests (San Francisco Juvenile Probation Dept., 2012). Of these, 29% involved African American males, 22% African American females, and 32% Latino males. That is, more than half of all juvenile drug felonies involved African Americans, who constitute 9% of the city’s youth, and one-

<sup>3</sup> San Francisco’s 2009 juvenile probation report provides a detailed table on duplicate petitions, useful in estimating drug arrests by race/ethnicity, and gender. This is not possible for drug misdemeanors, which are too few to provide a reliable basis.

third Latino males, who comprise 11% of the city’s youth. No other population accounted for anywhere near this level of drug arrest.

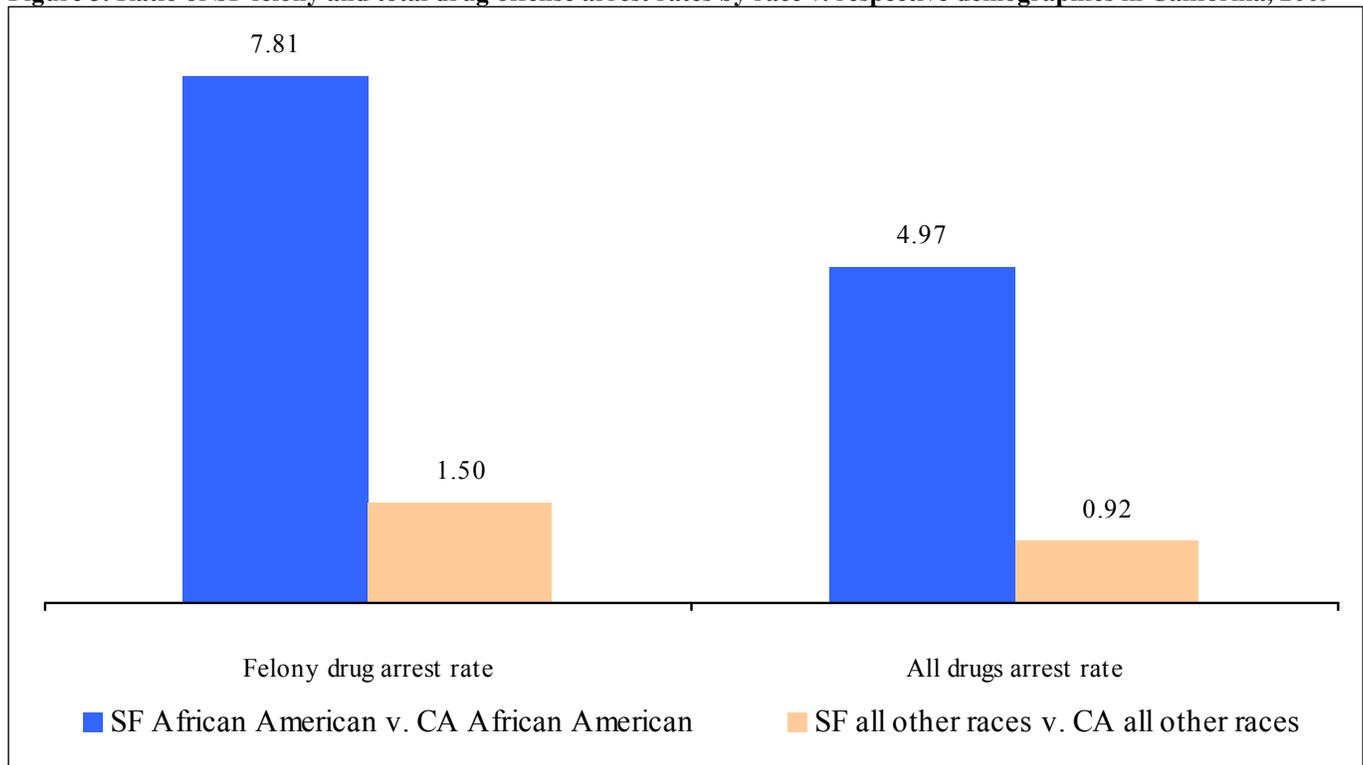
*2009: Adult Drug Felonies*

An equally striking pattern prevails with respect to adult drug arrests. San Francisco African Americans experienced felony drug arrest rates 7.3 times those of African Americans elsewhere in California (CJSC, 2011; Demographic Research Unit, 2012; Bureau of the Census, 2012). With 2.3% of the state’s African American adult population, San Francisco arrests 14.6% of California’s African American adult drug felons. Other races in the city also suffer disproportionate arrest rates compared to the rest of the state, but are arrested substantially less than African Americans.

