

RACISM IN THE CRIMINAL JUSTICE SYSTEM

By

Nichole Griffith

Advised by

Professor Chris Bickel

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Senior Project

Social Sciences Department

College of Liberal Arts

CALIFORNIA POLYTECHNIC STATE UNIVERSITY

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Research Proposal

The goal of my research is to expose the racism in the criminal justice system that is so hidden. I want to show how racism contributes to the huge number of incarcerated African Americans. The criminal justice system creates and perpetuates racial hierarchy in the United States, and has done so throughout history. African Americans are criminalized and targeted because of their skin color. I want to look at the Reagan administration, the War on Drugs, corrupt police practices, media, inner city enforcement, police discretion, racial profiling, and sentencing to reveal this racism and unfair treatment of African Americans.

I will be using graphs, peer reviewed articles, the web, images, Sociological lectures, and academic books for my research.

Annotated Bibliography

Alexander, M. (2010). *The New Jim Crow*. New York: The New Press. Michelle Alexander does a great job of analyzing why there is mass incarceration in the US. She examines how the massive amounts of African Americans locked up today are victims of discrimination and have a second class citizenship like their grandparents did. She sees a definite link between slavery, Jim Crow segregation, and the current mass incarceration. I will be showing this link in my research. Her argument contributes greatly to mine in that there is a lot of racial profiling, and how there is lifelong discrimination even when released. I will use her evidence to show sentencing is racist as well.

Alto Arizona Campaign. (2012). History of racist US laws. Retrieved March 11, 2012 from Altoarizona.com. This site provides many laws that have been passed throughout United States history that were racist, focusing on African Americans. They have many graphics which I believe will be useful in showing graphically the similarities of the convict leasing system and convict labor today.

Austin and Irwin. (2001). *It's About Time*. Belmont: Wadsworth. They examine how our prison system is exploding. They refer to it as "Americas growing correctional industrial complex." They look at the politics that instilled fear in people during the Reagan and Bush administration. They highlight the cost of the imprisonment binge and realize how nothing has been accomplished by it. I will be using their statistics to show the growing African American imprisonment population over the years. Also, I will use their information on usage of crack cocaine to lock up inner city residents.

Bickel, C. (2012). *The Drug War and Plantations to Prisons*. Cal Poly, Lecture. San Luis Obispo, CA. This lecture discusses how drug scares have always been connected with race, and it also looks into detail the incarceration rates in the United States. It becomes clear that the typical drug user (whites) were not the target of the Drug War. I will be using his statistics to show that African Americans constitute a percentage of the prison population not matching their usage rates. I will also be using his statistics on who gets the death penalty to show sentencing is racist.

Brazil, J. (1992). *Color of Driver Is Key to Stops in I-95 Videos*, Orlando Sentinel. Retrieved February 9, 2012 from www.academic.udayton.edu. This is a great example of racial profiling by highway patrol. A huge number of African Americans are stopped even though they make up the minority of drivers and those with drugs. It shows how the image of the African American drug user/dealer impacts stops on the freeway.

Bureau of Justice Statistics. (2011). *Prisoners in 2010*. U.S. Department of Justice. Washington, DC: U.S. Government Printing Office. This source gives data from the National Prisoner Statistics on prisoners under the jurisdiction of federal and state correctional authorities. It is relatively recent data because the statistics were collected December 31, 2010. The information will be useful because it presents data on the differences between African American and white prison populations for that year, obviously showing a huge disparity.

Burton, N. (2010). *BP Using Prison Labor in Oil Spill Cleanup*. Retrieved March 11, 2012 from louisianaprisonwatch.com. This article explains how Louisiana prisoners were used in cleaning

up the massive oil spill that happened off the coast. It relates a lot to the convict leasing system that was exacted after slavery. I will be using the graphics to show the relation.

Corporation for National and Community Service. (2011). Rev. Dr. Martin Luther King, Jr. Quotes. Retrieved January 15, 2012 from www.mlkday.gov. This site has some great quotes by Martin Luther King Jr. There are inspirational ones about humanity. I will bring in a quote or two to encourage people to fight for what is right, regardless of one's skin color.

Davis, A.Y. (2003). *Are Prisons Obsolete?* Canada: Turnaround Publisher Services Ltd. Angela Davis strongly argues for the abolition of the current criminal justice system because of how gender structures it and how it has become a prison industrial complex. She shows how super-max prisons isolate mainly African Americans, and how slavery is linked to the system today. I will use her ideas to support that the criminal justice system today is a system of slavery, and that super-max prisons is a severe form of racism.

Dieter, R. (1998). The death penalty in black and white. Retrieved February 5, 2012 from www.deathpenaltyinfo.org. This website uses Jeffrey Pokorak's research on death penalty decision makers. He highlights how the majority of them are white. I will use his research to support that unconscious bias or racism is used by these decision makers which impacts the number of African Americans in prison.

Glover, K. (2009). *Racial Profiling*. Lanham: Rowman and Littlefield. Glover highlights people of color's experiences with law enforcement and racial profiling. When they show power through knowledge, police are weary of ticketing because it is documentation of racial profiling. He explains how people of color have less freedom because of the racialized traffic stops. This article will be useful to explain how racial profiling is present and how African Americans can gain power through knowledge of how law works.

Grinnell, R. (2011). Frustration-Aggression Hypothesis. Retrieved January 14, 2012 from www.psychcentral.com. This is an encyclopedia of psychology that explains some of its studies and findings. I will be using the frustration aggression hypothesis in support of my argument that living in the inner cities is tough, and contributes to the high rates of incarcerated African Americans.

Human Rights Watch. (2008). Racial disparity in drug sentencing. *New York Times*. This image shows the ratios between the rates in which whites and African Americans were arrested for drugs. It strongly supports my argument that African Americans are targeted in the War on Drugs because African Americans were arrested at a much higher frequency.

MacAskill, Ewen. (2011). Oscar Grant Shooting. *The Guardian*. This article covers what happened when Oscar Grant was shot and the aftermath and ruling of the case. It shows how likely African American males are to be shot by police officers, which is corrupt.

Miller, J.G. (1996). *Search and Destroy*. New York: Cambridge University Press. Jerome Miller clearly sees the bias in the criminal justice system. He critiques the Reagan administration and the War on Drugs because it greatly contributed to the number of African Americans in prison

today. He also shows how the media played a huge role during the 80s and 90s and the contradicting statistics. His information on the life in the inner cities will be useful. I will use his research to support my argument of the huge role media, Reaganomics, and the War on drugs played in the racism we see today.

