Investigation Report
Office of Civil Rights Compliance and Investigation
Complaint No. 2019-318
May 6, 2020

Executive Summary

The Washington State University (WSU) Office of Civil Rights Compliance and Investigation (CRCI) commenced an investigation into the WSU Police Department (WSU PD) on September 4, 2019, in response to information contained in the August 26, 2019, Daily Evergreen Newspaper article, "Black residents nearly five times as likely to be arrested by WSU PD" (Article). The Article described that WSU PD disproportionately arrests Pullman residents who identify as Black and/or African American. After publication of the Article, CRCI planned to initiate an investigation; Bill Gardner, Chief of Police, also requested an investigation and offered to provide CRCI with access to their records. WSU PD's mission statement includes the following: "To provide the highest quality of services, by delivering fair and equal treatment to all citizens through professional and expedient delivery of those services; To protect the rights of all people while treating everyone with dignity and respect…"

After conducting an investigation, as described below, CRCI determined that, based on the data, individuals who are listed in the data set as Black are more likely to be arrested by a WSU PD officer as individuals who are listed in the data set as White, Asian, Latinx, Pacific Islander/Native, or Mixed Race. However, based on a review of the data alone, CRCI was not able to sufficiently link this disparity to a discriminatory pattern or practice due to data limitations detailed in this report.

University Policy at Issue

The allegation of WSU PD disproportionately arresting Pullman residents belonging to a specific protected class implicates the WSU Policy Prohibiting Discrimination, Sexual Harassment, and Sexual Misconduct, Executive Policy #15 (EP 15) and warranted this review. This report summarizes CRCI's investigation and makes a recommendation to WSU PD. The provisions of EP 15 which are relevant to these allegations include:

1. Jurisdiction: EP 15 applies to all students, faculty, staff and others having an association with WSU, and applies whether the conduct occurs on or off the WSU

campus, if the continuing effects of the conduct have the potential to unreasonably interfere with or limit an individual's work, academic performance, living environment, personal security, or participation in any WSU activity.

2. <u>Discrimination:</u> EP 15 prohibits discrimination on the basis of one or more protected classes. EP 15 defines discrimination as conduct that is neither legally protected as an expression of free speech, nor the proper exercise of academic freedom. Discrimination compromises the integrity of the University, its tradition of intellectual freedom, the trust and respect expected in the University community, and the rights of individuals.

3. <u>Discriminatory Harassment</u>: EP 15 defines discriminatory harassment as improper conduct toward an individual, or individuals, on the basis of one or more protected classes that is sufficiently severe, persistent, or pervasive that it has the purpose or effect of creating an intimidating, hostile, or offensive environment, or unreasonably interfering with work, academic performance, living environment, personal security, or participation in any WSU activity.

Summary of Investigation

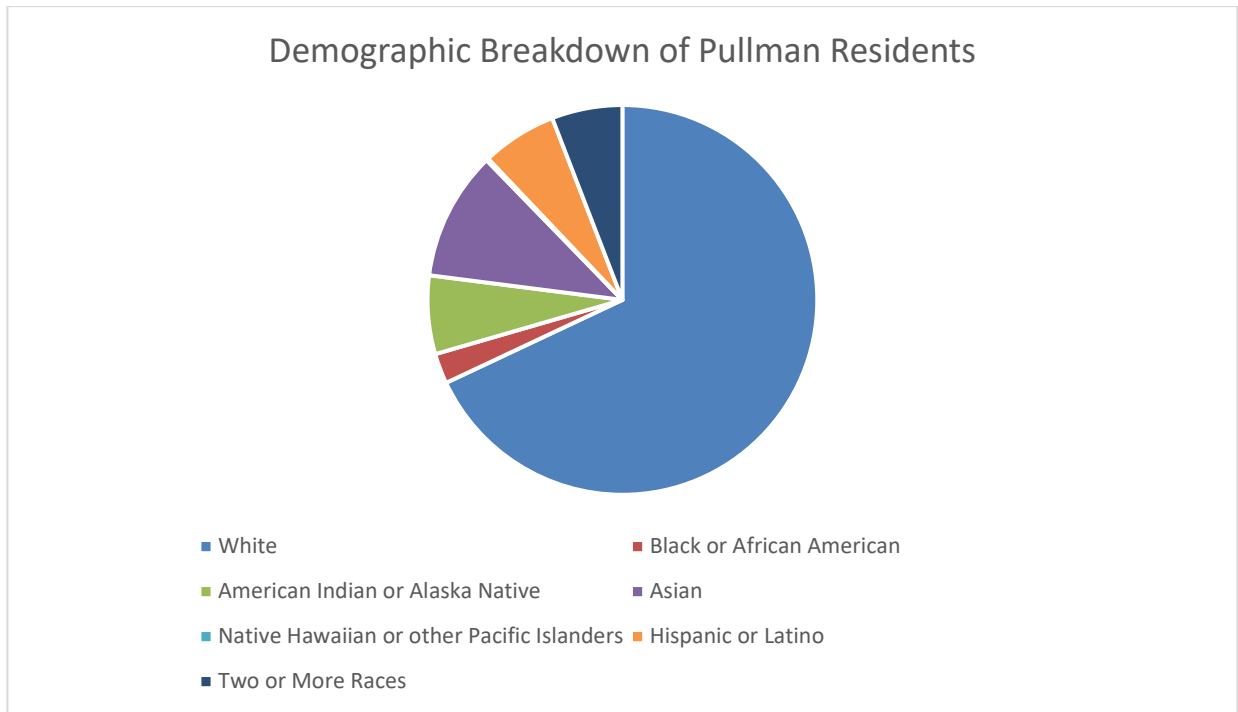As part of the investigation, investigators reviewed:

