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Blacks in the American Criminal Justice System:
A Study of Sanctioned Deviance

Terry Jones

There must be something in the very core of a social system which increases its wealth without diminishing its misery, and increases its crime even more rapidly than its numbers.

Karl Marx
New York Daily Tribune
September 16, 1859

Almost since the beginning of Black history in America there have been differences of opinion as to what the role of Blacks should be in reference to the criminal justice system. In the beginning these differences centered around the issue of cooperation or resistance to the slave system and a criminal justice system that guaranteed slavery durante vita. Now, while the issue is no longer slavery, Blacks continue the debate over cooperation versus resistance to the criminal justice system. What should the role of Blacks be in reference to the criminal justice system? Can Blacks be of greater assistance to other Blacks by working within the system? Does working within this system imply support for it? Is resistance to the system a viable alternative to Blacks? Are there realistic alternatives to the present criminal justice system? Do Blacks have a choice as to what their role is or will be in this system? The pages that follow address the very complicated issue of Black involvement in a criminal justice system that many have labeled as inimical to Black development in America.

American society and its basic institutions operate within a time tested framework of both class and racial subordination for its Black citizens. However, it is within the American criminal justice system that we see this class and race bias in its most heinous form.¹ Edwin M. Schur, for example, takes the rather unique position that it is the American society that is in fact criminal. It is criminal by virtue of its unequal distribution of wealth, its glorification and justification of violence abroad, and its racism, sexism, and classism at home.² Similar views are held by Black scholars such as Dr. James A. Joseph, who in an article in the Black Scholar stated, "inadequacies in the distribution of wealth and power in the American society provide the basic deterrence to justice."³ Both Hamilton and Carmichael⁴, and Kenneth Clark⁵ give more detailed analysis of this class and race bias in their works. Even Blacks working within the criminal justice system are beginning to voice their recognition of these inequities. For example, at a 1975 black correctional workers conference in California a featured speaker began his talk by stating, "the justice system in America is criminal." This comment brought on wholesale approval in the form of prolonged applause, amens, laughter, and other forms of non verbal approval. At first glance, this apparent agreement with the speakers condemnation of the criminal justice system is somewhat misleading in view of the way in which black workers are involved, and are attempting to be involved, in its administration. For example, out of a total police population of 362,396, Blacks number less than twenty-five thousand.⁶ The situation is even more critical when it comes to the judicial system. Out of a pool of 21,000 judges, only 250 are black and the majority of these are in the federal court system.⁷ The situation in Washington, D.C., a predominately black city, gives a clear picture of what Blacks are up against.

After decades in which Washington's courts had no more than one black judge, there are now 15 black men and women among D.C. Superior Courts 44 judges, two blacks on the nine judge D.C. Court of Appeals, four black judges among a total of 15 on the U.S. District Court Bench and one Black judge among the nine on the U.S. Court of Appeals.⁸

In both correctional institutions, social work, probation, and parole, the numbers of blacks are grudgingly being increased. After the urban disturbances of the 1960's, the Kerner Commission recognized the value of increasing the number of blacks in police work and other social control agencies.⁹ This, coupled with recent meager gains through civil rights and affirmative action legislation have afforded upwardly mobile blacks employment opportunities. So, what we begin to see is a situation where blacks in search of the good life increasingly find themselves working in public agencies concerned with social control and regulation. Robert Blauner makes the following observation concerning this issue:

Since the racial colonialism of the United States is embedded in a context of industrial capitalism, the colonized must look to the economy, division of labor, and politics of the larger society for their individual and group aspirations.¹⁰

What we observe then is a situation where Blacks, like other colonized people throughout the world, attempt to better their condition individually, while at the same time protecting the collective interests of the dominate white society.

