

African Americans and Racial Disparities in the Criminal Justice System

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Abstract

Because African Americans have been historically treated unfairly in the United States' criminal justice system, many believe that justice is elusive for people of color. Indeed, there is racial bias in a court system that is supposed to be fair for all American citizens. And we must weigh these matters against some of the results and decisions made by judges and justices at the Federal and State levels. Therefore, "we-the-people" must try to fix an imbalance of justice when it comes to judicial rulings and as it negatively affects darker-skinned people. It all boils down to providing equal justice and representation to African Americans and other minorities in a criminal justice system that is bankrupt.

Introduction

African Americans have been historically treated unfairly in the criminal justice system in the United States. Early on in our colonial history, for example, African Americans were slaves on various plantations, particularly in the South, and had no real access to the federal and state courts. Indeed, black people could not serve on juries (or as jurors) during the inception of our different courts, nor could some testify against white Americans, even if they were a witness to a specific crime. Moreover, after the civil war, African Americans were routinely accused of "vagrancy," which was "the offense of a person not being able to prove at a given moment that he or she [was] employed."¹ Of course, *vagrancy* was "a new and flimsy concoction dredged up from legal obscurity at the end of the nineteenth century by the state legislatures of Alabama and other southern states."² Political historian Douglas A. Blackmon writes that:

It [vagrancy] was capriciously enforced by local [white] sheriffs and constables, adjudicated by mayors and public notaries, recorded haphazardly or not at all in court records, and, most tellingly in a time of massive unemployment among all southern men, [but] was reserved almost exclusively for black men.³

Unfortunately, many white Americans today, especially in southern states, refused to believe that African Americans can be targets of *discrimination* and *racism* in our criminal justice system. But it must be made abundantly clear that "the reason some innocent black men used to get convicted so often in the South, back before 1968, is that juries were all white, even in communities with 50 percent black populations."⁴ The fact that a countless number of African Americans are denied the right to serve on juries, to be sure, is racial discrimination in its purist form. This is to say that African Americans are routinely dismissed from jury pools because of their *ethnicity*. Why? Will we ever really know? It has also been argued, mostly by conservatives that there is no impediment for African Americans to serve as jurors today. But this is not entirely true. Nonetheless, according to political journalist Joan Biskupic, "the extent of racial disparities in jury pools nationwide is difficult to determine because few courts keep statistics on the race of jurors—in part, analysts say, to protect the courts from lawsuits."⁵ This disparity in jury pools, unfortunately, will not go away anytime soon.

Indeed, court battles over jury selections will continue to be an intractable problem or serious challenge for our American legal system—that is, until changes are made to ensure the method of choosing a jury is fairer and more equal.

Also, the fact that African Americans are “being overlooked for such public service is more than a fluke of a court lottery, [or] more than a personal slight.”⁶ In so many words, the elimination of African Americans from jury pools points out an egregious and serious weakness of the U.S. court system: African Americans and other minorities believe that white Americans are, perhaps, treated more fairly in the criminal justice system, as they have been, as mentioned, historically treated unjustly,⁷ especially when it comes to capital punishment or the death penalty. This is important to understand because many American citizens still support the death penalty, at 66 percent.⁸ However, capital punishment is “too random and arbitrary in its application.” More importantly “in a disturbing number of [court] cases”... a person’s skin color might make the difference in meting out punishment.⁹ Unfortunately, the courts have not helped with the jury pool issue, even though they should be about providing impartial justice for *everyone*.

Moreover, the rulings made by even the highest court “do not guarantee racially representative juries only that not “systematic exclusion” of any distinct group occurs.”¹⁰ But when “systematic exclusion” *does* occur, as evidenced by unequal jury pools in mostly southern states, like Florida and Texas, it often eliminates potential black jurors—for no good reason.¹¹ Or so it seems. Even the Supreme Court is almost loath to do *anything* about how African Americans and other minorities are being routinely excused or eliminated from certain jury pools, throughout the country, because of race. Furthermore, as the U.S. Constitution stipulates, we should be judged by members of our peers. But what *exactly* does it mean to be judged by members of our peers? Does it mean that a defendant must be a member of the same racial or ethnic group, or socio-economic status—or something else? What it should mean is: African Americans and other minorities should be summoned to jury duty and placed on juries that match the percentage of African Americans and other minorities in their respective jurisdictions,¹² not just selecting all-white juries, which is common in many American trials. Finally, the American “justice system is unjust,” because “racism remains pernicious and entrenched” in the United States,¹³ particularly in the way black men are judged and treated.

