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Criminal Justice

Addressing problems with the U.S. criminal justice system is one of three key areas on which CAO focuses efforts to better understand and lower barriers to opportunity in low-income areas. Though the data in this report were collected in 2019, the prolonged and widespread protests in response to the killing of George Floyd on May 25, 2020, further demonstrate the extent to which trust in law enforcement among Black Americans has in recent years been undermined by instances of police misconduct.³²

With almost 1% of U.S. adults in prison, the country's incarceration rate is five to 10 times higher than rates in Western Europe,³³ due largely to differences in sentencing. Mass incarceration disproportionately affects majority-Black communities, given racial disparities in sentencing practices. Scholars and practitioners have demonstrated the high social costs of mass incarceration, as many of those imprisoned for minor crimes are denied opportunities to become productive citizens even after their release.³⁴ The COVID-19 crisis has added to these costs by unnecessarily putting many at higher risk of contracting the virus.³⁵

Recent years have seen increased attention to criminal justice reform at both the federal and state levels. The bipartisan First Step Act, enacted in December 2018, overhauled federal sentencing laws, reducing minimum sentences for drug offenders.³⁶ State-level trends in 2019 included sentencing reforms, expanding voting rights to former prisoners on felony probation or parole, and reducing collateral consequences, such as barriers to housing and employment for those who have completed their prison sentences.³⁷

BLACK FRAGILE COMMUNITY RESIDENTS ARE MUCH MORE LIKELY THAN WHITE OR HISPANIC RESIDENTS TO SAY PEOPLE LIKE THEM ARE TREATED UNFAIRLY BY LOCAL POLICE AND COURTS

As in previous State of Opportunity studies, the current data point to conflicted feelings about the criminal justice system among many fragile community residents, especially Black residents. While many are skeptical that local law enforcement will always act in their best interest, they also yearn for stability and freedom from violent crime in their neighborhoods. Overall, 58% of fragile community residents say most people in their area view their local police positively (50%) or very positively (8%), though this figure is much higher among White (67%) and Hispanic (65%) residents than among Black residents (44%).

In 2019, 22% of fragile community residents said their local police treat people like them “unfairly” or “very unfairly,” down slightly from 25% in 2018. The total percentage who felt they were treated unfairly or very unfairly by the courts or legal system also fell slightly, from 33% in 2018 to 30% in 2019. Notably, these changes were driven primarily by results among Hispanic residents, who were significantly more likely in 2019 than 2018 to say people like them were treated fairly by both police and the legal system. In 2019, as in previous years, Black fragile community residents were substantially more likely than White or Hispanic residents to say people like them are treated unfairly.

32 Enkins, E. (2016). Policing in America: Understanding Public Attitudes Toward the Police. Results from a National Survey. CATO Institute, December 7, 2016. Retrieved June 23, 2020 at <https://www.cato.org/survey-reports/policing-america>

33 National Research Council (2014). The Growth of Incarceration in the United States. Washington, DC: The National Academies Press. Retrieved June 4, 2020 at <https://doi.org/10.17226/18613>

34 Alexander, M. (2010). The New Jim Crow: Mass Incarceration in the Age of Colorblindness. New York: New Press.

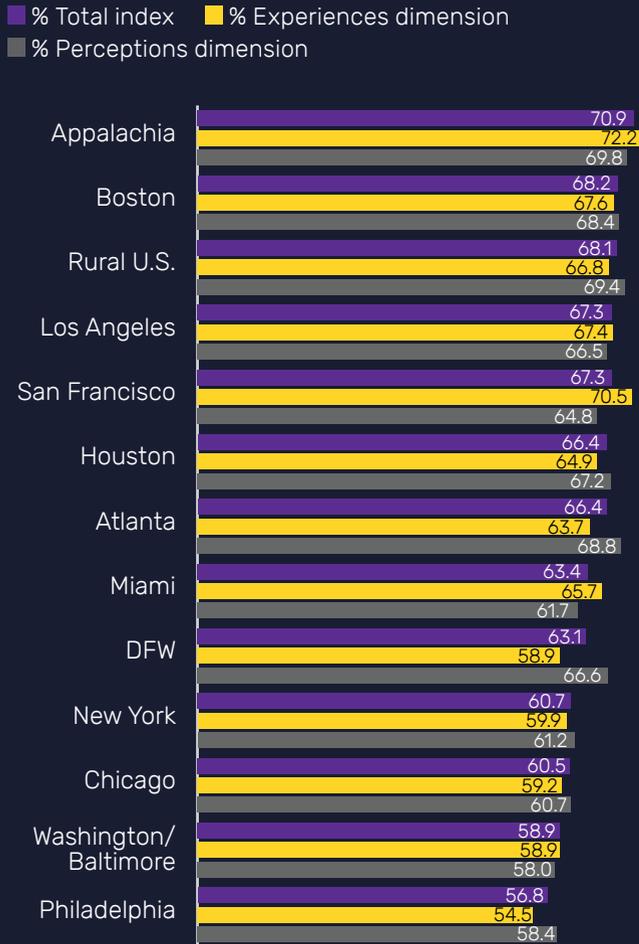
35 Park, K., Meagher, T. & Li, W. (2020). Tracking the spread of coronavirus in prisons. The Marshall Project, May 24, 2020. Retrieved July 1, 2020 at <https://www.themarshallproject.org/2020/04/24/tracking-the-spread-of-coronavirus-in-prisons>