The following comments by Staples suggests, in part at least, the futility of Blacks working within existing governmental structures:

Those members of the power elite charged with maintaining racial harmony have apparently decided on a policy of neocolonialism for the black community. Black leaders who are responsible to them and committed by working within the system are gradually replacing the white authority figures as leaders or members of the police force, military, prisons, welfare systems, etc. No fundamental changes have been made in institutional values or functioning but the replacement of whites with blacks tends to underline the resistance of blacks to institutional oppression, especially those who viewed it solely as a racial issue.¹¹

One only has to examine the increased number of black workers in prisons, police organizations, probation, and social work to get some understanding for the merits of Staples' position. Without getting into an extensive debate on the issue here, there are significant numbers of Blacks, many of whom work in the criminal justice system, who are committed to the system. They justify their position by focusing on the need for change. They are concerned with the way the system functions and how the results impact on Blacks caught within it. Their contention is that it is strategic to attack the system from within to have maximum impact.

This concern for change within the criminal justice system is having an impact not just on Black workers, but on their white colleagues, and indeed, upon the system as a whole. One only has to point to the large number of Black caucuses, and Black parallel organizations springing into existence throughout the country to get some measure of the concern being expressed.* These groups, for the most part, are focusing

*There is presently several Black police workers associations in the U.S., a National Association of Black Social Workers, and California has taken the lead in being one of the first states to form a Black Probation and Parole Officers Association.

on the role of the Black worker in the criminal justice system, and are beginning to demand change in the content, structure, and philosophy of that system. The term "system" may be inappropriate in this context since one of Websters' definitions is "a regular orderly way of doing something." Those familiar with criminal justice in this country would generally classify it as anything but "regular and orderly."

While there is presently no uniform thrust, Black organizations throughout the country are beginning to recognize their unique position in the area of criminal justice. Typically, these Black organizations are demanding (1) more input into decision making, (2) the appointment of more black and minority personnel, (3) a shift in philosophy in reference to punishment and rehabilitation, (4) a more positive recognition of the distinctiveness of Blackness and, (5) a commitment to reduce societal criminal acts against the individual. While these concerns are couched in a Black perspective, the advocates believe serious attention to them will lead to a better, more progressive criminal justice system for the society as a whole.

On the other hand, there are those who take the position that the American criminal justice system is little more than a tool of internal colonialism. They argue that the system works as an instrument of coercion, deterrence, regulation and, above all, control.¹² While Frantz Fanon¹³, Charles Hamilton and Stokely Carmichael¹⁴ adhere to this colonialism position, Robert Staples has reintroduced it by suggesting that the criminal justice system is one of the mainstays of a colonial system that politically distributes a particular type of justice through the use of police, prisons, and other institutions. Staples is particularly critical of the complicity of the political states and the judicial system in failing to prosecute and convict police officers accused of brutality toward Blacks.¹⁵

In a 1971 article that appeared in the Black Scholar, Robert Chrissman went so far as to refer to all Black people as "outlaws." He states, "we are most subject to arrest - and the most frequent victims of crime. Over 40% of prison inmates in the State of California are Black. More blacks than whites are executed in the United States."¹⁶ (More on this later).

What we see then is a dilemma for Black people that make decisions difficult at best and dangerous at worst. The objectives here are to analyze the criminal justice system from a Black perspective, to clarify issues as they relate to Blacks and other minorities in the system, and to propose new courses of action so that criminal justice can become more positively meaningful and respected within Black communities throughout the country.

One of the basic concerns of many Blacks working in the criminal justice system is to make the system more pertinent to the needs of Black people, both as practitioners, clients, and victims. In relating

American criminal justice to the Black experience, one is immediately concerned with some of the demands made by the profession on the Black worker. There is an urgent need to understand the dilemmas arising from Black workers operating within the structure and philosophy of the criminal justice system.

The ever accumulating body of evidence against the workability of the present criminal justice system, especially as it relates to Blacks, lays a favorable foundation for the consideration of alternative structures. Alternative institutional mechanisms, properly constructed could insure Black input and veto power at both the policy planning and implementation levels. While such proposals initially will seem somewhat bizarre to the traditional bureaucratic manager, there is enough sociological and psychological inferences available to substantiate the assumption that environmental conditions, cultural isolation, racism, etc., have created differences in reality as perceived by Blacks and whites.^{17,18,19,20} In short, those taking this position are of the opinion that Black expertise is not being properly utilized, and that for reasons of racism, politics, and economics, Blacks are relegated to positions subservient to white planners and administrators. Furthermore, they argue that Black attempts to gain better positions in existing institutions often work to camouflage the need for different approaches to problem solving.

