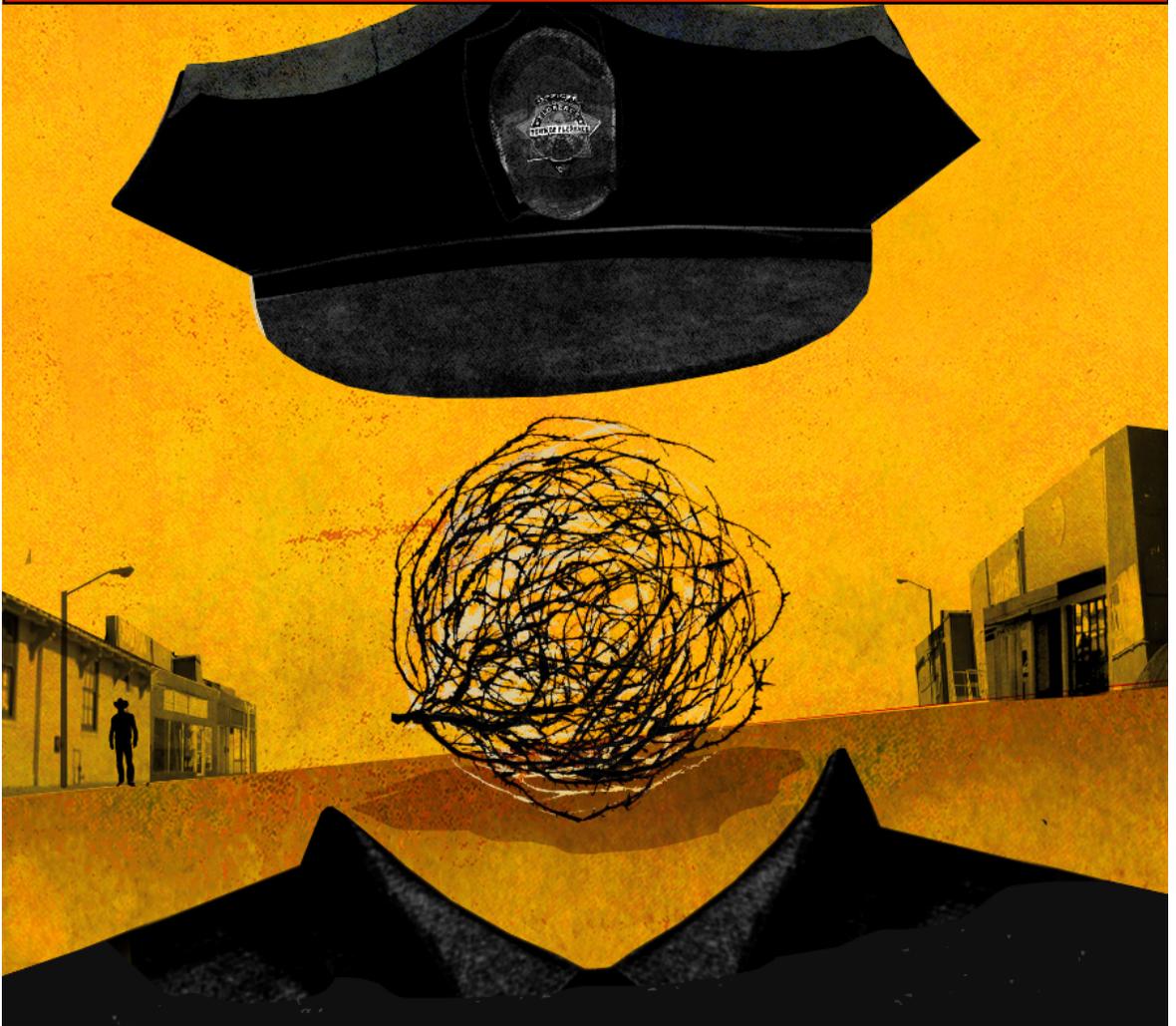


# BEYOND FERGUSON: SOCIAL INJUSTICE AND THE HEALTH OF THE PUBLIC

February 3, 2016

Boston University School of Public Health

SPH Symposium papers – Number 1



# Boston University School of Public Health Dean's Symposia

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This is part of a series of reports issued by the Boston University School of Public Health (BUSPH), emerging from symposia and other convenings of experts exploring contemporary public health issues. The goal of these meetings is to engage difficult issues, to generate discussion among our school community and global thought leaders, and to generate collaborations across sectors that can lead to solutions that improve the health of populations. This series was launched on the occasion of the school 40th anniversary in 2016.

