

Unfair and Un-American

With vastly disproportionate incarceration rates among Whites and Blacks, rates that put the U.S. ahead of the world, we're due for serious rights upgrades.

Part I

In recent months there has been a call for an increase of justice and righteousness in the United States between political parties, between communities of racial diversity, and particularly, within the criminal justice system as it relates to racial minorities. Life and death issues that surfaced over the death of young, Black, unarmed males at the hands of White police officers have pressed the president of the United States and the attorney general into leadership roles of this discussion and the reevaluation of Black lives.

This is an insult to our collective national intelligence when our Declaration of Independence made this clear for all on July 4, 1776, with the statement, "We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. It places "Life" ahead of "Liberty." It places the life of our citizens ahead of the lifestyle of our employees in uniform.

Merriam-Webster defines justice as the maintenance or administration of what is just especially the impartial adjustment of conflicting claims or the assignment of merited rewards or punishments; the administration of law; especially the establishment or determination of rights according to the rules of law or equity; the quality of being just, impartial, or fair. This same publication defines the word righteousness as acting in accord with divine or moral law; free from guilt or sin; honest, honorable, just, upright. What true American needs to be prodded into the display of these qualities in the offices of our government, between American communities, or in our criminal justice system that is designed to teach our boys and girls to live honorably?

Since we upgraded our civil rights laws fifty years ago by inserting compassion and a spirit of humanity into our human relations, the United States has undertaken a national project of over criminalization that has put more than two million people behind bars at any given time, and brought the U.S. incarceration rate to the head of the "imprisonment class" above the other nations of the world. A close look at the communities most heavily affected by mass incarceration reveals serious racial disparities in incarceration rates in every region of the country. Nationally, according to the U.S. Census, Blacks are incarcerated five times more than Whites are, and Hispanics are nearly twice as likely to be incarcerated as Whites. Whites comprise 64% of the U.S. population but only 39% of the U.S. population. Blacks comprise only 13% of the U.S. population but a whopping 40% of the incarcerated population. Thus, the racial and ethnic landscape of those who are incarcerated represents a different world than of those who are not incarcerated.

Wake up justice and righteousness.

We cannot afford the billions wasted yearly housing, feeding, and securing healthy individuals who should be housing, feeding, clothing, securing, and educating themselves and their children. According to testimony shared with

U.S. Congressional committees by the Sentencing Project, Human Rights Watch, and the NAACP, the biggest crime in the U.S. criminal justice system is that it is a race-based institution where African-Americans are directly targeted and punished in a much more aggressive way than White people.

Stops

The police stop Blacks and Latinos at rates that are much higher than Whites. In New York City, where people of color comprise nearly half of the population, 80% of the New York Police Department (NYPD) stops were of Blacks and Latinos. When Whites were stopped, only 8% were frisked. When Blacks and Latinos are stopped 85% were frisked according to information provided by the NYPD. The same is true in most other places as well. In a California study, the American Civil Liberties Union (ACLU) found Blacks are three times more likely to be stopped than Whites. If you do not get stopped, you will not be arrested. If you do get stopped, there is a strong chance that you will be arrested. Some avoid being stopped by being of a favored race.

Arrests

Once arrested, Blacks are more likely to remain in prison awaiting trial than Whites. For example, the New York state division of criminal justice conducted a 1995 review of disparities in processing felony arrests and found that in some parts of New York, Blacks are 33% more likely to be detained awaiting felony trials than Whites facing felony trials.

Poor Representation

Once arrested, 80% of the people in the criminal justice system (predominantly Black) get a public defender for their lawyer. Race plays a big role here as well. Despite the best efforts by public defenders the system gives them much more work and much less money than the prosecution. The American Bar Association reviewed the U.S. public defender system in 2004 and concluded that all too often, defendants plead guilty, even if they are innocent, without really understanding their legal rights or what is occurring. The right to a lawyer that America believes applies to everyone accused of criminal conduct effectively does not exist in practice for countless Blacks.

Calculated Risk of a Guilty Plea

Most African American defendants never get a trial. Plea bargains consist of promise of a longer sentence if a person exercises her constitutional right to trial. As a result, people caught up in the system, as the American Bar Association points out, plead guilty even when innocent. Most would rather get three years for a crime they did not commit than take a chance and get twenty-five years for a crime they did not commit.

Blacks also often get longer sentences than Whites for the same crimes. Seventy-five percent of those getting life sentences are Black. It is also true that a poor defendant usually gets a poor defense according to the Sentencing Project. The U.S. Bureau of Justice Statistics concludes that the chance of a Black male born in 2001 of going to jail is 32% or 1 in three. Latino males have a 17% chance and White males have a 6% chance. Thus Black boys are five times and Latino boys nearly three times as likely as White boys to go to jail. What can one safely conclude from these facts? The criminal justice system, from start to finish, is influenced by race.

Part II tomorrow: sentencing and solutions that right generations of wrong.