Blacks in Public Social Services

Blacks who have been through the American higher educational system find themselves disproportionately represented in professions dealing with the public sector, i.e., teaching, social work, and corrections. For example, according to Time (June 17, 1974), in 1970, 39% of the nations professionals were employed by federal, state, and local governments; but 60% of black professionals held such posts.²¹ A 1974 study completed by the U.S. Department of Commerce makes the following facts available:

Blacks make up about 6 percent of the workers in both wholesale and retail trade; and finance, insurance, and real estate, in contrast to 21 percent of the workers in personal service industries, including private household; 14 percent of the workers in hospitals and other health services; and 12 percent of the employees in public administration.²²

It is rather ironic, but Blacks gravitate to these so called "opportunity giving" positions because of a long history of denial and rejection in the private sector. It is ironic simply because those who have been denied opportunities in the private sector (Blacks) are employed in the public sector where they often are called upon to regulate the behavior of others (Blacks) who have also been denied opportunities. In effect, Blacks gaining middle class status through integration of public agencies are invariably faced with conflicts in relation to how they

interact with lower status Blacks who may depend upon, or be forced under the domain of public services. For example, the Black probation officer, in carrying out his duties, is expected to take action against a probationer under his supervision who knowingly frequents the company of felons (a condition of probation in most states). In reference to the Black probationer, this condition of probation creates an extreme conflict in many instances. Because of his race, socio-economic status, and the additional stigma of being on probation, his options in regard to living arrangements, support, friends, and employment are limited. In carrying out his duties, the probation officer is expected to enforce this condition of probation, yet the probationer is often forced into violating it. This, or similar situations exist in the welfare system where indigenous community workers are called upon to "make the system work better," or where eligibility workers or welfare workers are forced to deny eligibility to Blacks who may not "technically" qualify for assistance. These conditions often mean that Black professionals, both willingly and unwillingly, by the nature of their job assignments are forced to stand in the path of the will and interests of poor Blacks. In short, the integration of Blacks into the public employment sector often creates or perpetuates class conflict, i.e., middle class Blacks against lower class Blacks.

As more and more Blacks enter the field of public human services this class issue increases in importance. This, coupled with the question of whether it is possible for Blacks working within traditional social agencies to help other Blacks, is it a matter of them helping only themselves, or is it possible to help both themselves and other Blacks simultaneously? Robert Blauner, in Racial Oppression in America,²³ and Stokeley Carmichael and Charles Hamilton in Black Power²⁴ take the position that working within these institutions of colonialism only act to strengthen racial oppression. In fact, Blauner points out that "the key institutions that anticolonialists want to take over or control our business, social services, schools, and the police."²⁵ Blauner further states that the Black community is unique in the ways that white educators, policemen, social workers, politicians, and other functionaries have exercised economic, political, and administrative control from the outside.²⁶ Whites have controlled the so called Black ghettos from outside, and are now beginning to use Blacks to do the same thing. Increasingly, we can also say that Blacks who integrate these structures also live outside Black communities.

To suggest that Blacks working in the area of human services are perpetuating the colonialist condition is a serious charge, a charge that merits further investigation, but at the same time a charge which is extremely anxiety provoking for Blacks in corrections in particular. Let us consider this dilemma.

If, in fact, these agencies are instruments of colonialism and Blacks were able to withdraw, would the effects of colonialism be re-

duced? Some argue that if one participates in a structure causing problems for Blacks, then in fact he is the problem. Others argue, rather convincingly, that Blacks do in fact make conditions better. On the other hand, these arguments may be rather academic. It is unrealistic to expect that Blacks would be able to withdraw even if they were conclusively proven that these agencies were instruments of colonialism working against the best interest of Blacks?