*Summary written by Courtney Perdios.*

# Beyond Ferguson: Social Injustice and the Health of the Public

February 3, 2016

## **BUSPH Dean:**

Sandro Galea

## **Symposium Organizer:**

Harold Cox

BUSPH Associate Dean for Public Health Practice

## **Symposium Participants:**

### **Mary Travis Bassett**

Commissioner, New York City  
Department of Health and Mental  
Hygiene

### **The Honorable Leslie E. Harris**

Associate Justice, Juvenile Court, Suffolk  
County, MA

### **Cornell William Brooks**

President and CEO, National Association  
for the Advancement of Colored People  
(NAACP)

### **Steven L. Hoffman**

Deputy Chief, Medicaid Fraud Division at  
Massachusetts Attorney General's Office

### **Reverend Jeffrey L. Brown**

Founder, Rebuilding Every Community  
Around Peace (RECAP)

### **Glenn E. Martin**

Founder, JustLeadershipUSA

### **Andrea J. Cabral**

Former Secretary of Public Safety,  
Commonwealth of Massachusetts

### **Roy Martin**

Director of Services, Partnership Advancing  
Community Together (PACT), Boston Public  
Health Commission

### **Harold Cox**

Associate Dean for Public Health  
Practice, Boston University School of  
Public Health

### **Denise McWilliams**

Executive Director, New England Innocence  
Project

### **Nazgol Ghandnoosh**

Research Analyst, The Sentencing  
Project

### **Ronald D. Simpson-Bey**

Alumni Associate, JustLeadershipUSA

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## ***Beyond Ferguson:***

### ***Social Injustice and the Health of the Public Symposium***

***February 3, 2016***

#### **Introduction/Overview**

The first symposium in this series, *Beyond Ferguson: Social Injustice and the Health of the Public*, occurred befittingly in February, Black History Month. The purpose of this symposium was to explore how we as a society can create conditions by which people are treated fairly in the criminal justice system, and to understand the ethical and public health implications of not doing so. The symposium brought together public health experts and officials, justice system personnel, and community leaders to discuss this timely and important topic. Combining powerful presentations by keynote speakers with insightful group panel discussions, the day-long conversation explored the many issues found at the intersection of race and racism, criminal justice, and public health.

#### **Understanding the Problem**

What is found at the intersection of race and racism, criminal justice, and public health cannot easily be whittled down to a single simple issue. The problem is multifaceted and far-reaching. It involves many levels and systems that are in need of reform.

#### **Racism**

The Associate Dean for Public Health Practice at BUSPH, Harold Cox, opened the symposium by identifying one of the main causes of the problem – racism still exists. He related things he commonly sees and experiences as a black man – people crossing the street to avoid walking past a black man, cab drivers pretending they don't see a black man hailing, people in cars rolling up windows and locking doors when a black man passes on the sidewalk. He fears his nephews might get hurt at the hands of police because they often question and challenge authority. The symposium's first keynote speaker, Cornell Brooks – the NAACP's 18<sup>th</sup> President and CEO – also shared his experience being harassed by police when he was a newly minted civil rights attorney who had just graduated from Yale Law and clerked for the U.S. Court of Appeals for the Fourth Circuit. He accidentally tapped the bumper of an unmarked police car, and after giving the officer his license, he reached for his glasses in his jacket pocket. In response, the officer pulled out his gun. The officer dismissed Brooks' credentials and continued to treat him as a criminal. To support these stories, evidence shows that a black man is 21 times more likely to lose his life at the hands of police than a white man, and blacks are 20% more likely to receive mandatory minimums and sentenced to prison than whites even though the drug usage rate between blacks and whites is equal.<sup>1,2</sup> And although whites are arrested more often for violent crimes, the rates of arrest are extremely different: one out of every three black men is arrested, while only one out of every seventeen white men is arrested.<sup>3</sup>

Dr. Mary Bassett stated clearly that we need to name racism as a fundamental cause of health inequity. But she was quick to add that a conversation about racism is not a conversation about blame. Former Secretary of Public Safety and Suffolk County Sheriff Andrea Cabral supported the need for honest dialogs in which law enforcement officials can identify their biases openly, but she concedes that it is a hard conversation to have.

