

# Racism in Our Own Backyard

Racial Inequity in Criminal Justice in Black Hawk County and in Iowa

# The Iowa Justice Action Network

- A statewide network of citizens concerned with criminal justice reform, founded in 2015.
- Concerned with reducing mass incarceration in Iowa and enabling successful reentry of those who have been imprisoned.
- Sponsors conferences each year on various issues related to reform.
- Sponsors a Lobby Day on criminal justice reform at the State Capitol every year.

# Purposes of this Community Forum

- To call attention to racial inequity in the criminal justice system in Iowa.
- To highlight the disproportionate contribution of Black Hawk County to this inequity.
- To identify the main sources, or drivers, of this inequity.
- To discuss the actions needed to address this inequity.

## Guest interviews

- Rev. Belinda Creighton-Smith, Pastor, Faith Temple Baptist Church and Social Work Faculty, UNI
- Rev. Abraham Funchess, Pastor, Jubilee United Methodist Church and Director, Waterloo Commission on Human Rights
- Ms. LaTanya Graves, President, Black Hawk Chapter, NAACP
- Mr. Aaron Hawbaker, Chief Public Defender, Adult Public Defender Office
- Mr. Ras Smith, Member, Iowa House of Representatives.
- Mr. Ryan Stevenson, District Representative, US Congresswoman Abby Finkenauer

# Iowa incarceration vs. US incarceration<sup>1</sup>

- Across the US, African Americans are incarcerated at about 5 times the rate of whites.
- In Iowa, they are incarcerated at 10 times the rate of whites.
- This gives Iowa the 4<sup>th</sup> highest disparity among the 50 states.
- Latinx people also face a disparity of nearly double the white rate.
- Iowa prisons are 23 % Black, vs. 4 % of the total population who are Black.

# Are disparities due to different rates of offending?

- Some communities of color experience difficulty with violence
  - Poverty and deprivation lead to violent behavior among some residents.
  - Struggle for control of illegal drugs can beget violence.
- Historically, many Black and Latinx leaders have spoken out about the need to address this violence and its sources.

However, perceived differences in offending may be due to differential enforcement.

- Crime victimization surveys show that violent incidents are reported by Blacks and Whites at roughly equal rates.<sup>2</sup>
- However, Blacks are arrested much more frequently than Whites for all types of crime.
- Disparities in incarceration are far larger than any disparities in offending.

## Bias in Drug Enforcement - an Example

- A clear example of enforcement bias is drug offenses -
  - Blacks and Whites use drugs at approximately the same rates.<sup>3</sup>
  - Nationally, Blacks are about 4X AS LIKELY TO BE ARRESTED FOR DRUG OFFENSES.<sup>4</sup> (8X IN Iowa, according to the ACLU)<sup>5</sup>

## Role of Black Hawk County in Disparities<sup>6</sup>

- Black Hawk County is the 4<sup>th</sup> largest in the state in population;
  - However, the county is 2<sup>nd</sup>, behind only Polk County, in the number of people it sends to prison.
- About 9% of the county's population is African American;
  - However, they make up 51% of those sent to prison from Black Hawk County.
- As a result, this county contributes greatly to the state's disparity in imprisonment for African Americans.

## Factors affecting rates of arrest and incarceration -the police.

- Choice by police of where to focus enforcement.
  - “Pretext” traffic stops have been one area of concern - racial profiling.
  - Neighborhoods of color may be policed more heavily. (You find crime where you look for it.)
- Choice by police of whether and what to charge - they can, and do, choose to ignore some offenses.
- Choice by police of how much force to use in responding.
- All of these decisions can be affected by conscious or unconscious racial bias.

## Factors affecting incarceration - the prosecutors

- Choice by county attorney as to what, if any, charges to be brought forward.
  - Prosecutor can exercise discretion as to whether prosecute or not.
  - Prosecutor can decide on additional charges that may raise the severity of the sentence.
  - Prosecutor can plea bargain down to lesser offenses.
  - Again, conscious or unconscious bias can play a role.

# CHARGING AND CONVICTION RATES

- According to a recent University of Iowa Law Review article,<sup>6</sup>
  - In every category, charges and convictions of African Americans far exceeded their percentage of the population.
  - For violent offenses they had markedly higher conviction rates than whites.
  - For drug offenses, the gap was very large - ~50% for whites and ~70% for blacks.

## Overall charging and conviction - a “Lock ‘em up” county?

- Combining data for all races, we find that Black Hawk county’s per capita imprisonment rate is far higher than any other county in the state. <sup>6</sup>
- Crime rates by county show that reported crimes are only 2.3% higher in Black Hawk County than in other counties. <sup>7</sup>

## A “lock’em up” county, continued.

- Therefore, the philosophy and approach of our criminal justice system is playing a large role in driving our disproportionate contribution to imprisonment in Iowa.
- Both Whites and Blacks are being put in prison at high rates, but these policies have a greatly disproportionate impact on the African American community.

