

HOW THE SYSTEM ITSELF IS VIOLENT

Fear, terror, violence and the threat of violence are essential components of the U.S. Criminal Justice System. Over-policed and incarcerated peoples face the threat of arrest, shouting, physical violence, or murder committed by the system and officers of the system as a daily reality. Not only are racist, sexist, and other discriminatory practices embedded in the system, they are often perpetuated through violence. Violence within the system covers an extremely wide range of areas, from obvious instances such as the beating of Rodney King by LAPD officers in 1991 or the shooting of Amadou Diallo in 1999, to less obvious instances such as violations of personal dignity, threats and daily assaults, including the sexual abuse of prisoners. Much of this is a result of the system's increasingly exclusionary emphasis on punishment.

RACIALLY MOTIVATED VIOLENCE HAS BEEN CONSTANT THROUGHOUT THE HISTORY OF THE AMERICAN CRIMINAL JUSTICE SYSTEM.

- **Abolition did not end slavery.** In the post-Civil War South, new laws were written to ensure that plantation owners could still secure a cheap labor force. The convict-leasing program was created to allow the state to “rent out” prisoners, the majority of whom were Black. Unlike slavery, however, those who “rented” the prisoners had no capital investment in them. Thus, they had virtually no incentive to keep prisoners alive. As a result, the prisoners were treated even worse than slaves and often died as a result of being overworked.¹
- **When slavery was outlawed, racially motivated violence became perpetuated through lynching.** Between the years of emancipation and the Great Depression, nearly 3,000 Blacks were lynched in the South.² This culture of lethal mob violence was only able to exist with the support and/or indifference of local law enforcement officials, who almost never intervened or punished those who took part in lynching. In some cases, sheriffs would unlock jail cells or deliberately leave accused Blacks unguarded.³
- **From genocide to the current criminal justice system, Native people have repeatedly been targets of the U.S. government.** Over the past two hundred years, the federal government has established a pattern of violently taking over the jurisdiction of an increasing number of crimes in Native territories. The government has removed Native people from tribal authority, giving itself (rather than the tribe) the power to punish. Thus, all of the violence associated with the American criminal justice system is imposed on Native people, who did not even have prisons prior to the arrival of Europeans.⁴

POLICE BRUTALITY & RACIAL DISCRIMINATION ARE STILL SYSTEMIC PROBLEMS, NOT ISOLATED INCIDENTS.

- **Police Brutality is part of an unspoken “code” among police officers.** When some officers pursue a suspect (on foot or by car), the suspect will often be beaten once caught, even if they are posing no threat to the officer at that moment. As long as officers stay within “certain parameters,” the system gives them the benefit of the doubt. Thus, the system often seems to encourage physical abuse.⁵
- **Police misconduct occurs most often against people of color by White officers.** In 2003, approximately 75% of all substantiated allegations of police misconduct in New York City were made by people of color. Blacks, who constitute only 24.5% of the population of New York City, accounted for 52.6% of substantiated allegations of Police misconduct. Among the suspected officers, 64.9% were White.⁶

- ***The use and threat of force by police is extremely common.*** In 1999, approximately 422,000 United States residents aged 16 years and older stated that the police had either threatened or used force against them. 86.9% of the alleged victims were male.⁷
- ***It is much more likely for Blacks and Latinos to experience force or threat of force during face-to-face contacts (including traffic violations) with police than Whites.*** The likelihood for Blacks to experience force and threats was about 2.06%, Latinos 1.85%, and for Whites about 0.72%. Thus, blacks are almost three times as likely to experience force or threat of force than Whites.⁸
- ***The system is NOT colorblind.*** After the trial and subsequent not-guilty verdict of the four Los Angeles Police Department (LAPD) officers who beat Rodney King, 78% of Blacks believed that the verdict “show[ed] that blacks cannot get justice in this country.”⁹
- ***Planting of evidence is a technique used by some law enforcement officials to cover up for blatant police brutality.*** For instance, in 1996, former officers Rafael Perez and Nino Durden of the LAPD confessed to shooting Javier Ovando despite the fact that he was handcuffed and unarmed. Once they had shot Ovando multiple times, the officers planted a sawed-off .22 caliber rifle on Ovando, filed charges, and then testified against him. Ovando served three years for his “crime” before an FBI investigation revealed that he was innocent.¹⁰
- ***Even if convicted, law enforcement officials often receive light sentences.*** Earl D. Faison, suspected of killing officer Joyce A. Carnegie in Orange, New Jersey, died of asthma-related symptoms as a result of being beaten and pepper sprayed by five police officers. Not only was Faison innocent, but three out of the five officers who beat him were sentenced to only 33 months each.¹¹

