



Racism In American Law
Enforcement: A Brief History,
Critique, And Data-Based
Solutions
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Racism and law enforcement have had a complex, intertwined relationship since the inception of the United States—an unholy union exacerbated by the passing of the hypocritical Thirteenth Amendment in 1865. This Constitutional provision technically abolished involuntary servitude, with one major caveat: “except as punishment for a crime whereof the party shall have been duly convicted” (U.S. Const. amend. XII. §1). When powerful, racist Southern whites ‘lost’ their slaves after the Civil War, they immediately enacted policies to maintain their power, such as those seen in the Jim Crow South, as well as successfully used the Thirteenth Amendment to re-enslave African Americans almost immediately after the ink was dry on the legislation (Aponte-Rios, 2005).*

While many policies of the Jim Crow era, such as legalized segregation, may be long gone, The Constitution allows for the continued enslavement of African Americans, which is made brutally evident by the overrepresentation of Black people in the U.S. prison population. As Michelle Alexander put it, “mass incarceration in the United States had, in fact, emerged as a stunningly comprehensive and well-disguised system of racialized social control that functions in a manner strikingly similar to Jim Crow” (Alexander, 2010, p. 4).

Unbelievably, as Cory Booker noted, “we now have more African Americans under criminal supervision than all the slaves back in the 1850s” (DuVernay, 2016). So, not only is slavery still technically legal, but it is also affecting vastly larger numbers of the African American population than ever seen before. The old-

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school racism, the disparities among ethnic and socioeconomic lines, the degradation and dehumanization of African Americans, even slavery itself—these things have not gone anywhere.

A Brief History Of American Law Enforcement

It would be difficult to conceive of a law enforcement system built on the virtues of slavery, social control, and genocide to be anything less than absolutely steeped in racial disparities. In the beginning of the 1700s, the U.S. saw its first iteration of law enforcement in the form of patrols made up of makeshift groups of white citizens who acted as slavecatchers who profited from using violence to return runaway slaves to their imprisonment and forced servitude. Because these bands of for-profit slavecatchers were the first incarnation of law enforcement in America, the racial biases and racially charged motivations of law enforcement agencies in the U.S. have directly descended from the aggressive slavecatchers of the Antebellum South (Aponte-Rios, 2005).

Hate groups arising during the Reconstruction era such as the Ku Klux Klan reinforced, and continue to perpetuate, misconceptions about African Americans that were popularized in the early 20th century by America's first ever blockbuster, *The Birth of a Nation* (Griffith, 1915). This horrific film confirmed the white supremacist, fictionalized version of the Civil War and reinforced many of the detrimental stereotypes of African American males perpetuated during this period: that they were animalistic, cannibalistic, and hypersexual (Aponte-Rios, 2005).

The Birth of a Nation heralded a massive cultural shift towards the terrorism of the African American community and showed extreme violence against Black bodies. The film also featured a plot prominently concerned with an African American man going on a crime spree, which included the sexual attack of a

white woman (Griffith, 1915). This equated the image of the criminal with the image of a Black man in the minds of Americans at the time, an abhorrent association which astonishingly continues to this day (Aponte-Rios, 2005).

Raw Data Uncovers Implicit Bias

Archaic attitudes equating criminality with Blackness have become interwoven within the fabric of the U.S. criminal justice system. The Thirteenth Amendment essentially legalized the re-enslavement of African Americans by empowering racist law enforcement to incarcerate large numbers of people of color – specifically, Black men (Alexander, 2010, p. 110-111). When disproportionately high numbers of Black men are incarcerated, the idea tying criminality to Blackness is reinforced and propagates an endless feedback loop of racial bias that supports racist practices that continue to incarcerate Black men. This problem is illustrated most effectively by the raw data itself. For example, the table below reproduces findings from a study conducted by Stanford University (Parker, 2016) regarding the Oakland Police Department based on data gathered in 2014:

	Percentage of total police stops	Likelihood of being handcuffed during stop	Likelihood of being searched during stop	Likelihood of being arrested during stop
African American men	60%	25%	20%	16.7%
White men	13%	6.7%	5%	7.1%

In a city with a population of 390,724, in which “34.5 percent is white, 28 percent is African American, and 25.4 percent is Latino, according to 2010 census data,” the above numbers are highly disproportionate. This speaks to a deeply seated racism in the Oakland Police Department, especially when considering that out of all the above noted stops African American men were subjected to, “officers were no more likely to make a recovery from those searches,” than from the searches conducted on white men (Parker, 2016).

If there was no evidence recovery, or even reasonable suspicion of evidence recovery, for the searches during the stops recorded in this study, the aggressive targeting of African Americans by the Oakland Police Department clearly is not based on objective, ‘color-blind’ policing. Rather, it echoes an older America, one in which bands of armed militia believe they can do whatever they want to African Americans, including imprisoning, and enslaving them (Aponte-Rios, 2005). No matter how faint, the legacy of slavery and genocide can still be felt in the racial biases ingrained in the policies and procedures of law enforcement agencies that have been proven by their own raw data to be racist.

