

ARKANSAS  
JUSTICE  
COLLECTIVE

**A MYTH OF  
PROGRESS  
2020:**

**THE MYTH OF  
FAYETTEVILLE'S  
EXCEPTIONALISM**

# About Myth of Progress 2.0

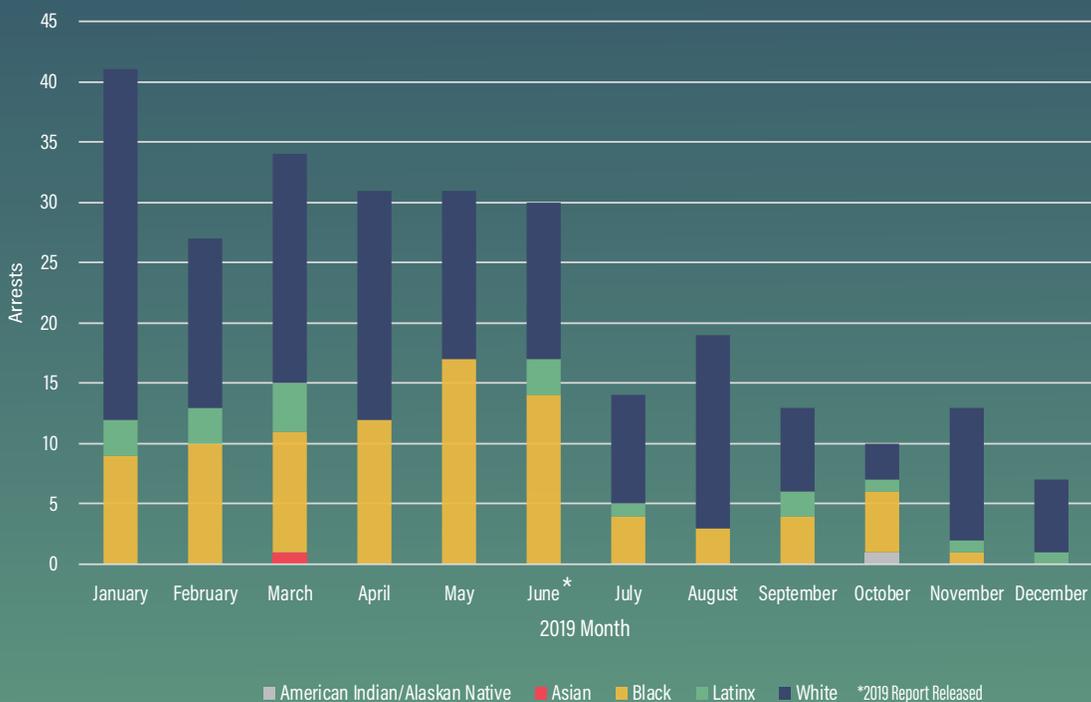
In June 2019, artists and organizers Cory Perry and Stephen Coger addressed the press and broader community from the steps of Fayetteville City Hall, unveiling a report titled A Myth of Progress.

**As a direct result of the 2019 Myth of Progress report, arrests for marijuana fell 66%. Hundreds of young people were protected from burdensome fines and fees and criminalization.**

But of course, it wasn't really AJC or Cory or Stephen that made this happen; **it was the young people themselves who dared to tell their stories.**

Put another way, **brave young people stopped violence by the city's police and prosecutor**, saving mostly young Black and Brown people over \$100,000 in fines and fees.

## 2019 Monthly Arrests and Citation Totals



However, while the City has decreased its arrests of young people for nonviolent marijuana possession, it has followed not a single one of the Community Solutions proposed in the 2019 report. **These Solutions are crucially important to ensuring lasting change in Fayetteville.**

A year after the 2019 report, many things have happened. Please read on to learn the state of the City and what you can do to help promote positive change.

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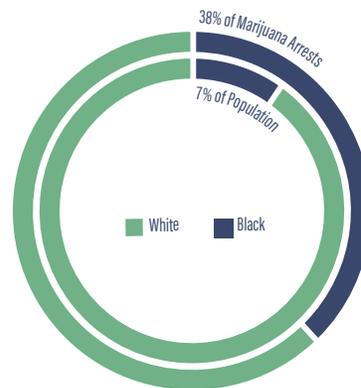
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## 1 / Myth of Progress 2.0

In 2019, the Arkansas Justice Collective, a nonprofit advocacy organization, published the 2019 report that revealed a troubling pattern of discrimination by the City of Fayetteville. The mayor and the city police responded with a commitment to doing better. As a direct result of the 2019 report, the chief of police now meets weekly with the mayor to discuss arrests, including demographic information.

