

Racial & Ethnic Disparities

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In the midst of the COVID-19 crisis, the country found itself facing another chapter in an all-too familiar story when the video of George Floyd's death captured our collective attention. Floyd's death at the hands of police, along with the deaths of Breonna Taylor, Ahmaud Arbery, Rayshard Brooks, and countless others, sparked a national uprising against systemic racism. Americans put on their masks and risked their health to show up to demonstrations in every state and were joined by the rest of the world.

Viral videos of police violence against Black folks are not a new phenomenon in the United States. Why, then, in the midst of a global pandemic, did the video of George Floyd's death spark such an unprecedented movement around the world? Why did a June 2020 Monmouth University poll find that the percentage of white Americans who believe that police are more likely to use violence against Black folks nearly double since 2016 to 49%¹ One possibility is that in this time of international calamity, the pathology of systemic racism has become too obvious and severe for the public to ignore. Americans see that pathology not just in the viral videos of police brutality that stream through our social media feeds, but also in the existing inequities made brutally relevant by the COVID-19 crisis.

Before COVID-19, systemic racism already permeated our public and private institutions here in the Greater Boston Area. The Boston Globe reported in its groundbreaking 2018 "Spotlight" series on racism in Boston that just 11% of patients admitted to the world-renowned Massachusetts General Hospital are Black, and that while two in five white Boston residents diagnosed with cancer attend the similarly prestigious Dana Farber Cancer Institute, only one in five such Black residents do.² Even as Massachusetts led the country in the fight for universal healthcare, access to quality healthcare remains divided along racial and ethnic lines. The same team reported that the recent boom in real estate development in the Commonwealth has functioned predominantly to create wealth for white folks and has otherwise perpetuated a long history of segregation.³ The same patterns of segregation and inequality existed along other social, educational, and economic lines throughout the Commonwealth.⁴

Such was the environment in which the virus landed, and it should come as no surprise then that it landed with much more devastating effect on the shoulders of people of color. The U.S. Census Bureau reports that as of July 1, 2019, the City of Boston included a population of approximately 44.5% non-Hispanic white, 25.3% Black or African American, and 19.7% Hispanic or Latino people.⁵ As of August 5, 2020, the Boston Public Health Commission (BPHC) reports that known positive COVID-19 cases in Boston are 36% Black or African American, 28% Hispanic or Latino, and 25% white, with 86.3% of known cases reporting race and ethnicity.⁶ BPHC further reports that COVID-19 deaths numbered 35% Black or African American, 11% Hispanic or Latino, and 44% white, with 96.7% of total deaths reporting race and ethnicity. A Centers for Disease Control and Prevention (CDC) study suggests that more proportionate rate of death among white COVID-19 patients may be due to their higher

¹ *Protestors' Anger Justified Even If Actions May Not Be*, Monmouth Univ. (June 2, 2020), https://www.monmouth.edu/polling-institute/reports/monmouthpoll_us_060220/.

² Liz Kowalczyk, *Color Line Persists in Sickness As in Health*, Boston Globe (Dec. 12, 2017), <https://apps.bostonglobe.com/spotlight/boston-racism-image-reality/series/hospitals/>.

³ Andrew Ryan, *A Brand New Boston, Even Whiter than the Old*, Boston Globe (Dec. 11, 2017), <https://apps.bostonglobe.com/spotlight/boston-racism-image-reality/series/seaport/>.