1. August 26, 2019, Daily Evergreen Newspaper article, "Black residents nearly five times as likely to be arrested by WSU PD;"
2. September 11, 2019, Daily Evergreen Newspaper article, "Students address disparity of campus police arrests;"
3. Data provided to the Daily Evergreen Newspaper through a Public Records Request, which contained the arrests by WSU PD officers from the beginning of May 2018, through the end of May 2019, submitted by WSU PD on August 22, 2019;
4. Data contained in SPILLMAN[1], which contained the arrests by WSU PD officers between January 1, 2016, and September 19, 2019, submitted by WSU PD between September 19, 2019 and January 30, 2020;
5. Email summarizing training provided to WSU PD officers, submitted by WSU PD on November 25, 2019;
6. Pullman, Washington Census Data from United States Census Bureau;
7. WSU Pullman Campus Census Data from Integrated Postsecondary Education Data System; and
8. Pullman Campus Enrollment Census Data, Demographic Summary for 2020 Spring.

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[1] SPILLMAN Public Safety Software system (SPILLMAN) is software created by Spillman Technologies, Inc., which is used by law enforcement agencies across the country in maintaining data starting with a dispatch call all the way through an arrest. WSU PD is one of the agencies in Eastern Washington/Inland NW that uses SPILLMAN in their daily operations (including Asotin County, Moscow PD, Pullman PD, Whitman County Sheriff's Office, Clarkston PD, etc.) and has used SPILLMAN since the 1990s.

Data Available to CRCI for Analysis: Demographic Information

As the WSU Pullman campus is open to the public, Pullman residents and visitors, not just WSU-affiliated individuals, are subject to WSU PD's jurisdiction while on the physical area of the WSU Pullman campus. CRCI reviewed relevant census data to determine the demographics of Pullman residents and also determined that there is no publicly accessible demographic data available regarding Pullman visitors. Census information is routinely collected by the United States Census Bureau. Pullman's population was most recently estimated to be 34,019 on July 1, 2018. Of the estimated 34,019 Pullman residents, 76.8% identified as "White" (73.1% identified as "White alone, not Hispanic or Latino"), 2.7% identified as "Black or African American," .7% identified as "American Indian or Alaska Native," 11.5% identified as "Asian," .2% identified as "Native Hawaiian or other Pacific Islander," 6.7% identified as "Hispanic or Latino," and 6.3% identified as "Two or More Races;" information about the further demographic breakdown of the 6.3% who identified as "Two or More Races" is not available.

Table 1

Arrests within WSU PD's jurisdiction are more likely to be arrests of individuals between the ages of 18-30 years old. CRCI recognizes that a comparison to the Pullman census data, which includes demographic information of all residents, not just those 18-30 years old, is not appropriate for comparison. However, CRCI utilized the available data in this review.

The "resident population" contained in the census data includes "all persons who are 'usually resident' in a specified geographic area." To verify that the census data captured the most up-
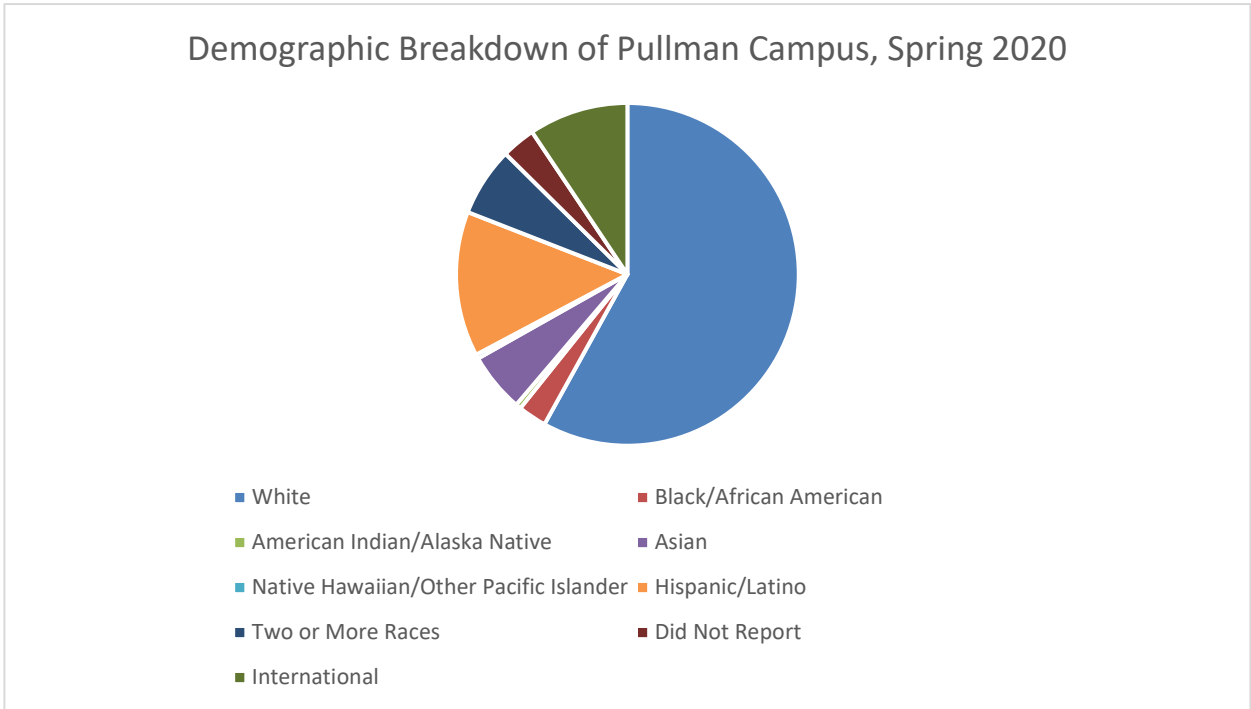
to-date student demographic data available, CRCI reviewed the demographics of WSU Pullman's student population.