**San Francisco African Americans experienced felony drug arrest rates nearly 8 times higher than African Americans in other areas of California.**

A number equal to roughly **10% of San Francisco’s African American population between the ages of 10-69<sup>4</sup>** was arrested for drug felonies in 2009 (Bureau of the Census, 2012; CJSC, 2011). This is 19 times higher than the rate of drug felony arrests for all other races combined in the city. In addition, San Francisco African Americans experienced felony drug arrest rates nearly 8 times higher than African Americans in other areas of California (Figure 3). These trends were also found in misdemeanor (low-quantity possession) offenses, and all drug offenses, although to varying degrees.

**Figure 3. Ratio of SF felony and total drug offense arrest rates by race v. respective demographics in California, 2009**



Sources: Criminal Justice Statistics Center (2011); Demographic Research Unit (2012); Bureau of the Census (2012).

<sup>4</sup> This does not mean 10% of the city’s African American population was arrested that year; some individuals were arrested more than once, and some were not San Francisco residents, offset by San Franciscans arrested in other jurisdictions.

## Drug Felonies by Age

Unlike the stark racial patterns, age patterns are more ambiguous (CJSC, 2011; Demographic Research Unit, 2012; Bureau of the Census, 2012). San Francisco’s felony drug arrest rates peak at age 18-19, compared to 20-24 elsewhere in the state. The city’s pattern of disproportionate arrest levels describes a U-shaped curve, with unusually high rates at the youngest (under 20) and oldest (40 and older) ages.

With 1.1% of the state’s teenagers, San Francisco accounts for 4.2% of teenage drug felonies. However, San Franciscans age 40 and older are the most disproportionately arrested for drug felonies compared to their statewide counterparts. San Francisco accounts for nearly 8% of the state’s drug felonies in that age group, including more than 1 in 10 drug felonies among senior citizens. This is an unexpected finding given the generally greater affluence of and racial makeup of older San Franciscans compared to older Californians in general.

## Misdemeanor Drug Arrests

In contrast to its high rate of felony drug policing—albeit with large racial discrepancies—San Francisco generally de-emphasizes arrests for drug misdemeanors (low-quantity possession). Drug felonies and misdemeanors occasion arrests in virtually equal numbers elsewhere in California, but San Francisco law enforcement charges three times more drug arrestees with felonies than with misdemeanors. **The city’s rate of arrests for simple possession is 67% below the state average for juveniles and 24% lower for adults.**

**Table 3. SF youth misdemeanor drug arrest rate, per 100,000 population age 10-17, by race, sex, v. California, 2009**

Misdemeanor Drug Arrest Rate	Estimated from probation report							
	Total	African-American	All other	White	Hispanic	Asian/other	Male	Female
San Francisco	<u>130.0</u>	<u>567.0</u>	<u>87.5</u>	<u>na</u>	<u>na</u>	<u>na</u>	<u>219.5</u>	<u>37.2</u>
California outside SF	<u>389.7</u>	<u>571.5</u>	<u>376.7</u>	<u>na</u>	<u>na</u>	<u>na</u>	<u>640.4</u>	<u>125.8</u>
Ratio, San Francisco arrest rate vs. rest of CA	<u>0.33</u>	<u>0.99</u>	<u>0.23</u>	<u>na</u>	<u>na</u>	<u>na</u>	<u>0.34</u>	<u>0.30</u>

Sources: Criminal Justice Statistics Center (2011); Demographic Research Unit (2012); Bureau of the Census (2012).

The exceptions are that San Francisco’s African American adults and those age 40 and older are arrested for misdemeanor drug possession at rates considerably higher than their statewide counterparts. The city’s African American youth are arrested for possession at levels similar to those of African American youth in other counties (Table 3).