Cruel and Unusual Punishment

No matter how much we present evidence to the contrary, some white Americans believe that *racism* is a thing of the past, and that our criminal justice system is indeed fair and impartial to *everyone*. But nothing could be further from the truth. Indeed, “young black men have been put on notice that they can be executed for walking down the street in any area where they aren’t personally known to every last paranoiac,”¹⁴ as evidenced by the mostly all-white jury’s acquittal of armed vigilante George Zimmerman, who killed the unarmed black juvenile Trayvon Martin in Florida.¹⁵ As the former executive director of the National Black Police Officers Association plainly states, “Race has something to do with everything”¹⁶ in law enforcement, especially in a white, male-dominated system. Hampton also takes his astute comments a step further by suggesting:

When a person of color or a woman goes to work in a police institution where there is a white male culture and value system, they [too] end up carrying out racist policies and practices.¹⁷

Meanwhile, African Americans continue to be unfairly and unjustly targeted by white authority and law enforcement officials for punishment, even the death penalty. For example, the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) are conducting “sting operations” to capture dangerous criminals, but they are routinely ensnaring small-time racial minorities—blacks and Hispanic crooks, who “jumped at the chance to score hundreds of thousands of dollars’ worth of drugs.”¹⁸ But we must ask: Is this really unfair targeting of racial minorities since the people arrested are criminals anyway?

Moreover, does this mean that all African Americans and other minorities locked-up are victims and innocent? Absolutely not. Some law-breakers are some of the worst criminals the country has ever known, and they should be punished and imprisoned. Indeed, “extreme penalties are necessary in extreme cases.”¹⁹ But what about the *innocent* black person or other minorities, accused in capital punishment cases, who receive the death penalty, or longer, stiffer prison sentences, because they are “too poor to hire their own lawyers,” or the Dream (Legal) Team, “relying instead on mostly the inadequate counsel of the court appointed attorney.”²⁰ No doubt, African Americans are more likely to get life imprisonment, or a black person is “much more likely than a white” to receive the death penalty.²¹ In point of fact, blacks and Hispanics “account for 56% of death-row inmates and 42% of executions.”²² But it also should be pointed out that “there is little evidence that capital punishment acts as an effective deterrent to violent crime.”²³ So we must question the *efficacy* of even having such final and irreversible decisions/sentences.

Equally important, many African Americans are arrested at a greater rate (or extent) for actually committing some of the same type of crimes as many white Americans. For example, “African-Americans are more likely to be arrested for marijuana possession than whites, even though studies have repeatedly shown that the two groups use the drug at similar rates.”²⁴ In the final analysis, and on a national level:

African-Americans are nearly four times as likely to be arrested for marijuana possession as whites. The disparity is even more pronounced in some states, including Illinois, Iowa and Minnesota, where African-Americans are about eight times as likely to be arrested. And in some counties around the country, blacks are 10, 15 or even 30 times as likely to be arrested.²⁵

The obvious question is why these criminal or racial discrepancies are happening in the first place? Is it because black criminals are worse than white criminals? Or is it really because they (black males in particular) are demonized by the media as animalistic, thugs, gang-bangers, crack-dealing killers, or “overpowering super human predators?”²⁶ The fact of the matter is, black criminals, especially *if* and *when* they commit identical crimes, should be given the same prosecution consideration and punishment as white criminals, regardless of the specific circumstances.