### 2018 Black & White Demographics With Marijuana Arrests in Fayetteville<sup>1</sup>



This chart's inner ring shows the percentage of Black and White people living in Fayetteville. The outer circle shows the severely disproportionate arrests of Black people for mere possession of marijuana; it was about **6 times** that of the Black population.

<sup>1</sup>This information was provided by the Fayetteville Police Department's corporal in charge of public information. It came in response to the Arkansas Justice Collective's request for information on all marijuana-related arrests by the FPD from 2008-2018.

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## 2 / Why a second report?

The 2019 report made a huge impact. We wrote at the strong urging of Black, Latinx, and LGBT+ people, all of whom were disproportionately harmed by the City's deployment of state violence. The year before the 2019 report, 36 people were taken to jail for marijuana possession; 2/3s were Black. **Since the report, only 1 person has had to face the trauma of that state violence due to nonviolent marijuana possession.**

Fayetteville has inarguably decreased its problematic policing since the 2019 report was made public. However, the city has implemented zero of our Community Solutions. This is an important distinction. These solutions would offer enduring checking mechanisms to ensure that there's not a return to the degree of problematic policing we saw pre-report. Without explicitly mandated and city-funded enduring oversight, things will just get back to the worse status quo. We saw this happen once before, when marijuana-related arrests decreased drastically after the 2008 ordinance only to rise by over 200% in the intervening years before the 2019 report.

It is noteworthy that the city knew about these problems months ahead of the June 2019 press conference, but as far as we can discern, no changes were made until the report went public.

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**State Violence is violence enacted by the government, whether through acts or omissions, that cause people to suffer. In Fayetteville, perhaps the most damaging perpetrator of violence is the city government itself.**

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## 3 / It's Not About Marijuana

While we chose to look at discriminatory policing focusing on marijuana possession, we expected that equally discriminatory statistics would be revealed if we looked at arrests as a whole. We chose marijuana because in 2008 the city's residents voted overwhelmingly to make marijuana the lowest priority of prosecution and law enforcement. Instead, policing and prosecution of marijuana possession actually rose after 2008, at a rate hundreds of times higher than our population growth.

While we used marijuana as our lens, the 2019 report and this one are more deeply about racial discrimination, economic injustice, and state violence in Fayetteville.

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## 4 / What's An Arrest?

What is an "arrest?" When AJC initially requested all the arrest information for the 2019 report from the Fayetteville PD, we requested "all arrests," and, the FPD provided it all, whether people's "arrest" meant being cuffed and taken to jail; or, if the "arrest" meant the police gave someone a citation with the *possibility* of going to jail later. **Both are arrests.**

Some people in city leadership dispute this now, and want to draw a distinction between jail arrests and citation arrests. This is nothing but a distraction. Legally, both are arrests: people are not free to leave the situation with police, they are charged with the same crimes, with the same potential for jail time, and they are prosecuted by the same prosecutor, and have to appear in criminal court (as opposed to civil court, where the only possible punishment would be monetary deprivation, not a deprivation of a person's liberty). They are under arrest and subject to criminal procedure, not civil. Finally, a misdemeanor citation can result in a felony conviction, because the 5th misdemeanor marijuana charge is a felony if it is an ounce or more.<sup>2</sup> This is the case even if the prior charges have been sealed.

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**In short, whether a citation arrest or an off-to-jail arrest, the same consequences remain: loss of financial aid, loss of employment opportunities, and—for our immigrant and refugee neighbors—an extremely heightened risk of deportation.**

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At Fayetteville's Black Lives Matter rally in June of 2020, prospective city council candidate D'Andre Jones stated that Fayetteville had arrested only one Black person for marijuana since the publishing of the 2019 report. This is inaccurate for two reasons; first, the one person taken to jail was a white person, and second, *hundreds* of people have been arrested. He misled people by making the police department's numbers sound *much* better than they are, by failing to mention the 200+ people who were "cited out." A citation arrest carries just as much criminal gravitas as a jail arrest.

