

# RETHINKING INCAR CERA TION

DOMINIQUE DUBOIS GILLIARD

ADVOCATING FOR JUSTICE THAT RESTORES



Taken from *Rethinking Incarceration* by Dominique DuBois Gilliard.

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# THE WAR ON DRUGS

**DURING THE WINTER OF 2006**—my senior year of undergrad studies—a tragedy occurred ten miles from my campus, changing the trajectory of my life. Kathryn Johnston, a ninety-two-year-old woman, was shot and killed by police in the living room of her Atlanta home. In what was deemed a “botched drug raid,” unidentified officers stormed Johnston’s home with assault weapons drawn—at 3:00 a.m.—murdering her without cause. Three officers discharged thirty-nine shots, fatally striking Johnston five times. These three officers, Jason Smith, Greg Junnier, and Arthur Tesler, then conspired to cover their transgressions.

In the court proceedings for Johnston’s homicide, it was determined that the police raid was based on and legitimated by falsified paperwork. Officer Tesler had lied in an affidavit, saying that illegal drugs were being harbored in Johnston’s home. Tesler swore under oath that an informant purchased crack cocaine at Johnston’s house, but during the trial the informant testified that he had never been to Johnston’s home.

Ultimately, all three officers pled guilty to federal charges of conspiracy to violate civil rights resulting in death. Officers Smith and Junnier also pled guilty to state charges of voluntary manslaughter and making false statements, while Smith admitted to planting bags of marijuana in Johnston’s home after killing her in an attempt to justify the home invasion and murder. The three officers were sentenced to prison terms ranging from five to ten years, to be followed by three years of supervised release after their prison terms, and were ordered to split the cost of Johnston’s funeral.

During the trial, Greg Junnier broke down on the witness stand, declaring, “I used to think I was a good person.” Jason Smith, weeping, said, “I pray daily for Ms. Johnston. I also pray other officers in Atlanta will have the moral fortitude I didn’t have.”<sup>1</sup>

At the conclusion of the trial, US attorney David Nahmias said, “As Atlanta police narcotics officers, these three defendants repeatedly failed to follow proper procedures and then lied under oath to obtain search warrants.” Nahmias concluded, “Their routine violations of the Fourth Amendment led to the death of an innocent citizen.” Further, according to an article recapping the trial, “The officers regularly presented false information to obtain warrants and . . . cut corners to make more time for lucrative side jobs providing additional security to businesses, often while on duty, and receiving cash payments.”<sup>2</sup>

Before the trial, these officers had vehemently declared their innocence. They claimed to have surveilled Johnston’s home for months, identifying it as an epicenter for drug trafficking. Tesler’s falsified affidavit had been the key to obtaining a no-knock warrant (a warrant that allows officers to enter private property without displaying a warrant or issuing credentials). Tesler knew that his “confirmation” of illicit activity in Johnston’s home would be enough to persuade the judge to issue a no-knock warrant, particularly because her community was stigmatized as “the ghetto.”<sup>3</sup>

No-knock search warrants are issued by judges at the request of law enforcement to acquire evidence that can be quickly destroyed. They are also granted in cases where it is believed an officer’s safety is at risk while executing the warrant. No-knock warrants are predominantly issued in impoverished, governmentally neglected communities of color, marred by failing schools, a lack of economic opportunity, and drug trafficking. No-knock warrants are commonplace in these communities, and they give police the authority to conduct militarized “dynamic entry” raids. Dynamic entry raids include the use of door-breaching shotguns, battering rams, sledgehammers, Halligan bars (for smashing windows), ballistic shields, Colt submachine guns, light-mounted AR-15 rifles, Glock .40-caliber sidearms, body armor, Kevlar

helmets, and potent flash-bang grenades. Under the legislative power endowed by no-knock warrants, these militarized weapons are subject to be used at an officer's discretion, without accountability.<sup>4</sup>

