

SPECIAL AFRICAN AMERICAN EDITION

Fall 2015, Vol. 15, NO. 1

respect

A NEWSLETTER ABOUT LAW AND DIVERSITY

Confederate Flag— Symbol of Oppression or Celebration of Southern Heritage?

by Phyllis Raybin Emert

More than 150 years after the Civil War many Americans have not moved past the defeat of the Confederacy by Union forces. Today, some Americans still look at the Confederate flag and see a lost way of life or their Southern roots. Others look at the same flag and see an offensive racist symbol of oppression, brutality, and white supremacy. The disparity creates a division in this country that seems insurmountable.

That division came barreling to the forefront on June 17, 2015. On that day, Dylann Roof, age 21, killed nine members of the Emanuel African Methodist Episcopal Church in Charleston, South Carolina, after sitting among the parishioners for more than an hour during Bible study. It was not by chance that Roof, a white supremacist, who posed with the Confederate flag on his Facebook page, chose Emanuel AME Church. It is a nationally known, historically black church.

"He was looking for the type of church and the type of parishioners whose death would in fact draw great notoriety for his racist views," Attorney General Loretta Lynch said in press reports.

The horrific murders in Charleston ignited a national conversation about the Confederate flag and its symbolism. As a result, Wal-Mart, Amazon, E-Bay, Sears and K-Mart will no longer sell Confederate flag merchandise and NASCAR will no longer fly the flag at its races.

Take it down

During the Civil War, three different flags represented the Confederate States of America (CSA). The one most Americans refer to as the Confederate, Rebel or Dixie flag is actually the battle flag of General Robert E. Lee's Army of Northern Virginia. The Stars and Bars, as the flag is sometimes called, took on new meaning during the 20th century when it was adopted by the segregationist Dixiecrat party, as well as the Ku Klux Klan.

>continued on page 5

Understanding Racism So That Black Lives Matter

by Cheryl Baisden

Studying slavery, the Civil War and the nation's struggle for racial equality is part of virtually every school's curriculum. While African American oppression and the volatile Civil Rights Movement of the 1960s has been relegated to the history books, studies show that racism remains deeply engrained in the nation's cultural beliefs and policies.

In 2013, political scientists from the University of Rochester conducted research on the lasting effects of slavery on the South's contemporary political attitudes. The study, which polled more than 39,000 Southern whites, revealed that a "slavery effect" still persists in the Deep South. The researchers determined that those who currently live in what was once known as the Cotton Belt, where slavery and a plantation economy was prevalent before the Civil War, "are much more likely to express negative attitudes toward blacks than their fellow Southerners who live in nearby areas that had few slaves."

In a press statement, Avidit Acharya, one of the study's authors, said, "Slavery does not explain" >continued on page 6

This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

Jodi L. Miller
Editor

Editorial Advisory Board

Gwendolyn Yvonne Alexis, Esq.
Chair

Engy Abdelkader, Esq.

Mary M. Ace, LCSW

Risa M. Chalfin, Esq.

Eli L. Eytan, Esq.

James J. Gerrow Jr., Esq.

Robyn B. Gigl, Esq.

Hon. Lisa James-Beavers, ALJ

Ronald G. Lieberman, Esq.

Louis H. Miron, Esq.

Steven M. Richman, Esq.

Margaret Leggett Tarver, Esq.

Dr. Paul Winkler

New Jersey State Bar Foundation Board of Trustees

Steven M. Richman, Esq.
President

Lynn Fontaine Newsome, Esq.
First Vice President

Susan A. Feeney, Esq.
Second Vice President

Norberto A. Garcia, Esq.
Treasurer

Kathleen N. Fennelly, Esq.
Secretary

Angela C. Scheck
Executive Director

Trustees

Paulette Brown, Esq.

Hank P. Butehorn, Esq.

Paris P. Eliades, Esq.

Eli L. Eytan, Esq.

William Ferreira, Esq.

John F. Gillick, Esq.

