

The State of Criminal Justice in the African American Communities:

At Home and Abroad

David C. Cox

Dr. Mullen

May 9, 2007

You may never know the mother of three children who lives on the other side of the railroad tracks even though you have looked deeply into her eyes, day in and day out, when you pass her by as she walks home from work. Though you may never be able to begin to comprehend the unimaginably unfair daily struggles she encounters while trying to keep food on the counter, her family together, children off the streets and the dwindling hope for a better day alive just a bit longer – you are just as responsible for her and her children as you are for your family. What happens to one happens to all in this global community. Just because she may have a different skin color and not live right next door, this certainly does not allow you the freedom to simply ignore her hardships for they are yours to bear as well. Just because she is who she is, who are you to ultimately deny her children the same quality of medical care you so adamantly ensure yours receive? Who are you to ignore the fact that her husband is spending the next twenty years in prison because all of the so called ‘safety nets’ your elected officials put in place in his housing community which have been failing miserably? Just the same – who is she not to respect your son for standing up for her and stepping in on her behalf? It just so happens that his skin tone is much lighter than hers but his view of the world and insanity from the blatant unfair and nasty nature of the world has propelled him to focus and try to do something for someone somehow. This tiny planet we call home – there is no room for an *us* versus *them* – there is no room for a hierarchical way of living, especially one based on skin color. You are just as responsible for what happens to her as she is for what happens to you. But more importantly, those of every color must understand and see a common future where only through coming together will there be a time when it will no longer matter whether you are black, white, red or yellow but that

you are a person and deserve all the same chances, respect, dignity dreams and freedoms to reach and live as boldly and successfully as the next person. Dr. King believed there would only be progress when we came together, blacks, whites, rich, poor, Harvard graduates and high school drop outs – when each and every single person realized their dependency upon one another, only when all of the people truly unite can there be any bit of hope. Dr. King clearly reminds both blacks and whites that:

In the final analysis the weakness of Black Power is its failure to see that black man needs the white man and the white man needs the black man. However much we may try to romanticize the slogan, there is no separate black path to power and fulfillment that does not intersect white paths, and there is no separate white path that does not share that power with black aspirations for freedom and human dignity. We are bound together in a single garment of destiny. (52 King)

There is a problem in the United States today of catastrophic proportions. Some might even call it an epidemic. One of the greatest challenges facing all people in the 21st century has its roots in the struggles of racial segregation and the era of Jim Crow. The problem is that there is a fundamental breakdown of the relationships between the criminal justice system and the African American communities which they serve. This is not a situation faced solely by African American communities, for what happens to them effects everyone, which, in turn, is why it should be of greatest concern to all people. The ultimate price for the breakdown is being paid by every member of society, for at the very least, one in every thirty six African Americans is behind bars. (Smiley 73) At the very worst, the United States loses out daily because any one of those whom the system has failed could have been the next Rosa Parks, Charles Drew or Muhammad Ali had they not ended up behind bars. The discussions and research surrounding these topics can very quickly turn into a blame game as to who is responsible. The intention of this research is not to place blame, rather, to look at the status of the current situation versus

what it should look like while also shedding light and unraveling the truth of the local issues plaguing Asheville, North Carolina.

During the middle part of the 20th century the South was a hot bed which often erupted as one race of people took steps to become equal as was supposedly guaranteed by their constitution but certainly not by their white neighbors. This is where the roots of the problems facing America today took root. Tavis Smiley reported that the countries most elite universities and most revered scientists were claiming with biological evidence the connection between being a person of black skin color and being inferior in intelligence and more likely than not to commit a criminal act. Smiley went on to state that the “ ‘evidence’ further fueled the national hysteria about a growing black population and offered justification for criminalizing black men.” (Smiley 49) The effects of these outlandish and unfounded claims progressed over the decades. The situations we face today are those which materialized out of an era of hate. Racism, bias and bigotry have never disappeared. Yes, racism may have changed shape, taken other avenues of effect or become institutionalized but it still exists. Racism, the belief that one race is inherently far superior to another, is dictating the complete and utterly unjust breakdown of an entire race.

