

## More Data in the Debate on Colorblind Justice

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Nicole Gonzalez Van Cleve, [Crook County: Racism and Injustice in America's Largest Criminal Court](#) (2016).

A new book by [Nicole Gonzalez Van Cleve](#), **Crook County: Racism and Injustice in America's Largest Criminal Court**, does for criminal courts what cameras have done for police brutality. African-Americans and Latinos have been sharing their stories for decades about the terror of police harassment and brutality in their daily lives. Despite these claims, the notion of unarmed men being unreasonably and pretextually stopped, brutally beaten, and even shot unnecessarily, were regularly denied, minimized, or justified by police. At best, these instances were believed to be rare or accidental in what has been branded as our new "colorblind" or "transracial" society. In this colorblind world, discrimination—if and when it existed—was structural and unintentional. Law enforcement were not agents of racial discrimination but were trying to do a difficult job in an imperfect system. Citizen bystanders armed with cellphone cameras and police department regulations requiring officers to wear cameras have changed our perceptions in ways that personal voices and narratives by the victims themselves never did.

Similarly, racial discrimination in the criminal justice system is not a new claim. The racially disparate "outputs" of the criminal justice system—the grossly disproportional incarceration and criminal supervision rates of people of color—are impossible to ignore. In the face of alarming statistics, scholars, activists, and social critics alike have turned to explanations of structural and unintended racism. The myriad explanations put forth by critics are varied, but most have one thing in common: they support the notion that the legal decisionmakers tend to be colorblind. If racism exists, it exists outside of the criminal justice system and can be blamed on structural inequalities such as poverty and unemployment in communities of color, sentencing guidelines, racial profiling by law enforcement, or ineffective legal representation. One common explanation has been that the criminal justice system is impacted by race discrimination and inequality in other areas of society like education, housing, and healthcare, but that the criminal justice system does not itself produce racial disparity. The explanation that has lost traction over the last several years is the notion that individual professionals in the criminal courts behave in racially biased ways: that they treat black and Latino defendants differently from whites as a response to their race. With good reason, we have been reluctant to point the finger at the well-meaning and well-trained professionals in our criminal courts. This is not the type of claim one should make without proof.

Van Cleve's book can be understood as part of the dialogue about racial disparity in criminal courts: colorblind procedures with discriminatory impacts versus intentional and discriminatory acts. It is an attempt to garner the proof of individual racist behavior in courts, one of the few facets of modern life where cameras and cellphones remain widely forbidden. She questions the claim that our courts and the professionals who inhabit them are generally colorblind. As she puts it, "this book is an empirical answer" to the question of how formally colorblind due process procedures are undermined by the legal professionals. (P. xii.)

Her book is a plea to mobilize citizens into amateur social scientists who can join her efforts to document and substantiate the narratives of discrimination of people of color in criminal courts. Consider **Crook County** the first installment in what she hopes to be more citizen oversight. The book is an empirical ethnographic study of Illinois' Cook County criminal courts. Over the course of several years, Van Cleve worked with over 100 court watchers and collected over 1000 hours of observation data. The court watchers, many of whom were trained research assistants, examined the behavior of courtroom professionals. Van Cleve supplements this data with her own in-depth observations during her time working closely with prosecutor and defense attorneys' offices. With this she can differentiate what sociologists call "front-stage" behavior from "back-stage" behavior of legal professionals.

Many of the vignettes she describes are shocking and disturbing. Van Cleve does not approach the subject with objective neutrality. Nor does she claim to. The data are presented from her own scholarly perspective and marshaled to demonstrate her anti-colorblind hypothesis. However, a strength of the book is that, like an image or video, the reader can review the material provided by the primary witness and draw her own conclusions. What happens to black defendants in Cook County criminal courts is harrowing. Van Cleve describes the “niggers by the pound” contest formerly played by prosecutors who won by maximizing convictions for the heaviest defendants and being the first to reach a tally of 4000 pounds. (P. 54) She tells the story of a judge who seemed to relish the public show of humiliating and screaming insults at an elderly black woman charged with killing her abuser. The sobbing woman begged for leniency and clung to the pole of her oxygen tank while the judge screamed at her and onlookers watched open-mouthed or laughing. (Pp. 51-52.) In another story, a defense attorney vilified his client to the judge and prosecutor, explaining that he wouldn’t represent him but for a favor to the defendant’s mother. The defendant got a plea deal based on sympathy for the attorney himself. (Pp. 106-07.) Many of these stories have racist undertones. They can be viewed as the modern criminal justice versions of the auction block in slavery, public lynchings in Jim Crow, or the post-industrial commodification of white privilege. Others may view them as examples of gallows humor, sadistic cruelty, and strategic advocacy. Every witness can decide for herself how to understand these stories, but the real benefit of Van Cleve’s book is the aggregate effect of tale after tale of these undeniably racialized events. The compilation makes the simple case that legal professionals—judges, prosecutors, defense lawyers, court officers—dispense justice in ways that are not blind to differences of race and color.

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