The US Constitution has provisions to protect all Americans from injustices, mistreatment, and discrimination, including at the hands of police officers and other agents of the law. The Fourteenth Amendment to the US Constitution states, in part: “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Fourth Amendment requires that law enforcement officials have a good reason—known legally as probable cause—for searching individuals or their property, or for making an arrest. In addition, criminal procedural rules include the Miranda warning, also called Miranda rights. This rule requires law enforcement officials to inform individuals of their rights—
including the right to an attorney and the right to remain silent during questioning as they are taken into custody.

In practice, these laws and constitutional protections are not always applied consistently. For many Americans, the likelihood that they will face arrest, mistreatment, or injury depends largely on their appearance—especially skin color. Studies by government agencies, civil rights organizations, and independent researchers show that in the United States, law enforcement profiling contributes to statistically higher numbers of police stops and arrests of people of color—often for minor infractions such as drug possession or traffic violations—than of white people. Black and Latino Americans are also more likely than white Americans to face police brutality—excessive use of force by law enforcement officers.

Legal scholars also connect racial profiling statistics to higher rates of incarceration among people of color than among white Americans. Some studies suggest that African American males carry out more violent crimes and more property crimes than people of other races. Yet the difference in the rate of crime is not significant enough to account for the disparity in arrest and incarceration rates for these crimes.

A similar disparity exists with drug-related cases. According to 2009 statistics from the National Council on Crime and Delinquency, black Americans made up 13 percent of the population and 14 percent of illegal drug users, a statistical relationship that is not out of proportion. Numerous studies since the 1980s have shown that black Americans are, in fact, no more likely to be drug users or sellers than white Americans. Yet black Americans represented 37 percent of the people arrested on drug-related charges, as well as 56 percent of those in state prisons for drug crimes. The report’s author,
Jamie Fellner, attributed the disparity to the US government’s war on drugs, which disproportionately targets people of color. Fellner wrote, “Jim Crow may be dead, but the drug war has never been color-blind. Although whites and blacks use and sell drugs, the heavy hand of the law is more likely to fall on black shoulders.” Similar double standards apply to each aspect of the criminal justice system.

**The School-to-Prison Pipeline**

People of color are more likely than white Americans to encounter racial bias from law enforcement very early in life. Children of color are more likely than white children to be suspended or expelled from school and to live in poor neighborhoods with high police presence. This means they are therefore more likely to have contact with police officers in their neighborhoods. “They’re out getting into trouble in places they shouldn’t be at times they shouldn’t be,” explains Emily Morgan, a senior policy analyst for the Council of State Governments Justice Center, a nonprofit agency that focuses on public safety. “They are more likely to be picked up by law enforcement and be processed by the system.”

Students of color often encounter law enforcement in their schools. At public schools that face high levels of violence and crime, school districts often hire police officers—sometimes called resource officers—to work on-site and offer an added measure of security. However, this also means that student misbehavior, which would once have been handled by teachers, principals, and other school officials, is instead turned over to law enforcement and treated as a criminal matter. In turn, behavior that might once have led to detention, suspension, or expulsion can result instead in jail time and a criminal record.
“Kids from suburban white America—they don’t get arrested for cursing out a teacher, throwing a book,” says Jim St. Germain of the nonprofit mentoring group Preparing Leaders of Tomorrow. “These are the things they go to a counselor for.” Sometimes called the school-to-prison pipeline, this chain of events can quickly funnel students of color from school directly into the criminal justice system.

Greater police presence in schools can also lead to the more frequent use of force against students who are being disciplined. And in some of the most prominent cases, observers have pointed to race as a key factor. In November 2013, Noe Nino de Rivera, a seventeen-year-old Latino high school student in Texas, got involved in a fight between two students. A white school resource officer, Deputy Randy McMillan, used a Taser on Rivera, who fell to the floor and hit his head. While Rivera was unconscious, McMillan placed him in handcuffs. Rivera was in a coma for fifty-two days as a result of a brain injury caused by the fall. Some individuals and groups criticized the officer’s actions as unnecessarily forceful. The ACLU condemned the use of Tasers on juveniles, stating, “Texas families deserve to send their children to school without fear, knowing they can trust their schools to be safe havens.”

The local police department, on the other hand, defended the officer’s actions, saying that “Deputy McMillan used the reasonable amount of necessary force to maintain and control discipline at the school.”

Another incident gained widespread attention in October 2015. At Spring Valley High School in Columbia, South Carolina, a sheriff’s deputy, Ben Fields, had a confrontation with a sixteen-year-old female black student. Two cell phone videos, taken by other students in the class, showed Fields telling the
girl to get up and leave the classroom. When she refused to do so, Fields flipped over the desk in which the girl was sitting, throwing her to the floor. He then dragged her from the desk and handcuffed her. When the video went viral, many viewers criticized the officer, saying that his use of force was excessive. The county sheriff fired Fields, and the FBI and the US attorney’s office both launched investigations of the incident.

The officer’s actions hinted at a particularly intolerant attitude toward students of color—and statistics tell a similar story. In a 2014 report, the US Department of Education found that black students made up just 16 percent of enrollment in the schools studied but represented a disproportionate 31 percent of those arrested at school, during off-campus school activities, or based on a school official’s referral. By contrast, 51 percent of enrolled students were white, and they represented 41 percent of those referred to law enforcement and 39 percent of students arrested—statistics that are much more in line with the overall representation of white students in school.

The Office of Juvenile Justice and Delinquency Prevention (part of the US Department of Justice) reported in 2011 that for every 100,000 black juveniles in the nation, 521 were in a correctional facility. (Correctional facilities can include a wide range of settings from privately operated rehabilitation centers to public facilities that closely resemble adult prisons.) By contrast, 202 out of every 100,000 Latino juveniles and 112 out of 100,000 white juveniles were in correctional facilities.