Day in and day out police officers across the nation make decisions on who is most likely to commit a crime and who should be their target for stopping, searching and even arresting in order to protect the communities which they serve. Racial biases are what seem to be informing officer’s decisions more often than not. Officers – both white and black, are falling victim to the societal notions about who is more than likely to commit a crime. Time and time again these notions are dependent upon one’s skin

pigmentation. As these realities are finally being openly discussed they follow decades of community distrust between those serving in the criminal justice fields and the African American communities which they serve. Smiley gives credence by stating that:

The African American community is seemingly presented with an impossible 'choice': either safe neighborhoods or its civil rights. In the face of persistent unavailability of alternative, preventative responses to crime – equal and adequate education, job creation, economic development – the African American community is often resigned to ask for or simply accept more police presence and aggressive policing. (Smiley 77)

Those communities and people who need the most help in fighting the breakdown of their communities are often the ones who must endure either unfair and unjust policing or nothing. There is a viscous cycle that is perpetuated countless times a day, from Brooklyn to Watts, from Montgomery to Chicago. When one African American is arrested and locked behind bars the entire criminal justice system has already failed this person and then they only serve to reinforce the catastrophic problems that exist today.

The key areas challenging the criminal justice system and legal establishments across the country are the same ones which are presently challenging the law enforcement and criminal justice systems in Asheville: Arrest & Incarceration rates which includes racial profiling, Personnel Practices and Oversight. As we look intensively at each of these areas, along with their statistics there are also the possibilities of what could be reality if progress were to be made.

According to some of the latest research one out of every three black men can expect to go to prison during their lifetime. (Smiley 53) In at least 15 states, black males were sent to prison on drug charges at rates twenty to fifty seven times higher than white males. (Smiley 53) On any given day it is believed that one out of every fourteen black children have a parent in prison. (Smiley 53) These statistics are quite staggering,

illustrating the great disparities that exist today. Numbers seem to only touch the tip of the issues but even at a passing glance their implications are quite damning. Number can't be denied. As much as those who believe nothing to be wrong with our criminal justice system and that believe the problems lie with those African Americans who are arrested – numbers don't take sides, they aren't opinion based, but simply fact based. When the facts lead to analyses which paint a picture representing the current status, it becomes overwhelmingly apparent that there is a problem.

Tavis Smiley wrote that “Something is clearly wrong when the government's most effective affirmative action program is the preference people of color receive when entering not college, but the criminal justice system.” (Smiley 73) The statistics that represent that national conditions and trends are a mirror image if not a better one than what is the case in Asheville. Even though African Americans make up only 14 percent of the city of Asheville's residents they account for 37 % of the total arrests in 2006. In Buncombe County African Americans made up 7.5 % of the population while whites made up 89.1 %. However: blacks made up 34.9% of the prison entries for 2005. This in contrast to whites who made up 61.6% of the prison entries. As for the total prison population in Buncombe County for 2005: African Americans made up 38.3% while whites accounted for 58.7% of the total. These statistics are vague and are left so that conclusions can be drawn from them. The reality is quite unacceptable when the realization is made that African Americans are disproportionately represented in the local jails as compared to their white counterparts. The statistics which represent complete arrest and incarceration rates should be able to focus on: race, class (years of education), employment status at time of arrest, gender and age. As for the data accessibility in

Asheville – there is little if any access. At the present moment those involved in ongoing, groundbreaking and highly controversial research are embroiled in a battle with local law enforcement agencies due to the denial of access to public records. Even though this information is potentially damaging because the statistics only illustrate what everyone in the African American community knows to be the real reality it is inexcusable, illegal and highly insulting to all involved as local law enforcement agencies continue the break down of their relationships with those they serve.

