THE JOURNAL OF THE AMERICAN PROBATION AND PAROLE ASSOCIATION

# PERSPECTIVES

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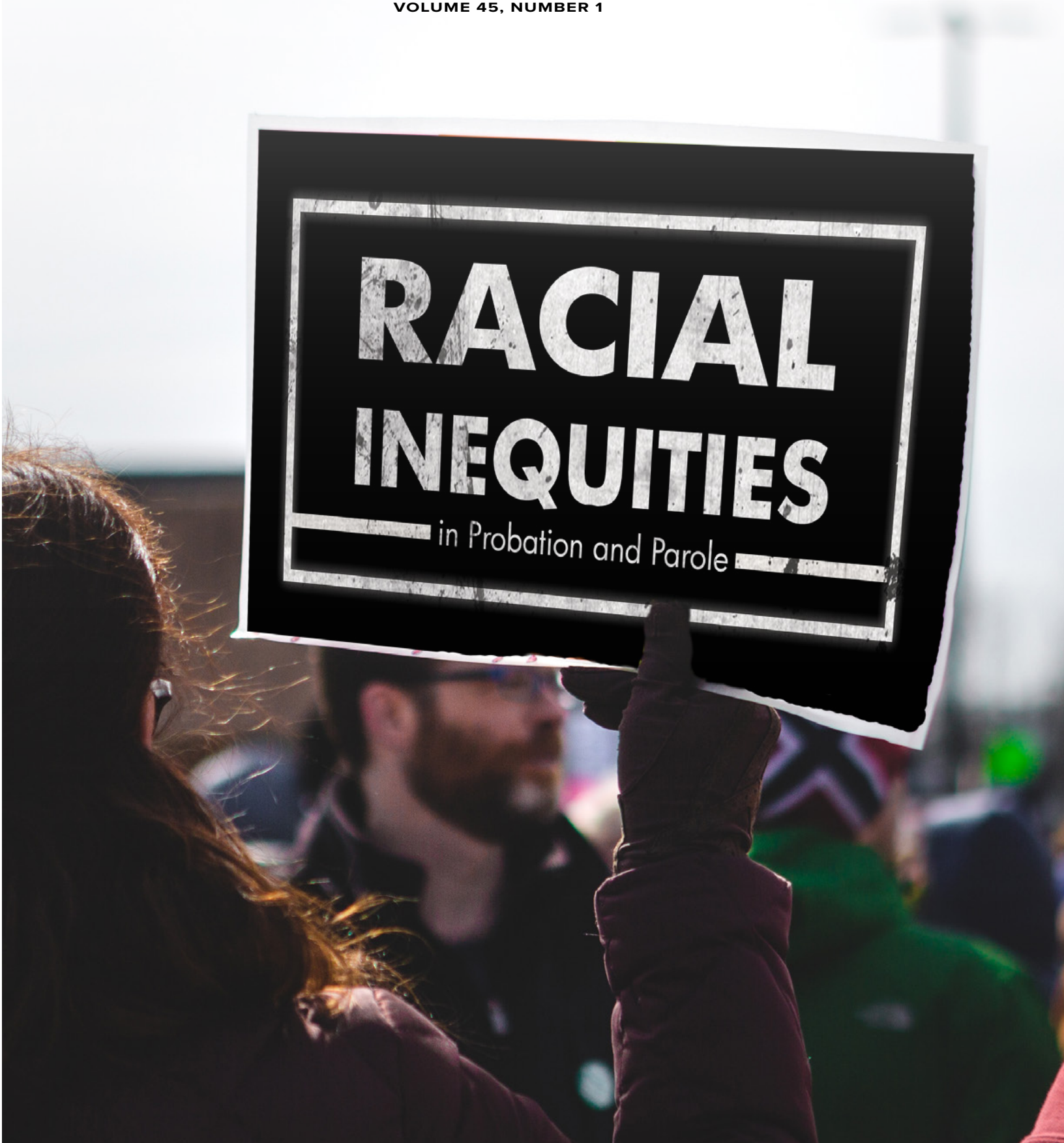

# president's message

One of my responsibilities as APPA President is to make a small contribution to Perspectives by writing a "President's Message" for each issue. I always look forward to doing this, but this quarter Perspectives is tackling a very tough, but important topic. I believe that this is the most powerful issue of Perspectives that I've seen in the last 20+ years that I have been a member of APPA. The truth is: the criminal justice system is broken, and as Marcus Hodges discusses in his article, "Reforms are past due at every stage of the process."

I believe it is time to stop talking about it, admit we have a problem and commit to a solution. As Nike says, "Just Do it!" Let's make that change. I have been working in the criminal justice system for almost 40 years and the problems I saw as a "rookie cop" in the late 70s still exist today. I admit that I have not done my share to deal with this horrific problem. I have heard so many say that the problem of racism exists everywhere else, but not in our agencies, communities, or states.

**TIM HARDY**
PRESIDENT

We all need to face the truth and admit that racism exists in some way in all agencies, communities, and states. According to the American Bar Association, "We all have biases that affect all aspects of our lives and the lives of others with whom we interact. Having a bias doesn't make you a bad person, however, and not every bias is negative or hurtful. It's not recognizing biases that can lead to bad decisions at work, in life, and in relationships."

Seeing the daily news of the racism that exists in our country makes me sick to my stomach! How many times do we have to see someone of color mistreated, injured, or even killed before we stand up and do something?

Please take the time to read this entire issue of Perspectives. It truly has opened my eyes and now I must do my part and be proactive. I ask that you do the same. If you see something, say something, and do something about it!

Thanks,

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# from the executive director

The articles in this issue call for fair and equal treatment in the justice system. Some would argue that many of our efforts to date have been just chipping away at a problem that needs to be confronted head-on.

I saw some suggested keywords of "diversity, ethics, workplace, reform" for Lindsay Jayawardena's article. An argument could be made that other keywords for this issue as a whole could include "unconscious bias, inequity, and trauma."

Sometimes it feels like there is a timeclock of apprehension ticking away while we hope that the message of "enough" has finally sunk in and that we'll never again hear of tragedies like George Floyd. Details differ, but the core problems of fear, misperception, and overreaction—on the part of officers, victims, or both—usually seem to play a prominent role. We rely on our law enforcement partners, but—as in our community corrections agencies—each police force is made up of individuals with bravery, gallantry, and kindness but also prejudices, flaws, and fears.

Let's strive to address prejudices and fears, both systemically and internally. Let's reexamine our own decision-making. And let's not be blinded to even the smallest instances of bias. Justice demands it. I recently saw a quote of the day from Fred Rogers. "There are three ways to ultimate success. The first way is to be kind. The second way is to be kind. The third way is to be kind." Right now, for us the first way is to be just. The second way is to be just. The third way is to be just.

**VERONICA CUNNINGHAM**
APPA EXECUTIVE DIRECTOR

In "A Word on Statistics" by poet Wislawa Szymborska, her rather cynical lines about justice caught my attention. She thought the number of just people out of every 100 was "quite a few at thirty-five" but dropped to three "if it takes effort to understand." While I do not believe the percentage of just people is anywhere near that low, I do think that it takes effort to understand what is just. Szymborska also said that the number of people wise in hindsight was "not many more than wise in foresight." I hope that's not true of us, and that the events of this last year will lead to real and meaningful change.

Each article in this issue has information that will increase our understanding and offers suggestions to put us on the right path. Please read them carefully. I recognize that the subject of unconscious bias and the pain of confronting it may be challenging.

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**KIMBERLY R. KRAS**
ASSISTANT PROFESSOR, SCHOOL OF PUBLIC AFFAIRS, SAN DIEGO STATE UNIVERSITY

## On Injustice and Inequity

The year 2020 was tremendously challenging on many fronts. We were confronted with something humanity had not seen in recent times—worldwide spread of a highly contagious and potentially lethal virus. The pandemic impacted lives and livelihoods in so many different ways.

To a similar degree, racial injustice and inequity in the criminal justice system rose to the forefront of our collective attention. These issues, unlike the novel coronavirus, are not new at all. They were prevalent on our home front before we were even a nation. As sure as criminal justice systems have varied over time and from nation to nation, so too have injustice and inequity existed within those systems.

Although the pandemic of injustice and inequity has long endured, it seems to traverse through time all too unnoticed until it rears its head and gets people to take notice after sentinel events. Society then commences discussion about the core issues and the best remedy. It also becomes a political issue—and, even then, some continue to say nothing needs to be done, ignoring the data that show otherwise. In 2020 and 2021, we again witnessed sentinel events that brought issues of racism, injustice, and inequality to light. We have a duty to recognize the importance of these issues and challenge our processes in a way that will meaningfully address them. We must not allow them to again shrink away out of our line of vision only to reemerge, as they inevitably will, by way of more tragedy.

This issue of *Perspectives* continues the important discussion of inequity and injustice in the criminal justice system. Members of the APPA Equity, Diversity, and Inclusion Committee led by DeBaja Coleman and Marcus Hodges have compiled articles framing these critical issues in ways that can assist staff in acknowledging and effectively dealing with them.

Marcus Hodges starts our readers off with a compelling article highlighting how inequity impacts the various points of contact within the criminal justice system. In *Racial Inequities and Our Need for Change,* Hodges cites data and provides examples of how inequity inflicts its injury, beginning with policing and continuing all the way through post-release supervision.

Loronda Giddens continues the discussion with *Racial Inequities: A Tale of Two Justices,* providing recommendations on reform measures that community corrections agencies can take to eliminate their respective racial injustice footprints.

Two articles are included that we hope will challenge our *Perspectives* audience to take critical self-evaluations and be instrumental in helping others to do the same. Robbyn-Nicole Livingston and Malkia Crowder provide us with *Implicit Bias: What is it and How Does it Affect Us?*, an informative piece in which they define and describe implicit bias and the myriad ways it appears in the justice system. In *12 Steps to Having Courageous Conversations about Race,* Toi James describes concrete steps and additional resources that can guide staff in reflecting on biases and communicating with others while acknowledging the work it takes to eliminate such biases.

Finally, we are pleased to provide our readers with an article by a Carver County Court Services (MN) Probation Agent, Lindsay Jayawardena. In *A Call to Action in the Year of Racial Reckoning*, Jayawardena challenges all probation and parole agents/officers to examine and purposefully change their advocacy and actions in ways that can positively impact injustice.

As you read this important issue of *Perspectives*, we hope that you take an honest look at yourself, your work, and your agency and that you will engage in the deep and difficult--but critically necessary--work of repairing and restoring our justice system.

## editorial board

# instructions to authors

***Perspectives*** disseminates information to the American Probation and Parole Association's members on relevant policy and program issues and provides updates on activities of the Association. The membership represents adult and juvenile probation, parole, and community corrections agencies throughout the United States and abroad. Articles submitted for publication are screened by an editorial committee and, on occasion, selected reviewers, to determine acceptability based on relevance to the field of criminal justice, clarity of presentation, or research methodology. ***Perspectives*** does not reflect unsupported personal opinions. Articles must be emailed to perspectives@csg.org in accordance with the following deadlines:

Unless previously discussed with the editors, submissions should not exceed 12 typed pages, numbered consecutively, and double-spaced. All charts, graphs, tables, and photographs must be of reproduction quality. Optional titles may be submitted and selected after review with the editors.

All submissions must be in English and in American Psychological Association (APA) Style. Authors should provide a one-paragraph biography, along with contact information. Notes should be used only for clarification or substantive comments, and should appear at the end of the text. References to source documents should appear in the body of the text with the author's surname and the year of publication in parentheses, e.g., to (Mattson, 2015, p. 73). Alphabetize each reference at the end of the text using the following format:

Mattson, B. (2015). Technology supports decision making in health and justice. ***Perspectives***, ***39***(4), 70-79.

Hanser, R. D. (2014). ***Community corrections*** (2nd ed.). Thousand Oaks, CA: Sage.

While the editors of ***Perspectives*** reserve the right to suggest modifications to any contribution, all authors will be responsible for, and given credit for, final versions of articles selected for publication. Submissions will not be returned to contributors.

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RACIAL INEQUITIES AND OUR NEED FOR CHANGE
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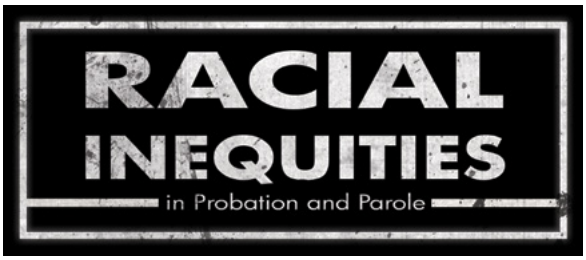


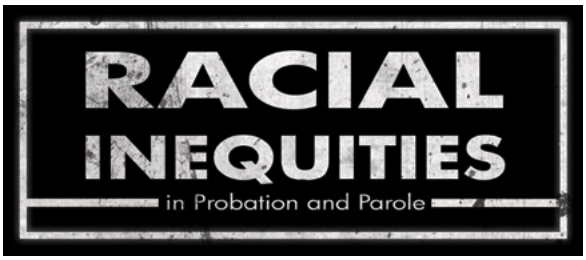

***"Our lives begin to end the day we become silent about things that matter."***

***Dr. Martin Luther King***

From arrest to conviction, sentencing to release, our criminal justice system is broken, especially for people of color. Reforms are long overdue at every stage in the process, as illustrated by horrific examples, research studies, and decades of failures.

Consider Walter "Johnny D" McMillian, an African American male from Monroeville, Alabama, who was found guilty of murder in 1988 after a trial tainted by police coercion and perjury. The jury had decided on a sentence of life imprisonment, but the judge used a controversial judicial override power to instead impose the death penalty. Between 1990 and 1993 four appeals were filed but turned down by the Alabama Court of Appeals. It wasn't until 1993 that the Court of Appeals reversed a lower court's decision and ruled that Mr. McMillian had been wrongfully convicted. By that point, he had served six years on Alabama's Death Row. Considerable national attention was given to this controversial case, in great part due to Bryan Stevenson and the Equal Justice Initiative, and it helped shine light on the need for criminal justice reform. (Harksen 2020)

Then there was Kalief Browder, who was jailed on New York City's Rikers Island at age 16 after being accused of stealing a backpack. He refused to plead guilty, maintaining his innocence and insisting on a trial, but due to repeated delays he ended up jailed for three years awaiting trial, and nearly two years of that time was in solitary confinement. By the time of his release at age 20, he had changed. A few years later he committed suicide, reportedly due to the effects of his confinement. About six months before his death, a *New Yorker* reporter interviewed Mr. Browder and published an article about his case in the magazine (Gonnerman, 2014), making him a symbol of what many

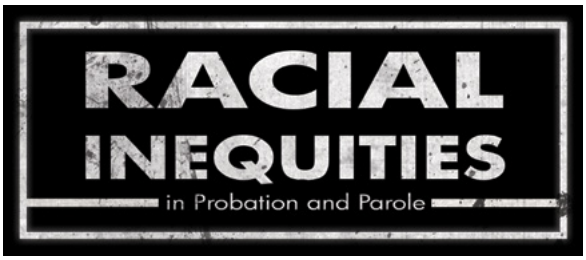



viewed as a broken criminal justice system. New York City Mayor Bill de Blasio cited the article when he announced an effort to clear backlogs in state courts and reduce the inmate population at Rikers.