Mohamed and Fritsvold. (2010). *Dorm Room Dealers*. Boulder, CO: Lynne Rienner. Their research shows how there are more white drug users in colleges than African Americans. They explain how the white drug dealer is much safer while transporting drugs because the police's image of a drug dealer is African American. They show how drug related pretext stops are used mostly on African Americans. This will support my argument that police have incredible discretion and employ racial profiling that leads to many African Americans in prison.

Reiman, J. (2007). *The Rich Get Richer and the Poor Get Prison*. New York: Pearson. Jeffrey Reiman tries to show how media has been biased towards the poor and minority communities by highlighting their crimes while covering up white collar crime. Ignoring white collar crime has led to many injuries and deaths, but this is not news worthy. Media sustains the image of the African American criminal. This article will be useful in showing how the media has contributed to African Americans being defined as the criminals.

Ross and Richards. (2003). *Convict Criminology*. Belmont: Wadsworth. This article looks at mythmaking and links it to corrections. They look at the myths of the criminal justice system, who creates these myths, and how the myths are successful. I will be using their information to support my argument that the myths of African American cocaine usage were publicized by the media.

Shan, J. (2011). "Former NYPD Detective Stephen Anderson Says Drug Charges Often Fabricated by 'Flaking' of Innocent People to Meet Arrest Quotas." Retrieved February 29, 2012 from <http://hinterlandgazette.com>. This article covers flaking, which is planting drugs on innocent people. It also covers the testimony that exposed the corrupt practices of flaking. It explains how African Americans were more likely to be victims of flaking. This will help explain how police use corrupt practices to arrest African Americans.

Shelden, R. (2008). *Constructing the Dangerous Classes*. Boston: Allyn and Bacon. This is a history of imprisonment since the 1600s. What is significant is that it has always been used to control the dangerous. He gives a lot of information about convict labor and leasing and prison reform during the progressive era. He sees the warehousing and apartheid of the system today. I will be looking at how new laws passed (3 strikes and you're out) contribute to the racism we see today.

WGBH Educational Foundation. (2011). *Rampart Scandal Timeline*. Retrieved February 29, 2012 from <http://www.pbs.org>. This site goes over all the scandals that occurred during the Rampart Scandal involving LAPD. It also says the punishment each officer faced. I will be using the case where an African American officer was shot by a white officer because he looked like a gang member to show police corruption.

Whyte, A. (2000). Prison labor on the rise in US. Retrieved March 7, 2012 from <http://www.wsws.org>. This article looks at how using prisoners labor is rising rapidly. It examines the type of work they do, and how little they are paid for their hard work. It also looks at the similarities with the convict leasing system. This will help draw the link that massive incarceration today is another form of slavery from the past.

Wollstein, J. (1998). The Looting of America. Retrieved February 29, 2012 from <http://www.isil.org>. Jarrett Wollstein discusses civil asset forfeiture laws in which officers can take whatever the victim has when arresting for drugs. African Americans are targeted, especially in the inner cities, taking what little they have. This supports my argument that police use corrupt practices disadvantaging African Americans.

Outline

Introduction

Evidence of Racism in the Criminal Justice System

1. Reagan administration
2. War on Drugs
3. Corrupt police practices
4. Media
5. Inner city enforcement
6. Police discretion/Racial profiling
7. Sentencing

Lifelong Stigmatization

Link to history

1. Slavery
2. Jim Crow

Conclusion

In 2010, the Bureau of Justice Statistics found that in the United States an estimated 558,700 African American adults were incarcerated under state and federal jurisdiction. African American males had an imprisonment rate 3,059 per 100,000 while white males had a rate of 456 per 100,000 (Bureau of Justice Statistics). That is nearly seven times higher! If those rates reflected jail, probation and parole populations, the numbers would rise exponentially. An African American child born today has a 1 in 3 chance of ending up in prison (Shelden, 2008, p.182). However, African Americans only make up about 13% of the population in the United States. One must ask, why is there a disproportionate number of African American in the criminal justice system? The majority of Americans are unaware of mass incarceration and racism in the criminal justice system. When we think of racism, slavery and Jim Crow come to mind, but we do not think of the many African Americans locked up in prison today as a form of racism. Many assume that African Americans are more criminal. However, it is the criminal justice system that is responsible. The criminal justice system is racist and discriminates against African American males to ensure they are locked up in prison.

In this paper, I will be looking at different researchers viewpoints on the criminal justice system. It becomes evident that during Reagan's administration, a system was set up to ensure there would be plenty of prisons and cages to fill with people. The War on Drugs targeted African Americans as the typical drug user which led to many arrests. It also contributed to police using corrupt practices targeting African Americans. Media, such as newspapers and the news stations, defined the typical criminal as an African American male. The inner cities, where many African Americans live, have become targets for law enforcement. Police are given an incredible amount of discretion that leads to bias and racial profiling. When these targeted African Americans get sentenced, there is a whole new layer of racism. After released from their

long prison sentence, they face a society with no sympathy or support. The criminal justice system today looks a lot like slavery and Jim Crow. All these examples show how the criminal justice system creates and perpetuates racial hierarchy in the United States. As Jerome Miller puts it, “discrimination clearly plays a role in who gets a criminal record, who stays in jail, and who goes to prison” (Miller, 1996, p.56). This paper will be looking at this systematic racism in more detail.

Reagan Administration and Mass Incarceration

Ronald Reagan was president from 1981 to 1989 in which we see a drastic change in economic policy in the U.S., usually referred to as Reaganomics. Reaganomics called for tax cuts, increased military spending, decrease in social spending, and deregulation of markets. During this time, federal, state, and local funding of the criminal justice system exploded (Miller, 1996, p.2). Figure 1 below is a graph of the Criminal Justice System’s spending increases from 1982 to 1995 (Austin and Irwin, 2001). There is almost a 32% increase during this time period! In less than a decade, the prisons in California doubled (Davis, 2003, p.13). The media created a violent crime panic by over representing and sensationalizing African American crimes to support Reaganomics. However, the National Crime Survey (NCS) showed crime decreasing from 1981-1990 (Miller, 1996, p. 29). Harvard Professor James Wilson advocated for “...the wide expansion of aggressive law enforcement, stricter laws, harsher sentences, and building more prisons” that impacted the nation’s policies during this period (Miller, 1996, p.139). The Assistant Attorney General, Richard Abell, claimed that locking up an offender for a year saves \$405,000 in criminal activity (Miller, 1996, p.147). But the cost of incarcerating one person is between \$50,000 and \$60,000 per year depending on the state. That costs taxpayers over \$63 billion per year (Teichner, 2012). How could so much money be saved by locking people up if crime was

actually decreasing? Unaware of the facts, support for Reaganomics grew, and so did prison populations as a result.

