

November 2007



STATE OF EMERGENCY:

Stemming the Tide of Injustice against African Americans

NAACP Research Department

INTRODUCTION: STATE OF EMERGENCY

The case in which six black teens were arrested and charged with attempted murder for their part in a fight with fellow white students in Jena, Louisiana captured the country's attention. How is it that the black teens involved in the fight could be charged with attempted murder while the white students, whose racially-motivated actions presumably led to the schoolyard tussle, receive little more than a slap on the wrist?

Unfortunately, Jena is not an isolated case; rather, it is but one of many that are reminiscent of a disturbing trend involving the disparate treatment of African Americans in the criminal justice system. The latest examples include a boot camp beating death and an assault of black youths by representatives of law enforcement. In addition to the reprehensible treatment of youth at the hands of law enforcement officials, there has also been a startling increase in the number of hangman's noose sightings around the country.

If one were to take the aforementioned examples, coupled with the fact that racial harassment complaints filed with the Equal Employment Opportunity Commission (EEOC) have more than doubled from just over 2,000 in 1991 to roughly 7,000 today,¹ one might conclude that a steady stream of racial intolerance has resurfaced. Some individuals might view the series of incidents noted throughout this report as isolated incidents; others will view them as part of a larger systemic tide stubbornly connected to the history of American race relations. What is clear to anyone who cares about civil rights, however, is that the disparate treatment of blacks in the justice system accompanied by racial intimidation is unacceptable.

Not only do the police beatings, disparate sentencing cases, and noose hangings suggest movement toward a more hostile environment directed at blacks, but they call into question the extent to which African Americans really are viewed as a part of the American collective. A recent NAACP survey found that a majority of blacks do not believe the police are held accountable for acts of misconduct including, excessive use of force. Furthermore, they believe that when police use excessive force, they are more likely to exact it against African Americans than other racial and ethnic groups.² The sentiment expressed by blacks in this survey is not new and demonstrates a consistency in the belief that "the system" works differently for blacks and whites. The disparate treatment of the Jena 6 defendants, the shooting deaths of unarmed blacks, and even the disparity in the rate at which black and Latino motorists are stopped and searched for drugs even though they are less likely than whites to actually have them, all serve to intensify the feelings of skepticism and mistrust toward the American criminal justice system.

It is in this context that the NAACP declares a State of Emergency.

The Context of Injustice Today: Police Misconduct, Prosecutorial Discretion, and Racial Intimidation

POLICE MISCONDUCT

Regrettably, many African Americans are aware of police misconduct in this nation's history, be it in the form of excessive use of force, brutality, or racial profiling. Oftentimes this familiarity is a result of first-hand experience or that of family members or friends. Therefore, the more recent instances of police misconduct, no matter how shocking, confirm what many blacks already believe about the American criminal justice system: that justice is not always leveraged fairly. Indeed, when law enforcement officials who are charged with beatings or other forms of misconduct are acquitted, the assertion of an unequal system is further corroborated. What follows are examples of alleged incidents involving black youth and adult mistreatment, death, or both at the hands of police since 1999.



New York – 18 year-old **Khiel Coppin** was shot 20 times when five officers opened fire killing him. Police believed Coppin was holding a gun; it turned out to be a hair-brush. (2007)



Florida – 15 year-old **Shelwanda Riley** was thrown around, punched, and pepper sprayed by a police officer, a man twice her size, as he tried to arrest her for a non-violent curfew violation. (2007)



Maryland – 17 year-old **Isaiah Simmons** died after struggling with several adult staff members of a residential program under contract with the Maryland Department of Juvenile Services. Witnesses and staff sat on Simmons' limbs, chest and head. The state medical examiner ruled his death a homicide, however, the staffers were charged with reckless endangerment – a misdemeanor. (2007)

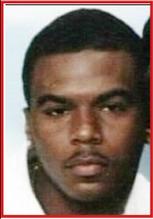


Washington, DC – 14 year-old **DeOnte' Rawlings** was fatally shot by an off-duty officer for allegedly stealing a mini-bike and shooting at the officer during a foot chase. An autopsy found no gunshot residue on Rawlings and several suspicious injuries to his elbows, knees and face. (2007)