Jobs in the correctional field, for better or worse, have afforded Blacks quasi-middle class status, no matter how precarious it may be. Since most of these positions are civil service positions they have afforded Blacks a limited form of institutionalized upward mobility. This Black mobility is also evident, if not significant, in such professions as firefighting, social work, and teaching.²⁷ This means a decent standard of living and at least the illusion of security. This is not something that is taken lightly or given up easily. In a recent issue of Harpers, Lewis H. Lapham in an article entitled "The Capitalists Paradox" stated: "To a greater or lesser extent we are all greedy and frightened children, and if the possession of money comes to mean the difference between life and death, then how is it possible to blame people for whatever they do to obtain it?"²⁸ While a few may accept such an analysis and abandon their positions, the bulk of the Black population, whether they accept this analysis or not, will feel compelled to remain in their positions.

While there is merit in talking about a Black value system, and taking action in the interests of Black people, often these concepts are too abstract to the average person, especially when weighed against the concrete realities of the reward and punishment mechanisms available to the dominant society. In very harsh terms there are many Blacks who will stand on principal and conviction, but there are still many whose reality dictates that their actions are directed toward achieving the rewards found within the system, the system supported by white society. This is a complex issue that may be neither Black nor white, but has to do with mans basic drive to survive and meet his most immediate needs in a capitalistic society. Unfortunately, when it comes to meeting basic needs, often one mans' feast is anothers famine. These concepts, to this point, are relative to where one finds himself in relation to others.

Unfortunately, Black theoreticians and analysts have gone only halfway, they have analyzed situations, but have not proposed immediately viable solutions, or at least solutions that are easily embraced by the Black population as a whole. Because of an absence of Black group power and the presence of white perrogatives, Blacks are invariably constrained in their selection of work opportunities. While some progress is being made, Blacks simply are not presently able to offer other Blacks working in human services alternative work situations. Robert Blauner has noted that racial privilege exists in all of our basic institutions and, expresses itself most graphically in the labor market and the structure of

occupations. He further suggests that the key to white racial domination in the United States has been their special advantage in the labor market.²⁹

While most people may spend little time on these considerations, we live in a society based on privilege and this tends to preface many of our daily activities. Until Blacks can answer the question of where will we work if not within white controlled institutions, any analysis of the conditions of Black people is only partially useful.

Since many Blacks in the human services, especially the criminal justice area, are not willing to blanketly accept the position that working within white controlled institutions is counter productive to the Black condition, it appears necessary to look at the argument in favor of such a stance.

Law and Ethnic Perrogatives

One of the difficult things for most Black Americans to totally comprehend, but which many have some knowledge of, is the fact that the structural arrangements of the United States have been forged by, and in the interests of the dominant white cultural groups. Harold Cruse states it clearly in the Crisis of the Negro Intellectual. "The White Anglo-Saxon Protestants, the White Catholics, and the White Jews are the three main power groups in America under the political and economic leadership of the Wasps."³⁰ He goes on to indicate that "the American constitution was conceived and written by White Anglo-Saxon Protestants for a White Anglo-Saxon society."³¹ Turner and Starnes support this idea with their belief that societies established on the principal of inequality produces superordinate classes with dominant beliefs that rationalize the structure and outcome of the system.³² Duberman refers to Blacks as occupying a class system in the United States because they are economically deprived and politically castrated by the dominant group.³³ To get further feeling for this structural inequality one must look to the role of culture in a complex, heterogeneous society.

In theoretical terms we can say that interaction between members of dominant and minority groups are determined by culture. The minority and the dominant groups reference point in any interaction is invariably culture. Vander Zanden suggests that, "the guideposts of the culture are norms. Norms constitute generally accepted, sanctioned prescriptions for or prohibitions against, various types of behavior."³⁴ When various ethnic, racial and class groups are forced together, if we are to maintain an ordered society, some rules, some methods of administering them must be established. This has become so commonplace until it seems obvious to even the most casual observer. The not so obvious however, is how we go about determining what will be enforced and by whom. According to Jacobs in Justice in America, "administering justice means that norms are being enforced in an even handled way so that the same standards are applied to all citizens."³⁵ When we cut through the idealism of Jacob's supposition, we must determine who decides what cultural norms

