



Ferguson's Lopsided Criminal Penalties for African Americans, and What They Mean for Libertarian Reformers

The Ferguson report and the libertarian moment.

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On Feb. 11, Kentucky Senator Rand Paul closed his remarks to a celebration of the *American Spectator* by sharing what he'd learned on his visit to Ferguson, Mo.

"Martin Luther King talked about there being two Americas; an America where people felt like they were being treated justly, and an America where people didn't feel that way," said Paul, looking into an audience that included libertarian billionaire David Koch. "You're not part of that, but imagine what it's like to be poor, to get a \$100 fine. And then to see interest on that, and get a \$200 fine. And then to be putting people in jail for civil fines. We've got to be figuring out what justice is."

Nothing in Paul's statement was new to the activists and reporters who'd become embedded in Ferguson. The St. Louis area's crazy quilt of municipalities, and its harsh, coffer-filling fines on petty crimes, had been reported everywhere from the *Washington Post* to the *Huffington Post*. Wednesday's official DOJ report on Ferguson just added more horror stories, and more data. "Ferguson's approach to law enforcement both reflects and reinforces racial bias, including stereotyping," wrote DOJ investigators. Among their findings:

- African American drivers were twice as likely to be stopped for random searches, yet were found with contraband 26 percent less often than white drivers.
- While African Americans made up 67 percent of Ferguson's population, from 2012 to 2014 they accounted "for 85 percent of vehicle stops, 90 percent of citations, and 93 percent of arrests made by FPD officers." Of the 11,610 vehicle stops made between October 2012 and October 2014, 9,875 targeted African Americans.
- "Nearly 90 percent" of police incidents involving force involved African Americans.
- African Americans were consistently more likely to receive multiple citations. While only 17 percent of whites received two at once; 26 percent of African Americans did; while only 6 percent of whites received three at once, 15 percent of African Americans did.
- African Americans were 68 percent less likely to have their finds dismissed by municipal courts.

The DOJ's report also added to the corpus of stories contrasting the harsh, disruptive penalties for African Americans to the Get Out of Jail card given to connected whites. Two examples, just to provide a contrast.

Exhibit A:

We spoke, for example, with an African-American woman who has a still-pending case stemming from 2007, when on a single occasion, she parked her car illegally. She received two citations and a \$151 fine, plus fees. The woman, who experienced financial difficulties and periods of homelessness over several years, was charged with seven Failure to Appear offenses for missing court dates or fine payments on her parking tickets between 2007 and 2010. For each Failure to Appear, the court issued an arrest warrant and imposed new fines and fees. From 2007 to 2014, the woman was arrested twice, spent six days in jail, and paid \$550 to the court for the events stemming from this single instance of illegal parking. Court records show that she twice attempted to make partial payments of \$25 and \$50, but the court returned those payments, refusing to accept anything less than payment in full. One of those payments was later accepted, but only after the court's letter rejecting payment by money order was returned as undeliverable. This woman is now making regular payments on the fine. As of December 2014, over seven years later, despite initially owing a \$151 fine and having already paid \$550, she still owed \$541.

Exhibit B:

In March 2014, a friend of the Court Clerk's relative emailed the Court Clerk with a scanned copy of a ticket asking if there was anything she could do to help. She responded: "Your ticket of \$200 has magically disappeared!" Later, in June 2014, the same person emailed the Court Clerk regarding two tickets and asked: "Can you work your magic again? It would be deeply appreciated." The Clerk later informed him one ticket had been dismissed and she was waiting to hear back about the second ticket.

A spokesman for Paul said he had no comment on the report as of Thursday morning. In eight days, though, he'll head to Bowie State University, a historically black college just outside Washington, for what is billed as a "criminal justice reform discussion." That's happening as a well-covered criminal justice reform coalition, organized by Charles Koch's libertarian network, moves from the PR stage to a yet undetermined action.

Why does any of that matter? Announced last month, the coalition has been called "unlikely" by the *New York Times*, "surreal" by *Politico*, and "strange bedfellows" by the *Huffington Post*. The latter outlet actually employed criminal justice and police abuse reporter Radley Balko, formerly of the Koch-funded *Reason* magazine and the Koch-funded Cato Institute, for years. (Disclosure: I worked with Balko at *Reason*.) Republicans run Congress and most states; libertarians are able to get cameras pointed at their reform efforts. In the political reality of 2015, pols like Rand Paul may play a key role in acting on the crisis exposed by Eric Holder's Justice Department.