

Advisory Memorandum

To: The U.S. Commission on Civil Rights

From: Maine Advisory Committee to the U.S. Commission on Civil Rights

Date: December 7, 2017

Subject: Summary and Analysis of Racial Discrimination in Criminal Prosecution and Sentencing in Maine

The Maine Advisory Committee to the U.S. Commission on Civil Rights (Committee) convened a public briefing on Thursday, August 14, 2014, to gather information from government and elected officials, legal experts, and others regarding race-based disparities in sentencing and criminal prosecution in Maine. The Committee heard testimony about the status of fair sentencing and potential ways to address racial sentencing disparities, if found.

This Advisory Memorandum will serve the following purposes: 1) outline the background and national context for the Committee's project; 2) report findings and themes from the August 14, 2014, public hearing;¹ 3) list the Committee's recommendations for systemic improvements in addressing racial disparities in Maine; and 4) conclude the Committee's project on the analysis of racial discrimination in criminal prosecution and sentencing in Maine. This memo and the recommendations included within it were adopted by unanimous vote of the Committee on June 16, 2017.

Background:

In 2014, the Committee decided to explore the issue of sentencing disparities after learning that the rate of incarceration in the United States is far higher than any other industrialized nation. The current rate is also unprecedented in U.S. history. Around 2.2 million people are incarcerated in the United States, making up approximately 25 percent of all those imprisoned in the world.² More than 60 percent of those incarcerated are racial and ethnic minorities and tend, on average, to receive harsher sentences than whites.³ These figures challenge the guarantee of a fair and effective criminal justice system. In recent years, these sentencing disparities have become widely recognized as an important civil rights issue. In Maine, while data is limited, the issue of disparities warranted exploration in the eyes of the Committee.

In Maine, in 2010, black adults were 3.64 times more likely to be arrested than white adults, and black juveniles were 3.83 times more likely to be arrested than white juveniles.⁴ In York County, the statistics were most dramatic; black youths were 8.71 more likely than white youths to be arrested for drug crimes. Across the state, black people were 6.53 times more likely to be

¹ See Appendix 1 for a summary of the agenda; see Appendix 2 for a content summary of the speakers.

² The Sentencing Project, Fact Sheet: Trends in U.S. Corrections 2 (2017), <http://www.sentencingproject.org/publications/trends-in-u-s-corrections/>.

³ Nazgol Ghandnoosh, The Sentencing Project, Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies 25-26 (2014) <http://www.sentencingproject.org/publications/race-and-punishment-racial-perceptions-of-crime-and-support-for-punitive-policies/>.

⁴ Hearing Before ME Advisory Committee to the U.S. Comm'n on Civil Rights, Aug. 14, 2014 (Aug. 2014) p. 166 line 6 to p. 170 line 15 (statement of Zachary L. Heiden, Legal Director, ACLU ME.) [hereinafter Transcript].

incarcerated than white people.⁵ Further evidence comes from The Maine Juvenile Justice Advisory Group, which published a series of studies concerning “Disproportionate Minority Contact” (DMC). In Cumberland County—Maine’s largest county—black youth are arrested, referred, and detained at higher rates than white youth (around 1.33 times), and black youth are diverted at a little more than half the rate of white youth.⁶

Assertions and themes from the August 14, 2014 Lewiston City Hall Public Briefing:

- 1) **Sentencing reform is needed, especially regarding mandatory minimum sentences for non-violent drug offenders.**⁷ Black drug defendants are 20 percent more likely to be sentenced to prison than white drug defendants and 21 percent more likely to have mandatory minimums applied. Black people constitute 46 percent of drug defendants even though Black/African-Americans make up only 13 percent of drug users. Senator Angus King expressed optimism that sentencing reform can be accomplished; such reform has substantial bipartisan support as evidenced by the Smarter Sentencing Act of 2014.⁸ Thomas Delahanty, the U.S. Attorney for Maine, stated that the criminal justice system should be more lenient on non-violent offenders who did not have a leadership role in crime, were not making profits from crime, and who possess little or no prior record.⁹ Overall, numerous people remarked that mandatory minimum sentencing reduces, or eliminates, judicial discretion and imposes sentences that injudiciously punish people.
- 2) **Data collecting and reporting is paramount for enacting change in Maine.** There may be systems already in place regarding the reporting of sentencing and incarceration for people of color; however, these systems are both disparate and not uniform. Maine must appraise the data reporting it already has and consolidate and combine reporting systems. Furthermore, Maine must require the reporting, at minimum of a quarterly basis, of relevant information to the state legislature. Reports should also be publicly available. Professor Cynthia Jones recommends that the state of Maine ask law enforcement officials about what, if any, data is collected on racial disparities in the Maine criminal justice system.¹⁰ The quantity and quality of the data should be assessed, and steps should be taken to improve data collection where necessary. Maine should then consult skilled social scientists to analyze the data and determine where racial disparities exist in the Maine criminal justice system.¹¹
- 3) **Parole serves as a mechanism for reducing the number of incarcerated individuals.** Maine eliminated its parole program in 1976. Each person sentenced since that time has not had an opportunity to show they have been rehabilitated. All other New England