According to the WSU website, there are 20,976 WSU students currently enrolled at the Pullman campus. The Integrated Postsecondary Education Data System (IPEDS) is a system of interrelated surveys conducted annually by the U.S. Department of Education's National Center for Education Statistics (NCES).[2] According to the WSU Institutional Research webpage, WSU reported demographic data to IPEDS most recently on October 15, 2017 however, this census data is not specific to the Pullman campus – it includes data from WSU system-wide.

CRCI reviewed the demographic summary of the Pullman campus for Spring 2020, which is a collection of summary reports about students by academic career and primary program campus, ethnicity, sex, average age, WA residency, and geographic origin. For the Pullman campus, this summary includes undergraduate students, graduate students, and College of Veterinary Medicine students. According to this summary, there are 19,094 WSU students currently enrolled at the Pullman campus. Of these students, 16,599 are undergraduate-seeking students, 2,041 are graduate degree-seeking students, and 454 are College of Veterinary Medicine students. Of this total, 58.1% identified as "White," 2.7% identified as "Black/African American," .5% identified as "American Indian/Alaska Native," 5.6% identified as "Asian," .4% identified as "Native Hawaiian/Other Pacific Islander," 13.7% identified as "Hispanic/Latino,"6.5% identified as "Two or More Races," 3.2% did not report their ethnicity, and 9.4% identified as "International."

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[2] IPEDS gathers information from every college, university, and technical and vocational institution that participates in the federal student financial aid programs. IPEDS includes basic data needed to describe and analyze trends in postsecondary education in the United States, in terms of students enrolled, staff employed, dollars expended, financial aid dispersed, and degrees earned.

Table 2

Demographic Breakdown of Pullman Campus, Spring 2020

Legend:
- White
- Black/African American
- American Indian/Alaska Native
- Asian
- Native Hawaiian/Other Pacific Islander
- Hispanic/Latino
- Two or More Races
- Did Not Report
- International

Data Available to CRCI for Analysis: Arrests Made by WSU PD

CRCI requested the information as described in Submission 3 above. This data contained the arrests by WSU PD officers beginning in May 2018, through the end of May 2019; this data set shows that there were 194 arrests made in that time frame. CRCI decided to further request the data of all arrests made by WSU PD officers from January 2016 to present; this data set shows that there were 862 arrests made by WSU PD officers between January 1, 2016, and September 19, 2019.

Each of the tables below were compiled by sorting the available arrest data by the collected demographic data of the "offender" (a.k.a. person subject to arrest) (Submission 4). Of note, the demographic identifier "K" only occurs once throughout the data set and appears to have been entered mistakenly.

Table 3

	Total Arrests Made by WSU PD Officers 1/1/2016-9/19/2019		
White	All Other Demographic Subsets	Unknown Demographic Subset	Total
625	215	22	862
72.50%	24.90%	2.60%	

Table 4

Total Arrests Made By WSU PD Officers 1/1/2016-9/19/2019 (Demo. Breakdown)									
Asian	Black	Indian	K*	Latinx	Mixed Race	Pac. Islander/ Native	Unknown	White	**Total**
47	94	6	• 1	58	4	5	22	625	862
5.5%	10.9%	0.7%	0.1%	6.7%	0.5%	0.6%	2.6%	72.5%	

Table 5

	Arrests Made by WSU PD Officers 1/1/2016-9/19/2019 (Repeat Offenders Removed)								
Asian	Black	Indian	K*	Latinx	Mixed Race	Pacific Islander/ Native	Unknown	White	**Total**
44	82	6	1	52	2	5	22	596	810
5.4%	10.1%	0.7%	0.1%	6.4%	0.5%	60.0%	2.7%	73.6%	

Table 6

	Asian	Black	Indian	K*	Latinx	Mixed Race	Pac. Islander /Native	Unknown	White	**Total**
Total Arrests by WSU PD Officers By Calendar Year										
1/1/16-12/31/16	12	18	0	0	17	0	0	2	180	**229**
1/1/17-12/31/17	16	35	3	0	12	2	3	6	187	**264**
1/1/18-12/31/18	12	24	2	1	18	1	1	10	146	**215**
1/1/19-9/19/19	7	17	1	0	11	1	1	4	112	**154**
Total	**47**	**94**	**6**	**1**	**58**	**4**	**5**	**22**	**625**	**862**