Robert B. Hille, Esq.

John E. Keefe Jr., Esq.

William A. Kraus, Esq.

Ralph J. Lamparello, Esq.

Ronald G. Lieberman, Esq.

Louis H. Miron, Esq.

Evelyn Padin, Esq.

Anna P. Pereira, Esq.

Thomas H. Prol, Esq.

Charles J. Stoia, Esq.

Miles S. Winder III, Esq.

Kimberly Yonta, Esq.

Defying Discrimination for a Better Education

by Jodi L. Miller

Imagine starting high school with the whole world watching. That's what happened to a 14-year-old girl named Carlotta Walls (now LaNier) in 1957 Little Rock, Arkansas.

LaNier was thrust into the spotlight at a time when she should have been enjoying football games, school dances and listening to that new fangled rock-n-roll music. Instead, along with eight of her contemporaries, she was setting a courageous example and defining the civil rights movement.

"In the beginning I didn't realize the impact," LaNier says. "Years later I accepted the fact that we did a great thing, being able to stick it out against tough odds."

Landmark ruling and a personal decision

With its historic 1954 ruling in *Brown vs. Board of Education of Topeka Kansas*, the U.S. Supreme Court declared that laws establishing **segregated** schools were unconstitutional. The landmark decision called for the de-segregation of U.S. schools nationwide.

In the fall of 1957, the capital city of Little Rock, Arkansas implemented its integration plan, giving African American students the option to attend the previously all-white Central High School. LaNier believes that fear and economics kept more African American students from taking advantage of the opportunity. At first she says 117 students expressed interest in switching schools, then the number dwindled to 39. Ultimately just nine African American students—three boys and six girls—would attend and become known as the Little Rock Nine.

In her book, *A Mighty Long Way: My Journey to Justice at Little Rock Central High School*, LaNier, the youngest member of the Little Rock Nine, admits to being naïve at the time, not realizing what a momentous decision she was making. "I thought I had made a simple decision to go to a different school," she writes. "I had no idea how much my life and the lives of those closest to me were about to change."

Inspired by Rosa Parks and the Montgomery bus boycott, when LaNier was given the opportunity to attend Little Rock Central High School, she jumped at the chance. By attending Central High, known for its merit scholars, she

knew her higher education choices would be greater. At that time, LaNier says the odds were she would attend a black college.

"I wanted more than just that one door," LaNier says. "I wanted all the doors."

A place in history

The images of the Little Rock Nine being escorted by federal troops into the school amid angry **segregationist** mobs are unforgettable and captured the attention of the entire nation, putting nine young faces on the civil rights movement. The images made an impression on one particular 11-year-old boy, living in Hot Springs, Arkansas at the time. That little boy would eventually be elected governor of Arkansas and president of the United States.

"Seeing the Little Rock Nine face down the angry mob fascinated me, and inspired an emotional bond that has lasted a lifetime," President Bill Clinton wrote in the foreword to *A Mighty Long Way*.

What the nine had to endure was constant verbal and sometimes physical attacks. In LaNier's case, she was pushed down the stairs, called names and spat on. Classmates would also walk on the back of her heels in the hallway and her clothes were often ruined while she was in gym class. She says that her parents taught her never to hate and to deal with intolerance by realizing those against her were ignorant. "My parents said 'do not bring yourself down to that level of ignorance,'" she says. "It wasn't my problem, it was theirs."

LaNier says she expected pushback for the nine, but thought "it would last two weeks and be over." She also thought her classmates would realize that, black or white, they were all there for the same reason—a good education.

In addition to what she endured at school, LaNier faced terror at home as well when her house was bombed in February 1960, just months before graduation. Her father was arrested, beaten by police, who attempted to force a confession from him for the bombing. But Cartelyou Walls wouldn't confess to something he didn't do. Two neighbors were eventually sent to prison for the crime; however, LaNier believes they were

>continued on page 3

innocent as well.