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<sup>2</sup>See "Daniel's Case: State Violence Perpetuates Cycles of Poverty" at <https://arjustice.org/fayetteville>

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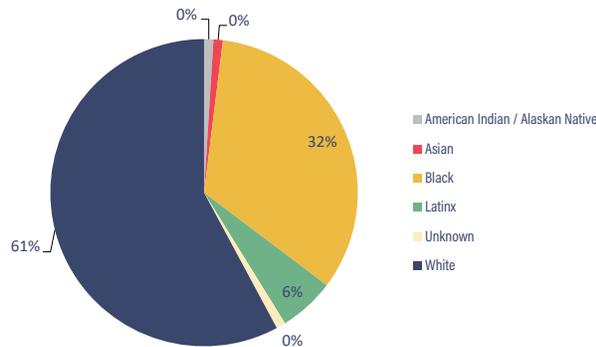
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## 5 / Arrests Since the First Report

In Fayetteville, certain groups of people are paying disproportionately for their own criminalization because the fines and fees they pay go to the Drug Task Force, police, and prosecutors who appear to be targeting them. *The graphs below show that our report--a compilation of young people's lived experience, plus statistics--greatly mitigated the harm of the city's policing.. Police began to exercise more lenient discretion, and for this, we are grateful.*

### Marijuana Charges January 1, 2019 - June 30, 2020



This chart shows all marijuana arrests (whether a citation arrest or a jail arrest) for the full year of 2020 (through June 30) and 2019 (full calendar year).

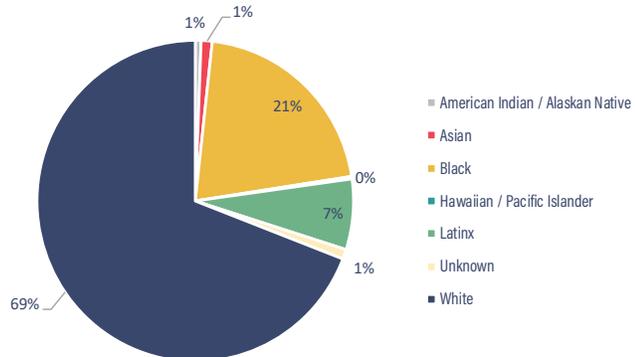
For all marijuana-related arrests by the Drug Task Force, from July 1, 2019 to June 30, 2020, we see that the disproportionality of arrests fell significantly after the 2019 report. Arrests by the Drug Task Force remain disproportionate, being multiple times the percentage of Black people in town.

### Drug Task Force Marijuana-Related Arrests

2019		2020	
American Indian / Alaskan Native	0%	American Indian / Alaskan Native	9%
Asian	2%	Asian	6%
Black	33%	Black	17%
Latinx	9%	Latinx	5%
Unknown	3%	Unknown	0%
White	54%	White	63%

In this chart, we look at all charges (again, whether citation arrests or jail arrests), and see that, across the board and regardless of what is being charged, Fayetteville still must do better.

### All Arrests



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## 6 / The Mayor and The Police

Mayor Lioneld Jordan is in charge of the Fayetteville Police Department, and following the publishing of the 2019 Report, both the mayor and the police instituted a creative response intended to mitigate discrimination. The police chief now reports to the mayor each Monday morning on various issues, including the previous week's arrests as broken down by: violent to nonviolent, jail arrests to citation arrests, and misdemeanor marijuana-only arrests.

As you can tell from the statistics above, the disproportionality remains. But, hundreds less people per year are being criminalized for possession of a plant.

In an April 2019 meeting with the mayor, police chief and other city officials, it was said that often police simply destroy marijuana when they find it. If not, they often do not take the person to jail, but instead write them a citation and let them go. A citation avoids being held in jail from the moment of arrest, which is less disruptive to people's lives, but why not simply destroy the contraband every time? This would save the city's residents thousands of dollars per year.

When the chief asked his department's officers this question, he says the response surprised him: FPD officers were concerned that they could get in trouble for not arresting people (whether by taking them to jail or citing them out) because their body-worn cameras would show that they found someone in possession of marijuana. The chief reassured his officers that they could both merely warn someone and confiscate the evidence.

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## 7 / A Prosecutor's Discretion

Two days before the 2019 report's release, city attorney Kit Williams claimed that he and his prosecutors could do nothing differently, that his hands were metaphorically tied, until state law changed. Within hours of the press conference, his legal opinion had improved somewhat and he said that a city ordinance had to change before he could drop charges. Neither of these messages from Kit's memos<sup>3</sup> is accurate; a prosecutor has discretion to drop charges; it happens every week in every prosecutor's office in the state.

