

# IS THERE RACIAL BIAS IN THE MINNESOTA CRIMINAL JUSTICE SYSTEM?

A SUMMIT PRODUCED BY THE MINNESOTA PUBLIC RADIO CIVIC JOURNALISM INITIATIVE, THE MINNESOTA JOURNALISM CENTER AND THE INSTITUTE ON CRIMINAL JUSTICE AT THE UNIVERSITY OF MINNESOTA LAW SCHOOL.

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< Leonard Witt

## DIFFICULT QUESTION, HOPEFUL ANSWERS

The MPR Civic Journalism Initiative, Minnesota Journalism Center and the Institute on Criminal Justice at the University of Minnesota Law School invited some 80 people from academia, government, the courts, defense, prosecution, law enforcement, and corrections and citizens groups to come together to determine: *Is There Racial Bias in the Minnesota Criminal Justice System?*

Summit participants identified where bias might exist and developed action steps to confront biases identified. It was a very “hands-on” summit, with a lot of small group work. Georgetown University Law Professor David Cole gave the keynote address. This report gives an overview of what was learned.

To hear the panel session and keynote address, and to download copies of this report, go to [www.mpr.org](http://www.mpr.org) and click on “Civic Journalism.”

# justice eroded?

Would you say the criminal justice system in Minnesota:

1. Is in excellent shape and needs only minor tweaking here and there?
2. Has a few isolated areas that need moderate to major improvements?
3. Has many areas that need moderate to major improvements?
4. Is in terrible shape and needs drastic changes?

When we posed this question to nearly 80 participants in a Minnesota Public Radio forum entitled *Is There Racial Bias in the Minnesota Criminal Justice System?* the results were stunning. More than half of the summit attendees—a distinguished group of respected professionals from academia, law enforcement, the legal sector, media and community agencies—believe Minnesota’s criminal justice system “has many areas that need moderate to major improvements.” Another 21 percent said the system “is in terrible shape and needs drastic changes.”

The voting at the forum, held at the University of Minnesota School of Law on June 14, 2001, is even more alarming when we consider almost all of the participants are in close contact with the criminal justice system. While the vote was not scientific because the voters selected themselves for the survey by accepting the summit invitation, we cannot ignore the response from a group that is this influential.

A criminal justice system in a democracy will only function if the people believe it is fair and efficient. When 75 percent of a group of solid citizens say the criminal justice system has “many areas with moderate to major flaws” or is in “terrible shape,” all citizens and policymakers should be concerned.

The justice system keeps our democracy together. When it is working well, all of us—from cops to citizens—feel safe and secure. Yet, our straw vote and summit discussions indicate that racial bias or the perception of racial bias may be eroding confidence in the Minnesota justice system.

Policymakers, opinion leaders, people within the criminal justice system, and you and I as citizens, must demand that the question of racial bias in the criminal justice system be examined. Any bias, overt or covert, must be identified and expunged from the system. We hope that this summit and report are a step in that direction.

**Leonard Witt**  
Executive Director  
MPR Civic Journalism Initiative



“WILL THE COUNTRY EVER FULLY EMBRACE AFRICAN AMERICANS AND OTHER MINORITIES AS FULL CITIZENS? THIS KIND OF BIAS, THIS KIND OF PROFILING, SUGGESTS WE STILL HAVE SOME WORK TO BE DONE.”

< john powell

## the system on trial

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A PANEL OF CRIMINAL JUSTICE EXPERTS EXPLORED THE DISPARITY BETWEEN THE NUMBERS OF BLACKS AND WHITES IN THE CRIMINAL JUSTICE SYSTEM.

### john powell

*Founder and Executive Director, Institute on Race and Poverty (IRP), University of Minnesota Law School*

“Is there bias in Minnesota’s criminal justice system?” asked john powell. “That question has already been answered,” he said, pointing to a 1993 Minnesota Supreme Court Task Force report. While 94 of its 144 recommendations were implemented, the racial disparities have since grown worse, he said.

The Institute on Race and Poverty’s own analysis of data from the St. Paul Police Department found a huge disparity in the number of African Americans who were stopped and searched. “These are not criminals,” powell emphasized. “To focus on criminals is too narrow. What’s going on affects the entire society. It affects all of us.”

He illustrated this point by recalling the time he considered getting his 16-year-old son a cell phone, but decided against it because he’d heard stories about young



“IN A SOCIETY MARKED BY GREAT INEQUALITY, JUVENILE COURTS INEVITABLY PRODUCE RACIALLY DISPARATE OUTCOMES.”

< *Barry Feld*

“RACIAL PROFILING DIDN’T JUST EMERGE AS A RESULT OF THE WAR ON DRUGS. ANYBODY THAT’S A STUDENT OF AMERICAN HISTORY KNOWS THAT. RACIAL PROFILING BEGAN THE MINUTE THE FIRST LOAD OF SLAVES STEPPED OFF THE SHIP IN 1619.”

*B. Todd Jones >*



black men who were shot by police when reaching for a cell phone.

“What this is really about,” Powell said, “is not just the criminal justice system. It’s about African Americans having to change their lives—having to train our kids, particularly our sons, differently than whites. Basically saying, ‘When the police stop you, this is how you behave.’ And almost without exception suggesting that, in fact, they will be stopped.”