## Drug Arrest Trends by Race and Drug Type

Between 1980 and 2009, the disparity between African American arrests and all other races for all types of drug offenses increased sharply (Table 4). This disparity widened the most dramatically during 1995-2009, with general declines in drug-related arrests of other races, and increases in drug-related arrests of African Americans. For the largest and most racially disparate drug arrest category, narcotic felonies, African Americans were 6.4 times more likely than non-African Americans to be arrested in 1980, 10.3 times more likely in 1995, and a staggering 27.5 times more likely in 2009.

**Table 4. Ratio, San Francisco African American drug arrest rate v. all other races drug arrest rate, 1980-2009**

Ratio, African American versus all other races drug arrest rates Type of drug offense				Change in ratio	
	1980	1995	2009	1980-1995	1995-2009
<b>All drug arrests</b>	<b>4.5</b>	<b>7.6</b>	<b>16.9</b>	<b>+ 68%</b>	<b>+122%</b>
All drug felonies	5.7	7.7	19.3	+ 36%	+150%
Narcotics	6.4	10.3	27.5	+ 62%	+166%
Marijuana	5.3	3.8	9.6	-30%	+155%
Dangerous/other drugs	5.7	2.5	5.6	-56%	+127%
All drug misdemeanors	3.0	6.9	11.2	+131%	+ 62%
Marijuana	3.3	5.1	9.7	+ 55%	+ 88%
Other drugs	2.8	8.5	11.7	+210%	+ 38%

Sources: Criminal Justice Statistics Center (2011); Demographic Research Unit (2012); Bureau of the Census (2012).

In 2009, African Americans accounted for just 6% of San Francisco’s population, but 63% of narcotics felony arrests. The African American arrest volume for narcotics (3,169) was equivalent to 1 in 12 of the city’s African American population age 10 and older (39,400). Other drug offenses, both felony and misdemeanor, showed similar if less extreme disparities and trends, but in no case did the black-v.-other races drug arrest rate disparity fall below 550% by 2009.

## Conclusion

By CJJ’s repeated analyses over the last decade, San Francisco authorities have not responded to apparent, serious and uniquely extreme racial disparities in policing of drug offenses. Authorities have also not provided rational explanation for the disparities or policies to ameliorate them. Nor have authorities explained why the city’s drug policing, already racially discriminatory, became radically more so over the last 15 years. If there are objective criminal justice goals and standards to justify San Francisco’s arrest trends, then local authorities would seem obligated to provide detailed explanation. In particular, what changed in the 1990s, and only in San Francisco, to dramatically boost the fixation on African Americans as the city’s drug criminals?

In the last two decades, as San Francisco’s population has grown and become somewhat older and wealthier, the city’s African American population has declined sharply and become poorer and more concentrated in isolated districts. One anecdotal explanation for the racial disparities has been the ease of frequent and multiple arrests of drug dealers in open-air markets in the poorer areas of the city as opposed to the more difficult task of policing the larger, more discreet drug supply networks serving affluent areas.

However, despite high numbers of arrests, San Francisco actually sends drug offenders to state prison at a rate less than half the state average. The analysis suggests that the San Francisco Police Department may be re-arresting the same African-American drug dealers over and over, then releasing the large majority, and re-arresting them again within a short period of time.

Another possibility is that San Francisco’s law enforcement policy is aimed in part at promoting drug policy reform goals of decriminalizing simple possession. If so, its execution on the street inflicts particular hardships on African Americans, Latinos, females, and young people while favoring whites and older citizens who are actually driving the city’s above-average illicit-drug abuse death toll. It not only makes little sense de facto to permit drug use while severely punishing drug manufacturing and sales by law, the result of such policy exacerbates racial disparities in drug law policing. If reform theories

underlie drug policing in San Francisco, serious analysis is needed of the how to prevent such unintended consequences.

Whatever the underlying imperatives, current policy appears to combine the worst of both worlds: injustice and ineffectuality. Corraling African American drug dealers produces impressive arrest numbers, but is not effective policy to prevent drug abuse. San Francisco's already excessive drug overdose/abuse death rate continued to climb through 2009, though in fairness, drug tolls have been rising elsewhere in the state and nation as well. Moreover, while it may partition drug marketing violence to certain areas of the city, levels of violence in those areas remain concentrated and high. Current policy is creating a multiple-felony population with no employment prospects and significant challenges to success in the community.

