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Inequality in Crime and the Criminal Justice System

Abstract

This piece is to reflect upon the current criminal justice system we currently live in. There are significant gaps in reform and punishment when looking at minorities. This paper reflects the corruptness that is the criminal justice system and the segregated world we continue to live in today.

Keywords

crime, criminal justice, racial disparity, prison, minorities, inequality

Disciplines

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Comments

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Inequality in Crime and the Criminal Justice System

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Inequality in Crime and the Criminal Justice System

Inequality in crime and the criminal justice system has been an issue facing minorities, primarily Blacks, for decades. This category of racial disparities is often stereotyped and the public eye is only being shown one view. Some of the most famous committed crimes have been drawn out by White Americans, yet the majority of prison populations are taken up by African Americans. Black men specifically suffer the most from this inequality and are portrayed as being a major threat to society. African Americans suffer from discriminations when it comes to policing and profiling, petty crimes, the drug war, juries and prosecutions, incarceration, and bail. Those are just a small list of the many crime inequalities the African American community face daily.

Racial disparities in profiling and with the police have always existed but have become more obvious over the recent years. Black drivers have been more prone to being pulled over compared to White drivers for investigatory stops and nationwide surveys have revealed these racial disparities in these police stops. It was reported that once a black or Hispanic driver was pulled over they were three times more likely to be searched than Whites at a rate of 6%-7% (Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System. 2018). This idea of racial profiling targets racial minorities in the effort to expose some form of illegal activity. Although the majority of crime is committed by Whites, we still portray Blacks to be more involved with crime. This idea that Blacks are perceived more likely to be criminals is not only in the United States. Studies showing hypothesized relationships existing between race and criminality have been observed in other countries. A specific case of this

hypothesizing of the relationship between race and crime was seen in a study taken in Canada. The research showed that Canadians had a belief of Blacks being prone to crime. Almost half of the people surveyed “believed that a relationship exists between race and criminality, and, of those, 65% thought that black people committed more crimes than other racial or ethnic groups” (Welch, 2007, p. 278). As of the 2010 United States census, Whites make up 76.5% of the population while Blacks are only 13.4% of the total population (U.S. Census Bureau QuickFacts: United States, n.d.). Although the number of Blacks being arrested has not surpassed the number of Whites, in terms of their representation in the population it is disproportionate. That being said, African Americans are more than five times as likely to be incarcerated than Whites in the United States and make up approximately 34% of the prison population as of 2014. When considering both the black and Hispanic population, those two populations alone make up approximately 32% of the US, yet occupy 56% of the prison population (“Criminal Justice Fact Sheet”, n.d.). Many of these arrests that cause incarceration are due to racial profiling or petty crimes.

Law enforcement is attempting to catch more culprits of petty crimes because it is believed that these individuals will lead to people that are a part of more serious crimes. A specific example of law enforcement trying to prove that petty crimes lead to more serious crime was taken in four cities within Jersey City. In this study, the data revealed that Blacks were 3.2 to 5.7 times more likely to be arrested for a petty crime than a White person. Overall, 95% of those arrested were not involved in a serious crime (Selective Policing, p.12). Law enforcement chooses when to make arrests for

petty crimes, even if they are causing no harm to the community, which in turn negatively impacts the black community since they are disproportionately targeted. These arrests for petty crimes usually can lead to fines, criminal records and many other things including extremes of potential violence. There have been several cases of over-aggression being used by enforcement for a minor offense and in extreme cases, people of color have been killed. In today's society, we have been seeing more and more White law enforcers not being punished for the death of a person of color in these "criminal" cases. Most arrests dismiss any form of background regarding the person, and it is just based on the race of the person committing the crime. Many times that these small crimes are being committed by minorities is because they have been placed in a situation where there is little to no other choice. This is particularly due to the way that society places minorities socio-economically. Often these crimes are a form of stealing and are committed by children. Nationwide, the number of African American children either arrested, detained or brought to court is completely disproportionate to their population size and that of Whites. 32% of children arrested, 42% of children detained and 52% of cases waived to criminal court are African American children (Criminal Justice Fact Sheet, n.d.). The policies followed by lawmakers bring very minimal gain to any reduction of crime but it does bring great forms of costs to people of color. Aside from small and petty crimes, there has also been the war on drugs going on for decades negatively affecting the Black community.