get formalized, and in which manner. What this has meant in this society, and in most societies where there are subordinate and superordinate groups interacting, is that the dominant group has its cultural norms formalized. The subordinate groups are forced into a position of accepting the formalized norms (laws) of the dominant society. The more significant of these norms are enforced by the courts, embodied in the statutes, and in the tradition of the community.³⁶ Over the years we have gotten so accustomed to subjugating ourselves to these cultural guideposts until both minority and dominant groups have integrated them into their cultural behavior patterns. Kramer, in the American Minority Community, makes the following statement in reference to this point:

The dominant group by definition embodies the prevailing way of life, it controls access to values that are now desired by others, but still too scarce to be shared, by defining criteria of social eligibility. By declaring ineligible those with differing characteristics, the dominant group limits their life chances and thereby creates a minority situation.³⁷

Put in terms of values, Gil suggests that they (values) derive from basic choices compatible with the perceived interests of groups who gained influence, power, dominance, and control over the rest of society. Eventually, values evolve into powerful factors legitimating established interests and maintaining the status quo of social orders which is shaped by interests.³⁸

The white prerogative of having its groups cultural norms formalized is indeed a privilege. Blauner suggests that this privilege white Americans enjoy is extremely advantageous to them and disadvantageous to Blacks.³⁹

The disadvantages in these areas because of white privileges are most graphically obvious in the Black Americans peculiarly unfavorable position in relation to the criminal justice system. Here it appears that white privilege again reigns. For example, the following information taken from "The Social and Economic Status of the Black Population in the United States" reflects in concrete terms how white privilege expresses itself in the criminal justice system:

Nearly 142,000 persons were confined in local jails in this country as of mid-year 1972. Black inmates numbered 59,000 and comprised 42 percent of the jail population...Black inmates were generally young (under 30), poorly educated and unmarried (single, divorced, separated, or widowed). Also sizable proportions were low-paid wage earners or unemployed prior to their arrest...Among those on appeal, the average sentences are generally longer for blacks than for whites for all crimes of violence... Eighty-one black persons were on death row in this

country as of December 31, 1972. In relation to their proportion of the population, blacks were overrepresented among the death row population accounting for exactly one-half of the total of 162 persons under sentence to death...In the 38 year period prior to 1968, there were 2,066 black persons executed under the civil jurisdiction in the United States and that comprised 54 percent of the 3,859 persons put to death over the period.⁴⁰

The point for those in the human services, especially correctional workers, to grasp here is that the laws of the society in which we live are the formalized cultural norms of the dominant white population, i.e., white protestants, white Jews, and white Catholics. These laws, in most instances have been instituted to maintain, protect, and refine privileges of the white society. While many Blacks are protected by these laws, and in other ways are advantaged by them, we must not lose sight of the fact that the law and its administrative arrangements in this country have been designed by white power groups to establish, maintain, and refine their privileges. Often we have a difficult time understanding this, especially when we see what appears to be many Blacks making it in the system. What we must remember however, is that 33 percent of America's Black families fall below the poverty level...About 5 million Blacks collect some form of public welfare payments...and that the total number of Black families headed by females has also increased to about 34.5 percent.⁴¹ While some would argue that these conditions are caused by poverty, ignorance, and cultural deprivation, there is a growing accululation of evidence that suggests that Blacks find themselves in a disadvantaged position in society because of the dominant societies ability to define and label,⁴² and because of the structure of American society that favor the dominant group.