“Driving While Black” is a reality most African Americans have had no choice but to bitterly accept. On a daily basis African Americans are stopped repeatedly, questioned, humiliated in front of their children and communities for no other reason than they were behind the wheel and their skin happened to be black. Racial profiling exists. If one wanted to argue such truths were false we need only to turn to the statistics again for proof of what one community has known for decades. A national study on profiling on the New Jersey turnpike found that “while only 13.5 percent of the cars on the road had a black driver or passenger, 73.2 of the motorists stopped and then arrested were black.” (Smiley 80) The situation on the home front in Asheville is even grimmer. The little statistical data that was available some four months into scholarly research turned up this: of the population of Asheville in 2005 blacks made up 13.9 % of the population in the city as compared to being 34.5% of all people searched after they were stopped by Asheville Police. This is in comparison to whites making up 83.1% of the population as compared to them making up 62.3% of those searched. The conclusions can’t immediately be drawn because logistically these numbers may not be an accurate portrayal since it is unknown whether this takes into account only citizens of the city who

were stopped or everyone stopped by APD. Regardless the reality parallels what is happening nationally as people are stopped time and time again simply because of their skin color.

It is a widely accepted fact that in order for law enforcement agencies to be effective they must be representative of the communities in which they serve. More often than not this is the furthest thing from the reality of most law enforcement agencies. In looking at the hiring, retention and promotion of officer's, one must start at the beginning. Focusing adequate resources, both financial and human as well as time is a must if there is to be a strategic and successful recruiting plan implemented. "When interested applicants see officers that look like them, they are more likely to complete the application process." (Smiley 87) Agencies must strive to better represent the communities which they protect - by doing this they would, in turn, have officers who would be better informed about the communities, their values and social norms, their languages if other than English along with many other aspects which are needed for officers to both be interested but also for them to be a representation of where they work. It is only by being able to feel like a job is well done if officers are able to fairly and effectively police. Officers who represent the minority in the police departments as well as the communities must be recipients of positive reinforcement as much as or even more so than the majority of their fellow officials. There are already chips stacked against these officials and they need even more acknowledgement of their doing a good job because in reality they have an even harder job and are more likely to quit than others. One of the most widely recognized ways to help recruit and retain minority officers is to implement mentoring programs between other minority officers and those who are fresh into their

position. These relationships build a sense of community within the field and help them to feel connected especially when they are, on the outside, different from most.

The only reason it is a known fact that the Asheville Police Department, which serves a city with an African American population of more than 14 %, has less than 10 African American officers out of 241, is because numerous community members have counted. The highest ranking an African American officer ever achieved within the department was Lieutenant, this coming only two months before retirement. The only other bit of information that is known is that the hiring process is through the City Council for police officers because the Sheriff can hire and fire whomever he pleases since he is an elected official. As for what should be happening in Asheville as compared to what is slowly beginning to happen across the country as mentioned above – anything far from it. The true current make up of both the Buncombe County Sheriff's Department as well as the Asheville Police department is unknown, the hiring / firing rates specific to race is also unknown as well as the retention rates. There are no known mentoring programs in place which could be one reason as to why .03 percent of the Asheville Police force is made up of African Americans. Smiley reports:

Retention of good employees, especially women and people of color, is a significant challenge that requires conscious efforts. Police administrations and high-level officers must frequently and publicly affirm the contribution of African Americans, women, and other officers of color while also refusing to accept any harassment or discrimination in the workplace. (Smiley 89)

Both departments have commented in recent months that they do not accurately represent the communities in which their officers serve. Nor do their officers have any real knowledge of the primarily African American communities before being assigned those districts. These are the first steps in working towards a better situation but there is a long

way to go before the law enforcement agencies in Buncombe County are a true reflection of the people they protect.

Oversight. Communities across the country need oversight committees to be in place which are an unbiased but effective check on local law enforcement agencies. The purpose of these oversight boards or groups is to serve as liaisons between the department and the community, to be a place where concerned citizens can voice complaints and know their issues will be thoroughly and fairly investigated without fear of retribution. Oversight is a keyword most law enforcement agencies from are ill associated with in any regard. The main reasons for the creation and implementation of oversight mechanisms rest in this account:

Police accountability means that police officers will be held responsible for all their actions and treat all citizens [regardless of race or ethnicity] in a respectful and lawful manner. In particular, police officers will not abuse their power and use more force than necessary; nor will they exhibit bias against any group of persons. (Smiley 82)