Mayor de Blasio's actions were a start, but there are countess stories of injustices in our current criminal justice system. We can't simply ignore that we are dealing with a flawed, unjust, and sometimes merciless system. For example, in her book, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, Michelle Alexander (2010) takes the position that the United States criminal justice system uses the war on drugs as a primary tool for enforcing both new and traditional modes of discrimination and oppression against people of color. These new modes of racism have led to not only the highest rate of incarceration in the world, but also a disproportionally large rate of imprisonment for African American men. The scope of this problem is confirmed by The Sentencing Project's report to the United Nations (2018), which describes in detail how the criminal justice system in the United States is the largest in the world. At the end of 2015, more than 6.7 million individuals were under some form of correctional control in the United States, including 2.2 million incarcerated in federal, state, or local prisons and jails, making the U.S. the world leader—by far—in incarceration rates. The Sentencing Project's report also stated that African Americans are more likely than white Americans to be arrested. Once arrested, they are more likely to be convicted, and once convicted they are more likely to experience lengthy prison sentences. African American adults are 5.9 times more likely to be incarcerated than whites, and Hispanics are 3.1 times as likely. Extrapolating from the data, one out of every three black males and one out of every six Latino males born in 2001 could expect to go to prison in his lifetime, compared to one in 17 of the white males born that year.

In *No Equal Justice*, Georgetown law Professor David Cole states:

> *These double standards are not, of course, explicit; on the face of it, the criminal law is color-blind and class-*

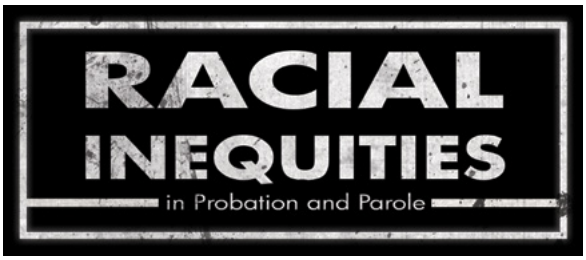



> *blind. But in a sense, this only makes the problem worse. The rhetoric of the criminal justice system sends the message that our society carefully protects everyone's constitutional rights, but in practice the rules assure that law enforcement prerogatives will generally prevail over the rights of minorities and the poor. By affording criminal suspects substantial constitutional rights in theory, the Supreme Court validates the results of the criminal justice system as fair. That formal fairness obscures the systematic concerns that ought to be raised by the fact that the prison population is overwhelming poor and disproportionately black (1999, pp. 8-9).*

From these and other statements, and based on the data and evidence, I conclude that our current criminal justice system has had a shockingly negative effect on communities of color, including economic oppression. Disparities don't exist in just one area of the criminal justice system. As this article will describe, they exist throughout the entire system. Indeed, The Sentencing Project's 2018 report to the United Nations outlines racial disparities in every aspect of the criminal justice system from policing to collateral consequences.

**Policing:** In 2016, The Sentencing Project reports that black Americans comprised 27% of all individuals arrested in the United States—double their share of the total population (U.S. Department of Justice-FBI, 2017). Black youth accounted for 15% of all U.S. children, yet made up 35% of juvenile arrests in that year (Puzzanchera, Slinky, & Kang, 2017).

What might appear at first to be a linkage between race and crime is in large part a function of concentrated urban poverty, which is far more common for African Americans than for other racial groups. This accounts for a substantial portion of African Americans' increased likelihood of committing certain violent and property crimes (Peterson & Krivo, 2012). But while there is a higher black rate of involvement in certain crimes, white Americans overestimate the proportion of crime committed by blacks and Latinos, overlook the fact that communities of color are disproportionately victims of crime, and discount the prevalence of bias in the criminal justice system (Ghandnoosh, 2014b).

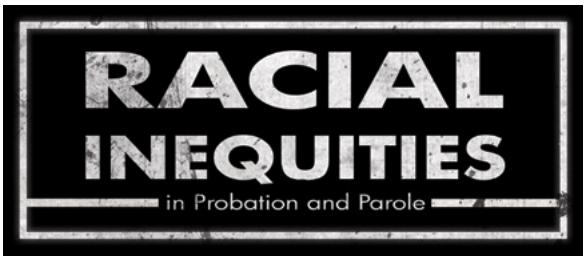



**Pretrial:** Bureau of Justice Statistics data, as reported by The Sentencing Project, show that African Americans who were pending trial in 2016 were incarcerated in local jails at a rate 3.5 times that of non-Hispanic whites (Carson, 2018; Zeng, 2018). These disparities stem in part from the policies and practices of policing, as described earlier, but are compounded by factors introduced at this stage of processing. Given that nearly two-thirds (65%) of people in jail in 2016 were being detained prior to trial, policies and decisions influencing pretrial detention play a key role in driving the disparity in the jail population and beyond (Zeng, 2018).

Pretrial detention has been shown to increase the odds of conviction, and people who are detained awaiting trial are also more likely to accept less favorable plea deals, to be sentenced to prison, and to receive longer sentences. Seventy percent of pretrial releases require money bond, an especially high hurdle for low-income defendants, who are disproportionately people of color. Blacks and Latinos are more likely than whites to be denied bail, to have a higher money bond set, and to be detained because they cannot pay their bond (Jones, 2013). They are often assessed by the courts to be higher safety and flight risks because they are more likely to experience socio-economic disadvantages and to have criminal records. Implicit bias also contributes to people of color faring worse than comparable whites in bail determinations.

**Sentencing:** According to the Sentencing Project, Bureau of Justice Statistics data show that although African Americans and Latinos comprise 29% of the U.S. population, they make up 57% of the U.S. prison population. This results in imprisonment rates for African American and Hispanic adults that are 5.9 and 3.1 times the rate for white adults, respectively—and at far higher levels in some states (see Zeng, 2018). Notably, these disparities exist for both the least and most serious offenses:

- Of the 277,000 people imprisoned nationwide for a drug offense, over half (56%) are African American or Latino

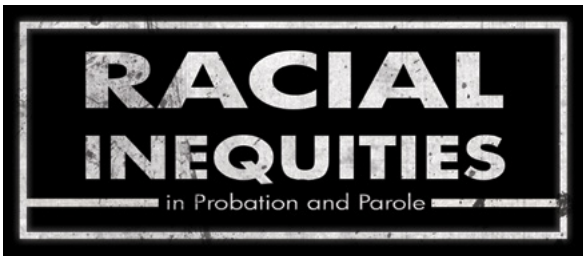



(Zeng, 2018).

- Nearly half (48%) of the 206,000 people sentenced to serve life or "virtual life" (50 years or longer) in prison are African American and another 15% are Latino (see Nellis, 2017).
- Among youth, African Americans are 4.1 times as likely to be committed to secure placements as whites, American Indians are 3.1 times as likely, and Hispanics are 1.5 times as likely (Sickmund, Sladky, Kang, & Puzzanchera, 2017). Although levels of youth confinement have significantly declined in recent years, the racial gap between black and American Indian versus white youth has increased (Rovner, 2016).

The racial disparities in the adult and juvenile justice systems stem in part from the policing and pretrial factors described earlier. These are compounded by discretionary decisions and sentencing policies that disadvantage people of color because of their race or higher rates of socioeconomic disadvantage (Ghandnoosh, 2014a). These include:

- Biased use of discretion: Prosecutors are more likely to charge people of color with crimes that carry heavier sentences than whites. Federal prosecutors, for example, are twice as likely to charge African Americans with offenses that carry a mandatory minimum sentence than similarly situated whites (Starr & Rehavi, 2013). State prosecutors are also more likely to charge black rather than similar white defendants under habitual offender laws (Crawford, Chiricos, & Kleck, 1998).
- Policies that disadvantage people of color: Drug-free school zone laws mandate sentencing enhancements for people caught selling drugs in designated school zones. The expansive geographic range of these zones, coupled with high urban density, has disproportionately affected residents of urban areas, and particularly those in high-poverty areas–who are largely people of color (Porter & Clemons, 2013). Legislators in New Jersey scaled back their state law after a study found that 96% of persons subject to these

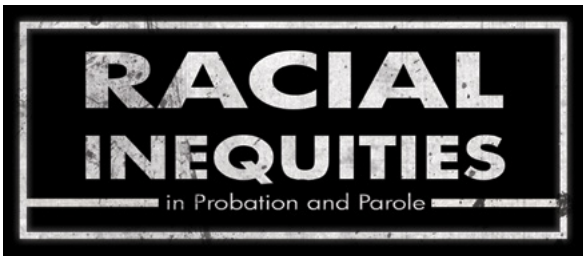



enhancements were African American or Latino. All 50 states and the District of Columbia have some form of drug-free school zone law.

- Policies that disadvantage poor people: Most jurisdictions inadequately fund their indigent defense programs. While there are many high-quality public defender offices, in far too many cases indigent individuals are represented by public defenders with excessively high caseloads or by assigned counsel with limited experience in criminal defense. Public defenders in Louisiana have recently sued the state, and those in Kansas City, Missouri, have protested their crushing caseloads (Wiltz, 2017).

**Parole/Post-release supervision:** The Sentencing Project reports a declining proportion of the prison population has a sentence that allows for discretionary release on parole, as lawmakers have required courts to shift from indeterminate sentences (in which release requires a discretionary parole decision) to fixed-term sentences (which have set release dates) (Ghandnoosh, 2017). Among sentences that allow for discretionary parole release, the process can be much more challenging for people of color. Some research suggests that parole boards are influenced by an applicant's race in their decision-making, though more research is needed in this area (Huebner & Bynum, 2008; Morgan & Smith, 2005). Racial bias among correctional officers also shapes parole outcomes. As revealed by a *New York Times* investigation of New York prisons, comparable in-prison conduct—a major determinant of parole decisions—may result in divergent prison disciplinary records for blacks and Latinos versus whites (Schwirtz, Winerip, & Gebeloff, 2016). Based on an analysis of almost 60,000 disciplinary cases from the state's prisons, reporters found that disparities in discipline were greatest for infractions that gave discretion to guards, such as disobeying a direct order.

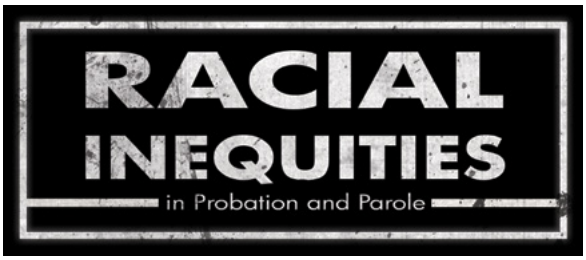
Underinvestment and racial disparities also persist in community supervision—with many parole and probation systems offering supervision with little support, and with evidence that parole and probation officers are more likely to revoke people of color than




whites for comparable behavior. For example, the Urban Institute examined probation revocation rates in Dallas County, Texas, Iowa's Sixth Judicial District, Multnomah County, Oregon, and New York City. Its study revealed that black probationers were revoked at disproportionate rates in all study sites at levels which "raise concerns about the presence of bias to the disadvantage of black probationers" (Breaux, Bernard, Ho, & Janetta, 2017, p. 6).

**Collateral consequences:** Lastly, according to The Sentencing Project's report, African Americans—particularly black men—are most exposed to the collateral consequences associated with a criminal record. Collateral consequences are additional civil state penalties, mandated by statute, that attach to criminal convictions. Examples are ineligibility for public funds (including welfare benefits and student loans), loss of voting rights, and in some cases the loss or restriction of a professional license. In 2010, 8% of all adults in the United States had a felony conviction on their record. Among African American men, the rate was 33%—an astonishing one in three (Shannon et al., 2017). People with criminal records face a host of obstacles to re-entering society even after they have fully completed their terms of incarceration or community supervision. These include barriers to securing steady employment and housing, accessing the social safety net and federal student aid, and exercising the right to vote.

Nearly one-third of U.S. workers hold jobs that require an occupational license, a requirement that sometimes bars and often poses cumbersome obstacles for people with criminal records (Quinton, 2017). In sectors that do not require licensing, employers are 50% less likely to call back white job applicants with incarceration histories than comparable applicants without prison records (Pager, 2007). African American job applicants, who are less likely to receive callbacks than whites to begin with, experience an even more pronounced discrimination related to a criminal record. As scholar Devah Pager's research has revealed, whites *with* criminal records receive more favorable treatment than blacks *without* criminal records (Pager, 2007). People with criminal convictions also face discrimination in the private rental market, and those with felony drug convictions face restrictions in accessing



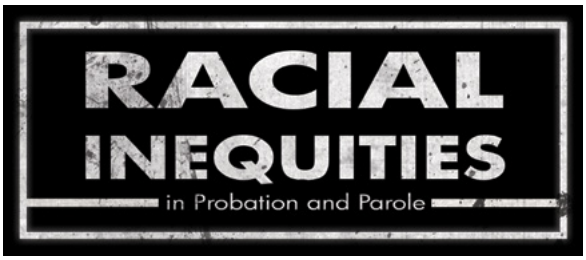

government-assisted housing (Pinard, 2013; Navarro, 2014).

The Welfare Reform Act of 1996 imposed a lifetime denial of cash assistance and food stamps to people convicted in state or federal courts of felony drug offenses, unless states opt out of the ban. Given the dynamics of social class and the accompanying disparate racial effects of the criminal justice system, women and children of color are disproportionately impacted by this exclusionary law (Mauer & McCalmont, 2013). By 2018, only 24 states had fully opted out of the food stamp ban. Another 21 states had done so only in part, and five states continued to fully enforce the ban. An even larger number of states continue to impose a partial or full ban on cash assistance for people with felony drug convictions (Hager, 2016).