Powell concluded that the issue extends far beyond the criminal justice system: “I really think it’s a question of, ‘Will the country ever fully embrace African Americans and other minorities as full citizens?’ This kind of bias, this kind of profiling, suggests we still have some work to be done.”

**Barry Feld**

*Professor of Criminology  
University of Minnesota Law School*

“The issue of race has had two distinct and contradictory impacts on juvenile justice law and policy over the last half century,” said Barry Feld. In the 1960s, concerns about civil rights motivated the U.S. Supreme Court to require due process in juvenile criminal proceedings. Two decades later, an increase in violent crime spurred politicians to “get tough” on youth crime. The result has been a sharp increase in the number of juveniles who are tried, sentenced and imprisoned in the adult correctional system. Moreover, studies consistently show that minorities receive harsher sentences.

With increased urban segregation, the emergence of an underclass and an escalation in youth crime, “The mass media depicted, and the public perceived, the crime problem as primarily involving poor urban

black males,” according to Feld. Politicians began to “use crime as a code word for race.”

“In a society marked by great inequality,” Feld concluded, “juvenile courts inevitably and necessarily produce racially disparate outcomes because the juvenile court itself was designed to discriminate—to distinguish between our children and other people’s children.”

**B. Todd Jones**

*Former U. S. Attorney  
District of Minnesota*

B. Todd Jones identified four areas of the criminal justice system that contribute to racial disparities:

**1) Policing.** Aggressive police policies result in more people of color brought into the system. However, while police have been criticized for the racial disparity, “the entire system bears great responsibility,” Jones added.

## *Speaking Out: Voices from the Summit*

NINETY-FOUR PERCENT OF PEOPLE IN THE PRISON SYSTEM WILL RETURN TO THE COMMUNITY. “YOU HAVE TO START THINKING FROM DAY ONE OF THE LAST DAY OF THE SENTENCE.” AND FOR REENTRY TO WORK, ONE OF THE KEY ELEMENTS IS “TO EDUCATE THE PUBLIC THAT OFFENDERS ARE NOT ANIMALS.”

**Sheryl Ramstad-Hvass**

*Commissioner, Minnesota Department of Corrections*

“WE KNOW THAT DRUG USE AND DRUG ABUSE CUT ACROSS CLASS AND RACIAL LINES, BUT DRUG LAW ENFORCEMENT HAS PRIMARILY BEEN FOCUSED IN INNER-CITY AREAS.”

*Marc Mauer*

**2) Prosecution.** This stage of the criminal justice process generally avoids public scrutiny. Yet prosecutors make crucial decisions about whom to charge with which crimes. With sentencing discretion largely taken from judges, prosecutors play a critical role in determining who goes to prison.

**3) At trial.** Citizens sitting on juries have their own biases about who is guilty and who is innocent. In addition, many public defenders representing people of color carry overwhelming caseloads.

**4) Sentencing.** This stage of the criminal justice process has been transformed, leaving judges with little discretion. Yet in some cases, sentencing guidelines, legislative mandates and mandatory minimum sentencing schemes inject their own kind of bias, albeit unintentional.

**Marc Mauer**

*Deputy Director*

*The Sentencing Project in Washington, D.C.*

Marc Mauer, who directs an organization that monitors incarcerations and looks at racial disparities in the criminal justice system nationwide, pointed out two overlapping trends:

1) In the past 30 years, the American criminal justice system has expanded vastly, resulting in six times as many people being imprisoned today as three decades ago.

2) An increasing percentage of those inmates are people of color (nationwide, African Americans and Latinos make up nearly two-thirds of the prison population).

One criminal justice initiative has significantly increased incarceration rates over the past two decades: the War on Drugs. Today 11 times as many people—nearly half a million—are incarcerated for

drug offenses as 20 years ago, and large racial disparities exist within this population. In state prisons, four of every five people imprisoned for drug offenses are African American or Latino—far more, proportionately, than use or sell drugs.

“We know that drug use and drug abuse cut across class and racial lines, but drug law enforcement has primarily been focused in inner-city areas,” according to Mauer. “When we look at middle-class, suburban drug use, we see a system that basically relies on families and treatment programs—that takes a public health approach to dealing with the problem of substance abuse. When we’re talking about urban areas, the approach is one that emphasizes more police, more prisons.” •

*To hear the panel discussion in its entirety, go to [www.mpr.org](http://www.mpr.org) and click on “Civic Journalism.”*

# exploring all sides of disparity



SUMMIT ATTENDEES MET IN SMALL GROUPS TO ADDRESS SEPARATE BUT RELATED QUESTIONS AROUND THE ISSUE. HERE ARE THEIR OPINIONS.

**What have we learned from past studies of racial disparities in the criminal justice system, and what do the numbers tell us?**

- Disparities are larger in Minnesota than anywhere else in the country.
- Minnesota might stand out because the state has so few racial minorities, which results in tremendous “white privilege.”
- Minnesota incarcerates people of color at about the same rate as the national average, but the rate of imprisonment for whites is the lowest in the nation.
- Information gaps make it difficult to build databases and analyze causes: race data on traffic citations is hard to gather since drivers’ licenses don’t track race and longitudinal studies that follow individuals through the criminal justice process are expensive.

from the **MPR SOAPBOX**

LISTENERS COMMENT ON MPR'S ONLINE FORUM.

