

The State of Equality and Justice in America: The presumption of guilt

Written by Congressman John Lewis and Bryan Stevenson
Friday, 24 May 2013 14:38



After serving 42 years in an Arizona prison for a crime he didn't commit, a 58-year-old man was finally released this April. When Louis Taylor was just 16, he ventured out of his comfort zone to try a happy hour advertised by an upscale Tucson hotel, a typical foray for an adventurous teenage boy. Unfortunately, that night a fire broke out that ultimately claimed 29 lives. In that moment, Taylor stopped being typical and became extraordinary. He did not run from the danger as most people would. Instead he took responsibility. He was spotted during the crisis busily helping people escape the flames, escorting guests to safety and assisting people on stretchers.

Ordinarily, he would have been hailed a teenage hero for demonstrating a civic duty only expected of grown men. Yet eyewitness accounts of his beyond-the-call-of-duty service were not credited as outstanding demonstrations of good character. To police and even some

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bystanders his very presence made him automatically suspect. More than the possibility that he could have saved someone's life, people were consumed by their sense that he "did not belong in a fancy Tucson hotel".

The forensic evidence suggested faulty electrical wiring or some building defect as the likely cause, not arson, but scientific facts could not derail a hardwired determination that because Taylor was black, he had to be at fault. His youth, his innocence, and even his dramatic work to save and comfort the victims were imperceptible and irrelevant.

Outraged citizens wanted the death penalty. A profiler was brought in who swore under oath that the likely perpetrator was "a black teenager." Taylor was convicted by an all-white jury and sentenced to multiple life sentences, ensuring he would die in prison. Fortunately, the Arizona Justice Project recently took up the case. New research from the National Academy of Science proved there was no evidence of arson in the fire. Wrongly convicted, Taylor was finally released-42 years later.

It would be hard to call Mr. Taylor lucky, but the truth is thousands just like him, including innocent children, are being victimized by a presumption of guilt that never sees black and brown youth as blameless, as engaged in proverbial "good, clean, fun", as harmless. Instead it attributes to them every violence and vice, even if those suspicions contradict the facts.

For nearly 50 years, starting in the 1920s, America maintained a prison population of close to 200,000 people. Today we have the highest incarceration rate in the world with 2.3 million people in jails or prison. One out of three black boys born in 2001 is likely to serve time in jail or prison during his lifetime. Half of our incarcerated are imprisoned for non-violent drug crimes. While African American and Latino teens are less likely to abuse drugs and alcohol than whites, they are 3-4 times more likely to be arrested, convicted or sent to jail or prison for non-violent drug offenses. The violent crime rate in America is the same as it was in 1968, yet our prison system has grown by over 500 percent.

The presumption of guilt follows too many poor and minority children to school, a place where children should be nurtured and supported, not criminalized and incarcerated. Yet the pipeline from school to jail is so insidious, many parents now fear schools as much as they fear the criminal justice system.

In 2012, the Justice Department sued school officials in Meridian, Mississippi for systematically incarcerating black and disabled children for days at a time for minor dress code infractions like wearing the wrong color socks or talking back to the teacher. According to the American Civil Liberties Union, children have been expelled for giving Midol to classmates, bringing household goods to school for Goodwill donations and scissors to class for an art project. Recently, one black Florida during a science experiment.

Children as young as five years old are being led out of classrooms in handcuffs for acting out or throwing temper tantrums. They have been arrested for throwing an eraser at a teacher, breaking a pencil, and having rap lyrics in a locker. Black children constitute 18 percent of the nation's public school population but 40% of the children who are suspended or expelled.

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In Arizona, Alabama, Georgia and a growing number of states, legally sanctioned racial profiling has been resurrected leading Latinos particularly, and other U.S citizens of color, to fear harassment, suspicion and detention.

In New York City between 2002 to 2011, 90 percent of the city's notorious 'stop and frisk' victims have been Black and Latino residents. In 88 percent of those stops, people of color were found to be innocent of any wrongdoing.

In the year when this nation will celebrate the Supreme Court's historic ruling to create a right to counsel for indigent people accused of crimes, protections for the poor and innocent are almost non-existent. In a courtroom, where justice should be blind, the presumption of guilt is especially dangerous. Today too many innocent prisoners like Taylor are trapped by systemic pressure to plead guilty in a system where 96 percent of all convictions are rendered by plea bargains.

The Innocent Defendant's Dilemma, a recent study, describes how the blameless, particularly those who are poor, find it an onerous, nearly impossible burden to prove their innocence. With few resources for defense, they find themselves trapped by a system that presumes their guilt. Since the odds seem hopelessly stacked against them, many innocent individuals reluctantly plead guilty to avoid the longest prison terms or even death. Innocent victims lose years in prison, face rejection because of criminal records, and many never reach their potential.

We have come a great distance in the last 50 years, but we still have not fully escaped the miseducation and distortions created by America's policies of racial injustice. These problems demand remedies, and we must admit this nation may require some form of therapy before we can freely reconcile ourselves to a better future informed by the truth surrounding present human rights abuses and those of the past.

Despite progress, in the last 50 years we have retreated from an honest conversation about racial and economic justice, and have opted instead for mass criminalization and incarceration leaving many poor and minority people marginalized and condemned. As Taylor's story reminds us, out of sight is hardly out of mind. It is an abysmal violation of human dignity.

U. S. Rep. John Lewis has represented the 5th Congressional District of Georgia since 1987. An iconic civil rights leader and recipient of a 2010 Presidential Medal of Freedom, he is the only living person who was actually a speaker at the 1963 March on Washington for Jobs and Freedom. Bryan Stevenson is executive director and founder of the Equal Justice Initiative and a professor of law at New York University.

This article - the fifteenth of a 20-part series - is written in commemoration of the 50th Anniversary of the Lawyers' Committee for Civil Rights Under Law, of which Congressman Lewis is grand marshal. The Lawyers' Committee is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy to enlist the private bar's leadership and resources in combating racial discrimination and the resulting inequality of opportunity - work that continues to be vital today. For more information, please visit www.lawyerscommittee.org