Disenfranchisement patterns have also reflected the dramatic growth and disproportionate impact of criminal convictions. A record 6.1 million Americans were forbidden from voting because of their felony record in 2016, rising from 1.2 million in 1976. Felony disenfranchisement rates for voting-age African Americans reached 7.4% in 2016—four times the [1]rate of non-African Americans (1.8%) (Uggen, Larson, & Shannon, 2016). In three states (Florida, Kentucky, and Tennessee), more than one in five voting-age African Americans are disenfranchised. (It is noted that Virginia was removed from this ignominious list after its governor issued an executive order to restore voting rights; see Stolberg & Eckholm, 2016). The majority of disenfranchised Americans are living in their communities, having fully completed their sentences or remaining supervised while on probation or parole.

## Conclusion

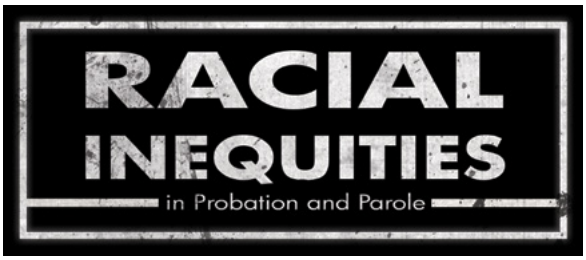
The need for criminal justice transformation is long overdue, and criminal justice practitioners must stand up and support promising initiatives that can help us reach our goals. Executives **Transforming Probation and Parole (EXiT) included a set of excellent recommendations in its Statement on the Future of Probation & Parole in the United States (EXiT, 2020). These deserve our full support. If all**




**of these are carried out, they have the potential to have a tremendous transformative impact.**

- Divert from probation and parole those individuals for whom the purposes of sentencing can be achieved without supervision, prioritizing services and supports above surveillance and supervision.
- Eradicate racial disparities in supervision, revocations, and sentencing recommendations.
- Establish reasonable probation and parole terms that are not unnecessarily long (generally no longer than 18 months) and are measured by a balance of safety concerns and an individual's goals.
- Allow people on probation to earn time off supervision through good behavior and by achieving certain milestones, like high school graduation, program completion, enrollment in college, and job retention.
- Tailor conditions of probation and parole to the needs and goals of each individual. Conditions never should be imposed unless they specifically relate to the person's offense behavior.
- Eliminate supervision fees. If fees are levied, they always should be within the person's ability to pay, and the person should have the option of performing reasonable community service as an alternative.
- Eliminate incarceration for technical violations and reduce reincarceration for low-level new offenses by those under supervision.

I firmly believe that if every locality adopted these recommendations, it would go a long way in vastly improving our criminal justice system. In an evidence-based world, we utilize data-driven decision-making, so we can't argue away or ignore the facts that significant racial and economic disparities exist in our criminal justice system. The question is: What do we do? The answer is simple. We must act, and we must act NOW! To ignore these issues and not address them in a comprehensive and meaningful way is criminal justice malpractice. **As criminal justice practitioners, we need to hold each other accountable as we work to vastly improve the system, creating a culture that values equity, inclusion, and**




**diversity and provides hope for those who are in our custody and care. If we all commit to achieving this transformation, we can greatly improve our outcomes, with safer communities, fewer victims, and reduced recidivism.**

**Marcus M. Hodges**
**Co-Chair of APPA Diversity Committee**

Marcus M. Hodges started his career in the Virginia Department of Corrections and has worked passionately in various positions to create environments that produce safer communities. In 2017, he became Associate Director for the Court Services and Offender Supervision Agency in Washington DC. He served as President of NAPE from 2014-2018 and assists in facilitating the APPA Leadership Academy. In 2018, he received the Middle Correctional States Association Award for Innovation in Community Corrections. In 2020 he was awarded Probation Executive of the Year from NAPE/Sam Houston State University.

Marcus M. Hodges holds a Bachelor of Arts in Sociology/Criminal Justice from Virginia Union University (1992) and a Master of Arts in Criminal Justice from Florida Metropolitan University.

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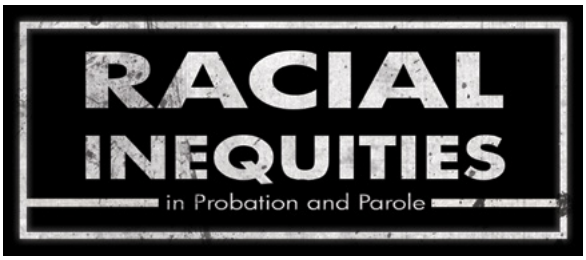


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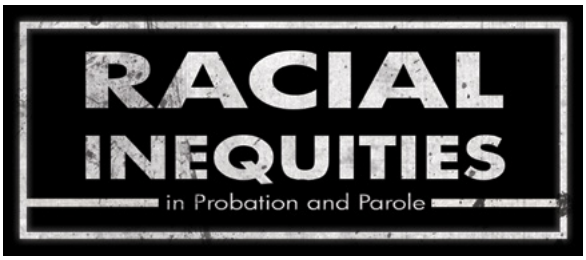


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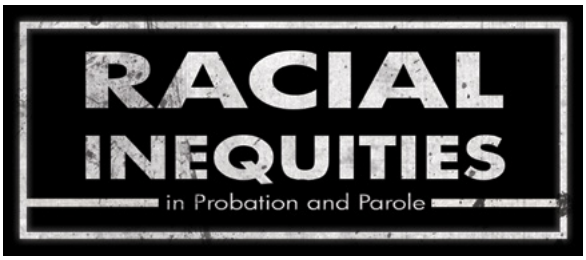


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# SAVE THE DATE

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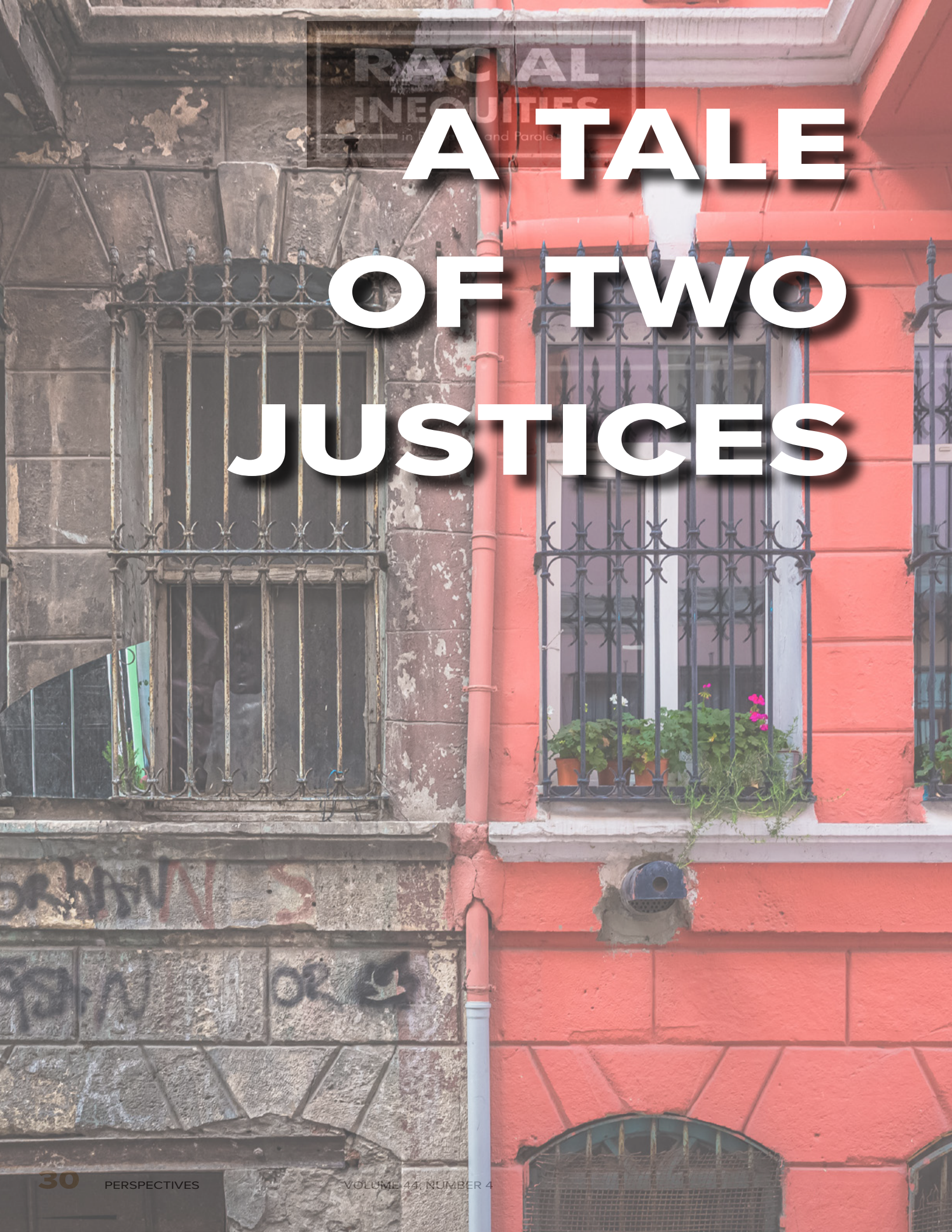
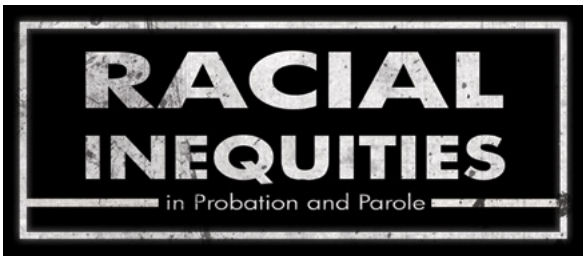



# A TALE OF TWO JUSTICES

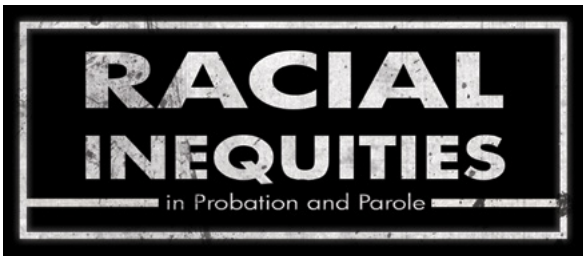



***"The authors of the Declaration of Independence outlined a bold vision for America: a nation in which there would be equal justice for all. More than two hundred years later, it has yet to be achieved. Though generations of civil rights activism have led to important gains in legal, political, social, educational, and other spheres, the forced removal of indigenous peoples and the institution of slavery marked the beginnings of a system of racial injustice from which our country has yet to break free."***

***(American Civil Liberties Union, 2021).***

## And Justice for All

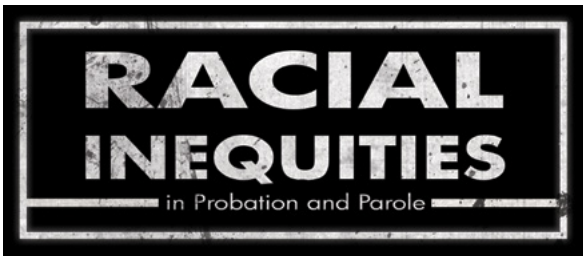
The criminal legal system should be a place of fair and equal treatment for all. A place where justice-involved individuals can be rehabilitated to become law-abiding citizens while also being held accountable. However, there appears to be an invisible system working against justice-involved individuals of color. In an interview in September 2020, Vice President Kamala Harris discussed disparities for Black and White Americans in the justice system and said, "We do have two systems of justice" (Struyk, 2020). One example is the disparate treatment of two young men, Dylan Roof and Elijah McCain. Roof, a 26-year-old white male, attended a worship service with African American churchgoers in Charleston, South Carolina, before killing nine of them. He was arrested, but while he was in their custody the officers went to a Burger King to get Roof something to eat. In stark contrast, McClain, a 23-year-old African-American male, was walking home from a convenience store in Aurora, Colorado, one evening and was stopped by police officers because a 911 operator had passed on a call about a "sketchy" individual (Bellware, 2021). Even though he had committed no crime, much less multiple murders, McClain was restrained and placed




in a chokehold, following which paramedics arrived and injected him with a hefty dose of the sedative ketamine. He went into cardiac arrest and died in police custody (Kenney, 2021). Although the vast majority of police officers are dedicated to their work and courageously put their lives on the lines to protect citizens, there are countless examples of racial injustice in the criminal legal system, and some result in truly tragic outcomes.

Racial justice is the systematically fair treatment of people of all races that results in equitable opportunities and outcomes for everyone. All people should be able to achieve their full potential in life, regardless of race, ethnicity, or the community in which they live (Annie E. Casey Foundation (AECF), 2020). George Floyd, a 46-year-old African American male in Minneapolis, certainly did not have the opportunity to fulfill his full potential in life. During an arrest, Officer Derek Chauvin kneeled on his neck for 9 minutes and 29 seconds. "Momma!" Floyd called out, "Momma! I'm through." These words were spoken by the dying man even though Floyd's mother had died two years previously (O'Neal, 2020).

Far too often the killings of unarmed men of color like Floyd are represented as being somehow justified because the victim may have a criminal record. Killings by police have plagued society for decades, but something different occurred when it happened to Floyd in the midst of a global pandemic, in daylight, in front of witnesses, and in front of cameras. It felt like we had reached a tipping point. An urgent call rippled across the nation to fully examine every single solitary injustice and inequality in every aspects of our lives. The healthcare system became a focal point because the COVID-19 pandemic exposed lack of resources in communities of color. The education system became a focal point because the pandemic exposed internet deserts in communities of color. The juvenile justice system became a focal point because the pandemic exposed racial and ethnic disparities in who gets detained—and, unfortunately, overrepresentation of Black and Latino youth in detention was actually worse at the start of 2021 than in the year prior (AECF, 2021). Moreover, the education system and

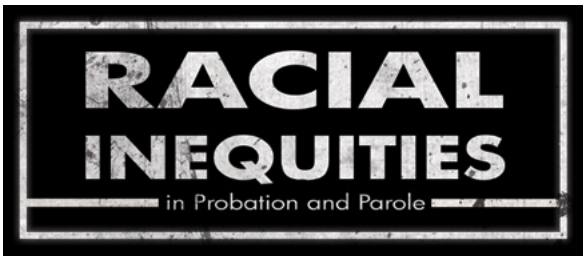



the juvenile justice have drawn additional attention for the way educational practices have increased the odds of students of color going ending up incarcerated or otherwise involved in the criminal justice system.