Table 7

	Total Arrests by WSU PD Officers During Semesters/Breaks									
	Asian	Black	Indian	K*	Latinx	Mixed Race	Pac. Islander /Native	Unknown	White	**Total**
Winter Break	1	0	0	0	0	0	0	0	2	**3**
Spring 2016	6	11	0	0	8	0	0	1	80	**106**
Summer 2016	1	2	0	0	5	0	0	0	37	**45**
Fall 2016	4	5	0	0	4	0	0	1	61	**75**
Winter Break	1	0	0	0	0	0	0	0	2	**3**
Spring 2017	6	13	1	0	3	0	2	2	67	**94**
Summer 2017	3	6	1	0	2	0	0	1	28	**41**
Fall 2017	6	15	1	0	6	2	1	3	86	**120**
Winter Break	0	1	0	0	1	0	0	0	8	**10**
Spring 2018	8	11	1	1	10	1	1	4	68	**105**
Summer 2018	0	3	0	0	3	0	0	1	18	**25**
Fall 2018	4	9	1	0	5	0	0	5	55	**79**
Winter Break	0	1	0	0	1	0	0	0	4	**6**
Spring 2019	3	11	0	0	5	1	1	3	46	**70**
Summer 2019	1	3	1	0	5	0	0	1	28	**39**
Fall 2019 (until 9/19/19)	3	3	0	0	0	0	0	0	35	**41**
Total	**47**	**94**	**6**	**1**	**58**	**4**	**5**	**22**	**625**	**862**

Table 8

# of Arrests by a WSU PD Officer by Type of Crime									
	Asian	Black	Indian	K*	Latinx	Mixed Race	Pac. Islander /Native	Unknown	White	**Total**
Accident: Hit and Run	0	1	0	0	1	0	0	1	4	**7**
Accident: Non-Injury	0	0	0	0	0	0	0	0	2	**2**
Agency Assist	0	0	0	0	2	0	0	0	1	**3**
Alcohol Offense	6	6	0	0	10	0	0	5	188	**215**
Assault	1	1	0	0	0	0	0	0	11	**13**
Bomb Threat/Attempt	0	0	0	0	0	0	0	0	1	**1**
Burglary	0	0	0	0	0	0	0	0	5	**5**
Citizen Dispute	0	1	0	0	2	0	0	0	0	**3**
Civil	0	0	0	0	0	0	0	0	3	**3**
Disabled Vehicle	0	0	0	0	0	0	0	0	1	**1**
Disorderly	0	2	0	0	1	0	0	0	6	**9**
Domestic Dispute	6	3	0	0	0	0	0	0	10	**19**
Drugs	2	12	0	1	8	3	2	5	94	**127**
DUI	8	7	1	0	16	0	0	2	76	**110**
DWLS	15	28	0	0	6	0	1	3	74	**127**
False ID	0	2	0	0	0	1	0	0	4	**7**
Forgery	0	0	0	0	0	0	0	0	1	**1**
Fraud	0	0	0	0	0	0	0	0	5	**5**
Harassment	0	0	0	0	0	0	0	0	1	**1**
Impersonation	0	1	0	0	0	0	0	0	0	**1**
Intoxication	1	0	0	0	0	0	0	0	3	**4**
Malicious Mischief	2	2	0	0	1	0	0	0	5	**10**
Noise Complaint	0	0	0	0	0	0	0	0	2	**2**
Obstruction	0	1	1	0	0	0	0	0	5	**7**
Other Criminal	0	0	0	0	0	0	0	0	1	**1**
Reckless Endangerment	0	0	0	0	0	0	0	0	1	**1**
Robbery	1	0	0	0	0	0	0	0	0	**1**
Sex Offense	0	1	0	0	0	0	0	0	2	**3**
Stolen Property	0	0	0	0	0	0	0	0	1	**1**
Suicide Attempt	0	0	0	0	0	0	0	0	1	**1**
Suspicious	0	1	2	0	0	0	0	0	4	**7**
Theft Other	0	9	1	0	1	0	1	0	24	**36**
Threatening	0	1	0	0	0	0	0	0	3	**4**
Traffic Offense	4	10	0	0	3	0	1	5	45	**68**
Trespassing	1	3	0	0	1	0	0	1	19	**25**
Unconsciousness	0	0	0	0	0	0	0	0	1	**1**
Urinate in Public	0	1	0	0	0	0	0	0	0	**1**
Violate Order	0	0	0	0	1	0	0	0	5	**6**
Wanted Person	0	0	0	0	0	0	0	0	2	**2**
Warrant Arrest	0	1	1	0	5	0	0	0	10	**17**
Weapon Offense	0	0	0	0	0	0	0	0	3	**3**
Welfare Check	0	0	0	0	0	0	0	0	1	**1**
Total	**47**	**94**	**6**	**1**	**58**	**4**	**5**	**22**	**625**	**862**

Based on the information received from WSU PD, there are primarily two ways that an officer comes into contact with an individual:

(1) they are dispatched to respond to a location where a call for law enforcement response has been made, or

(2) they come into contact with an individual, typically on foot or vehicle patrol.

In the relevant time frame, the data indicates that WSU PD officers arrested 862 individuals. Of these arrests, 174 resulted from a dispatch call (20.2%) and 676 (78.4%) were "officer-initiated" stops. Investigators were unable to determine how the remaining 12 arrests (1.4%) were initiated.

Although the data above describes "arrest" records, investigators learned that the term "arrest" was used to represent scenarios not meeting a layperson's understanding of "arrest." Notably, of the 862 arrests, 436 included incidents where officers forwarded charges to the prosecutor's office for charging decisions. 315 of the 436 were "arrest screens" for either possession of marijuana or minor in possession of alcohol where the prosecutor's office makes the determination if diversion, filed charges, or neither is appropriate. In these incidents the WSU PD records department enters the matter as an "arrest" although a WSU PD officer never placed the offender into custody (i.e. booked the offender to jail) at the time of the arrest. The remaining 121 arrests forwarded to the prosecutor's office for charging decisions were for instances other than "arrest screens" for possession of marijuana or minor in possession of alcohol. In these cases, the individual may or may not have been taken into custody at the time of the arrest. Based on the data, it was not possible to further determine which of these 121 charges forwarded also included a WSU PD officer taking the offender into custody. In addition to the examples above, investigators learned during a February 6, 2020, conversation with WSU PD that individuals are not consistently and routinely "arrested" under a layperson's understanding of an "arrest" in Washington State as a whole; for example, it is considered an "arrest" when individuals receive a criminal citation and a court date or they are fingerprinted and released. **When "arrest" is used for data analysis purposes in this document, CRCI is referring to the use of "arrest" as encompassing all of the above possible actions.**