Dr. Nazgol Ghandnoosh presented evidence for the ways in our criminal justice system is disparately affected by race. First, she provided data that support the view that there *does* exist a systematic racial bias in police enforcement. The number of routine traffic stops is shown to be equal between blacks and whites; however, the incidence of investigatory stops (in which an officer suspects he or she may find something) is significantly higher among blacks than whites. Dr. Ghandnoosh then discussed the disparate racial impact of race-neutral policies – laws and policies that, although appear to be race-neutral, affect black communities more frequently. She cited the example of Drug Free School Zones. Under this law, anyone found to be distributing drugs (selling drugs, passing a joint, etc.) within 1,000 feet of a school or park would face a mandatory minimum of two years in prison. Because urban localities have a higher density of schools and parks than do suburbs, the likelihood that someone accused of distributing drugs would fall into a zone protected by that law would be much higher in the city than in a suburb. Another example is the three strikes law, which calls for an enhanced penalty for a third offense. As we have seen, since police are more inclined to cite blacks for investigatory stops, blacks are more likely to be accused of having done something wrong. A last example is “broken window policing.” Under this type of policing, officers are encouraged to crack down on minor offenses (graffiti, selling cigarettes illegally, etc.) in an effort to ward off more serious crime. Because urban areas see more graffiti and illegal sale of goods than suburbs, blacks are cited more often. Dr. Ghandnoosh also raised the point that some of our policies and decisions disadvantage low-income people, who are often black. One such example is money bonds. More affluent offenders can often pay the bail required to be released after arrest prior to trial and sentencing. However, poorer people will be held on bonds before they are convicted, causing them to spend more time in jail before sentencing and often leads to accepting unfavorable plea bargain deals just to be released. Lastly, Dr. Ghandnoosh highlights policies that exacerbate socioeconomic inequalities. A primary example is the inability of people with criminal records to secure employment, access federal benefits, or take part in drug treatment programs. Policies that lead to a disproportionate number of black men and women having a criminal record lead to a continuing and deepening of their socioeconomic inequality, extending to future generations.

### **Police Misconduct**

We can all recount the litany of recent incidents involving police and unarmed members of the black community: the shooting of Michael Brown in Ferguson, Missouri in 2014, the 2015 death of Freddie Gray as a result of police brutality in Baltimore, the shooting death of Trayvon Martin in Sanford, Florida in 2012 and the following year’s acquittal of the police officer who shot him, the choking death of Eric Garner in New York City in 2014, and the shooting of 12-year-old Tamir Rice on a playground in Cleveland. These and numerous other events have become symbols of the violence that black communities face every day across the country. As Cornell Brooks stated, “when an African American young man is 21 times more likely to lose his life at the hands of police than his white counterpart, something is profoundly wrong.” He urged that it is time for reform and a different modality of policing. Something has to change!

As Reverend Jeffrey Brown pointed out, the deep distrust and fear of police in minority communities is built upon decades of failed housing policies, poor educational institutions, chronic unemployment and underemployment, and poor healthcare. This relationship has led to low clearance rates for police. In order to investigate crimes and homicides in these communities, witnesses are needed, and in those communities, people are afraid to talk to or work with police. Policing with no community trust has yielded fewer witnesses for investigations and reduced prosecutions.

Police misconduct has also had many negative effects on the public health of communities. Cornell Brooks likened living in urban minority neighborhoods to living in a cauldron of stress. Residents there who face epidemic levels of violence and the constant threat of police are often also victims of elevated levels of hypertension, chronic disease, and diabetes. Dr. Bassett summarized the health implications of living in fear of police violence into four categories:

1. On an individual level, a person may face serious injury or premature death at the hands of police misconduct
2. On a family level, the survivors of police violence victims live with emotional and psychological trauma and the social and financial implications of losing a family member
3. On a neighborhood level, residents suffer the vicarious trauma of victims
4. On a broad level, police violence incites fear and causes chronic stress in communities