Florida – 14 year-old **Martin Lee Anderson** died while in custody at the Bay County Boot Camp. An all-white jury acquitted deputies and a nurse who participated in the videotaped violent abuse that resulted in Anderson's death. (2006)

POLICE MISCONDUCT



New York – 23 year-old **Sean Bell** was leaving a bar after his bachelor party unaware that he and his friends were being followed by an undercover officer. Once accosted by the officer a confrontation ensued in which the officer said he believed Bell and his friends were going to retrieve a gun. During that confrontation, five officers fired 50 shots at the men's car, killing Bell and wounding his friends. No gun was found in the car. (2006)



Georgia – **Kathryn Johnston**, an elderly woman, was shot 30 times by Atlanta police who entered her home with a fraudulent warrant. Two or three officers involved plead guilty to manslaughter. (2006)



Wisconsin – **Frank Jude** was beaten at a house party while unarmed. The three off-duty Milwaukee police officers were charged but acquitted. (2004)



New York – 19 year-old **Timothy Stansbury** was shot and killed by police as he was attempting to climb to a rooftop with a pile of CDs in his arms. He was using the rooftop as a shortcut to go to a party in an adjacent building. The officer claimed he fired at Stansbury by accident and was cleared of criminal responsibility. (2004)



California – 16 year-old **Donovan Jackson-Chavis** was slammed to the ground, tossed into the air, and bounced on the hood of a squad care and choked by police as they handcuffed him for allegedly not dropping a bag of potato chips at a convenience store. The incident was videotaped. (2002)



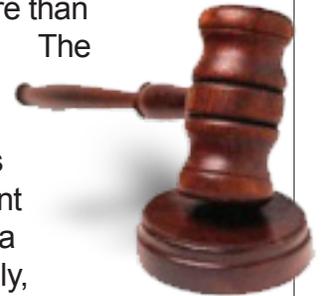
Ohio – **Timothy Thomas** was fatally shot by police during a foot chase. Cincinnati Police said Thomas, who was wanted for traffic violations, was reaching for a gun. An investigation showed that Thomas was unarmed and was holding his pants up as he ran. The officer was cleared on the shooting charges. (2001)



New York – **Amadou Diallo** was killed when police shot him 41 times. He was unarmed. (1999)

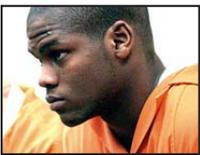
PROSECUTORS AND JUDGES: COURTROOM INJUSTICE

According to a report on racial disparities in the juvenile system, although minority youth are one-third of the adolescent population in the United States, they are two-thirds of the more than 100,000 young people confined to local detention and state correctional systems.³ The report notes that when white youth and minority youth are charged with the same offenses, black youth with no prior admissions are six times more likely to be incarcerated than white youth with the same background. Latino youth are three times more likely than white youth to be incarcerated. Additionally, youth cases that are sent to the adult court system involve black defendants at least fifty percent of the time – a number that increases to sixty-three percent when the cases involve drugs. Nationally, custody rates are five times greater for African American youth than for white youth, and among all offense categories, white youth are more likely than minority youth to be placed on probation.⁴



Judges and prosecutors have a certain amount of discretion within the confines of the law to determine which charges to seek in a given case. However, as the examples below suggest, prosecutors and judges can and do exact uneven punishment by using the law in unintended ways. This is not a minor issue of concern if one considers that abuse of sentencing power has the potential to destroy lives.

RECENT EXAMPLES:



Marcus Dixon – a Georgia high-school honors student was charged with rape, assault and aggravated child molestation for having consensual intercourse with a younger white classmate. Dixon was held for over a year; his 10-year conviction was overturned once it was discovered that the Georgia prosecutor had misled jurors.



Genarlow Wilson – a talented Georgia high-school student and athlete was sentenced to 10 years for having consensual oral sex with a younger classmate. Wilson's felony conviction of aggravated child molestation was recently amended to a misdemeanor, however, Wilson spent more than two years in prison. Interestingly, as Wilson was being sentenced to 10 years in prison, a white 27 year-old Georgia high school teacher who had sexual intercourse with a 16 year-old male student was sentenced to 90 days in jail and probation.