PRISONS AND GUARDS USE ROUTINE AND SYSTEMATIC VIOLENCE AS AN ESSENTIAL TACTIC TO CONTROL AND FURTHER PUNISH PRISONERS.

- ***Every year, prisoners are subjected to various forms of physical abuse by prison officers.*** Various types of prison abuse that has occurred in recent years by guards include hitting, kicking, beating with batons, stomping, stunning with electronic stun devices, choking, getting slammed onto floors, and on occasion, shooting.¹² In California alone, 175 prisoners were shot with live rounds by guards between the years 1989 and 1994, resulting in 27 deaths.¹³
- ***Beatings by prison officials have resulted in prisoner deaths.*** Florida prisoner Frank Valdez died in 1999 after being beaten so severely that every rib in his body was broken. Guards admitted to struggling with Valdez, but claimed they had not used excessive force and that Valdez’s injuries were “self-inflicted,” even though Valdez’s body had numerous boot marks.¹⁴
- ***It is estimated that 70% of all prisoners are assaulted by other prisoners every year.***¹⁵ Much of the prisoner-on-prisoner violence is condoned by prison officials, who use increases in the number of reported assault cases to demonstrate the need for higher prison budgets. Some guards in California even arranged for rival prison “gangs” to be in the prison yard at the same time so that they could videotape fights for personal enjoyment.¹⁶

SEXUAL ABUSE IS PREVALENT IN PRISONS AND IS OFTEN COMMITTED BY GUARDS

- ***Many prisoners are targeted for sexual abuse because of their vulnerability.*** Among males, targets often include young, small, weak, or “effeminate” prisoners who consent to sexual acts based on the fear that violence is the only other option. Often times, “the weakness and inability of the victim to defend himself” is the largest criteria for determining victims.¹⁷
- ***Despite the prevalence of sexual assault in prison, prison officials and politicians have refused to monitor or track the abuse.*** Thus, there are not any definitive statistics on the number of nationwide male prisoner-on-prisoner sexual abuse acts. One study, conducted among Nebraska prisoners, found that 22% of prisoners had been victim to sexual abuse during their incarceration. Among the 22%, only 29% reported these acts to prison

authorities.¹⁸ Even when reported, most complaints of sexual abuse are ignored by local law enforcement officials.¹⁹

- **70% of guards in state and federal women's prisons are male.** Because of the complete power that guards hold over prisoners in the system, male guards are allowed to watch women undressing, showering, and using the bathroom. In addition, some male guards force female prisoners into having sex with them in order to maintain various privileges. When female prisoners decide to complain of sexual assault or other harassment, they are often beaten or punished by male guards.²⁰

VIOLENCE IS NOT LIMITED TO PHYSICAL ABUSE

- **Solitary confinement is both cruel and against the spirit of due process.** In 2002, more than 20,000 prisoners were being held in long-term solitary confinement, accounting for 2% of the total U.S. prison population. Additionally, the decision to place prisoners in solitary confinement is made by prison authorities, and often comes without a hearing or a formal, defined endpoint.²¹
- **Mentally ill prisoners are often denied necessary health care.** As one out of every six prisoners in the US is mentally ill, and the rate of mental illness in prisons is three times higher than in the rest of the population, the lack of necessary healthcare and counseling is a serious problem. Mentally ill prisoners are also more likely to end up in restrictive housing, which can cause acute psychosis.²²
- **Indifference towards sexual abuse can have devastating consequences.** Approximately 25% of the HIV-positive population passes through the justice system each year, and the AIDS rate in prisons (0.52%) is four times that of the general population (0.13%).²³ These figures are especially disturbing given the prevalence of sexual abuse in prisons and the inadequate response of most prison officials towards sexual abuse.