It is inherent that oversight committees be assembled in all localities because they can and do serve as the bridge to help bring law enforcement agencies together with communities when the community members feel they are able to trust the officers, that they can trust in an open and clear process if they feel their rights are being violated and most importantly they feel someone besides the police themselves is there for the best interest of the citizens to ensure equality of all sorts for all parties. It is the unfortunate truth that most oversight committees that do exist in the country have little if any power to do anything in regards to investigations, subpoena information as well as extend and form of discipline. It is sad when only .5 percent of all police departments are regularly monitored by the community. (Smiley 80)

The state of oversight in the Asheville is just as grim of a reality as what most of the country currently faces. There is no community relations board or oversight committee of any kind. There have been numerous attempts to create such a group but each time the energy and drive dies down as quickly as the incident, which sparked the need, is forgotten. A large problem with Internal Affairs and with the APD in general is the lack of transparency when dealing with complaints against an officer. Current indications from Smiley suggest that "To ensure unbiased and transparent complaint process, citizens need to be given simple forms with clear instruction and a telephone contact for follow-up purposes when they want to file a complaint against a police office." (Smiley 90) General procedure with APD is that you will get a letter back from the chief of police telling you that there was, in fact, misconduct on the behalf of an officer that appropriate measures have been taken. Citizens are never notified, however, of what those measures are – so the community doesn't have the ability to know who the officer was, what the disciplinary measures were, or what the outcome was. This is a problem. But the even bigger problem that exists in Asheville is that citizens, especially African Americans, are afraid to come forward to even try to lodge a complaint against an officer for fear of great retribution. These individuals have already suffered enough humiliation and inhumane treatment they do not want to prolong or create even more issues. What a terrible position to be in – faced with suffering the unfair treatment simply because of your skin color and then being fearful of reporting such instances to those whom are supposed to serve and protect not only you but your community?

There is a great disconnect between people in this world. All of these issues and possible solutions seem only temporary to a greater problem that exists – the rampant and

excusable existence of racism which has been internalized beyond persons into a system. Tavis Smiley suggests that “We have to do all of this – and more. We will not see measurable difference or sustained improvements in community-police relations unless police departments, working in partnership with local communities, implement positive change on *all* fronts – not just a few.” (Smiley 78) It is true that the criminal justice system in this country has come to a cross roads – a place where everyone and everything have reached a point of contention. The bit of hope that somehow glimmers within these surrounding hills is what Dr. Dwight Mullen reiterated “What is unique is that we are choosing to actually do something about the disproportionate presence of the African-American community in the criminal justice system.” Even though it is currently taking the North Carolina Secretary of Corrections, Theodis Beck, to gain access to public information as a part of the ongoing research and community development, there is hope because the people, both black and white, of Asheville have chosen to take a stand and embark upon the road of change.

Doctor King implored that we remember only in uniting can we have the power and voice to remind those who are in power that it is vital that programs such as these be in place for inequality and racism know no geographical boundaries. Much potential exists for policy makers to become complacent in their half attempts and means of pacifying those masses who are crying out by reasoning that just because certain programs worked for communities along the Eastern Seaboard it wouldn't be effective out West. We must call upon them to be responsible human beings and to not let anything or anyone get in the way of implementing these programs that are strictly vital to the success of every man, woman and child in this country. Dr. King reminds us that “This

argument, by explaining everything in terms of the presence or absence of programs, illuminates how the insistence on program can be used as a sophisticated device to evade action.” (King 135) It is in the hands of the few to actually fund and allow for the success of these programs but it is in the hands of the many to demand equality and to hold those who are for the people of the people, accountable for we must remember that “The powerful never nose opportunities – they remain available to them. The powerless, on the other hand, never experience opportunity – it is always arriving at a later time.” (King 136)

Works Cited

A. S. Q. Custom Offender Reports. NC DOC- Office of Research and Planning. Raleigh: North Carolina Department of Corrections. 22 Jan. 2007
<<http://webapps6.doc.state.nc.us/apps/asqExt/ASQ>>.

King, Jr., Martin L. Where Do We Go From Here: Chaos or Community? New York: Harper & Row, 1968.

Smith, Bob. Personal interview. 1 Feb. 2007.

The Covenant with Black America / Introduction by Tavis Smiley. 1st ed. Chicago: Third World P, 2006.

