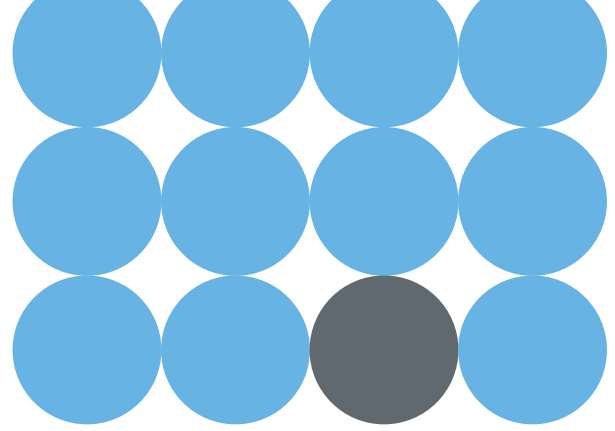


Social Justice Brief

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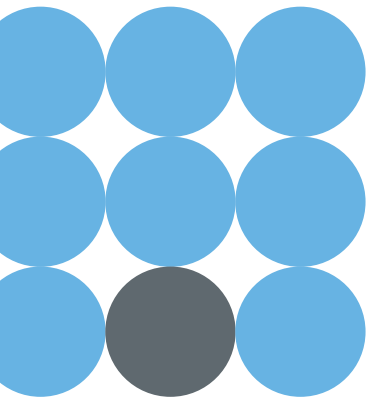
Ferguson, Missouri Aftermath: National Implications for Disparities in the Criminal Justice Continuum

The primary mission of the social work profession is to enhance human well-being and help meet the basic human needs of all people, with particular attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty.



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The National Association of Social Workers (NASW) is the largest membership organization of professional social workers in the world, with nearly 135,000 members. NASW works to enhance the professional growth and development of its members, to create and maintain professional standards, and to advance sound social policies.



Ferguson, Missouri Aftermath: Overview & Recommendations

It has been two months since the shooting death of 18-year-old Michael Brown at the hands of a Ferguson, Missouri police officer. Since that time, there have been vociferous condemnations of the shooting from African Americans and others in Ferguson and national civil rights and social justice organizations, including NASW. There has also been local and national collaboration among diverse organizations to begin the process of addressing the root causes that have precipitated incidents of police using deadly force against people of color. In addition to the effort from non-governmental organizations, the U.S. Department of Justice (DOJ) has mobilized its resources to create long-term solutions that will greatly reduce violent and sometimes lethal encounters between police and the public, especially young black or Hispanic men.

In what is surely a case of art imitating life, parts of Ralph Ellison's *Invisible Man* (written in 1952) spoke directly to the use of excessive force by the police and the community response. For example, the novel depicts an encounter with police and a black character named Tod Clifton:

Clifton sees some white police officers coming toward him and sweeps up his Sambo dolls, hastening around the corner. Apparently Clifton knows that he is not allowed to sell his dolls on the street. Clifton bids the audience that had gathered to watch his display to follow him. The narrator spots one of the dolls left behind and begins to crush it with his foot. Seeing one of the policemen nearby, however, he picks up the doll and puts it in his briefcase. He begins walking away, but as he comes around another corner he sees a huge crowd gathered. Clifton stands in the midst of it, flanked

by policemen. The narrator then sees Clifton strike one of the officers, and the officer draws his gun and shoots Clifton dead.

The novel further describes the anger the community felt about Clifton's death, the subsequent protest speech at Clifton's funeral, and an eventual riot that is partly attributed to the police shooting Clifton. The relevance of *Invisible Man* to Ferguson is that the nation has been publicly grappling with difficult relationships between minority communities and law enforcement for decades.

Over the years, there have been periodic upheavals in the form of street protests and even riots in response to police misconduct. After each reaction, there have been calls for reforms to address the problem. The genesis of contemporary concepts of community policing is from the anti-Vietnam War and

Civil Rights protest era of the 1960s and 1970s. In that era, citizens began to take a stronger hand in the development of policies and practices that affected their lives. The police force's inability to handle urban unrest in an effective and appropriate manner brought demands by civic leaders and politicians for a reexamination of police practices. Between 1968 and 1973, three presidential commissions made numerous recommendations for changes in policing.

The next major law directed at improving law enforcement practices and procedures came in 1994 under the *Violent Crime Control and Law Enforcement Act of 1994*, which provided \$30.2 billion over six years for crime control and related social programs. State and local law enforcement would receive \$10.8 billion of this, \$9.9 billion for prisons, and \$6.9 billion for crime prevention. The largest portion of this funding went to community policing. This bill created an \$8.8 billion-program for 100,000 police officers nationwide.