Additionally, certain racial stereotypes about black people shouldn’t be cited or used to justify the wrong actions of law enforcement officials or police authorities. But we should consider other racial discrepancies in the criminal justice system, especially given that “black defendants continue to receive slightly longer federal sentences under a system that [is] supposed to do away with racial disparity.”²⁷ Moreover, it should be pointed out that some white Americans automatically and wrongly assume that African Americans are predominantly crack cocaine users. This is not true, because mostly white Americans are the biggest users of crack cocaine and the affluent “power form of the illegal drug,” according to a *Crisis Magazine* report in 1996, citing work done at the *Sentencing Project*.²⁸ But African Americans “are charged more often with crimes involving crack cocaine.”²⁹ Furthermore, in 1998, according to government statistics, and journalist DeWayne Wickham, “74% of powder cocaine users” were white Americans, whereas only 13% were Hispanics and 12% blacks.³⁰ Nonetheless, “blacks were 31% of those who ended up in federal prison for selling powder cocaine, Hispanics 49% and whites only 19%.”³¹

If this racial disparity isn’t criminally unjust, what *exactly* is? And why do we allow this injustice to happen in a nation that prides itself on equality and justice for all? Apparently, “there is good reason to believe that the scales of justice are out of balance,”³² in regards to cocaine penalties. Fortunately, President Obama signed a bill from Congress in 2010 that reduced “the disparity between federal mandatory sentences for convictions for crack” and the powder form of cocaine.³³ In other words, the bill altered “a 1986 law, under which a person convicted of crack cocaine possession gets the same mandatory prison term as someone with 100 times the same of powder cocaine.”³⁴ Unfortunately, this particular law does not solve the long, inequitable sentencing of minorities who are summarily arrested for possession of the violent drug.

Furthermore, as most of the world probably knows, the United States lock-up more people (particularly minorities at a disproportionate rate) than any other nation, even more than China, which has the largest human population on the planet. According to the Justice Department, our “nation’s prison and jail population in mid-2004 stood at 2.1 million, [or] a slight increase of 2.3 percent” from 2003.³⁵ And while some criminal records assert that “the national incarceration rate has slowed,”³⁶ this assumption is not entirely accurate, as we will discuss later. The question is: Who exactly are we going to incarcerate in the United States—just predominantly African Americans and Hispanics? And why are we building more prisons—to warehouse or lock up *only* minorities? A 2000 report by the Leadership Conference on Civil Rights asserts that:

Blacks and Hispanics are disproportionately targeted by police, unfairly victimized by “racially skewed” charging and plea bargaining decisions by prosecutors, given harsher sentences by judges and deeply impacted by “get tough” crime policies enacted by lawmakers.³⁷

Are such actions cruel and unusual punishment? Additionally, when did building prisons, by private firms become such big business? The reality is, these many private prisons are not being built for *nothing*, even if they are constructed by the federal or state governments, or private businesses. Clearly, if private corporations built our prisons, our governments and tax dollars will probably end up paying the bill. Although many state governments in our nation believe that “private prisons should play only a limited role,” 85,000 of the millions of “prison beds nationwide [are] provided by private firms.”³⁸ So is this the shape of things to come—that is, will private conglomerates seriously be in the future business of building more private prisons—to make a profit?

In deference to this notion, African Americans and Hispanics (or low-income people of color) are the target populations for imprisonment or incarceration in the future, as they are “likely to be in prison at some time in their lives,”³⁹ because of the racial disparity in the criminal justice system.

Therefore, the truth about the racial disparities in the criminal justice system must be told, which can be particularly devastating for poor minorities. It should also make us question whether private prisons are really the answer to our incarceration woes, given that we have serious overcrowding in many of our state prisons, like in California. Journalist Joan Biskupic writes that the prison population in California “at one point was 156,000, nearly double the number that buildings were designed to hold.”⁴⁰ Accordingly, the U.S. Supreme Court declared that the prison overcrowding in California, unconstitutional and “upheld an order by a 5-4 vote that could force the transfer or release of more than 30,000 convicted felons.”⁴¹ This is important to point out, because “violence and disorder inside a number of institutions have raised serious questions” about the private prison’s “management abilities and their profit-making approach” to operating a prison for long-term incarceration.⁴² All in all, as the president and Chief Executive Officer of the National Urban League has pointed out: “Many in America just can’t seem to give up the idea that a blanket, and simplistic, get tough and lock-‘em-up-for-as-long-as-possible response to the problem of crime is all that’s needed.”⁴³ But this harsh attitude toward policing minorities is no solution at all, given the profound, negative consequences.