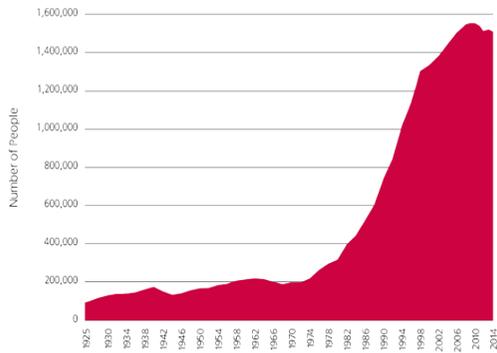
When people fear for their safety in their own communities, they may fear leaving their homes to go out and exercise or to send their children out to play. Many students begin their day walking through metal detectors at their schools. Dr. Bassett raised concerns about the impact that being treated as a criminal has on the quality of the education they receive that day. Retired juvenile judge Leslie Harris shared his concerns. He advocates for regarding minors like those who appeared before him in court as trauma victims, and has been seeking a diagnosis of “urban stress” in the juvenile court system. Such a diagnosis would allow court officials to take into consideration the pressures of surviving in an urban area on a day-to-day basis and the effect that those pressures have on a child’s learning abilities and on their reaction to authority figures. Judge Harris went further, saying that kids are being criminalized at too young an age and for offenses that used to be handled by parents.

In any discussion about behavior within police departments, however, Andrea Cabral cautioned that we remember that bad behavior by some does not represent all police officers. Our job is to recognize that police have a tough job to do and many do it well, but we must identify and eradicate the inherent biases and unfair treatment that occur all too often.

### **Mass Incarceration**

The issue of mass incarceration is a relatively new problem. The steep rise in the number of people incarcerated has only happened in the last 2-3 decades.

U.S. State and Federal Prison Population, 1925-2014



Source: Bureau of Justice Statistics Prisoners Series



There are seven times more people incarcerated today than there were in the 1970s. Though the United States is home to less than 5% of the world’s population, our jails house 25% of all of the world’s prisoners.<sup>4</sup>

Activist Michelle Alexander has claimed that mass incarceration is the newest manifestation of the race problem we have in this country. The effects of mass incarceration extend to families of those imprisoned as well. In most cases, prisons are located far from cities, making it economically burdensome for families to visit relatives that are incarcerated. Money is needed for travel costs, hotel stays, and phone calls. Prisoners often receive inadequate clothing, so money is also needed for those incarcerated to buy the supplies they need from the commissary. The incarceration of a family member puts not only the social stress of having a loved one in prison, but it puts an undue financial burden on an already overly stressed family.

Glenn Martin pointed out that working to reduce the incarceration rate is different than working to improve the criminal justice system. Both efforts are needed. He also offered hope to those who find the task of addressing mass incarceration daunting by calling to mind the past and showing us that we have a roadmap in this country for how we address systems of oppression.

**Our Treatment of Those Incarcerated**

One of the most challenging aspects of how we treat those who are incarcerated is that they are often viewed as “the others.” Cornell Brooks suggested that when a person in prison is seen as “somebody else, somewhere else,” there can be no coalition to bring about sound policy. He urged the critical importance of engaging the whole community in reform efforts. Glenn Martin recalled a moment early in his time in prison when his cellmate saw that he was having a hard time and, using the minimal resources he had, made him a cup of tea. He was moved that his cellmate saw him as a human being and, as such, had not lost his own humanity. Cornell Brooks called for us to remember that the 2.2 million Americans that are locked away are Americans, human beings, men and women, our brothers and sisters, and a representation of America as a whole – no more, but definitely no less. Those who have criminal records and jail numbers (like Martin Luther King, Jr and Rosa Parks) are some of America’s best and brightest members of society. Nazgol Ghandnoosh posed the question, “What

solutions would policymakers come up with if they were more personally involved? If it affected them or their neighborhood?"

### **Decline of Health in the Criminal Justice System**

Glenn Martin and Ronald Simpson-Bey both spoke about the problems of the criminal justice system from the perspective of a prisoner. Mr. Martin began by describing living within the prison system as being either predator or prey. He was stabbed four times in his first 24 hours at Rikers Island in New York City. In fact, three-quarters of all reported injuries in jail are violence-related. Ronald Simpson-Bey, who was wrongly incarcerated for 27 years for a crime he did not commit, learned while in prison of the murder of his 21-year-old son. He described prison conditions so awful, that upon learning that his son was killed by a 14-year-old boy, he advocated for the boy to be tried as a juvenile because he "wouldn't wish prison on [his] worst enemy."

