

Race and sentencing in the criminal justice system



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When discussing the topic of race and sentencing, most can conclude that the Criminal Justice System is not entirely fair as it may portray itself to be. In most cases, many judicial decisions are based upon the offender's skin color and/or the stereotypical image that the judges, along with other government bodies, hold against the defendants. In this paper, I argue that many people of minority, such as: Blacks, Hispanics, Native Americans, and Asians, when convicted of an offence, do not receive a reasonable sentence or punishment in comparison to Whites. The primary reason this occurs is solely because people of different race are classified as dangerous offenders and are perceived as a threat to society. Although that is one of the main reasons as to why people of minority receive harsher punishments than Whites, there are many other factors that come into place when deciding on a punishment and a sentence for individuals. The second reason this occurs is because society tends to pay more attention to the race of the offender and the stereotypes they carry with them rather than the type of offense that was committed and how severe it was. Finally, even though the jury is present during a trial, the final sentencing outcomes are made by the judges' own discretion. Therefore, if the judge happens to be racist or hold a strong stereotypical view towards the defendant, unfortunately, the judge might charge the defendant with a more severe sentence compared to an offender in which they do not hold such a heavy stereotypical view towards

According to an article titled *Difference, disparity, and Race/Ethnic bias in federal sentencing*, both authors discussed and examined the extent to which discrepancy in sentencing based on race and ethnicity occurred in federal courts even after the specific guidelines had been implemented

(Everett and Wojtkiewicz 2002). The argument was that Whites, when being sentenced in court, are much more likely to receive a less severe punishment than Blacks or anyone of minority. This can be the cause of many factors, primarily the fact that people of different race, specifically African Americans and Hispanics are perceived to be evil and pose a threat to society and as a result, they are punished much more harshly than Whites (Everett and Wojtkiewicz 2002). An example can be found in a similar article that was published in the *Journal of Ethnicity in Criminal Justice*. An experiment was conducted by examining the sentence type, jail length as well as prison length of offenders to determine whether there were any racial or ethnic biases that had occurred when making a judicial decision. The experimenters examined sentencing decisions by collecting data that was comprised 4 years and that represented 57 countries (Jordan and Freiburger 2015). The total number of convicted offenders that were studied was 34,364 (Jordan and Freiburger 2015). Experimenters compared the sentence type, jail length for those sentenced to jail, and prison length for those in which were sentenced to prison. The results shortly concluded that Black offenders had a much higher chance than White offenders to be sentenced to jail rather than to receive a chance for probation, and in addition to this, they were more likely to be sentenced to prison rather than to jail. Regarding offenders of Hispanic race, it was concluded that they had less of a chance at being sentenced to a community sanction than White offenders (Jordan and Freiburger 2015). Results also found that Black offenders tend to be incarcerated for much longer periods of time in comparison to Whites. This experiment concluded that there are, indeed, racial and ethnic biases in the Criminal Justice System specifically for Blacks and at occasional times,

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Hispanics. Unfortunately, the individuals of this race carry the stereotypical image of being a dangerous offender as well as a threat to society and because of this, judges have the tendency to sentence these individuals to a harsher and much more severe punishment in comparison to Whites.

Another reason that explains as to why people of minority do not receive reasonable punishments and/or sentences in the Criminal Justice System is a result of society paying more attention to the specific race of the offender and the stereotypes carried with them rather than analyzing the type and the severity of the offense committed. If you have a Hispanic offender, the first thought that comes to society's mind would be either a drug or immigration related offense. The same concept goes for Black offenders too, society assumes that the crime committed had something to do with gang or gun related violence. This is solely a result of society's prejudice views they have on distinct individuals. An example can be found in the article written by Everett and Wojtkiewicz, where they discuss that Hispanics in comparison to Whites, tend to be convicted more of drug and immigration offenses rather than of economic offenses and that Blacks are prone to be convicted of drug and firearm offenses (Everett and Wojtkiewicz 2002). Another example can be found in the article called *Race Matters: Public Views on Sentencing* during an experiment conducted by the authors. The experiment was conducted downtown Toronto simply by approaching several random individuals and offering them 1 of 4 scenarios to read as well as to later answer a few questions about. All four scenarios were identical except for the racialized identity of the offender (Singh and Sprott 2017). The first two involved an armed robbery with no criminal record, while the offender in the