When the 2019 report was released, the police and mayor's office responded with cordiality and a commitment to doing better. Elected city attorney Kit Williams behaved less gracefully, however. He attacked the 2019 report, claiming that our numbers were inaccurate. Nevermind that the numbers all came from the Fayetteville Police Department. Nevermind that the FPD agreed that our numbers were accurate.

Kit claimed our numbers were inaccurate due to people getting their records sealed. When challenged, he could provide no information on who or how many records had been sealed. Organizers further responded to his claims with simple question: ***if people are getting their record sealed and skewing the data from the Fayetteville PD, why is it only white people getting their record sealed? And in this unlikely scenario, how does it relieve the City of responsibility for causing this state violence in the first place?*** Finally, if records are being sealed, those numbers are removed from the official count meaning there are actually more arrests than reported, not less.

Later in 2019, when an attorney in Kit Williams' office mentioned he was tracking the number of marijuana charges he was handling as a prosecutor,, a Fayetteville resident asked for this information and in apparent violation of the state Freedom of Information Act, Kit Williams refused to release it (Kit's refusal is available for review as an appendix later on in this report).

*"A prosecutor has ethical responsibilities that are a little bit different than the normal advocate: not just to prevail for the party they represent, the city or the state, but to actually do justice. And that's carved out expressly in our code of ethics... he shall have the discretion to dismiss [charges]. The prosecutor has the inherent discretion to decide not to file. There doesn't have to be a charge filed every time somebody has an interaction with law enforcement."*

*Arkansas attorney and retired Circuit Judge of felony criminal docket, Jon Comstock*

<sup>3</sup> Kit's second memo is available at [ARJustice.org/fayetteville](http://ARJustice.org/fayetteville).

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## 8 / Fayetteville's Myth of Exceptionalism: A Sales Tax with Misleading Messaging

After the 2019 report, an inaccurate editorial in the Arkansas Democrat Gazette led to a meeting between community organizers and the editorial board. An angry editor asked, "Why do you pick on Fayetteville?" The organizer's response was simple: like Dr. King said, "there can be no great disappointment where there is not great love." In addition to problematic prosecution and policing in Fayetteville, the City has disappointed many of its residents in other ways.

During the 2018 election, Fayetteville's elected leadership, including Mayor Jordan, strategically failed to mention they planned to hold a special election to renew an expiring sales tax. The following April, the sales tax-funded items were the only thing on the ballot. The city's team obscured information by suggesting this was a move that would not require raising taxes; they strategically neglected to mention in their mailers that this was the continuation of a previous tax increase. The city further misled people by hiring a marketing agency that sent out fliers with unclear messaging: did we have to vote yay or nay for all 10 items or could we vote on each item individually? Many residents had no idea.

In an effort to educate Fayetteville residents about this issue ahead of the special election, organizers had intended to release the 2019 Report a day before early voting. The mayor's hand-picked chair of his African American Advisory Council intentionally delayed the 2019 report until after the special election to ensure that the \$38 million police station would have its best chance at approval. He later admitted that he did this at the request of City leadership. He also published an editorial supporting all 10 ballot measures.

There is ample research that shows these sorts of off-season voting strategies disenfranchise poor people and people of color. There is also ample, peer-reviewed research explaining why a sales tax is a regressive tax that disproportionately impacts poor people.<sup>4</sup>

And, to truly hit home the point, on April 9, 2019, the Fayetteville bond special election had only SIX polling places available, **zero** of which were located in the entirety of Ward 1 in South Fayetteville, where historically--and nowadays--many of the City's Black, Brown and low-income residents live, and where they originally planned to build the new \$38 million police palace.

<sup>4</sup>Of the three main forms of state taxes—sales, property, and income—the sales tax hurts the poor most... State sales taxes are highly 'regressive;' that is, they end up taking a bigger chunk of change from people that have smaller sums of money and slower income growth." See How Local Sales Taxes Target the Poor and Widen the Income Gap A new report shows that low-income Americans are taxed at twice the rate as the richest one percent.

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### *What is the Myth of Fayetteville?*

The myth of Fayetteville is that we are exceptional; it is a profitable sales pitch used to attract a certain type of person to the city, and to support the mayor and city leadership in the decisions they make, often without seeking community input.<sup>5</sup> The Exceptional Fayetteville Narrative is deployed when the integrity or plans of the City are met with inquiry or perceived to be at risk.