Dynamic entry raids are conducted by SWAT officers. SWAT is a specialized enforcement taskforce pioneered in Los Angeles in 1967. Kevin Sack, a *New York Times* columnist, details the rapid growth of SWAT teams, writing, "Today, almost every police agency with at least 100 officers, and about a third of all smaller ones, either has its own full-time unit or participates in a part-time or multijurisdictional team."<sup>5</sup> Dr. Peter B. Kraska, a criminologist at Eastern Kentucky University, writes that SWAT deployments increased "roughly fifteenfold between 1980 and 2000 as the drug war escalated."<sup>6</sup> According to Michelle Alexander, "The most common use of SWAT teams is to serve narcotics warrants, usually with forced, unannounced entry into the home."<sup>7</sup> The ACLU found that 42 percent of SWAT search warrant raids were conducted in black communities, and 12 percent in Hispanic neighborhoods.<sup>8</sup> This history and these statistics begin to explain the disproportionate number of black and brown bodies warehoused within our nation's prisons, jails, and detention centers.<sup>9</sup>

Sack writes that the Bureau of Justice Statistics illustrates that "the no-knock process often begins with unreliable informants and cursory investigations that produce affidavits signed by unquestioning low-level judges. It is not uncommon for the searches to yield only misdemeanor-level stashes, or to come up empty."<sup>10</sup> Not only are dynamic entry raids ineffective, they are also extremely dangerous, as evidenced in Johnston's case. The National Tactical Officers Association (NTOA) has consistently contested the overuse of dynamic entry raids, and its chairman, Robert Chabali (2012–2015), recommended that dynamic entry "never be used to serve narcotics warrants."<sup>11</sup> Chabali, a SWAT veteran, said, "It just makes no sense. . . . Why would you run into a gunfight? If we are going to risk our lives, we risk them for a hostage, for a citizen, for a fellow officer. You definitely don't go in and risk your life for drugs."<sup>12</sup>

Kathryn Johnston's murder was an affront to justice. It placed a spotlight on the Atlanta Police Department that revealed broad

corruption in the narcotics unit and eventual guilty pleas. Upon learning about this corruption, I became infatuated with learning about the War on Drugs. As I researched I soon learned that Johnston's case was not an anomaly—it was merely the latest tragedy in a host of civil rights breaches caused by drug war legislation.

What I learned changed my life. It compelled me to devote my ministry to defending the dignity of poor, undereducated, disenfranchised people living within stigmatized neighborhoods. While the police misconduct exposed in Johnston's case provoked major changes throughout the APD, it inspired me to commit my life to ending mass incarceration.

As someone who grew up with numerous friends who did not have black men in their lives (fathers, brothers, uncles, and cousins), I was acutely aware that incarceration was crippling my community. I knew that many black men with the potential to be community role models were continuously being extracted from neighborhoods and transported to prison. But I did not know at the time that incarceration was also adversely affecting black women, other communities of color, and society's most vulnerable populations.

I also did not realize that while our criminal justice system was being celebrated as the most responsible way to reform and rehabilitate people serving time, mass incarceration had corrupted and perverted our system into a complex in which exploitation, profiteering, and inhumane treatment were the norm. Upon awakening to these realities, the Spirit convicted me and compelled me to become an advocate and activist for those rendered voiceless by the system. While there are no voiceless people, when powerful systems and structures go astray, they mute the voices of those who are persecuted and crushed by systemic sin and immorality.

As Christians, people called to seek the peace and prosperity of our cities, we must oppose policies like no-knock warrants, dramatic entry, and the ability for one officer's unsubstantiated claim to legitimate warfare. These polices wreak havoc on vulnerable communities, cause senseless deaths—think of Kathryn Johnston, Aiyana

Jones (a seven-year-old in Detroit), and Eurie Stamps (a sixty-eight-year-old grandfather in Framingham, Massachusetts)—and embolden police corruption.

## THE WAR ON DRUGS

While SWAT teams are on the frontlines enforcing the War on Drugs, Michelle Alexander notes that “police and prosecutors did not declare the War on Drugs.”<sup>13</sup> Drug war rhetoric has been strategically championed by presidents, congressional representatives, and senators. While officers are frequently vilified and scapegoated for the drug war, often they are simply carrying out the orders of their superiors.