There were also at least 20 miscoded arrests for reasons like: issuing a warning (as possible to determine from this review, three of the "arrests" in the data above were warnings); issuing a citation (as possible to determine from this review, two of the "arrests" in the data above were issued citations for infractions); taking someone into custody because they held a warrant (as possible to determine from this review, five of the "arrests" in the data above were due to a warrant and not an arrestable offense); a WSU PD officer assisted a different law enforcement agency (as possible to determine from this review, five of the "arrests" in the data above were "agency assists"); placing someone into protective custody (as possible to determine from this review, one of the "arrests" in the data above was a protective custody hold); and WSU PD needing to send drug and/or blood work to the Washington State Patrol (WSP) lab for testing either after an arrest or before charges are forwarded to the prosecutor's office (as possible to determine from this review, four of the "arrests" in the data above are awaiting results from

the WSP lab, and either were arrests or may be forwarded to the prosecutor's office for charges).

Data Analysis

The Daily Evergreen article, referenced in the allegations, based their calculations of proportionality of arrests off 1) Pullman resident data and 2) WSU PD arrest data for one year (May 2018-May 2019). They determined that 2.7% of Pullman's population identified as Black or African American and 12.5% of arrests were of individuals who identified as Black; 76.8% of Pullman's population identified as White and 69.5% of arrests were of individuals who identified as White. Making an assumption that all arrests were unique and there were no repeats, and also assuming that all arrests were of Pullman residents, the Daily Evergreen relied on this data to estimate that approximately 2.5% of Pullman residents who identified as Black or African American were arrested by WSU PD, while 0.6% of Pullman residents who identified as White were arrested by WSU PD. Thus, the Daily Evergreen determined that individuals who identified as Black or African American were five times more likely to be arrested than those who identified as White.

CRCI aimed to complete the same analysis as the Daily Evergreen with the only major difference being that we were able to analyze a significantly larger data set provided to this office by WSU PD. While the Daily Evergreen had WSU PD arrest data for one year (May 2018-May 2019), CRCI had WSU PD arrest data for a little over three and a half years (January 2016-September 19, 2019). Investigators determined that based on 1) the Pullman resident data and 2) WSU PD arrest data for approximately three and a half years (January 2016-September 19, 2019), 2.7% of Pullman's population identified as Black or African American and 10.9% of arrests were of individuals who identified as Black; 73.1% of Pullman's population identified as White, not Hispanic or Latino, and 72.5% of arrests were of individuals who identified as White. Utilizing the same assumptions as the Daily Evergreen, that all arrests were unique and there were no repeats, and also assuming that all arrests were of Pullman residents and that the Pullman resident census data has not radically changed over time, approximately 10.2% of Pullman's residents who identified as Black or African American were arrested by WSU PD (not excepting individuals who were arrested on multiple occasions) and 2.5% of Pullman's residents who identified as White were arrested by WSU PD (not excepting individuals who were arrested on multiple occasions). CRCI further analyzed, as the Daily Evergreen did, that Pullman residents who identified as Black or African American were four times more likely to be arrested than those who identified as White.

For completeness, CRCI also analyzed the data for other demographic subsets and determined that 11.5% of Pullman's population identified as Asian, and 5.5% of arrests were of individuals who identified as Asian; 6.7% of Pullman's population identified as Hispanic or Latino, and 6.7% of arrests were of individuals who identified as Latinx; 6.3% of Pullman's population identified as two or more races, and .5% of arrests were of individuals who identified as Mixed Race; and .9% of Pullman's population identified as Native American, American Indian, Alaska Native, or Pacific Islander, and .6% of arrests were of individuals who identified as Pacific Islander or

Native American. Utilizing the same assumptions indicated above, roughly 1.2% of Pullman's residents who identified as Asian were arrested by WSU PD (not excepting individuals who were arrested on multiple occasions); roughly 2.5% of Pullman's residents who identified as Latinx were arrested by WSU PD (not excepting individuals who were arrested on multiple occasions); roughly .19% of Pullman's residents who identified as Mixed Race were arrested by WSU PD (not excepting individuals who were arrested on multiple occasions); and roughly 1.3% of Pullman's residents who identified as Pacific Islander or Native American were arrested by WSU PD (not excepting individuals who were arrested on multiple occasions). CRCI further analyzed that Pullman residents that identified as White were twice as likely to be arrested by WSU PD than those who identified as Asian and Pacific Islander or Native American; Pullman residents that identified as White were 13 times more likely to be arrested by WSU PD than those who identified as Mixed Race; and Pullman residents that identified as Latinx were approximately as likely to be arrested by WSU PD than those who identified as White.