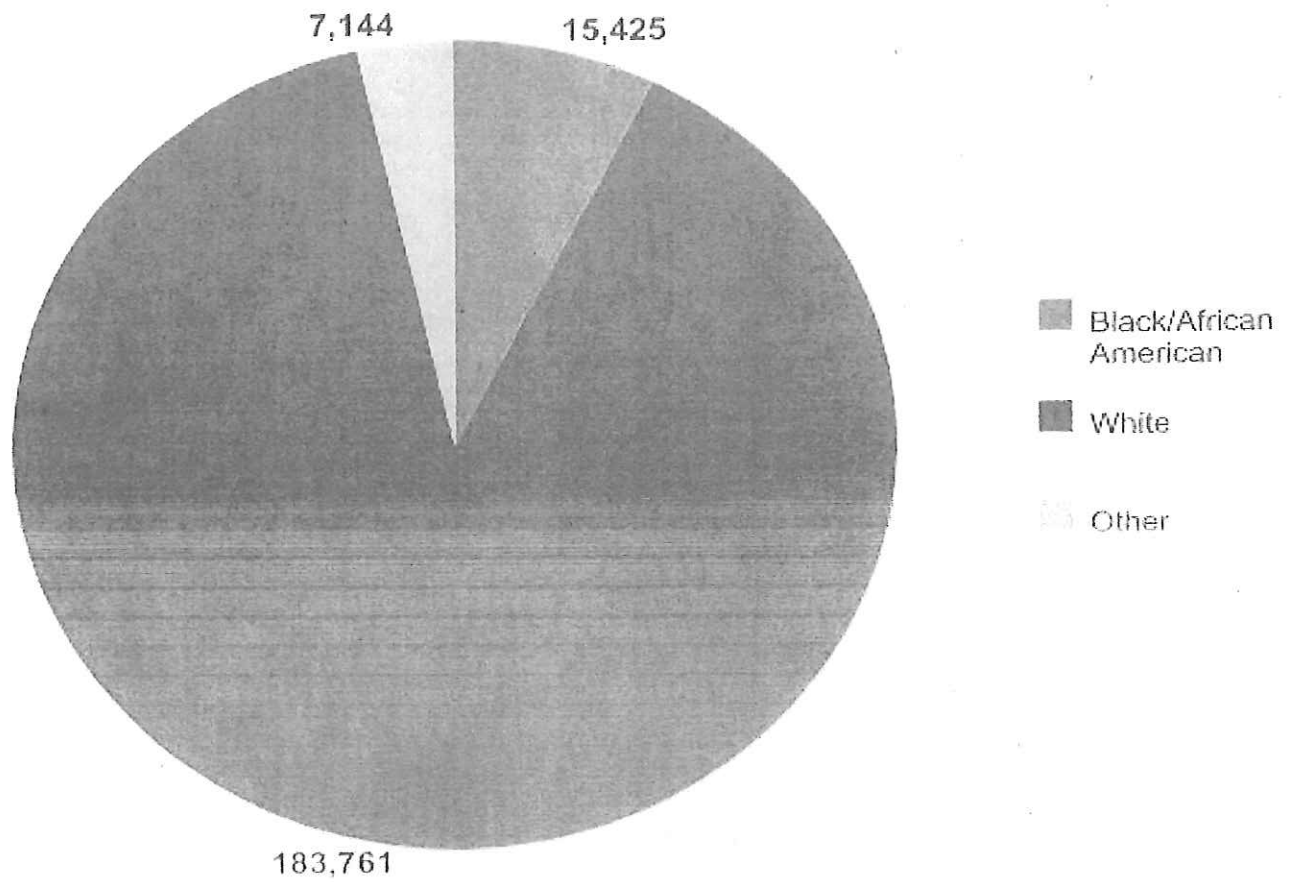
Traffic Stop Statistics. State of North Carolina. Raleigh: State Bureau of Investigation. 25 Jan. 2007 <http://sbi.jus.state.nc.us/cgi-bin/HAHT/hsrun.hse/TSS_Reports/TSS/TSS.htm?start=HS_Information>.