For example, in a recent debate, Mayor Jordan attempted to get more police officers into the Fayetteville School District, despite national reports and local data that made undeniably clear that we needed no more armed, arrest-capable police officers in schools. Despite reason, the Exceptional Fayetteville Narrative was deployed by elected officials (certain of the school board and city council) and their pseudo-activists with flimsy explanations of how Fayetteville is somehow colorblind and divorced from US history's long trajectories of white supremacy.

Fortunately, the Council made the right decision and stopped the addition of these officers. However, their critical self-reflection opened them up to a weaponized use of the Exceptional Fayetteville Narrative. The people organizing to put more police officers in schools used the narrative as a bludgeon, chipping away at the social capital of critical thinkers on the city council and in the community.<sup>6</sup>

This myth has also been invoked in response to the new police station. One current city council member said that her support of the new \$38 million police station was actually based on ignoring national trends and looking "micro-local." This attempt to divorce Fayetteville from the nation's historical trajectories of racism and white supremacy is just another example of the myth at work.

A sinister deployment of the Exceptional Narrative was that of a 2020 city council candidate: though he tried to stop the publication of the 2019 Report, he takes credit for its results as the chair of the mayor's African American Advisory Council. In this case, the Narrative purports that change comes within the City's offices and committees. In reality, the City only does better when organizers demand better. In the case of the marijuana arrests and the 2019 Report, the city knew about the problematic disproportionality for months before the report, but only began to address it when we released the report and brought public pressure.

The myth is wearing thin, however. Reports such as this help reveal that Fayetteville has work to do. Mayor Jordan is losing his progressive charm, having begun interrupting people in city council meetings when he disagrees with their views, alleging that they are off-topic. All this, and the special election and its misleading nature, further scratch away at the narrative of Exceptional Fayetteville.

<sup>5</sup> By Tanvi Misra. 01/20/2015. <https://www.bloomberg.com/news/articles/2015-01-20/how-local-sales-taxes-target-the-poor-and-widen-the-income-gap>

One community organizer who asked a city official how they arrived at the conclusion that we needed to maintain the sales tax. He appears to have falsely told the community organizer of the many messages he had received pushing for the various ballot initiatives; when a FOIA for those messages was officially filed he provided a single email exchange.

<sup>6</sup> Though beyond the scope of this publication, the Exceptional Fayetteville Narrative deserves scholarly analysis.

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## 9 / Dodging Accountability

Elected city attorney Kit Williams is in charge of the city prosecutors. When asked to drop the charges of marginalized people, he claimed to be insulating his prosecutors from political pressure. In so doing, he is refusing to stop the execution of state violence against targeted groups, whether that targeting is due to implicit bias, overt racism, or otherwise. He claims that dropping the charges for MJ possession would violate Arkansas Code Annotated § 14-42-109. And yet, he was willing to go to bat for an LGBT+ civil rights ordinance that was in clear violation of state law. He argued eloquently for the ordinance all the way to the Arkansas Supreme Court. Community members are concerned that the city attorney's unwillingness to fight for economic and racial justice is perhaps tied to the monetary gain the city enjoys from the marijuana fines and fees.

It's worth noting that the statute that Kit Williams dug up as a shield against the claim that he should be dropping charges has never been used against a prosecutor for using prosecutorial discretion. It is also important to note that prosecutors drop charges routinely with no second-guessing by the state under this or any other statute.

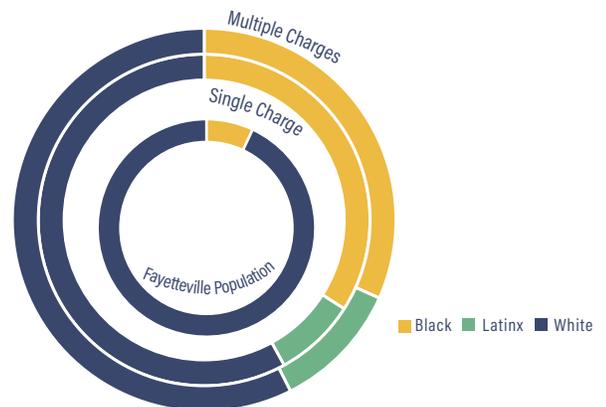
**"Where the really sincere white people have got to do their "proving" of themselves is not among the Black victims, but on the battle lines of where America's racism really is--and that's in their own home communities. America's racism is among their own fellow whites. That's where the sincere whites who really mean to accomplish something have got to work."**

**- Malcolm X, from the Autobiography of Malcolm X as told to Alex Haley**

### Fayetteville District Court Marijuana Convictions

The chart shows convictions for marijuana in Fayetteville District Court.