Table 9

Demographic Subset	Percentage of Pullman Residents Arrested by WSU PD (assuming data contains zero arrests of non-residents and/or repeat offenders)
Black	10.2%
Asian	1.2%
White	2.5%
Latinx	2.5%
Mixed Race	0.2%
Native/Pac. Islander	1.3%

Finally, CRCI completed the same analysis above but for those identified as White in comparison to those who were not identified as White. Roughly 73.1% of Pullman's population self-identified as White, not Hispanic or Latino, and 72.5% of arrests were of individuals who were identified as White; roughly 28.1% of Pullman's population self-identified as a demographic subset other than White, and 24.9% of arrests were of individuals who were identified as a demographic subset other than White. Utilizing the same assumptions indicated above, that all arrests were unique and there were no repeats, and also assuming that all arrests were of Pullman residents and that the Pullman resident census data has not radically changed over time, 2.5% of Pullman's residents who were identified as White were arrested by WSU PD (not excepting individuals who were arrested on multiple occasions) and 2.2% of Pullman's residents who were identified as a demographic subset other than White were arrested by WSU PD (not excepting individuals who were arrested on multiple occasions).

Table 10

Demographic Subset	Percentage of Pullman Residents Arrested by WSU PD (assuming data contains zero arrests of non-residents and/or repeat offenders)
White	2.5%
Group other than White	2.2%

CRCI also compared proportionality of arrests to proportionality of Pullman's population. Under this analysis, those who identified as Black were arrested at a higher rate than their respective proportionality of Pullman's resident population, those who identified as Asian and Mixed Race were arrested at a lower rate than their respective proportionality of Pullman's resident population, and those who identified as White, Latinx, and Pacific Islander/Native were arrested at a similar rate to their respective proportionality of the population. It was not possible to determine this comparison for those who identified as Indian or those whose demographic information was unknown because that information is not gathered by the census data, as described in more detail below.

Table 11

Demographic Subset	Proportion of Pullman's Population	Proportion of Those Arrested in Relevant Timeframe
Black	2.70%	10.9%
Asian	11.50%	5.5%
White	73.10%	72.5%
Latinx	6.70%	6.7%
Mixed Race	6.30%	0.5%
Native/Pac. Islander	0.90%	0.6%
Indian	N/A	0.7%
Unknown	N/A	2.6%

Finally, removing duplicates (i.e. repeat offenders) from the data set (see above Table 5, containing arrest data with repeat offenders removed) did not appear to significantly change the outcomes of the above analyses. For example, with removing repeat offenders from the

arrest data, 2.7% of Pullman's population identified as Black or African American and 10.1% of arrests were of individuals who were identified as Black, while 73.1% of Pullman's population identified as White, not Hispanic or Latino, and 73.6% of arrests were of individuals who were identified as White. Maintaining the same assumptions as above, that all arrests were of Pullman residents and that the Pullman resident census data has not radically changed over time, approximately 8.9% of Pullman's residents who identified as Black or African American were arrested by WSU PD (excepting individuals who were arrested on multiple occasions) and 2.4% of Pullman's residents who identified as White were arrested by WSU PD (excepting individuals who were arrested on multiple occasions).

Based on the above data analysis, there is a numerical disparity. This disparity may suggest:

(1) Discriminatory practices (e.g. officer(s) intentionally engaged in discriminatory practices);

(2) Disparate impact (e.g. WSU PD's facially neutral practices had a discriminatory effect); or

(3) None of the above – there may be legitimate law enforcement reasons for the disparity, or the comparison to Pullman resident demographic data (for arrests that are likely predominantly of 18-30 year old individuals) may be inappropriate.

In order to determine whether there was evidence of a pattern or practice of discriminatory engagement, CRCI analyzed the officer-initiated arrests, described in the previous section above, as WSU PD officers are more involved with whom they come into contact during an officer-initiated arrest than they are when they are dispatched to the scene of potential criminal activity. There did not appear to be significant differences in the proportionality of arrests by demographic group when comparing Table 12 to Table 4 or Table 5 above.

Table 12

	WSU PD Officer Initiated Arrests 1/1/2016-9/19/2019 (Demo. Breakdown)								
Asian	Black	Indian	K*	Latinx	Mixed Rac	Pac. Island	Unknown	White	Total
35	67	4	0	46	4	3	19	498	676
5.2%	9.9%	0.6%	0.0%	6.8%	0.6%	0.4%	2.8%	73.7%	

Finally, CRCI requested additional information about the data (see next section).

Data Limitations

The above data indicates a disproportionately larger number of arrests of those who identify as Black or African American. This higher level of arrests merits further investigation to determine whether or not there is systemic or individual officer bias, or whether there are legitimate non-discriminatory reasons for the disparity. However, after learning more about WSU PD's data collection processes, CRCI is concerned that several factors make it difficult to fully assess whether or not discriminatory practices are occurring, based on data alone.

First, pertinent demographic data is not collected in a uniform way before, during, or after a WSU PD officer stop. CRCI had insufficient evidence to determine how the demographic data contained in SPILLMAN was collected, and further, investigators were concerned about these variations. Based on a conversation with WSU PD on September 19, 2019, it is clear that sometimes demographic data is entered by a WSU PD officer through visual observation during an interaction with a member of the public, sometimes it is inputted based off of the self-identification of the person involved in the interaction with WSU PD, and sometimes it is "packed" by the records department of the pertinent law enforcement agency after the stop and prior to the information being uploaded to SPILLMAN. Records are sometimes "packed" through estimating the race of an individual based on their name. Investigators understand that collecting this data, even if imperfect, is an important process, for arrest analysis and community information. However, entering demographic information through visual observation and "packed" data based on name alone is not accurate and may be influenced by implicit bias or lack of cultural awareness. Investigators were concerned about relying on or making conclusions based on this demographic data, as there was insufficient evidence readily available to determine if the information was accurate or its source.