Recidivism and Rehabilitation

Unfortunately, some Americans believe that all prisoners should be treated horribly while incarcerated, maybe even fed bread and water, while being possibly abused, or left to rot in their small cells. But such “wretched living conditions will not help with rehabilitation.”⁴⁴ Indeed, our broken prison system, in some states, can be deplorable. Moreover, there are those who would take away the little entertainment and personal accoutrements most prisoners already have in lock-up, like access to exercise equipment, technical training, and educational opportunities. Eliminating such prison activities, however, would be a disservice to the prisoner, because like a caged animal (to use the analogy), he or she might strike out, committing terrible crimes, or wreaking havoc on society at large, upon release from incarceration. So is this truly what Americans want? Probably not. After all, “many first-timers (convicts) are sent to over-crowded, violent prisons, [but] they leave there damaged and handicapped by the [prison] system.”⁴⁵ Simply put, many prisoners will not be locked up forever, even with the high event of recidivism.

Recidivism, of course, means that some ex-convicts will relapse into criminal activity and “return to prisons after they are release,” because we are not really trying “to rehabilitate prisoners and restore them as productive members of society.”⁴⁶ No doubt, this is a mistake, especially as it concerns blacks and other minority groups caught up in the criminal justice system. One-time boxing champion Rubin “Hurricane” Carter, an innocent black man, who “spent 20 years in a New Jersey prison for a 1996 triple murder he didn’t commit” once wrote:

The vast majority of prison inmates are going to return to society. They don’t need to be brutalized, they don’t need to be humiliated, they don’t need to be made so low that they come out as raving maniacs. But that’s what prison does to you. So people who commit crimes against other people need help, serious help. But then this whole society needs help.⁴⁷

When it is all said and done, we must certainly denounce the habitual black or minority criminal, but we must also consider that our society essentially created many of these outlaw individuals, from my perspective, such derelicts and human monsters. Hence, this is why the concept of rehabilitation is so important. But having proactive rehabilitation in our prisons in the United States is mostly lip service. According to Carter, “there is nothing rehabilitative about prison.” He goes on to state that, “Prison is the lowest level a human being can exist at without being dead.”⁴⁸ But for some, prison is much more preferable than death. Therefore, “in-prison rehabilitation programs, by raising inmates’ job and educational skills, [might] improve their chances of going straight once on the outside.”⁴⁹ Furthermore, restoring the ex-convicts’ voting rights, in every state, might also help in reforming the hardened ex-convict or former prisoner. Disparities in our criminal justice system, as already mentioned, and “disenfranchising ex-convicts is [actually] counter-productive as a matter of criminal policy.”⁵⁰

Therefore, once the convict has served his or her time in prison, they should be able to vote, to participate in our political system, no matter the circumstances. To be sure, ex-convicts are human beings; and they are still American citizens too.

Put another way, the 15th Amendment to the U.S. Constitution does not say that ex-convicts should lose their right to vote because they spent time incarcerated. After all, didn't ex-convicts pay their debt to society? Americans must understand that disenfranchising ex-convicts started with white southerners, after the Civil War, to stop, *interdict* and limit the political power or clout of former black slaves. Of course, states have the responsibility of conducting elections; but denying *any* American citizen their right to vote, especially today, says something about the current, contentious state of American politics. The question is: Why has the disenfranchisement of some ex-convicts carried over to the twenty-first century? For example, ex-convicts who had their rights restored were not even allowed to vote in the 2000 presidential election, as they were purged from the voting rolls in Florida.

Ultimately, restoring the ex-convict's right to vote would definitely say something positive about the true civility of our society. It would also make the ex-convict a part of the overall community again, restoring some of the dignity lost to them by long periods of imprisonment. Professor of law, David Cole asserts that ex-convicts "who feel connected to their communities are much less likely to commit crimes than those without community ties."⁵¹ And voting is an essential part of this connection to *any* community. Moreover, the ex-convict shouldn't be demoralized or considered less than a human being, regardless of their race or ethnic group, because he or she might react negatively toward society, with a "devil-may-care" attitude, especially if their survival instincts kick in. Indeed, many might feel that they have nothing else to lose, when committing a crime. In essence, ex-convicts need all of our help, not just our condemnation, ridicule or ostracism. As mentioned, if those released from prison are not given consideration, or support, many will end up incarcerated again. Toward this end, it should be noted that ex-convicts, unfortunately, "are arrested for committing another serious crime within three years; [and] 25 percent end up being sent back to prison."⁵² Therefore, providing tangible support and training to ex-convicts shouldn't be a difficult proposition, or endeavor.