Stop and Frisk
Police departments in numerous large US cities encourage police officers to stop, interrogate, and search pedestrians whom they
suspect of criminal behavior. The practice, widely known as stop and frisk, first emerged as official police policy in the 1930s, when LAPD officers began stopping numerous people in areas where crimes had been reported. By the 1950s, this strategy had spread to other urban areas. In 1964 New York State passed the first stop-and-frisk law, allowing NYPD officers to stop, question, and search pedestrians for weapons or drugs. The US Supreme Court declared the practice legal in a 1968 case, _Terry v. Ohio_ (giving rise to another common name for the practice: a Terry stop). In its ruling, the court determined that police officers have the legal right to stop and search an individual, without probable cause for an arrest, as long as the officers have some reasonable suspicion as a basis for the stop. By the early twenty-first century, the NYPD in particular began to draw public criticism for this policy.

Controversial stop-and-frisk policies throughout the nation involve a two-step process. First, a police officer can stop and interrogate a pedestrian. Then, if the officer believes the pedestrian may possess illegal materials, the officer can search the person for drugs or weapons.
According to a 2013 report by the New York State Office of the Attorney General, NYPD officers made 4.4 million stops between January 2004 and June 2012. And 83 percent of those stops involved black and Latino people, who each made up only 26 percent (a combined 52 percent) of New York City’s total population according to the 2010 census. During those years, only about 10 percent of stop-and-frisk incidents involved white people, who comprised about 33 percent of New York City’s population in 2010. This disproportionate representation of people of color in interactions with law enforcement reflects the institutionalized notion that people of color are more likely to exhibit criminal behavior.

However, no research has proven that stop and frisk reduces or prevents crime. In fact, between 2004 and 2012, police officers found guns in less than 0.2 percent of searches. Searches revealed other contraband, such as knives and illegal drugs, in 1.5 percent of stops. Only 1.5 percent of stop-and-frisk arrests led to jail time or to a prison sentence, and just 0.1 percent resulted in convictions for a violent crime or for possession of a weapon. And data showed that black and Latino suspects were actually less likely than white people to be found carrying illegal goods or substances. Yet police officers were more likely to stop a person of color and to engage in physical force during a stop.

In 2008 a civil rights legal group called the Center for Constitutional Rights sued the City of New York on the grounds that stop-and-frisk practices were unconstitutional. In 2013 federal judge Shira A. Scheindlin ruled that the way the NYPD had carried out the stop-and-frisk policy did indeed violate the Constitution’s protections against racial discrimination and unreasonable searches. In her decision,
The perception that people of color commit more crimes than white people has been used to justify racial profiling in stop-and-frisk practices by police officers across the country. Yet according to data gathered by the Center for Constitutional Law, white people who were stopped and searched in New York City were far more likely to possess drugs or weapons than people of color who were stopped. The chart above shows NYPD stops and seizures of illicit goods between 2004 and 2012.

she wrote that officers had demonstrated a habit of stopping “blacks and Hispanics who would not have been stopped if they were white.” She also pointed out that officers were allowed to use vague and subjective reasons for conducting a stop. In particular, police could cite “furtive [sneaky] movements” as the reason for stopping someone. Scheindlin wrote, “No one should live in fear of being stopped whenever he leaves his home to go about the activities of daily life.”

While the judge did not order the city to end stop and frisk, she did call for changes to the policy, such as requiring officers to state more concrete reasons for making stops and creating a process for the NYPD to investigate individual complaints of racial profiling.

Even before the high-profile ruling, the NYPD’s use of stop and frisk had begun to decline, and this trend continued with the support of Mayor Bill de Blasio, who took office...
in 2014. By 2015 police made 22,939 stops—compared to 685,724 at the policy’s peak in 2011. However, even with this drop-off and with the NYPD’s reforms, the practice continued to draw accusations of unreasonably targeting New Yorkers of color. The New York Civil Liberties Union (NYCLU) found that in the first half of 2015, police found no evidence of criminal activity in 80 percent of stop-and-frisk cases. Of the people stopped, 54 percent were black, 29 percent were Latino, and 11 percent were white. In certain neighborhoods, the racial disparity in the stops was even starker. For instance, as of 2011, only 24 percent of residents in Brooklyn’s Park Slope neighborhood were black or Latino. Yet in that year, 79 percent of the people stopped in that neighborhood were black or Latino.

As stop and frisk declines in New York City, similar policies in other cities around the nation continue to draw criticism. In Chicago, Illinois, for instance, black people make up 32 percent of the city’s population but account for 72 percent of police stops—many of which occur without clear justification. Between May and August of 2014 alone, officers conducted 250,000 stops that did not result in arrest. In a 2015 analysis of police stops in Chicago, the ACLU of Illinois found that “in nearly half of the stops we reviewed, officers either gave an unlawful reason for the stop or failed to provide enough information to justify the stop.” Also in 2015, six black residents of Chicago sued the Chicago Police Department (CPD), claiming that police stops violated their constitutional rights. Later that year, under pressure from the ACLU of Illinois, the CPD agreed to implement several reforms to its stop-and-frisk policy, including more detailed record keeping that will make it possible to track where stops occur, the reasons
given for the stops, which officers make the stops, and the race and ethnicity of those who are stopped. Supporters of the reforms say this information will allow more accurate analysis of the reasons stops are made, making it easier to pinpoint areas where racial profiling is a problem and even identify specific officers who rely on racial profiling. By February 2016, stop-and-frisk incidents in Chicago had decreased by 80 percent.