Second, the SPILLMAN data and the data provided to the Daily Evergreen Newspaper as described in Submission 3 and above contains scenarios not meeting a layperson's understanding of "arrest,", including instances of: "arrest screens" for possession of marijuana or minor in possession of alcohol charges, charges forwarded to the prosecutor's office, and data entry errors (e.g. warnings, infractions, "agency assists," warrant arrests, and protective custody holds that were improperly inputted as arrests). In addition, and as described above, it is considered an "arrest" when individuals receive a criminal citation and a court date, or they are fingerprinted and released. Both occurrences are common practices at WSU PD. Investigators were concerned that the data may not accurately or reliably demonstrate the number of arrests made by WSU PD officers as understood by a layperson, for these reasons. Due to the aforementioned variabilities in the data, it is difficult to determine if WSU PD officers are or are not disproportionately arresting individuals of color, as the data mistakenly contains some non-arrest data and contains instances that a layperson would perceive that no arrest occurred.

Third, the SPILLMAN data and the data provided to the Daily Evergreen Newspaper as described in Submission 3 contain relatively small numbers of total arrests, in comparison to larger police jurisdictions. As noted above, the data set provided to the Daily Evergreen Newspaper from May 2018 through May 2019 contained 194 arrests and the SPILLMAN data submitted to CRCI from January 2019 through September 19, 2019 contained 862 arrests. Although in some matters, a small data set may be sufficiently informative, investigators were concerned that in this matter, which involved complex factors (e.g. citizen requests for assistance, mandatory arrest laws, inaccurate demographic information, repeat offenders, etc.), the data set as it currently exists was not sufficiently informative as evidenced by the number of assumptions that CRCI and the Daily Evergreen had to make about the data when analyzing it, as described above. Investigators were concerned that the small numbers would make data analysis difficult to rely on and surmise conclusions about when looking at arrests by type of

crime and based off arresting officer, which contained significantly smaller numbers of arrests. Furthermore, when looking at individual officers to determine if there were any disparities in arrest records, investigators observed significant differences in arrest rates, whether based on their role (e.g. beat officer, traffic officer, time of their shift, duties assigned, etc.) or their seniority within the department (e.g. investigators were informed it was typical for new officers to "prove" themselves through higher number of patrol shifts, which due to the nature of these shifts, result in more stops). In reviewing these numbers there are some officers who engage in higher numbers of stops and arrests generally than other officers employed by WSU PD typically do. This suggests that there is some distinction in the types of shifts and duties assigned among officers. Investigators also determined that some officers have made very few arrests in the relevant time frame, such that it would be difficult to surmise significant patterns or disparities. For example, one officer arrested five individuals over the relevant time frame: two of these individuals identified as Asian, two identified as Black, and one identified as White. When analyzing these numbers based on proportionality of arrests, it would be clear that 80% of this officer's arrests were of a person of color (with 40% identifying as Asian and 40% identifying as Black). However, the proportionality alone is not as reliable due to the small numbers of arrests. In another example, one officer arrested three individuals over the relevant time frame: two of these individuals identified as Black and one identified as White. It would also be clear, when analyzing this data, that 66.7% of this officer's arrests were of an individual who identified as Black but, in this instance, proportionality alone is not as reliable due to the small number of arrests.

Fourth, the SPILLMAN data only contains arrests within the jurisdictional limitations of WSU PD; for this reason, investigators were concerned that the data may not completely capture all pertinent arrests or experiences among the WSU Pullman campus community. For example, arrests occurring on the off-campus portions of "College Hill" including "Greek Row" were not included. However, CRCI does not have the authority to investigate city and county police departments.

Fifth, WSU Pullman is a campus open to the public which hosts events such as athletics and concerts; many non-Pullman residents are often on the WSU Pullman Campus for events and other reasons. Non-Pullman residents are also subject to WSU PD's jurisdiction while on the WSU Pullman Campus, and it is likely that some of the arrests indicated above were arrests of non-Pullman resident visitors, but their demographic information is not indicated in the Pullman, WA Census Data. Due to this possibility, investigators were concerned that it may not be entirely accurate to compare the proportional percentage of arrests indicated in SPILLMAN to the proportional percentage of the population in the Pullman, WA Census Data. As stated above, CRCI did not locate any census data that is gathered and maintained on visitors to Pullman.

Sixth, the analyses above do not heavily consider the impact that individuals having been arrested by law enforcement on multiple occasions may have on the outcomes. As possible to determine from this review, 810 individual offenders accounted for the 862 arrests in the data. It is possible that this discrepancy in the data may have skewed the data analysis above. A preliminary analysis of this data shows that there did not appear to be significant differences in

the WSU PD arrest data set after removing repeat offenders (see Table 4 and Table 5), which suggests that removing repeat offenders would not have a significant impact on the analysis above; but it is another area where the data set was not entirely clear.

Finally, CRCI had some concerns about the census data. As noted above, census data is captured periodically, and investigators had some concern that the demographic information of Pullman residents was not completely up to date. The last full census survey conducted by the U.S. Census Bureau of the Pullman, Washington area was in 2010 and the last estimation was provided in 2017. Also, census data is captured through self-reporting of demographic data by those completing the surveys. As indicated above, CRCI was not able to determine from where the demographic data contained in the arrest data arises from; however, it is evident from the nature of law enforcement stops, that officers do not ask for such information during the standard course of a stop. Additionally, the demographic categories of the census data do not line up exactly with the demographic data included in the arrest data; this created a slight complication when analyzing the demographic data. For example, "Indian" is not its own subset captured in the census data, but it is in the arrest data and there is no "unknown" demographic data in the census data while there is in the arrest data. In addition, as noted previously, the use of all Pullman resident data, without taking into account differing demographics by age group, is not the most appropriate comparison.