In addition to violence, inmates face an extremely high rate of infectious disease in prison. In the general population, 2-3% of people are positive for Hepatitis C; but in prison that percentage is a startling 17%.<sup>5</sup> An estimated 40% of inmates also report having a current chronic medical condition, including high blood pressure and arthritis.

In addition to physical health problems, mental health suffers in prison. It is estimated that more than fifty percent of the prison population suffers from a mental illness – many who arrived in prison with the condition and others whose symptoms of mental illness began or became exacerbated while in prison. Certainly contributing to the problem is the high rate of solitary confinement. According to Nazgol Ghandnoosh, solitary confinement is hardwired into the architecture of America's prisons. Rikers Island holds more people in solitary confinement than in all of the United Kingdom. Those who spend significant time in solitary are seven times more likely to harm themselves compared to those in the general population.<sup>6</sup> Kalief Browder is a clear example of the trauma caused by solitary confinement. At 16, he was arrested and held at Rikers Island for 3 years while awaiting trial. Because his family was unable to post the \$3,000 bail he was held on, he was subjected to violence and excessive time in solitary confinement while he awaited counsel to become available to take his case. The charges against him were ultimately dropped, but the damage was done. He was unable to readjust back to society, and eventually committed suicide.

### **Prison Release and Reentry to Society**

Prisoners' health often deteriorates while incarcerated, so we are returning them to society sicker and worse off than when they left. In most cases, when people are released from prison, they take with them no identification, no medical records, and no prescriptions. They are not connected with the healthcare supports in their community. They may emerge with communicable disease, trauma, or mental health issues and have no way of managing them. For the past 45 years, public health has addressed community health, but those within the criminal justice system are too often left to themselves. Dr. Bassett and Mr. Brooks called on public health officials and practitioners to partner in the effort to reform the criminal justice system. Ronald Simpson-Bey asserted that for too long we have not cared about the condition of the human being we are releasing back to the public. He used the example of a dog kept caged and mistreated for years. If you then let the dog out, he'll bite you. Mr. Simpson-Bey encouraged the need for returning members of society to feel that the community they are returning to cares about them and will support them. As Glenn Martin noted, sentencing knocks

you down, takes away your rights, and tells you you're "less than," but there is no ceremony upon release that brings you back up.

### **Lifelong Punishment**

The lasting stigma and trauma of incarceration follows people long after they are released from prison. Glenn Martin maintains that there is no past tense of a person's involvement in the criminal justice system, because they never really ever leave it. It is a label that you live with forever. One of the most significant ramifications of this is the question on most job applications that asks if the applicant has ever been convicted of a crime. The odds are overwhelmingly against the applicant securing steady employment if they check that box. Clearly, a person without the ability to get a job is set up for failure in terms of returning to society as a productive citizen. And, as Cornell Brooks said, to a person who is released from prison, having a job is not merely a matter of income, it is a matter of self-worth and dignity.

Other consequences of having a prison record include the possibility of being denied federal benefits like public housing, food stamps, welfare, and student loans. In most states, a convicted felon loses his right to vote. In many urban areas, police officers will ask if a driver they have pulled over is on parole or probation before asking for their ID. Mr. Martin shared a story about how 15 years after he was released from serving his time for an armed robbery conviction, he was invited to the White House to take part in a policy meeting with other social justice advocates. Because of his criminal record, he was required to have someone escort him during his time there. Judge Harris echoed Mr. Martin's sentiments when he spoke about the life-changing impact being arrested has on a child – it redefines the child, shatters his self-esteem, and can change his entire future.

### **Role of Media and Social Media**

The question was raised as to whether the role of media, social media, and cell phones has been an asset or a hindrance to understanding and improving the issues found at the intersection of race and racism, criminal justice, and public health. Judge Harris made the important observation that we often talk about the issue of police misconduct like it is something new. Rather, it is "new" only because most people have cell phones and can document and publicize incidents. Reverend Brown agreed, and is an ardent advocate for shining as much light as possible onto the problem. He reminded us that much of the civil rights movement was televised, helping the movement result in the serious social reforms. He noted that when people from different states across the country hear stories similar to their own, they can come together to expose problems within the criminal justice and policing systems. Modern social media platforms provide an opportunity for protesters to come together and form groups like Black Lives Matter, and a space for protest rallies to be orchestrated. Reverend Brown felt strongly that we would not be having this conversation without those protesters and rallies. He also referred to the significant reduction in community grievances about police as a result of the use of body cameras in police officials.