Whether intentional or not, such consistent disparities in drug war policing in San Francisco should be viewed as a human rights violation. As noted previously, formal human rights discourse defines racial discrimination not in terms of overt, conscious racial animus, but in terms of its evident effects. The city is subject to national, state, and local requirements to enforce laws in a non-discriminatory fashion and the United States is a signatory to international human rights accords imposing even stricter non-discrimination standards. San Francisco's ongoing, extreme racial disparities in drug law enforcement and authorities' paralysis in addressing them conflict with the city's commitment to the egalitarian ideals it champions. CJCJ urges that the San Francisco Human Rights Commission and Board of Supervisors jointly obtain and publicize full details of the extent of and explanations for San Francisco's enormous racial disparities in drug law enforcement and formulate a concrete plan to address them.

**In light of these observations, CJCJ respectfully recommends the San Francisco Human Rights Commission and Board of Supervisors:**

- 1. Initiate a multi-agency investigation into San Francisco's policing policies and practices to explore policy decisions that contribute to these trends.**
- 2. Develop and adopt a concrete plan to address these racial discrepancies in San Francisco's drug arrest practices, monitored through periodic, results-based evaluations.**
- 3. Reaffirm San Francisco's commitment to upholding its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and the anti-discriminatory clause of the International Covenant on Civil and Political Rights (ICCPR).**

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**Please note:** Each year, every county submits their data to the official statewide databases maintained by appointed governmental bodies. While every effort is made to review data for accuracy, CJCJ cannot be responsible for data reporting errors made at the county level.

About the Author

**Mike A. Males, Ph.D., Senior Research Fellow, Center on Juvenile and Criminal Justice**

Mike A. Males is a Senior Research Fellow at the Center on Juvenile and Criminal Justice and content director at [www.YouthFacts.org](http://www.YouthFacts.org). He has contributed research and writing to numerous CJCJ reports, including the "The Color of Justice, an Analysis of Juvenile Adult Court Transfers in California," "Drug Use and Justice: An Examination of California Drug Policy Enforcement," and "The Impact of California's Three Strikes Law on Crime Rates."

Dr. Males has a Ph.D. in social ecology from U.C. Irvine and formerly taught sociology at U.C. Santa Cruz. With over 12 years of experience working in youth programs, his research interests are focused on youth issues like crime, drug abuse, pregnancy and economics. He is the author of dozens of articles and four books, the latest of which are *Teenage Sex and Pregnancy; Modern Myths, Unsexy Realities* (Praeger, 2010), and *Kids and Guns: How Politicians, Experts, and the Press Fabricate Fear of Youth* (Common Courage Press, 2000). Recent articles and op-eds have appeared in the *New York Times*, *The Los Angeles Times*, *The American Journal of Public Health*, *The Lancet*, *Journal of School Health*, and *Scribner's Encyclopedia of Violence in America*.

**William Armaline, Ph.D., Assistant Professor, San José State University**

William Armaline is an assistant professor in the Department of Justice Studies at San José State University working primarily in the fields of sociology, education, and human rights. His areas of interest include sustainable political economic and ecological theory, critical race theory and anti-racism, critical pedagogy and transformative education, critical ethnography, inequality and youth, prison abolition, and drug policy reform. His recent publications include: (1) *Human Rights in Our Own Backyard: Injustice and Resistance in the United States* (2011, UPenn. Press); (2) "What Will States Really Do for Us? The Human Rights Enterprise and Pressure from Below" (2009, *Societies Without Borders*, 4(3): 430-451); (3) Works on political economy, critical pedagogy, and transformative education in *Accumulation of Freedom: Writings on Anarchist Economics* (2012, AK Press), *Contemporary Anarchist Studies* (2009, Routledge), and *Academic Repression* (2009, AK Press).

Dr. Armaline is currently in contract with Polity Press for a second book on the Political Sociology of Human Rights, and has recently authored a new Minor in Human Rights at San José State University beginning in Fall 2012.