Richard Nixon initially declared the War on Drugs in 1971. His administration oversaw the creation of new measures, such as mandatory sentencing and no-knock warrants, and worked tirelessly to bolster federal drug control agencies. The War on Drugs led to the creation of the Drug Enforcement Administration (DEA) in 1973. The DEA’s mission was to establish a single, unified command to wage “an all-out global war on the drug menace.”<sup>14</sup>

The War on Drugs was expanded under Ronald Reagan’s presidency, and funding radically increased.<sup>15</sup> The Reagan administration launched an offensive on drug crimes at a time when only 2 percent of Americans felt that drug crimes were the most important issue facing the country.<sup>16</sup> This expansion of the drug war bred critical policy changes, increasing the penalties for drug offenses while simultaneously incentivizing drug arrests for law enforcement agencies. Reagan granted state and local law enforcement agencies the right to keep most of the cash and assets seized during drug raids and arrests.<sup>17</sup> Alexander says, “Suddenly, police departments were capable of increasing the size of their budgets, quite substantially, simply by taking the cash, cars, and homes of people suspected of drug use or sales.”<sup>18</sup>

The use of mandatory minimum sentences for drug offenses also expanded under Reagan. Mandatory minimums are often cited as an important way of keeping violent criminals and drug lords off the streets, but these sentences are most often handed down against

nonviolent drug offenders.<sup>19</sup> The Anti-Drug Abuse Act of 1986 changed drug sentencing, creating mandatory minimum sentences typically ranging from five to ten years.<sup>20</sup> In the rest of the developed world, a first-time drug offense is typically only met with up to six months in jail.<sup>21</sup>

Statistics illustrate that mandatory minimums disproportionately affect minority offenders. Until 2010, a five-year mandatory minimum was triggered for the sale of five hundred grams of powder cocaine, a drug more typically associated with white users, while the sale of *five grams* of crack, a drug more typically associated with black and Hispanic users, triggered the same sentence.<sup>22</sup> According to the ACLU,

The scientifically unjustifiable 100:1 ratio meant that people faced longer sentences for offenses involving crack cocaine than for offenses involving the same amount of powder cocaine—two forms of the same drug. Most disturbingly, because the majority of people arrested for crack offenses are African American, the 100:1 ratio resulted in vast racial disparities in the average length of sentences for comparable offenses. On average, under the 100:1 regime, African Americans served virtually as much time in prison for non-violent drug offenses as whites did for violent offenses.<sup>23</sup>

In 2010, this gross disparity was finally addressed by Congress, but only partially. The Fair Sentencing Act (FSA) reduced the sentencing disparity from 100:1 to 18:1. Consequently, a stark racial disparity persists, because, as the ACLU concludes, “the only truly fair ratio is 1:1.”<sup>24</sup>

Michelle Alexander explains something that makes the sentencing disparity for cocaine even more sinister. She writes,

The CIA admitted in 1998 that guerrilla armies it actively supported in Nicaragua were smuggling illegal drugs into the United States—drugs that were making their way onto the streets of inner-city black neighborhoods in the form of crack cocaine. The CIA also admitted that, in the midst of the War on Drugs, it



blocked law enforcement efforts to investigate illegal drug networks that were helping to fund its covert war in Nicaragua.<sup>25</sup>

What does the CIA's confession convey to the black community—particularly communities ravaged by the drug war?

Another important Reagan-era policy was the 1988 Omnibus Anti-Abuse Act. This act precipitated a five-year mandatory sentence for possessing as little as five grams of crack cocaine. It also broadened the definition of drug trafficking crimes to include conspiracy to commit those offenses.<sup>26</sup> The US Sentencing Commission notes that mandatory minimums are frequently used as a coercive bargaining chip to get defendants to acquiesce to plea bargains.<sup>27</sup>

During Bill Clinton's presidency, the War on Drugs was expanded yet again. While many have depicted the War on Drugs as a Republican initiative, the drug war was a bipartisan effort. This rhetoric of law and order deployed by politicians won elections nationwide, from races for local council seats to the presidency. The Clinton administration created the Violent Crime Control and Law Enforcement Act of 1994, which included a provision that required a life sentence in prison to any individual convicted of committing their third drug offense, even though only one of the three offenses was serious enough to be classified as a felony.<sup>28</sup> During Clinton's State of the Union address in 1994, he declared, "Three strikes and you're out!" before an applauding audience. Between the years of 1993 and 1995, twenty-five states enacted three-strikes legislation.<sup>29</sup> In 1995, Georgia passed a "two strikes and you're out" sentencing policy, which penalized offenders to life imprisonment for their second drug offense.