**Police Not Part of the Community**

I'm a white man married to a black woman in south Minneapolis. I've been pulled over twice in the last year on Lake Street when I had my black stepdaughter in the car. On both occasions, the police grilled us on who we were, where we were going, how we knew each other, etc. On the first occasion, an officer laughed sarcastically when my stepdaughter explained who I was. I guess the police officer thought I was a john and she was a prostitute.

The problem is that the police aren't community members. If the police were community members, they would know my stepdaughter and me. As it is, the police remain armed mystery men and women to us, and we remain a john and a "ho" to them.

**Mark Aamot** *Minneapolis, MN*

TO READ MORE OPINIONS OR JOIN THE DISCUSSION,  
GO TO [WWW.MPR.ORG](http://WWW.MPR.ORG).

***Speaking Out: Voices from the Summit***

"BOYS OF COLOR, PARTICULARLY AFRICAN-AMERICAN BOYS, ARE RAISED TO STAY OUT OF THE SYSTEM, NOT NECESSARILY TO SUCCEED. THERE IS A LOT OF HATE TOWARDS THESE KIDS, AND THIS HATE BREEDS HOPELESSNESS AND HELPLESSNESS."

**Michael Belton**, *Manager, Juvenile Probation Division, Hennepin County*

- The arrest rate differential closely parallels differences in school dropout rates.
  - The state should intervene when juveniles first come into contact with the criminal justice system.
  - Poverty plays an enormous role in the disparities.
  - Society, including mostly white policymakers, places great emphasis on responding to and punishing violent crime, an area in which people of color appear to be over-represented.
  - Drug crimes receive harsher penalties than comparable crimes like repeat DWI violations, which are primarily committed by whites.
  - Even in attempts to be race neutral, decisions result in whites being treated more favorably. For example, screening that determines who goes on probation and who goes to jail favors whites by looking at factors like job status, family and residential stability.
- Many key people within the Minnesota criminal justice system say that bias exists. Do you think it exists? How do you explain the disparities?**
- Bias definitely exists in the criminal justice system.
  - It is a statewide issue that affects all people of color.
  - Disparity originates in schools rather than with the police or the criminal justice system.
  - Disparities reflect larger divides in American society, burdening the criminal justice system with problems it cannot fully address, such as affordable housing.
  - Every group within the system—judges, police, probation officers—has increased personnel, which means more people earn their livelihood from crime, creating inertia within the system.
  - Politicians use crime for political purposes, contributing to the racial disparity.



**The numbers in the Minnesota criminal justice system are disproportionately high for people of color. Why?**

- Those in power (mostly whites) are inevitably privileged, making it more difficult for them to recognize the problem and exercise power to address it.
- Those responsible for the incarceration of people of color do not understand the culture of the people they send to prison.
- There is a general lack of accountability, and thus responsibility, in institutions.
- North European culture—“Minnesota Nice,” as well as a prevailing attitude of liberal paternalism—leads to a tendency not to confront issues directly and forthrightly.
- Poverty and class inequities contribute greatly to racial disparities in the criminal justice system.

**What are the long-term consequences of arresting and imprisoning so many people of color?**

- Bias perpetuates stereotypes, making it more difficult to address the underlying problems.
- People of color become distanced from the larger society, reducing or even eliminating their willingness and ability to participate in society.
- People of color are more inclined to withdraw trust in the criminal justice system and take matters into their own hands.
- Families breakdown when so many family members are taken away to prison.
- Criminal conduct is normalized; arrest and incarceration are de-stigmatized and become accepted.
- Communities of color within the U.S. and citizens of other countries lose respect for the American system.

**Minnesota has an excellent record of keeping white Minnesotans out of prison (incarcerating fewer white people than any state except North Dakota). What’s the secret, and how can we apply it to people of color?**

- Apply the law fairly and equally to all.
- Intervene early to increase prevention.
- Emphasize diversion rather than incarceration.
- Re-educate those who work in the criminal justice system to be less biased.
- Routinely review criminal laws to assess their impact on the community. If a law has a negative or disproportionate effect on certain racial groups, perhaps it should be repealed.
- Take a restorative justice tact like the public health approach used to keep repeat drunk drivers out of jail.
- Expand who we think of as “us” to better identify with everyone within the system.
- Allocate legislative resources more equally. In predominately white suburban communities, for example, juvenile diversion programs keep young people out of the criminal justice system. Meanwhile, the Minneapolis Police Department—the state’s largest—has no diversion program. •



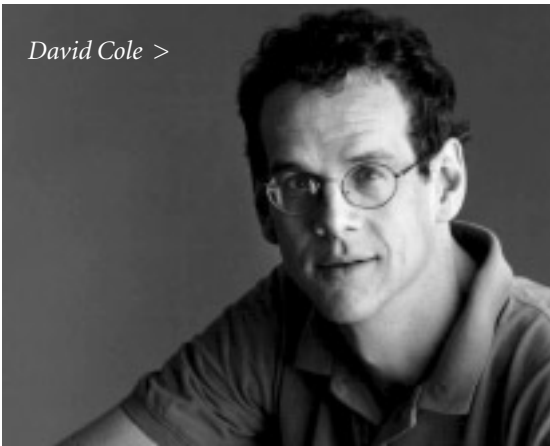
***Speaking Out:  
Voices from the Summit***

“IS THERE RACIAL DISPARITY IN THE CRIMINAL JUSTICE SYSTEM? THE ANSWER IS, ‘ABSOLUTELY, UNEQUIVOCALLY, CASE CLOSED.’ BUT WE DON’T LIKE THE ANSWER, SO WE KEEP ASKING THE QUESTION.”