United States of America. US Census Bureau. Department of Commerce. 2005 American Community Survey. 15 Jan. 2007
<http://factfinder.census.gov/servlet/ACSSAFFacts?_event=Search&geo_id=&_geoContext=&_street=&_county=Buncombe+County&_cityTown=Buncombe+County&_state=04000US37&_zip=&_lang=en&_sse=on&pctxt=fph&pgsl=010>.

State of Black **Asheville**

Law Enforcement

Buncombe County Population 2005

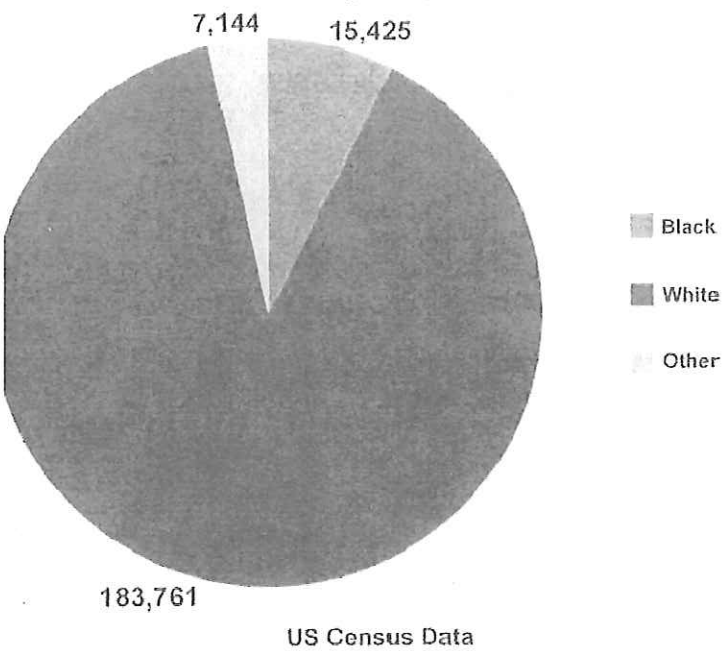


US Census Data

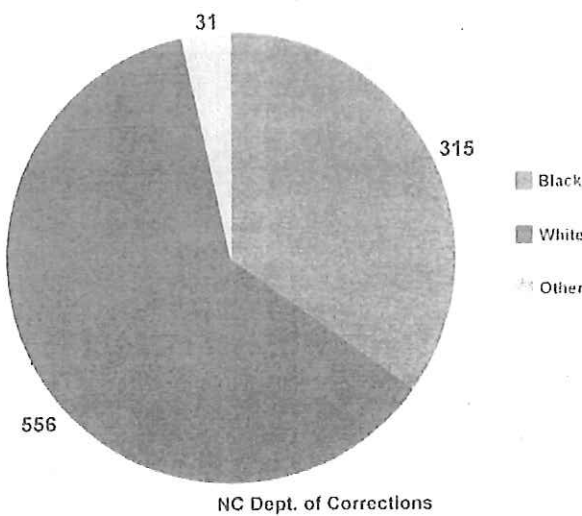
Drivers and Passengers searched by APD – 2006

- **White: 335 or 68.9%**
 - **Black: 147 or 30.2%**
-
- **Population of Asheville – 2005**
-
- **White: 62,234 or 83.1%**
 - **Black: 10,398 or 13.9%**