⁵ *Id.*

⁶ ROBYN DUMONT, ERICA KING & GEORGE SHALER, DISPROPORTIONATE CONTACT: YOUTH OF Color IN MAINE’S JUVENILE JUSTICE SYSTEM 2 (2015) <https://www1.maine.gov/corrections/jjag/PDF/DMC.FINAL.05.15.2015.pdf>.

⁷ Transcript (statement of Angus King, U.S. Senator, ME) p. 25 lines 2-28, line 12.

⁸ *Id.*

⁹ Transcript (statement of Thomas E. Delahanty II, U.S. Attorney, ME.) p. 103 lines 21-111, line 23.

¹⁰ Transcript (statement of Cynthia Jones, Professor, Washington College of Law) p. 7 lines 6-13, line 16

¹¹ *Id.*

states have parole. If Maine reinstated parole, it is estimated that the state could save around \$2.5 million annually.¹² Parole may serve to incentivize prisoners' good behavior; it will also address the overcrowded prisons in Maine. The Committee concludes that Maine should revisit the idea of reenacting the parole mechanism, and evaluate if it leads to improved outcomes (e.g. reduced recidivism, decrease in violent incidents in prison, etc.) for prisoners.

- 4) **Youth of color are at high risk for experiencing the criminal justice system.** Young people are more prone to be influenced by the actions of their peers than are adults. High crime rates in areas with substantial communities of color thus disproportionately impact youths of color.¹³ Furthermore, youth who have emigrated from other countries may not be aware of law and criminal justice in the United States; the first time they may interact with the system is when they are arrested. Research indicates that juveniles who feel empowered throughout their interaction with the criminal justice system (understand what is happening, that they have a sense of agency and representation throughout criminal justice proceedings) experience a lower recidivism rate and better outcomes.¹⁴
- 5) **Systemic racism exists throughout the criminal justice system.** Leonard Sharon, chair of the Governor's Pardon Board, remarked that there are virtually no black/African American members or stakeholders of the Maine criminal justice system. There is only one black judge (Justice Rick Lawrence) in Maine.¹⁵ Michael Parker, founder of the Maine State Prison NAACP, noted that many defendants of color are sentenced by all-white juries. He recommended increasing the number of people of color in positions of authority in law enforcement agencies.¹⁶
- 6) **High rates of incarceration of people of color in Maine are evidence of a systemic imbalance in the way that defendants are treated in all phases of the criminal justice system.** Although white people and black people generally engage in criminal behaviors at roughly the same rates, black people are far more likely to be punished by the Maine criminal justice system.¹⁷ Black people in Maine are 3.68 times more likely to be arrested than white people in the state. Black youth in Maine are 3.83 times as likely as white youth to be arrested. Most shockingly, black people in Maine are more than 6.5 percent as likely as white people to be incarcerated.¹⁸

¹² Transcript (statement of Michael Parker, Founding President, NAACP Maine State Prison Branch) p. 79 lines 8-83, line 13.

¹³ Transcript (statement of Barlett Stoodley, Chair, Maine Juvenile Justice Advisory Group) p. 87 line 7 to p. 102, line 6.

¹⁴ *Id.*

¹⁵ Transcript (statement of Leonard Sharon, Defense Attorney, Founder and former President of Maine Association of Criminal Defense Lawyers) p. 152 line 24 to p. 163 line 8.

¹⁶ Transcript (statement of Parker) p. 79 line 8 to p. 83 line 13.