# Reexamining our approach

- Harming the person or property of another should have consequences, sometimes including imprisonment.
- However, punishment itself has long term consequences for the offender, their family and the community
  - Loss of jobs and earning power.
  - Loss of voting rights.
  - Severe impacts on the children and families of the offenders.
  - Loss of community leadership.
  - Reduction in community tax base.

## Reexamining our Approach, II

- A philosophy of seeking alternatives to the most serious charges when addressing an offense creates long term benefits, including restoring the offender as a productive member of society.
- High rates of imprisonment in the African American community are a major contributor to racial inequality and the inability of many people of color to achieve their full potential.

## Concern for victims

- Victims understandably want proportionate consequences for the harm that's been done to them and the pain it has caused.
- However, reducing imprisonment can, in many cases, *lower* the chances of *future* victimization, by discouraging recidivism.
- A number of studies show that increasing the severity of punishment beyond a certain point does not deter crime and many encourage it.<sup>8</sup>
- A study of drug crime recidivism in Iowa reached a similar conclusion.<sup>9</sup>

# Alternatives to locking people up, Part I

- Treat mental health and addiction through the public health system, not the criminal justice system.
- Divert some offenders away from criminal charges through a supervised program where they are allowed release from charges if they do not reoffend.
- Seek the minimum charges that are appropriate, rather than always pushing towards felony charges and convictions.

## Alternatives to locking people up, Part II

- Examine all areas of enforcement, especially drugs, and ask whether strict enforcement really serves the community.
- Require implicit bias training for everyone in the criminal justice system.
- End disproportionate pretext stops aimed at people of color. (NO MORE RACIAL PROFILING)

## Alternatives to locking people up, Part III

- Work closely and cooperatively with communities of color on strategies for crime prevention that target real concerns
  - **MEANINGFUL COMMUNITY POLICING**, not just lip service.
- Hold police accountable when they make unjustified arrests or use excessive force.
- Examine funding for law enforcement to make sure it is directed properly
  - More funding for training and support for police that reflects their complicated role, such as, for example, dealing with mentally ill people.

# Need for community focus and action, Part I

- Protests over police violence elsewhere have focused public attention on racial injustice.
- As we strive for racial justice in our state and community, criminal justice reform should be a central concern.
- The community needs to demand that those in authority reexamine their policies to reduce their disparate impact on people of color.

## Need for community focus and action, Part II

- IJAN invites all interested parties to continue the dialog about how to address these problems.
- Breakout sessions will focus on what participants see as concrete actions and solutions that address racial inequities.
- IJAN will organize follow up sessions based on what we learn from tonight's participants.

# Ground rules for breakout sessions

- Maintain civility - passions can run high on these issues.
- Do introductions but make them BRIEF!
- Allow everyone a chance to speak.
- Designate a facilitator.
- Designate a note taker/reporter who will bring back key points to the larger group.
- Reporters should designate themselves by raised hands in the “Participant” panel. Others reserve comments until reporters have spoken.
- Breakout sessions will last 15 minutes, with 10 second warning at the end.

# Questions for breakout sessions

- What information did you learn from this presentation that was new to you? (5 minutes)
- Are there particular questions raised in your mind by the presentation? (3 minutes)
- What are the most important steps that you believe the community could take to move forward on this issue? (7 minutes)

# Sources

1. *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, The Sentencing Project, 2016
2. *Criminal Victimization, 2018*. Report of the Office of Justice Programs, US Department of Justice.
3. *2018 National Survey on Drug Use and Health: African Americans*, Substance Abuse and Mental Health Services Administration U.S. Department of Health and Human Services.
4. *The War on Marijuana in Black and White*, American Civil Liberties Union, 2010. See also Citation #1 above.
5. *Iowa Ranks Worst in the Nation in Racial Disparities of Marijuana Arrests*. Iowa Chapter, American Civil Liberties Union, Press Release, 2013. (Based on the report cited in #4)
6. *Discrimination, Discretion, and Iowa's Packed Prisons*, by Derek W. Miller, *Iowa Law Review*, v. 105, pp. 901-920.
7. *Uniform Crime Reports*, Federal Bureau of Investigation.
8. *Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment*, Valerie Wright, Report for the Sentencing Project, 2010.
9. *Outcomes of Mandatory Minimum Sentences for Drug Traffickers*, Final Report to the Public Safety Advisory Board by the Division of Criminal and Juvenile Justice Planning, Iowa Department of Human Rights, 2011.