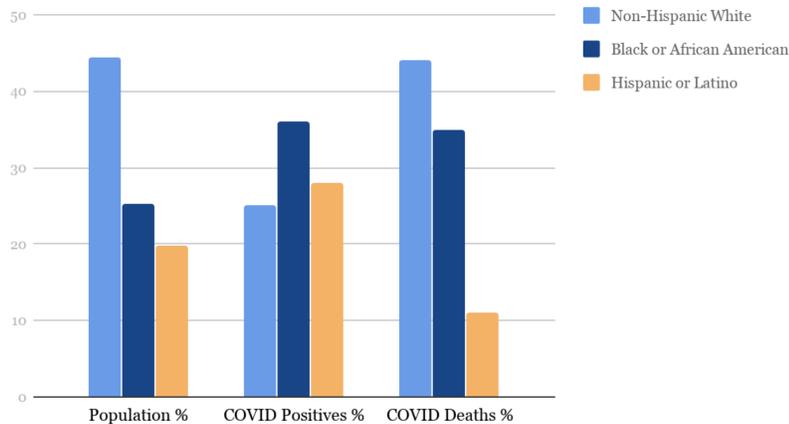
⁴ Akilah Johnson, *Boston. Racism. Image. Reality*, Boston Globe (Dec. 10, 2017), https://apps.bostonglobe.com/spotlight/boston-racism-image-reality/series/image/?pi=Spotlight_Race_TopNav.

⁵ *Quick Facts: Boston City, Mass.*, U.S. Census Bureau (July 1, 2019), <https://www.census.gov/quickfacts/bostoncitymassachusetts>.

⁶ *Reopening in the City of Boston*, Boston Pub. Health Comm. (Aug. 26, 2020), <https://www.bphc.org/whatwedo/infectious-diseases/Infectious-Diseases-A-to-Z/covid-19/Pages/default.aspx>.

likelihood to be in the most at-risk age groups compared to non-white patients.⁷ In any case, it remains clear that Black and Hispanic Bostonians are directly suffering the effects of this pandemic at a disproportionate rate.

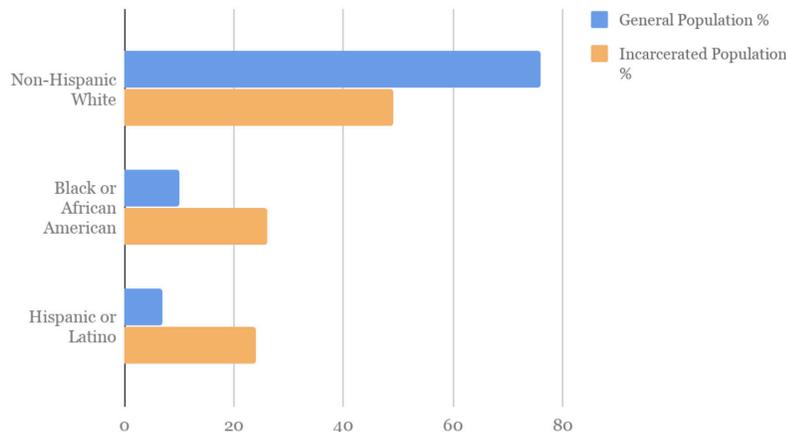
COVID Positive & Death Rates for City of Boston



Disparities in Prisons, Jails & Courts

This report previously discussed the profound impact of the COVID-19 pandemic on the incarcerated population in Massachusetts, which itself includes a disproportionately high percentage of non-white people. In Massachusetts, white people make up approximately 76% of total residents but only 49% of the prison population as of 2010.⁸ Black people make up 10% of total residents but 26% of the incarcerated population, and Latino folks make up 7% of total residents and 24% of the incarcerated.⁹ Since incarcerated people are five and a half times as likely to acquire COVID-19 due to the underserved and crowded conditions in prisons, the Commonwealth’s failure to mitigate the spread of the virus puts people of color at further risk of spread.¹⁰

Massachusetts Population v. Incarcerated Population



7 Heather E. Hsu, et al., *Race/Ethnicity, Underlying Med. Conditions, Homelessness, and Hospitalization Status of Adult Patients with COVID-19 at an Urb. Safety-Net Med. Ctr. — Boston, Mass., 2020*, Morbidity and Mortality Weekly Report, CDC (July 10, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6927a3.htm>.

8 *Massachusetts Profile*, Prison Policy Initiative (as of 2016), <https://www.prisonpolicy.org/profiles/MA.html>.