Traffic Stops
On July 10, 2015, Texas state trooper Brian Encinia pulled over twenty-eight-year-old Sandra Bland in Prairie View, Texas. Encinia, who identifies as Hispanic, told Bland, a black woman, that he had pulled her over for failing to signal a lane change. Dash-cam video in the trooper’s car and a bystander’s phone recording of the incident recorded much of the encounter that followed. When Encinia told Bland to put out her cigarette, she refused. He then ordered her to get out of the car, and she again refused. Encinia reached into the car window to grab Bland, threatening to use his Taser. He told her she was under arrest, although he did not respond when she asked “What for?” When Bland did eventually get out of the car, Encinia placed her in handcuffs and said, “You’re going to jail for resisting arrest.”

Legal experts who studied the footage said that while Encinia had the right to order Bland out of the car and that she should have complied with that demand, he escalated the situation without apparent cause. In jail, Bland left a voice mail for a friend expressing her disbelief that a simple traffic stop had led to her arrest. “I’m still just at a loss for words, honestly, about this whole process. How did switching lanes with no signal turn into all of this? I don’t even know.”
A 2011 DOJ study found that of police pulled over 15 percent of American Indian drivers, 12.8 percent of black drivers, and 10.4 percent of Latino drivers. Only 9.8 percent of white drivers were pulled over. And drivers of color were much more likely to be searched after being stopped.

Defenders of police department practices often insist that higher rates of stops for drivers of color do not necessarily indicate racial profiling. Rather, they say, people of color simply tend to make up the majority of the population in high-crime neighborhoods with a heavy police presence. In northern Dearborn Heights, Michigan, city council member Dave Abdallah used this line of reasoning when he addressed citizens’ complaints of racial profiling by police. Because the area has a large Arab American population, he said, the majority of people arrested or ticketed will inevitably be Arab. “They aren’t necessarily targeting anyone,” Abdallah told reporters in 2016, “but they will get more Arab Americans because they happen to be there.” Another rationale holds that because people of color are statistically more likely to live in poverty, they may also be more likely to drive cars with conditions (such as a broken taillight) that could lead to a stop.

Still, these factors fail to fully explain why drivers of color are disproportionately stopped and searched. An in-depth analysis by the New York Times in 2015 found further evidence of racial profiling in traffic stops. For example, in Greensboro, North Carolina, the study reported the following:

Officers pulled over African-American drivers for traffic violations at a rate far out of proportion with their share of the local driving population. They
used their discretion to search black drivers or their cars more than twice as often as white motorists—even though they found drugs and weapons significantly more often when the driver was white. Officers were more likely to stop black drivers for no discernible reason. And they were more likely to use force if the driver was black, even when they did not encounter physical resistance.

For Latino drivers, traffic stops by law enforcement often go hand in hand with questions about immigration status. Near the US-Mexican border, US Border Patrol officers can legally detain and interrogate anyone they suspect of being an undocumented immigrant.

Throughout the United States, police officers tend to stop drivers of color disproportionately. For instance, in the city of Ferguson, Missouri, in 2013, black people made up 63 percent of the population but account for more than 80 percent of traffic stops, vehicle searches, and resulting arrests. This does not mean that black residents are committing more traffic violations than white people, but rather that police are more likely to monitor and engage with them.
In many southwestern states, state and local law enforcement also demand proof that Latino travelers are legal residents of the United States. In April 2010, Arizona enacted one of the nation’s strictest and most far-reaching immigration laws yet: the Support Our Law Enforcement and Safe Neighborhoods Act, often referred to as SB 1070. Its goal is to identify, prosecute, and ultimately deport undocumented immigrants in the state. It authorizes law enforcement officials to stop and question any person, as long as they feel there is “reasonable suspicion” that the person is an undocumented immigrant. The law also requires noncitizens in the state to carry immigration documents and identification at all times. If they are stopped by law enforcement and found to be without these papers, they may face arrest. In addition, SB 1070 prohibits anyone without proper immigration documentation from applying for work in Arizona. Following the passage of SB 1070, Alabama, Georgia, Indiana, South Carolina, and Utah passed similar bills.

Supporters of SB 1070 called it an important step toward reducing illegal immigration. However, critics argued that the measure both encouraged and legalized racial profiling of Mexican Americans, other Latinos, American Indians, and others whom law enforcement might mistake for immigrants. Furthermore, critics pointed out that the law’s broad allowance for reasonable suspicion effectively gives police officers the right to use skin color—as opposed to any suspicious behavior—as the reason for a stop. Given these concerns, opponents of the law said that even if it were effective in reducing illegal immigration, the civil rights costs were too high. The critics included President Barack Obama, who stated that the law could “undermine basic notions of fairness that we
cherish as Americans, as well as the trust between police and our communities that is so crucial to keeping us safe.” Mexico’s then president Felipe Calderón was blunter in his comments, saying that the law “introduces a terrible idea: using racial profiling as a basis for law enforcement.” Protests against the law soon took place outside the Arizona State Capitol and elsewhere. Demonstrators carried signs bearing messages such as, “Do I look ‘illegal’?” and “Brown skin is not a crime.” In 2012 the US Supreme Court struck down some aspects of the law but upheld others, including the requirement that police officers check the immigration status of anyone they suspect to be an undocumented immigrant.

**Profiling and Police Brutality**

On August 5, 2014, John Crawford III, a twenty-two-year-old black man, was shopping at a Walmart in Beavercreek, Ohio. He had picked up an air rifle (also known as a pellet gun) from a display and was carrying it around the store when a fellow shopper called 911 to report that a man in the store had a gun. Police officers arrived on the scene and fatally shot Crawford,
later saying that he had ignored orders to drop the gun. However, surveillance video from the store cast doubt on the officers’ report. The officers fired so soon after approaching Crawford that many viewers questioned whether there could have been time for them to issue a clear warning. Yet in September 2014, a grand jury chose not to press charges against the officers involved, stating that their actions had been justified.