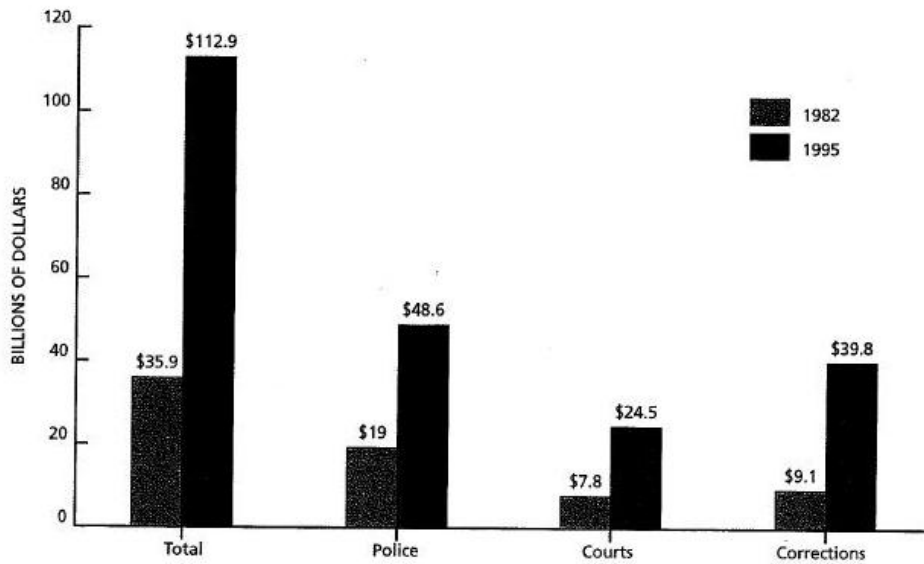


Figure #1

Criminal Justice System Expenditures, 1982 to 1995

Massive amounts of the Administration’s funding went towards researching better ways to identify and catch the “criminal.” The target was not the white, middle class male.

Criminologist Robert Tillman did a study in 1987 that found two thirds of minority adult males had gone to jail before they were 30. The Sentencing Project found, “On an average day in the US, one in every four African-American men ages 20-29 was either in prison, jail, or on probation/parole” (Miller, 1996, p.6-7). Crime became a metaphor for race. In order for the criminal justice system to not appear racist, Reagan used the War on Drugs to create the stereotypical image of the African American criminal.

The War on Drugs

In October of 1982, Reagan declared the War on Drugs as the nation’s major problem. Instead of focusing on the violent crimes, the Administration turned to the consensual crime of

drug use and possession. A little over half of arrests and court cases involve consensual crimes (Miller, 1996, p.12). This led to a huge increase in those committed to prison on drug offenses. Civil rights advocate Michelle Alexander elaborates, “In less than 30 years, the US penal population exploded from around 300,000 to more than 2 million, with drug convictions accounting for the majority of the increase” (Alexander, 2010, p.6). Reagan wanted to fill his newly created prisons instead of creating rehabilitative programs that would keep people out of prison in the first place. By 1992, over \$30 billion was spent annually on the drug war (Miller, 1996, p.81). Although the Clinton administration was democratic, we see a similar ideology. He dismantled the welfare system and added over 100,000 police officers. Imagine if all that money was put into helping those with drug problems. Were we even helping those who were using drugs?

The Mental Health Services Administration estimated 76% of illicit drug users in the US were white, 14% were African American, and 15.9% were Hispanic (Miller, 1996, p.81). Strangely, white people seemed to be absent from the prison population with drug charges. 37% of people arrested for drug violations were African American (Bickel, 2012). Jerome Miller, co-founder of the National Center on Institutions and Alternatives, claims, “From the first shot fired in the drug war African Americans were targeted, arrested, and imprisoned in wildly disproportionate numbers” (Miller, 1996, p.80). Figure 2 below is a map colored by the ratios between the rates in which whites and African Americans are arrested for drugs (Human Rights Watch, 2008). How could the criminal justice system get away with this?

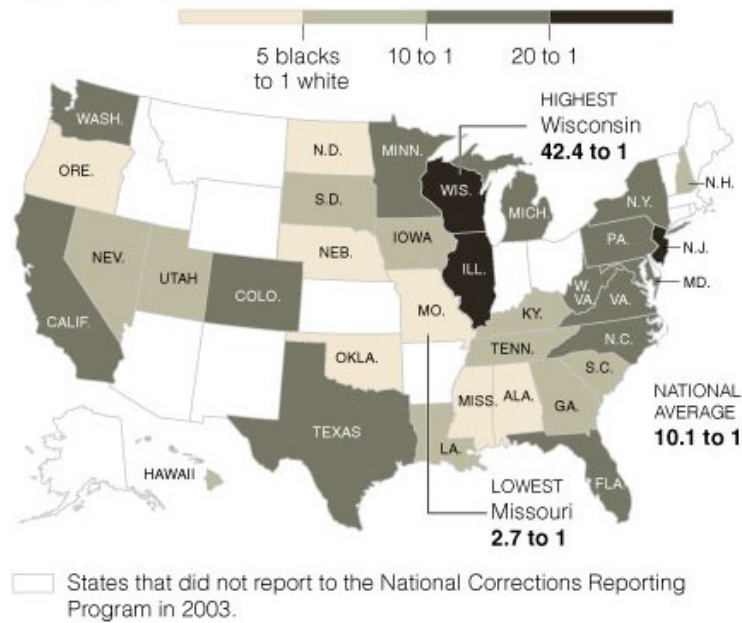


Figure #2

Rates of arrests between races

There was tremendous media propaganda, which we will see later, that contributed to associating African Americans with crack cocaine. In 1990, 95% of Minnesota’s arrests for possession of crack cocaine were African American males (Miller, 1996, p.83). It was believed at the time that crack cocaine led to quicker addiction than powder cocaine (which did not have any supporting evidence). Powder cocaine was thought to be a white man’s drug. So of course, there were harsher punishments for dealing or using crack cocaine. The Drug Abuse Act of 1986 had harsher punishments for distribution of crack cocaine than powder cocaine (Alexander, 2010, p.52). Too many African Americans were locked up on unfair drug charges. Michelle Alexander elaborates, “Nothing has contributed more to the systematic mass incarceration of people of color in the United States than the War on Drugs” (Alexander, 2010, p. 59). It is very hard to find any positive outcomes from the War on Drugs.

Police Corruption

One result from the Drug War was that police were, and still are, pressured to make a lot of arrests to meet the quotas set by their supervisors. The quotas set are illegal, so the police departments often refer to it as “expectations.” A NYPD detective claimed that police regularly plant drugs on innocent people to meet their arrest quotas, which is known as flaking (Shan, 2011). This became a regular practice with South Brooklyn and Queen police squads. However, it is not limited to these areas; flaking happens across the country. These large numbers of arrests reflect the racism in the criminal justice system. Flaking is one way in which police target African American men. Researcher Jason Shan states, “People often wonder why blacks have such a deep-rooted distrust of the police, well, this is one of the reasons why” (Shan, 2011). These corrupt practices lead to innocent African Americans locked up.