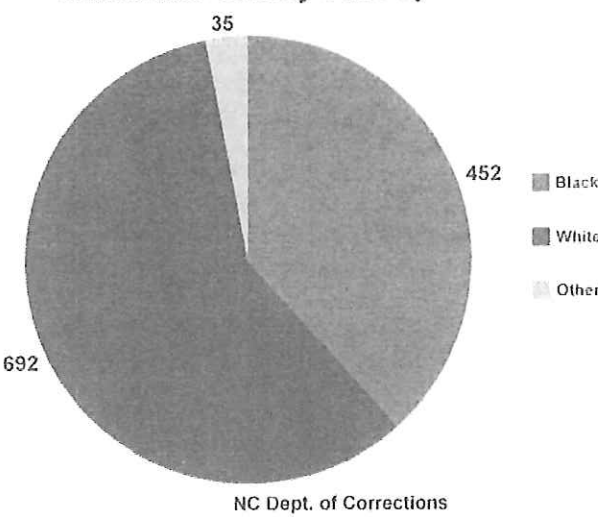
Buncombe County Population 2005



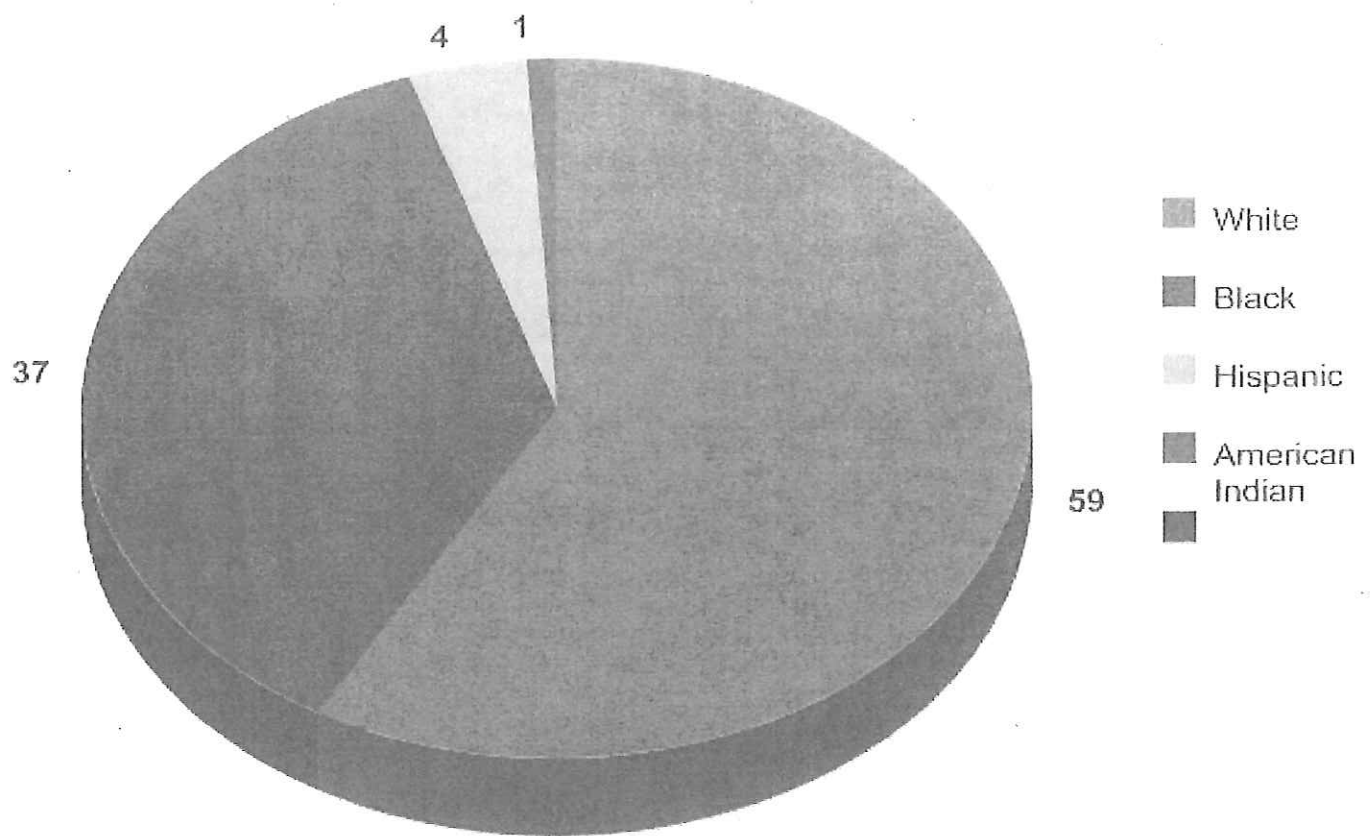
Buncombe County Jail Entries 2005



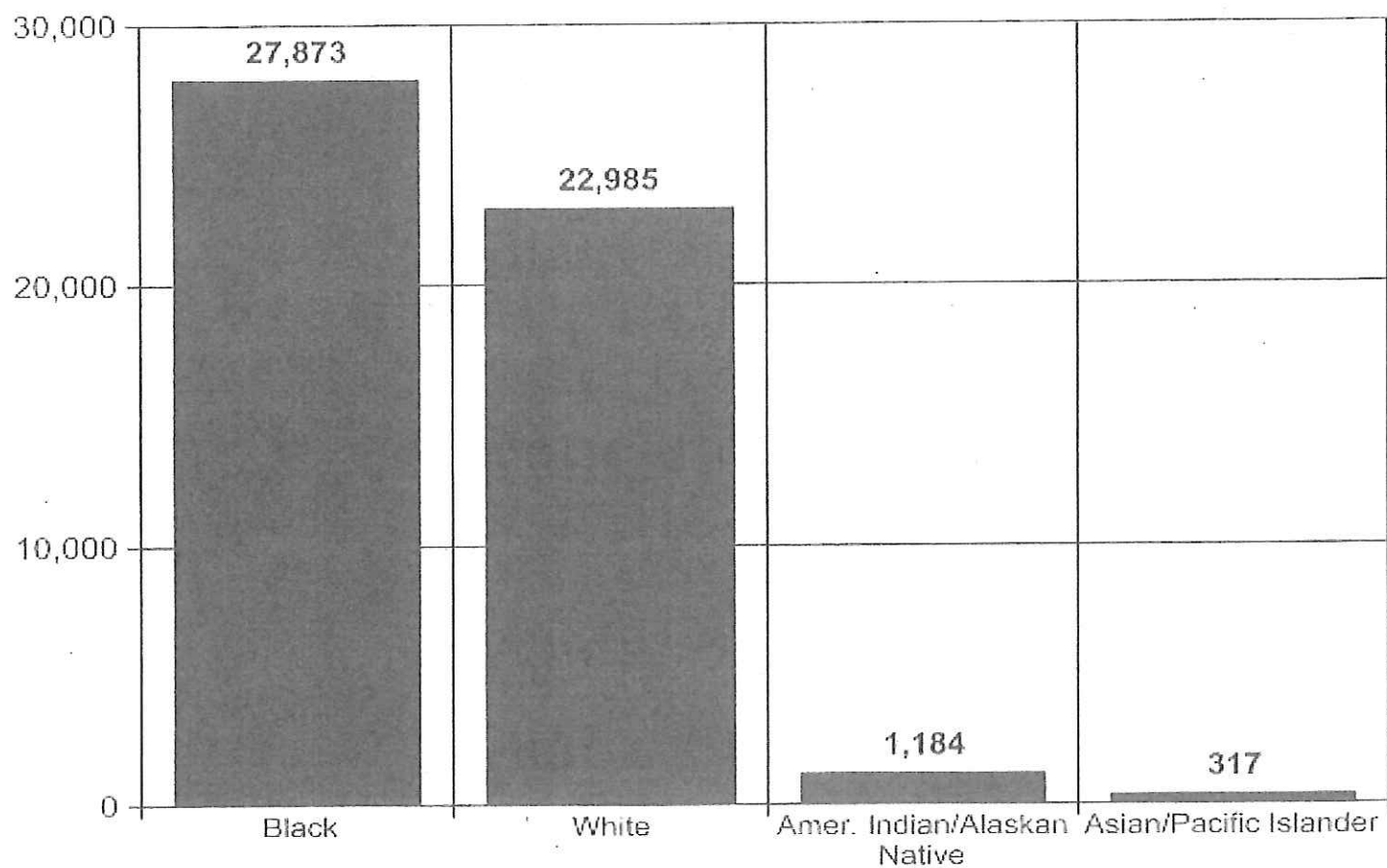
Buncombe County Jail Population 2005



Asheville Police Department 2006 Arrest Percentages



Summary-Based Arrests for Juveniles Under 18 by Race, Asheville
City 2005



Percentages for Juvenile Arrests Under 18 by Race, Asheville City
2005