While the above conditions have become well known, more subtle practices are just beginning to come to light. To give an example of how some practices can have a detrimental impact on Blacks, lets take a look at a process that has been in existence for years now in the juvenile court system. In juvenile court proceedings, especially in California, we have traditionally taken the position of "lets treat the juvenile and not the offense." While on the surface this liberal sounding doctrine is great, what we have been able to determine is that by treating the juvenile instead of the offense, we have systematically given Black youth more involvement with the courts, more detention, longer detention periods, more probation, and longer probation terms in ratio to their proportion of the population. This greater involvement with the criminal justice system on the part of youth is undoubtedly related to his reduced opportunity in socially accepted avenues, and therefore, many suggest that it is only natural that Blacks would have more contact with the legal system. While there is truth to this to some extent, it could also be argued that since most law enforcement personnel, es-

pecially judges are white and from a particular cultural background that they do not possess the necessary background and insight to properly "treat the juvenile", especially when he is Black. Why is it that we do not label the judge as culturally deprived when he is unable to pick up on the assorted cultural nuances often exhibited by Black youth in the court setting? Many a Black child has incurred the wrath of judges by their non traditional dress, their "sullen demeanor," their inability to "look the man in the eye", and their appearance of "indifference." These cultural differences, coupled with family structure, living arrangements, school records, prior history, and even mode of dress are often so alien to the probation officer and the judge until it is almost impossible to "treat the juvenile." To be unable to "treat the juvenile" then is a structural weakness related to racism and the selection process of the Black youth caught up in the system, yet this process catapults many a Black youth down the road to a life of adult crime. William Ryan refers to this process of blaming those who are least able to defend themselves as "blaming the victim."⁴³

To further substantiate the Black mans particular relationship to the law we could point the finger at former San Francisco Mayor Alioto's Zebra edict, (stopping and questioning all Black males). This practice was put into effect in the effort to apprehend murder suspects who were identified by survivors of attacks as being "Black". At a higher level we notice the federal governments reluctance to vigorously enforce the law in relation to busing or even former President Ford's appearances on national television in opposition to court ordered busing. Large numbers of Blacks view this as the governments abandonment of the civil rights movement and the rights of Blacks to a fair and decent standard of living in this country.

Haywood Burns, the National Director of the Conference of Black Lawyers, shares the following penetrating remarks regarding the Black mans position in relation to the American legal system:

Whereas white Americans are accustomed to viewing the law as an historical vehicle through which liberties have been progressively expanded, black Americans have experienced law in quite another fashion. From the very first, American law has been the means by which the generalized racism in the society has been made specific and converted into the particularized policies and standards of social control.⁴⁴

This is not an attempt to justify Black crime, or to suggest that there are no acts for which Blacks should be punished, because it is painfully clear that there is some need in this area. Data gathered as of 1973 indicates that "blacks were much more likely than whites to have been the victims of violent crimes; the victimization rate was

47 per 1,000 population for blacks as compared to 32 for whites."⁴⁵
To further support the need in this area, we only need to refer to the rather dramatic title of Why Blacks Kill Blacks by Alvin Poussaint,⁴⁶ Black Rage by Grier and Cobbs,⁴⁷ or The Wretched of the Earth by Franz Fanon.⁴⁸ If we add the less dramatic but equally pervasive crimes of unscrupulous realtors, car salesmen, and other merchants that are enacted against the Black community, then it becomes quite clear that Blacks also have a right to be concerned about crime. Blacks in just about every socioeconomic position scream for law and order, but this is not the issue here. The relevant issue, or issues, have to do with the purpose of existing laws, their fairness to Blacks, and Blacks working within administrative bodies that enforce these laws. While there is a need, and while jobs in the area of corrections do pay relatively well in comparison to other possibilities in the human services, is this the place for Blacks to focus their energies? Can Blacks have an affect on police, courts, adult and authorities, and parole boards when these bodies all tend to be administered from the top down? In other words, in the places where decisions and policy are made, few if any Blacks are represented. This is an increasingly important issue to more and more Blacks as they come to the realization that whites, are well intentioned as they may be, have a difficult, if not impossible, time seeing things from the same perspective as Blacks. It is almost an impossibility to have an impact on decisions affecting Blacks if Blacks find themselves continually in positions where they can only react. Access to decision making positions is the key type of change Blacks are looking for in the criminal justice system. Actually, it is even more complex than just access, because even with access it is possible to outvote or to veto the actions and decisions of Blacks. As equally important as access, is the ability to influence and in some instances to control the decisions made or to be made. One could easily say that it is extremely naive to expect that white society is going to give up control of any part of the criminal justice system, or for that matter, any system. While there may be truth to this, it does not negate the fact that one of the surest ways to insure that institutions will serve Black people best is to see that Blacks control them. So, if control is not possible at the present time this should not prevent Blacks from seriously discussing it or beginning to formulate intermediate strategies leading to this control. Others take the position that even thinking about controlling something "belonging to whites" is an exercise in futility, and the only answer is to establish separate institutions and alternatives for Blacks.

