

## A Call to Disrupt Institutional Racism: Racial and Ethnic Inequality in the Criminal Justice System



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Nationwide, issues involving racial and ethnic inequality have taken the forefront on new stories, social media, and conversations in the United States of America. Stories ranging from Michael Brown, Eric Garner, Tamir Rice, Walter Scott, and Alton Sterling, who were killed by the police, to citizen murders such as Trayvon Martin or suspicious deaths occurring while detained: Sandra Bland. In these cases, along with many similar, agents of the state or those utilizing laws preferential to Whites were rarely criminally charged for their actions and, if indicted, seldom found guilty. In such a social climate, the “Black Lives Matter” movement has arisen to challenge the denial of equal treatment under the U.S. Constitution for individuals of African ancestry. Such a movement has received opposition from a dominant ideology advocating “All Lives Matter” (White people) or maybe “Blue Lives Matter” (police lives). Proponents of these counterarguments ignore disparity data, refuse to question White preferential treatment, or lack the desire to alter hierarchy-enhancing institutions (Sidanius & Pratto, 1999).

The numbers by themselves are disheartening: People of color in the United States continue to struggle at levels different from Whites in the 21st century and must learn to

survive in divergent social worlds (Peterson & Krivo, 2012). In addition, the racialized oppression of Native Americans and Latinas/os has often been hidden in our colonized country known as the United States through a Black/White binary (Delgado & Stefancic, 2012). Walker, Spohn, and Delone (2012) have examined the argument of racial and ethnic inequality in the criminal justice system within a discrimination-disparity continuum. On one end of the continuum is pure justice and the other systematic discrimination. As someone who has been teaching the college course Race, Crime, and Justice for the past decade, I situate such a discussion within the confines of institutionalized racism and shift the conversation toward critical race theory (CRT) and colonization to provide additional theoretical tools for critiquing racialized oppression. In this article, I’d like to begin with CRT’s voice of color thesis (my Chicano story) and then outline how a war on gangs along with officer-involved shootings and disproportionate minority contact continues to impact people of color in the United States. This is a call for the discipline to acknowledge disparity and continue efforts to eradicate various forms of institutionalized racism.

What better professional organization to discuss racial and ethnic inequality in the criminal justice system than the Academy of Criminal Justice Sciences (ACJS)? This organization seems to have the most criminal justice and juvenile justice practitioners mixed with academics. I attended my first ACJS conference in the spring of

2005 in Chicago, Illinois. As a young doctoral student at the University of Colorado, I participated in my third professional conference by presenting research titled “Manufacturing Gang Fears: A Critique of the Police Suppression Industry.” After my presentation, an older African American man walked up to me and said I was maverick for presenting on a topic with a different twist. I presented findings that Black and Latino youth were harassed and profiled by the police and that segregation was used to concentrate the brunt of aggressive law enforcement through the use of gang labels. Despite this one positive review that made me feel unique, my overall reception by the primarily White audience produced confusion. The day before my presentation, I walked through the book exhibit room and came across a booth of self-identified gang researchers. I began looking through their display materials and they asked whether I studied gangs. They were holding a social event during the weekend and told me they had invited a lot of presenters. I told them my name and they looked me up in the ACJS booklet, but my name wasn’t circled. Awkwardly they told me they would stay in touch. The longer I have been in academia, the more I have come to understand they did not understand my approach because they primarily viewed gangs as criminals (the dominant ideology regarding gangs). My angle for studying gangs was not mainstream nor was my entrance into academia. I was still a youngster in their social world. Not yet 30 years old, I was presenting gang research from Denver, Colorado and Ogden, Utah. I was a former gang member, born and raised in Utah to a family of mixed heritage: Mexican (native and poor) and Anglo (immigrant yet economically advantaged). I had interviewed gang members, police officers, and community members in an

attempt to understand structural patterns. I grew up with gangs as both protectors and a threat to Black and Brown residents, whereas the police were an untouchable White gang. College provided me the opportunity to transform my life, and my social inclusion was enhanced by working in child and family services, juvenile probation, and youth corrections. My previous life experiences were crucial for understanding the experiences of the juvenile justice clientele but also troubling as to whether simply working in this occupation replicated many of the disproportionate outcomes I despised. Toward the end of my practitioner career, I desired an opportunity to become a professor who was a scholarly activist or, in other words, interested in using research to contribute to society (Durán, 2011; Morris, 2015).