36 Federal Bureau of Prisons. (2019). An Overview of the First Step Act. Retrieved June 4, 2020 at <https://www.bop.gov/inmates/fsa/overview.jsp>

37 Porter, N. (2020). Top Trends in State Criminal Justice Reform, 2019. The Sentencing Project, January 17, 2020. Retrieved June 4, 2020 at <https://www.sentencingproject.org/publications/top-trends-in-state-criminal-justice-reform-2019/>

2019 CRIMINAL JUSTICE INDEX

Chart 12. Differences by CSA/region

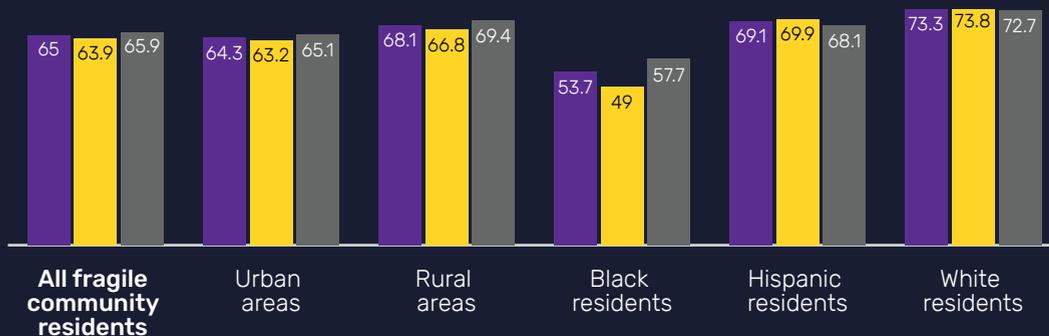


The Criminal Justice Index provides a high-level view of the extent to which problems with the criminal justice system may hinder access to opportunity, based on fragile community residents' experiences and perceptions (Appendix TBA lists the questions included in the index). As with the other indexes compiled for this analysis, higher scores on the Criminal Justice Index indicate more favorable responses.

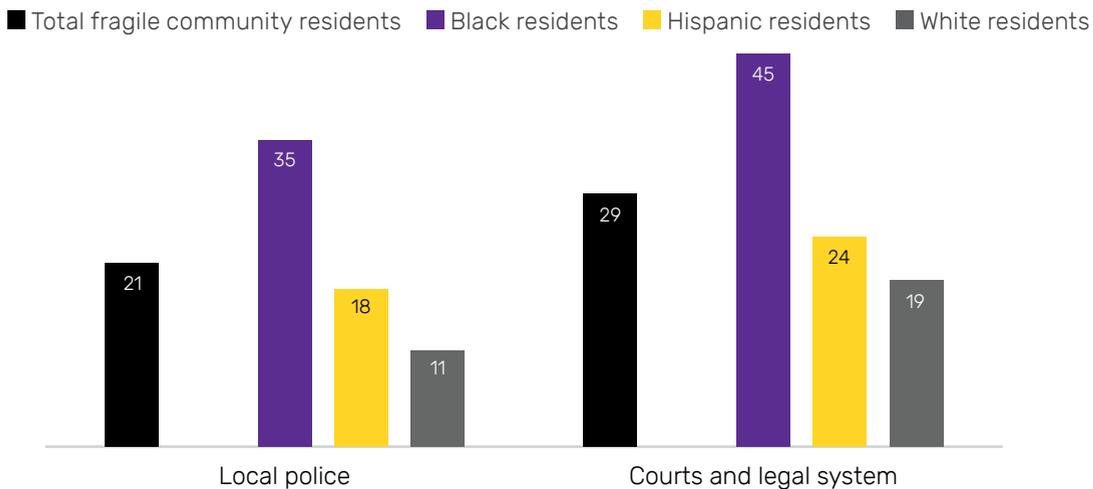
Black Americans' longstanding tensions with law enforcement are clearly reflected in the 2019 index results. Black residents' scores were more negative overall, but particularly on the dimension measuring experienced injustice. Results among Hispanic residents were only slightly less positive than those among White residents.