Her father, who found it hard to find work because of growing animosity toward members of the Little Rock Nine and their families, seldom spoke publicly about his daughter's decision to attend Central High.

In her book, LaNier quotes a rare interview where her father told a reporter, "Only one thought ever crossed my mind about the whole thing. She had a right to go there. My tax money is not separated from the rest of the tax money. There was no reason for her to pass one high school to go to another."

In the fall of 1958, Arkansas Governor Orval Faubus, a staunch segregationist, ordered all four public high schools closed, displacing more than 3,600 black and white students. This would become known as the "lost year" in Little Rock.

LaNier took correspondence courses to keep up with her studies and was back at Central High when it opened again in August 1959.

What made her go back? "To get the diploma," she says. "It meant something. I felt the validation was receiving the diploma."

Looking back

Graduating from Central High School in 1960—the first African American

woman to do so—LaNier and her family left Little Rock the very next day. She wouldn't return to Central High for another 30 years, reuniting with the other members of the Little Rock Nine for the 30th anniversary of the school's desegregation.

In her book, LaNier remembered how she felt returning to the school. "As I walked through those halls, it was almost as if I could hear those vile words bouncing off the walls again: nigger ...

nigger ...nigger," she wrote. "I could see the contorted faces of my classmates and their snickers and jeers again. I could feel the slimy wet spit. For a moment, it felt as though sadness might suffocate me. I realized then that even though I had built a new life clear across the country, I hadn't moved an inch from Little Rock."

LaNier attended Michigan State University for two years and eventually earned a B.S. from Colorado State College, now the University of Northern Colorado.



She became a successful real estate broker in Colorado, opening her own brokerage company in 1977. She currently serves as president of the Little Rock Nine Foundation, a scholarship organization dedicated to ensuring equal access to education for young people, especially those of color.

Along with the other members of the Little Rock Nine, LaNier was awarded the NAACP's prestigious Spingarn Medal

in 1958. Forty years later, President Bill Clinton would present the nine with the nation's highest civilian award, the Congressional Gold Medal, given to those who have provided outstanding service to the country.

Further to go

The country has made progress in terms of racism and civil rights over the past 50 years, LaNier says, but she contends that we need to be diligent about the rights that were gained, particularly voting rights.

"You have to be involved in what is going on in your community and not allow progress to erode," she says. "We need to keep politicians' feet to the fire."

Of seeing the Confederate flag while growing up in the South, LaNier says it symbolized oppression for her and was another way of saying that whites were better than blacks. "We live in the United States of America, which included the South, so I never understood why the people who lost that war wanted to fly that flag when they lost."

She contends that attending a diverse school is preparation for working in a global society.

"If you get to know other cultures and other ethnic groups you are not surprised

when you have to deal with other thought processes," she says.

When asked if there were any teachers who gave her encouragement during her time at Central High, LaNier says there was one. Mr. Ball, a Biology teacher, encouraged her participation in the school's science fair. "He encouraged me like any other student," LaNier says.

That's all she and the rest of the Little Rock Nine ever wanted in the first place. ■

Is Mass Incarceration the New Jim Crow?

by Phyllis Raybin Emert

The Jim Crow era refers to a time when state and local laws enforced racial segregation in the South; when “separate but equal” was the law of the land, resulting in an American racial caste system where people of color were treated as second-class citizens.

Jim Crow laws were enacted after the Civil War, during the Reconstruction period, and remained in force until the 1960s. Today, many believe a new Jim Crow era has emerged in America, with subtler ways of discriminating against minorities. At the center of the debate is the issue of mass incarceration.

In her book, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, Michelle Alexander, a law professor at Ohio State University and a former director of the civil rights clinics at Stanford Law School, writes, “The term mass incarceration refers not only to the criminal justice system, but also to the larger web of laws, rules, policies, and customs that controls those labeled criminals both in and out of prison. Once released, former prisoners enter a hidden underworld of legalized discrimination and permanent social exclusion. They... [become] members of America’s new under caste...a group defined largely by race.”