¹⁷ *See also*, Christopher Ingraham, "Black men sentenced to more time for committing the exact same crime as a white person, study finds," Washington Post, Nov. 16, 2017 (noting that "Black men who commit the same crimes as white men receive federal prison sentences that are, on average, nearly 20 percent longer, according to a new report on sentencing disparities from the United States Sentencing Commission (USSC).")

https://www.washingtonpost.com/news/wonk/wp/2017/11/16/black-men-sentenced-to-more-time-for-committing-the-exact-same-crime-as-a-white-person-study-finds/?utm_term=.f883644914f6 (last accessed Dec. 29, 2017).

¹⁸ Transcript (statement of Heiden) p. 166 line 6 to p. 170 line 15.

Recommendations:

Based upon the Committee's themes and assertions from the public hearing, it recommends the following:

- 1) **Mandate data collection, sharing, and regular reporting.** The legislature should task a relevant stakeholder (such as the Joint Standing Committee on Criminal Justice and Public Safety) to evaluate data collection systems already in place in Maine. Once an evaluation is completed, data systems should be consolidated and streamlined. The legislature can mandate through statute, or the Governor through executive action, that systems such as the Maine Department of Corrections must collect and publicly issue quarterly reports regarding demographics of incarcerated persons. Furthermore, other levels of the criminal justice system must engage in data collection and reporting, such as prosecutors and police officers. In order to identify the scope of racial disparities that exist in Maine, better data collection and reporting is necessary. Reporting from the local level will also allow for targeted intervention. Racial disparities may be more evident in certain counties than others, warranting targeted action.
- 2) **Revisit sentencing, especially mandatory minimum sentencing.** Since 1976, the state of Maine has largely left alone the criminal code. The legislature must revisit sentencing for crimes, especially nonviolent drug offenders. Furthermore, the state should consider reestablishing parole eligibility. Over time, statutes have stripped judges of considering all relevant aspects of a trial, including subjective data. While funding may be an issue for revisiting guidelines – *i.e.*, the money required to establish a committee to analyze and create recommendations for sentencing – it costs Maine millions of dollars annually to house prisoners. Furthermore, the incarcerations of Maine residents amounts to a loss of economic productivity which could enhance the overall economy of the state.
- 3) **Address systemic racism throughout the criminal justice system.** Special programming should be instituted that 1) supports and trains criminal justice staff (e.g. policeman, prosecutors, etc.) in identifying and eliminating implicit bias and systemic racism, and 2) encourages and recruits people of color to hold criminal justice offices and positions. Latter programs may be established in schools in order to engage youth of color. This action could foster relationships between communities of color and criminal justice agents. Increasing the number of people of color in positions of authority would increase accountability of law enforcement officials in cases that involve defendants of color. People of color account for a very small percentage of law enforcement positions that exert discretion over criminal cases.
- 4) **Protect juveniles.** As mentioned in a prior recommendation, criminal justice agents should reach out to people of color in order to increase basic knowledge of criminal justice, which would increase agency of people of color in the criminal justice system. Juveniles of color disproportionately are incarcerated, which often leads to high recidivism rates. Maine may look to the Community Oriented Policing Services office at the U.S. Department of Justice for examples, grants, and guidance.

Conclusion:

This Advisory Memorandum concludes the Committee's project on the analysis of racial discrimination in criminal prosecution and sentencing in Maine. The transcript of the Lewiston meeting and other relevant Committee documents are available at <http://facadatabase.gov/committee/meetings.aspx?cid=258>.

For more information, please contact the Eastern Regional Office.

Appendix 1: Briefing Agenda

Maine Advisory Committee U.S. Commission on Civil Rights

Lewiston City Hall
City Council Chambers
27 Pine Street, Lewiston, ME 04240

Thursday, August 14, 2014
12:30 p.m.

BRIEFING AGENDA

I. Welcome and Introductions

II. Briefing

Background and National Context

Cynthia Jones
Professor, Washington College of Law

Gail Kezer
Office of U.S. Senator Angus S. King

Panel One:

Sen. Stan J. Gerzofsky
Chair, Joint Standing Committee on Criminal Justice and Public Safety

Rep. Mark N. Dion
Chair, Joint Standing Committee on Criminal Justice and Public Safety

Panel Two:

Brandon Brown
President, NAACP Maine State Prison Branch

Michael Parker
Founding President, NAACP Maine State Prison Branch

Panel Three:

Barlett Stoodley
Chair, Maine Juvenile Justice Advisory Group (JJAG)

Former Maine DOC Associate Commissioner of Juvenile Services

Panel Four:

Thomas E. Delahanty II (tentative)
U.S. Attorney for the District of Maine

Halsey Frank
Assistant U.S. Attorney

Kevin Joyce
Cumberland County Sheriff

Andrew Robinson
Deputy District Attorney, Androscoggin

Panel Five:

Zachary L. Heiden
Legal Director, ACLU of Maine

Leonard Sharon
Defense Attorney
Founder and former president of Maine Association of Criminal Defense Lawyers

III. Adjournment

Appendix 2: Testimony Overview

Background and National Context

Cynthia Jones, Ph.D

Ms. Jones addressed the issues of identifying racial disparities in Maine’s criminal justice system and remedying these disparities should they be found. Ms. Jones testified that Maine’s criminal justice system lacks data that would aid analysis of racial disparities and strong bias typically distorts such data.

Ms. Jones explained that the discretionary nature of the criminal justice system inherently opens the door for racial disparity to occur. It is important to analyze to what extent implicit biases influence the discretionary decisions that law enforcement officials make at each stage of the criminal justice system.

Discretionary decisions are made by a myriad of law enforcement officials at various stages of the criminal justice process. Ms. Jones stressed the importance of giving these officials a platform to share their experiences concerning racial disparity; judges, prosecuting attorneys, defense attorneys, and police officers should be encouraged to share their knowledge of the issue.

Ms. Jones recommends that the state of Maine ask law enforcement officials about what if any data is collected on racial disparity in the Maine criminal justice system. The quantity and quality of the data should be assessed, and steps should be taken to improve data collection where necessary. Maine should then consult skilled social scientists to analyze the data and determine where racial disparities exist in the Maine criminal justice system.

Gail Kezer

Ms. Kezer represents the Office of U.S. Senator Angus S. King. Ms. Kezer read Senator King’s written statement into the record at the briefing.

Senator King wrote “there is no question” that harsh sentencing penalties have created an overcrowded prison system and substantial disparities in the treatment of Americans of certain races and socioeconomic statuses. Senator King noted that African-American drug defendants are 20 percent more likely to be sentenced to prison than white drug defendants and 21 percent more likely to have mandatory minimums applied. African-Americans constitute 46 percent of drug defendants even though African-Americans make up only 13 percent of drug users. Senator King expressed optimism that sentencing reform can be accomplished; such reform has substantial bipartisan support as evidenced by the Smarter Sentencing Act of 2014. The Act reduces mandatory minimum sentences for nonviolent drug offenders and expands the discretion of federal judges to impose shorter sentence for nonviolent drug offenders if they deem it appropriate. The Act will ultimately reduce the number of inmates and thereby ease the financial burden imposed by overcrowded prisons. It will also reduce racial disparities in the treatment of non-violent drug offenders.

Panel One

Sen. Stan J. Gerzofsky

Senator Gerzofsky has served on the Committee on Criminal Justice and Public Safety since 2000. The Committee's 2004 report stated that mandatory sentences imposed by statute are sometimes "completely inappropriate" in particular cases.

Senator Gerzofsky also claimed that Maine "[hasn't] looked at its criminal code since 1976," implying that the criminal code should be reevaluated and perhaps altered. Lack of funding has unfortunately halted previous efforts to undertake this initiative.

Senator Gerzofsky urges the Maine legislature to readdress its mandatory sentencing guidelines. The Maine population is becoming increasingly diverse, and minorities in Maine who move to new communities are sometimes pulled over by police officers without cause. As Maine's population becomes increasingly diverse, the need for sentencing reform becomes ever stronger according to Senator Gerzofsky.

Rep. Mark N. Dion

Mr. Dion is a representative in the city of Portland and part of the town of Falmouth. Mr. Dion currently serves as co-chair for the Joint Standing Committee on Criminal Justice and Public Safety.

Mr. Dion examined the origins of criminal sentencing in Maine. His primary claim is that racial disparity is fostered by design because the criminal justice system is "far more harsh" in its treatment of people who lack economic resources. Poor people in jail frequently remain incarcerated merely because they are poor, not because they are a threat to public safety.

Dion claims that statutes over time stripped judges of the ability to consider subjective data in assessing the totality of the circumstances that defined each individual defendant. Mandatory sentences had the effect of removing the faces of the defendants and preventing judges from considering all relevant aspects of a particular trial.