Lower scores on the Criminal Justice Index among Black fragile community residents are also reflected in differences by CSA/region. Areas where Black Americans make up the largest share of fragile community residents – most notably the Washington/Baltimore and Philadelphia areas – index scores are the lowest, while they are highest in areas where fragile community residents are most likely to be White, including Boston, Appalachia and rural U.S. overall.

Chart 13. Differences by race and urban vs. rural area

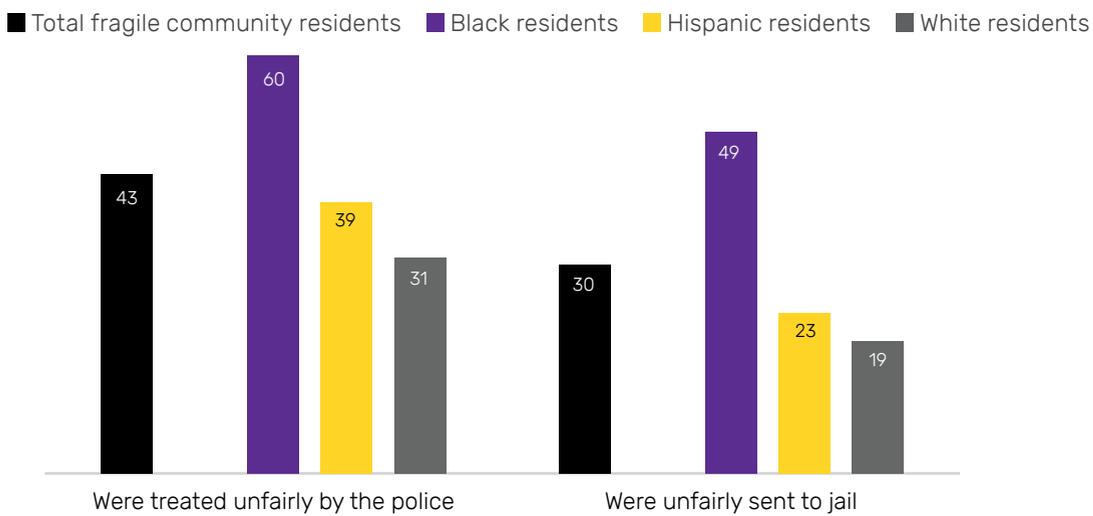


**Chart 14. How fairly or unfairly do you think _____ treat people like you?
% “Unfairly” or “very unfairly”**



These differences correspond to Black fragile community residents’ greater likelihood to personally know people who they feel received unfair treatment from the criminal justice system. In results similar to those from the 2018 study, 43% of Americans living in fragile communities overall say they know “some” or “a lot of” people who were treated unfairly by local police – but this figure is about twice as high among Black residents (60%) as White residents (31%). Similarly, about half of Black residents (49%) say they know some or a lot of people who have been unfairly sent to jail, compared with just 19% of White residents.

**Chart 15. How many people, if any at all, do you know who personally had the following happen to them – a lot, some, not many or none at all?
% “A lot” or “some”**



As in the 2018 study, the need to address racial disparities in bail practices is clear in the current data. About four in 10 U.S. fragile community residents overall (39%) say they know “some” or “a lot” of people who have stayed in jail because they could not post bail. This figure is about twice as high among Black residents (57%) as among Hispanic (30%) or White (29%) residents.