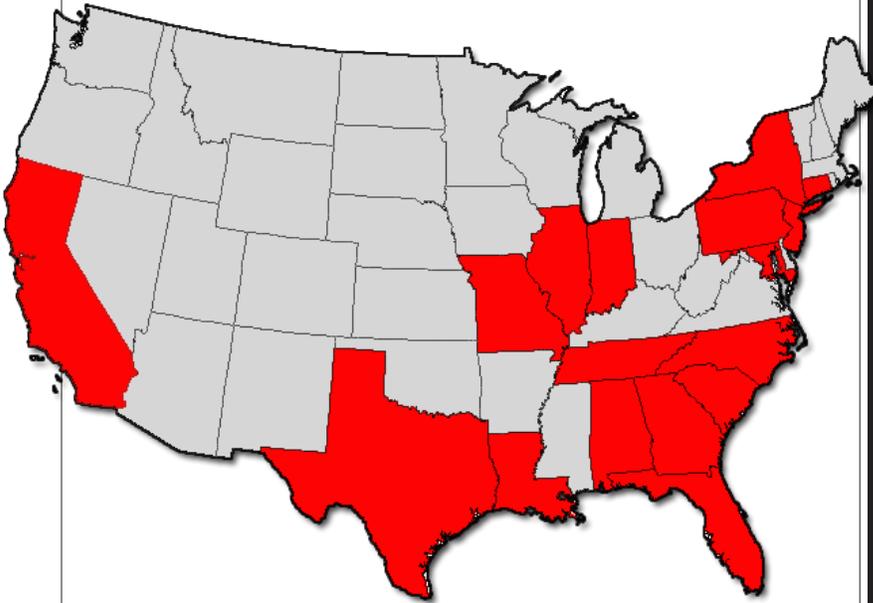


Mychal Bell – a Louisiana high-school student charged with attempted murder for a fight that ensued between six black students and white students following a noose hanging on the school's unofficial "white tree." The white students involved in the fight were expelled and then later reinstated but not arrested, despite having engaged in other incidents against the black students. The black students were charged as adults with attempted murder for their part in the fight. No one was ever arrested for hanging the noose on the tree.



Shaquanda Cotton – a 14 year-old Paris, TX freshman shoved a hall monitor in a dispute over entering the building before the school day started. The hall monitor was not seriously injured but Cotton was convicted of assault of a public servant and sentenced to prison for up to 7 years. Meanwhile, a 14 year-old white girl was convicted of burning down her family's home and received probation. In the same town of Paris, a 19 year-old white man was convicted of negligent vehicular homicide for killing a black woman and her grandson. He received probation and was ordered to send annual Christmas cards to the victims' family.⁵

RACIAL HARASSMENT AND INTIMIDATION: NOOSE HANGINGS



STATES WITH RECENTLY REPORTED NOOSE INCIDENTS █

Since the dangling noose from a schoolyard tree raised racial tensions in Jena, Louisiana last year, the symbol of segregation-era lynchings has turned up at an alarming rate all around the country. Some have been found in fire stations and police stations, in truck yards and construction sites, in corporate places of business, and on college campuses. What follows is an overview of reported noose hangings since early 2006.

At the time of this report's release 43 known noose hangings have occurred since early 2006. A review of the occurrences shows a pattern of noose hanging incidents in places of business and in school environments, with a significant increase following the media attention given to the Jena 6 case and the subsequent rally. That is, 11 cases were noted between February 2006 and August 2007; however, 32 noose incidents occur following the Jena 6 rally that took place in September.⁶ A strong pattern of noose hanging incidents seems to emerge in the northeast and southeast regions of the country.

**“What’s the big deal?
It’s only a noose...”**

Why the hangman’s noose is so offensive

The hangman’s noose is a symbol of the racist, segregation-era violence enacted on blacks. A frequent part of the Jim Crow Southern way of life, it is an unmistakable symbol of violence and terror that whites used to demonstrate their hatred for blacks. The noose was not used as a mechanism to punish an individual; it was used to send a message to blacks in general about respecting the racial boundaries and to not “get out of place.” Similar to a burning cross on a lawn, a noose is not an ambiguous symbol. In the pre-civil rights era the noose was a very specific artifact used in the lynching of blacks. Lynchings were big community events in which hundreds of white families would come to watch a black man being burned and mutilated before he was hung. Those in attendance would even pose for pictures with the charred body.