Mr. Dion testified that Article IX of the Maine Constitution sets a higher bar for judicial performance in criminal cases than what is required under the pronouncements against cruel and unusual punishment outlined in the Eighth Amendment of the United States Constitution. The Maine Constitution demands that the punishment for a crime be proportional to the offense. Maine's Declaration of Rights as a whole suggests that the proportionality standard was intended as an instrument to guarantee basic justice and fairness for Maine citizens convicted in Maine state courts. Given that crime control is largely a state responsibility – 94 percent of all felony convictions surveyed by the United States Department of Justice Bureau of Assistance were realized in state court – Mr. Dion argues that sentencing reform is best achieved by the state legislature under its police power.

Panel Two

Brandon Brown

Mr. Brown is the current president of the NAACP prison branch. Mr. Brown testified to the existence of "very inconsistent" practices in sentencing of defendants in Maine. African-Americans inmates are far more likely than white inmates to serve long terms of imprisonment. Mr. Brown recalled the importance of remembering that prosecutors and judges are also human beings who are prone to occasionally make mistakes.

Mr. Brown advocated for legislation that would establish programs to investigate potential disparate treatment of inmates in Maine. Mr. Brown suggested that such programs will be worthwhile even if a comparatively small portion of Maine's inmates are treated differently on the sole basis of their race.

Mr. Brown also claimed that judges' decisions might sometimes be influenced by the race of the defendant. Mr. Brown worries that judges make incorrect assumptions about certain defendants before the judge has even examined the facts of the case.

Finally, Mr. Brown calls for a change in the way judges treat people who have previously been convicted of a crime. Mr. Brown acknowledged that one of the primary purposes of the prison system is to rehabilitate inmates and prepare them to be productive members of society upon their release. Mr. Brown stressed the importance of judges' role in accepting these people back into society.

Michael Parker

Mr. Parker is the founding president of the Maine State Prison NAACP. The organization works to positively impact prisoner voting rights as a whole, to address the lack of reentry programs and prisoners' connections to their families at the Maine State Prison. The Maine State Prison NAACP also addresses disparities in the sentencing of defendants on the basis of the defendants' race.

Mr. Parker shared his own experiences with the Maine State Prison; he himself was incarcerated there after being sentenced to 30 years imprisonment. While in prison, Mr. Parker developed an interest in sentencing patterns of inmates in the state of Maine, particularly with how defendants' race played a part in the sentencing. Mr. Parker noted that many minority defendants in Maine are sentenced by all-white juries. While acknowledging that Maine is a predominantly white state, Mr. White called for greater representation of minorities at each stage of the criminal justice system.

Mr. Parker identified increased accountability as one of the most promising solutions to the problem of sentencing disparities in Maine. Increasing the number of minorities in positions of authority would increase accountability of law enforcement officials in cases that involve minority defendants. Minorities account for a very small percentage of law enforcement positions that exert discretion over criminal cases.

Panel Three

Bartlett Stoodley

Mr. Stoodley worked for the Department of Corrections for 43 years prior to his retirement. Mr. Stoodley focused on the issue of parole and the relationship between the parole officer and parolee throughout the parole process.

Mr. Stoodley expressed general concern about the parole process in Maine and the typical relationship between a parole officer and a parolee. Maine is in need of a comprehensive plan to reform the parole system in state prisons. The first step in accomplishing that plan is to bring people together from all relevant state agencies to gather information about the shortcomings of the parole system and how it can be improved. According to Mr. Stoodley, the reform plan should be developed based on the evidence brought forth by law enforcement officials at all different stages of the parole process.

Mr. Stoodley also described certain shortcomings of the juvenile prison system in Maine. Mr. Stoodley described the results of meta-data research into the differences between juvenile criminals and their adult counterparts. Most significantly, the research indicated that young persons are not fully mature in terms of their risk-assessment when they commit crimes. Moreover, young people are more prone to be influenced by the actions of their peers than are

adults. High crime rates in areas with substantial minority populations thus disproportionately impact minority youths.

For all these reasons, Mr. Stoodley advocated for comprehensive reform of the Maine juvenile justice system. The ultimate goal of this reform would be to better protect the rights of young persons in the criminal justice system, especially minority youths who are disproportionately impacted.

Panel Four

Thomas E. Delahanty II

Mr. Delahanty is the United States Attorney for the District of Maine. Mr. Delahanty began by explaining that while a disparity might exist, it is important to remember that judges consider a myriad of factors when analyzing a particular case. Among these are, of course, the unique facts of the case at hand, but the dispositive factor is often the relevant sentencing guidelines for the type of case.