< **Dan Cain**  
*President, Eden Programs*

# equality demands positive action

Photo provided by Georgetown University.



David Cole >

## The Numbers in Minnesota

- > Blacks are far more likely to be arrested for minor crimes such as trespassing (black-white ratio 19:1), “lurking” (27:1) and driving without a license (42:1).\*
- > The number of blacks in prison for every 100,000 Minnesota residents is 1,325 compared to only 68 whites.\*\*
- > Latinos are imprisoned at five times the rate of whites.\*\*
- > Native Americans are imprisoned at 12 times the rate of whites.\*\*

\* Minneapolis Star Tribune, July 2000

\*\* Council on Crime and Justice, 2000

In his keynote address, Georgetown University professor David Cole drew a distinction between “old-fashioned” racial bias—discrimination that intentionally harms people of color—and what happens in Minnesota. “The kind of conscious, invidious bias that characterized the segregated South is relatively rare these days, and I’ve seen no evidence that that is what is operating in Minnesota,” he said. “Undoubtedly every system has its racists and its bigots, but that’s not the root of the problem. If, on the other hand, the question is whether the Minnesota criminal justice system produces racial disparities, the answer is undeniably, ‘Yes.’”

“Minnesota does not stand alone, but it does stand out because Minnesota’s incarceration rate disparity, between blacks and whites, is by far the worst in the nation,” added Cole, author of *No Equal Justice: Race and Class in the American Criminal Justice System*.

“But disparity,” he pointed out, “is not necessarily discrimination.” Because so many variables affect who is stopped, arrested and convicted of a crime, it’s notoriously difficult to isolate race. If there were race neutral explanations for the disparities, the criminal justice system would not be biased.

“Most criminologists agree that some of the nationwide disparities in incarceration can be explained by higher offending rates among minorities, at least with respect to violent street crime,” Cole said. “But few if any criminologists think that all of the disparity can be explained by higher offending rates among minorities.”

## A One-Sided War

Much of the disparity, Cole said, is directly attributable to the War on Drugs: African Americans (only 3 percent of Minnesota’s population) comprise half of those in prison for drug crimes. Despite similar levels of drug use among blacks and whites, black males are 39 times more likely to be imprisoned for a drug offense.

The War on Drugs drives racial profiling, as officers assume blacks are more likely to be carrying drugs, but blacks neither use nor deal drugs at a greater rate than whites. Illegal drug use is, as Cole put it, “an equal opportunity offense.” Studies of racial profiling that assess “hit rates” (how often illegal drugs are found) support that contention: Hit rates are either equal to or higher for whites. Yet blacks make up 35 percent of those arrested for drug possession; 55 percent of those convicted; and 74 percent of those sentenced for drug crimes.

But even if those disparities could be explained entirely by higher offending rates, there still might be bias in the criminal justice system, Cole said. How would society respond if the figures were reversed—if the white incarceration rate were 24 times the black rate, or if one in four white male babies could expect to spend a year in prison? “What would the politics of crime look like then?” Cole asked. “I don’t think you’d hear, ‘Three strikes and you’re out,’ ‘mandatory minimums,’ ‘Lock them up and throw away the key,’ but rather, ‘We have to do something to deal with this

“THERE IS CLEAR EVIDENCE OF BIAS. MUCH OF IT MAY BE UNCONSCIOUS RATHER THAN CONSCIOUS, INVIDIOUS INTENT. MUCH OF IT MAY BE STEREOTYPES. MUCH OF IT MAY BE SELECTIVE SYMPATHY. BUT THERE IS CLEARLY BIAS.”

**David Cole**, *Professor, Georgetown University Law Center*

problem by providing more resources, by providing better schools, by diversion and the like.’

“We are able, in other words, to be tough on crime because the racial and ethnic makeup of the incarcerated population does not reflect that of the majority.

“There is clear evidence of bias,” he added. “Much of it may be unconscious rather than conscious, invidious intent. Much of it may be stereotypes. Much of it may be selective sympathy. But there is clearly bias.”

### **Inequality Exploited**

So why, Cole asked, does bias persist? And why should it concern us?

“I think it persists,” he answered, “because it benefits the white majority. At a trivial level, as a white man, I can speed more freely on the nation’s highways because I know that police are going to be looking more carefully at blacks.” More significantly, white people don’t have to teach their sons how to behave when stopped by the police.

In fact, Cole suggested, the entire system of law and order depends on exploitation of that inequality. There is an inherent tension between civil rights and public safety; American society has dealt with that tension by developing a double standard, which allows the privileged—mostly whites—to enjoy their rights without the social costs of extending those rights equally to all.



### The Numbers Nationwide

- > Eight times as many blacks are imprisoned as whites.\*
- > Nearly one of every 10 black men age 20–29 was in prison in 2000.\*
- > One in four black male babies born in the U.S. today can expect to spend at least a year in prison.\*\*

\* *Prisoners in 2000, Bureau of Justice Statistics, U.S. Department of Justice, August 2001*

\*\* *Lifetime Likelihood of Going to State or Federal Prison, Bureau of Justice Statistics, U.S. Department of Justice, March 1997*

Why should the disparity concern us? “First,” Cole said, “because it’s wrong—but that doesn’t seem to be enough these days. Second, because it’s costly. To give up on equality in the criminal justice system is to give up on legitimacy.”