Being detained increases the risk that those awaiting court hearings may lose their jobs or have their lives disrupted in other ways. Detainees are also more likely to be convicted of a crime, even if they haven’t committed one, because many agree to plea bargains in exchange for being released from jail. The current bail system also places undue burden on taxpayers in many areas because it costs far more to keep low-risk suspects in jail than it does to place them under supervision while they await trial.³⁸

The CAO-supported Center for Justice Research at Texas Southern University analyzed data from Harris County prison, which processes over 100,000 individuals a year, or about 8,000 inmates on any given day – the third most in the country. The data reveal that over 72% of individuals in the Harris County jail awaiting a determination of guilt or innocence are Black or Hispanic. Black Americans make up only 19.7% of Harris County’s population, but 50% of all jail bookings.³⁹ The initial criminal justice system touchpoints are the police, who disproportionately arrest Black Americans for low-level, non-violent offences, with 80% of arrests in America being for misdemeanors.⁴⁰

ALMOST HALF OF WHITE RESIDENTS, COMPARED WITH ONE-FOURTH OF BLACK RESIDENTS, ARE “VERY CONFIDENT” POLICE WILL TREAT THEM WITH RESPECT

The U.S. Justice Department emphasizes the importance of positive interactions in building trust and mutual respect between law enforcement officers and the communities they serve.⁴¹ In that light, the 2019 State of Opportunity Survey included a question asking fragile community residents how confident they are that they would be treated with courtesy and respect in interactions with local police.

Overall, 36% nationwide say they are “very confident” they would be treated with courtesy and respect when interacting with local police, while an additional 44% are “somewhat confident.” The proportion who are “very confident” rises somewhat with age, from 32% among residents age 18 to 29, to 40% among those age 60 and older.

There are more substantial differences by racial group; almost half of White residents (47%) are “very confident,” compared with one-third of Hispanic residents (33%) and about one-fourth (24%) of Black residents. Notably, however, 70% of Black residents are at least “somewhat confident” they would be treated with courtesy and respect. As with scores on the Criminal Justice Index overall, fragile community residents’ confidence they would

38 Dorn, S. (2017). “Bail reform could save U.S. taxpayers \$78 billion, study says.” Cleveland.com, January 31, 2017. Retrieved June 4, 2020 at https://www.cleveland.com/metro/2017/01/bail_reform_could_save_us_taxp.html

39 Center for Justice Research. (2019). Racial Disparities in Houston’s Pretrial Population. Texas Southern University. Retrieved July 22, 2020, at <https://centerforjusticeresearch.org/wp-content/uploads/2020/01/Pretrial-Report.pdf>

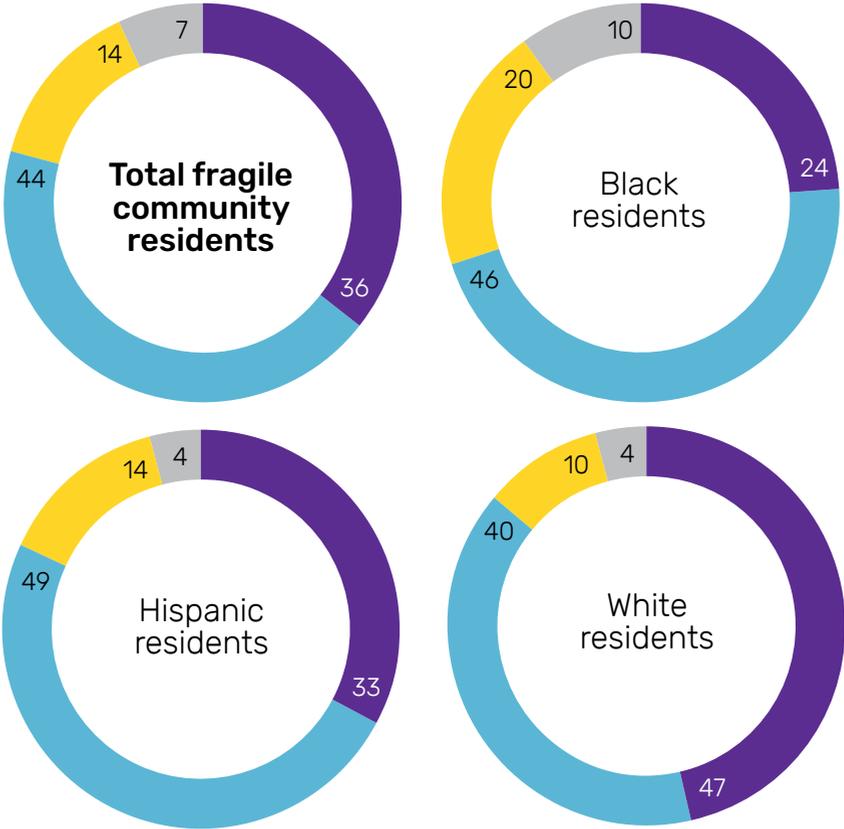
40 Natapoff, A. (2018). Punishment Without Crime: How Our Massive Misdemeanor System Traps the Innocent and Makes America More Unequal. New York: Basic Books.