The War on drugs campaign from the 1980s was a large contributor to part of the classification of Blacks as criminals as we still know it today. Americans were already

aware of a cocaine epidemic but it was not acknowledged as a top problem for law enforcement until it became affordable and accessible to Blacks. It was during this time that this “War on Drugs” campaign turned into a policy that hit the black population hard and people started to believe it to be a “War on Blacks”. Blacks were arrested and faced heavier punishments for using crack cocaine, a solid form, than Whites that were using cocaine, a powdered form. The substance is the same but crack was more expensive to buy so normally the black community would resort to using crack cocaine. This issue has made many believe that Blacks are the primary users of all drugs and they have remained with that reputation. In reality, a national crime survey in 2010 proved those ideas to be false. It was revealed that:

Whites account for almost 75% of the nation’s illegal drug users, and Blacks account for about 13%, which is consistent with their representations in the greater U.S. population. Blacks, however, account for about 75% of the nation’s drug prisoners, which reveals the extreme disparity manifest in the national crackdown on the drug problem (Welch, 2007, p.279, as cited in Katz 2000).

In 2015, the National Survey on Drug Use and Health also released the data from a survey showing that 17 million Whites and 4 million Blacks used an illicit drug within the last month. Although in comparison the drug usage rate is proportionally similar, the imprisonment rate remains almost six times higher for Blacks than for Whites (Criminal Justice Fact Sheet, n.d.). Although statistics time and time again prove otherwise, the rate in which Blacks are imprisoned reinforces the idea that there must be an

association between race and crime. Enforcing this mindset into the general public leads to biased decisions when it comes to trials for people of color and juries.

When one looks at juries throughout history, it is clear that there are few African Americans that get called for “random” jury duty per case. Although it is illegal to exclude a potential juror due to race, this ruling is not strictly enforced. There are no specific statistics on the rate of potential black jurors that have been struck down by courts, but in the past being removed as a juror has been as simple as having an affiliation with a historically black college. A study was done in Caddo Parish, a highly aggressive death penalty county, to observe if district attorneys are more likely to reject potential Black jurors than non-Black jurors. In 2010, the population of Caddo Parish was 47.2% Black with an adult population of 44.2%. This being said, between the years of 2003-2012, there were 332 criminal jury trials with the defendant being Black 83% of the time, yet only 35% of the jury was Black. Data shows that when presented with a qualified Black juror, they were peremptorily struck down by the state 46% of the time while not Black jurors were only struck 15% of the time (Noye, 2015, p. 8). Although an argument can be made that all the reasons potential jurors were struck were completely innocent, the odds of this being true are near impossible. A statistical analysis of the information gathered on this disparity shows that the strike rates are extremely statistically significant at a probability of 0.0001. In context, this means that the chance a striking of a Black juror being unrelated to race is less than one in ten thousand. Without even doing any form of analysis, knowing the population of Caddo Parish is 44.2% black, we would expect slightly less than half of the jurors to be African American

when in reality a quarter of trials have two or less Black jurors (Noye, 2015, p. 9). This type of racial jury striking has not only been seen in Caddo Parish. Cases in Philadelphia were seen where 52% of eligible black jurors were voted to be removed while disproportionality only 23% of other possible jurors were voted for removal. All of this being said, with the stereotypes that have been fed to the public on Blacks being more prone to crime, when Blacks are faced with a nearly all-white jury, their odds begin to look substantially low for their sentencing.

The color of someone's skin plays a role in whether a human being gets to live or be sentenced to death. According to the American Civil Liberties Union, "People of color have accounted for a disproportionate 43% of total executions since 1976 and 55% of those currently awaiting execution" (Race and the Death Penalty, n.d.). There is a clear underlying issue of prejudice in the results of death penalty cases. As of October 2002, there have been only 12 cases where a White defendant has been executed for the crime of a Black victim while 178 Black defendants have been executed for the death of a White victim (Race and the Death Penalty, n.d.). These results clearly show a racial bias that someone is much more likely to be sentenced to death their crime is the murder of a White person as opposed to a Black person. Between the years of 1983 and 1993, the death rates among all eligible defendants in Philadelphia were compared. These results proved being Black in the city of Philadelphia increases your odds of receiving the death penalty by 38% when accused (Race and the Death Penalty, n.d.). There have been numerous showings of this same sort of data. The New Jersey Supreme Court has also previously reported a similar statement with the same finding

back in 2001. Many reports across the nation agree that being Black versus White makes you several more times vulnerable to receiving that death penalty than being White. Around the same time, in 2001, The U.S. Department of Justice shared the results of federal death penalty prosecutions. These results consisted of 18 prisoners, in which 16 were Black, Hispanic or Asian (Race and the Death Penalty, n.d.). There are plenty of cases that depict that there is a racial bias towards people of color rather than someone who is white, yet every time another person of color is sentenced to death, the reason is made valid.