And legitimacy, Cole pointed out, is critical to any law enforcement strategy. “If people believe in the legitimacy of authority, they’re much more likely to do what you want them to do than if they don’t. We have surrendered that legitimacy among significant portions of the American populace. That makes it harder to police; that contributes to crime. And it deepens the racial divide in our country.”

#### STRATEGIES FOR REDUCING DISPARITIES

##### ■ **Bring unconscious discrimination to consciousness.**

The way to begin, Cole said, is by requiring police to keep records of and report the demographics of enforcement strategies. “If we bring discretion to light, and only if we bring it to light, can we render the police accountable,” he added. Indeed, the need to record race might help stop police profiling if, as he believes, much of it is driven by unconscious stereotypes rather than malicious intent.

##### ■ **Police should work with communities instead of against them.**

In cities like New York, the police target particular neighborhoods, aggressively stopping and frisking people for minor offenses like jaywalking. “This does lead to reduced crime,” Cole noted. “But so would putting tanks in the street. And it reduces crime at great cost.”

Such aggressive policing results, among other things, in more complaints of police brutality and increased racial tension. But cities like Boston and San Diego have reduced crime by employing law enforcement strategies that emphasize working with communities, rather than employing police officers like an occupation force.

##### ■ **End the War on Drugs**

Calling off the Drug War, Cole pointed out, does not necessarily mean drugs must be legalized; it does require emphasizing treatment rather than incarceration.

##### ■ **Invest differently and more strategically in communities plagued by crime.**

“Right now we seem to be willing to invest in these communities,” Cole said, “as long as it’s by paying cops’ salaries, prosecutors’ salaries, judges’ salaries, and for prison-building. But what about spending some of that money for education, for after-school care, for job training, for health care—[investments] that will reduce the incidence of crime in those areas without consigning large segments of inner-city communities to the stigma of a criminal conviction and the horrendous experience of incarceration.”

“None of this is easy,” Cole conceded, and it probably won’t eliminate all the biases and disparities in the criminal justice system. “There is no question we can do more than we are doing now. Our deepest principles—our commitment to equality—obligates us to do so.” •

## ***Speaking Out: Voices from the Summit***

LAW ENFORCEMENT DEPARTMENTS IN MINNESOTA ARE “INCHING” FORWARD IN CONFRONTING THE ISSUE OF RACIAL PROFILING, BUT “95 PERCENT OF THEM ARE NOT THERE YET.”

**Michael Jordan** >  
*Public Information Officer  
St. Paul Police Department*



### **What Other States Are Doing**

- > Connecticut recently repealed a law mandating stiffer penalties for selling drugs within 1000 feet of schools because it punished urban residents (who, because of population density, tend to live near schools) more harshly than those in rural areas.
- > Connecticut is also considering a policy that would require a “racial impact statement” for laws, similar to fiscal and environmental impact analyses, to assess whether the law will affect minorities disproportionately.
- > A study in Cook County, Ill., looked at 393 juveniles whose cases were transferred automatically to adult court because they were charged with selling drugs in a school zone. All but three were black or Latino. Nothing in this law, of course, said it was designed for African-American and Latino kids.

**Marc Mauer**, *The Sentencing Project*

### **from the MPR SOAPBOX**

TO READ MORE OPINIONS OR JOIN THE DISCUSSION, GO TO [WWW.MPR.ORG](http://WWW.MPR.ORG).

#### **System Justifies Racism**

It is easy to see in the Twin Cities that the police presence is concentrated in the inner cities and down-town areas. It would be quite a shock to see the amount of policing that takes place in Phillips take place in Shoreview. In other words, the bald segregation of people of color in this city certainly adds to the systemic and institutional racism that is part and parcel a product of America. ... I would really like to see more people from the Minnesota criminal justice system—i.e., assistant county and city attorneys and law officers—address these issues, but my fear is that most of these folks speak from a common and slightly warped perspective that allows them to justify brutality, racism and injustice on the basis of “safety” and the “maintenance of law and order.”

**Albino Carrillo** *St. Paul, MN*

# toward solutions: what each group can do

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PARTICIPANTS MET IN THEIR STAKEHOLDER GROUPS TO DEVELOP STEPS TO CONFRONT BIAS IN THE CRIMINAL JUSTICE SYSTEM.

## **ACADEMICS**

**Study strategies that invest in communities.**

- Advocate for having law enforcement and prosecutors collect and report data relating to the race/ethnicity of people in the criminal justice system.
- Focus on potential solutions such as alternative policing styles.
- Study strategies that invest in communities.
- Work for more diversity in higher education and more recruiting of persons of color for criminal justice careers.
- Speak more clearly to the public and media on the issue of racial profiling, and about how such policies affect people of color and the whole community.
- Use the civic engagement model, emphasizing more collaborative efforts between higher education and local communities.