9 Id.

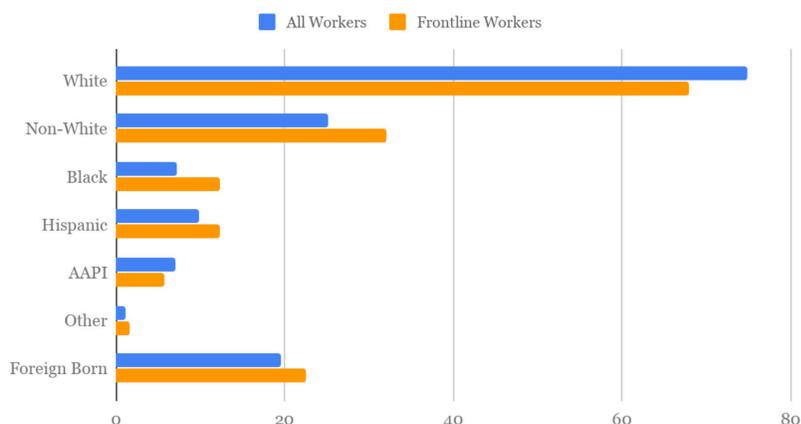
10 See Saloner, et al., *COVID-19 Cases and Deaths in Fed. and State Prisons*, JAMA Rsch. Letter (July 8, 2020), <https://jamanetwork.com/journals/jama/fullarticle/2768249>.

The access to justice issues discussed previously in this report also have a disparate impact on non-white people. Before the pandemic, barriers to justice were in part financial, whether due to the lack of access to affordable counsel, exorbitant fines, court filing fees, or bail fees. Because people of color are disproportionately low-income and more likely to interact with the legal system, COVID-19 exacerbated existing barriers and created new ones.¹¹ The virtualization of the court system layered on a second-level technological barrier for low-income individuals who do not have reliable access to computers, smartphones, video conferencing, or the internet. Likewise, immigration issues previously discussed in this report also affect non-white people at a higher rates since immigrants are disproportionately non-white.

Disparities in Labor, Employment & Childcare

Frontline and essential workers in Massachusetts are disproportionately non-white, including in industries like grocery & drug stores, public transit, trucking, warehouses, postal and delivery service, building cleaning services, childcare, social services, and healthcare services directly involving COVID-19 patients.¹² These workers are also generally less highly educated and more likely to be foreign born.¹³ The health and safety concerns discussed earlier for frontline workers therefore have a disparate impact on people of color in the Commonwealth, and that fact likely contributes to the disproportionate positive rate and death rate for that population.

Massachusetts Frontline Workers During COVID-19 Crisis



Essential workers are also likely to require childcare during the epidemic given their inability to work from home, especially given the closure of school systems in the commonwealth due to COVID-19. Couple that with the fact that childcare workers are disproportionately non-white, and the closure of childcare facilities in response to the pandemic created an especially disruptive effect on people of color.

Disparities in Housing

While federal assistance passed in response to the COVID-19 pandemic as part of the CARES Act provides a foreclosure moratorium and substantial mortgage forbearance options to homeowners with federally-backed mortgages, it provides little relief to renters except in the form of a temporary eviction moratorium for multifamily

¹¹ Ana Patricia Muñoz, et al., *The Color of Wealth in Boston*, Duke Univ., New School, & Fed. Rsrv. Bank of Boston (March 15, 2015), <https://www.bostonfed.org/publications/one-time-pubs/color-of-wealth.aspx>.

¹² Luc Schuster & Trevor Mattos, *A Profile of Frontline Workers in Mass.*, Boston Indicators, (April 13, 2020), https://www.bostonindicators.org/article-pages/2020/april/frontline_workers.