As we emerge from the initial reaction to Ferguson, what is evident is that the *root causes* of the deep distrust between law enforcement and communities of color have remained essentially the same since *Invisible Man* and persisted despite legislative reforms. Most agree that the root causes that foment incidents such as Ferguson include:

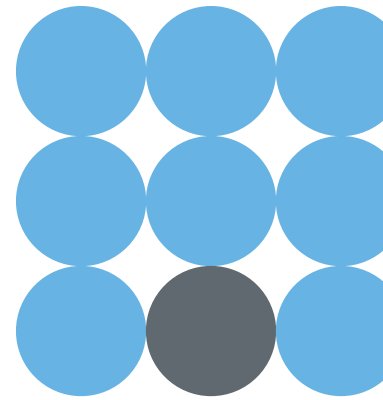
- » A breakdown of a mutually respectful relationship between the police and large segments of the communities they serve;
- » The encouragement of aggressive law enforcement in inner cities by *War on Crime* and *War on Drugs* policies and laws which disproportionately impacted young black and Latino people;

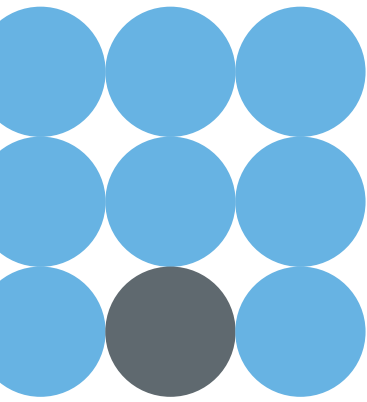
- » A documentable and/or widely perceived pattern of racial/ethnic profiling of persons of color who live in a given community;
- » Disparities in hiring and promoting persons of color for law enforcement positions;
- » Documented or widely perceived patterns of excessive use of force during the apprehension and arrest process that results in injuries and/or deaths of the detainee;
- » The documented or perceived lack of due process and/or lack of responsiveness from law enforcements, prosecutors and the courts related to official charges of excessive force made by persons of color; and
- » Documented disproportionate stopping and arrests of persons of color for low-level, non-violent crimes such as simple possession of marijuana or being pulled over for very minor traffic infractions.

There is an emerging organized effort by government and civil rights/criminal justice coalitions to view Ferguson as a catalyst for bringing serious long-term changes to law enforcement use-of-force policies to fruition.

In addition, NASW and other organizations see the aftermath of Ferguson as an opportunity to end racial profiling by law enforcement. Racial profiling is the main reason for disproportionately higher arrests and police encounters for young men of color as compared to their white counterparts.

For example, a useful barometer for assessing the degree to which there is a racial disparity in being stopped by police is traffic-related stop data. The table (next page) shows the disparities in traffic-related encounters by the Ferguson, Mo. police during 2013. In looking at the "stop" data, we immediately see the disproportionality between blacks as





RACIAL PROFILING DATA/2013
Agency: Ferguson Police Dept.

Population: 15,865
 age 16 and over

| KEY INDICATORS | Total | White | Black | Hispanic | Asian | Am. Indian | Other |
|------------------------|-------|-------|-------|----------|--------|------------|--------|
| Stops | 5384 | 686 | 4632 | 22 | 12 | 8 | 24 |
| Searches | 611 | 47 | 562 | 1 | 0 | 1 | 0 |
| Arrests | 521 | 36 | 483 | 1 | 0 | 1 | 0 |
| Statewide population % | N/A | 82.76 | 10.90 | 2.94 | 1.71 | 0.41 | 1.28 |
| Local population % | N/A | 33.65 | 63.00 | 1.10 | 0.60 | 0.37 | 1.29 |
| Disparity index | N/A | 0.38 | 1.37 | 0.37 | 0.37 | 0.41 | 0.35 |
| Search rate | 11.35 | 6.85 | 12.13 | 4.55 | 0.00 | 12.50 | 0.00 |
| Contraband hit rate | 22.59 | 34.04 | 21.71 | 0.00 | #Error | 0.00 | #Error |
| Arrest rate | 9.68 | 5.25 | 10.43 | 4.55 | 0.00 | 12.50 | 0.00 |

Notes: Population figures are from the 2010 Census for persons 16 years of age and older who designated a single race. Hispanics may be of any race. Other includes persons of mixed race and unknown race.
Disparity index = (proportion of stops / proportion of population). A value of 1 represents no disparity; values greater than 1 indicate over-representation, values less than 1 indicate under-representation.
Search rate = (searches / stops) X 100.
Contraband hit rate = (searches with contraband found / total searches) X 100.
Arrest rate = (arrests / stops) X 100. #Error indicates zero denominator.