The Death Penalty

As briefly discussed, we should also consider the racial disparities in terms of implementation of the death penalty. Indeed, why are African Americans "far more likely than whites to receive death sentences?"⁵³ Or put more simply, why are more African Americans sentenced to death at the state and national levels? The obvious question is whether capital punishment is being applied fairly. Or what are the specific motives of the United States government to seek "the most severe penalty possible: the irrevocable sentence of death?"⁵⁴ In 1996, for example, "66 percent of the federal death prosecutions [were] brought against African Americans."⁵⁵ Equally important, the Justice Department seeks the federal death penalty in states that support capital punishment, where there is a higher concentration or population of African Americans.⁵⁶ Such prosecutions on the part of our federal government is deplorable, because our courts "should not be using the awesome power of the federal death penalty almost exclusively against minorities,"⁵⁷ especially African Americans.

Furthermore, what gives our governments the moral right to take anyone's life? Moreover, if the death penalty (or the ultimate punishment) is arbitrary and not an effective deterrent to serious crime, shouldn't it be abandoned? Unfortunately, the majority of Americans today favor the death penalty. However, in 1972, the U.S. Supreme Court moved forward in declaring that the death penalty had no place in civilized society. Nonetheless, the U.S. Supreme Court reversed that decision, and did an about-face in 1987 by ruling that the death penalty "was constitutional despite figures indicating that killers of whites were far more likely to be sentenced to death?"⁵⁸ Even former U.S. Supreme Court Justice Sandra Day O'Connor admitted that the death penalty can sometimes be applied unfairly, and that some innocent minority defendants are sent to *death row* because of a "lack of funds for adequate defenses and that prosecutors have inconsistent standards for seeking the death penalty."⁵⁹

Furthermore, how can *anyone* support the death penalty, knowing something of the lawlessness and racial disparities in the American criminal justice system? We should be nonplussed in regards to this issue. Indeed, there are "public defenders who fail to perform even the most basic duties in court."⁶⁰ Moreover, there are "indifferent judges, cowardly public officials, and an absurdly rigid system which honors the letter of the rules over actual justice."⁶¹ The American people also shouldn't take it for granted that *everything* goes on justly in our criminal justice system, nor must we ignore prosecutorial misconduct, or condone the overzealousness of some prosecutors in their pursuit to lock people up (or send people to their deaths). Sometimes prosecutors think only of their own political ambitions, while proclaiming how tough they can be in fighting crime. But there can be profound, negative consequences when prosecutors wrongly involve themselves in the conviction of *innocent* minorities. During a 2010 investigation by *USA Today*, there were:

201 (documented) criminal cases in which federal judges found that prosecutors had violated ethics rules or laws. Judges caught some prosecutors hiding evidence or breaking plea bargains. In some cases, innocent people were imprisoned. Even when defendants were released or exonerated, some lost livelihoods and reputations.⁶²

Perhaps it (is or) might be easy for some prosecutors to act without thinking of the devastating consequences of their unfair actions, particularly concerning minorities, like suppressing evidence that might clear an innocent man. But the failure of prosecutors and ineffective court appointed attorney should never be accepted. As Rubin “Hurricane” Carter tells us: “There are many people in prison today who find themselves standing on the wrong side of the law, not because they went astray, but because the law, having been placed in the wrong hands, strayed from the right path.”⁶³ Indeed, many *innocent* African Americans go through the real, frightening, humiliating and painful experience of the American Court system, which is still a bastion of racism; and made-up predominantly of white males. Consequently, in 2010 two black men, Ronald Taylor and George Gould spent 16 years in prison for a crime they didn’t commit, which was the 1993 slaying of “a New Haven store owner.”⁶⁴ Fortunately, their convictions were overturned when DNA evidence proved their innocence, and a star witness recanted her testimony.⁶⁵ What exactly, then, should happen to prosecutors when they are responsible for an innocent person being convicted of a crime he or she didn’t commit? This question, of course, is a fundamental issue that should be seriously addressed. Unfortunately, according to journalists Brad Heath and Kevin McCoy, “one reason [prosecutorial] violations may go undetected is that only a small fraction of criminal cases ever get the scrutiny of trial, the process most likely to identify misconduct.”⁶⁶ Finally, it should be acknowledged that “prosecutors are supposed to seek justice, not merely score convictions.”⁶⁷