Why refer to it as a new Jim Crow era? Professor Alexander explained in an interview with National Public Radio (NPR) that once a prisoner is released back into society he is “stripped of the very rights supposedly won in the civil rights movement; rights like the right to vote, the right to serve on juries, the right to be free of legal discrimination in employment, housing, access to education and public benefits. So, many of the old forms of discrimination, that we supposedly left behind during the Jim Crow era, are suddenly legal again once you’ve been branded a felon.”

Professor Alexander blames the war on drugs for the increase in prison population, especially for people of color. In her book, she writes, “In some states, black men have

been admitted to prison on drug charges at rates 20 to 50 times greater than those of white men...[despite the fact that] studies have consistently shown now for decades, that people of color are no more likely to use or sell illegal drugs than whites.” She explained that “convictions for drug offenses,” mostly for marijuana possession, account for much of the increased incarceration rates and “most people in state prison...have no history of violence or significant selling activity.”

New way to marginalize

Laura Cohen, a professor at Rutgers School of Law—Newark, believes the analogy of mass incarceration being the new Jim Crow is “both apt and tragic.” Professor Cohen contends that even though the ‘separate but equal’ laws of the post-Civil War era were essentially overturned by the U.S. Supreme Court in *Brown v. Board of Education* and the Civil Rights Act of 1965, “a new system of marginalizing African Americans, particularly young men, quickly took their place.”

In an editorial for *The Nation* magazine, Professor Alexander provided some staggering statistics. “There are more African-Americans under correctional control today—in prison or jail, on probation or parole—than were enslaved in 1850, a decade before the Civil War began,” she wrote. “As of 2004, more African-American men were **disenfranchised** (due to felon disenfranchisement laws) than in 1870, the year the Fifteenth Amendment was ratified, prohibiting laws that explicitly deny the right to vote on the basis of race.” According to Professor Alexander, instead of the motto of “segregation forever” during the old Jim Crow era, the

“race-neutral language” of the New Jim Crow demands “law and order,” which for her is the legal way of “putting blacks back in their place.”

Professor Cohen noted that the impact of a criminal conviction and imprisonment leads to additional consequences. “A criminal conviction itself is an anvil around the neck of a person who is seeking employment. Without access to public assistance and housing, people recently released from prison end up destitute, homeless, and, all too often back in custody out of economic desperation.”

The loss of voting rights and service on juries for minorities is particularly troubling, according to Professor Cohen. “Loss of voting rights and exclusion from jury service permanently marginalize and disempower a substantial percentage of this population,” she says. “As a result, the laws that lead to the disproportionality will never be changed, and those who have the best understanding of their impact have no voice in decision-making. The fact of a criminal conviction alone...does not leave one less able to evaluate political candidates or evidence at a trial.” It should be noted that the severity of disenfranchisement laws vary in each state.

Does it keep us safe?

According to a report released by New York University School of Law’s Brennan Center for Justice, crime has gone down over the last 20 years. In the report’s executive summary, Inimai Chettiar, director of the Brennan Center, wrote, “Today, the crime rate is about half of what it was at its height in 1991. Violent crime has fallen by 51 percent since 1991, and property crime by 43 percent.” The report asked, “to what degree is



Confederate Flag *continued from page 1*

The tragedy in Charleston also sparked debate about flying the Confederate flag over government buildings, with many calling for its removal from South Carolina's capitol grounds, as well as other Southern state capitols.

In response, Alabama Governor Robert Bentley ordered the battle flag and three other CSA flags removed from the capitol grounds in Montgomery on June 24. In July, after heated debate, South Carolina's state legislature voted 93 to 27 to remove the battle flag from a Civil War memorial near the Statehouse in Columbia, SC.

Five states—Alabama, Arkansas, Florida, Georgia and Mississippi—use Confederate symbols on their state flags. Mississippi, however, is the only state that includes a full Confederate battle cross on its flag. In 2001, 64 percent of Mississippi voters passed a statewide referendum to keep the Confederate emblem on the state's flag.