Crawford’s death is one of several cases that has brought increased public attention to police brutality against people of color and fueled demands for change. Among the other highly publicized incidents were the killings of eighteen-year-old Michael Brown of Ferguson, Missouri, in August 2014; fifty-year-old Walter Scott of North Charleston, South Carolina, in April 2015; twenty-five-year-old Freddie Gray of Baltimore, Maryland, also in

![Groups Most Likely to Be Killed by Law Enforcement](image)

According to the Centers for Disease Control and Prevention, African Americans and American Indians are most at risk for fatal encounters with law enforcement. Their rates of death at the hands of police officers far surpass the national average of 1.2 people for every 1 million people in the United States.

Throughout the United States, numerous people of color—many of whom are unarmed—die at the hands of police officers, who often do not face legal consequences. A report by the *Washington Post* found that between January 1, 2015, and July 10, 2016, 24 percent of the people fatally shot by police officers were African Americans. Because African Americans make up just 13 percent of the total US population, this data indicates they are 2.5 times more likely than white people to die by police shooting. Furthermore, the report found that police fatally shot 50 unarmed white people and 50 unarmed black people during this period. Yet the white population is about five times larger than the black population, meaning that unarmed black Americans are actually five times as likely as unarmed white Americans to be fatally shot by police.
CASE STUDY: MICHAEL BROWN

On the afternoon of August 9, 2014, Michael Brown and a friend, Dorian Johnson, were walking down the street in Ferguson, Missouri, a suburb of Saint Louis. Brown and Johnson, both black, were eighteen and twenty-two years old, respectively. They had just left Ferguson Market and Liquor, where security video later showed that an African American male had shoplifted cigarillos and shoved the store’s clerk on his way out. Darren Wilson, a white officer with the Saint Louis Police Department, drove by on patrol, noticed the young men, and approached them. Based on the young men’s appearance and the fact that Brown held cigarillos, Wilson may have identified Brown and Johnson as suspects in the convenience store theft.

What happened over the next few minutes is unclear, but the interaction ended with Wilson shooting Brown at least six times in the head, chest, and arm. A few minutes later, an ambulance happened to pass by the scene and a paramedic declared Brown dead. His body then lay in the street for more than four hours. A crowd, largely neighborhood residents, soon gathered. Saint Louis officials later said this disorder may have delayed authorities in collecting Brown’s body. Whatever the reason for the delay, the stark sight of a dead black teenager lying in the summer sun left a deep impression. As one local put it, “You’ll never make anyone black believe that a white kid would have laid in the street for four hours.”

Conflicting stories about how Brown was killed soon flooded the news. Brown’s friend Dorian Johnson said Brown had raised his hands and said, “Don’t shoot” before Wilson fired. Other

In most of these cases, officers deny that racial profiling played a role in their decisions. However, witness testimony and video footage of incidents often indicate that racially biased targeting took place. Even so, the majority of officers implicated in using excessive force against people of color face no criminal charges. While police departments have fired officers involved in high-profile cases, disciplinary action for less publicized incidents is often much lighter.

The degree to which racial profiling plays a role in cases of police brutality is impossible to measure precisely. Taken
witnesses disagreed. Some observers dwelled on the possibility that Brown may have been guilty of theft from the convenience store, while others countered that even if he had been, that crime should not have cost him his life. In November 2015, a jury chose not to indict Wilson for Brown’s killing, saying that Wilson had acted in self-defense according to the law.

Did Darren Wilson treat Michael Brown differently because he was black? Some analysts have pointed out that the language in Wilson’s own account of the shooting seemed to show an attitude that villainized and dehumanized Brown, including describing him as looking like “a demon.” Wilson later told an interviewer, “Do I think about who [Brown] was as a person? Not really, because it doesn’t matter at this point. Do I think he had the best upbringing? No. Not at all.” Additionally, Wilson’s actions appeared to fit into a long-standing pattern of white police officers in Ferguson targeting black residents.

This pattern was confirmed by a DOJ investigation into events in Ferguson, before and after Brown’s death. The DOJ report, published in March 2015, detailed systematic bias in the Ferguson Police Department, saying that “African Americans experience disparate impact in nearly every aspect of Ferguson’s law enforcement system.” For instance, African Americans represented 67 percent of Ferguson’s population but accounted for 85 percent of the Ferguson Police Department’s traffic stops and 93 percent of its arrests between 2012 and 2014. In response to these findings, the DOJ declared that the City of Ferguson had violated citizens’ constitutional rights and called on the city to carry out significant reforms to its criminal justice system. In February 2016, after the city refused the DOJ’s proposed plan for reforms, the DOJ filed a civil rights lawsuit against the City of Ferguson.

together, however, fatal encounters between police officers and people of color illustrate the high costs of race-based suspicions and assumptions. Writer Bijan Stephen speaks of the toll these tragedies take on minority communities: “I, along with every other black person in America, live with fear every day.”

**Jailhouse Deaths**

On the morning of July 13, 2015, three days after Texas state trooper Brian Encinia arrested Sandra Bland for a minor traffic violation, she was found dead, hanging in her jail cell.
Certain that she wouldn’t have killed herself, her family voiced suspicions that Bland might have been harmed by police while in jail. Some of the jail’s records show that Bland reported no problems with depression, while others say she had told staff at the jail that she had attempted suicide in the past. Experts say she should have been placed under close observation to make sure she did not harm herself. Jail staff did not take this precautionary step.