THE SYSTEM ONLY STRENGTHENS THE CYCLE OF VIOLENCE

- **Prison Guards** who commit acts of brutality and inhumanity against prisoners are more likely to abuse their spouses, suffer from alcoholism, and even commit suicide.²⁴
- **Solitary confinement only makes situations worse.** Some of the aftereffects on prisoners in solitary confinement are severe rage and paranoia. The resultant mental health issue reduces the ability of prisoners to function in the outside world.

THE DEATH PENALTY IS THE ULTIMATE FORM OF STATE SANCTIONED VIOLENCE. IT IS ALSO AN INEFFECTIVE AND RACIST METHOD OF PUNISHMENT

- **While 123 nations use the death penalty, only the U.S. and Iran currently sentence juvenile offenders to death.** Even nations such as China and Pakistan, countries that previously executed juveniles, have amended their laws to exclude death as a penalty for youth. In the U.S. since 1973, 226 juvenile offenders have been sentenced to death, and 22 have been executed by the government.²⁵
- **The death penalty is not proven to be a factor in deterring capital crimes.** States that have the death penalty have actually seen a 48-101% increase in the number of murders committed from 1980-1999 in comparison to non-death penalty states in the same period. Furthermore, 84% of polled criminologists agreed that the death penalty does not act as a deterrent for committing murder.²⁶
- **The overwhelming majority of federal death row cases have defendants of color.** 80% of the cases presented by U.S. Attorneys for death penalty consideration between 1995-1999 involved minority defendants.²⁷
- **Executions are much more likely when homicide victims are White and defendants are Black.** Between 1976 and 2002, 175 Black defendants were sentenced and executed when their victim was White. In contrast, only 12 White defendants were sentenced and executed when the victim was Black. A study commissioned by

the State of Maryland found that defendants are about twice as likely to receive the death penalty when the victim is White than when the victim is a person of color.²⁸

THE DOMESTIC SYSTEM IS BECOMING INCREASINGLY MILITARIZED

- ***When law enforcement becomes more militarized, civil liberties are lost.*** Law enforcement should operate under different guidelines than the military. In theory, the responsibility of law enforcement is to ensure public safety and protect civil liberties, while the military is concerned with neutralizing or eliminating threats.²⁹
- ***The line of demarcation between local law enforcement and the military is becoming increasingly smaller.*** Of 548 police departments responding to an academic survey, 89.4% had a police paramilitary unit (PPU). Organizational aspects of PPU's (including SWAT) generally rely on military models, with 45.7% of officers having "trained with active-duty military experts in special operations." These units often have full tactical gear, including high-powered weapons and armored personnel carriers.³⁰
- ***Border Patrol works in tandem with the military to target Mexican immigrants under the pretext of fighting the "war on drugs."*** The Joint Task Force-6 (JTF-6) was established in 1989 in order to integrate law enforcement with the military, and oversees when and where military troops are deployed. Troops that are deployed are not under the command of the military, not law enforcement, and can be deployed by the Secretary of Defense without notification to Congress or the public.³¹ Since its inception, it has completed over 5,300 missions aiding more than 430 federal, state, and local law enforcement agencies.³²

PRISONER ABUSE EXISTS IN PRISONS RUN BY THE UNITED STATES OUTSIDE U.S. BORDERS

- ***The well-publicized physical and sexual abuse at the Abu Ghraib prison in Iraq*** is an example of how prisoners are mistreated by the military. As pressure came down from the White House, the Pentagon, and the CIA, the interrogation staff of the prison were asked to "pull the intelligence out" of prisoners in order to gather more information about the rising Iraqi insurgency.³³
- ***The overwhelming majority of the more than 1,000 Arab, Muslim, and South Asian men detained post 9/11 secretly*** (and indefinitely, without charges, access to counsel, or trial), not only had no connection to terrorism, but were also physically and mentally abused while in custody.³⁴

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