My investment in research over the past two decades has led to several empirical observations. First, public officials have used problematic gang lists to target marginalized individuals with enhancements, deportations, injunctions, and racketeering. Fear-based conceptions of gangs have legitimized aggressive policing and concentrated racialized oppression through segregation (Durán, 2013). Law enforcement officials continue to define gangs as primarily Black or Latino. In addition, the communities in which these groups form have experienced decades of discrimination, and in response, some residents have organized to provide physical support. Over time, isolation and societal exclusion has created a context for these groups to perceive themselves as the enemy (Fanon, 1963). Groups with social power have never been labeled as gangs, as discovered with the Ku Klux Klan or legitimized state institutions and its employees. Current ideologies, resources, and psychological investments have prevented

public officials from altering the structural conditions in these neighborhoods along with the ongoing racism that has continued to marginalize particular racial and ethnic groups through incarceration, family disruption, and maintaining a problematic setting for attaining an average life expectancy.

It is in such a context that death at the hands of law enforcement holds important implications for which lives matter in this country. According to *The Guardian*, in 2015, there were 1,146 individuals killed by the police. Of those killed, 51% were White, 27% Black, 17% Latino, 2% Asian, and 1.1% Native American (“The Counted,” 2016). When comparing these numbers to current demographics in the United States, we find Blacks and Native Americans the most overrepresented, Latinos slightly overrepresented, and Whites and Asians less likely to be killed by the police. In addition, the number of deaths reported by *The Guardian* were much higher than averages compiled by the Department of Justice’s Bureau of Justice Statistics, ranging from 373 (officer-involved shootings per year) to 419 (arrest-related deaths at the hands of law enforcement; Brown & Langan, 2001; Burch, 2011). Based on *The Guardian*’s data, there are persistent problems of underreporting by public officials regarding how many deaths occur at the hands of law enforcement each year. Researchers have been complaining for decades about the importance of improving data collection on this topic (Fyfe, 1988; Takagi, 1974). Such frustration led the Stolen Lives Project (1999) to initiate efforts in the 1990s to document killings. My own research has examined controversial officer-involved shootings in Denver, Colorado during a 30-year period, and I have encountered challenges branching out to other counties in the Southwest

and Southeast. My work with Oralia Loza (2017) has taken qualitatively coded data and turned it into quantitative analyses that compare differences between Whites shot by the police compared to Blacks and Latinos. Such efforts build on Takagi’s (1974) proposed two-trigger-finger thesis regarding police officers using one trigger finger for Whites and another for Blacks. Our research has found support for such a conclusion but also found the law itself is part of the problem, as noted with several controversial cases in Denver (Durán, 2016). The Justice Department’s initiative to collect data on use of force by law enforcement can begin the much-needed process to increase understanding, but data collection needs to move beyond simply capturing official justifications. As social protests erupt nationwide, our society must do something to address a problem that continues to challenge whether we live in a democracy.

So where do we begin to change things? Some might argue it begins with improving the life experiences of our youth. Data regarding the school-to-prison pipeline contributes to a concern that patterns of institutional racism begin at an early age, and the study of disproportionate minority contact has been one of the most direct ways to assess whether there is overrepresentation of youth of color in a particular state and then implementing best practices to reduce it. From these data, we often find Blacks and Latinos overrepresented in arrests, referrals, cases resulting in secure confinement, and cases transferred to adult court. They were also least likely to have their cases diverted, which is a preferential outcome in the juvenile justice system. National data on Native Americans was more mixed, but several studies found overrepresentation at the middle

stages (cases involving secure detention). Attempting to address inequality at the point of our youth is a good faith effort, but it appears some states are more invested than others, and White youth continue to receive preferential treatment through the process of diversion.

In summary, studying some of the most institutionalized efforts against people of color and marginalized groups in the forms of aggressive policing, higher levels of juvenile justice and criminal justice inclusion, along with legitimated forms of state violence continues to produce a psychological ambiance of pessimism. Nevertheless, members of my community hold onto strategies of resistance and agitation that have provided hope to colonized people for centuries. The current presidential election of Donald Trump does not provide me any greater comfort nor does the reporting of White males and White females voting overwhelmingly in support of this Republican candidate and Blacks and Latinos voting for the Democratic candidate. Some patterns are a repetition of history whereas other events seem to usher in a new age of propaganda and hate. The purpose of my essay is to remind the ACJS membership of the central importance of racial and ethnic inequality in the criminal justice system and how solutions require advocacy. It is duly noted that many of our institutions replicate practices that produce inequality with or without intentions to cause harm. During this time, many academics remain consumed by analyzing criminality while at the same time failing to place such arguments in a larger racialized and historical context of inequality. Thus, while many criminologists look at the symptoms of the problem, they fail to examine the root causes. Sometimes I worry the lives of most criminologists are too far removed from the social worlds they study and

practitioners are kept too embedded in a role that prevents tinkering and punishes “whistle blowing.” It is my hope that forms of social justice will persist and such efforts will continue to inform whether we live in an era of a “dream” as expressed by Dr. Martin Luther King or a “nightmare” as articulated by Malcolm X, and hence, the necessary level of resistance required to respond to such a moment in time.

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