Bland’s autopsy reported that her injuries were consistent with suicide. Nevertheless, Texas authorities began an investigation into her death, examining whether the jail employees had taken appropriate steps to ensure her safety. In December 2015, a grand jury announced that it would not indict anyone from the jail in connection with Bland’s death. In January 2016, a second grand jury indicted Encinia on perjury, charging that he had not been truthful in his account of Bland’s arrest.

While questions remain about what exactly happened to Bland, her story is part of a larger pattern. In the same month she died, at least four other black women—eighteen-year-old Kindra Chapman, fifty-year-old Joyce Curnell, thirty-seven-year-old Ralkina Jones, and forty-two-year-old Raynette Turner—also died in jail cells under uncertain circumstances. When people of color die in police custody, particularly in jail cells while awaiting trial or release, their deaths can often be linked to neglect on the part of jail staff. Inattention to medical conditions, from mental health issues to an inmate’s need for specific medication, routinely put inmates at undue risk.

Moreover, families often find law enforcement agencies to be slow to investigate or clarify the circumstances of these deaths. For example, the day after Bland’s death, fifty-three-
year-old Choctaw activist Rexdale W. Henry was found dead in a Mississippi jail cell after being arrested for failing to pay a minor traffic ticket. More than two weeks later, Henry’s cellmate was charged with his murder, a development that raised further questions about law enforcement’s handling of the case. “I don’t understand why it took so long from the time that they found Mr. Henry dead in his cell to the time they charged a cellmate for his murder,” said Syracuse University law professor Janis McDonald, who assisted Henry’s family with an independent investigation. “They were locked up together, why would it take 16 days?” The charge that families and advocates make is not so much that law enforcement deliberately caused an inmate’s death because of racial prejudice but rather that the inmate was given less attentive care because of race—and that after this inattention resulted

Twenty-eight-year-old Sandra Bland died in her Texas jail cell after being arrested during a routine traffic stop in 2015. The circumstances of her arrest and death sparked nationwide calls for police accountability.
CASE STUDY: FREDDIE GRAY

On the morning of April 12, 2015, a police officer in Baltimore, Maryland, made eye contact with Freddie Gray, a twenty-five-year-old black man. Gray began running, and the officer followed, calling for backup. Eventually three officers overtook Gray, handcuffed him, and searched him. Finding a knife he was carrying, they placed him under arrest.

Witnesses later said that Gray, who had asthma, asked for an inhaler, but police did not give him one. A bystander’s cell phone video showed officers pulling a handcuffed Gray toward a police van as he screamed and dragged one of his legs.

The van made multiple stops on its way to a police station. Reports say that officers never buckled Gray’s seat belt—a violation of Baltimore Police Department policy. By the time the van arrived at the police station, about forty-five minutes after Gray and the police officer saw each other on the corner, Gray “could not talk and he could not breath [sic],” according to city officials. He was taken to a hospital, where he died of a severe spinal cord injury on April 19.

The medical examiner who prepared Gray’s autopsy report speculated that Gray might have stood up in the back of the van and then been thrown against the van’s side when it abruptly slowed down or turned. The report ruled his death a homicide, saying that officers had failed to take steps, such as buckling Gray’s seat belt, that could have prevented his injuries. Six officers involved in Gray’s death faced criminal charges ranging from misconduct to

in the inmate’s death, departments dismissed the institutional failures that created the tragic situation.

Stand Your Ground Laws

Racial bias can also impact the ways in which the criminal justice system treats people of color when they are victims of crimes. For example, people of color are often victims of beatings, killings, and other acts of violence at the hands of law enforcement officers. Few of the officers in high-profile brutality cases have received criminal convictions for their actions. Some observers argue that these cases highlight the justice system’s
second-degree murder. As of June 2016, one officer’s trial had ended in a mistrial and two others’ had resulted in acquittals.

Of the six officers charged, three were white and three were black. But some people argue that racial profiling still played a role in Gray’s arrest and death. When the Baltimore Sun newspaper analyzed data from 2014, it found that black people make up 64 percent of Baltimore’s population but represented 93 percent of arrests for loitering and 84 percent of arrests for trespassing. The Baltimore Sun concluded that black citizens in Baltimore are stopped and arrested disproportionately—not because they commit more crimes than white citizens but because they receive heavier police scrutiny. The paper’s editorial board wrote, “It’s not necessarily that the officers chased Freddie Gray because he was black, it’s that he almost certainly wouldn’t have been on that corner if he hadn’t been.” Similarly, a friend of Gray’s, Rudolph Jackson, described how he and many other Baltimore residents viewed the situation: “I’m not saying Fred was an angel. . . . But the police already have made up their minds about who we are.”

Near the spot where Baltimore police officers arrested Freddie Gray in 2015, a mural depicts Gray in front of the ghosts of civil rights activists and other victims of police brutality. Gray died after suffering injuries in police custody.

bias in favor of police officers rather than a racial bias. But what about crimes committed by civilians against people of color? Such cases can reveal the ways in which the US justice system tolerates racial profiling by private citizens—and allows implicit racial bias to influence how laws are enforced. On the rainy evening of February 26, 2012, seventeen-year-old Trayvon Martin was on his way home in Sanford, Florida. Martin, who was black, was wearing a hoodie sweatshirt with the hood up as he walked through the gated subdivision where he lived. George Zimmerman, a twenty-eight-year-old man of white and Latino ethnicity, also lived in the subdivision. He led the neighborhood
watch group and had been worried about recent burglaries in the area. At about seven o’clock that night, Zimmerman was driving his SUV through the neighborhood when his path crossed Martin’s. Zimmerman called the police, saying that Martin seemed suspicious and might be on drugs. The dispatcher told Zimmerman that officers would check out the situation and that Zimmerman did not need to follow Martin.