Being sentenced to death is an extreme case, but is it though? Many convicted criminals will still spend their lives sitting in jail awaiting a trial or carrying out their sentence. Some prisoners will have the opportunity of posting bail or being offered a plea deal though. A plea deal is intended for a defendant to plead guilty and in return, they will usually receive a reduction in either sentencing or charges. When taking a plea bargain, you no longer await a trial and face uncertainty. In the majority of cases, the plea deal is accepted by the defendant. The conflict that occurs between Whites and people of color accepting a plea deal is the inequalities that are based upon implicit biases. Between 2010 and 2011, the district attorney for Manhattan opened up the records of over 220,000 cases. The purpose of this was to see if legitimate disparities were occurring and this was done by comparing defendants of color to White defendants with equal charges. During this study, researchers found that although the severity of the defendant's crime was the best predictor of outcome, race still played a statistically significant factor. Within these cases, it was found that "Blacks defendants

were 19% more likely than whites to be offered plea deals that included jail or prison time” (Demby, 2014). This is taking into account that the crimes were equally as serious, yet there still seemed to be a difference in deals. Although it can not be clearly stated that the reason is due to race, there are strong connections that there is some form of relationship. Other connections include: Blacks and Latinos being arraigned when charged with misdemeanors while whites were not, Blacks and Latinos being offered a higher amount of plea deals that included jail time for misdemeanors, and Blacks were 19% more likely to be given a plea deal that involved required prison time (Demby, 2014). There has also been a recent study of these same forms of findings that took place by the Loyola Law School. Those researchers took the time to examine the plea bargaining process because they believed recent studies have focused more on the areas leading up to post-sentencing. Since the majority of criminal cases in the United States are resolved through plea deals, there was no reason why fewer researchers examine this area. Loyola Law School analyzed more than 30,000 Wisconsin cases over a seven-year time frame. Some of the statistics they found are quite shocking when reading over them. It was found that:

White defendants were 25 percent more likely than black defendants to have their most serious initial charge dropped or reduced to a less severe charge; black defendants were more likely than whites to be convicted of their highest initial charge. As a result, white defendants who faced initial felony charges were approximately 15 percent more likely than similar black defendants to be convicted of a misdemeanor instead. White defendants with no prior convictions

were over 25 percent more likely than black defendants with no prior convictions to receive a charge reduction (Research Finds Evidence of Racial Bias in Plea Deals, 2019).

If these findings had not already raised flags, the statistics for misdemeanor cases were even more significant. It was found that it was 75% more likely than White people facing misdemeanor charges had them dropped or reduced in comparison to Blacks (Research Finds Evidence of Racial Bias in Plea Deals, 2019). The study proves that there is inequality within the criminal justice system and obvious racial discrepancies, yet excuses continue to be made and these statistics are ignored. The criminal justice system continues to prove the idea that people use implicit biases based on the belief that African Americans are just inherently criminals. If one is so lucky to receive a plea deal that gives zero to very minimal jail time, their lives in the world as a documented criminal begins.

Regardless of any race or ethnicity that one identifies as it is much harder to get accepted for a job and begin to rebuild a life when you have a criminal record. That being said, the already disproportionate odds of an African American receiving a job in comparison to a White person becomes even smaller. Theoretically, the purpose of the prison system is to rehabilitate people's lives so that they could then be a productive member of society. This is extremely difficult to do when one of the first things a job application asks is "Do you have a criminal record?". The NAACP found that having a criminal record can reduce the chances of a job offer by up to 50% (Criminal Justice Fact Sheet, n.d.). One of the other immediate questions one must answer when

applying for a job is “What is your race?”. Neither of these questions have any connections with one's ability to complete and work hard at a job, yet these are always questions being asked. If the purpose of prison is supposed to rehabilitate, then by the time a person of any color is released they should be treated equally when back in society. Although all races suffer from this, one needs to account for the already racial discrepancies. By this, I mean that due to implicit biases against the Black community this makes it even more difficult for Blacks to be hired for a job. These questions asking what one's race and criminal record automatically set the black community back. This makes it near impossible for these members of society to be able to move past their life of crime due to having no work, which means no income. Many crimes are committed because it is the only option for taking care of one's self or family. It is hard for a person of color to be able to escape this inequality within the criminal justice system unless they are lucky enough to not be accused as a member of it.

The racial inequality that has been occurring within the criminal justice system has always been looked upon. There is clear evidence shown through numerous studies and statistics showing that a person of color is much more likely to be profiled, arrested for a petty crime, unfairly sentenced for jail time or death, not given an equal plea bargain or parole opportunity, and suffers a rigid transition back into society. Events such as “The War on Drugs” was created for one reason but underlyingly had a deeper intention. These inconsistencies raise flags that are always looked upon because of internal biases that are forced upon people by portrayed thoughts and images. Nothing will be done about these injustices until people begin to accept their

biases to be only that, biases, not facts. The criminal justice system is heavily flawed in terms of racial inequality and it starts from the second a human is profiled through to them being released, if they are lucky enough. This is all due to one thing, skin color.

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