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*The Center on Juvenile and Criminal Justice is a nonprofit, nonpartisan organization that offers policy analysis, program development, and technical assistance in the criminal justice field.*

## Appendix A

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### Testimony to San Francisco Board of Supervisors on Disproportionate Arrest/Confinement of African-American Young Women for Drug Offenses

Mike Males, 8 July 2004

The attached charts show the arrest rates of San Francisco African-American juvenile girls ages 10-17 for several offenses compared to African-American girls elsewhere in California, as well as to San Francisco girls of other races. They indicate that **San Francisco has vastly disproportionate arrests of young black women even compared to the rest of the state.**

The figures forming the basis of these calculations are the latest for California and San Francisco from the state Department of Justice's Criminal Justice Statistics Center (*California Criminal Justice Profiles*, at <http://caag.state.ca.us/cjsc/>) and San Francisco Juvenile Probation Department (annual *Statistics* report). Population figures are from the California Department of Finance's Demographic Research Unit (<http://www.dof.ca.gov/HTML/DEMOGRAP/Druhpar.htm>).

Excessive black arrest rates are of concern throughout California and the nation. Note that in California outside San Francisco, black girls are 3.5 times more likely to be arrested for felonies, 4.6 times more likely to be arrested for assault, and 1.8 times more likely to be arrested for felony drug offenses than California girls of other races.

**Racial arrest discrepancies are stark enough elsewhere. San Francisco's are massively worse. In San Francisco, black girls are 11.4 times more likely to be arrested for felonies, 10.6 times more likely to be arrested for assault, and 18.9 times more likely to be arrested for felony drug offenses than are San Francisco girls of other races.**

San Francisco white, Latina, Asian, and other/mixed-race (that is, non-black) girls display a varied, though relatively normal pattern of urban arrests for felonies--about 30% higher than the statewide average for non-black girls, including rates slightly higher for assault, slightly lower for property offenses, 2.8 times higher for drug felonies, and considerably lower for drug misdemeanors.

This is not the case for San Francisco black girls, who display arrest rates 4.3 times higher for felonies, 2.5 times higher for assault, and **29.2 times higher for drug felonies than BLACK girls elsewhere in California.**

Looked at another way, **San Francisco has 1.8% of the state's young black women but accounts for 35.2% of the arrests of young black women for drug felonies, and 7.5% for all felonies, in the state.**

Within the city, **blacks comprise 12.2% of San Francisco's population of girls but comprise 61.4% of San Francisco girls' arrests for felonies, 66.7% for robbery, and 72.3% for drug felonies.**

Blacks account for 57% of total arrests, two-thirds of the felony petitions sustained, and three in five incarcerations of juvenile girls in the city.

San Francisco's pattern forms a gigantic anomaly found nowhere else. While (a) San Francisco boys of all races, (b) San Francisco girls of other races, (c) California black girls, and (d) California boys and girls of all races ALL show declining rates of arrest and imprisonment over the last decade, (e) **San Francisco black girls are the ONLY youth population in the state showing skyrocketing rates of arrest and incarceration.**

Finally, there is no evidence of a serious drug abuse problem among San Francisco black girls that would explain their massively excessive arrest rate. **The city's drug abusing population is mostly white and overwhelmingly over age 30.** The drugs they abuse are exactly the same ones implicated in violence among drug dealers: heroin, cocaine, methamphetamine, illicit drug combinations, and drugs mixed with alcohol.

In the last seven years (1997 through 2002), federal Drug Abuse Warning Network show 2,260

deaths in the city were directly related to illegal-drug abuse. Of these, 1,486 were whites (66%), and 1,793 (79%) were over age 35. DAWN reports also show a staggering 52,400 San Franciscans treated in hospital emergency rooms for illegal-drug abuse over the last seven years. Of these, 65% were white, and 88% were over age 30.

Meanwhile, **none of the city's drug abuse deaths and fewer than 2% of the city's hospital emergency treatments for drug abuse were younger black women (age 10-24). Emotional anecdotes gracing the city's media aside, there is little evidence of a serious drug abuse problem among younger African Americans in San Francisco, and especially not among young black women.** There has not been a drug overdose death of any kind involving an African-American female under age 25 in San Francisco since 1996 (figures through 2002).