## **POLICE AND CORRECTIONS OFFICERS**

**Re-evaluate officer-reward systems.**

- Acknowledge the problem and publicly assume responsibility to become part of the solution, requiring education and the courage to challenge professional peers.
- Take a stronger role in data collection by discussing what data will be collected and how, along with how to make the results public.
- Re-evaluate officer reward systems to take into account the harm done to innocent people detained.
- Use race-neutral language in sentencing recommendations and assessment tools that do not discriminate on the basis of race, culture or gender.
- Demand the establishment of community-based, proactive alternatives to incarceration and re-evaluate out-of-home placement recommendations for race fairness.
- Make recruitment and retention of people of color a top priority.

## **LEGAL REPRESENTATIVES**

**Make sure people understand and have faith in what attorneys do.**

- Address the perception that minorities are dealing with a white criminal justice system by attracting people of color to work in both professional and support staffs.
- Increase accountability by making charging and plea bargaining guidelines detailed and specific, and by gathering data to support their use.
- Create forums to continue this discussion.
- Know and participate in communities and work towards community-based solutions such as restorative justice.
- Train young prosecutors not to view their work as an academic exercise, with the goal being to maximize time in prison, but to understand that justice is their goal and their true clients are the communities.
- Make sure people understand and have faith in what attorneys do.

## ***Speaking Out: Voices from the Summit***

**“IF AN OFFICER STOPS A DOZEN PEOPLE AND FINDS DRUGS ON ONE, THE REWARD IS FOR FINDING DRUGS ON THAT ONE PERSON. NOTHING IS SAID ABOUT THE ELEVEN INNOCENT PEOPLE WHO WERE DETAINED.”** **Steve Borchardt, Sheriff, Olmsted County**

### **CITIZENS' GROUP**

**Work hard on prevention so people will have more faith in the system.**

- Work together to put integrity, legitimacy and confidence back in the criminal justice system.
- Increase accountability by, for example, demanding collection of racial profiling data and data concerning the decisions to prosecute certain individuals over others.
- Participate in the employment screening process for police officers, attorneys, judges and others in the criminal justice system to increase racial diversity within the system.
- Strengthen and support programs that connect stakeholders—the community, police, judges and attorneys. For example, help new police officers learn about the community in which they're going to work.
- Confront crime with proactive, constructive strategies such as peer counseling and teen courts that use a restorative justice model.
- Monitor and issue progress reports on judges, prosecutors, police and the media, then use the media to publicize the results.

### **GOVERNMENT**

**Increase diversity in the government workforce.**

- Send drug offenders to treatment rather than prison.
- Invite community voices into the decision-making process by increasing the capacity of communities affected by racial disparities and bias to advocate on their own behalf.
- Increase diversity in the government workforce by developing a strategic plan for recruitment and retention of people of color. Include an examination of each organization's culture. Is it welcoming? Is it comfortable? What messages are sent by the culture of the organization?
- Increase and improve communication within and between levels of government (city, county and state agencies).
- Increase documentation of the issue and make sure the information gets disseminated.

### **MEDIA**

**Give voice to the voiceless.**

- Solicit feedback from readers and audiences about the nature of stories and the way they are covered; choose stories and angles based on feedback.
- Promote greater diversity of race, gender, age, class, style and viewpoint in the newsroom.
- Do more stories “from the bottom up,” i.e. grass roots stories about people in the community that give voice to the voiceless.
- Develop relationships with more and better sources in communities of color, and let those sources and the audience know they are representing themselves, not a category of people.
- Use descriptions of suspects and photos only when appropriate (for example, if police are looking for a suspect) when publishing or broadcasting stories about crime.
- Lobby newsroom management to make a greater commitment to socially important stories.

# we all have a role to play

Former Hennepin County Attorney Thomas Johnson, now a lawyer in private practice and president of the Council on Crime and Justice, believes that this is the perfect time to reform the system.

In his closing remarks, based on what he heard at the summit, Johnson was hopeful that a growing public awareness of racial disparities in the criminal justice system (recent polls show that 80 percent of Americans oppose racial profiling) and a realization that these disparities are a serious problem afford opportunities for change.

Johnson also cited the willingness to change among those who work in the criminal justice system as a reason that makes this a good time to implement reform.

## Other factors that make this an opportune time to overhaul the system:

- Serious crime has fallen to its lowest levels in decades.
- There is a willingness to re-examine drug enforcement policy so “that people have equal access to treatment, and that we don’t have two models of response: one model of criminal justice for people of color; one of treatment for whites,” according to Johnson.

- Awareness of the consequences of racial disparity is spreading to all segments of society. “For those who aren’t motivated by the moral issue, and the issue of justice,” Johnson said, “maybe minds will be changed and actions will be dictated by a realization that this has a huge societal cost, and that it has consequences within the impacted communities that are not yet fully understood.”

Although it isn’t easy to engage in frank and open dialogue about difficult issues, “We somehow have to reach back into a deep reserve that I hope we all have and say, ‘I can do this. I can have this discussion,’” Johnson added. “It’s going to hurt. It’s going to be emotional. But we can work through it. We can sit together and resolve issues.”

## Challenges to reforming the system:

- “We have to broaden the understanding of what this issue involves,” he said. “[Make people see] that it isn’t simply a matter of not responding [to crime]. It’s a matter of whether we are responding fairly, and how we’re responding.”
- The entire criminal justice system must accept an unprecedented level of scrutiny and accountability. In many cases, people who work in the system will be held accountable for new policies and procedures.