**School-to-Prison Pipeline**

The school-to-prison pipeline is a descriptive metaphor for what happens when education policies and practices directly and indirectly push students of color out of school and on a pathway to prison. Such policies and practices include, but are not limited to, harsh school discipline policies that overuse suspension and expulsion, increased school policing and surveillance that create prison-like environments, excessive reliance on referrals to law enforcement and the juvenile justice system, and an academic environment that is alienating, punitive, and centered around high-stakes testing (National Education Association, 2016). "Zero-tolerance" policies criminalize minor infractions of school rules, while having uniformed officers in school leads to students being criminalized for behavior that should be handled inside the school. Students of color are especially vulnerable to push-out trends and the discriminatory application of discipline (American Civil Liberties Union (ACLU), 2021).

Use of zero-tolerance discipline has resulted in Black students facing disproportionately harsher punishment than White students in public schools. While Black students only make up 16% of public school enrollment, they account for 42% of all students who have been suspended multiple times. This is in sharp contrast to White students, who represent 51% of public school enrollment yet only constitute 31% of students who receive multiple suspensions (ACLU, 2021). Several possible mechanisms appear to advance the relationship between school discipline and criminal justice involvement. Perhaps children and youth targeted for school discipline were labeled "troublemakers," and this label became a self-fulfilling prophecy (Hirschfield, 2008). Youth who have been suspended and/or expelled are also more likely to spend time unsupervised (Kim, Losen & Hewitt, 2010), which may increase the likelihood of engaging in criminal behavior (Hoeben &



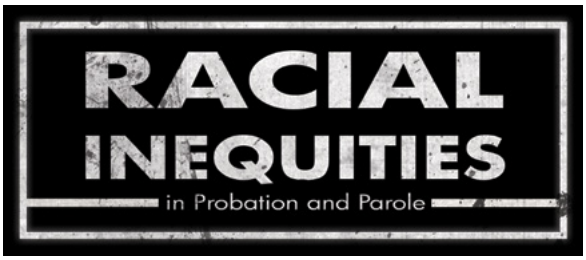

Weerman, 2016). Whatever the mechanism, discrimination in school disciplinary actions leads to increased criminal justice involvement for minority youths, setting them on the path to prison (Kovera, 2019). Many of these children have learning disabilities or histories of poverty, abuse, or neglect and would benefit from additional educational and counseling services. Instead, they are isolated, punished, and pushed out (ACLU, 2021).

Changes in disciplinary practices in schools can disrupt the school-to-prison pipeline that disproportionately affects minority youths. In one study, briefly training educators to adopt a more empathetic and less punitive mindset toward disciplining students reduced student suspensions by half (Okonofua, Paunesku, & Walton, 2016). Another intervention that combined teachers adopting a more empathetic mindset toward discipline, consistent disciplinary practices, and proactive classroom management techniques reduced disciplinary referrals to the school office by half and reduced racial disparities in referrals by a similar amount (Cook et al., 2018).

Interventions with students can also disrupt the pipeline. Identifying situations in which racial disparities in discipline existed and educating students about behavioral expectations for those situations reduced racial disparities in discipline for those situations (McIntosh, Ellwood, McCall, & Girvan, 2017). Thus, the combination of training teachers to respond differently to behavioral disturbances while also training students to meet behavioral expectations can decrease disciplinary actions that contribute to the school-to-prison pipeline. In order to change school cultures, the social and emotional needs of students must be strengthened and supported through education, parental and community partnerships, and relationship building (National Education Association, 2016).

## A Solitary Moment

Those minority youths who were not able to avoid the school-to-prison pathway and end up in custody can find a bad situation worsened even further by being placed in solitary confinement for infractions occurring while they are in custodial facilities. Every day

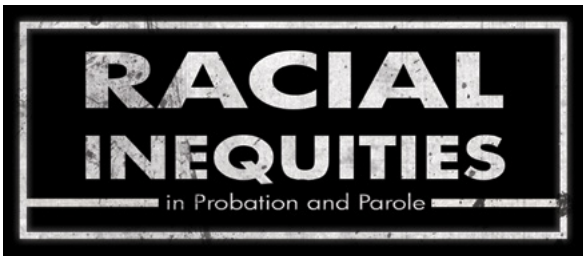



jails and prisons across the United States place young people under the age of 18 in solitary confinement. They may spend 22 or more hours alone each day, usually in a small cell behind a solid steel door. They are completely isolated, both physically and socially, often for days, weeks, or even months on end (ACLU, 2021).

In 2016 President Obama banned the use of solitary confinement for youth in federal prisons. Despite this progress at the federal level and in a growing number of states, solitary confinement of youth remains widespread, with a disproportionate impact on youth of color (predominantly Black and Latinx youth), gender non-conforming youth, LGTBQ youth, and youth with disabilities (Feierman, Lindell & Eaddy, 2017). An Office of Juvenile Justice and Delinquency Prevention Survey of Youth in Residential Placement from 2010 found that more Black youth were in correctional placements than youth of other races or ethnicities (Sedlak & McPherson, 2010). Thus, simply as a result of disparities at other decision points in the juvenile justice system, from arrest through adjudication, youth of color are at heightened risk of being placed in solitary confinement.

Kalief Browder, a 16-year-old African American male was accused of stealing a backpack but maintained his innocence. He was arrested and sent to jail without ever being given the opportunity to be supervised in the community in lieu of incarceration, even though Browder was being held pre-trial and was never convicted of a crime. Moreover, he ended up in solitary confinement for two of the three years he was detained at Rikers Island in New York. Charges were dismissed and he came home, but he struggled psychologically to reintegrate after his release and took his own life. Shaka Senghor, an African American male who entered prison at age 19, spent seven years in solitary confinement during his 19-year prison sentence.

As reflected in the cases of Browder and Senghor, solitary confinement is one of the most common and abusive practices in youth corrections facilities. Federal data show that over 30% of young people report

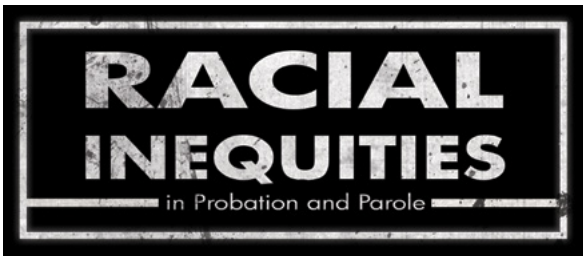



experiencing solitary confinement, and almost half of youth prisons and jails report using isolation to manage youth behavior, resulting in thousands of young people being held in solitary every day. Solitary confinement can have devastating and permanent effects on young people; more than 50% of suicides in youth facilities occur while young people are held in isolation. Youth of color and vulnerable youth are more likely to experience solitary confinement, including youth with mental illnesses or disabilities, LGBTQI or gender non-conforming youth, and youth with trauma histories (Stop Solitary for Kids, 2021).

**Community Supervision**

If trauma is accurately described as an event or experience involving the threat of or actual physical and/or psychological harm that adversely impacts one's capacity to feel secure and function effectively, then the history of racial and ethnic disparity in the juvenile justice system must be associated with the high percentage of justice-involved youth who are challenged with trauma-related issues (Lacey, 2013). The threat of incarceration as the result of a probation or parole violation can be traumatizing for Black and Latinx youths. In 2018, as compared to white people, Black people were 2.6 times more likely to be on probation and 4 times more likely to be on parole (Gelb, 2020).

The harmful impacts of parole policies disproportionately fall on Black and Latinx communities. For example, Bradner and Schiraldi (2020) found that people in these communities are significantly more likely than White people to be under supervision, to be jailed pending a violation hearing, and to be incarcerated in New York State prisons for a parole violation. Nationally, Black people are 4.15 times more likely to be under parole supervision than White people, and Latinx people are 15% more likely than White people to be under parole supervision. A report by the Brennan Center for Justice also found that Black and Latinx people remain on probation and parole longer than similarly situated Whites (Eaglin and Solomon 2015). In the late 1990s Wallace "Wallo" Peeples, a 17-year-old African American male, was




sentenced to 20 years in prison for armed robbery. He was released in 2017 and will be on probation until October 29, 2048. Peeples will be 68 years old when his probation ends (Change.org, 2021). This is an example of a gravely flawed institution where systematic racism and inequities are embedded into the criminal legal system.

**The Traumatic Legacy of Slavery**

Interventions aimed at serving children and families in the United States in the 21st century must take into account both the historical and current context in which they live. The legacy of slavery has not been easy to eradicate and, as described above, still affects many areas of American society. It is important to increase our understanding of how it contributes to the persistence of racially related injustices such as mass incarceration and the disproportionate lethal violence directed toward African Americans. It is also important to understand that this unresolved historical trauma can be carried intergenerationally, permeating communities, shaping policies and attitudes, and affecting children.

Acknowledging and addressing this unfortunate legacy is necessary if we want to end the cycle of trauma and violence. This means understanding how the massive historical trauma of slavery continues to affect the lives of individual children, families, and communities. This means recognizing the ways in which racism and oppression are embedded in American society. This means understanding how structural inequality compounds other traumas. Such acknowledgement requires self-examination, self-awareness, overcoming the challenges of open communication on these issues, and ongoing dialogue with National Child Traumatic Stress Network (NCTSN) partners and professional communities. The NCTSN reminds us that human tendency is to avoid or split off awareness and emotions related to a traumatic past. A critical part of trauma intervention is about overcoming such taboos and making the unspeakable speakable (NCTSN, 2016).

# RACIAL INEQUITIES
in Probation and Parole

## Conclusion

Racial and ethnic disparities in the juvenile justice system are at least partly a legacy of years of racial segregation, discrimination, and mistreatment. These disparities are also based on the belief that youth of color are somehow culturally predisposed to delinquency in a way that their White counterparts are not (NCTSN, 2013). Policymakers, managers, practitioners, and line staff at each stage of the criminal justice system have a responsibility to assess and reduce unwarranted racial disparity. A systematic and comprehensive approach is critical if disparities are to be eliminated (The Sentencing Project, 2016).

In her poem "On the Pulse of Morning, Maya Angelou wrote: "History, despite its wrenching pain/ Cannot be unlived, but if faced/ With courage, need not be lived again." Let us hope that America has that courage.

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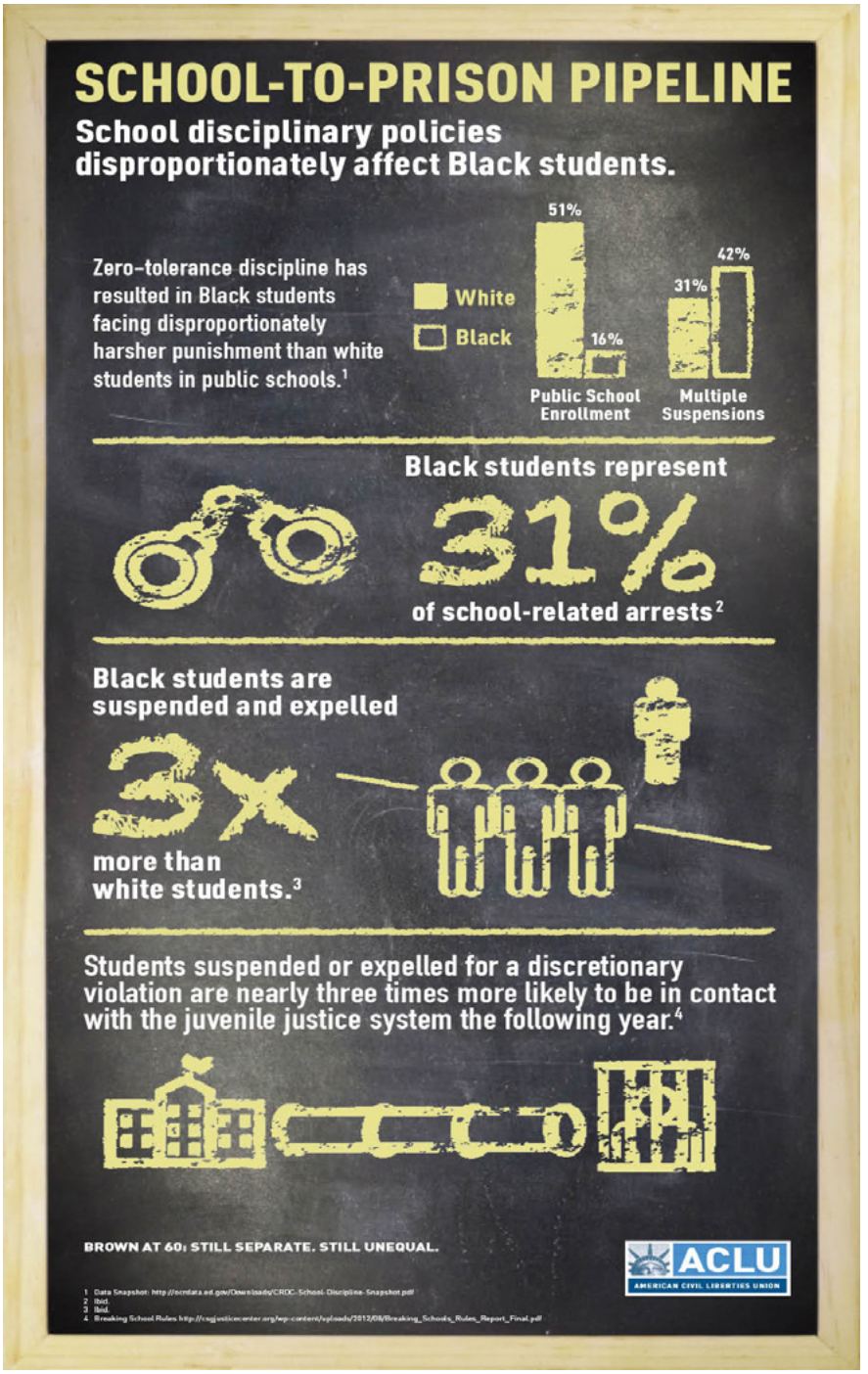

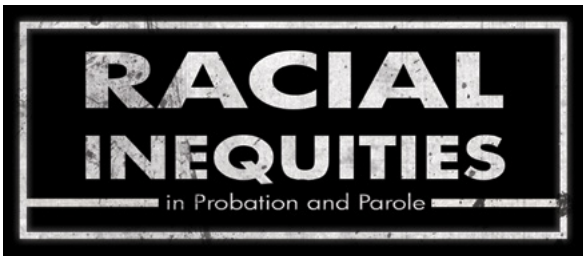


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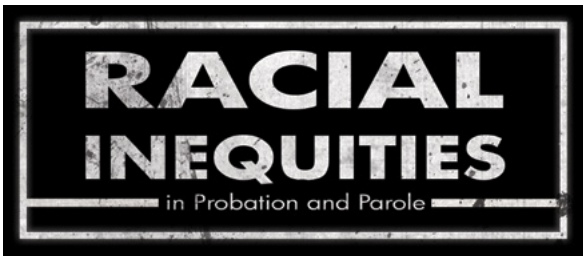


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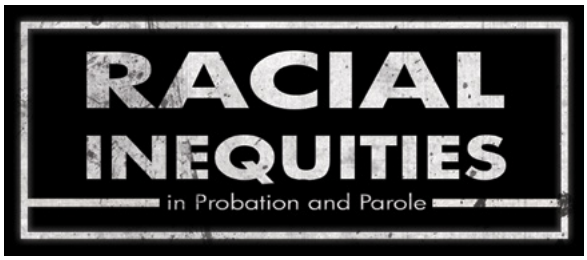


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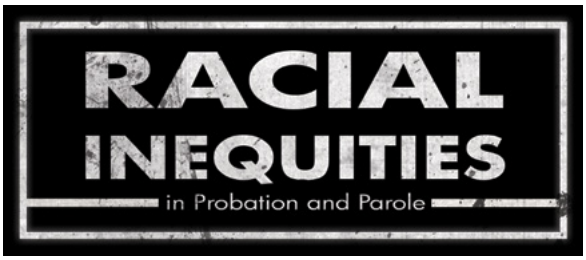
# WHAT IS IT AND HOW DOES IT AFFECT US?