Less than ten minutes later, Zimmerman fatally shot Martin in the chest.

### HATE CRIMES

On February 10, 2015, in Chapel Hill, North Carolina, Craig Stephen Hicks—a white man—shot and killed twenty-three-year-old Deah Shaddy Barakat; Deah’s wife, twenty-one-year-old Yusor Mohammad Abu-Salha; and Yusor’s nineteen-year-old sister, Razan Mohammad Abu-Salha. All three victims were Muslims. Deah and Yusor were Hicks’s neighbors and had had several confrontations with him about parking spaces and other minor issues. Following the killings, many observers felt that Hicks had targeted his victims mainly because they were Muslim.

If so, the murders would legally qualify as hate crimes. A hate crime is any crime specifically motivated by prejudice. (This can include prejudice based on gender and sexual orientation as well as race, ethnicity, religion, and national origin. People of color often fit into one or more vulnerable categories.) Hate crimes can take many forms, from defacement of places of worship to physical assault or murder.

According to the FBI, hate crimes against Muslims or Arabs—or those perceived to be either—increased after 9/11, and as of 2015, they were still five times as common as they had been before the 2001 attacks. In the wake of 2015 terrorist attacks in Europe and the United States, Muslim Americans reported more frequent experiences of being physically and verbally assaulted. Multiple mosques were vandalized around the nation, with several cases prompting FBI hate crime investigations. On social media, threats against Muslims and Arab Americans became more frequent.

Hate crimes are difficult to track. Five states lack laws against hate crimes, and across the country, police departments often fail to report hate crime statistics for their
Exactly what happened between the time Zimmerman called the police and the moment he shot Martin remains unclear. Zimmerman said that Martin attacked him and that, fearing for his life, he shot Martin in self-defense. Zimmerman was later treated for injuries to his face and head, which could have been caused by a fight with Martin. Some witnesses supported his story that Martin confronted him and perhaps began a physical altercation. But others said that Martin seemed nervous about Zimmerman following him, tried to

jurisdictions. And not all prejudice-fueled acts of violence are officially designated as hate crimes. The decision rests with local law enforcement and can be inconsistent. In June 2015, for instance, a white man fatally shot nine black parishioners at a predominantly African American church in Charleston, South Carolina. The city’s police chief deemed the shooting a hate crime. On the other hand, the March 2016 murder of a Puerto Rican man and a Hmong couple in Milwaukee, Wisconsin—an incident that appears to have begun with a racist comment from the shooter—was not officially designated as a hate crime.

Even when attacks against people of color cannot be conclusively established as hate crimes, racial profiling may be at least one of the factors underlying such violence. Many hate crimes committed by civilians begin with profiling (which often misidentifies the race or ethnicity of a target) and escalate to violence. For example, many psychologists and scholars of race relations believe the killing of Trayvon Martin and the murder of Jordan Davis were racially motivated, even though they were not officially designated as hate crimes.
run away, and was overpowered by Zimmerman. A 911 call made by a neighborhood resident recorded a male voice in the background yelling for help. Martin’s parents say it was their son’s voice. Zimmerman’s father says it was his son’s voice.

George Zimmerman was a civilian, not an officer of the law, and his case highlighted another element of racial bias in the US criminal justice system. Florida’s controversial self-defense law, often called the Stand Your Ground law, allows citizens to react violently to a person who they feel threatens their personal safety. Police can arrest a person who commits an act of violence only if the officers can prove that the person did not act in self-defense. Because of this law, police could take Zimmerman into custody but had to release him the same night. Zimmerman had admitted to killing Martin but claimed it was in self-defense. He was ultimately rearrested and charged with second-degree murder in April 2012.

As news of the killing spread beyond local Florida news, outrage flared across the country. Much of the conversation focused on the law and how long it took for Zimmerman to be charged. Some observers speculated that if Martin had been white, law enforcement might have acted more quickly. Meanwhile, Martin’s parents began an online petition calling for Zimmerman to face trial. Martin’s family lawyer described the petition as “not in an effort to persecute George Zimmerman, but in an effort to say a black 17-year-old child should be able to walk home from the store and not be shot.” More than two million people signed the petition. In Sanford and Miami, Florida, demonstrators—often wearing hoodies—held protest marches calling for Zimmerman’s prosecution.

In July 2013, a jury consisting of five white women and one woman of color found Zimmerman not guilty due
to conflicting testimony and a lack of clear evidence that he had acted with ill intent. Civil rights advocates such as the NAACP urged the US Justice Department to file civil rights charges against Zimmerman, while also calling for an end to Stand Your Ground laws and a commitment to end racial profiling.

Less than a year after Trayvon Martin’s death, the shooting death of another unarmed black teenager put the spotlight on Stand Your Ground laws once again. On November 23, 2012, four young black men—Jordan Davis, Tevin Thompson, Leland Brunson, and Tommie Stornes—pulled into the parking lot of a gas station in Jacksonville, Florida. Stornes, the car’s driver, went into the gas station’s convenience store, while his friends remained in the car, talking and listening to loud music. Michael David Dunn, a forty-five-year-old white man, pulled up next to them and told them to turn the music down. When seventeen-year-old Davis refused, he and Dunn started arguing through the open windows of their vehicles. Dunn then pulled a handgun from his glove compartment and began shooting just as Stornes returned. Stornes quickly drove away while Dunn continued to fire. Davis was hit twice. An ambulance rushed Davis to the hospital, where he died.

