

Crime, Punishment and Black Politics

by **Katti Gray**

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The day bullies dared to gang up on a lone teenager smack atop Jimmy Smith's meticulously kept lawn, his reflexes kicked in. "Sanctuary over here!" he hollered, dashing out of his Chicago home and firing his Beretta revolver skyward. "Ain't nobody dying up in my yard today. Let that boy go."



The attack ended, the attackers high-tailing it off Smith's property. "I was determined to stop what was going down," he says of that assault 30 years ago.

Then—as now—his corner of the North Avalon section of the Windy City's mostly Black South Side was a study in contrasts. Strivers like him, a retired community college administrator, and his wife, who works in banking, live there. So do some of the city's chronically poor. They hail from families set further adrift when the government, decades ago, dynamited Chicago's worn housing projects. Displaced families used their reconfigured government subsidies to rent houses alongside people like the Smiths—people unabashedly tough-on-crime and certain that the poor commit a disproportionate share of it.

Just the other day, Smith says, someone in a house across from his place was smoking crack in plain view. It makes you angry, he says, and breaks your heart. And it can make even a community-minded, pro-Black kind of Black American ambivalent about how severely criminality should be adjudicated, who should be locked up and the extent to which Black people should care.

That ambivalence was revealed dramatically last week, when Detroit police shot and **killed 7-year-old Aiyana Stanley-Jones**. While many people raged against the police, many others roared just as loudly about the family's alleged relation to a murder case cops were investigating. The sentiment complicates the goals of an increasingly mainstream set of voices, who are arguing that criminal justice reform is a defining political issue for Black Americans.

The NAACP's young executive director Ben Jealous, for instance, has made criminal justice reform a signature issue since taking the group's helm. The Congressional Black Caucus and other lawmakers have tried to make sentencing reform a priority while Democrats control Congress. And Ohio State University law professor and litigator Michelle Alexander stirred discussion this spring by positing Black imprisonment as modern slavery in

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her book, [The New Jim Crow: Mass Incarceration In the Age of Colorblindness](#).

Bryan Stevenson, founder and director of the Montgomery, Ala.-based [Equal Justice Initiative](#), says all of these efforts can be hard sells inside Black America itself. “We’re quick to respond to [cases] of driving-while-black because that also is affecting doctors and lawyers,” he says. “But there seems to be a real pressure in the African American community, in the minority community, to throw away the ‘dysfunctional,’ the ‘impoverished,’ the ‘broken’ so that the elite can feel welcomed into the mainstream with less fear and prejudice.”

“I’m not trying to minimize the elites, but I am saying that we’re paying too little attention to the fact that 200,000 African Americans were in prison in 1972 and 2.3 million are there today. Five million more are on probation. And they have children, siblings, parents, spouses—so there’s 10 million to 15 million who are affected by mass incarceration. A lot of us just don’t want to talk about that.”

Stevenson’s group is slated in June to release a report on eight southern states where, among other official corruption, prosecutors had been formally trained on how to keep Blacks off juries. That’s the kind of practice that many people would immediately identify as an injustice. But Alexander says more nuanced problems are too often lost on African Americans who don’t encounter law enforcement daily—even for herself.

Alexander points to a case she worked on that charged California police officers with systematic racial profiling. As she was interviewing potential plaintiffs, she explains, a 19-year-old Black man “came in with a stack of papers. Every stop, every time he’d been searched. He had times, dates, locations, witnesses, names of officers—far more documentation than anyone. He was smart, persuasive, a dream plaintiff.”

Until he said he also was a felon (and insisted that he was wrongly convicted, after Oakland police planted drugs on him). “I just went silent,” Alexander recalls. “I said ‘Sorry, we can’t use you. The media will be all over us. We’ll have so much difficulty in court.’ He grabbed his papers out of my hand and started ripping up all those notes he’d so painstakingly taken.”

Not long after that encounter, one of the officers listed on the young man’s handwritten notes was arrested, with several of his colleagues, for planting drugs on Oakland residents and arresting them on false charges. “He changed my life,” says Alexander. “I had to ask myself some hard questions.”

The incident also reinforced the long-term impact of mass incarceration. “Millions of Black people have been rounded up, branded as felons and released into permanent second-class status,” says Alexander. “This vast new caste-like system has emerged with [too] little resistance from us.”

Reginald Dwayne Betts, an ex-felon and [author of the book A Question of Freedom](#), testifies to the point. At 16, he pleaded guilty to carjacking and was sentenced to nine years in prison, where he became a model inmate and scholar. “But I was refused what was supposed to be a guaranteed scholarship to Howard University,” says Betts, a poet, father, Master of Fine Arts candidate, 2010 Soros Foundation Justice Fellow and NAACP Image Award winner. “Some will argue that it was the bureaucracy that prevented me from making use of that scholarship, and it might have been,” Betts says. “But those kinds of obstacles are woven into the fabric of how we function in this society and into what formerly incarcerated people come up against daily.”

The long term impact of mass incarceration, on both individuals and neighborhoods, that Betts points to is one of the places reform advocates hope they can make inroads among people who don’t embrace the issue so readily. “In Mississippi, prisons are not just a modern tool of Jim Crow; they are a continuation of Jim Crow-ism that never ceased to exist,” says attorney Derrick Johnson, president of the Mississippi NAACP. “You can write a bad check in Mississippi, one for as little as \$20, and lose your right to vote.” The Equal Justice Initiative’s Stevenson adds that 34 percent of Black men in Alabama cannot vote on account of their criminal records.

The differential policing that drives those numbers can also be compelling to ambivalent folks like Chicagoan Jimmy Smith. This month, the New York Times reported that Blacks and Latinos were nine times more likely

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than whites to be [subject to New York City's "stop and frisk" campaign](#) in 2009. "There are Black folks who without a doubt belong in prison," Smith says. "But this crime thing is tricky thing for our community. There are so many sides to what's going on."

*A previous version of this article incorrectly identified the city in which the Equal Justice Initiative is based.

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