**Compared to their contribution to the city's drug abuse problem, young blacks (ages 15-29) are 60 times more likely to be arrested for drugs than whites over age 30.**

San Francisco may pride itself on its enlightened policies toward drugs, but in point of fact, this city's drug situation is very disturbing. **This city is failing to address both its massive drug abuse problem among older whites (three times the rate of other cities in California) and its massively excessive drug over-arrest problem of younger black women (29 times the rate elsewhere in California).** I am certainly not suggesting arresting more people of any race for drugs; the city's felony drug arrest rate is already substantially higher than the state's as a whole. I am suggesting a major revision in the way we confront drug abuse and law enforcement in light of San Francisco's extreme discrepancies with regard to race, gender, and age.

#### Arrests, San Francisco vs. California girls, 2000-02

##### Arrests per 100,000 population age 10-17

##### African American girls, 2000-02

<u>Rate</u>	<u>San Francisco</u>	<u>Rest of CA</u>
Felony	6,715	1,546
Assault	1,042	401
Robbery	926	138
Property	1,598	796
Fel drug	2,362	81
Misd drug	93	143
All drug	2,455	224

##### Arrests, girls of other races

<u>Rate</u>	<u>San Francisco</u>	<u>Rest of CA</u>
Felony	587	440
Assault	98	87
Robbery	64	12
Property	219	244
Fel drug	125	44
Misd drug	35	153
All drug	161	197

##### Arrests, all girls

<u>Rate</u>	<u>San Francisco</u>	<u>Rest of CA</u>
Felony	1,334	525
Assault	213	111
Robbery	169	21
Property	387	287

Fel drug	398	47
Misd drug	42	152
All drug	441	199

Thank you for your consideration.

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Item 040470 will be heard at approximately 10:45 am at the Board of Supervisors, special hearing on the issue of the over-arrest of African American girls in San Francisco. The hearing will be at the City Services Committee meeting on Thursday, July 8 at City Hall. Supervisors Maxwell, Dufty, Alioto-Pier, Ma

Hearing to discuss the juvenile justice system with regard to the arrest and incarceration rates of adolescent girls; to consider the criminal justice programs serving this population, and to consider why the arrest and incarceration rates for young African American women are the highest of any California jurisdiction.

4/13/04, RECEIVED AND ASSIGNED to City Services Committee.

4/20/04, REFERRED TO DEPARTMENT. Referred to Youth Commission for comment and recommendation.

[http://www.sfgov.org/site/bdsupvrs\\_page.asp?id=26009](http://www.sfgov.org/site/bdsupvrs_page.asp?id=26009)

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4 January 2004

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Dear Commissioners:

I am writing to ask for Commission investigation of the excessive arrest and incarceration of African-American juvenile females in San Francisco, specifically for drug offenses. I believe the extreme pattern documented below constitutes age-based, racial and sexual discrimination.

1. San Francisco law enforcement authorities arrest juvenile black females for felony drug offenses at a rate far exceeding that of California as a whole, and comparable California cities.

The 2000 Census shows 3,016 black females ages 10-17 in San Francisco, 2.1% of the state's total population of 146,012 black females ages 10-17.

In 2002, California Criminal Justice Statistics Center (Department of Justice) figures show there were 56 black juvenile females arrested for drug felonies in San Francisco, 35.7% of the 157 black juvenile females arrested for drug felonies in all of California.

At 1,857 per 100,000 population, the arrest rate for black juvenile females in San Francisco is 26 times the rate of arrest of black juvenile girls for drug felonies elsewhere in the state. Nor is 2002 an isolated year. In 2001, San Francisco black girls comprised 69 of the 191 arrests of black girls statewide for drug felonies, also 36% of the total.

San Francisco black girls comprise 12.5% of the 24,119 juvenile females ages 10-17 in San Francisco, but 70% of the arrests of juvenile females for drug felonies and 77% of the petitions sustained for drug felonies (San Francisco Juvenile Probation Department annual report, 2000). The drug felony arrest rate for San Francisco black girls is 15 times the rate for other girls in the city (123.2 per 100,000 population). The drug felony conviction (petition sustained) rate for black girls is 23 times that of other girls in San Francisco.