During arrests police use corrupt practices. During the Reagan administration, law enforcement was given the authority to seize property connected to illegal activity with civil asset forfeiture laws. Or as President Bush explains, “Asset forfeiture laws allow the government to take the ill-gotten gains of drug kingpins and use them to put more cops on the streets” (Wollstein, 1998). In 1991, there was \$664 million in federal forfeitures (Jacoby, 1992, p.1). Forfeiture laws allow more corruption by law enforcers; it was robbery with a badge. Police turned into predators, not crime fighters. Police conducted illegal shakedowns and searches to look for forfeitable property and money. Many seizure victims are not even charged with a crime. Jarret Wollstein, the founder of Society for Individual Liberty, stated, “In Washington, DC, police stopped black men on the streets in poor areas of the city, and routinely confiscate small amounts of cash and jewelry” (Wollstein, 1998). This is not drug kingpins who are getting their property seized, it is innocent African Americans. Most of the confiscated property is not even documented by the police or the police departments, even though they keep the items. In

these forfeiture cases, victims would have to pay for an attorney. But many African Americans and minorities lack the resources to fight for their belongings to be returned. Also, an attorney usually costs more than the stolen items.

Asset forfeiture is still alive today. In May of 2012, an officer from Tennessee stole \$22,000 from a driver. The officer asked how much money he had on him, and after hearing the large amount, asked to search his car and then took the money. The officer claimed, “Common people do not carry this much currency...on the street, a thousand-dollar bundle could approximately buy two ounces of cocaine” (Grigg, 2012). The driver turned out not to be a drug dealer, just a businessman. There were no drugs present or crimes committed, but the money was still taken. This is complete corruption.

The Rampart Scandal is one of the most documented cases of police misconduct and corruption in the United States. These cases in the 1990s involve the anti-gang unit of the Los Angeles Police Department. Former Rampart Officer Rafael Perez, who was caught stealing eight pounds of cocaine from the LADP, cooperated with authorities to lessen his sentence. He admitted corrupt practices of his former partners. He claimed some Rampart officers carried drugs to plant on suspects, usually suspected gang members, who they believe were guilty of committing crimes but did not have drugs on them when stopped by officers (Glover, 2000). The suspected gang members were disproportionately African American. This misconduct was even directed toward African Americans within the unit. There was a case of a white officer, Frank Lyga, killing an off-duty African American officer, Kevin Gaines. This scandal was racially motivated. According to Lyga, he shot Gaines in self-defense because Gaines had “I’m a gang member written all over him” (WGBH Educational Foundation, 2011). So basically, because of Gaines skin color, that meant he was a gang member. The L.A.P.D examined the case and

claimed it was not racially motivated, but within policy. White officers killing African American males are not uncommon.

African American males are 22 times more likely to be shot by a police officer than their white counterparts (Bickel, 2012). The Oscar Grant case shows this corruption by law enforcement. A white officer shot an African American male, Oscar Grant, in the back with his gun. According to the officer, he meant to grab his gun but accidentally grabbed the taser. But the video showed Grant was laying on the ground restrained, and posed no threat before he was shot. The verdict was that the officer was criminally negligent but did not intend to shoot Grant. But this was execution. This was racially motivated. It makes one wonder how different the outcome would have been if Grant was white. When an officer kills an African American, the system is never fair. As we have seen, the criminal justice system protects law enforcement officers and denies any claims of racism. Looking beyond police corruption, media has played a role in who gets arrested.

The Role of Media

The conservative right has been very good at creating social problems and sustaining moral panics by using media. Panics have always been associated with welfare, immigration, and especially crime. These panics are therefore mostly centered on African Americans and other minorities. Myths about crime historically have centered on unpopular groups, especially those easy to distinguish from the dominant social group (Ross and Richards, 2003, p.40). The dominant social group has been whites in the history of the United States, and they control the media. There was a New York Times article titled, “Negro Cocaine Fiends Are a New Southern Menace” (Miller, 1996, p.81). The media also sensationalized crack cocaine emerging in inner-city neighborhoods (Alexander, 2010, p.49). This was how they were going to attack African

Americans. However, the War on Drugs was launched before crack cocaine even became an issue. But the media portrayed it like there was a problem when there really was not. Michelle Alexander explains, “Media claims that crack was an epidemic, a plague, instantly addictive, and extraordinarily dangerous- have now been proven false” (Alexander, 2010, p.51). We see a clear disconnect between the media and reality.

Media always showed the typical drug user as African American. This impacted Americans views of drug users exponentially. In a 1995 survey, people were asked to close their eyes and imagine a drug user, then explain who they envisioned. 95% of respondents imagined an African American drug user (Alexander, 2010, p.103). As we saw earlier who the typical illicit drug user was, the study showed a sharp distortion of reality.

Besides the War on Drugs, the media has worked to associate crime with African Americans in other ways. As Jerome Miller puts it, “Race and crime. Kerosene and match” (Miller, 1996, p.165). New York media claimed a crime wave when there was no evidence in an increase. On news stations and in newspaper stories, murderers and rapists were usually reported to be African American. White people who committed the same crime somehow avoided to get their crime covered by the media. The media wanted to sustain the image of an African American male as the typical criminal, especially for street crime. In 1994, the Center for Media and Public Affairs admitted, “Moral panic over crime was being nurtured and sustained by the media” (Miller, 1996, p.156). There was actually increased coverage while street crime was decreasing. Figure 3 below is a graph showing how crime has been decreasing while incarceration rates were increasing (The Sentencing Project, 2005). People were concerned because the media claimed there was an increasing number of people in prison, while never admitting crime was actually decreasing.