In a statement released after the Charleston shooting, which urged the removal of the Confederate banner from his state's flag, Mississippi State Speaker of the House Philip Gunn said, "We must always remember our past, but that does not mean we must let it define us. As a Christian, I believe our state's flag has become a point of offense that needs to be removed."

Mississippi's Lieutenant Governor Tate Reeves issued his own statement defending the state flag, saying, "What happened in Charleston is simply pure irrational evil. There is no other description for this monster's actions. He is an individual that has allowed his mind and soul to be horribly twisted and disfigured by irrational hate. No symbol or flag or website or book or movie made him evil—he was evil on his own."

So far, no action has been taken in Mississippi.

A license to hate

The day after the murders at Emanuel AME Church, the U.S. Supreme Court rendered its decision in *Walker v. Sons of Confederate Veterans*, a Texas case dealing with the banning of the Confederate flag on license plates.

In November 2011, the board of the Texas Department of Motor Vehicles unanimously rejected a license plate design sponsored by the Sons of Confederate Veterans that contained a Confederate flag, citing the fact that "a significant portion of the public associates the Confederate flag with organizations advocating expressions of hate directed toward people or groups that is demeaning to those people or groups."

The Sons of Confederate Veterans appealed and won a decision in the U.S. Court of Appeals for the Fifth Circuit in New Orleans. The appeals court viewed the license plate as private speech and

ruled that the state of Texas had discriminated against the Sons of Confederate Veterans' view that "the Confederate flag is a symbol of sacrifice, independence and Southern heritage."

The U.S. Supreme Court **reversed** the appeals court's decision and ruled 5-4 that the license plate was government speech, not private speech, and that Texas could reject a Confederate flag design on its license plates.

"Just as Texas cannot force a private citizen to convey on his or her license plate a message with which he or she does not agree, so the Sons of Confederate Veterans cannot force Texas to convey on its license plate a message with which the state does not agree," Justice Stephen Breyer said from the bench while announcing the Court's decision in the case. He explained that the message on a license plate represented the state's view and the state doesn't have to endorse

the Confederate emblem. If a private individual wants to fly a Confederate flag or put Confederate decals on their bumpers, then that is private, protected speech.

In his **dissenting opinion**, Justice Samuel Alito Jr. wrote that the majority of the Court "establishes a precedent that threatens private speech that the government finds displeasing."

Nine states—Alabama, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee and Virginia—currently allow Confederate flags on their license plates. In light of the Supreme Court's decision in *Walker*, Maryland and Virginia are reconsidering their policies on this issue.

Over, but not forgotten

The Civil War remains this nation's bloodiest conflict, with more than 620,000 killed and approximately 1.2 million wounded. Those who survived passed on their war stories to succeeding generations and many today still honor and remember the sacrifices of their ancestors, whether they were Northerners, Southerners or slaves.

"The war defined family histories," Professor David Blight, director of Yale University's Gilder Lehrman Center for the Study of Slavery, wrote in an article for *The Atlantic*. In the article titled, "The Civil War Isn't Over," Professor Blight contends, "the great issues of the war were not resolved at Appomattox" [the surrender of the South] in April 1865 and notes that most of America's racial and civil rights problems stem from Reconstructionist policies in the years after the conflict—what he terms "the unfinished Civil War." According to Professor Blight, "the two broad questions of racial equality and federalism...echo down to the present day."

>continued on page 7

all forms of current day racism. But the data clearly demonstrates that the legacy of the plantation economy and its reliance on the forced labor of African Americans continues to exacerbate racial bias in the Deep South."

Race relations

A recent poll by PBS NewsHour and Marist College's Institute for Public Opinion found that approximately 60 percent of both black and white respondents believe race relations are worse today than they were just a year ago. While both races are aware that racial issues exist, there appears to be a lack of understanding among whites regarding what racism actually is, and often an unwillingness or inability to confront it.