Conclusion

Contrary to the assertion that all African Americans are guilty of *something*, if they are arrested, is ridiculous. More importantly, “the prospect that innocent [black] people will be executed in America”⁶⁸ should never be tolerated, as it is a horrifying proposition, especially as minority citizens might view this matter. In addition, “we-the-people” should never accept the notion that mistakes will be invariably made in our criminal justice system, particularly when even one innocent person is put to death by our governments. There are even those who would strongly argue that “the federal death penalty laws are being fairly applied without regard to the racial background of the defendants and without any discriminatory intent.”⁶⁹ But such notions are wrong. For example, the most important fact that supporters of the death penalty fail to mention is that many public defenders are mostly mediocre, if not incompetent,⁷⁰ which might lead to the wrongful prosecution, as earlier discussed, of innocent minority defendants.

An NAACP Legal Defense fund study found that “eighty-two percent of those executed between 1977 and 1998 had been charged with murdering a white person,”⁷¹ so this will always be a serious racial issue. Furthermore, the appeals process should never be limited to the inmate if it isn’t frivolous. This is significant to note because many death row inmates have had their convictions overturned in the appeals process.⁷² The reversal of many death penalty convictions has also been because of the rush to judgment by prosecutors. Indeed, it should be pointed out that in recent years, “several death penalty convictions [have been] called into question after it revealed that defense lawyers... slept during trials.”⁷³ More significantly, many “guilty verdicts have been based on false testimony from jailhouse snitches and misconduct by prosecutors and police [that] tainted some cases.”⁷⁴ Such reckless behavior, and multiple layers of injustice, has sent the innocent to prison, while letting the guilty go free and discrediting the U.S. criminal justice system.⁷⁵ In this respect, American citizens should always be concerned about wrongfully convicting and incarcerating an innocent minority person, because our justice system can do better. It is also unforgivable that some of our courts allow such misconduct on the part of prosecutors, especially when the death penalty is involved.

And what about the expert legal help that such black defendants need? Or should we consider the *underlying* reason why a person commit a violent crime in the first place? If our criminal justice system just want to lock-up African Americans and other minorities and put them to death, we should acknowledge that the death penalty hasn’t been an effective solution or deterrent to heinous crimes. Some opponents believe that the death penalty is “cruel and unusual” punishment, because “states used it in arbitrary and capricious ways,”⁷⁶ particularly when it concerns people of color. Carter reminds us finally that: “Any country that maintains the acronym of the death penalty is, by that very fact, an uncivilized society. It’s abominable that in this day and age we still kill our own citizens.”⁷⁷

The death penalty, therefore, hasn't definitively solved *any* of our social or criminal justice problems. Thus, Americans should agree "to suspend the death penalty because our governments continue to make mistakes, sending people to *death row* and ultimately their deaths."⁷⁸ This would be the *moral* and *right* thing to do if Americans believe in the principles of a free, just and civilized nation. And as a nation, we should stop locking-up minorities for non-violent offenses, or less serious crimes, or minor drug possession charges. Wade Henderson, executive director of the Leadership Conference tells us that "the biased mistreatment of racial minorities in the criminal justice system is one of the most profound civil rights crises facing America in the new century."⁷⁹ So this issue has continuing significance for the future.

Another question we should ask in regards to this issue is whether members of the dominant group are fairly prosecuted in our criminal justice system, especially in proportion to a particular community's minority population. White males, for example, commit a disproportionate number of white collar crimes, but many are not even considered criminals or ex-convicts after being released from prison, like Martha Stewart, to name just one white person and ex-convict. And as pointed out previously in this work, we must also question why African Americans are routinely locked up for certain crimes, while white criminals are most often given probation.⁸⁰ In this regard, police officers and law enforcement officials "are targeting black citizens and black neighborhoods [and] turning a comparatively blind eye to the same conduct occurring at the same rates in many white communities."⁸¹ Historically, as professor Anne-Marie Cusac writes:

Even as penitentiaries... rose in the south, the southern states maintained legal systems that inflicted corporal pain on [black] slaves for behaviors that were not crimes when committed by white people.⁸²