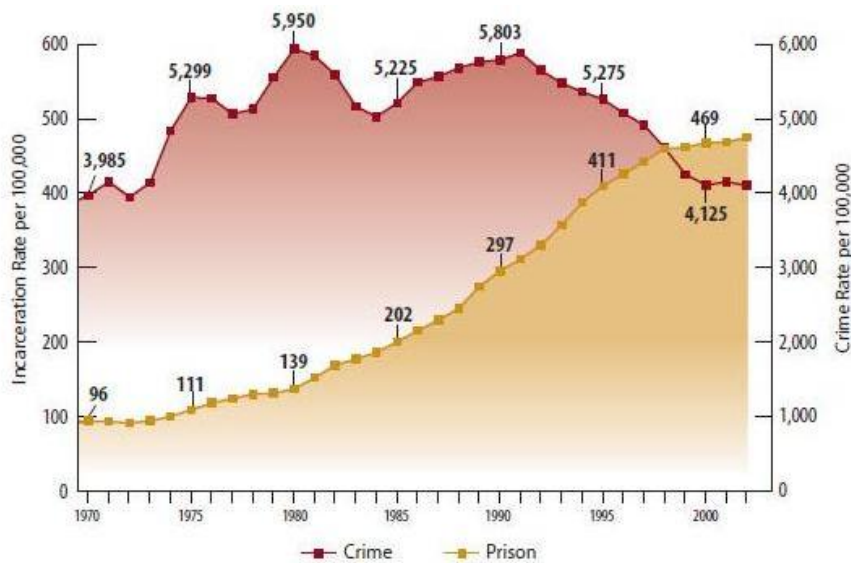


Figure 3

Incarceration and Crime Rates

Street crimes have been used to cover the more dangerous white collar crimes. These crimes, which are committed by mostly whites, are hidden from media and news stories. Unsafe working conditions which lead to death is not considered murder. Crime is therefore not used to explain all human suffering. We are shown an image of crime that is created and does not reflect reality. This is where the young, urban, African American, and poor image of a typical criminal comes in. Media chooses what facts are news worthy, and how to represent them (Reiman, 2007, p.64). This is what Jeffrey Reiman calls the carnival mirror because what is presented is so distorted. Considering how news has close ties with corporate giants, it is no surprise they rather show an African American drug dealer than a huge corporate crime. What is ironic is that as a country, we lose more money from price fixing, consumer embezzlement and deception, and monopolies than all property crimes combined (Reiman, 2007). But the distorted image the media gives off is that property crime is exploding and we need to watch out for African American criminals. This allows white collar crime to fly under the radar and let them further

exploit America. Besides showing a disproportionate number of African American crimes, media has contributed to our image of the 'crime ridden' inner cities.

Target: Inner Cities

Some people have such negative views about the people in the inner cities where disproportionate numbers of impoverished and African Americans live. Robert Right, an evolutionary psychologist, believed the high rate of young African American men in prison is due to their adaptation to poverty. Conservatives think poverty is due to an African American subculture that is pathologic. Harvard Professor James Wilson claimed, "The reason why it is called an underclass is that its members have a bad character: they mug, do drugs, and desert children" (Miller, 1996, p.142). There is a recurring idea that the inner cities are full of crime and is therefore unsafe. There was a doctor who compared violence in the inner cities to that of primates in the jungle. Don't you think these negative views will impact how they act and feel about themselves and their neighbors? People fail to see that negative stereotypes and social conditions in inner cities generate crime.

The social conditions in which people in the inner city endure are tough. With the deindustrialization and globalization starting in the 1970s, the inner city was hurt the most. They lost many of the industrial jobs and were left in devastation. By 1987, African Americans had a family income half that of whites (Austin and Irwin, 2001, p.10). The loss of legitimate employment opportunities in the inner cities increased the incentive to sell drugs to make a living (Alexander, 2010, p.50). This of course led to many arrests. If I had a starving family and no means to feed them, I would more than likely turn to illegal means to get basic human necessities. The frustration aggression hypothesis states, "That frustration, or failure to reach a certain desired goal due to circumstance, often leads to aggression, or behavior which intends

harm” (Grinnell, 2011). If there were more opportunities to make a living, there would have been less drugs, stealing, and violence. But instead, they were left in devastation. We did not give them compassion; we gave them the War on Drugs.

No doubt the War on Drugs intensified the violence in the inner cities instead of helping it. The inner city was the clear target. There was increased police contact which resulted in manipulation, interrogation, harassment, beatings, mug shots, and stays in jail for minor charges (Miller, 1996, p.95). Instead of being a positive force in society, police were looked at as arrest machines. A crime-control industrial complex developed in the inner cities. There was an introduction of defense technologies like eavesdropping and night vision, sensing devices, and disabling weapons (Miller, 1996, p. 231). All these tools and machinery have proven over and over that it is counterproductive, and creates more problems for inner city residents (Miller, 1996, p.116). The massive decimation it caused men from these communities shows that the Drug War was a real war. The increased contact and technology led to many arrests of African Americans at a very detrimental cost to their communities and families.

There is a culture in inner cities that is not present elsewhere. Because of the relevance of police searches, African Americans learned to assume the search position when they see a patrol car pull up. What kind of system makes a whole community fear and become accustomed to searches? Police would often offer deals to snitches in order to increase inner city arrests. Whenever people would not cooperate, police took it as them being defiant instead of looking at loyalty as part of the culture. Not to snitch is crucial to being a man in the inner city. Fronting is also a part of the code of streets, which is to challenge one in front of others. It shows loyalty to peers and alienation from others. However, law enforcement sees it as violence and reason for

arrest. The image of the violent African Americans committing crime shapes the police arrests rates.

Police Discretion and Racial Profiling

Racial bias becomes inevitable when society's image of a criminal is an African American male. Police have an incredible amount of discretion of whom and where to target. As mentioned earlier, there is heavy enforcement in inner cities. Racial profiling expert Karen Glover states, "A fundamental component of racial profiling is the targeted application of law enforcement resources to communities of color when whites engage in similar behaviors but do not receive similar scrutiny" (Glover, 2009, p.93). White communities are simply not looked at as criminal when in fact they are. This discretion leads to many African Americans locked up in cages by police officers. As Michelle Alexander puts it, "Today's lynching is a felony charge. Today's lynching is incarceration. Today's lynch mobs are professionals. They have a badge" (Alexander, 2010, p.159). Even when law enforcement tries to not be discriminatory, unconscious bias is at play. But any claims of discrimination are immediately denied and closed by the criminal justice system.

Racial profiling is the usage of an individual's race or ethnicity by law enforcement as a factor in using enforcement. In Duval County State, African Americans were 12% of the population but made up half of the arrests and three-fourths of daily population in jail (Miller, 1996, p.48). Is this due to African Americans being more criminal or being victims of racial profiling? Compared to whites, African Americans with comparative delinquent behavior are more likely to be charged for serious offenses (Miller, 1996, p.104). This is because police target African Americans. There is also overcharging when police officers overstate the seriousness of a violent crime (which is only a threat or perceived threat). Jerome Miller claims, "The group

most hard-hit by this pandemic of overcharging and most likely to garner a felony arrest criminal record are African-Americans” (Miller, 1996, p.35). When looking at African American imprisonment observed and expected by region, it becomes evident how local social context impacts decision making by police officers (Miller, 1996, p.63). Prison rates are clearly not objective. There has been a very small African American population growth, but a huge increase of African Americans in prison. Crime, regardless of race, has been declining since the 1980s. So clearly, racial profiling is at play.