41 U.S. Department of Justice. (2016). Importance of police-community relationships and resources for further reading. Retrieved June 4, 2020 at <https://www.justice.gov/crs/file/836486/download>

be treated respectfully by the police varies by CSA, largely according to the proportion of residents who are Black. In the Philadelphia and Washington/Baltimore CSAs, where confidence is lowest, most fragile community residents are Black (59% and 67%, respectively).

Chart 16. If you had an interaction with the police in your area, how confident are you that they would treat you with courtesy and respect?

■ % Very confident ■ % Somewhat confident ■ % Not very confident ■ % Not confident at all



Note: Due to rounding, totals may sum to 100%, +/-1%.

SPOTLIGHT

Center for Justice Research at Texas Southern University

Howard Henderson, who holds a doctorate in criminal justice, is the founding director of the Center for Justice Research and a professor at Texas Southern University. In the interview that follows, Henderson shares his thoughts on approaching criminal justice reform from the local level.

The CJR is devoted to solutions for an equitable criminal justice system. What research model does the center use to serve this purpose?

The center leads research projects and engages in local partnerships to produce innovative solutions for local criminal justice reform. As part of our research model, we spend a considerable amount of time talking to members of the community and local decision-makers, like police chiefs, district attorneys and policymakers. We use our conversations with these groups to formulate our research questions. We're working at the grassroots level, speaking with the people who are working on criminal justice reform issues and those who are affected by the issues. Cultural sensitivity is also an important part of our research model because if you overlook individuals' experiences, you miss the nuances between groups.

What areas are top of mind right now for criminal justice reform?

In the wake of George Floyd's death, we created a National Police Reform Advisory group that brings together the brightest minds to conduct a non-partisan assessment of all the police reform bills being proposed. We're approaching reform from the bottom-up, which has shown to be more effective than top down because 80% of the criminal justice system is local. We build those relationships with the communities and the key local decision-makers to ensure communities aren't left with policies that are inapplicable to their cities.

How are COVID-19 and the Black Lives Matter movement impacting your work in criminal justice reform?

Criminal justice has to be situated within a broader societal context — you can't separate it from education, economics and public health; they're all intricately interwoven. What's interesting is that we now have opportunities to make sure science and research govern decisions in the criminal justice system, whereas in the past it was governed by emotion. Now we have a bipartisan push and the First Step Act is a good example. In terms of the protests, they are the most diverse in the history of this country. The movement is not only about police reform; it encompasses other civil liberties. Criminal justice has been the catalyst and a vehicle through which we'll see tremendous change in this country.

What are some of the policy solutions the Center is examining?

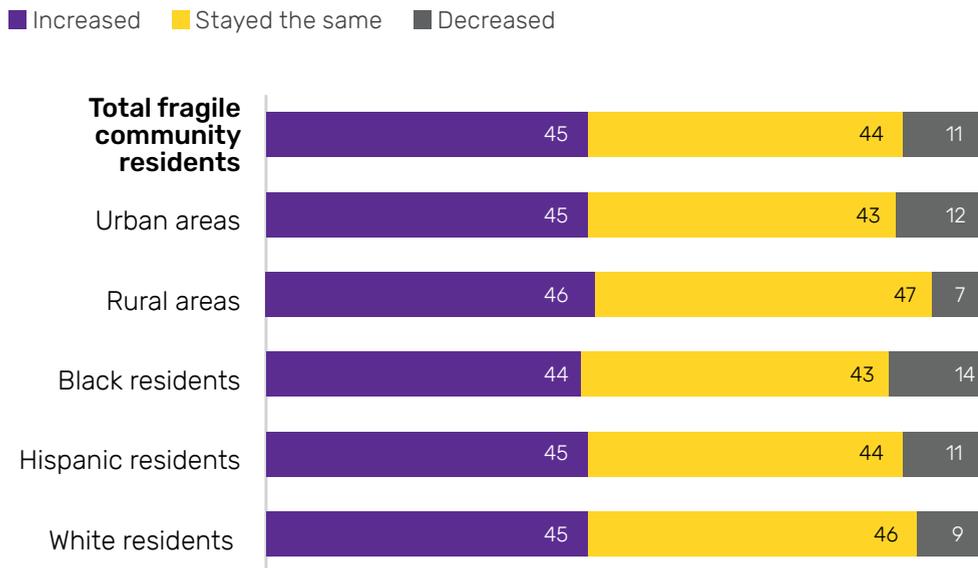
We have to think about policies related to police hiring practices and examine the personality types and characteristics of officers who are more likely to use force versus those who don't get involved in use-of-force cases. Environmental design is also important — how do we design neighborhoods that facilitate good relations between the community and the police?