Unfortunately, such unfairness or racial disparities in the criminal justice system has been carried over into the 21st century, and still prevail today in the United States, as they did in the 1800s.⁸³ In order to reduce the risk of innocent minority defendants being locked-up, racially profiled, tortured and executed in our society, or even providing a fair jury pool, Americans must demand that our Congress pass a cogent bill to ensure fairness in selecting juries, as well as "improve payments to public defense lawyers in death penalty cases and to require states and the federal government to make DNA testing available to convicts, no matter the circumstances."⁸⁴ Finally, in order to correct some of the racial disparity problems in the United States—in terms of our criminal justice system—there should be more minority judges and justices, who can perhaps empathize with poor minorities and African American defendants. Unfortunately, darker-skinned people feel racial injustice by virtue of being born. And "regardless of laws in individual states," and as posited recently in the *New York Times*:

Federal officials and local police departments need to abandon policies that evaluate officers based on numerical arrest goals, which encourage petty arrests, along with illegal stops that violate the Fourth Amendment.⁸⁵

Notes

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 2. *Ibid*, 1.
 3. *Ibid*, 1. In no uncertain terms, *vagrancy* was very much like quasi-slavery, or a new kind of black slavery.
 4. Vin Suprynowicz, "They're not subject to majority vote," *Las Vegas Review Journal*, July 25, 1999, 2E.
 5. Joan Biskupic, "The push is on for more diverse juries," *USA Today*, August 28, 2001, 8A.
 6. *Ibid*, 1A.
 7. *Ibid*, 1A.
 8. "Executions: Dead man walking out," *The Economist*, June 10, 2000, 21.
 9. Christopher McDougall, "Death penalty, debate endure under 20-year-old judgment," *Las Vegas Review Journal*, July 2, 1996, 4E.
 10. Biskupic, "The push is on," 8A.
 11. *Ibid*, 8A.
 12. *Ibid*, 8A.
 13. "How they see us: A racist nation of vigilantes," *The Week*, July 26, 2013, 14.
 14. *Ibid*, 14.
 15. *Ibid*, 14.
 16. "Taped beating not seen by all as race issue," *Las Vegas Review Journal*, Jul 16, 2000, 9A.
 17. *Ibid*, 9A.
 18. Brad Heath, "Do ATF stings target minorities?" *USA Today*, August 2, 2013, 3A.