Alexander writes,

Georgia's district attorneys, who had unrestrained discretion regarding when to enact this punitive penalty, decided to only issue it for 1 percent of white defendants facing a second drug conviction but chose to issue it against 16 percent of black defendants. Consequently, 98.4 percent of those serving life sentences under the provision were black. Additionally, The Justice Policy

Institute found that “the Clinton Administration’s ‘tough on crime’ policies resulted in the largest increases in federal and state prison inmates of any president in American history.”<sup>30</sup>

Under Clinton, the militarization of local police departments increased. Alexander explains,

The Pentagon has given away military intelligence and millions of dollars in firepower to state and local agencies willing to make the rhetorical war a literal one. Almost immediately after the federal dollars began to flow, law enforcement agencies across the country began to compete for funding, equipment, and training. By the late 1990s, the overwhelming majority of state and local police forces in the country had availed themselves of the newly available resources and added a significant military component to buttress their drug-war operations.<sup>31</sup>

In fact, the Cato Institute, a public policy organization, notes that in 1997 alone, “the Pentagon handed over more than 1.2 million pieces of military equipment to local police departments.”<sup>32</sup> Additionally, the *National Journal* reported that between January 1997 and October 1999 there were 3.4 million orders of Pentagon equipment—from over eleven thousand domestic police agencies across every state.<sup>33</sup>

The War on Drugs opened the floodgates, sanctioning law enforcement to engage in guerrilla warfare within impoverished communities coast to coast. It also criminalized addiction while most Americans barely batted an eye, leading to a great multitude of non-violent drug addicts who needed medical interventions instead being sentenced to life in prison. We cannot incarcerate ourselves out of addiction. Addiction is a medical crisis that—when it comes to non-violent offenders—warrants medical interventions, not incarceration. Decades later, data unequivocally illustrates that this war has been a massive failure. It has not only failed to reduce violent crime, but arrest rates—throughout its tenure—have continuously ascended even when crime rates have descended.<sup>34</sup>

For example, while crime rates in countries such as Finland, Germany, and the United States remained stable in the latter half of the twentieth century, incarceration in the United States quadrupled. Comparatively, it fell by 60 percent in Finland, and there was little change in Germany.<sup>35</sup> The drug war fostered a 1,100 percent increase in drug arrests between 1980 and 2006.<sup>36</sup>

In 2010 it was estimated that three-quarters of young black men in Washington, DC (and higher in the poorest neighborhoods) could expect to be incarcerated for drugs. As a result, these young men will carry criminal records for the rest of their lives—criminal records that will legalize discrimination against them.<sup>37</sup>

Sociologist Loïc Wacquant writes, “The rate of incarceration for African Americans has soared to levels unknown in any other society and is higher now than the total incarceration rate in the Soviet Union at the zenith of the Gulag and in South Africa at the height of the anti-apartheid struggle.”<sup>38</sup> According to Wacquant, in order to understand the phenomena of black hyper-incarceration, we need to examine the crime-and-punishment paradigm that ultimately serves to disfranchise and control.<sup>39</sup>

## THE INCARCERATION OF WOMEN

While analysis of the War on Drugs usually focuses on men, the number of women imprisoned during this era has also skyrocketed, growing 700 percent since 1980. The United States represents nearly one-third of the world’s female prisoners. They are incarcerated primarily for nonviolent crimes, including drug and property offenses.<sup>40</sup> Today women represent 9 percent of the state and federal prison population.<sup>41</sup> Furthermore black women’s arrest in particular for drug-related offenses “grew by 828 percent—triple the growth in arrest rate for white women and double that of black men” during the prime years of the drug war, the late 1980s and 1990s.<sup>42</sup>