Many of these charges could have been dropped by city attorney Kit Williams' office. In other cases, the prosecutor is not involved at all and people agree to a guilty plea at their arraignment.



When one organizer wrote Kit to express concerns about the ongoing marijuana prosecutions, he claims that his office is merely conducting its job in a colorblind fashion. He wrote, "The Statute of Liberty (Lady Justice) is depicted with a cloth covering her eyes because the Rule of Law must be blind and impartial to provide fairness for all." These denials of responsibility are especially troubling when we examine the City's convictions for marijuana.

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Our 2019 report included ideas generated from many hours of listening to impacted community members. They remain relevant:

**1- End misdemeanor marijuana arrests.** Mayor Jordan is in charge of the police and he needs to use his power more assertively.

**2- The City must implement a Citizens' Review Board (CRB)** with the capacity to report on, make recommendations regarding, and punish inequitable policing and prosecution. The CRB is not to be confused with the police chief's advisory board nor the civil service commission. The former is chosen and led by the chief, and the latter has very little power to correct police misconduct. Likewise, the Mayor's African American Advisory Council was initiated by the mayor who hand-picked the council's chair. These bodies lack sufficient independence to serve the purpose of a CRB.

The CRB must be an independent, well-funded body that has the power to reward and punish as necessary. Furthermore, none of the existing options monitor or influence the misconduct of city prosecutors which is necessary, especially given Mr. Williams' opposition to releasing information.

**3- End Fayetteville's participation in the Drug Task Force.**

The DTF uses nonviolent young people as confidential informants (also known as a CI, or snitch). This puts young people in positions of extreme stress and danger, often for mere possession of marijuana or other nonviolent drug possession.<sup>7</sup> If the mayor and city council choose to continue funding the DTF, they must impose age limits on who can be coerced into working as a CIs. No one under age 25 should be placed under the duress of working as a CI.<sup>8</sup>

Further, the DTF has reported that it no longer uses no-knock warrants. Hopefully this is the truth, but whatever the case, no DTF activity should take place without visual and audio recordings.<sup>9</sup> If the City continues to fund the DTF, then it must at least limit the harm it causes to young people, and especially young people from disproportionately impacted communities.

**4- Drop charges for marijuana possession.** The city council holds the purse strings: force the city attorney to fire one of his prosecutors if he cannot do better. Tell him to implement systems like those recommended by Judge Jon Comstock. Note: it is important that people not admit guilt as part of these programs as even an admission of facts is enough to create deportability and inadmissibility issues for our immigrant and refugee neighbors.

<sup>7</sup> A thorough story from 60 Minutes describes the issue well; Fayetteville's Drug Task Force officers put young people in harm's way regularly for nonviolent drug possession, as described in this article: <https://www.cbsnews.com/news/two-college-drug-busts-two-different-fates-60-minutes-overtime/>

<sup>8</sup> A fantastic, scholarly look at the adolescent brain is available in the book *Brainstorm. The development of the adolescent brain continues through age 25--along with its concomitant increase in risk-seeking behavior and its sharply decreased capacity for evaluating long-term consequences*. More information on the book is available here: <https://www.drdansiegel.com/books/brainstorm/>

<sup>9</sup> No-Knock warrants became more commonplace with the war on drugs. They allow police to burst into a place, often resulting in harm to occupants and the police themselves. Learn more at: Laws ending no-knock warrants after Breonna Taylor's death are 'a big deal' but not enough By Ray Sanchez. October 10, 2020. <https://www.cnn.com/2020/10/10/us/no-knock-warrant-bans-breonna-taylor/index.html>

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### Additional Solutions

In 2019, we wrote that the city's commitment to improvement could be accurately measured in how many solutions they implemented. That number is zero, unfortunately. Those community solutions remain relevant, and others have surfaced since then, including:

- 5- **Repeal the sales tax initiative funding** unnecessary investments on the backs of the poor, including the multimillion dollar "arts corridor" and the new \$38 million police palace.
- 6- **Hire and train unarmed community caretakers**, people trained in de-escalation and mental health work.
- 7- **Ensure we are not relying on predictive policing** that results in certain neighborhoods being inequitably policed.
- 8- **Remove police from schools.**
- 9- **Ensure the police are not targeting people who are on probation or parole**, as the police know who they are and that they have waived their 4th Amendment protections against unlawful search and seizure. (Note: this should be one of the many tasks assigned to the CRB.)
- 10- **Implementation by the city prosecutor of alternative sentencing policies** that does not land people in jail or take money from people who have had interaction with law enforcement for nonviolent crime.



