

# Two perspectives on criminal justice

The system is infected with unfairness, bias and brutality

BY JAKE SUSSMAN - SPECIAL TO THE OBSERVER

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The Charlotte Observer recently reported that “[o]ne traffic stop outside of Charleston has intensified the country’s debate on racial justice.” That traffic stop, of course, ended with the fatal shooting of Walter Scott, an unarmed black man, by a North Charleston, S.C., police officer. Walter Scott’s murder has rightly received condemnation from nearly all quarters, including, most atypically, the city’s chief of police and mayor. It has also propelled support for outfitting law enforcement officers with body cameras.

While the shooting death of Walter Scott deserves harsh disapproval, and mandating body cameras for officers is a good idea, neither criminal prosecutions nor recording every police-citizen interaction will solve the much bigger problem, which is that our criminal justice system is infected by unfairness, bias, and brutality.

Quite a broadside, I know. But a sober and dispassionate look at nearly every data-driven analysis of the criminal justice system – both here in North Carolina and across the country – lays bare this reality. People of color are over-policed, over-arrested, and over-punished. Our prisons have become human warehouses for the poor, mentally ill, and non-violent. We regularly confront our most difficult social problems – poverty, mental illness, substance abuse, under-education – with brute force.

How did we get here? Our country’s history of de jure and de facto discrimination, from slavery through Jim Crow, has reaped grotesque socioeconomic inequality, which inarguably contributes to our current state of racial injustice. We then aggravate this inequality by our policy choices: our unwillingness to adequately fund the court system, our approval of severe collateral consequences on top of criminal punishment, our lack of concern for the human toll of imprisoning so many for so long, our disinterest in what the consequences are when young people of color repeatedly experience antagonism and distrust from law enforcement.

## Can we agree there’s a problem?

Perhaps the most exacerbating feature of our justice system, however, is less a matter of policy and more a matter of perspective. I believe that our collective failure to grasp the depth and reach of the problem, or for some to even acknowledge that it exists, is our greatest obstacle to reform. How else can we explain this paper’s recent report that 12 years worth of data unmistakably show that black drivers in Charlotte have been over-policed, over-arrested, and over-punished – and yet only 31 percent of whites believe racial profiling exists? Such a glaring disconnect begs the question posed by Henry Louis Gates, Jr., in his essay, *Thirteen Ways of Looking at a Black Man*: “How can conversation begin when we disagree about reality?”

As a lawyer, there is an undeniable attraction to seek remedies for the pernicious lack of racial justice through the courts. My law firm regularly reviews claims of police misconduct – usually matters of excessive or deadly force – and, in appropriate cases, seeks recourse for our clients through the civil justice system. But in terms of reshaping or recasting our broken system, civil lawsuits will

not secure the necessary changes. If any of our systemic ills are to end, it will not be at the tip of a lawsuit or court ruling. True reckoning and reform will occur only when we – the People – come to understand that our criminal justice system is inefficient and unfair, and we demonstrate a willingness and urgency to demand real change.

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