In *Just Mercy*, Bryan Stevenson notes that a series of legislative changes have led to this dramatic increase in the incarceration of women. He details what he calls the “the collateral consequences of

incarcerating women,” explaining, “Approximately 75 to 80 percent of incarcerated women are mothers with minor children. Nearly 65 percent had minor children living with them at the time of their arrest—children who have become more vulnerable and at-risk as a result of their mother’s incarceration and will remain so for the rest of their lives, even after their mothers come home.”<sup>43</sup>

Stevenson writes,

One of the first incarcerated women I ever met was a young mother who was serving a long prison sentence for writing checks to buy her three young children Christmas gifts without sufficient funds in her account. Like a character in a Victor Hugo novel, she tearfully explained her heartbreaking tale to me. I couldn’t accept the truth of what she was saying until I checked her file and discovered that she had, in fact, been convicted and sentenced to over ten years in prison for writing five checks, including three to Toys “R” Us. None of the checks was for more than \$150. She was not unique. Thousands of women have been sentenced to lengthy terms in prison for writing bad checks or for minor property crimes that trigger mandatory minimum sentences.<sup>44</sup>

This tragic reality was exacerbated by congressional welfare reform passed in 1996. This legislation, Stevenson explains,

gratuitously included a provision that authorized states to ban people with drug convictions from public benefits and welfare. The population most affected by this misguided law is formerly incarcerated women with children, most of whom were imprisoned for drug crimes. These women and their children can no longer live in public housing, receive food stamps, or access basic services. In the last twenty years, we’ve created a new class of “untouchables” in American society, made up of our most vulnerable mothers and their children.<sup>45</sup>

Scripture calls the church to seek the peace and prosperity of our cities, to defend the dignity of the least of these, and to protect society’s

most vulnerable. Our criminal system preys upon these vulnerable groups and is perpetuating intergenerational poverty and trauma.

## THE TULIA RAIDS

Due to the policies set in place by the War on Drugs, Kathryn Johnston's case is not an anomaly. Before dawn on July 23, 1999, SWAT officers, armed in combat gear, conducted synchronized dynamic entry raids on the homes of forty-seven citizens of Tulia, Texas, a rural town of about five thousand. These residents were arrested and paraded (half-dressed, hair unkempt) before news cameras, charged with dealing drugs.<sup>46</sup> Amid the chaos, a neighbor shouted, "They're arresting all the black folks!"<sup>47</sup> This seemingly hyperbolic assessment was not completely erroneous.

Of the forty-seven people arrested, forty were black.<sup>48</sup> This number constituted nearly 30 percent of the town's black males and 20 percent of its black adults.<sup>49</sup> Every arrest was based exclusively on the sole testimony of an undercover Caucasian officer. The raid's convictions resulted in draconian sentences ranging from twenty to forty-five and even ninety-nine year charges. These outlandish verdicts were even issued to defendants without criminal records. These punitive sentences coerced defendants awaiting trial to consent to plea bargains despite vowing their innocence.

The defendants were mired in poverty. They could not afford a lawyer, much less the experienced legal representation that these severe charges warranted. In fact, most defendants could not even muster funds to post bail. With their lives hanging in the balance, most defendants elected not to take the risk of hoping for a fair trial in a Tulia court legislated by a Caucasian judge and jury. Attorney Erick Willard said that he advised clients to accept pleas "because they did not believe and I did not believe they could get a fair hearing."<sup>50</sup>

LaWanda Smith, who agreed to a plea, only agreed because she feared a biased trial. Smith said that not only had she never sold drugs to the undercover agent, Tom Coleman, she had "never met the guy . . . not ever."<sup>51</sup> While many defendants agreed to pleas, they did so out of

self-preservation, not guilt. Repeatedly, poor, vulnerable minorities were intimidated into acquiescing to guilty pleas—knowing that they did not commit the alleged crimes—because of the fear the inflated sentences confronting them induced.

## THE TRIALS AND AFTERMATH

In a financially incentivized climate created by the War on Drugs, Tom Coleman was named Texas's Outstanding Narcotics Officer and the Outstanding Lawman of the Year. Randy Credico of the Fund for Racial Justice explains the drug sting: "The Panhandle task force was the beneficiary of Coleman's lies. The more busts he made and the more convictions he helped win, the more federal grant money the task force received."<sup>52</sup> The drug war's economic incentives have repeatedly led to innocent people being railroaded by a corrupt system.