"Most whites...do not understand that about 80 percent of this country's four centuries have involved extreme racialized slavery and extreme Jim Crow legal segregation," Joe Feagin, a leading researcher on racism in the U.S. and a sociology professor at Texas A & M University, said in a *New York Times* interview. "As a result, major racial inequalities have been deeply institutionalized over about 20 generations....Social science research is clear that white-black inequalities today are substantially the result of a majority of whites socially inheriting unjust enrichments (money, land, home equities, social capital, etc.) from numerous previous white generations—the majority of whom benefited from racialized oppression that followed slavery for nearly a century..."

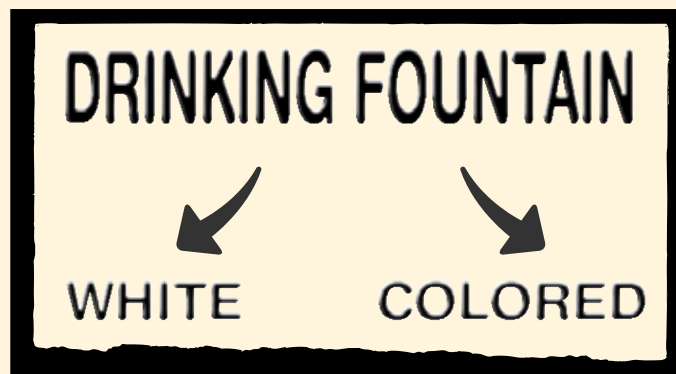
A case in point

In late 2013, Minneapolis Community and Technical College (MCTC) English professor Shannon Gibney found herself formally reprimanded for creating a "hostile learning environment" after three students filed a complaint in connection with a class discussion about race. Professor Gibney, who is black, was teaching a lesson on structural racism—the concept that racial

bias is embedded in the nation's dynamics, seamlessly sewn into its institutional and cultural fabric—a topic the white, male students said they found upsetting.

Professor Gibney, told MCTC's *City College News* that one of the students asked: "Why do we have to talk about this?" A second student added: "It's like people are trying to say that white men are always the villains, the bad guys. Why do we have to say this?"

She suggested they file a complaint with the school's legal department if they were unhappy with the way she was handling the subject matter, and says she



was later reprimanded as a result.

School officials, on the other hand, denied she was chastised for the lesson: "The college has taken no steps to prohibit faculty members from teaching about racism, including structural racism," college spokeswoman Dawn Skelly told *The Huffington Post*. "MCTC has never disciplined a faculty member for teaching or discussing structural racism. Conversations about race, class and power are important and regular parts of many classes at MCTC and have been for years."

Regardless of how the incident actually played out, it may, in and of itself, serve as an example of the fact that structural racism exists in the U.S.

What is structural racism?

Structural racism functions on three levels—the public policies that disproportionately impact African Americans, the legacy of slavery and Jim Crow laws that left many African Americans at a social and economic

disadvantage, and the stereotypes that persist in relation to African Americans.

Rather than being a conscious bias, structural racism is something that is so engrained in society that it goes unnoticed, and comes to dominate the practices of government bodies, businesses and schools. As a result, police policies often result in racial profiling, leading to more African American prosecutions; voting registration requirements can be altered to devalue the voting power of black voters; and school funding, based on property values, which can be higher in white neighborhoods, creates better schools in those neighborhoods.

For Newark attorney Lawrence Lustberg, who has litigated civil liberties cases, the insidiousness of structural racism is the opposite of what he envisioned for the nation having grown up in the 1960s witnessing the struggle for civil rights.

"We believed that if we fought for equality under the law, achieved the desegregation of the schools, won the fight for voting rights, and legislated equal employment opportunities and equal access to public accommodations, then we would achieve a society that would be characterized by racial justice and harmony, that we would, as Martin Luther King, Jr. said, embody the commitment in the Declaration of Independence that 'all men are created equal,'" says Lustberg. "Structural racism shows how wrong we were.... We have come to learn that racism is an incredibly intractable problem, one that is so deeply ingrained in our history and culture and so interwoven with class that it is far more difficult to overcome than legislative initiatives or regulatory reform would have us believe."