When police arrested Dunn, he told them he had felt that the young men were threatening and that he had acted in self-defense. Like George Zimmerman, he claimed a Stand Your Ground basis for his actions. Dunn added that he had seen a shotgun or maybe a stick in the car, though he also later admitted that he might have imagined it. At the 2014 trial, a jury convicted Dunn of first-degree murder and sentenced him to life in prison without parole.
Like George Zimmerman, Dunn is a civilian, not an officer of the law. And as in the killing of Trayvon Martin, not everyone believed that race was a factor in Dunn’s actions or that it played a role in the outcome of the trial. Nevertheless, the incident renewed the heated public conversation about racism in the criminal justice system and about the common perception of young black males as threatening, dangerous, or likely to be guilty of criminal behavior. Davis’s mother, Lucia McBath, emphasized that her son had been targeted without having done anything illegal or dangerous. “Jordan had no guns. He had no drugs. There was no alcohol. They were coming from the mall. They were being kids.”

Legal scholars agree that Florida’s Stand Your Ground law offered Zimmerman and Dunn a legal advantage that might not have been available to a defendant of color in a similar circumstance. A study published in the journal *Social Science & Medicine* in 2015 examined more than two hundred Florida court cases in which the Stand Your Ground law was used as a legal defense. In these cases—which spanned from 2005 to 2013—juries were twice as likely to convict perpetrators if the victims were white. “These results are similar to pre-civil rights era statistics,” said the report, “with strict enforcement for crimes when the victim was white and less-rigorous enforcement when the victim is non-white.”

Thirty-three states have Stand Your Ground laws. Members of the American Bar Association (a nationwide group of lawyers and law students) formed the National Task Force on Stand Your Ground Laws, which conducted a large-scale evaluation of these laws in a 2014 report. Overall, the report concluded that such laws encourage racial profiling in two ways.
CASE STUDY: WALTER SCOTT

On April 4, 2015, in North Charleston, South Carolina, Officer Michael Slager, a white man, pulled over Walter Scott, a fifty-year-old black man, for having a broken taillight on his car. Scott got out of the car and began to run away. Slager pursued him, leading to a short struggle between the men before Scott turned to run once more. Slager then fired his gun, killing Scott.

In Slager’s report of the incident, he said that he had fired in self-defense, believing his life was in danger because Scott had grabbed his Taser during the scuffle. But additional information came from a bystander named Feidin Santana, who recorded the shooting on his phone. Santana’s footage showed the end of the altercation and then Scott running away. As Scott fled, Slager drew his gun and fired eight times, shooting Scott in the back. The video then showed Slager walking over to Scott, who lay facedown on the ground, and cuffing Scott’s hands behind his back. As a second officer arrived, Slager returned to the spot from which he’d fired and picked something up, which he then dropped next to Scott’s body. Police reports said that officers gave Scott cardiopulmonary resuscitation (CPR), but this does not happen in the course of the four-minute-long video.

Scott was unarmed.

Three days after the shooting, Slager was charged with murder, and the North Charleston Police Department fired him. Even as the city reeled from the events, some observers found a measure of comfort in the fact that a murder charge was imposed so quickly, in contrast to many similar cases. Nevertheless, the details of the event—like so many before it—raised difficult questions. What if no one had recorded the incident? What if Santana had not shared the video? Would anyone have questioned Slager’s version of events? Scott’s family doesn’t think so. As Scott’s father put it, “It would have never come to light.” City officials agreed that the video had been crucial in the decision to press charges. The North Charleston police chief said: “I have watched the video and I was sickened by what I saw.” The town’s mayor, Keith Summey, said he had issued an order for the city’s police officers to wear body cameras, which—in the absence of a bystander like Santana—could potentially capture important information about similar events in the future.
“First . . . implicit bias may impact the perception of a deadly threat as well as the ultimate use of deadly force. Second . . . implicit bias impacts the investigation, prosecution, immunity, and final determination of which homicides are justified.” The report also found that states with Stand Your Ground laws saw an increase in homicides and had no reductions in other crimes, such as theft, burglary, or assault. The report’s authors recommended that states with Stand Your Ground laws repeal them—and advised other states against enacting them.

**Incarceration**

Stand Your Ground laws reveal only one way in which racial profiling plays out in the law enforcement and judicial systems. Experts agree that racial prejudice also contributes to mass incarceration: the high numbers of US citizens—especially people of color—behind bars. More than two million Americans are in jails or prisons across the country at any given time, and incarceration rates show a disproportionate impact on people of color.

Each year, thousands of people of color spend days, weeks, or even months in local jails while awaiting trial for minor offenses. If convicted of crimes, people of color can face years of incarceration in state or federal prisons. For every 100,000 black American males, 2,724 are in prison, while only 465 out of every 100,000 white males are imprisoned. Additionally, the Bureau of Justice Statistics has reported that American Indians are incarcerated at a rate more than 30 percent higher than the national average, despite making up less than 2 percent of the nation’s population. A study by the National Council on Crime and Delinquency found that American Indian men entered prison at a rate more than four times that of white men.
Although men—regardless of racial or ethnic identity—are incarcerated at significantly higher rates than women, women of color face a greater chance of serving prison time than their white counterparts. According to the Bureau of Justice Statistics, black women are at least twice as likely to be imprisoned as white women, and Latinas are 69 percent more likely to be incarcerated than white women. The Bureau of Justice Statistics found that American Indian women are imprisoned at a rate more than six times that of white women.