BY: ROBBYN-NICOLE LIVINGSTON, & MALKIA CROWDER



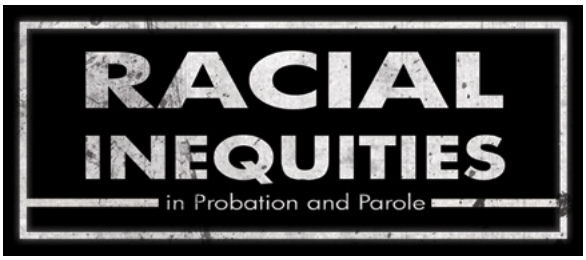

# *What is implicit bias and how does it affect the world around us?*

***In 2021, our world, our global community, looks very different, but many things remain the same as they were 20 years ago. Racial conflicts have taken center stage. Polarizing viewpoints and disproportionate outcomes have continued to separate Black Indigenous People of Color (BIPOC) from the dominant culture.***

Written by: Robbyn-Nicole Livingston, MA and Malkia Crowder

What is implicit bias? Is it conscious or unconscious? Is it learned or is it instinctive? Is it racism? Alternatively, is it just … prejudice? Implicit bias means all of these things. Implicit bias is defined as "a bias or prejudice that is present but not consciously held or recognized" (Merriam-Webster, n.d.). We do not act solely on instinct. We act or respond to what we have learned in our family systems and our environment. We adjust our attitudes and our beliefs based on familial and societal norms, tending to believe what we learn and accumulating biases and beliefs that are both conscious and unconscious. What does all of this mean in regard to how implicit bias affects our lives and our community? Well, biases affect attitudes, behavior, relationships, and the way we carry out interpersonal communication and interactions with others. The way we communicate and interact affects our homes, schools, workplaces, government, criminal justice system, and everything in between.

As community partners, we can see how implicit bias leads to disproportional treatment, especially concerning Black and Indigenous People of Color (BIPOC). These inequities lead to a myriad of issues, including discriminatory hiring practices, undereducation, underemployment, and a separate and unequal justice system. Jolis & Sunstein's article on the Law of Implicit Bias states:

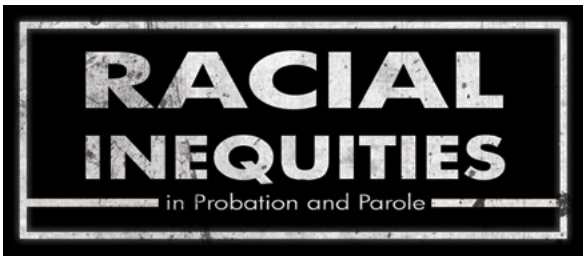



Considerable attention has been given to the Implicit Association Test (IAT), which finds that most people have an implicit and unconscious bias against members of traditionally disadvantaged groups. Implicit bias poses a special challenge for antidiscrimination law because it suggests the possibility that people are treating others differently even when they are unaware they are doing so (2006).

In striving to build a better community, we need to develop and implement strategies to overcome implicit biases. As a starting point, we must begin to initiate difficult conversations—or at the very least not avoid them. In doing so, we must be open to discussion on race, racism, and unequal justice.

Racism is, of course, not new, but it is troubling how persistent it is in an ostensibly egalitarian multiracial society. Moreover, the disheartening and harmful consequences of racism continue to be on display, as seen in law enforcement encounters and efforts to disenfranchise some voters. When asked about his personal experience with racism, actor Will Smith discussed being stopped and harassed by police—and being the target of their racial slurs including "the n-word"—over 10 times while growing up in Philadelphia. In his words, "Racism is not getting worse, it's getting filmed." (The Hollywood Reporter, 2016). What happened to Smith occurs daily in communities across the United States. Data has shown that Black Indigenous People of Color (BIPOC) are contacted for minor infractions and suffer abuse and detrimental treatment by police at disproportionately higher rates compared to White people (Crutchfield, 2012). Police brutality, arrests, incarcerations, and criminal justice policies nationwide have been shown to be discriminatory (and even persecutory) towards BIPOC (Crutchfield, 2012; Fryer, 2020; MappingViolence.com; Schleiden et al. 2020; The Sentencing Project, 2016).

In 2021, the fight against disenfranchisement continues. In districts across the country, lawmakers are attempting to enact archaic gerrymandering policies that would further reduce voting access for BIPOC. "After historic turnout and increased mail-in voting in 2020, state lawmakers across the country are pulling in the opposite direction by introducing restrictive and expansive voting legislation." (www.brennancenter.org).




These biased policies are examples of implicit bias. In Georgia and other states, we have to stand up and speak out against discriminatory policies that violate the 14th Amendment, which states, "No state shall make or enforce any law which shall …. Deny any person within its jurisdiction the equal protection of the laws."

Inspired by the explosion of incidents of police brutality against Black men and women, following the death of George Floyd at the hands of Minneapolis police officers, the Reverend Fred Jeff Smith, pastor of the historic Shiloh Baptist Church in Baton Rouge, Louisiana, said "the senseless death and indefensible cruelty, this time under the cover of law enforcement, leading to deaths resulting from: driving while Black, riding while Black, shopping while Black, playing while Black, eating while Black…" cannot be explained (as quoted in Pratt, 2020). There is no justice policy that could even remotely warrant the deadly excessive force that keeps recurring.

What about bird watching, jogging, or just coming home from work while Black? Why is it that BIPOC citizens in their daily lives are viewed and treated so negatively instead of being given the same protections as their White counterparts? How is it that these terrible injustices are allowed to continue? We offer to you that it is because of implicit bias. People of color are simply not seen in the same light. Since the beginning of time, there have always been struggles between dominant and non-dominant groups. People prejudge others based on past beliefs. Antiquated belief systems result in barriers meant to keep out or hold down people of color. For example, in Georgia, Republicans passed a "sweeping new law that will dramatically roll back access to the ballot box" (Stuart, 2021). This legislation was in response to the narrow victory of President Biden over Donald Trump after the 2020 Presidential election. With the passage of this law, Black voters in Georgia will have a harder time voting and registering to vote. This law also criminalizes "line-warming," a practice where food and water are offered to people standing in long lines in the scorching Georgia heat. Over the past 10 years, officials in Georgia have closed polling places in predominantly Black precincts, causing people to stand in line for hours to vote (Stuart, 2021).

# RACIAL INEQUITIES in Probation and Parole

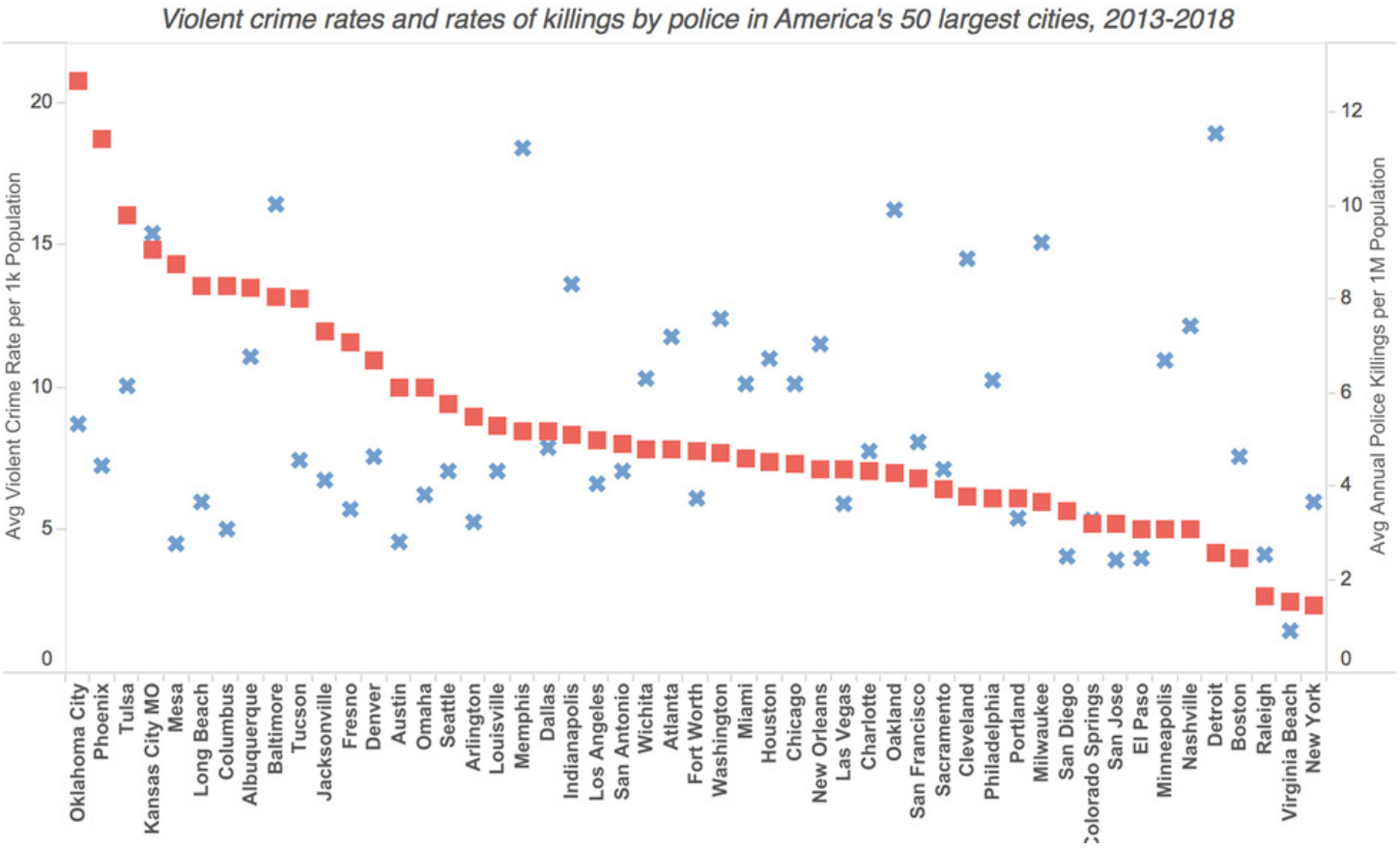



*Figure 1. Black-white disparity in killings by police from 2013-2020 (mappingviolence.com)*

In 2021, does it matter where you live? Is there a magical place where implicit biases and racial injustices do not exist? The answer is both yes and no. In the U.S., where you live does matter. Police killed Black people at higher rates than White people in 47 of the 50 largest U.S. cities (mappingviolence.com).

## Where Do We Go from Here?

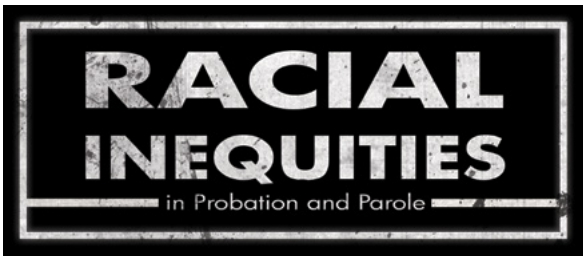
What is the remedy to overcome injustice and inequality? As with any treatment model, the first steps to solving a problem is to admit a problem exists. Negative ideas strengthen over time. We must implement strategies to overcome these biases. Our conscious bias usually means people say (and do) what they mean; our unconscious bias means people are

unaware of those preconceived notions that negatively portray a particular group. There are five strategies we as community partners can utilize to overcome implicit bias, including objective criteria, standard processes, difficult conversations, exposing bias, and inclusive listening.

**1. Objective Criteria**

The first strategy is to assess bias with objective criteria. The Harvard University Implicit Association Test (IAT) is a tool used by individuals and corporations that measures "attitudes and beliefs that people are unwilling or unable to report" (Project Implicit Social Attitudes, n.d.). This test may indicate someone's propensity to associate character traits with gender or race. For example, you may meet an applicant or co-worker and


*An image from the "I, Too, Am Harvard" photo campaign. I, Too, and Harvard (https://www.vox.com/2015/2/16/8031073/what-are-microaggressions)*



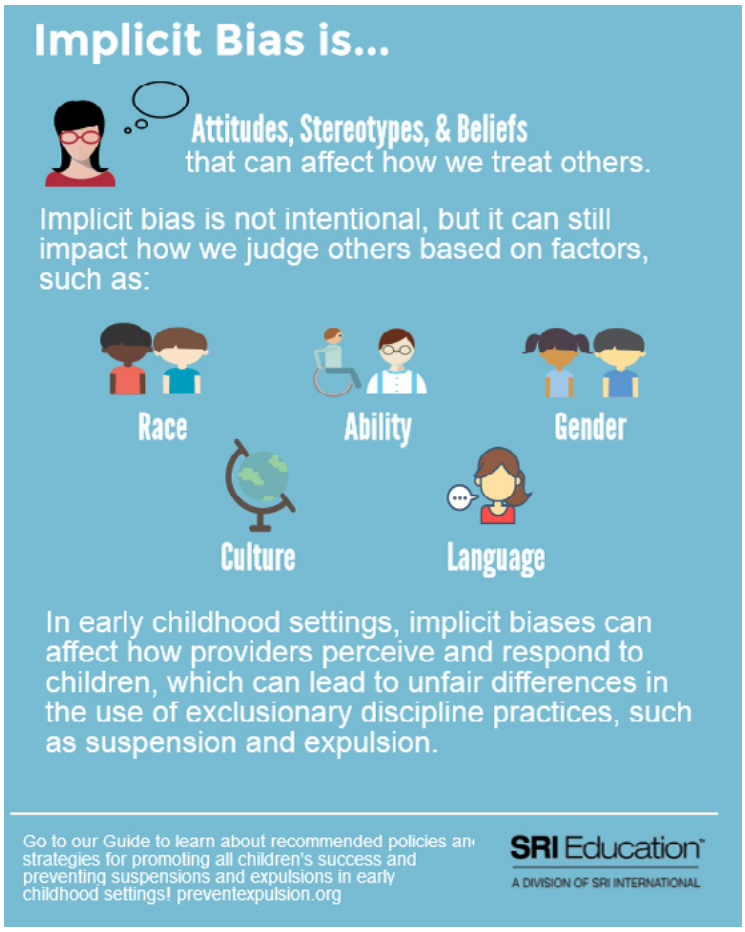

assume that individual excels at STEM tasks because of Asian American ancestry. On the other hand, you see an applicant's resume and you assume the name belongs to a Black woman and you are skeptical about whether she would fit into your agency's culture.