### Did You Know?

*The 5th misdemeanor arrest for marijuana possession becomes a felony. This is the case even if your other 4 misdemeanors have been sealed. This is the case even if all the arrests were mere citations.*

*Without strong accountability mechanisms, the mayor and elected city attorney Kit Williams, will continue to harm disproportionately Black and Brown individuals with arrests and prosecutions.*

While the city decreased its take-to-jail arrests, this temporary improvement could be reversed at any moment, and we need lasting, well-funded tools to make sure they do better. Until then, under the mayor's leadership and that of elected city attorney Kit Williams, the city will continue to harm disproportionately Black and Brown individuals with arrests and prosecutions. It will take a concerted effort with consistent pressure to overcome the lethargy and pro-police bias of Mayor Jordan and other city officials, but *together, we can arrive at data-based solutions that ensure the safety of the community, including the police, and especially the safety and protection from criminalization of our neighbors who are having to survive over-policing and its result, economic exploitation through the courts.*

**"I was 20 years old when I was arrested for felony possession of marijuana. At the time, I was attending college and learning to navigate life as a queer indigenous young adult. I'm 25 years old now, and was recently diagnosed with PTSD. I have spent the last year and three months working through the trauma of the arrest and subsequent turmoil with various counselors and trauma recovery professionals. Each day I am blessed to have made it through the years of suicidal depression that followed my arrest and am privileged to have the monetary and emotional support to do so. I never imagined how harrowing a simple arrest for possession of a plant could be." -Maria**

## *Afterword*

*Mayor Jordan is responsible for every arrest the police make, and he could stop their unnecessary violence as the city's chief executive. The city council is responsible, too, as they could limit the city attorney's budget and force him to drop charges by removing from his office one of their prosecutors.*

*In the age of Trump, many supportive people want to take immediate action to serve historically vulnerable people. If you want to serve BIPOC (Black, Indigenous, People of Color), LGBT+ people, immigrants and refugees, and poor people of all varieties who have been exploited by the government, then get informed and get involved. Read "The New Jim Crow" and "Charged" and "Just Mercy." We respectfully offer this report to the compassionate residents of Fayetteville as a way for them to take immediate, direct action on a serious issue of economic and racial injustice in our town. The positive changes that the city has made are a direct result of the young people who survived the city's violence; and now they need people to stop forth and demand institutionalized change.*

*This city is ours, and the prosecutors and police all work for us. Most of the people they have harmed for nonviolent possession are young, and the consequences of an arrest can plague them for life, preventing them from accessing financial aid for school and barring them from certain professional licenses. As if that were not enough, the City is also making many NW Arkansas residents more vulnerable to deportation.*

*Please get involved, share this report, and ask your loved ones to do so as well. Show up at city council meetings and ask for change; contact your city council representatives; and, show up at drug task force meetings. A Citizens Review Board is crucial to monitoring the City's police and prosecutors and maintaining a movement toward positive change. And, while the police have been consistently forthcoming with information, the city attorney has opposed transparency. The district court refuses to release information in a spreadsheet, forcing volunteers to spend hours manually inputting information from a PDF file. We can do better, but it is going to require your involvement.*

*With gratitude and hope, we submit this second report as a way for you to engage and serve the community. Please visit [www.arjustice.org/fayetteville](http://www.arjustice.org/fayetteville) for more information.*

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There are many urgent social justice issues that need addressing on the ground in Fayetteville and Washington County, and AJC hopes to fund a full-time position for an organizer to work on issues just like this. If you would like to fund this, or any of AJC's work, please contact us at [ARJustice.org](http://ARJustice.org).



## **Appendix 1:**

### Community Organizer requesting information on prosecutions & elected city attorney Kit Williams bully response

#### **Email from Community Organizer:**

Tues. Nov. 5, 2019

Kit and Brian and Mayor Jordan, good afternoon!

I am concerned once again for our vulnerable neighbors.

Brian, you mentioned to another community member recently:

*I have been keeping a rough tally of PCS marijuana only cases since July that we have resolved and in July we resolved 18 marijuana charges with 5 of those being dropped and in August we resolved 15 charges with 8 of those being dropped.*

“Resolved” is a pretty vague answer that could include plea deals. Please, give me specifics:

a- what happened in the other 13 cases in July?

b- The other 7 in August?

c- What are the numbers for September and October?

d- What are the racial demographic breakdowns of dropped charges vs otherwise resolved charges?