Current Practices for Training WSU PD Officers and Responding to Complaints of Discrimination

CRCI also investigated training provided to WSU PD officers, as training may provide some indication as to the department's commitment to non-discriminatory practices.

The Washington State Criminal Justice Training Commission (WSCJTC), which is located in Burien, WA, hosts a 720-hour training plan that every new officer in Washington State must attend unless they were a commissioned officer in another state. Commissioned officers from other states go through an "Equivalency Program" in lieu of the 720-hour training plan.

In addition to WSCJTC's 720-hour program, the WSU PD Training Plan consists of the annual in-service training program of no less than 24 hours that includes the required WCJTC training topics, such as Federal and Washington court cases, legal updates, department use-of-force and deadly-force policies, and less-than-lethal weapons (must be completed every two years). The WSU PD Training Plan also includes topics such as legislative changes, state-mandated training, critical issues training, defensive tactics, firearms, emergency vehicle operations, diversity, contract-mandated training, interview training, basic collision investigation, riot training, and street survival training/seminar.

Additionally, full-time supervisors or managers receive appropriate training and certification required by WSCJTC, and all sworn members must successfully complete the National Incident Management System (NIMS) training courses (minimally) as follows: Civilian Employees ICS 100, 700; Sworn Employees ICS 100, 200, 700, 800; Command Staff 100, 200, 300, 400, 700, 800.

Finally, WSCJTC mandates two hours of online crisis intervention training yearly. WSU PD has attended several trainings on the topic of bias in the past sponsored by WSU HRS and WSU GEISORC, one of which was taught by Mr. Jeff Guillory, who formerly was the Director of WSU'S Office of Diversity Education. WSU PD, as WSU employees, are also required to take the mandatory Employee Discrimination and Sexual Harassment Prevention Training, every five years.

CRCI also investigated WSU PD's outward facing communications, to determine whether a layperson would have a clear understanding of how to report discrimination. Where there are data limitations, having a robust grievance process for discrimination complaints can serve as additional oversight into arrest practice. A grievance process also allows for individual review of specific matters based on the experience and concerns of the individuals involved. CRCI serves as the complaint office for the university, including WSU PD, for complaints of discrimination, sexual harassment, and sexual misconduct. At the time of the issuance of this report, CRCI has not had any formal complaints made to our office during the relevant timeframe of this investigation (since January 2016). However, visitors to WSU PD website may not understand that reporting concerns to CRCI is an option, as the Frequently Asked Questions page is focused on crime related questions; reporting discrimination is not addressed, and visitors are not provided with information about CRCI. A feedback form is available to visitors to the WSU PD website, but the header for the feedback form asks, "How's Our Website?," which may lead visitors to believe the form is limited to website concerns only.

Conclusion

CRCI determined that, based on the data, individuals who are listed in the data set as Black are more likely to be arrested by a WSU PD officer as individuals who are listed in the data set as White, Asian, Latinx, Pacific Islander/Native, or Mixed Race. However, based on a review of the data alone, CRCI was not able to sufficiently link this disparity to a discriminatory pattern or practice due to data limitations described in the above section.

In the course of CRCI's review, CRCI found that WSU PD also does not provide a clear path on their externally facing websites to report bias or file a grievance.

Addressing the items identified herein will help ensure that WSU PD operates consistent with WSU's Policy Prohibiting Discrimination, Sexual Harassment, and Sexual Misconduct (EP 15).

Recommendations

1. WSU PD review this report and their current operating procedures for potential improvements.

2. WSU PD create and implement their own Civil Rights Action Plan, to be submitted to CRCI on or before December 18, 2020, which should include:

a. Clearer policies/procedures in obtaining demographic data of those involved in WSU PD interactions, whether they be victim, suspect, or offender of arrests and arrestable offenses. Policies should also be available to the public, to inform individuals that their demographic data is being captured, the reason for this data collection, and any processes to update demographic information;

b. Increased trainings offered to officers in the areas of implicit bias and policing and race;

c. Creation and implementation of a bias-reporting procedures which would allow concerned individuals to report interactions with officers that they felt were biased for review and/or investigation under police procedural guidelines, or referral to CRCI; and

d. Creation of additional public facing information about WSU PD's commitment to WSU's non-discrimination policy, with information on reporting discrimination to CRCI for review and/or investigation, or reporting bias concerns for review under police procedural guidelines.

Management Response

CRCI requested a response from WSU PD regarding the evidence and information CRCI collected. Based on the information collected, WSU PD Chief of Police Bill Gardner provided CRCI with the initial action items that the department plans to take consistent with the recommendations listed above.

Per Bill Gardner, the WSU PD will establish a workgroup consisting of internal and external community partners including, in part, the WSU Police Advisory Board. The initial priorities of this workgroup will consist of, in part: Closely considering/reviewing the data and the analyses that this report contains, as well as additional data (i.e. reviewing individual reports), to further assess whether there is apparent discriminatory pattern or practice within WSU PD and to enhance WSU PD best practices, looking at resources external to WSU PD and ensuring WSU PD's policies, procedures, and practices align with national best practices, creating and implementing a Civil Rights Action Plan, as described above, and any other work based off of the recommendations of the workgroup.

Report Disclaimer

CRCI's findings, conclusion, and recommendation in this matter are based on EP 15, and interpretations of EP 15, and represent a conclusion as to whether EP 15 was implicated. Nothing in this report is based upon or intended to be understood as a statement or interpretation of law. Additionally, nothing in this report is based upon, or intended to be understood as, a determination or finding regarding any other university policies.