According to the IAT researchers, "it is an effective tool for raising awareness about implicit bias" (Project Implicit Social Attitudes, n.d.). This is just one of several different assessments offered that involve questions on gender, disabilities, weapons, and race, among others.

**2. Standard Processes**

The second strategy to overcome implicit bias is to employ standard processes. For example, it might be an appropriate course of action to remove an applicant's name and other identifying characteristics from employment applications/resumes. That places the focus on job-specific traits instead of aspects of a candidate's appropriateness. Our biases, both conscious and unconscious, affect hiring practices and thus promotional opportunities. If there is a perception of bias among those in the workplace, with the dominant group forming stereotypes and assumptions about certain other groups, then it is difficult for them to make objective and fair judgments about an individual member from that group. Standard processes help reduce unconscious bias. By acknowledging that implicit bias exists in our everyday lives, we are also acknowledging that biases affect an employee's work performance and a student's school performance.

What about the educational arena? Education is a high priority, and our society looks at educational achievements as a way to measure success. In addition, educational levels are directly related to socioeconomic levels (American Psychological Association, n.d.). Moreover, teachers are often perceived as being committed to creating a positive learning environment in which our children are nurtured, cultivated, and helped to transition to positive and productive members of society. It can thus be quite disconcerting to think that educators, those who have devoted their lives to teaching and encouraging children,

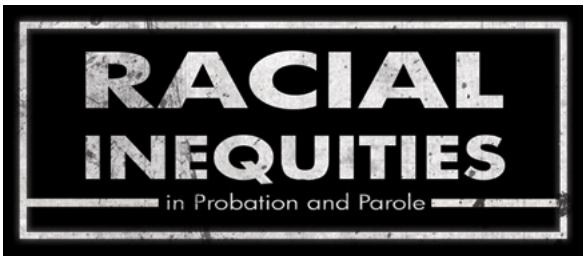



may see BIPOC children as less deserving, less intelligent, and less capable compared to White children (Austin, 2019).

The Kirwan Institute for the Study and Race and Ethnicity indicates, "These implicit biases, positive or negative, don't reflect our conscious beliefs about students; they can still have an impact on their educational outcomes" (Kirwan Institute, n.d.). Here, the research team conducted two studies that recorded children's behavior while they were playing with toys and other children. They rated the children's imaginative play/creativity. The study found that the perception of school readiness was influenced by the student's race. For Black children specifically, those students with highly imaginative play were seen as less academically prepared and less accepted by the peers. The study also examined how teaching styles were influenced by unconscious biases and determined how engaged the teacher was with the student. Fortunately, the study concluded that if properly addressed, unconscious bias could be interrupted and prevented from negatively affecting the learning environments further by translating into microaggressions.

**3. Difficult Conversations**

A third strategy to overcome implicit bias is to commit to having difficult conversations. If you do not know, ask. To acknowledge preconceived ideas and engage in meaningful conversations is the key to overcoming implicit bias. All of us are products of our family systems. Our family systems have values and




ideas based on shared experiences. These experiences can lead to positive and negative ideas. Microaggressions are the result of biased ideas and values that have been perpetuated and strengthened over time.

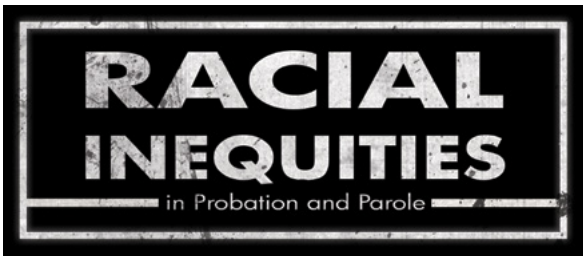
Psychologist David W. Sue defines microaggressions as the "everyday slights, indignities, put downs and insults that people of color, women, LGBT populations or those who are marginalized experience in their day-to-day interactions with people" (as quoted in Ayana Therapy, n.d.). In the 1970s, microaggressions were initially used to describe the insults and disparaging behavior by White people against Black people. However, in our society of Twitter, Facebook, and Instagram where nothing is private, these aggressions are no longer miniscule. These aggressions may come in the form of an indiscrete slip of the tongue, joke, or in everyday conversation. Social media and the camera phone have exposed racism on a completely new level.

Current world events can trigger fear and resentment, especially toward people who are different from us. The election of Donald Trump gave some people in the dominant culture permission to act on their prejudices. "Whether he wishes to be or not, Donald Trump is the epitome, not only of White innocence and White privilege, but of White power, White rage and yes, White supremacy" (Dyson, 2017).

This ugly beast of prejudice is not just alive in the political arena; it often lives in our workplaces. Organizations are usually reluctant to confront it. According to an article in the Harvard Business Review, these discussions "will in all likelihood be very uncomfortable – not just for White employees and leaders who might be confronting their privilege for the first time but also for people of color, especially Black Americans, who know candid talks with colleagues" will force a need to call out microaggressions (Washington et al. 2020).

**4. Expose Bias**

The fourth strategy to overcome implicit bias is to expose it. In our workplaces, everyone must be encouraged to have an open dialogue in which they suspend judgment, show empathy, and work to develop cultural competence. Dr. Ella F. Washington, researcher at the Gallup Center on Black



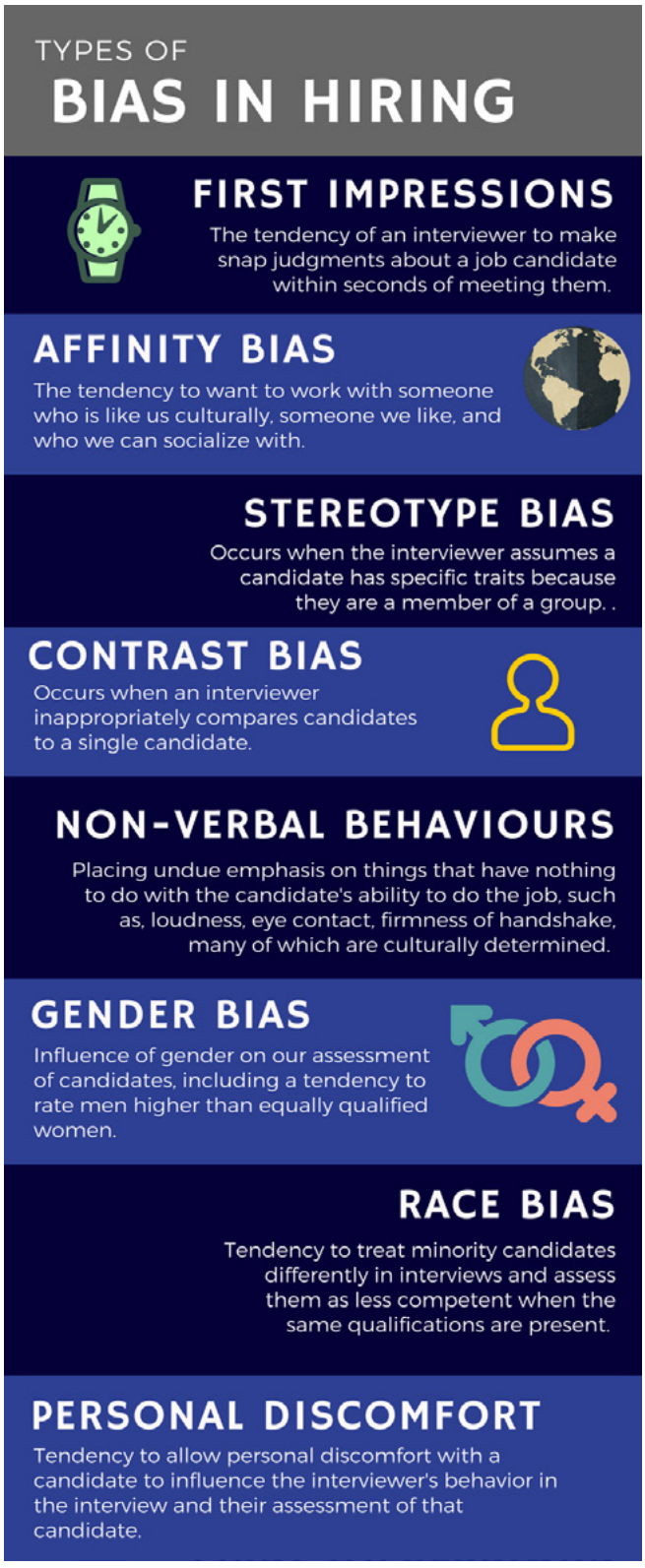

Voices, lays out an action plan for agencies to engage in cultural competence (Gallup Center on Black Voices, n.d.). Agencies need to invite employees to bring their whole selves to work, and then everyone can work together with a more global approach. This provides a safe space where line staff and administrators alike can enjoy a brave zone where people can be transparent, without fear of retribution.

Generally, we tend to favor our in-group with positive stereotypes and out-groups with negative stereotypes. Our implicit bias, or unconscious bias, is often based on mistaken and incomplete information. These biases, in turn, significantly impact workplaces in terms of who gets recruited, hired, and promoted. "While it is easy to identify intentionally built systems of oppression like Jim Crow or the paralysis caused by the glass ceiling for women in the workplace, confronting systems that perpetuate subtle, unconscious bias is much harder. Erasing institutional bias will help to tackle structural bias, regardless of the positional power." (Jana & Mejies, 2018). Bias, implicit or explicit, steals your joy. No one is paid enough to be mistreated and miserable. Identifying these biases and eliminating them is paramount to a healthy workforce and development equality.

**5. Inclusive Listening**

The fifth and final strategy to overcoming implicit bias is to activate inclusive listening. In the IMPACTxAsia blog series, the author describes how inclusive listening can "positively impact the overall communication of your workforce" via "empathetic dialog" (Moss, n.d.). To do this, we must commit to using "I" statements, learn to respect opposing viewpoints and commit to building common ground. Building common ground builds trust and creates an open workspace. For example, Oracle offers an entire training program for companies/agencies that aim to incorporate Diversity, Equity and Inclusion (DEI) to "spark change and drive impact" (Oracle, n.d.). This open and inviting environment leads to increased productivity and fosters healthy employees. The hard truth is that there is a clear difference between impact and intent. Often, the end result matters, not the intentions. For example, Dr. Seuss wrote countless books that taught millions of children to read (*The*

# RACIAL INEQUITIES in Probation and Parole

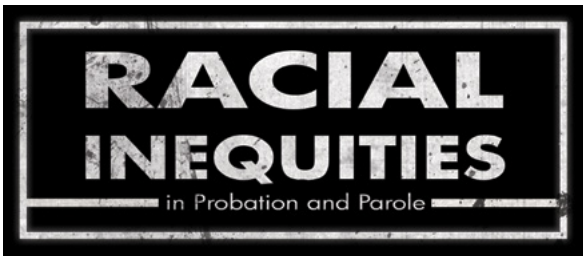



*(Unconscious Bias – Equal Opportunity, uwash.edu)*

*Cat in the Hat*), count (*One Fish. Two Fish, Red Fish, Blue Fish)*, and to dream (*Oh, The Places You'll Go)*, and still the author produced books with racist imagery. As such, six Dr. Seuss books will no longer be published: *And to Think That I Saw it on Mulberry Street, If I Ran the Zoo, McElligot's Pool, On Beyond Zebra!, Scrambled Eggs Super!,* and *The Cat's Quizzer* (Watts & Asmelash, 2021).

That is the dichotomy of human nature. On looking closely at those around you, it is likely you will agree. Throughout many years of working in community corrections, observing vast numbers of coworkers and clients, it has become quite clear to us that most people are not all good or all bad. Most people fall somewhere in the middle. Those on the outer edges cause the most egregious trouble and misery, allowing their prejudices to dictate their attitude and behavior, but they are rarely totally different from the others around them.

Consider how often you have heard a co-worker or supervisor say, "I didn't mean anything by that," or "I didn't know that wasn't okay to say." That may be so, but what does intent matter if the impact results in furthering




the marginalization of BIPOC? Privilege shields those in the dominant culture from having to question the difference. After all, "making the conversation about intent is inherently a privileged action." (Utt, 2013).

How to begin the reckoning? As change agents, we must keep the conversation going. For example, it is not enough when celebrities like chef Paula Deen apologize for calling her Black customers the "n-word" (Phillip, 2014). It is not enough when a politician like Senator James Lankford of Oklahoma apologizes to his Black constituents in Tulsa for questioning the results of the 2020 Presidential election (Durkee, 2021). Apologies without action are meaningless. The impact of inaction or of merely offering promises is hurtful and continues oppression. That is where implicit bias lives and breathes. We must listen, learn, and respond without any caveats. Tupac Shakur summed it up perfectly, "If you take your time to HEAR ME, maybe you can learn to CHEER ME."

Be active my friends, be present, and be loud. Nevertheless, always be part of the solution.