“THERE IS GOING TO BE RESISTANCE TO THIS CHANGE, BUT CHANGE HAS TO COME. WE NEED TO ACCEPT THAT.”

**Tom Johnson**

*President, Council on Crime and Justice*



- Communities and community organizations must also be more accountable for the work they do.

Will we keep our minds open enough to grasp these complex issues and find solutions? Johnson asked. “I know that the causes and the solutions are within each of us, first as individuals and then collectively as a community,” he said. “That is a call to action for each of us here. It’s a call to action to talk to your family, to your friends, to your neighbors. They all have a role to play.” •



## reporters: making the deadline but missing the point?

By Sherrie Mazingo



Duchesne Drew >  
Reporter  
Minneapolis Star Tribune

< Sharon Lubinski,  
Minneapolis Police

“We help shape the public’s perception, and it’s a perception that’s missing some pieces.” That’s how KSTP-TV anchor Harris Faulkner summed up the media’s coverage of crime during the summit.

The dozen or so print and broadcast journalists at the forum defended their organizations’ best efforts, but, like Faulkner, other media participants also took responsibility for errors of commission and omission.

How the media reports crime is germane to the question of racial inequities in the criminal justice system. Sensationalistic coverage of crime or coverage without context creates knee-jerk responses and public over-reaction to the issue. Politicians pick up the scent and join the hunt—leading to formulation of public policy, which is often ill-considered.

### The Problems

“The tension for me has always been the day-to-day reporting and the amount of space that I have to report the events of the day and put them in some kind of context,” said Lucy Quinlivan, courts reporter for the *St. Paul Pioneer Press*.

Providing context means creating background for a story or adding perspective. For example, in a story about a rape, context would include how many rapes had occurred in that neighborhood over a period of time. Any circumstances that affect the act, the victim or the perpetrator are also a natural part of the story’s context. For instance, did the accused know the victim?

Reporters at the summit said that key police and law enforcement officials sometimes stonewall information, contributing to lack of context. “We don’t always have access to the people actually involved in the stories,” said George Norman, assignment desk editor for WCCO-TV. “The question is how are you going to make inroads with those people, to say, ‘We need you to be a voice for these stories?’”

According to others, part of the problem in newsrooms is a lack of racial and gender diversity, as well as diversity of viewpoints and experiences. One media group member said news organizations are putting too many young, inexperienced reporters and editors in key newsroom positions.

### *Speaking Out: Voices from the Summit*

“THERE’S A NEED FOR MORE NEWSROOM DIALOGUE ON ISSUES OF CRIME AND RACE.”

Duchesne Drew, Reporter, Minneapolis Star Tribune

## The Solutions

Media group co-facilitator Gary Gilson, director of the Minnesota News Council, encouraged journalists to consider forming an organization within their newsrooms and outside the unions that pulls together like-minded people for the purpose of educating management.

That approach should also aid in creating “more open dialogue in the newsroom and in encouraging honest debate” on issues of crime, race and related issues, suggested *Minneapolis Star Tribune* reporter Duchesne Drew.

Kathy Hansen, director of the Minnesota Journalism Center, called on reporters to keep pressing news managers for the time and opportunity to do contextual stories on crime and the criminal justice system, and for news managers to run the stories as often as possible. Hanson said the Minnesota Journalism Center is considering bringing together small groups of news managers and reporters for frank discussion of the issues.

On the topic of access to key law enforcement officials and the need for officials to provide background and context, the Minnesota Journalism Center and Society of Professional Journalists want to provide more forums with media and law enforcement on what practices are best for both

groups. Mel Reeves, editor of the *Spokesman-Recorder*—one of Minnesota’s leading African-American newspapers—added that ongoing workshops should be held with law enforcement, media and citizens.

At a recent news workshop, an editor was quoted as saying, “Too many reporters make the deadline but miss the point.” Hopefully, the media discussion at the MPR summit will be a catalyst for ensuring that fewer editors and reporters miss the point. •

*Sherrie Mazingo, Ph.D., is the Cowles media fellow > and coordinator of broadcast journalism at the University of Minnesota’s School of Journalism and Mass Communication.*



Photo provided by the University of Minnesota.

## ***Speaking Out: Voices from the Summit***

“IF YOU ASK THE AVERAGE PERSON IN THE STREET WHAT CRIME LOOKS LIKE TODAY THEY’LL TELL YOU, IT’S VIOLENT AND IT’S BLACK, BECAUSE THE MEDIA ARE DISPROPORTIONATELY DEPICTING VIOLENT CRIME OUT OF THE UNIVERSE OF CRIMES, AND THEY’RE DISPROPORTIONATELY DEPICTING MINORITY OFFENDERS AS PERPETRATORS AND WHITES AS VICTIMS. SO THERE IS A PERCEPTION OF CRIME OUT THERE THAT IS VERY DIFFERENT FROM THE REALITY.”