Sociologist A. Rafik Mohamed looked at how law enforcement largely overlooks drug dealing in college in his ethnographic research, and challenges racial assumptions about the drug war. When we look at college drug dealers, they often are white, affluent, young men. They may travel long distances to get their supply, and have very few chances of being caught along the way. This is because white drug networks are anti-targets and are immune from law enforcement (Mohamed, 2010, p.30). They do not fit police’s image of a drug dealer, so they fly beneath the radar of agents of social control. Law enforcement pulls over the African American man and searches for drugs, rarely, if ever, the white man is stopped. Researchers Mohamed and Fritsvold explain, “If a person does not fit the stereotypical drug courier or drug dealer profile of a young urban minority male...trafficking in illegal drugs becomes a significantly less risky enterprise” (Mohamed, 2010, p.33). These white drug dealers realize this privilege, and get away with what African Americans could not. It becomes clear that the drug war is race-based.

Police immediately criminalize African Americans when they ask if they have drugs or weapons. But African Americans have power when they are knowledgeable and aware of how the law works. When they are pulled over based on nothing but their skin color and claim that they have authority to document the officer’s racialized ways, it is threatening to the officers

(Glover, 2009, p.96). They do not want to be looked at as racist. The officer may not write a ticket or give any official documentation. However, this absence of documentation shows the stop was racially motivated because there was no meaningful infraction to get a ticket for. It is troublesome to the African American community because the officer cannot be held accountable for their racialized enforcement. Carlos, a victim of racial profiling, stated, "I demand you give me a ticket when you pull me over!" (Glover, 2009, p.98). Carlos is empowered through knowing how he can hold the officer accountable for racialized practices. Unfortunately, many African Americans are fearful of showing their knowledge to officers during traffic stops.

Traffic stops shows how evident racial profiling is. In Volusia County, Florida, there is footage of over 1,000 stops by state troopers. The footage revealed 80 percent of those stopped and searched were African American or Latino, but they made up only 5 percent of the drivers on the road (Alexander, 2010). Obviously they targeted minorities and believed they were the criminals. In an equal system, minorities would only be pulled over 5 percent of the time on this highway. Through the tapes, it was also found that an average 12.1 minutes was spent investigating minority drivers, but an average 5.1 minutes was spent investigating white drivers (Brazil, 1992). When pulled over, whites were searched at a rate much lower than African Americans (Glover, 2009, p.102). Police tried harder to find drugs or any reason for arrest with African Americans and other minorities. This led to many more African Americans being arrested for drug possession compared to whites. What is ironic is that whites were more likely to be carrying drugs. The discretion led to minorities being targeted even though they were not the typical criminal on the freeway.

A drug related pretext stops is using a minor traffic violation as an excuse to stop and search a car for illegal drugs. African Americans are more subjected to these pretext stops

(Mohamed, 2010, p.28). Police use skin color as a hunch of drug activity but use a broken headlight as the reason to pull over. This leads to many baseless drug investigations. In the police mind, "...if race is one factor but not the only factor, then it doesn't really count as a factor at all" (Alexander, 2010, p.129). Because of these unjust and biased practices, African Americans are sent to prison at enormous rates compared to whites. They are also kept in prison much longer than whites because of racial sentencing.

Sentencing

Sentencing in the criminal justice system shows how racism operates. Skin color makes a huge difference. African Americans disproportionately receive more mandatory sentences compared to whites. This leaves them locked up in cages much longer. African Americans receive sentences 49 percent longer than whites convicted of similar offences (Miller, 1996, p.65). How could we explain this phenomenon without discussing racism? An offender can receive a life sentence for a third serious criminal offense under the "3 Strikes and You're Out" law. This law is racially administered. African Americans are twice as likely to receive this sentence even when controlling for the offence and prior record (Shelden, 2008, p.183). This is due to the fact that the third strike is overwhelmingly for a drug offense, which as we saw earlier African Americans are targeted for drugs by law enforcement. If the criminal justice system was truly fair and unbiased, as it states in the 14th Amendment, then we would not see statistics like this.

By looking at who gets sentenced the death penalty, racism becomes apparent. The Baldus study showed that defendants charged with killing a white person were 11 times more likely to receive the death penalty than defendants charged with killing an African American (Alexander, 2010, p.107). This shows that African Americans are less valued by society because

their murders were not as death penalty worthy compared to whites. Specifically in Georgia, prosecutors "...sought the death penalty in 70 percent of cases involving black defendants and white victims, but only 19 percent of cases involving white defendants and black victims" (Alexander, 2010, p.107). It is scary how much skin color can affect your chances of receiving the death penalty. 42 percent of those receiving the death penalty are African Americans. They are 5 times more likely than whites to receive the death penalty (Bickel, 2012). Basically, the criminal justice system is saying African Americans are 1/5 of a human being. The death penalty has become legal lynching. Who makes these racist decisions? Researcher Jeffrey Pokorak found that the important decision makers in death penalty cases are exclusively white men. In counties using the death penalty, 98 percent of the chief District Attorneys were white while only 1 percent were African American (Dieter, 1998). These decision makers mostly likely have an unconscious racial bias that explains the huge differences in death penalty by skin color.

How else can we see racist sentencing? African Americans are disproportionately poor, so for those unable to afford a lawyer are appointed one. However, many poor people go to jail without ever talking to a lawyer. When they do, the lawyers typically do not have the time, resources, or inclination to effectively represent them (Alexander, 2010, p.83). Appointed ones are paid much less and have a much larger workload. In only three years, the average number of cases per lawyer assigned to felony cases has risen from 367 to 500 cases, and from 1,380 to 2,225 cases for each lawyer assigned to misdemeanor cases (Eckholm, 2008). This causes many African Americans to have ineffective representation, which then leads to harsher sentencing. There has been federal reform sentencing guidelines that gave power to the prosecutors instead of judges. The Supreme Court has almost no interest in ensuring prosecutors exercise their massive discretion in a manner than is nondiscriminatory (Alexander, 2010, p.113). They are

also unable to check prosecutors file to see how they exercise their discretion. Ever since slavery, there has been race discrimination in jury selection. Prosecutors and defense attorneys today strike peremptorily jurors based on stereotypes, prejudices, and hunches (Alexander, 2010, p.118). It is forbidden to strike based on class or race, which is why prosecutors and attorneys use silly race-neutral reasons. But many African Americans are striked; they may have been the ones to see how racism played a role, and how the defendant is actually innocent.

The court room refuses to hear any claims of racial bias. African Americans should be able to challenge the equal protection clause of the Fourteenth Amendment, but the Court has huge barriers for people wanting to challenge racial discrimination. The Supreme Court stated, "...racial bias in sentencing, even if shown through credible statistical evidence, could not be challenged under the Fourteenth Amendment in the absence of conscious, discriminatory intent" (Alexander, 2010, p.126). However, it is impossible to show that there was intent to discriminate against another. They focus only on individual racism, but not institutional racism, which often does not have intent. Basically, the Supreme Court said racial bias can be tolerated within the criminal justice system.