While the vast majority of defendants in the Tulia drug bust agreed to plea bargains, the few who went to trial saw their court proceedings last for up to three years. Nearly four years after the raid, a judge threw out all thirty-eight convictions, and the governor released the twelve remaining incarcerated defendants. In trial, it became clear that Coleman repeatedly lied, practiced with racial bias, and had no corroborating evidence. The court determined that Coleman had falsified reports, distorted his evidence, and misidentified defendants. Cumulatively, defendants spent over seventy years wrongly incarcerated because of Coleman's immorality.

They cannot get those years back. They cannot undo the relational harm their incarceration caused. Estranged from family—particularly their children—defendants missed developmental milestones, graduations, birthdays, and holidays. While a five-million-dollar settlement was eventually reached and divided among forty-five defendants, Kizzie White, who spent four years behind bars, summarizes things well: "The money is good . . . but that can't bring back the time I missed with my kids."<sup>53</sup>

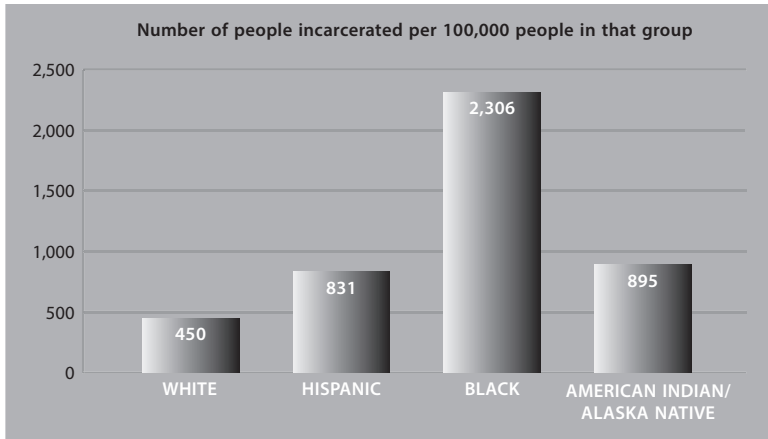
While it is tempting to dismiss Johnston's case and Tulia as aberrations, the ACLU filed a lawsuit in 2000—a year after Tulia—in a case mirroring Tulia. In Hearne, Texas, another rural community of about

five thousand residents, another undercover officer's drug bust led to 15 percent of the town's black men aged eighteen to thirty-four being falsely arrested.<sup>54</sup> While overt racial corruption of this nature is not necessarily commonplace, the policies and practices that made these flawed raids possible are.

## THE BROADER CONNECTION

A 1995 survey asked, "Would you close your eyes for a second, envision a drug user, and describe that person to me?" The *Journal of Alcohol and Drug Education* published the results. While in reality a strong majority of drug users are white, most respondents—95 percent—pictured African Americans.<sup>55</sup>

Only 15 percent of drug users at that time were black (and the same is roughly true today). Studies have shown that whites are more likely to use and deal drugs. White youth in particular are seven times more likely to use cocaine and heroin than black youth, and three times more likely to sell drugs.<sup>56</sup> Despite these facts, African Americans represent the vast majority of drug offenders sent to prison (see fig. 1.1).



**Figure 1.1.** United States incarceration rates by race/ethnicity 2010

Note: Incarcerated populations are all types of correctional facilities in a state, including federal and state prisons, local jails, and halfway houses. Statistics for whites are for non-Hispanic whites.

Source: Calculated by the Prison Policy Initiative from US Census 2010 Summary File.

Our justice system is fundamentally broken, but so is our vision. We are socialized to see entire ethnic groups as being more prone to criminal activity than others. We are trained by this society to believe that members of certain communities of color will inevitably end up behind bars. After all, many believe that the statistics validate this belief.

Today, it is predicted that nationwide one in three black males and one in six Hispanic males will be incarcerated in their lifetime.<sup>57</sup> We have come to accept this as natural. But why doesn't our discipleship inspire us to interrogate this belief?