A Dilemma

The difficulty Blacks working in the criminal justice system have with formulating a clear position in relation to what their attitudes and behavior should be in relation to the system is undoubtedly related to the rewards-unishment mechanism, the acculturation process, and the closely related status of their position. Peter I. Rose had some

relevant ideas in relation to this acculturation process and black people:

The black experience in America is unique--it has no real parallel. And black Americans are unique. Paradoxically, blacks may well be at once the most estranged and the least foreign of all the citizens: most estranged because of their special history, which began in sub-forms of segregation; least foreign because, ironically, having been cut off from their native roots, they had few guides but those of the master and his agents. This is not to say that no Africanisms survived. Of course they did. Still most black Americans, for good or ill, were imbued with many of the same goals and aspirations of those of the dominant group.⁴⁹

This socio-historical process coupled with the rewards-punishment mechanism makes it exceedingly difficult to make clear choices, because in reality the choices are so clouded and, in many instances down right dangerous.

While many Blacks adjust to their work role in this society, and some never seriously question it, the position of Blacks working in the criminal justice system is a difficult and peculiar one worthy of a great deal of study. Long, et al. have the following thoughts about this adaptation:

In adapting to this setting, Blacks perpetuate the harmful environment and also develop hostile feelings in response to discrimination thus adding their own punishment to that inflicted by whites. The caste system maintains a cadre of whites and middle class blacks who function in a refined or brutal way to preserve the system.⁵⁰

So what we see is a complicated push-pull, love-hate situation where blacks are trying to integrate the criminal justice system, the system initially resisted their inclusion, and then selectively included them throughout the system at the lower and mid management levels. This coupled with the "good" of the money to be made in the system, and the "bad" of a system that has worked in a detrimental way in regard to Blacks makes choices more difficult as Blacks become more conscious of their blackness and how it relates to the criminal justice system in this country. This Black awareness coupled with white resistance and control has created a climate of tension and apprehension where either change or extreme conflict is inevitable. Hylan Lewis makes this point with appropriate bluntness:

The pressure to change not only structure, but the control and accountability of service institutions are clearly related to the new consciousness of Blacks and to the related emergence of the fact and concept of acute black consciousness.⁵¹

The problem is, however, that change in a capitalistic system tends to be conservative and incremental and when it comes to the condition of minorities more geared toward containment and appeasement than true social reform.

While the above pages have raised some serious issues in reference to the criminal justice system and Black involvement within it, this system in one form or another will undoubtedly be with us for some time to come. Since Blacks will surely be a part of it, there is an impelling need to understand its purpose, how it works, and who it serves. A thorough analysis may lead to the conclusion that Blacks can serve no useful purpose working within this system. On the other hand, such an analysis may support the position that structural changes in strategic areas of the system, coupled with philosophical shifts could make it viable to the population as a whole. Still another thought for consideration is the possibility that any analysis, no matter how focused, will not be enough to drastically shift the level of Black involvement in the criminal justice system. For better or worse many Blacks view it as their lifeline, their way of surviving in a hostile environment that offers so few options.