remaining scenarios consisted of a criminal record (Singh and Sprott 2017). Shortly after, respondents were asked whether they wanted the specific offender to receive a prison sentence or a non-prison sentence. If the respondents chose for the offender to receive a non-prison sentence, they would then have to be able to explain what type of community-based sanction they thought would be appropriate (Singh and Sprott 2017). The results were that people undoubtedly wanted the Black offender to receive a harsher sentence than the White offender due to the color of their skin. For example, it was recorded that 33% of participants wanted the White offender to receive a community-based sanction, while only 18% of the participants wanted one for the Black (Singh and Sprott 2017). By 33% of people wanting the White offender to receive a community-based sanction, this can confirm that society bases many of their decisions on the race and ethnic backgrounds of the offenders rather than the type of misdemeanour committed or the severity of it.

It may seem that the major cause of unequal sentences and punishments given towards people of minority is mainly due to how society perceives these certain individuals. Society is not the only factor that plays a role in the decision-making process, judges can play quite an important role too as they are the ones who get the final say on what the outcome will be. In an article published by the *Journal of Criminal Justice*, it analyzes the effect that race, and ethnicity has on determining the type of punishment and sentence for Canadian Youth in the Criminal Justice System. It was found that there was a significant amount of evidence in which proved that young offenders tend to get prejudged by judges and/or other government bodies just by the basis of

their skin color. The author of the article also argued that Aboriginal and Black juveniles are more likely to receive a much more relentless penalty in comparison to juveniles of White race. The results in this study supported the author's hypothesis that extralegal involvement, particularly race and class, do in fact have a strong influence on the final judicial decision (Schissel 1994). In a similar article titled *Do Judges Vary in Their Treatment of Race?* there was evidence of a significant amount of discrepancy related to the racial gap in incarceration rates, which then provided support for how some judges treat certain defendants differently based on their race (Abrams, Bertrand, and Mullainathan 2012). For example, a judge who dislikes Hispanic individuals and holds strong prejudice views against them, will most presumably give the Hispanic offender a harsher sentence or punishment in comparison to an offender that he/she likes or holds less prejudice view towards. A second example can be found in an article derived from the journal, *Law and Society Review*. The article discusses how it appears that Black criminal defendants are more likely to receive harsher sentences than White defendants. The authors suggested that this could be due to racial discrimination, legal factors and even wealth discrimination as poor defendants' might have a difficult time in obtaining a private attorney to help them with their case (Spohn, Gruhl and Welch 1981). An experiment was conducted by examining the sentences that were imposed on 2, 366 Black and White defendants in the United States by selecting cases where the "maximum charge" was 1 of the 14 most common offenses committed (Spohn et al. 1981). It was shortly concluded that judges along with other forms of government bodies had the tendency to present Black males with harsher sentences than White males. Furthermore, Black males are less

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likely than White males to be released preceding the trial, and to be represented by private attorneys because they are portrayed as having low income (Spohn et al. 1981).

To conclude, the Criminal Justice System is not entirely fair as it may seem. Many judicial decisions are made based primarily on the offender's skin color and stereotypical image that judges, along with other government bodies, hold towards the defendants. In this paper, I argued, provided explanations as well as examples as to why people of minority do not receive a reasonable sentence or punishment in comparison to Whites. This is solely because minorities are viewed as a threat to society and are classified as dangerous offenders, that society tends to pay more attention to the race and the stereotypes the offenders carry with them rather than the type or severity of offense committed, and finally, even though the jury is present at the time of the trial, the final decision is made by the judges' own discretion.

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