Anywhere between 40 and 50,000 prisoners may be released as a result of proposed sentencing reforms. Such a potentially massive undertaking will certainly take time to resolve and the District Attorney stressed the need for patience as reform is implemented throughout the criminal justice system.

According to the District Attorney, the criminal justice system should be more lenient on non-violent offenders who did not have a leadership role in crime, were not making profits from crime, and who possess little or no prior record. The prison system is overcrowded with individuals serving excessive sentences, and the solution is to reduce mandatory minimums for inmates who match the characteristics described above. Mr. Delahanty went so far as to express his personal opinion that he is generally not in favor of minimum mandatory sentences.

Halsey Frank

Mr. Frank has been a criminal prosecutor for over 25 years. He is currently an Assistant U.S. Attorney for the District of Maine. Mr. Frank said that he finds sentencing guidelines useful as a tool for criminal prosecutors. The two major factors relevant to sentencing guidelines are defendant's criminal history and an evaluation of severity of the particular offense for which the person stands trial.

An individual's "criminal history" is largely a function of the number and severity of previous convictions. Crimes fall into categories on the basis of their severity and are ranked using a number system. This system allows prosecutors an easy benchmark from which to evaluate defendants and better understand the merits of the state's case against an individual. Mr. Frank stated that from his experience in the Maine criminal justice system there are not too many minority defendants; in his own words, "We don't have a lot of minority defendants."

According to Mr. Frank, the most important role of the criminal justice system is to control and deter antisocial behavior with punishment. While punishment is not the only solution to the problem, it is one part of the larger solution. Mr. Frank stated repeatedly stated his belief that sentencing guidelines are useful in implementing this important aspect of the criminal justice system.

Andrew Robinson

Mr. Robinson has been a prosecutor in the third District for 15 years. Mr. Robinson began by explaining that comparison of the charge and the sentence handed down does not always accurately reflect the existence of disparity in the treatment of defendants.

The sentence in itself does not provide all of the relevant information to determine whether a disparity of treatment has occurred. It is important to remember that the vast majority of cases do not even go to trial, but rather are settled pre-trial via a plea bargain. The terms of plea bargains are routinely negotiated by prosecuting and defense attorneys and typically follow historical guidelines established by previous cases. The sentence for a particular individual is based primarily on the severity of the crime and on the individual's criminal history.

In sum, Mr. Robinson explained that merely comparing one individual's sentence to another does not accurately reflect whether a disparity has occurred.

Kevin Joyce

Sherriff Joyce testified that every prisoner is initially brought to county jail before potentially being sent to state prison or wherever their final destination might be. Approximately 10,000 bookings are done at Cumberland county Jail every year. Sherriff Joyce presented a series of graphs to support his assertion that "white people are predominantly getting in trouble far more than anybody else."

Panel Five

Leonard Sharon

Mr. Sharon is chairman of the Governor's Pardon Board. Mr. Sharon testified that he does not think there is implicit racism in the Maine prison system – he thinks it is more explicit than implicit.

Mr. Sharon expressed his wholehearted agreement with the testimony of Mr. Parker. There has never been an African-American prosecutor in the state of Maine. There is one African-American judge who sits in the lowest level of the court system. According to Mr. Sharon, "There are no African-American defense lawyers in this state. The system has been run from the beginning by white people."

Mr. Sharon claims that the lack of minorities in positions of power in Maine's criminal justice system makes it more likely for minorities to fall victim to the criminal justice system. Mr. Sharon stated that while most cases are handled by plea bargains, the guidelines governing these bargains tend to be weighted heavily against people of color. Mr. Sharon described sentencing as merely one of the most visible problems in a long line of atrocities in the criminal justice system. Sentencing might be the end result of a system where race is a factor from beginning to end in the treatment of defendants.

Zachary L. Heiden

Mr. Heiden is the legal director of the American Civil Liberties Union. Mr. Heiden presented a series of statistics concerning rates of arrest in the state of Maine. Black people in Maine are 3.68 times more likely to be arrested than white people in the state. Black youth in Maine are 3.83 times as likely as white youth to be arrested. Most shockingly, black people in Maine are more than 6.5 percent as likely as white people to be incarcerated.

According to Mr. Heiden, the staggeringly high rates of incarceration of minorities in Maine are evidence of a systemic imbalance in the way that defendants are treated in all phases of the criminal justice system. Although white people and black people generally engage in criminal

behaviors at roughly the same rates, black people are far more likely to be disproportionately punished by the Maine criminal justice system.