The spate of African American deaths at the hands of police in states across the country in recent years, as well as the lack of prosecution in those cases, has sparked a national debate on the subject of structural racism, *>continued on page 7*

Confederate Flag *continued from page 5*

The question remains

So, does the Confederate flag represent Southern heritage or is it a symbol of racism?

Greg Stewart, a member of the Sons of Confederate Veterans, told *The New York Times*, “You’re asking me to agree that my great-grandparents and great-great-grandparents were monsters.” Freddie Rich, owner of RebelStore.com, told *The Times* his customers “bought Confederacy-themed merchandise as an expression of regional pride and admiration for Civil War veterans. There’s nothing racial about it. This is history to us.”

Morris Dees, co-founder and chief trial counsel for the Southern Poverty Law Center in Montgomery, Alabama, an organization that fights for tolerance, equality and social justice for all members of society, sees it differently.

“Throughout the South, you will find some people who consider Confederate symbols to be an expression of Southern heritage,” says Dees. “But, as a Southerner, I believe that our

heritage can be expressed and celebrated in far better ways than the symbols of a separatist nation willing to fight the United States of America in a bloody war to keep a race of people enslaved.”

Dees believes that the Confederate flag and all other symbols of the Confederacy should be removed from government buildings and other public spaces, including parks and school names. For him, the reason is simple.

“Confederate flags and symbols represent the Confederate States of America, which supported white supremacy and fought a war to continue enslaving African Americans,” Dees says. “The vice president of the Confederacy—Alexander H. Stephens—even said in a speech that the ‘cornerstone’ of the Confederacy was the belief that the races are not equal. In addition, the flag and other symbols were used by groups like the Ku Klux Klan and states in the Deep South to show their commitment to white supremacy.” ■

Black Lives Matter *continued from page 6*

as well as a movement to change policies and the attitudes that keep those policies in place.

A call for change

In a speech last month, U.S. Senator Elizabeth Warren called for the nation to take steps to turn the tide in the areas of police violence, voting restrictions and economic inequality.

“We have made important strides forward. But we are not done yet. And now, it is our time,” she said. “I speak today with the full knowledge that I have not personally experienced and can never truly understand the fear, the oppression and the pain that confronts African Americans every day. But none of us can ignore what is happening in this country. Not when our black friends, family, neighbors literally fear dying in the streets.”

Warren’s call for action echoes the message broadcast by the national activist organization Black Lives Matter, which was founded after the 2013 acquittal of George Zimmerman in the death of African American teenager Trayvon Martin in Florida. The goal of the movement, the

organization’s leaders note, is not to claim black lives matter more than other lives, but that they hold the same value. Still, some view the organization’s name as inflammatory.

A September 2015 *New York Times* editorial noted that former Arkansas Governor Mike Huckabee, who is seeking the Republican nomination for president, “crystallized this view when he said that the Rev. Dr. Martin Luther King Jr., were he alive today, would be ‘appalled’ by the movement’s focus on the skin color of the unarmed people who are disproportionately killed in encounters with the police.” The editorial pointed out that during his eulogy after the 1963 church bombing in Birmingham that killed four African American little girls, Dr. King “said that the dead ‘have something to say’ to a complacent federal government...as well as to ‘every Negro who has passively accepted the evil system of segregation and who has stood on the sidelines in a mighty struggle for justice.’ Shock over the bombing pushed Congress to pass the Civil Rights Act the following year,” the editorial noted.

As of August 2015, Black Lives Matter had 26 chapters and has held over 1,000 demonstrations worldwide to call attention to police brutality against African Americans, as the number of victims continues to increase. Two incidents in particular gained national attention—the death of 18-year-old Michael Brown in Ferguson, Missouri, who was shot by a white police officer; and the death in New York of Eric Garner, who died in a chokehold while being arrested for selling loose cigarettes. Garner’s gasps of “I can’t breathe,” captured on video, astounded the nation. The officers in both cases were cleared by grand juries, which operate in private and determine if there is enough evidence for cases to move forward.

