Racial Bias in the United States Court System

Hollie MacDonald

Longwood University

Over-representation of African American’s in the United States courts system is a problem for the justice system because it forces people to ask questions like is there bias in the court system or in a particular aspect of the court system? This overrepresentation of people of color in the nation’s criminal justice system is also referred to as disproportionate minority contact. This paper is going to discuss a few reasons that explain why there is over-representation of African American’s in the court’s and prison’s in the United States.

The first reason that many people think that African American people end up being incarcerated at a higher rate than white people is because of racial disparities in the patrolling and arresting, pre-trial and trial aspect of the legal process. The racial stereotyping of criminals has always been an enduring and unfortunate feature of American culture. The stereotyping of African Americans as criminals is so pervasive throughout society that “criminal predator” is used as a euphemism for “young Black male.” This common stereotype has erroneously served as a subtle rationale for the unofficial policy and practice of racial profiling by criminal justice practitioners (Welch, 2007). Multiple studies have found that African American’s are much more likely than their white counterparts to be incarcerated for their crimes (Bridges 1988, Kutateladze 2014). According to a study of criminal prosecutions in Manhattan, white males in America have a one in 17 chance of going to jail during their lifetime. For black males, it’s one in three. A study was conducted by the Vera Institute of Justice in 2015 and it found a person’s race to be “a statistically significant factor at every stage” of the process, “from setting bail to negotiating a plea deal to sentencing.” When studying bias in pretrial detention they found greater percentages of black defendants were held in custody after arraignment, whether for felonies (61%) or misdemeanors (22%), followed by Latinos, Whites and Asians. When controlling for the influence of other factors, including charge seriousness and prior record, compared to white defendants, blacks were 10% more likely, Latinos 3% more likely, and Asians 21% *less* likely to be detained. In other words, based on the predicted probabilities for each group, 29 out of every 100 black, 25 out of every 100 Latino, 24 out of every 100 white, and 14 out of every 100 Asian defendants were detained after arraignment (Kutateladze 2014).

Another reason that explains the over representation of African Americans in the court system is differences in the social standing of black people and white people and the social issues that they face. In general, people pertaining to the lower class—versus the white collar and the elite class— are more likely to be: incarcerated, charged, convicted, sentenced to prison, and punished with longer prison terms. Black’s are more likely than whites to be imprisoned in states where the black population is a small percentage of the total population and predominantly urban (Perez, 2010). Social economic status is a big factor that plays into who gets arrested, since the average black American has a lower SES than the average white American this means a higher proportion of African American’s live in poverty stricken areas, cities, or low income housing. Another major factor that perpetuates inequality in the criminal justice system is the great difference in police treatment of poor people compared to the treatment given to upper- class citizens. This discrimination branches from the fact that poorer people have less privacy than wealthy people, thus making them more visible than other groups, and to police training, which conditions officers to be suspicious of certain kinds of people, the poor minorities (Perez, 2010).

The impact of the “War on Drugs” was not evenly felt. The abundance of racial disparities that began with and continued within the era of the drug war was staggering. Drug policies have had an overwhelming impact on the African American population and have heightened and exposed the already prevalent racial bias’s in the United States court system. Despite the fact that white and black people use drugs at similar rates, black people are jailed on drug charges 10 times more often than white people are (Tonry). According to the American Civil Liberties Union, black people are also three times more likely to be arrested for marijuana than white people are. In the two decades following 1980, the national drug arrest rate among blacks increased from roughly 650 to 2,907 per 100,000 population, while the national drug arrest rate among whites increased from approximately 350 to 463 per 100,000 persons (U.S. Department of Justice 2003). Latinos are as likely as blacks to be incarcerated in state prison for drug offenses and nearly 80 percent of those currently serving time in state prison for drug offenses are black and/or Latino.

Clearly, there are racial many disparities it the legal system in all aspects starting with implications of the law, to patrolling and arresting, to detainment after arraignment, trial, and sentencing aspects. Whether these disparities are a result of unconscious bias or blatant racism, something needs to be done to make sure that the legal system still upholds a sense of morality and correctness.

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