compared to whites. Blacks represented 86 percent of all traffic stops in Ferguson during 2013. Just as significant, blacks represented 93 percent of all arrests that resulted from a traffic stop. Though Ferguson’s population is more than 60 percent black, the disparity in traffic stops and related arrests clearly point to racial profiling. The Ferguson traffic stop data is supported by the American Civil Liberties Union’s (ACLU) state-by-state studies of racial/ethnic variables in traffic stops. Those studies also revealed significant disparities in traffic stops and arrests directly related to the traffic stop.

National Response and Recommended Remedies

On September 16, 2014, two important events concerning Ferguson took place in Washington, DC. NASW representatives were at both meetings.

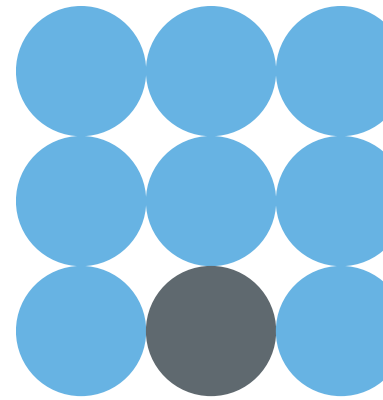
The first was a Congressional briefing organized by the Leadership Conference on Civil and Human Rights (LCCR) and the American Civil Liberties Union (ACLU). The briefing was entitled *Ferguson and Beyond - Profiling in America* and was led by a panel of leaders from law enforcement, civil rights, social justice, and legislative arenas.

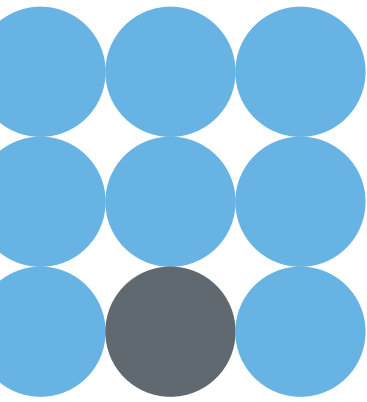
The briefing was introduced by Senator Ben Cardin (D-MD), who is the lead sponsor of the *End Racial Profiling Act of 2013* (S.1038), which is currently being considered by the Senate Judiciary Committee. NASW is actively working with the End Racial Profiling Coalition to help the bill become law.

The second major event at the LCCR office was a gathering of more than 100 civil rights and social justice organizations in Washington, DC to develop concrete and specific strategies to

prevent another Ferguson. It is important to note that much of the discussion was led by organizations that are active in Ferguson. Everyone present had an opportunity to join in the discussion and submit recommendations for next steps for this coalition. The next steps recommendations include:

- » A comprehensive review of all federal, state, and local law enforcement agencies' use-of-force policies and procedures must be initiated by DOJ;
- » DOJ should issue use-of-force guidelines that will lead to national standards for all of the nation's law enforcement agencies to follow;
- » Civil rights, social justice, and criminal justice advocates need to commit resources and organizational energy in helping to pass the End Racial Profiling Act;
- » With the encouragement of DOJ, federal, state, and local law enforcement agencies should begin to collect detailed, disaggregated law enforcement encounter and arrest data based on race, ethnicity, age, gender, and religion of the detainee;
- » With the encouragement and leadership from DOJ, federal, state, and local law enforcement agencies must collect and maintain detailed reports, including disaggregated demographic data on each police encounter, arrest, and detention that results in injury to the detainee;
- » DOJ should take the lead in encouraging the development of national standards for community policing and working with state and local law enforcement agencies to adopt and implement community policing policies and procedures;
- » In line with community policing philosophy, all jurisdictions that serve multicultural communities should reevaluate their relationship with the various racial and cultural entities;
- » Mid-size towns and large cities should implement civilian review boards or similar advisory structures that promote an ongoing dialogue and problem solving process between the community and its police department;
- » There is a broadening consensus that the use of body cameras by law enforcement officers would reduce incidents of excessive use of force or provide justifications for officer's actions;
- » There are also significant concerns about the militarization of law enforcement agencies. More troubling, there has been an increased militarization within public school systems. This trend must end;
- » Federal, state, and local law enforcement agencies should strengthen their standards for confronting and/or detaining persons with *serious mental illness*. The best studies suggest that approximately 10 percent of prisoners have severe psychiatric disorders. Thus, approximately 231,000 individuals with severe psychiatric disorders are incarcerated in the nation's jails and prisons at any given time, according to the Treatment Advocacy Center. It is critical that law enforcement agencies provide training to officers when they approach a seriously mentally ill person suspected of breaking the law, especially when the potential charge is a non-violent misdemeanor such as disorderly conduct.





