

Urgent Issues, Extraordinary Politics  
Fromm Institute  
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## **Racial Disparities in Criminal Justice and the Matter of Black Lives**

- I. Overview: Our Current Unrest
  - A. Dallas, Baton Rouge, Minnesota, Baltimore, Tulsa, Charlotte...
  - B.
  - C. Police Violence Documented and the Black Lives Matter Movement
  
- II. The Roots of the Racial Inequality
  - A. Slavery
  - B. Jim Crow and Segregation
  - C. Post-Civil Rights
  - D. The Nature and Effects of Housing Discrimination
  - E. Ta-Nehisi Coates: An Engineered Wealth Gap, A Nation Founded on Plunder (*The Atlantic*, May 2014)
  - F. Its Cultural Effects
  - G. Post-War Shift from White Supremacy to Structural Reproduced Racial Order
  - H. An Ironic Conclusion: Structural Racism's Advantages over White Supremacy

### III. The Disgrace of Our Criminal Justice System

#### A. A Brief Overview of Some Current Data

#### B. An Historical Analysis (drawing on William J. Stuntz, *The Collapse of American Criminal Justice*)

- i. Decreased Discretionary Power for Judges and Juries, Increased for Police and Prosecutors
- ii. “Discretion and Discrimination Travel Together”
- iii. 2 Migrations and their Differing Implications for Policing
- iv. Constitutional Emphasis on Procedural over Substantive Rights Results in a Mismatch Between Individual Rights and Criminal Justice Machinery
- v. Supreme Court Tolerance for Discriminatory Policing and Prosecution, and the Narrow Reading of the 14<sup>th</sup> Amendment

### IV. Some Policy Ideas

#### A. A Model for Reform: The Milwaukee Experiment

#### B. A Model for Reform: David Kennedy’s Boston Experiment

#### C. Coates on Reparations

#### D. Stuntz’s Recommendations

1. More Police and Community Policing
2. Broad Interpretation of the 14<sup>th</sup> Amendment
  - a. Greater Judicial Discretion
  - b. Decrease Severity of Drug Punishment

#### E. Nationalizing Existing Policy Remedies

1. National Data Records
2. De-escalation and Implicit Bias Training (see Harvard’s Project Implicit)