RECENTLY REPORTED NOOSE INCIDENTS

Date	Location	Incident
Feb 2006	Jacksonville, FL	Two black firefighters discover nooses at the fire station where they work. Both firefighters are placed on administrative leave
Mar 2006	Conroe, TX	Black employee is choked in the bathroom by white employee
Mar 2006	Newark, NJ	In an attempt to punish a student for not doing his homework, a substitute teacher instructs the student to stand on a chair, ties a noose around his neck, and kicks the chair
Apr 2006	Bradenton, FL	Noose found at entrance of Bayshore Elementary School
July 2006	St. Louis, MO	Noose hanging outside a holding cell in a civil court building. Two white employees and 1 black employee responsible for "practical joke"
Oct 2006	Baltimore, MD	Sigma Chi fraternity at John Hopkins University hosts a Halloween in the Hood party and uses a skeleton to imitate a noosing
Oct 2006	Punta Gorda, FL	Mike Whiteaker has hung nooses in his front yard for 4 years and threatens to hang more
Dec 2006	Jena, LA	A noose is found hanging under the high school's "all-white tree" after a black student sits there
July 2007	New London, CT	Noose found on the bag of a black Coast Guard Academy cadet
Aug 2007	Germantown, TN	3 employees at Germantown Performing Arts Center hang a noose backstage as a practical joke
Aug 2007	New London, CT	Noose found on the floor of a white woman co-worker who had been conducting race relations training in response to a previous noose sighting
Sept 2007	Baltimore, MD	Noose hanging from tree near black student center on University of MD College Park campus
Sept 2007	Greenville, NC	"Noose like" piece of rope in basement of residence hall at East Carolina University
Sept 2007	Alexandria, LA	2 men with nooses hanging from pick-up truck right after Jena rally
Sept 2007	High Point, NC	4 nooses spotted at Andrews high school – 2 from a tree, 1 in the bus parking lot, 1 on the flag pole
Sept 2007	Grambling, LA	At Grambling Lab's elementary school noose placed around kindergartner's neck as part of mock rally
Sept 2007	Gurnee, IL	High school student hurls racial slurs at 2 black female students with nooses displayed from rearview mirror
Sept 2007	Watchung, NJ	Holiday store in shopping center depicts Halloween scene showing a stuffed doll resembling a black man wearing a labor suit, hanging from a noose
Sept 2007	Long Island, NY	Hampstead police find noose in men's bathroom
Oct 2007	Columbia, SC	Nooses found hanging from a tree outside a high school. 2 teens – 1 white and 1 biracial responsible
Oct 2007	O'Hara Township, PA	Construction worker finds noose hanging from 2nd floor of construction site
Oct 2007	Pittsburg, PA	Housekeep at Allegheny General Hospital found a noose in a 10th floor hospital room