“These decisions reinforce a reality of our system of criminal justice, which is the power of prosecutorial discretion,” says Lustberg. “Prosecutors decide who is and who is not charged and those decisions are almost entirely unreviewable by courts. Is it surprising that those decisions are based upon race? It should not be, for that is the nature of structural racism, which infects so many decisions in all three branches of our government.” ■

Mass Incarceration *continued from page 4*

incarceration, or other criminal justice policies, responsible” for that decline. It found that “increased incarceration at today’s levels has a negligible [nearly zero] crime control benefit...” The report noted that aging populations, growth in income, decreased alcohol consumption, and advanced policing techniques have all been factors in helping to bring down crime.

One of the report’s authors wrote in *USA Today*, “In the 2000s, 14 states, including California, Michigan, New Jersey, New York, and Texas, saw simultaneous declines in both incarceration and crime. Over the same period, other states continued to ramp up incarceration while failing to reduce crime.”

The U.S. government spends an estimated \$80 billion a year to keep its more than 2 million prisoners locked up, according to the Brookings Institute.

A changing tide

Professor Alexander wrote her book five years ago, but the tide seems to finally be changing with more lawmakers willing to discuss criminal justice reform. In a July 2015 speech given at the NAACP convention in Philadelphia, President Barack Obama spoke about mass incarceration and noted that although the United States makes up only five percent of the population worldwide, it accounts for 25 percent of the world’s prisoners. The President argued that the money spent on incarceration could be used for a multitude of other worthy programs, including job training, research and development or funding new roads and bridges.

Addressing racial disparities in prison, President Obama noted, “African Americans and Latinos make up 30 percent of our population. They make up 60 percent of our inmates....The bottom line is, in too many places black boys and black men, Latino boys and Latino men, experience being treated differently under the law.”

With regard to the war on drugs, the President said, “Over the last two decades we’ve also locked up more and more non-violent drug offenders than ever before...In far too many cases, the punishment simply does not fit the crime. If you’re a low-level drug dealer or you violate your parole, you owe some debt to society. You have to be held accountable and make amends. But you don’t owe 20 years. You don’t owe a life’s sentence.”

What can be done?

Most are in agreement that mass incarceration in this country is a huge problem, with many presidential candidates calling for change.

A *New York Times* editorial stated, “The American experiment in mass incarceration has been a moral, legal, social, and economic disaster. It cannot end soon enough.” The editorial suggested reducing sentence lengths, providing more opportunities for rehabilitation

inside prison, removing barriers that keep people from rejoining society and using alternatives to imprisonment for nonviolent offenders, drug addicts and the mentally ill.

A new **bipartisan** organization, the Coalition for Public Safety, made up of groups from both the left and right of the political spectrum, came together in February 2015 in an attempt

to improve the nation’s broken criminal justice system. According to *The New York Times*, “The coalition plans a multi-million-dollar campaign ...to reduce prison populations, overhaul sentencing, reduce **recidivism** and take on similar initiatives...[Its] goal is to leverage the broad reach of the group’s partners and financial backers to build public support for overhaul efforts through research and education campaigns... The ideological spread [of the members] should also allow them to reach out credibly to lawmakers of both parties.” ■



Glossary

bipartisan — supported by two political parties. **caste** — class, standing or background. **disenfranchise** — to deprive of a privilege or right (i.e., the right to vote). **dissenting opinion** — a statement written by a judge or justice that disagrees with the opinion reached by the majority of his or her colleagues. **recidivism** — tendency to relapse, for example, into a life of crime. **reverse** — to void or change a decision by a lower court. **segregated** — separating people (or students) by race or social class. **segregationist** — a person who believes in the policy of separating people within society by race or social class.