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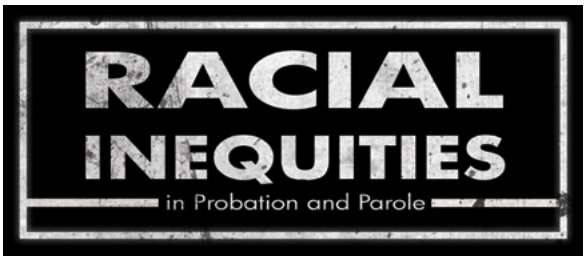


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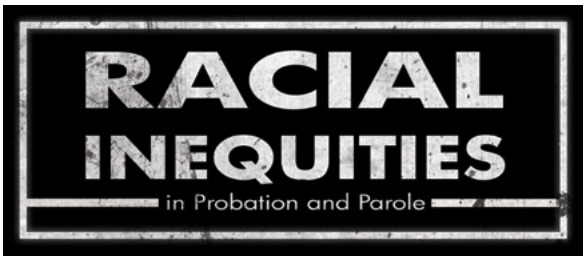


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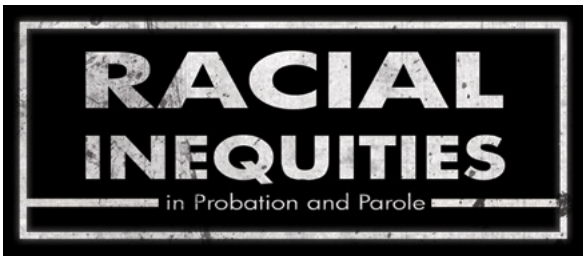
# TWELVE STEPS TO HAVING COURAGEOUS CONVERSATIONS ABOUT RACE

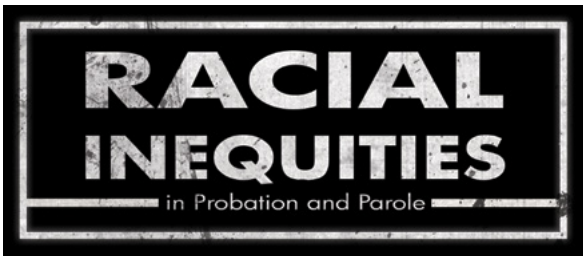
BY TOI B. JAMES




In 1968, the National Advisory Commission on Civil Disorders stated, "Race prejudice has shaped our history decisively; it now threatens to affect our future" (Kerner et al., 1988; see also Newkirk, 2019, p. 9). That statement unfortunately still rings true today. On the bright side, many individuals and organizations are committed to combatting such prejudice. We hear about diversity and inclusion everywhere—at work, in our social circles, and on social media. However, without real and meaningful action, nothing changes. What is generally not discussed is the need to have thoughtful and focused conversations about race, the kind of conversations that can lead to productive initiatives as well as concrete actions that may shift the negative thinking that has created—and continues to create—isolating, and oftentimes harmful environments and experiences.

Within organizations, vision regarding the importance of inclusive behaviors must come from the top. An important first step is for the organization to clarify its position on social issues as imbedded in its core mission and value statements, an endeavor which should be initiated and reinforced by leadership. Organizations must also understand that they cannot simply train bias or racism away. They must go further, and that means grappling with how to discuss topics that are sensitive in nature and may stir up emotions they aren't prepared to deal with. Accomplishing the goal of meaningful change requires engagement on a personal level. It involves encouraging employees to reflect on their own thoughts and actions and to address behaviors and statements in ways that are not necessarily welcome in their environments. When leaders have the ability to discuss issues that impact employees, allowing the employees to bring their full selves and their experiences to the workplace, it promotes a culture that allows all to thrive.

More specifically, having inclusive, courageous conversations about the experiences of those in the community corrections workforce may proactively address issues that are likely to impact them in the workplace, including organizational, operational, and traumatic stressors (Spinaris & Denhof, 2015). It may also help identify the probability that bias or racist actions will occur before they happen. According to The Sentencing Project, "African Americans are more likely than



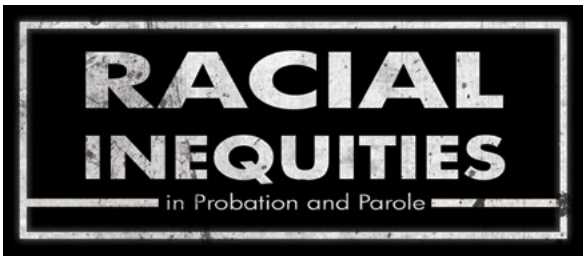

White Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, they are more likely to face stiff sentences" (2018, p. 1). Creating a safe space to have brave and open dialogue about how systemic racism plays a role in these outcomes may reinforce policies and procedures designed to ensure that officers treat citizens (and each other) fairly and equitably, and lead to a decrease in negative outcomes. Implementing a passive open-door policy is likely to only elicit silence and will not advance the desired goals of increased inclusion and understanding. In contrast, reaching out to solicit input and actively listening, even when you disagree, will help promote understanding and the connection needed to support officers, who should be able to rely on their department as well as on each other as they carry out their duties to protect and serve.

The need to have difficult race-related conversations didn't start with the acquittal of George Zimmerman after the shooting death of 17-year-old Trayvon Martin in 2012. Nor does it stem from the more recent deaths of George Floyd, Breonna Taylor, and many others. However, those deaths, as well as the recent increase in violent acts against Asian Americans and Pacific Islanders and ongoing issues pertaining to unfair immigration policies and actions, make the need to have such conversations more urgent. Let's explore how to disarm the fear associated with discussing difficult topics, including race, one conversation at a time, using foundational coaching techniques to help keep discussions on track and ensure productive interactions.

## Discussing People of Color and Black Americans Differently

Understanding the importance of making a distinction between discussing the needs and issues related to people of color (which tends to be all-encompassing) and Black Americans, specifically, is critical. The difficulties experienced by the Black community stem from actions taken against Africans enslaved for over 400 years and from oppressive measures related to systemic racism and segregation imposed on them after the Civil War. Because the "Black American" experience is so different, comparing it to other experiences does a disservice to those who are impacted.

While it may feel like slavery has been over for eons, only a few generations have passed since



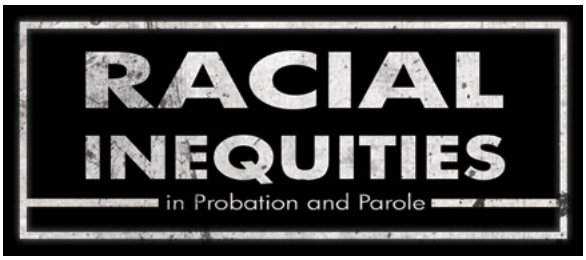

laws allowed the ownership and bodily mistreatment of enslaved Africans. Legal, open segregation was prevalent just one to two generations ago. Moreover, racist policies and sequelae in the form of redlining, fraudulent banking practices, higher arrest/incarceration rates, the school-to-prison pipeline, impaired access to physical and mental health care, higher unemployment rates, and income inequality are still active today.

Given the above factors, those who are committed to engaging in courageous conversations may well benefit from first making the effort to become more knowledgeable. This includes increasing one's understanding of the lives of others by reading books or articles, listening to podcasts, or watching videos created by those who are different than you. No group is monolithic, as individual experiences will differ. However, the more one is exposed to the varied voices of others, the more one will appreciate both those differences and the common issues that emerge. Embarking on self-education to build cultural awareness demonstrates true commitment to understanding the perspectives, needs, and issues of others.

The beneficial step of self-educating and building cultural awareness certainly has the potential to enhance understanding. However, holding honest discussions and implementing actions is needed to truly help remove people's fear of not being heard, seen, or respected. Such conversations may serve to connect us personally and professionally. To move forward, leaders and their teams cannot be afraid to discuss the topics that seem to scare them the most, *so let's take about race*.

**Twelve Steps to Having Courageous Conversations about Race**

These steps, when used with foundational coaching techniques, will help in navigating difficult conversations of all types but, for the sake of this article, discussing race is specifically highlighted. Together we can examine why and in what ways we think about race by being "color brave," a term coined by Mellody Hobson in a TED Talk (2014), and we can discuss race's role in societal structures and how we can dismantle our own racist thinking and ideas. To help ensure you have a place to begin the conversation, read an article or a book and ask someone unlike you to share thoughts about it. First, agree that it's safe to talk openly, understanding that those impacted are




often confronted by race and the various "isms" and may not want to engage at a particular time. Once there is mutual agreement on the desirability and timing of the conversation, following these steps may be helpful:

1. **Provide a safe space** for holding brave and open conversations without judgment. In *The 7 Habits of Highly Effective People*, Stephen Covey stated that it's critical to "Seek first to understand, then to be understood" (1989, p. 237). Seek to understand each other's experience, knowledge, and beliefs, not to necessarily influence or disrupt.

2. **Articulate why the conversation is important** to you to provide a clear understanding of each other's level of commitment to exploration. It also allows you to understand each other's motives. If the goal is only to confirm one's existing beliefs or theories (confirmation bias), it may unfortunately cause you both to confirm a particular view while ignoring, or rejecting, information that casts doubt on it, which is unproductive (Heshmat 2015). If the goals are to understand and build connection, listening and asking questions for clarity (not talking) serves as the key tool to navigate the conversation.

3. **Define the potential outcome** you wish to receive from having the conversation. It could be as simple as getting to know the other person or group members to gather information that will help you better understand their experience. Stating what you'd like to learn, or share, will help to redirect the conversation if it deviates outside of its purpose.

4. **Stick to the facts** about the history of racism. It is, of course, important to share personal thoughts and experiences, but presenting accurate historical facts helps others "connect the dots" regarding racism's impact. Combining facts *and* feelings when discussing a topic encourages personal connection while also managing the exchange of ideas and thoughts based on documented, researched information to help educate and maintain a balanced discussion.

5. **Use active, reflective, and passive listening** to gain understanding related to the root of the other person's beliefs and actions. Don't try to explain someone else's experience. Listen to understand. "The art of listening not

only shows your team member that you care and want to hear from them, but it also does wonders to build a solid relationship foundation" (Fukuda, 2017, p. 1).

6. **Ask powerful questions** to promote deep thinking and responses. In the book, *Coaching in Organizations*, Madeline H. Blanchard, and Linda J. Miller (2013) use the term "focused" to define how these particular types of questions have the ability to cut to the heart of the matter (p. 187). Also, allow room for the admission of mistakes without judgment. Otherwise, you risk people shutting down due to fear of judgment.

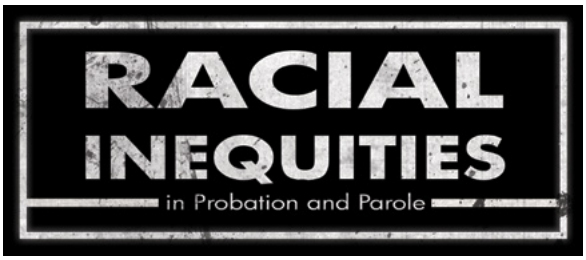
7. **Repeat what you hear** to confirm the thought or feeling the other person is trying to convey. Make sure you are not hearing what you want to hear—or think you should hear—to make it more likely that the thoughts and information being shared are understood as intended. The questions that follow each statement make help provide the clarity needed to have a deeper level of understanding.

8. **Don't impose your thoughts or beliefs**, as each person should be allowed time to process personal thoughts and feelings. When someone shares information gleaned from personal experiences, interrupting may have unintended consequences, such as the withholding of additional thoughts and context which may prematurely end the conversation, stalling efforts related to building trust.

9. **Be open to opposing views.** It's acceptable if you disagree, but also be open to redirection if you know you're wrong. Asking additional clarifying questions may encourage a deeper level of compassion, or even empathy, causing one to reevaluate a position. *Changing your mind is allowed.*

10. **Acknowledge and show appreciation for candor** as we all understand that vulnerability and honesty, which can be difficult in uncomfortable situations, are important to ensuring progress. Vulnerability requires risking psychological safety, as stated by Brene Brown (2018), and should be honored.

11. **Talk about how you can partner** to keep the conversation going. To be impactful,




further exploration and action may be required. Commitments can be as *solitary*, such as elevating your level of self-awareness by reading additional articles or books, or *inclusive,* with ramping up personal or political engagement. Determine what will work best for you. Continuing the conversation and developing a plan of action with someone else may help you remain dedicated to supporting each other and the communities in which you live.

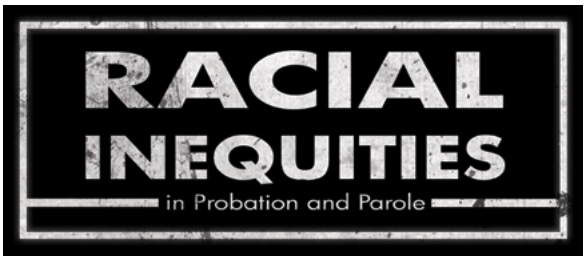
12. **Ask to schedule more time to talk**. Ending the conversation with an invitation to meet provides an opportunity to demonstrate your commitment to understanding and connection. Ask. You never know where it may lead.

An important point to remember when discussing a sensitive topic such as race is to be aware of emotional triggers. Words such as "privilege," "affirmative action," "slavery," "immigration," and others can invoke immediate images and responses that may sideline a productive conversation. When a trigger word or phrase is said, remember to breathe, listen intently, and to allow the other person's thought or feeling to be fully realized and described. The subsequent statement or comment may provide the clarity needed to further explore experiences and feelings behind it. Use empathy to connect as you discover more about them.

In order to promote openness and candor, it's also incredibly important to ensure that you do not have any attachment to the outcome. Allow space to move the conversation along at the speed and direction desired. *Remember, your ultimate goal is to engage in efforts to understand and to build interpersonal connection*. You can determine what opportunities you'd like to pursue on your own or as a team after the conversation. This will assist you by increasing your level of awareness and understanding without prematurely dictating what should happen next.

## Moving Past Feelings to Create Movement

When reading books or articles, listening to podcasts, and listening to/watching interviews, be sure to move past feeling sad, angry, guilty, or frustrated. Resting squarely in

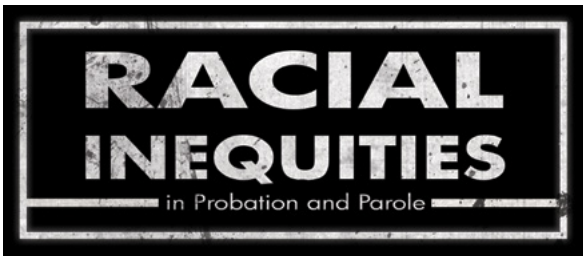



the space of "feelings" leads to inaction. Ibram X. Kendi (2019), author of the book, *How to Be an Antiracist*, encourages us to ask the question, "Do I support racist *or* antiracist ideas, policies, or actions and how?" According to Dr. Kendi, there is no in-between. There is no such person as a non-racist and no such thing as non-racism. Inaction is indeed an action. The only way we can understand our own beliefs, dispel myths, and discover how connected we are in our humanness is to talk honestly. Placarding yourself and others for the sake of image and feeling good does nothing to improve relationships or build partnerships.