Adapted from DiversityInc.com

RECENTLY REPORTED NOOSE INCIDENTS

Date	Location	Incident
Oct 2007	Pittsburg, PA	Baby doll with noose around neck found at Allegheny Port Authority
Oct 2007	San Antonio, TX	Noose hanging from CPS Energy manager's cubicle for past 10 years
Oct 2007	Anniston, AL	Noose hanging from utility pole in industrial area of Anniston Army Depot
Oct 2007	Monroe, LA	6 white students covered in black mud mimic Jena 6 incident where six black teens beat up a white classmate
Oct 2007	South Elgin, IL	Noose found hanging from an exit at a Home Depot under construction along with racial slur written on work countertop. Another noose was discovered a week earlier
Oct 2007	Cranberry, PA	Verizon Wireless employee finds a doll with a noose tied around its neck with a note that she didn't deserve her promotion
Oct 2007	Philadelphia, PA	White construction worker holds noose up to black construction worker on site of a new Comcast tower saying he "wanted to hang someone." The black worker reported incident to supervisor who advised worker to call police
Oct 2007	New York City, NY	Columbia University – professor finds a noose hanging from her office door
Oct 2007	Valley Stream, NY	Black construction worker finds noose hanging in doorway. Reports incident to supervisor
Oct 2007	New York City, NY	Noose discovered on a light pole outside post office near Ground Zero
Oct 2007	Brooklyn, NY	NYPD officer finds noose hanging over his locker
Oct 2007	Garden City, NY	Noose found hanging at a Long Island public works garage
Oct 2007	Brooklyn, NY	Noose sent to Carnarsie high school principal, a black woman
Oct 2007	Roosevelt, NY	Two nooses found hanging from a forklift at the town highway yard. One noose hangs from the neck of a doll with tar spread on face
Oct 2007	Terre Haute, IN	A sanitation worker hangs a noose from his truck alleging that it was a part of his Halloween decorations
Oct 2007	Terre Haute, IN	A noose found on the campus of Indiana State University
Oct 2007	Atlanta, GA	A noose is found hanging around the neck of a bronze statue of rapper Tupac Shakur at the Tupac Shakur Center for the Arts
Oct 2007	Shreveport, LA	A noose is found in a doctor's break room at LSU Health Sciences Center in Shreveport
Oct 2007	Mobile, AL	Mobile Museum of Art security guards find a noose in a museum closet
Oct 2007	Fairfield, CA	An employee sees a noose hanging from a manager's bookshelf
Oct 2007	Houston, TX	Four contract workers hang a noose at FMC Technologies, an oil-field services equipment manufacturer

Adapted from DiversityInc.com

WHY DOES THIS INJUSTICE MATTER?

All of the recent events noted above, particularly as they relate to police misconduct and prosecutorial discretion, shine a light on the racial inequality that is apparent in the American criminal justice system. The overly aggressive handling of black youth by law enforcement entities as well as the racially discriminatory use of prosecutorial discretion represent a blatant disregard for the appropriate application of the law. In the noose cases, a few perpetrators were reprimanded; some cases remain under investigation while many have been dismissed as pranks. The undertone here seems to be reluctance on the part of some public and private entities to address hate crimes.

The problem of aggressively dealing with crimes of hate as well as racially disparate treatment in our criminal justice system must be addressed at every level of governance – from small towns and counties to major metropolitan cities. When the very people who are the caretakers of America's criminal justice system do not believe in equality under the law, it sends a message that racism and hate are acceptable.

The criminal justice system must live up to its Constitutional obligations to serve and protect all Americans with dignity and fairness regardless of race, ethnicity, gender, or religious creed. The violence and intimidation being witnessed today against African Americans is unacceptable and must be tackled head on. Racial disparity in the handling of the law makes a mockery of American democracy, suggesting that all persons are not viewed as being equal under the law.

WHAT CAN BE DONE TO ADDRESS THE CURRENT TIDE OF INJUSTICE?

There are a number of steps that can be taken to address the seemingly hostile environment currently being witnessed.

Big Picture:

- Vote to put into office individuals who are committed to a federal government that values civil rights enforcement. Many appointments to the U.S. Department of Justice and the EEOC, for example, come through the Executive branch. The U.S. Congress has the power to initiate and press for changes in hate crimes legislation. Congressional members also have the ability to deny confirmation of judges who are hostile to civil rights.
- Hold state and local officials accountable as well. Push for State Attorney Generals and prosecutors to apply the law equally for all citizens and when they fail to do so, call them on it. Those who are charged with enforcing civil rights laws need to do their jobs.

Other advocacy steps that can be taken (depending on the facts and circumstances of a case in a given community):

- Advocate for more police training on cultural awareness and how to interact effectively with minority communities. In order to be effective in communities of color, police officers must have the trust of the communities they serve. Until the scourge of abuse has been addressed, police officers will not be as effective in those communities, and the assertion that the American criminal justice is one that exacts fair treatment across the board will continue to be highly suspect;