Racially biased law enforcement policies can be seen on a state level and on a federal level, for example the passing of legislation such as Bill Clinton’s 1994 *Violent Crime Control and Law Enforcement Act*. This \$30 billion crime bill “created dozens of new federal capital crimes, mandated life sentences for some three-time offenders, and authorized more than \$16 billion for state prison grants and expansion of state and local police forces” (Alexander, 2010). Legislation like this has absolutely packed the U.S. prison system, which saw an increase in population from one million in 1994 (at the time of the enactment of Clinton’s crime bill) to 6.15 million as of 2020 (USAFacts, 2020). This is not a recent

problem. As Johnson (2020) observes, “between 1973 and 2009, the rate more than quadrupled.” This dramatic increase in the prison population is accompanied by the disproportionate incarceration of minority populations, primarily African American and Hispanic men of lower socioeconomic classes. So, what can be done to reverse this inequity, and moreover, can the gathering and sharing of raw data help?

New Data – New Policing

Today’s law enforcement agencies stand on the precipice of finally having the tools and ability to make truly impactful systemic changes regarding racial disparities. The relatively new advent of data gathering technologies is the key to the possibility of seismic shifts in policy and procedure. Systems like the FBI’s National Incident-Based Reporting System (NIBRS) gather raw data regarding crimes in real time, as well as the law enforcement responses in each case. NIBRS “captures details on each single crime incident—as well as on separate offenses within the same incident—including information on victims, known offenders, relationships between victims and offenders, arrestees, and property involved in crimes” (FBI, 2023).

After data is gathered using systems like NIBRS, it can then be analyzed to specifically seek out evidence of racial and socioeconomic disparities in the criminal justice system using the raw data itself. When understood properly and used appropriately, accurate data collection can be the key driving force of the criminal justice system. This must, of course, be a thorough and complete gathering of raw, detailed, and accurate data; every data point and every outlier must be examined. Without collecting 100% of accurate criminal justice data, there is no hope to analyze a truly realistic picture of crime in the U.S. and, as such, no substantive

change will take place in a criminal justice system which upholds racial biases and systemic racial disparities.

The Stanford study of the Oakland Police Department's stop and searches (discussed above) is just one example of a group of researchers who collected and analyzed accurate law enforcement data and, thereby, exposed racial disparities within a law enforcement organization. As detailed in the table above, the Oakland Police Department has a noticeable tendency towards racial bias when it comes to their traffic stop and search procedures. As the study's authors put it, "Racial disparities are real, as this research shows. Differences exist in how police officers treated African Americans compared to those of other ethnic groups" (Parker, 2016).

While the researchers clarify that their findings did not point to overt racism, they noted that this was not exclusively an individual problem as much as an overarching, institutional issue (Parker, 2016). The intricate workings of implicit racial biases, held in the subconscious beliefs of individuals is, however, a majorly problematic component of this institutional problem.

However, there is hope. According to the Stanford researchers, "police departments in Oakland and elsewhere can overcome a subtle bias problem. Using better data, providing education, and becoming informed are the first steps" (Parker, 2016). In fact, even civilians can take a test to measure their implicit racial biases at any time, with resources such as the Implicit Association Test (IAT) created by Project Implicit (Project Implicit, 2011). If resources like the IAT exist for laypeople, surely a more sophisticated version could be created and implemented for use by law enforcement agencies in Oakland and beyond.

The Future Of Data-Informed Policing

How will the issue of racist policing be dismantled? As with most large problems, the taking of small and significant steps is essential. Some solutions to racial disparities in law enforcement data suggested by Johnson (2020) provide a path forward. For example, reexamining long sentences, mandatory minimum sentences, preparing incarcerated individuals to re-enter society, and reducing unnecessary harm to the families of the incarcerated, are a handful of reform strategies, along with helping ex-prisoners find and keep employment, identifying transitional housing, and providing mentoring. These are just a few of the solutions found by collecting, analyzing, and properly interpreting raw criminal justice data.

The Stanford researchers proposed some of the most workable solutions, such as to make data accessible, train officers in social tactics, and to increase positive community contact, but, the problem is even deeper than mere police reform. “Independent of one’s own values, biased attitudes can arise from observing how other people behave toward African Americans in a given situation or environment” (Parker, 2016). Because America is firmly rooted in racism, slavery, and genocide, the racial disparities in the criminal justice system are based in history and, therefore, historically embedded in law enforcement policy and procedure.

There is a path to law enforcement and criminal justice reform, however, as there are social justice activists and allied academics, such as Jennifer Eberhardt who led the Stanford study, working to analyze data to aid in the creation of well-researched, data-based policy. The final piece of the puzzle, of course, will be the compliance of the individual police departments and law enforcement agencies regarding the recording and reporting of data. For data-informed policies to be properly executed, all

individual police departments and all law enforcement agencies must update their data-gathering technology, examine their raw data, and truly implement new, non-racially biased policies while holding themselves accountable to a much higher standard than ever before. This will be an uphill battle, to be sure, but the future of law enforcement looks less bleak when considering the implementation of data-informed policies based on the analysis of raw data.

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