From the community, we need to understand the people who are not directly impacted by criminal justice issues — the people who don't live in urban areas and watch this stuff on TV — and ask how they feel. If they have positive perceptions, what makes them feel positively toward the police and makes them feel the police do their job well? Finally, we need to find out from policymakers themselves what makes it challenging for them to pass equitable justice system policies. If we do not move from protest to policy, we can't get anything done.

FIFTY-ONE PERCENT OF FRAGILE COMMUNITY RESIDENTS WOULD LIKE POLICE TO SPEND MORE TIME IN THEIR AREA

Regardless of their level of trust in the police and court system, most fragile community residents want the stability and order that effective law enforcement provides. The proportion of residents who say crime in their area has increased outnumbers the proportion who say it has decreased by four to one (45% vs. 11%, respectively), with results largely consistent between urban and rural areas, and across racial groups.

Chart 17. In the last few years, do you believe crime in your area has increased, stayed the same or decreased?



Note: Due to rounding, totals may sum to 100%, +/-1%.

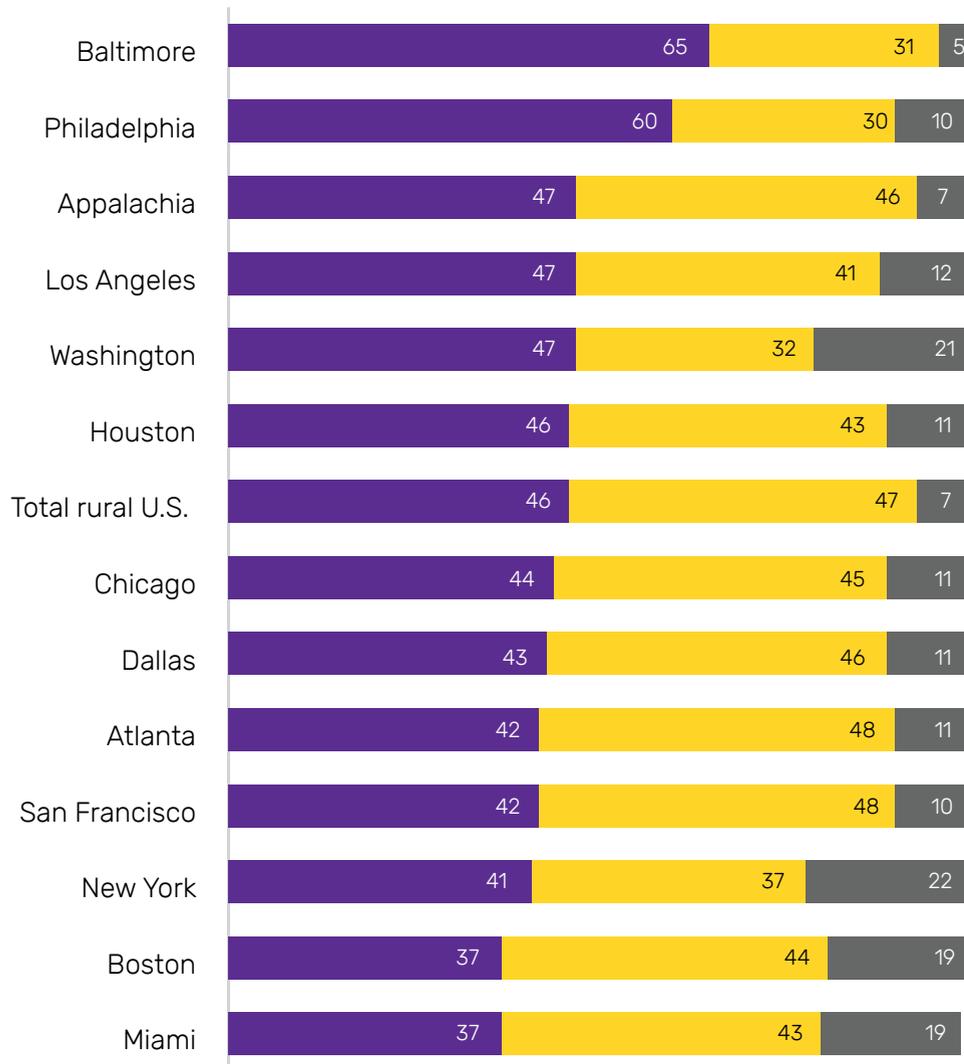
Preliminary FBI crime statistics showed declines in both violent and property crime in the first half of 2019, compared with the same period in 2018.⁴² However, crime rates vary widely at the local level, and are generally higher in urban and low-income areas. The 2019 survey found substantial differences in crime perceptions among fragile community residents across CSAs and regions. Most of those in the Baltimore⁴³ (65%) and Philadelphia (60%) areas said crime has increased in recent years. Residents in the Washington, New York and Miami areas were most likely to say crime has decreased, though in each case this figure rises only to about one in five.