### SILENCE IS NOT AN OPTION

This view of black and Hispanic men is ungodly, and we must repent. Stigmatizing entire communities is nothing new. In fact, Jesus came from Nazareth, and it was believed that nothing good could come from there. When black and brown people are universally criminalized, we all suffer. And when the church fails to name, renounce, and reshape this through biblically based discipleship, we too have blood on our hands. As Bryan Stevenson writes, "We are all implicated when we allow other people to be mistreated. An absence of compassion can corrupt the decency of a community, a state, a nation."<sup>58</sup>

When we dehumanize others, we become less human ourselves. In his seminal text *The Hidden Wound*, Wendell Berry says, "No man will ever be whole and dignified and free except in the knowledge that the men around him are whole and dignified and free." Taking this even further, Berry continues, "If the white man has inflicted the wound of racism upon black men, the cost has been that he would receive the mirror image of that wound into himself. As the master, or as a member of the dominant race, he has felt little compulsion to acknowledge or speak of it; the more painful it has grown the more deeply he has hidden it within himself. But the wound is there, and is a profound disorder, as great a damage in his mind as it is in his society."<sup>59</sup> With this knowledge, the church must not shy away from political activism. We helped pass the laws that incited the War on Drugs, and now we must mobilize to change them.



We have a responsibility to defend the dignity of society's most vulnerable, and policies such as mandatory minimums and no-knock warrants put both police and citizens at risk. These policies do not enhance our society, make our communities safer, or reflect God's love and justice. They are legislative issues that the church can, and must, work to change. We have an ethical and theological responsibility to advocate for a justice system that brings restoration to individuals and communities.

### A CRITICAL MOMENT

While the United States constitutes only 5 percent of the world's population, we have 25 percent of its incarcerated populace. Statistically, our nation currently has more people locked up—in jails, prisons, and detention centers—than any other country in the history of the world. We currently have more jails and prisons than degree-granting colleges and universities. In some areas of the country, there are more people living behind bars than on college campuses.<sup>60</sup>

One out of every twenty-five people sentenced to the death penalty are falsely convicted.<sup>61</sup> In many states, pregnant women are shackled to gurneys during their delivery.<sup>62</sup> Thirteen states have no minimum age for prosecuting children as adults, such that children as young as eight have been tried and sentenced as adults, left vulnerable to trauma and abuse while living among adults in jails and prisons.<sup>63</sup>

Eighty thousand inmates per day are locked in solitary confinement, where they are quarantined in a twelve-by-seven-foot concrete cell (smaller than a standard horse stall), frequently for twenty-three hours a day, and are only allowed outdoor access and human interaction for one hour. This dehumanizing form of "incarceration" is more accurately defined as torture—a slow assault on the dignity of individuals and a strategic disintegration of their body and psyche. The Geneva Convention defines torture as

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes

as obtaining a confession, punishment for an act that a person is suspected of having committed, or intimidating or coercing a person for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.<sup>64</sup>

How did this become our reality, and who are the people serving time behind bars? Lawyer and criminology expert Elliott Currie writes, “Short of major wars, mass incarceration has been the most thoroughly implemented government social program of our time.”<sup>65</sup> While most theorists trace our criminal justice system’s exponential growth back to Richard Nixon’s commissioning of the drug war, this—in isolation—is an inadequate analysis. The history that bred our carceral quagmire predates Nixon’s presidency, and it is much more expansive than the War on Drugs. While the drug war is undoubtedly a primary driver of our nation’s incarceration explosion, it is inaccurate to depict it as the independent impetus of mass incarceration. The War on Drugs is only one of five pipelines currently funneling people into prison, jails, and detention centers nationwide. The other four carceral conduits are the crackdown on immigration offenses, decreased funding for mental health, private prisons and detention centers, and the school-to-prison pipeline.

Each of these pipelines is built on a legacy of racist and classist legislation that has paved the way for our present carceral epidemic. To comprehensively understand the evolution of mass incarceration, we must do something that will surprise most: begin our exploration at the time before slavery ends.

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