Youths of color are also disproportionately represented in the criminal justice system. Statistics show that black teens are more likely than white teens to be arrested or sentenced to prison for the same crime. And the American Psychological Association found that US courts are eighteen times more likely to process, try, and sentence African American underage youth as adults (rather than as juveniles) than white youth. This trend results in harsher sentences and more serious

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**VOICES OF EXPERIENCE**

“I have grown tired of having to explain to people why mouthing off to police shouldn’t get me killed. I am tired of having to try twice as hard to smile on the train so people aren’t automatically afraid of me. I am tired of being afraid of police officers as they drive past my house or walk by me on the street. I am tired of being too afraid of police violence to go to the public pool, walk down the street, go to the movie theater, walk with skittles or exist in my own skin. . . . We live in a ‘post-racial’ society but it seems that this ‘post-racial’ attitude has tricked people into thinking that denying racism will completely destroy it.”

—Jeremey Johnson, activist and poet, 2015

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criminal records, which in turn make it more difficult for a person to reintegrate into society after release. In all but two states, people with felony convictions are ineligible to vote while incarcerated, and many states also bar felons from voting after they serve their sentences. (Some states permanently bar felons from voting. Others allow people to formally apply for restoration of voting rights five years after the end of their sentences.) Convicted felons also can be denied public housing and are automatically disqualified for many jobs. As law professor Michelle Alexander, author of the book *The New Jim Crow*, explains, felons “are relegated to a permanent second-class status, stripped of the very rights supposedly won in the civil rights movement—like the right to vote, the right to serve on juries, the right to be free of legal discrimination and employment, and access to education and public benefits.”

**Sentencing**

Besides being imprisoned at higher rates than white people, people of color are also, overall, imprisoned for longer than white people. In March 2010, a report by the United States Sentencing Commission found that between 2007 and 2009, black men convicted of crimes received sentences that were 23 percent longer than the white men’s sentences. During that time, sentences imposed on Latino men were 6.8 percent longer than those of their white counterparts. Among American Indians, research has found that sentences are, on average, 57 percent longer than those given to white defendants.

A DOJ report also found that in federal courts, 80 percent of the defendants who were sentenced to death were racial minorities. Another study found that an African American who kills a white person is twice as likely to be sentenced to death
as a white person who kills an African American. A 2006 study for Cornell Law School also found that when jurors thought of defendants convicted of murder as having more “stereotypically black” features (designated in the study as broad noses, thick lips, dark hair, and dark skin)—and when the victims were white—juries were more than twice as likely to impose the death penalty (in states where the death penalty is an option). When the victims were also black, however, the appearance of the black defendants did not seem to affect sentencing. One of the study’s researchers, criminal law expert Sheri Lynn Johnson, commented, “That disturbing result . . . is consistent with previous findings on race and the death penalty, which consistently show that black defendants accused of killing white victims are much more likely to be sentenced to death than those accused of killing blacks.” Another of the study’s authors, social psychologist Jennifer Eberhardt, reflected, “Race clearly matters in criminal justice in ways [of] which people may or may not be consciously aware.”
CASE STUDY: ERIC GARNER

On July 17, 2014, Eric Garner was standing on a sidewalk in Staten Island, New York, when two white plainclothes police officers approached. They accused Garner, a forty-three-year-old black man, of selling loose cigarettes in violation of New York tax laws. Garner had been arrested and charged twice in the past year for selling cigarettes, as well as for marijuana possession and other low-level crimes. This time, Garner said to the arresting officers, “Every time you see me you want to arrest me. I’m tired of it. This stops today. . . . I’m minding my business, officer. Please, just leave me alone.” When officers Daniel Pantaleo and Justin Damico placed him under arrest, Garner tried to brush them off, saying “Don’t touch me.” Pantaleo then put Garner in a choke hold, wrapping one arm tightly around his neck as additional officers arrived. Pantaleo and other officers pushed Garner to the ground, putting pressure on his chest and pressing his face against the sidewalk. As the officers placed him in handcuffs, Garner began saying, “I can’t breathe.” He repeated this statement eleven times while officers continued to hold him down.

After being cuffed, Garner lay on the sidewalk without moving, and officers called an ambulance. Emergency medical technicians (EMTs) arrived soon afterward but waited several more minutes before placing Garner on a stretcher. They did not administer oxygen or other life support until after he was in the ambulance. On the way to the hospital, Garner went into cardiac arrest. He was pronounced dead at 4:34 in the afternoon.

A witness’s cell phone video of the arrest was picked up by news stations and posted widely on social media, generating anger and sorrow around the nation. The New York medical examiner ruled Garner’s death a homicide and that the choke hold had been the cause of death. In an editorial for the digital news site the Daily Dot, journalist S. E. Smith argued that if Garner had been white, “police likely would not have harassed him in the first place, they would not have used such aggressive tactics to arrest him, and they would have rendered medical aid immediately, rather than standing around while he wheezed that he couldn’t breathe.”

Six months after Garner died, in December 2014, a grand jury decided not to press charges against Pantaleo, citing insufficient evidence of wrongdoing. Garner’s mother, Gwen Carr, expressed her disbelief at the jurors’ decision, asking, “Were they looking at the same video the rest of the world was looking at?”
Unconscious profiling by judges, juries, and witnesses also contributes to a higher rate of wrongful convictions of people of color than of white people. Of the 324 American inmates exonerated by genetic DNA (deoxyribonucleic acid) evidence prior to 2012, about 70 percent were people of color. Almost 75 percent of total DNA exoneration cases involve an eyewitness’s misidentification of a suspect, and about 42 percent of those misidentifications are cross-racial—meaning that a witness incorrectly identified a suspect of a different race. Studies show that witnesses often struggle to distinguish facial differences among people outside their race. In other words, unconscious racial profiling can result in a conviction for an innocent person who simply happens to share the racial background of the true criminal. “Justice is color coded,” says journalist David A. Love in regard to wrongful convictions, “and truly a matter of black and white.”