⁴² U.S. Federal Bureau of Investigation. (2020). 2019 Preliminary Semiannual Uniform Crime Report Released. Retrieved June 4, 2020 at <https://www.fbi.gov/news/stories/2019-preliminary-semiannual-uniform-crime-report-released-012120>

⁴³ Though Washington and Baltimore are in the same CSA, their results are presented separately here because they differ significantly between fragile community residents in the two cities.

Chart 18. In the last few years, do you believe crime in your area has increased, stayed the same or decreased?

■ Increased ■ Stayed the same ■ Decreased

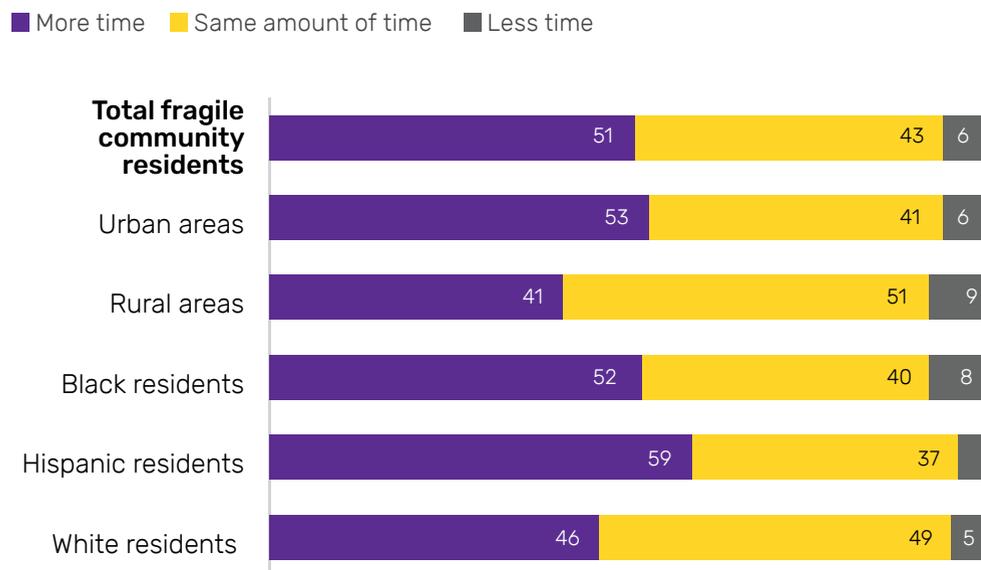


Note: Due to rounding, totals may sum to 100%, +/-1%.