The Supreme Court also stated, "The fact 98.4 percent of the defendants selected to receive life sentences for repeat drug offenses were black required no justification" (Alexander, 2010, p.111-112). It appears they are in constant denial of racism. Sentencing for drug offenses is the best example of how racism plays a role in sentences. In California, 70 percent of those sentenced for drug charges were African American, but whites received drug treatment slots 2/3 of the time (Miller, 1996, p.83). Without the opportunity for treatment, African Americans will just re-enter the system once released because their problem is never solved. Many times, drug charges are settled by a plea bargain in which the defendant pleads guilty in exchange for

leniency by the prosecutor (Alexander, 2010, p.85). But African Americans are targeted for drug charges and many times are actually innocent. Pleading guilty officially labels the individual a criminal. They are not aware of the lifelong, debilitating effects they will experience by society.

Lifelong Stigmatization

Once prisoners are released from their cage, they are let back into society in an even bigger invisible cage. There is a system of legalized discrimination and social exclusion that makes the new releases part of the new undercaste. Michelle Alexander explains, “Criminals today are deemed a characterless and purposeless people, deserving our collective scorn and contempt” (Alexander, 2010, p.138). They experience legalized discrimination in employment, housing, education, public benefits, and jury service.

It is incredibly hard for them to find jobs and housing. African Americans convicted of felonies are least likely to find a job (Alexander, 2010). Not finding employment increases chances of depression, violence, and formal controls. It is setting them up to re-enter prison. This is why there is a 66-70 percent recidivism rate within the first three years of being released (Bickel, 2012). During the Clinton administration, it was declared that convicted felons of drug offenses could not receive welfare or food stamps, and it became easier for federally-funded public housing to exclude those with a criminal history (Alexander, 2010, p.56). Public housing could freely reject applicants based on their arrest history, even if the arrest only resulted in a fine. When a released prisoner can get on Section 8, they can be terminated if there is any guest participating in drug activity. Since African Americans are disproportionately arrested for drug offenses, they are more subjected to this form of legalized discrimination.

They are forever controlled externally. While incarcerated, 48 states prohibit inmates from voting if they are there on a felony offense. Most of these states continue to prohibit their

right to vote even when they are released on parole (Alexander, 2010, p.153). Since they are barred from voting, they are unable to vote against this forever discrimination they face. They are subject to the laws others determine for them. There are also many fees, fines, and costs that releases must pay the criminal justice agencies. Without a way to make money they cannot make these payments, and are forced to go to jail. Probation officers have become increasingly intensive; they now carry guns and make recidivism a low priority. Jerome Miller points out that "...social workers, psychiatrists, psychologists, school councilors, and teachers have increasingly come to see themselves as covert agents of law enforcement" (Miller, 1996, p.133). Who can we count on and turn to? Workers in the social service sector seem to be against releases and have the need to control them by taking away their freedoms. It is time to make a change and start carrying about each citizen equally immediately.

Similarities to Slavery and Jim Crow

Why is it necessary to fight this racism immediately? Angela Davis answers, "Although government, corporations, and the dominant media try to represent racism as an unfortunate aberration of the past...it continues to profoundly influence contemporary structures, attitudes and behaviors" (Davis, 2003, p.24). The truth is that the current criminal justice system is a continuation of slavery and Jim Crow. The three have been the major racialized systems of control in the United States. Racism is highly adaptable. Slavery and Jim Crow have been declared racist and unconstitutional, but racism still exists through the criminal justice system. We will be examining the link between these three systems.

Slavery relied heavily on racist ideas to reduce African Americans into property status. African Americans depended on the slave owner to survive, and were isolated from the outside world. In prisons today, the high number of African American prisoners rely on their guards for

basic human needs. They are also isolated from their family and friends, and barely see the light of day. After slavery, Black Codes were enforced that only criminalized the African American population and they were looked at as inherently criminal (Davis, 2003). Homelessness, unemployment, and gathering in public were outlawed. This led to massive incarceration of African Americans only. Like we have seen in this paper, law enforcement defines the typical criminal as an African American and uses heavy enforcement only on that population to lock them up in cages. There are also modern day Black codes through gang injunctions that take away many African American's freedom. The criminal justice system's idea of a gang member is African American or Latino, and they have created laws to criminalize these groups' everyday activities. The injunctions were created to prohibit illegal conduct and lawful activities in certain boundaries for people suspected of being gang members or affiliates to known gang members. Gang injunctions authorize "...criminal penalties for ordinary, nondisruptive acts of walking or driving through a residential neighborhood" (Shoop, 1998). It makes African Americans suspect in public. The worst part is that injunctions have been increasing in California. These injunctions take away the liberties the Constitution grants.

The most obvious connection between slavery and massive incarceration is with the leasing system and the usage of prison labor today. The South wanted to quickly industrialize. The new laws would not allow them to use slaves but they did not want to pay for labor. Their solution was the leasing system in which convicts were leased to work in the mines and plantations, build railroads, and pave roadways. The African American convicts that were victims of Black Codes were used, and many were worked to death. Today, African Americans make up the majority of the convict population and their labor is still exploited. Convict labor is used to clean oil spills, fight fires, and make university furniture, clothing, electronics, and

military equipment. 36 states have laws making convict labor legal, and pay as little as 21 cents an hour (Whyte, 2000). Again, we see African Americans working for very little if at all. Figure 3 and 4 below show the blatant similarities between the leasing system and convict labor today (Alto Arizona Campaign, 2011, Burton, 2010). Bodies of color have been transformed into sources of profit. Angela Davis explains, “Black bodies are considered dispensable within the ‘free world’ but as a major source of profit in the prison world” (Davis, 2003, p.95). Today’s expanding prison system is furthering the structures of exploitation and racism.



Figure 4 and 5

Similarities between convict leasing and modern convict labor

It becomes obvious that the prison system today is just a continuation of Jim Crow. Jim Crow was set up as a way to control free African Americans. Those who wanted to continue racial hierarchy set up new rules under Jim Crow. Michelle Alexander claims, “Jim Crow system of segregation emerged—a system that put black people nearly back where they began, in a subordinate racial caste” (Alexander, 2010, p.20). African Americans were legally declared to be second-class citizens and voting was not a right. Today we also see African American convicts are denied the right to vote. History repeats itself.