The Federal Government's Response

On September 24, 2014, the White House Office of Public Engagement convened an African American Leaders' Briefing, which NASW attended. One of the main panels at the briefing was the *Community Trust Panel: Moving Forward after Ferguson*. The discussion was led by Dr. Sandra Webb of DOJ's Community Oriented Policing Service (COP) and Ray Austin, the deputy assistant to the president on Urban Affairs, Justice and Opportunity. The presenters encapsulated DOJ's direct, on-the-ground involvement with the Ferguson community and with its public officials. Also Molly Moran, the acting head of the DOJ Civil Rights Division, made the point that DOJ is reviewing police practices and procedures around the nation and not just in Ferguson.

Officials also discussed the work that DOJ has done in working with troubled law enforcement agencies in implementing and clarifying policies such as use-of-force standards, eliminating implicit bias against minorities, and working with communities of color. For example, in May 2010, the New Orleans and the DOJ began investigating an alleged pattern of civil rights violations and other misconduct by the New Orleans Police Department (NOPD). On March 16, 2011, the DOJ issued a written report alleging unconstitutional conduct by the NOPD and describing the DOJ's concerns about various NOPD policies and procedures. As a result, the City of New Orleans, the NOPD and the DOJ entered into a court-approved consent decree, which was the nation's most expansive.

U.S. Attorney General Eric Holder has made additional commitments to completing a comprehensive review of standards and practices of law enforcement agencies throughout the country. Two important recommendations that DOJ will include in its review is the widespread use of body cameras by police offices during duty hours, and developing national standards for dealing with mentally ill suspects during a police stop, an arrest, and/or apprehension encounter.

It is important to note that Holder will soon step down from his duties after six years with the Obama Administration. His tenure has been marked by his strong stance on improving police relations with minorities and removing racial ethnic disparities throughout the criminal justice system. NASW is hopeful that DOJ will work hard to implement the post-Ferguson reforms that Mr. Holder recommended.

Summary

From a social work perspective, NASW strongly advocates for national standards for law enforcement encounters with severely mentally ill persons. Social work is one of the largest providers on mental health services in the country. We as a profession have been well aware of the revolving door from jails to the community that people who are homeless or mentally ill experience. We are concerned that often the behavior people who are mentally ill during a police encounter can be tragically misunderstood as being a threat. Therefore, social workers should be a leading voice in calling for national best practices policies, procedures, and guidelines to train

law enforcement personnel about limiting incidents of use of force when dealing with the mentally ill.

It is becoming increasingly apparent that *Ferguson* has emerged as an event that has the potential of being transformative in terms of the relationship between law enforcement and the communities they serve, particularly communities of color. For NASW and other national organizations that are concerned about civil rights and social justice, it is hopeful that in a post-Ferguson world we will see an end to racial profiling and implicit bias in police encounters with black and brown individuals. We also are encouraged that there will be a serious effort to bring about uniform national standards on use of force, especially lethal force, which all law enforcement agencies must follow. Additionally, NASW joins the growing consensus that body cameras will become a standard part of police equipment throughout the nation. It is naïve to suggest that all the recommendations made in this brief will be a cure-all for the conditions that create a Ferguson. However, they will help us to end discriminatory law enforcement practices that have been a source of anger in communities of color for far too many years.

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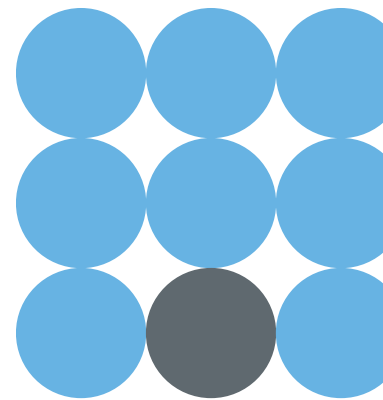
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NASW Resources

NASW » SocialWorkers.org

NASW Foundation » NASWFoundation.org

NASW Press » NASWPress.org

NASW Assurance Services, Inc. » NASWAssurance.org

NASW Center for Workforce Studies » Workforce.SocialWorkers.org

Help Starts Here » HelpStartsHere.org

Social Work Reinvestment Initiative » SocialWorkReinvestment.org

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