2. There is no evidence of a drug abuse problem among San Francisco black girls that would justify such a drug arrest and incarceration excess.

In 2001, black juvenile girls comprised none of the city's 104 drug overdose deaths, and 1 of the city's 517 illegal-drug-related hospital emergency treatments--less than one-fifth of 1% of the city's drug abuse total (California Center for Health Statistics, and Epidemiology and Injury Control, Department of Health Services).

3. Every measure of drug abuse shows the city's drug abuse problem, overwhelmingly, is white and over age 30.

In 2001, whites over age 30 comprised 81 of the city's 104 drug overdose deaths, and 302 of the city's 517 illegal-drug-related hospital emergency treatments--60% to 80% of the city's drug abuse total.

Federal Drug Abuse Warning Network figures show the same pattern for all deaths and hospital emergency room treatments (whether accident, suicide, or undetermined) classified as directly related to abuse of illegal drugs. In 2002, persons over age 35 comprised 84%, and whites 64%, of the city's 273 drug abuse fatalities.

Yet despite their overwhelming contribution to San Francisco's drug abuse toll, city whites over age 30 comprise just 19.6% (1,577 of 8,035) of felony arrests for drug offenses, and 24.8% (373 of 1,504) of misdemeanor drug arrests. Meanwhile, blacks under age 30, who account for just 1% of the city's drug abuse deaths, comprise 22.7% (1,827 of 8,035) of felony, and 12.6% (190 of 1,504) of misdemeanor drug offenses.

Whites over age 30 are arrested for drugs at a rate one-third of what their contribution to San Francisco's drug abuse toll would predict, while blacks ages 15-29 are arrested at a rate 22 times higher than their drug abuse proportion would predict. Thus, compared to their level of drug abuse, younger blacks are more than 60 times more likely to be arrested for drugs than older whites.

4. This racial disparity in arrest exists for adult African American women, though not to the extreme extent as for juvenile females.

Comprising 2.7% of the black female population statewide, San Francisco black females comprise the following proportions of arrests for drug felonies of females in their age groups statewide: ages 18-19, 42%; ages 20-29, 34%; ages 30-39, 12%, and ages 40-older, 12%.

Comprising 8% to 10% of San Francisco's female population, blacks age 18-19 comprise 73% of the arrests 18-19 year-old women citywide for drug felonies; 66% for age 20-29, 56% for ages 30-39, and 70% for those ages 40 and older.

5. San Francisco's law enforcement policy toward drugs cannot be justified on the grounds of practicality. It is of dubious effectiveness in reducing drug abuse. According to Drug Abuse Warning Network tabulations, San Francisco's rate of drug-related mortality (37.2 per 100,000 population in 2001) is three times higher than for Los Angeles (12.2) and San Diego (12.8), and its rate of drug-related hospital emergency treatments (1,121.9 per 100,000 population in 2002) is 4.5 times higher than for Los Angeles (250.7) and 4.8 times higher than for San Diego (12.2).

6. This complaint does not allege a violation of civil rights in any individual case. Rather, it alleges that the extreme nature of these statistics clearly shows that San Francisco's pattern of drug law enforcement results in discrimination against younger black people, particularly younger black women, and excessive leniency toward older whites whose drug abuse is driving the city's illicit drug use and distribution. These are, by far, the most racially extreme figures I have seen for any city statewide.

Although precise race-by-age figures are not available for cities, San Francisco arrested more juvenile girls by number in 2002 for drug felonies (83) than the city of Los Angeles (74) or all jurisdictions in Alameda County (32), the latter of which have youth populations six and three times higher than San Francisco, respectively. As seen, San Francisco's arrests are disproportionately of blacks.

7. I believe San Francisco's method of enforcing drug laws constitutes a race-, gender-, and age-based human rights violation that is unfair on its face and which damages the lives of young people while failing

to address the city's serious drug abuse problem among older age groups. I ask that these racial disparities be examined and that the city pursue policies that are more equitable and effective in light of the age, race, and gender characteristics of its drug abuse problem.

thank you for your attention,

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