While there are merits to the digital age, there are also dangers about its misuse. Andrea Cabral articulated what she feels is the biggest of these dangers – that it allows people to voice their opinions anonymously. She claims much of the civil rights movement was aimed at shaming people into avoiding articulating certain racist thoughts or displaying certain racist kinds of behavior. She reminds us, "words matter and words hurt," so shaming people made them responsible for their own words and

actions. She noted that being able to voice opinions anonymously on social media websites, on blogs, in comment sections of online news stories, in newspaper columns, and other venues has paved the way for racism to make a remarkable resurgence because people do not have to defend their opinions or be shamed into suppressing racist remarks and behavior. She claimed that because people have been allowed to indulge their worst selves in this way for years now, they have become used to it and feel entitled to expressing whatever hateful words come to their minds.

### Some Progress

While much of the symposium was focused on understanding the complex issues found at the intersection of race and racism, privilege, and criminal justice, energy was also directed toward solutions and ways to move forward. Attorney Denise McWilliams acknowledged that both the day's speakers and the audience were part of the choir on this topic, and "the challenge will be how to take these messages and communicate them to people who don't think like we do in a way they can hear what we are saying and begin to move toward a place of addressing these issues." The team of speakers was united in the firm belief that any reform will not succeed unless the issue of race is explicitly addressed and any efforts to move forward must have a strong community component. As Reverend Brown stated, "that which you do for me, *without* me, you do *to* me." Many different ideas and strategies were offered of paths to better policing practices and modernizing the criminal justice system.

As for better policing practices, ideas like bias training for law enforcement and encouraging honest dialogues exploring why police are quicker to shoot if a suspect is black would be helpful to addressing race relations. Andrea Cabral emphasized the need to have these types of conversations in arenas that are not heightened with tension or fear of lawsuits. Agencies such as SAMHSA (Substance Abuse and Mental Health Services Administration) offer trainings for law enforcement and correction officers to better understand the trauma suffered by those who live in urban communities and those who are incarcerated. While such trainings do not change biases overnight, they do breed empathy. Adding a social worker's perspective to law enforcement was offered as a way of transitioning police officers from seeing themselves as needing to survive in communities to needing to be guardians of them. This could entail adding social workers to supplement police forces, or training police officers to serve as community advocates, linking neighborhood residents to social workers and service providers. The current "arrest and punish" method of policing yields increased crime rates and incites fear. A more community- and problem-oriented approach to policing has proven effective in reducing crime rates in certain areas.<sup>7</sup>

In conjunction with updating policing policies, broader efforts to assess, monitor, and document the problem, starting with better collection of data, need to happen at the federal level. Currently the U.S. government does not track people killed by police violence. As long ago as 1998, the American Public Health Association (APHA) recommended collecting statistics on the incidence and health consequences of police violence and highlighted the need for research by the Centers for Disease Control and Prevention (CDC) on the disproportionate impact of police violence on people of color. Dr. Bassett is working toward making fatal police shootings reportable public health statistics.

Likewise, looking at the problems within the system honestly and assessing them is a critical step, said Denise McWilliams. She pointed to the aviation industry as one that is excellent at examining problems and solutions and suggests similar tactics be applied to the criminal justice and legal systems.

Andrea Cabral spoke at length about the need for evidence-based programs with outcomes that have been measured and proven to work, instead of the anecdotal “we think this works” manner many criminal justice policies currently in use work.

Throughout the day, the speakers referred to many policies, laws, and programs that, in their attempt to combat crime, also negatively affect people of color. Many programs are working toward lessening crime rates, however, like nurse/family partnerships and early education programs, like Head Start. Roy Martin pointed out ways to combat racism at the local level – like a community coming together to boycott a business that treats people unfairly. He advocates for people to build upon the progress made by those who came before them, and move toward bettering themselves. He stated that local approaches to combatting racism, what he calls “how to survive in spite of...”, may be just as important as the necessary policy changes.