To help provide context and to learn more, historically, personally, and within organizations, the following list of books, although not exhaustive, may provide great insight:

- *We Can't Talk About That at Work: How to Talk About Race, Religion, Politics, and Other Polarizing Topics* - Mary Frances Winters
- *Diversity Inc: The Failed Promise of a Billion Dollar Business* - Pamela Newkirk
- *How to be an Antiracist* - Ibram X Kendi
- *So You Want to Talk About Race* - Ijeoma Oluo
- *White Fragility* - Robin Diangelo
- *White Like Me: Reflections on Race from a Privileged Son* – Tim Wise
- *Race Talk and the Conspiracy of Silence: Understanding and Facilitating Difficult Dialogues on Race* - Derald Wing Sue
- *Between the World and Me* – Ta-Nehisi Coates
- *Uncomfortable Conversations with a Black Man* – Emmanuel Acho

Not everyone is going to want to talk about race, but when others' lives and personal freedoms are at stake, it is necessary. It is imperative for people to not hold onto beliefs that are untrue and disempowering instead of demonstrating authentically inclusive behaviors. An organization's decision to be inclusive is likely to produce positive interpersonal outcomes that benefit everyone, no matter their role. Discussing race doesn't have to be debilitating or scary. Remember we all share at least one huge trait: we're human. Simply prepare to listen deeply and with a courteous mind. Be completely comfortable with being uncomfortable. Be courageous. Lead. *Talk about it.*




**BIO:** Toi B. James is a certified diversity coach and author of Talk About It: 12 Steps to Transformational Conversations (Even When You Disagree), and the founder and chief impact officer of RedInk Enterprises, LLC, a boutique coaching and consulting firm specializing in Diversity, Equity and Inclusion (DEI) and Belonging located in Atlanta, Georgia. RedInk supports DEI&B initiatives for companies and organizations and provides collaborative, transformational experiences for individual clients to help ensure every individual is seen, heard, and respected to create an unyielding sense of belonging in all populations. Toi envisions a world where you are empowered to be exactly who you are…wherever you are.

The author can be reached at contact@redinkenterprises.com or (404) 512-1900

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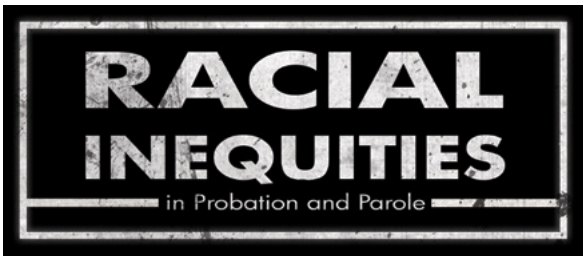
# A CALL TO ACTION IN THE YEAR OF RACIAL RECKONING: PROBATION AND PAROLE AGENTS

BY: LINDSAY JAYAWARDENA

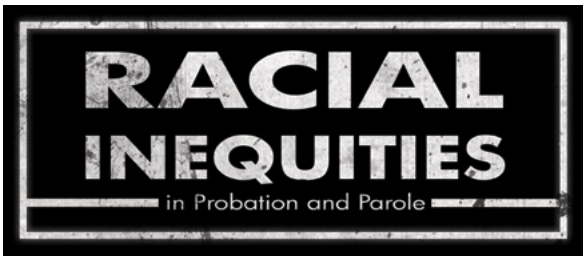



***The call for criminal justice reform does not stop with probation and parole policy makers in conference rooms—it also goes out to the agents in the streets.***

The death of George Floyd in my home state of Minnesota, as well as the deaths of Breonna Taylor, Rayshard Brooks, Daniel Prude, and far too many others across the country, has brought a renewed urgency to the longstanding calls for reforming the criminal justice system. Somewhat surprisingly, even in this "year of racial reckoning" in America, it seems that probation and parole agencies have remained largely immune from the scrutiny placed on other criminal justice entities such as police and prosecutors—at least so far.

In reality, probation and parole supervision comprise the largest portion of the criminal justice system, and probation agents like me supervise some of the near 4.5 million people under criminal justice supervision in this country (The Pew Charitable Trusts, 2018; United States Department of Justice Office of Justice Programs, 2020). Community corrections' size and vast reach means that it exerts meaningful power and responsibility in the criminal justice structure. By its nature, probation and parole work includes critical points of decision-making and ways of interacting with those under supervision that have a major impact on this population, and here inequity can thrive. Indeed, many probation and parole agents know they are operating in the largest tier of the justice system community, have been assessing their role with new eyes, and are wondering how best to become worthy allies in America's fight for racial justice.

Given the re-energized call for reform and accountability for criminal justice agencies, a thorough and system-wide exploration into probation and parole policy, practices, and case management decisions must occur. The need for racial justice and equity is as paramount as any other supervision issue we face. Without equity in probation and parole work, justice is not achieved. This leaves a large task at hand for probation and parole leadership, one we must tackle head-on for the sake of true public safety

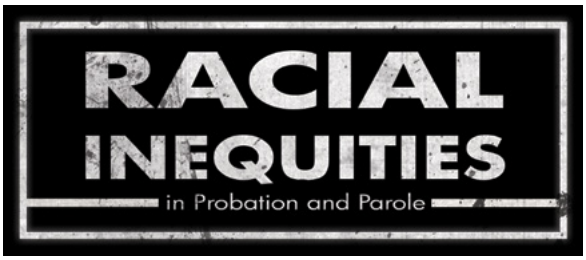



and justice. However, we must not lose sight of the power and responsibility that individual officers and agents exert when it comes to reform.

As probation and parole agents who care about justice for all and who grapple with the challenges of being agents in the streets and not in conference rooms, we must get down and dirty with how we reform ourselves on an individual level. Bold steps must be taken by justice practitioners if we want to live up to the ethical standards necessary both in this time of racial reckoning and in all our future work. We must not be acquiescent. We must not think that honor is served by merely calling for systemic change alone. Instead, we must work as individuals and members of a team to comprehensively deal with inequities, making personal strides toward justice as well as seeking ways to ensure justice-centered reforms in any part of the supervision process we touch directly.

To meet this call, we need individual empowerment for all agents and officers. The concept of taking individual responsibility is a long-held practice in workplace ethics, but the bold and uncomfortable steps many of us must take to start the process of equity building within ourselves will by no means be easy. Many agents and officers may have a visceral reaction upon envisioning themselves taking some of the action steps mentioned below. Even so, if we accept responsibility to our profession and a commitment to justice, our own temporary discomforts cannot and will not stop us. Indeed, even now the various oaths and mission statements many of us operate under generally incorporate the importance of this ethical obligation. For example, the American Probation and Parole Association (APPA) Code of Ethics (2021), made by and for probation and parole practitioners, states, "I will strive to be objective in the performance of my duties, recognizing the inalienable rights of all persons, appreciating the inherent worth of the individual, and respecting those confidences which can be reposed in me."

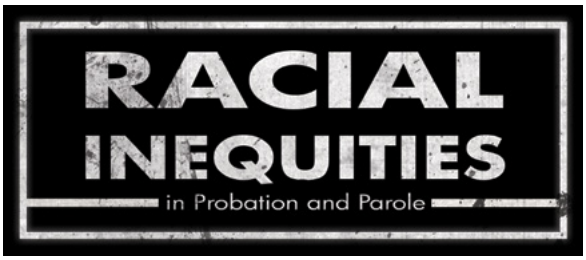
While not exhaustive, the following list describes ways all probation and parole practitioners can start the process so they can then hit the streets with a new sense of professional responsibility for reform. Each of us




can be part of the age of racial reckoning, taking the first steps on this important journey to become an ally in the movement for racial justice.

1. *Take professional responsibility for your own education regarding implicit biases and explore the way they impact your work.* Kendi (2019) says, "the heartbeat of racism is denial" and the "heartbeat of anti-racism is confession." To truly transform in the areas of equity and racial competency, understanding implicit bias is foundational. Studying the ways unconscious judgments are made by all people leads us to recognize our own contribution to the problem. While unconscious biases are not intentional, they have been shown to have a significant impact on our behavior. On the bright side, they can be changed with intentional cognitive intervention (Staats, Capatosto, Tenney, & Mamo, 2017). Participate in education through webinars, in-person, or even by just seeking out and reading pertinent articles and studies. What you learn will be a big step forward in the process of creating a more just probation and parole practice. Becoming knowledgeable about implicit bias may produce some discomfort, but don't let that be a roadblock. Perhaps you will find yourself prone to dismiss or discount what you have discovered, but don't take that path. Instead, continue the effort by figuring out why you have become uncomfortable in the first place. When we move through the discomfort of knowing that we could be responsible for harboring biases against others unintentionally, we get to a place of empowerment to change it, making us better probation and parole agents. Aside from producing more professional and ethical behavior, it allows each practitioner an increased ability to do genuine public safety work based on reality rather than perceived falsities.

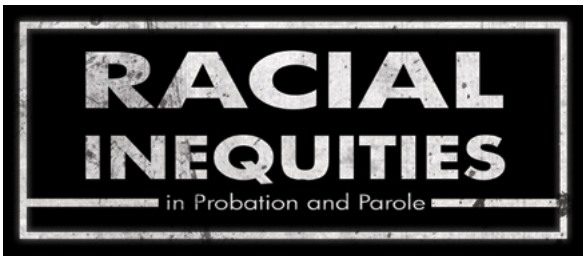
2. *Know what research tells us about the ways we discriminate and apply them to a probation/parole context.* Research has shown many settings and many ways in which bias is exhibited, and we can




take that as our cue to engage in self-checks on biases that can impact our work. These self-checks can bring humanity back into interactions that were previously somewhat dehumanizing due to biases. For example, research shows people tend to view black girls as less innocent, older than their actual age, and in less need of support compared to white girls (Epstein, Blake, & Gonzalez, 2017). Awareness of this problem might prove particularly helpful to youth probation agents, who can double check themselves, asking "Am I remembering this girl is 14 years old, not 17?" or "Am I providing a response that will support her needs instead of punishing her?" when considering responses to black girls' behaviors. Making the wrong choice due to implicit bias can have a significant impact on a child's life.

Consider too that years of research has consistently found that black men are viewed as more dangerous and threatening than white counterparts (Trawalter et al., 2008; Carbado & Rock 2016). This might mean the adult parole agent would benefit from checking for unconscious bias, asking "Would I be assessing this level of risk if this person had the same behavior but was white?" It might mean that those who write pre-sentence investigations should check their work for fidelity in recommendations, asking "Am I recommending the same interventions for this person as I would for a white client with the same set of facts?" Moreover, it is beneficial to be aware that people of color are often perceived as less in need of mental health services than whites (Breslau, et al., 2017), which should prompt the self-aware officer to ask, "Would I recommend a mental health or treatment intervention here instead of jail time if this person were white?"

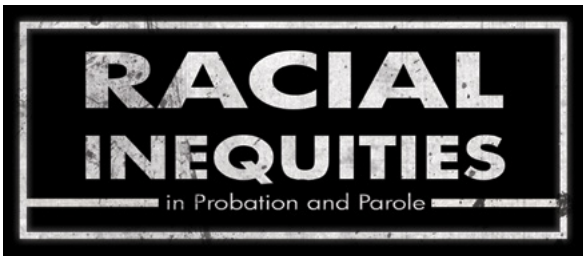
Sometimes the answer might change one's decision, and sometimes not, and it can bring pain when we




experience the stunning moments where we see our biases in action. But using an extra eye to bring to the forefront of our awareness that which has previously been unconscious can facilitate new practices and promote more equitable, just treatment. Exploring the data accumulating from studies of other industries and thereby seeing how biases present themselves in healthcare, business, and housing can serve as caution flags for probation and parole practitioners. It is time to think that "Hey, there might be something here to look at. I'm going to do my duty to make sure I don't make the same mistake."

3. *Advocate for the hiring of black and brown people.* As "line" staff, we may not have the lever-pulling power to make things happen in a hiring capacity, but we do have the power to let those who do know we are watching. While many strides have been made to weed out initial hiring bias using anonymizing elements, at the end of the day, people in power positions make the call and decide who makes the cut and who is sent home disappointed.

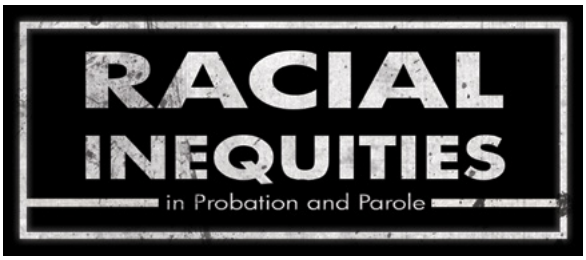
The bottom line is that probation and parole practitioners can put voice to the value of equity by speaking to agency supervisors or decision makers about hiring diverse practitioners when positions open within one's agency. There is a vast spectrum of ways to introduce this influence. It can involve a hallway conversation about how you saw the posting and are looking forward to seeing the opportunity that diversity in the hiring pool may bring. It can mean making a formal declaration of your value statement by a letter or email to those in power, in essence putting them on notice that diversity is a value with high stature in your eyes and that as an employee you support all efforts, practices, and actions which bring black, brown, and all under-represented people to positions in your division. These "we are watching" measures speak truth to power and help shape the atmosphere toward intentionality of inclusivity.




## A Final Word

The nature of the actions described above is far different than attending mandatory, "check-off-the-box" training sessions where content can be easily left at the training room door. These actions are for courageous workers on the front line looking to keep their practice ethical and genuine. They are for those who want to restore the humanity our biases are taking away. They are also for those in the thick of case management who are making recommendations and weaving the fabric of the justice blanket. The way forward will not be easy, but it can be done.

Again, we must all remember that policy and systemic changes must occur in this age of justice reformation, but it cannot stop there. Martin Luther King, Jr., reminded us, "Injustice anywhere is a threat to justice everywhere." **As agents, we must each take responsibility for a more ethical and equitable probation and parole practice.** As the call for systemic change continues, let us meet it with individual transformation; becoming an ally to the racial justice movement of our country, making us an ally to justice for all.

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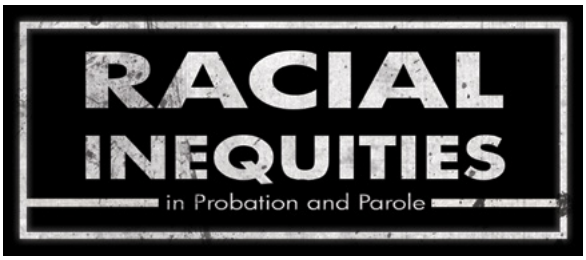


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