The Double Bind for Black Social Workers

In addition to the difficulties suffered by Black workers mentioned above, there is an additional problem for Black social workers shared with the profession in general. Mainly, social workers in the criminal justice system have been traditionally viewed with suspicion, indifference, and even hostility. In a system whose social welfare function is questionable at best, social workers are frequently supervised and directed by non social workers. In police departments, when and if social workers are found, they tend to be employed on specially funded projects and are rarely in key decision making positions regarding day to day police activities. While probation officers have a good deal of authority in the courts there are two factors that frequently limit them in carrying out social work values. First, and most obvious is the fact that most probation officers are not trained social workers and, secondly, judges have ultimate authority over the decisions of probation officers. In the prison setting, social workers are so few in relation to the prison population as to render them virtually useless. For example, at the Philadelphia Prison System, social workers report that they are assigned the names of prisoners alphabetically. The lists are so long it is impossible to do anything but wait until a prisoner presents them with problems. While such a pairing of prisoner to social worker may have some administrative merit, it leaves many unanswered questions in regard to its effect in any treatment process. In short, we have non social workers supervising social workers in the justice system. The objectives of the non social workers often conflict with the goals (values) of the social work profession. While it has been argued that social work is in collusion with the criminal justice system to maintain social control, it at least has a code of ethics that states in part, "I regard as my

primary obligation the welfare of the individual or group served, which includes action for improving social conditions."⁵² While there is growing debate over just which individuals or groups social work serves, when we look at the justice system it becomes clear that it serves none well. For various reasons the pre-delinquent, the delinquent, the adult offender, the imprisoned adult offender, and the released adult offender all tend to suffer from inadequate positive social intervention. On the other-⁵³ hand, as the number of policemen hired increases so does the crime rate, with the newest treatment scheme comes increased recidivism rates and the costs of incarceration continues to rise.

There is a growing body of evidence suggesting that the criminal justice system in America is corrupt and unjust. With social work, and Black social workers in particular, demanding more involvement in it, many observers liken such an effort to the futility of rushing into a burning building.

If such an analysis has any validity at all, it may suggest intensified social work efforts in less traditional criminal justice settings. Social workers have an obligation to push the troubled criminal justice system more in the direction of community based corrections. Such programs and concepts as halfway houses, screening programs, work release, crime prevention and diversion programs must be looked at as serious components of the criminal justice system. Presently, when such programs exist they tend to be federally funded and at rates that doom most to failure.

For the Black social worker, community treatment programs could, and often do, mean getting in on the ground floor of a positive approach to corrections. According to Prassel:

Community treatment serves as the normal means of attempting corrections. Offenders, juvenile or adult, should be channeled into individual programs through probation, aftercare, or parole. Diverse forms of treatment available through a multitude of agencies can then provide care, assistance, and supervision.⁵⁴

In addition to the treatment possibilities in community treatment approaches, there is the added possibility of Black leadership and direction in such efforts. Since funding for such efforts traditionally come from governmental bodies there is still the problem of Black-White confrontations over what programs should be funded and at what level.

The present system continues to exist, in part at least, because of vested interests of select groups that are rewarded by its existence. As social workers we have an obligation to work against these interests and for the welfare of Blacks, other minorities and the oppressed in general.

A Framework for Criminal Justice System Analysis

Arguments presented to this point have been intended to demonstrate

that Blacks working within the criminal justice system are indeed a unique group, with a unique relationship to a system that has had a unique relationship to Blacks in American society. Arguments for and against the future of Blacks working in the criminal justice system are worthy of much thought and intense examination, but a basepoint for this examination must be established. There is a need to be able to identify the relevant components of the system and how they function in reference to Black people. Then, knowing thoroughly how the system acts on, against, or for Blacks can be a take off point for acting on the system. Sure, we all say we know the system works against Blacks, but do we really? To best get at how the system impacts on Blacks, a simple framework for analysis would appear to be appropriate.

The framework proposed here would be one that basically asked the following questions in reference to Blacks in the criminal justice system:

1. What is the extent of Black involvement in the criminal justice system?
2. Who has authority?
3. How is this authority used in relation to Blacks?
4. What is the outcome from the usage of this authority?

By focusing on these areas it is anticipated that information can be attained to either support calls for changes in the structure of the system in reference to Blacks that no matter how good the economic rewards, their involvement is too high a commitment to make.

The effort here is not to present an all inclusive examination of the issues surrounding Black involvement in the criminal justice system. To the contrary, it is believed that by beginning the discussion others will join in a detailed analysis of the system and the alternatives available to Blacks within it.

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