Although, as both Prosecutor Steven Hoffman and former Sheriff Andrea Cabral agreed, elected officials have to be “tough on crime” to get the support of their constituents at election time, recent public opinion seems to be shifting toward smarter crime efforts. Ronald Simpson-Bey lent his support, saying “being tough on crime is fine, but also be tough on results.” Secretary Cabral pointed out that there a number of efforts going on in different cities and states that are remarkably progressive and positive, and are moving the country slowly in the direction of where we need to be. Policymakers are slowly making progress. President Obama has pledged to make criminal justice reform one of his top priorities in his final months in office. And although Cornell Brooks stressed Congress is not doing enough, he is heartened by progress local advocates have made within state legislatures. Attorney General Maura Healy in Massachusetts has come out publically against mandatory minimums. Former Representative Newt Gingrich has been supportive of reducing the number of people in prison and scaling back the criminal justice system. New York, New Jersey, and California have all significantly lowered their incarceration rates in the past decade and are also seeing lower crime rates. Between the years of 1999 and 2003, there has been a 50% drop in juvenile incarceration rates, although the proportion of youth of color has increased in the remaining population. Cities like Baltimore and Milwaukee are updating their policies – police departments in Baltimore are undergoing implicit bias training and prosecutors in Milwaukee have all but eliminated racial disparities in drug paraphernalia charges simply by better monitoring and being held accountable for any disparities that arise. In New York City, the stop and frisk policy has been curbed and broken window policing has been scaled back. Also in New York City, 16 and 17-year olds are no longer subjected to solitary confinement. New Jersey has reformed its bail system, opting to use a risk assessment over monetary bonds. The assessment helps to identify those who are unlikely to flee or be public safety risks. In Berks County, Pennsylvania, the use of non-secure shelters is reducing the number of youth in secure detention. Twelve states and 60 cities have now “banned the box” on job applications asking about criminal records. Thirteen states have opted out of the cash assistance ban and nine states have opted out of the food stamp ban. Proposition 47 in California reclassified many low-level offenses from felonies to misdemeanors, and ear-marked the savings for crime prevention and drug treatment efforts. The Drug School Zone Law has been scaled down in both distance from a school or park (300/500ft down from 1,000ft) and hours (only in effect certain hours).

All of the recent efforts have made great inroads toward addressing the issue of racial disparity in policing and in the criminal justice system, but there is still much more work to be done. We are only just beginning to name racism as a fundamental cause of health inequity. More attention needs to be

given to addressing the mental health needs of those in the criminal justice system and those released from it. More prosecutors need to follow Steven Hoffman in heralding prosecutorial ethics, viewing their role as ministers of justice, not simply concerned with getting convictions.

### **The Road Ahead**

All of the symposium speakers were strong in their conviction that the time is now to focus on making further strides in this critically important fight. Cornell Brooks asserted that we are in the midst of a series of revolutions – a revolution in the criminal justice system, a revolution in policing, and a revolution in the connection between the criminal justice system and public health. He harkened back to a story used by Martin Luther King Jr. – the story of Rip Van Winkle – to encourage participants not to sleep through these impending revolutions – to take action and be part of the change. Glenn Martin concurred with Brooks, saying we have been having a series of moments around the issue of mass incarceration and we now need to go from moments to a movement. Acknowledging that the Symposium was taking place at a school of higher learning, he also noted that there is no such thing as a movement without students. In Dean Sandro Galea's opening remarks of the day, he said that Boston University's School of Public Health attracts believers – students that want to use health as a vehicle for creating a better world. Ronald Simpson-Bey reminded us that at its core reform needs to involve a heart and mind change. Remembering that a person who committed a crime is human and to consider the trauma they may have suffered in life is a great place to start. Dr. Bassett reminded us, "We don't have to have all the answers to call for change; we just have to be prepared to be brave." Roy Martin added that we have a long road ahead and a lot of struggling and work to do. But in the final powerful words of his address, Cornell Brooks reminded us that we are all on a collective march toward justice, and during times of discouragement to remember the hymn of the NAACP – "Let us march on. Let us march on. Let us march on. Let us, at this School of Public Health, march on 'til victory is won."

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