19. McDougall, "Death penalty," 4E.
20. Ken Armstrong and Steve Mills, "O'Connor rethinks executions," *Las Vegas Review Journal*, July 4, 2001, 18A.
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22. Ibid, 21.
23. Ibid, 21.
24. "Racially Biased Arrests for Pot," *The New York Times*, June 16, 2013, 10.
25. Ibid, 10.
26. "Taped beating," 9A.
27. Mary Pat Flaherty and William Casey, "Blacks receive more time for same crimes," *Las Vegas Review Journal*, October 9, 1996, 1A.
28. Malaika Horne, "Race and the Criminal Justice System," *Crisis*, January 1996, 12 and 14. Horne tells us that there was a 90% conviction rate for blacks arrested for crack cocaine, but only 3.5 white convictions for being busted for crack cocaine.
29. "Obama signs off on cocaine-disparity law," *USA Today*, August 4, 2010, 5A.
30. DeWayne Wickham, "Gore view falls short on cocaine disparity," *USA Today*, November 23, 1999, 19A.
31. Ibid, 19A.
32. Ibid, 19A.
33. "Obama Signs off."
34. "Congress closes gap in cocaine penalties," from The Associated Press in *USA Today*, July 29, 2010, 5A.
35. Marc H. Morial, "America's misguided response to crime," *Las Vegas Review Journal*, April 29, 2005, 11b. See Nicholas Kristof, "Help thy neighbor and go to prison," *Las Vegas Sun*, August 18, 2013, 6. According to *New York Times* columnist Nicholas Kristof, "With less than 5 percent of the world's population, the United States has almost one-quarter of the world's prisoners." Therefore, "we have invested in mass incarceration in ways that are crushingly expensive, break up families and are often simply cruel."
36. Ibid, 11b.
37. "Report eyes racial disparities," *Las Vegas Review Journal*, May 4, 2000, 2A.
38. Peter Slevin, "The Missing Profits in Private Prisons," *The Washington Post*, National Weekly Edition, February 26 – March 4, 2001, 29.
39. Morial, "America's misguided," 11b.
40. Joan Biskupic, "Prison crowding is unconstitutional," *USA Today*, May 24, 2011, 3A.
41. Ibid, 3A.
42. Slevin, "The Missing Profits," 29.
43. Morial, "America's misguided," 11b.
44. "Jail broken: 5 ways to fix USA's prisons," *USA Today*, July 14, 2011, 7A.
45. Ibid, 7A.
46. Ibid, 7A.
47. Samuel Hine, "Talking with the Hurricane," *The Plough Reader*, April – May 2000, 6-7.
48. Ibid, 6.
49. Morial, "America's misguided," 11b.
50. David Cole, "Denying felons vote hurts them, society," *USA Today*, February 3, 2000, 17A.
51. Ibid, 17A. Cole also tells us that "crime is so much higher in anonymous inner-city setting than in equally impoverished rural communities."
52. Morial, "America's misguided," 11b.
53. Richard Willing, "Support for the death penalty might be declining," *USA Today*, December 14-16, 2001.
54. William D. Matthewman, "Congress must investigate death penalty abuses," *Las Vegas Review Journal*, March 19, 1996, 5B.
55. Ibid, 5B.
56. Richard Willing, "Death penalty policies examined," *USA Today*, September 5, 2000, 3A.
57. Matthewman, "Congress must investigate," 5B.
58. Andrew Welsh-Huggins, "Race found to play role in Ohio capital cases," *Las Vegas Review Journal*, May 8, 2005, 18A.
59. Warren Cohen, "Putting a hold on executions," *U.S. News & World Report*, May 31, 1999, 29. See also Ken Armstrong and Steve Mills, "O'Connor rethinks executions," 18A.
60. "The death penalty: Theirs but to do and die," *The Economist*, May 1, 2010, 85.
61. Ibid, 85.
62. "When prosecutors go astray, justice takes a beating," *USA Today*, October 8, 2010, 8A. See also Brad Heath, "Locked up but Innocent?" *USA Today*, June 14, 2012, 1A and 5A.
63. Hine, "Talking with the Hurricane," 4-5.
64. Stephanie Reitz, "Two released after witness recants," *Las Vegas Review Journal*, April 2, 2010, 13A.
65. Ibid, 13A.
66. Brad Heath and Kevin McCoy, "Prosecutors' conduct can tip the scales," *USA Today*, September 23, 2010, 10A.
67. Ibid, 10A. Heath and McCoy go on to write that "prosecutors, at worst, [make mistakes], even when judges who presided over the trials ruled that there was serious misconduct," 11A.
68. Alan Berlow, "The Wrong Man," *The Atlantic Monthly*, November 1999, 66.
69. Matthewman, "Congress must investigate," 5b.
70. Berlow, "The Wrong Man," 66.
71. Cohen, "Putting a hold on executions," 25.
72. Fox Butterfield, "Death Sentences Being Over-turned in 2 of 3 Appeals," *The New York Times*, June 12, 2000, A1.

73. Toni Locy, "Push to reform death penalty growing," *USA Today*, February 20, 2001, 5A. Because of the incompetence of prosecutors, Walter McMillian, a black man was wrongly convicted and sentenced to death in Alabama for the death of a white, eighteen-year-old college student. Fortunately, McMillian was later exonerated and released, because of DNA evidence. See Arlene Levinson, "Not guilty death row inmates the system's worst nightmare," *Las Vegas Review Journal*, November 8, 1998, 26A and 27A.
74. *Ibid*, 26A and 27A.
75. Heath and McCoy, "Prosecutors' conduct," 1A.
76. Arlene Levinson, "Not guilty death row inmates the system's worst nightmare," *Las Vegas Review Journal*, November 8, 1998, 27A.
77. Hine, "Talking with the Hurricane," 5.
78. Richard Willing, "Death penalty advocates join call for moratorium," *USA Today*, May 16, 2000, 12A.
79. "Report eyes racial disparities," 2A.
80. Horne, "Race and the Criminal Justice System," 11.
81. "Racially Biased Arrests," 10.
82. Anne-Marie Cusac, *Cruel and Unusual: The Culture of Punishment in America* (New Haven & London: Yale University Press, 2009), 75.
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