- Advocate for more police training on 4th amendment (unreasonable search and seizure), 5th amendment (protection from self-incrimination), and 14th amendment (equal protection under the law) issues;
- Call for the swift prosecution of police officers and other law enforcement officials who engage in undeniable misconduct against civilians;
- Engage in greater outreach and education to African Americans on their rights in dealing with law enforcement (e.g., Miranda rights) as well as how to file a complaint should they become the victim of misconduct at the hands of police. In addition to highlighting African American mistrust of the police, the 2007 NAACP opinion survey also shows that a third of black respondents do not know if their local police department has a review process by which it investigates allegations of police misconduct or excessive use of force. Additionally, more than a third of the respondents indicate that they would not know where to go or what to do to file a formal complaint concerning misconduct;
- Call attention to cases where overcharging for an offense and disparate sentencing for the crime are clearly evident. Insist that local/state governmental entities and the academic community begin to collect data on these instances and produce more studies on overcharging and disparities in sentencing in order to highlight what is happening. The civil rights community can use this information to alert the public and force those within the justice system to explain these phenomena;
- Call on the Ethics Commission of the American Bar Association in the states to investigate overzealous prosecutors and judges who seem to have a pattern of applying the law unevenly when it comes to minority and white defendants;
- Advocate for greater diversity and sensitivity training in schools and in the workplace. Some of the perpetrators who have been held responsible for recent noose hangings have indicated that they did it as a “practical joke.” Other perpetrators were clearly being malicious. Places of business and educational centers must do a better job of letting their employees and students know that such intolerance is unacceptable;
- Advocates should push for tougher prosecution of hate crime laws by local and state officials. For example, the state senate in New York has passed a bill that makes it a felony to display a noose in a threatening manner.



A Note on Hate Crime Legislation...

Federal hate crime legislation permits federal prosecution of hate crimes committed on the basis of a person’s race, color, religion, or nation origin when engaging in a federally protected activity. This includes the federal government being able to intervene in the investigation and prosecution of hate crimes if they occur on federal property or if the victim was participating in one of six specific activities such as voting. Legislation currently pending (H.R. 1592 Local Law Enforcement Hate Crimes Prevention Act) would expand existing hate crime prevention laws and allow the federal government to assist local authorities in the investigation and prosecution of hate crimes regardless of what the victim was doing at the time of the crime. It would also expand the definition of a hate crime to include those motivated by the victim’s disability, gender or sexual orientation and it would provide money to states to develop hate crime prevention programs.

To date, 45 states and the District of Columbia have statutes criminalizing various types of bias-motivated violence or intimidation (the only states that do not are AR, GA, IN, SC, WY). Each of these statutes covers bias on the basis of race, religion, and ethnicity. The federal government as well as 27 states and the District of Columbia have statutes requiring the collection of hate crime statistics.⁷

Endnotes

¹ Stephanie Armour, "Racial Harassment Lawsuits at Work Go Up" *USA Today*, October 25, 2007

² 2007 NAACP Policy Opinion Survey. National Association for the Advancement of Colored People, November 2007

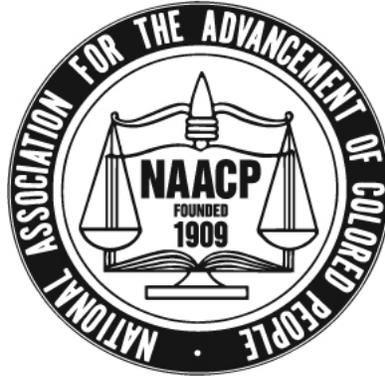
³ National Council on Crime and Delinquency, "And Justice for Some: Differential Treatment of Youth of Color in the Justice System," January 2007

⁴ *ibid*

⁵ Howard Witt "To Some in Paris, Sinister Past is Back" *The Chicago Tribune.com* March 12, 2007. (Accessed Oct. 31, 2007).

⁶ Diversity, Inc. Noosewatch <http://www.diversityinc.com> (Assessed November 1, 2007).

⁷ State Hate Crime Laws, Anti-Defamation League, June 2006. (Accessed Octoebr 29, 2007).



About the NAACP

The National Association for the Advancement of Colored People (NAACP), founded in 1909, is the oldest civil rights organization in the United States of America. The NAACP works to end racial discrimination while also ensuring the political, social, and economic equality of all people. As a leader in social justice, the NAACP is dedicated to closing the disparities gap faced by people of color across the globe by promoting fair and equitable human rights and economic justice.

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