¹³ Id.

units with federally-backed loans.¹⁴ Because white households are likelier to own homes, and Black and Hispanic households are likelier to rent, federal assistance favors the former.¹⁵ Even in states like Massachusetts where a broad eviction moratorium was imposed, renters who are unable to pay rent during the relevant period are still responsible for making back payments when the moratorium expires. This inequitable response to the COVID-19 crisis has created a ticking time bomb of anxiety for millions of renters who find themselves only temporarily protected from financial ruin and homelessness. While 94% of white renters in Massachusetts were confident that they could make all of some of their June rental payments, only 85% of non-white renters felt the same.¹⁶ As expanded federal unemployment insurance and other forms of assistance begin to expire in the fall, such anxiety may give way to irreparable devastation.

Beyond the monetary concerns, the living situations of non-white residents in Massachusetts are also likelier to be crowded, thereby creating a higher potential for spread of the COVID-19 virus.¹⁷ Indeed, a study conducted by The Boston Foundation and the University of Massachusetts Donahue Institute finds that cities and towns with larger communities of color, more crowded homes, and more frontline workers each have higher COVID-19 rates.¹⁸ The same study found that crowding correlates with COVID-19 rates much more closely than does population density and ties such crowding to the exorbitant cost of housing in Greater Boston.¹⁹

Inequities in housing have existed in the United States throughout our history and in fact have been purposefully promulgated by the federal government on racial and ethnic lines through discriminatory policies and preferences. The Fair Housing Act, passed as Title VIII of the Civil Rights Act of 1968 and amended in 1988, sought to correct for those inequities by creating causes of action for discrimination in housing on the bases of race, color, national origin, sex, religion, familial status, and disability.²⁰ The Act also required that the federal government affirmatively further fair housing.²¹ However, in the midst of the COVID-19 crisis, the U.S. Department of Housing and Urban Development (HUD) rescinded the Affirmatively Furthering Fair Housing (AFFH) regulation originally promulgated in 2015 to meet that requirement.²² Fair housing advocates like the National Low Income Housing Coalition (NLIHC) have condemned the action, accusing the federal government of “undermining fair housing... during a time of racial reckoning.”²³

Conclusion

Workers and residents of color in the Commonwealth are likeliest to acquire COVID-19, to be frontline workers, to be in close proximity with others at work and at home, and to have the least access to quality healthcare, justice,

¹⁴ 15 U.S.C. §§ 9056-58.

¹⁵ Taylor Miller Thomas, *Coronavirus relief favors white households, leaving many people of color at risk of being evicted*, Politico (Aug. 7, 2020), <https://www.politico.com/news/2020/08/07/coronavirus-relief-racial-eviction-392570>.

¹⁶ Callie Clark and Tom Hopper., *Housing Stability: COVID-19 and Beyond*, Boston Found. (June 23, 2020), <https://www.tbf.org/news-and-insights/reports/2020/june/greater-boston-housing-report-2020-housing-security>.

¹⁷ Mark Melnik and Abby Raisz, *Racial Equity in Hous. in the Time of COVID-19*, Boston Found. (July 14, 2020), <https://www.tbf.org/news-and-insights/reports/2020/july/greater-boston-housing-report-card-2020-race-equity-covid>.

¹⁸ See id.

¹⁹ See id.

²⁰ 42 U.S.C. §§ 3601-19.

²¹ 42 U.S.C. § 3608(d).

²² Danielle Kurtzleben, *Seeking Suburban Votes, Trump To Repeal Rule Combating Racial Bias In Hous.*, NPR (July 21, 2020), <https://www.npr.org/2020/07/21/893471887/seeking-suburban-votes-trump-targets-rule-to-combat-racial-bias-in-housing>.

²³ *Trump Admin. Eliminates Affirmatively Furthering Fair Hous. Rule, NLIHC and other Advocs. Condemn Action, Rhetoric*, Memo to Members, Nat. Low Income. Hous. Coal. (July 27, 2020), <https://nlihc.org/resource/trump-administration-eliminates-affirmatively-furthering-fair-housing-rule-nlihc-and-other>.

and adequate public assistance. The Boston legal community must recognize the especially devastating effects of this pandemic on communities of color and explicitly address our efforts in the legal sphere to such particularly vulnerable populations.

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