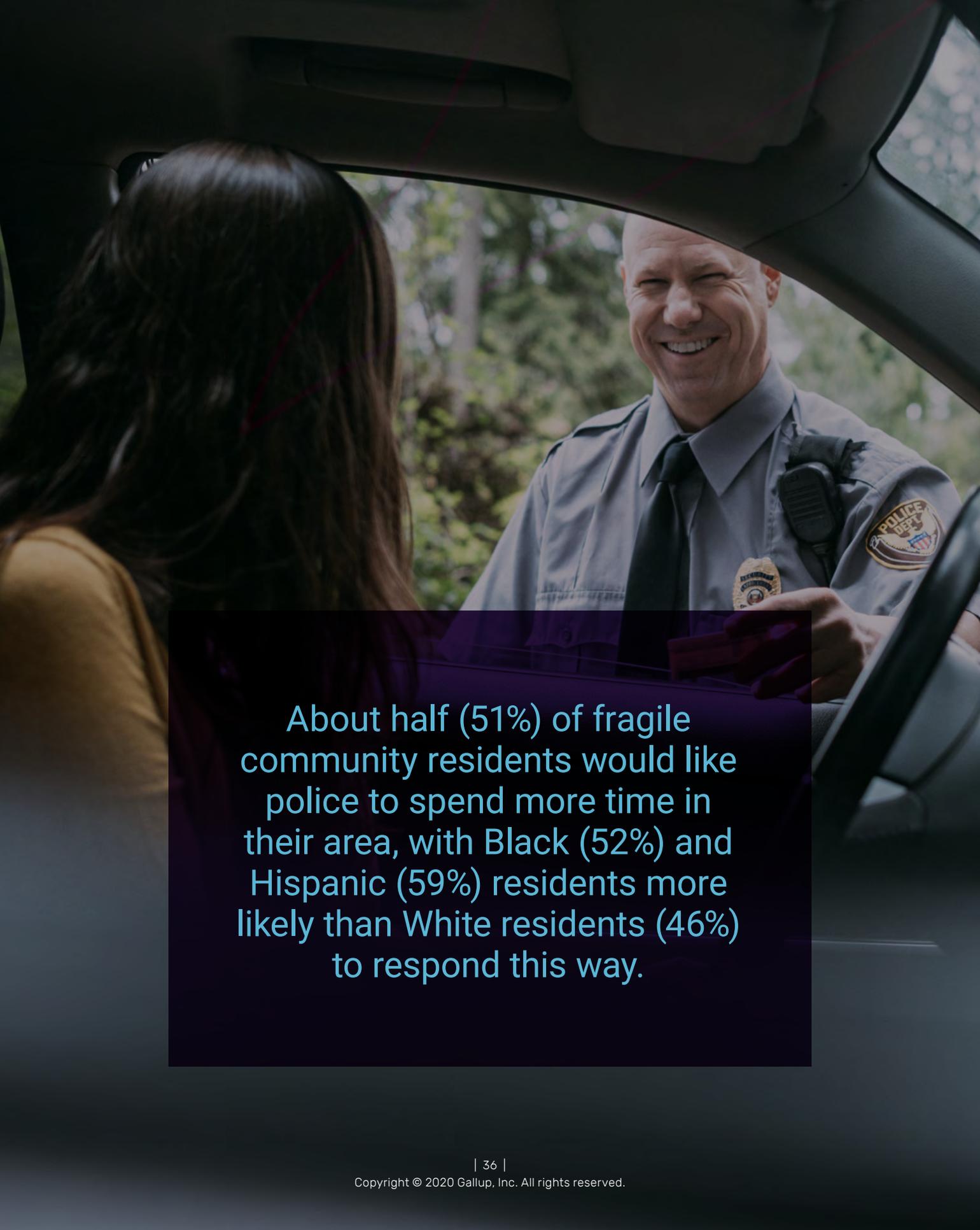
The perception that crime is increasing is related to fragile community residents' likelihood to have experienced violent incidents across the areas spotlighted in the study. Nationwide, one-third of residents (33%) said they have witnessed a situation in which someone was seriously injured or killed, or in which they feared they themselves would be seriously injured or killed. This figure varied only somewhat between men (35%) and women (30%) and among Black (36%), White (31%) and Hispanic (25%) residents. Among the 11 CSAs studied, however, it ranged from a high of 44% in the Chicago and Washington/Baltimore areas to a low of 25% in the Miami area.

In areas where they are more likely to see crime increasing, fragile community residents were also more likely to say they would like police to spend more time in their area. That leads to a seemingly paradoxical finding: even though Black fragile community residents viewed the criminal justice system less favorably than White residents nationwide in 2019, they were somewhat more likely than White residents to say they would like the police to spend more time in their area – 52% vs. 46%, respectively. Hispanic residents were more likely than Blacks and Whites to respond this way (59%).

Chart 19. Would you rather the police spend more time, the same amount of time or less time than they currently spend in your area?



Note: Due to rounding, totals may sum to 100%, +/-1%; numerals shown when 5% or higher.



About half (51%) of fragile community residents would like police to spend more time in their area, with Black (52%) and Hispanic (59%) residents more likely than White residents (46%) to respond this way.