Instead of dropping only 5 charges in July, or 8 in August, they all need to be dropped. And, legally, they can be. A prosecutor is protected in his use of discretion as a conservation of limited resources. So, please equitably and efficiently focus the government’s resources and drop MJ possession charges.

I want to hear back from each of you about this. Please respond to me at this address no later than COB Tuesday, 11/12/19.

I don’t have the bandwidth to keep an eye on this issue, and this is why in our report we called for a citizens’ review board to follow up on issues like this and make recommendations for change.

Thank you for your time.

Community Organizer

#### **Kit’s Response:**

Neither the Mayor nor I shall respond to you despite your attempted command with due date. Neither of us has this information, nor as you say “the band width” when so many other very important issues are facing us. Brian may flesh out his answer if he believes it to be appropriate.

**###**

*note bien: Kit’s office finally handed over after the organizer responded with language that made clear this was a request under the Arkansas Freedom of Information Act and that it would be litigated if Kit continued to oppose transparency. Many organizers believe that there is nothing more important for the mayor or city attorney than pursuing economic and racial justice in Fayetteville.*

# Know Your Rights

Being stopped by police is a stressful experience, and it can go bad quickly. Follow these tips to try and protect yourself from arrest and mistreatment:

- › To the best of your ability, **stay calm** and **do not exhibit hostility** toward any officer.
- › You have the right to remain silent. **You do not have to answer any questions** about where you are going, where you are traveling from, what you are doing, or where you live.
- › If you wish to exercise your right to remain silent, tell the officer, **"I am exercising my right to remain silent."**  
Note: **In Arkansas, you are required to provide your name if asked to identify yourself.** You do not have to answer questions about where you were born, whether you are a U.S. citizen, or how you entered the country.
- › Do not consent to a search, but also do not argue with the police if they search your car or other property anyway. Just make a clear objection before or during the search. This can help preserve your rights in any later legal proceeding. Even just saying, **"I respectfully do not consent to a search"** is enough. Remember though that if the officer has probable cause (say, if they smell marijuana) they can search.  
Be ready for pushback. The police officer may ask why they cannot search. They may say you are hiding something. Just be polite and say something like, **"I'm sorry, but I do not consent to a search."**
- › Ask, **"Am I free to go? If I am not being detained or arrested then I would respectfully request to leave."** If you are allowed to leave, **do so slowly.**

**The truth is that there are situations where people have done everything they could to put an officer at ease and assert their rights, yet still ended up searched, arrested, hurt, or murdered.**

Simple charges change the trajectory of children's lives, for the remainder of their lives. Think about who we are prosecuting. Who we are developing for our future. Because they are our future. There are things we can do, other ways we can address it.

-- Monique Jones, NAACP of NW Arkansas president, addressing the Fayetteville City Council

A prosecutor could adopt either at his own urging or at your [the city council's] urging--a pre-diversion program, for any number of offenses, even felonies, but certainly misdemeanors: shoplifting, check charges, low-level drug offenses, possession charges. You can have a program that says "when you have contact with law enforcement on these, the direction you would give your prosecutor would be to say, "Here's your program. You participate in this program; it could be 8 hours of community service or any number of things.

-- Jon Comstock, Arkansas attorney and retired Circuit Judge of a felony criminal docket

The whole situation was unnecessary and traumatic. And it was extra sad because my son trusted the police before. His grandad was a police officer. What troubled me the most, as a mother, is that they took my son to an undisclosed location, an empty church parking lot. He didn't know where he was going. It was back in 2016, when we were hearing stories of kids who were killed because they were found to be working for the drug task force, wearing a wire. If my son hadn't told us, there's no telling what kind of weird, shady deal he would have gotten into with the police.

-- A Fayetteville Mom

Her son was a high school student at Fayetteville High School, arrested for a single joint of marijuana. Fayetteville Drug Task Force (DTF) officers told him he has to find 3 friends to buy MDMA from an undercover cop: three friends or else he would face years in prison for a joint.

This is what the DTF does every month to young people in Fayetteville. This is our tax dollars at work.

READ THE FULL REPORT AT

[ARJUSTICE.ORG/FAYETTEVILLE](https://arjustice.org/fayetteville)