With the Civil Rights Act of 1964, Jim Crow and discrimination were dismantled; this is when we start seeing massive incarceration of African Americans. This was the means to legally

discriminate against African Americans and segregate them. A new racial caste system emerged “...without violating the law or the new limits of acceptable political discourse by demanding ‘law and order’ rather than segregation forever” (Alexander, 2009, p.40). Civil rights protests were looked at as criminal rather than political. Racial hierarchy proponents argued Martin Luther King Jr’s philosophy of disobedience was the cause of crime. The FBI reported a rise in crime and mass incarceration was seen as the only solution. African Americans packed prisons.

The ways in which African Americans were incarcerated differed much from whites. In 1821, the Auburn Model was created which tortured inmates by solitary confinement (Davis, 2003). It was a way to isolate, regulate, and heavily surveil inmates. There is pretty much no human contact. Unfortunately, we still see this model used today. There are over 60 super-maximum prisons today where inmates spend 23 to 24 hours per day in their cell. African Americans are largely overrepresented in these super-max prisons (Davis, 2003, p.49). In fact, in 1993 Baltimore had 98% African Americans housed in their super-max facilities (Miller, 1996, p.227). It is unjust to cage Americans in these conditions, and it is racist when African Americans are housed in these facilities. The racism seen ever since slavery keeps getting perpetuated and more institutionalized.

By looking at all this evidence, it is clear that the criminal justice system is racist which explains why there are so many more African Americans in prisons today. I analyzed the Reagan administration, the War on Drugs, corrupt police practices, media, inner city enforcement, police discretion, racial profiling, and sentencing to reveal this racism and unfair treatment of African Americans. I am fearful of the colorblindness we see in society today. Michelle Alexander explains. “The widespread belief that race no longer matters has blinded us to the realities of race in our society and facilitated the emergence of a new caste system” (Alexander, 2010, p.11-12).

Colorblindness has been catastrophic for African Americans. We need to see racial injustice and talk about it openly. We need to see that race determines who gets a criminal record and who goes to jail. We need to see that our criminal justice system is racist. This paper exposes the racism today and is the starting point for transforming the criminal justice system.

With the professionalization of civil rights organizations, there has been disconnection from the people they represent. It is up to you to end the racial injustice. Angela Davis suggests we need "...a justice system based on reparation and reconciliation rather than retribution and vengeance" (Davis, 2003, p.107). It is time we support reforms that end the war on drugs and change the culture of law enforcement. We need to stop looking at ourselves as innocent and those incarcerated as criminals. We are all brothers and sisters. It is when we all fight together that change happens. Martin Luther King once said, "An individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity" (Corp. for National and Community Service, 2011).

Bibliography

- Alexander, M. (2010). *The New Jim Crow*. New York: The New Press
- Alto Arizona Campaign. (2012). History of racist US laws. Retrieved March 11, 2012 from Altoarizona.com
- Austin and Irwin. (2001). *It's About Time*. Belmont: Wadsworth.
- Bickel, C. (2012). *The Drug War and Plantations to Prisons*. Cal Poly, Lecture. San Luis Obispo, CA.
- Brazil, J. (1992). Color of Driver Is Key to Stops in I-95 Videos, Orlando Sentinel. Retrieved February 9, 2012 from www.academic.udayton.edu
- Bureau of Justice Statistics. (2011). *Prisoners in 2010*. U.S. Department of Justice. Washington, DC: U.S. Government Printing Office.
- Burton, N. (2010). BP Using Prison Labor in Oil Spill Cleanup. Retrieved March 11, 2012 from louisianaprisonwatch.com.
- Corporation for National and Community Service. (2011). Rev. Dr. Martin Luther King, Jr. Quotes. Retrieved January 15, 2012 from www.mlkday.gov
- Davis, A.Y. (2003). *Are Prisons Obsolete?* Canada: Turnaround Publisher Services Ltd.
- Dieter, R. (1998). The death penalty in black and white. Retrieved February 5, 2012 from www.deathpenaltyinfo.org
- Eckholm, E. (2008). Citing workload, public lawyers reject new cases. *The New York Times*. Retrieved April 25, 2011 from <http://www.nytimes.com/2008/11/09/us/09defender.html>
- Glover, K. (2009). *Racial Profiling*. Lanham: Rowman and Littlefield.
- Glover, S. (2000). A second rampart officer tells of corruption. *Times*. Retrieved April 25, 2012 from http://www.streetgangs.com/police/rampart/022800_officer_tells_of_corruption
- Grigg, W. (2012). Officer Larry Bates: Liar, thief, and the face of “asset forfeiture” in Tennessee. Retrieved May 24, 2012 from <http://founderstruth.org/Home/tabid/40/EntryId/106/Officer-Larry-Bates-Liar-Thief-and-the-Face-of-Asset-Forfeiture-in-Tennessee.aspx>
- Grinnell, R. (2011). Frustration-Aggression Hypothesis. Retrieved January 14, 2012 from www.psychcentral.com.
- Human Rights Watch. (2008). Racial disparity in drug sentencing. *New York Times*.

- Jacoby, J. (1992). Asset forfeiture programs: Impact, issues, and implications. Retrieved April 22, 2012 from <http://www.jiis.org/publications/prospubs/Asset-Forfeiture.pdf>
- MacAskill, Ewen. (2011). Oscar Grant Shooting. *The Guardian*.
- Miller, J.G. (1996). Search and Destroy. New York: Cambridge University Press.
- Mohamed and Fritsvold. (2010). Dorm Room Dealers. Boulder, CO: Lynne Rienner.
- Reiman, J. (2007). The Rich Get Richer and the Poor Get Prison. New York: Pearson
- Ross and Richards. (2003). Convict Criminology. Belmont: Wadsworth.
- Shan, J. (2011). "Former NYPD Detective Stephen Anderson Says Drug Charges Often Fabricated by 'Flaking' of Innocent People to Meet Arrest Quotas." Retrieved February 29, 2012 from <http://hinterlandgazette.com>
- Shelden, R. (2008). Constructing the Dangerous Classes. Boston: Allyn and Bacon.
- Shoop, J. (1998). Gang warfare: Legal battle pits personal liberty against public safety. *Academic Search Elite*. Trial, 34(3), 12.
- Teichner, M. (2012). The cost of a nation of incarceration. Retrieved April 22, 2012 from http://www.cbsnews.com/8301-3445_162-57418495/the-cost-of-a-nation-of-incarceration/
- WGBH Educational Foundation. (2011). Rampart Scandal Timeline. Retrieved February 29, 2012 from <http://www.pbs.org>
- The Sentencing Project. (2005). Incarceration and crime: A complex relationship. Retrieved April 25, 2012 from http://www.sentencingproject.org/doc/publications/inc_iandc_complex.pdf
- Whyte, A. (2000). Prison labor on the rise in US. Retrieved March 7, 2012 from <http://www.wsws.org>.
- Wollstein, J. (1998). The Looting of America. Retrieved February 29, 2012 from <http://www.isil.org>