**Barry Feld** *Professor, University of Minnesota Law School*

## steps for reducing disparities

by Richard S. Frase

NOW THAT RACIAL DISPARITIES WITHIN THE MINNESOTA CRIMINAL JUSTICE SYSTEM HAVE BEEN CONFIRMED BY THE SUMMIT, THE QUESTION BECOMES: WHAT SHOULD WE DO ABOUT THEM? PARTICIPANTS REVEALED BROAD SUPPORT FOR:

- Expanding the collection of race-specific data—not just in connection with police traffic stops, and not just in Minneapolis and St. Paul, but at all stages of the criminal process and in all parts of the state—to learn more about racial disparities, their causes, justification and effects. Research is just beginning to document the undesirable, long-term consequences—for individuals, their families and their communities—of incarcerating so many people of color.
- Evaluating policy implications of the data to address the causes of racial and social class differences in criminal activity. Should criminal justice officials be prohibited from using certain decision criteria which have a substantial disparate impact on people of color? (Our sentencing guidelines already prohibit consideration of factors such as employment.) Should all major criminal justice policy decisions require a “racial impact assessment”?
- Promoting racial diversity in criminal justice—increased hiring and promotion of minorities; more diverse jury pools; more cultural sensitivity

training; culturally specific treatment and juvenile placement programs. Individuals and communities of color need police and other criminal justice officials whom they can trust to understand and carefully balance the demands of racial fairness and effective law enforcement.

- Communicating more effectively with communities of color. What enforcement policies do these communities want? How can officials better explain the reasons for intrusive policies which disproportionately affect people of color?
- Working to alleviate poverty to help reduce racial disparities in criminal justice. The strong correlations between poverty, race and crime in our society mean that efforts to curb poverty will have a positive effect on the issue at hand. This is true both within the criminal justice system (funding of appointed counsel, publicly-subsidized treatment alternatives) and outside of it (affordable housing, job training).

Any of these measures will help to reduce racial disparities in Minnesota’s criminal justice system. In combination, they will have a very substantial impact. •

*Richard S. Frase is the Benjamin N. Berger Professor of Criminal Law and co-director of the Institute on Criminal Justice at the University of Minnesota Law School.*

### ***Speaking Out: Voices from the Summit***

“FOR ALL THE TALK OF THE MAKEUP OF OUR AGENCIES MIRRORING THE COMMUNITIES WE SERVE, IT ISN’T HAPPENING. EVEN IN AGENCIES WHERE THERE IS A DILIGENT EFFORT TO RECRUIT, THEY’RE HAVING DISMAL RESULTS. WE NEED TO BE MORE AGGRESSIVE IN GETTING [PEOPLE OF COLOR] ... INTO EMPLOYMENT AND KEEPING THEM EMPLOYED.”

**Steve Borchardt** *Sheriff, Olmsted County*

from the **MPR SOAPBOX**

#### **Imprisonment Not Racial Bias, but Fact**

I do not believe that the reason more minorities are imprisoned is due to racial bias. It is undisputable that people with lower incomes commit a higher percentage of crimes. Since many lower-income earners are minorities, it is only logical that a greater number of them are imprisoned. The solution to the problem is not to focus on the symptom of having more minorities in prison, it is to work on increasing jobs and wage levels for minorities.

**Richard Clark** *Cokato, MN*



## ***Speaking Out: Voices from the Summit***

“WHEN ARE WE GOING TO GET TO A POINT WHERE WE CAN HAVE ... A DISCUSSION LIKE THIS OPENLY AND HONESTLY, AND BE WILLING TO LISTEN, INSTEAD OF GOING BACK AND FINDING ANOTHER STATISTIC, ANOTHER DATA REPORT THAT SAYS, ‘YOU’RE WRONG, AND I’M RIGHT,’ AND NEVER GET TO THE HEART OF THE ISSUE, WHICH IS THAT PEOPLE AND COMMUNITIES ARE BEING AFFECTED BY THESE RACIAL DISPARITIES?”

< **Reverend Devin Miller**, *Executive Director, New Beginning Center*

from the **MPR SOAPBOX**

TO READ MORE OPINIONS OR JOIN THE DISCUSSION, GO TO [WWW.MPR.ORG](http://WWW.MPR.ORG).

### **Public Defender Responds**

Any suggestion that poor, largely minority people do not fare as well in the system because they do not have access to quality legal defense in Minnesota is clearly ill-informed about the quality of representation in the public defender system here. I can speak for the Hennepin County Public Defender’s Office, where I have been an attorney for 16 years. If a close friend or family member ever needed a defense attorney, I could think of many more people from our office I would want to represent them than people in the private bar. We may have large caseloads, but when I am advocating for a client with a prosecutor or in front of a judge or jury, I have only one client.

**Nancy Yost Laskaris** *Minneapolis, MN*

### **Profiling Rooted In Legitimacy**

Racial bias, to the extent that it exists, is a symptom of a greater problem. That greater problem is crime within the black community. As long as young black males continue to commit a disproportionate share of the violent and drug crimes in this nation, all young black males will continue to be given a suspicious eye by police and citizens. Innocent black males should be outraged that they are racially profiled, but they should be outraged at the large number of people that look like them that are committing crimes—not outraged at the police.

**Greg Sifferle** *Bloomington, MN*

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To express your thoughts on racial bias in the Minnesota criminal justice system, go to the MPR Soapbox forum at [www.mpr.org](http://www.mpr.org).

This report is downloadable by clicking on “Civic Journalism,” also at [www.mpr.org](http://www.mpr.org).

Watch for *Color of Justice*—a radio and Web series addressing similar issues from MPR News—planned for November 2001.

#### CREDITS

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