

Sermon of September 28, 2014
First Unitarian Church of Cleveland

THE NEW JIM CROW
the Rev. Daniel Budd

READING

It was a nearly perfect afternoon - cloudless, the sun warm on my shoulders, food in my garden and in my refrigerator, my bills paid - when I bent to tug free a head of new garlic to throw in with the potatoes and chard I'd planned for dinner, and my back seized up. It would be days before I could stand upright, let alone work in the garden, without pain.

I wasn't thinking of it, though it seems my body was: the seemingly insignificant run-in I'd had with the police the night before. For a black man any encounter with the police is tense, and that tension had found its way into my muscles, if not my mind.

I teach creative writing at Indiana University in Bloomington, and I had been in my office on campus until about eleven o'clock, working hard on my tenure file, trying to get a little breathing room before a guest came to stay for a few days. In my town, on an early-summer night at 11 PM, there's still a pleasant bit of activity on the street. So when the cop pulled me over, two local bars were crowded half a block away, their outside seating full to capacity, and the walking path was busy with pedestrians and cyclists.

I wasn't perturbed by the cop. I had made a decision in the recent past no longer to be afraid of the police. With their costumes, their hats, the boots worn by the "troopers," police are meant to make us feel scared, guilty, criminal (some of us more than others). There's a way in which they take up residence in our bodies (some of us more than others). When they appear behind us or in our line of sight, our heart rate accelerates, our breathing quickens, our muscles contract. We become acutely aware not only of what we were doing but also of what the cop might think we were doing.

But I had decided I'd try not to feel guilty when I next encountered the police. Why? First, because I am thirty-eight years old and generally law-abiding. Second, because it had occurred to me that when I paid my taxes, I was helping to pay police officers' salaries, and therefore this cop was actually my employee - though I wouldn't have said so to him. Third, I was tired of being afraid. So I'd decided to imagine the police in general - and this cop pulling me over in particular - as doing what I imagine a policeman should spend his time doing: making our community safer.

And so, for the first time in my life when a cop came to my car window, I looked him in the eye and asked as gently and openheartedly as possible if he could tell me why he'd stopped me. "After you give me your license and registration," he said. I handed them over, and he told me simply, "Your license-plate light is out." I'd had no idea there was such a thing as a license-plate light, and I told him as much, laughing to express my good-natured confusion and gratitude: *He wants to do me a favor.*

And he smiled - just for a second - then asked if I had any drugs in the car. When I said no, he asked if I had any guns in the car. When I said no, he asked if I'd been drinking. When I said no, he asked again, "You don't have any weapons or anything illegal in the car I should know about?" (Strange, you might think, for such questions to arise from a burned-out license-plate light.) And I said, looking straight ahead through the windshield, "No."

Probably any of you who are black or brown have a version of this story, if not a worse one. One friend of color, when I mentioned it to him, said, "I thought he was going to go toss the car and make you clean it up." Another friend's black father said, "Any time you meet the cops and don't go to jail is a good time."

I recently realized that I've never, as an adult, driven past a car that's been pulled over without looking to see the race of its occupants. Part of every black child's education includes learning how to deal with the police so he or she won't be locked up or hurt or even killed."Despite my advanced degrees and my light-brown skin, I've had police take me out of my vehicle, threaten to bring in the dogs, and summon another two or three cars. But I've never been thrown facedown in the street or physically brutalized by the cops, as some of my black friends have. I've never been taken away for a few hours or days on account of "mistaken identity." All in all, this traffic stop the other night amounted to nothing. It was so nothing, in fact - so everyday, so known, so agreed upon, so understood - that I am embarrassed, ashamed even, by the scale of my upset, by the way this nonevent took up residence in my body and wrung me out like a rag. I didn't even get a ticket, after all. He just asked me some questions - questions I knew (we all knew, didn't we?) he had before he pulled me over. We say, "Yeah, that's just how it goes." Given what could've happened, I ought to be glad, right? I ought to get over it.

But it is also the familiarity of it all (black guy has unpleasant run-in with the cops) that makes my experience, and the many thousands like it, almost invisible - which makes the significant daily terror of being a black or brown person in this country almost invisible.

- Ross Gay, *Some Thoughts on Mercy*, @ *The Sun*, July 2013

SERMON

The last time I got pulled over, I was on a township road. I was going west and the police car was coming east, when he flipped on his lights, did a U-turn, and pulled up behind me. Like just about any of us, my heart sank and I felt anxious the minute I saw that happen. I realized I had not been paying attention to my speed. I got my license and registration ready. Actually, it was not my registration, but did indicate that I had just recently leased the car and was waiting for the plates to come in. I also had not yet gotten a new insurance card. I was sure I would get cited for any or all of the above.

When he returned to my car, he handed my license and quasi-registration back to me and said I had a very good driving record and I could go. Relieved, I indeed drove on, keeping at a steady 35 miles per hour.

That is what >driving while white= is like. He did not ask about my passengers or even seem to care. He did not ask if I had drugs or weapons in the car, or if I would give consent for him to conduct a search. He did not ask me to step out of the car or keep my license because I did not have the proper insurance card yet. All that could have happened, but it did not.

As Ross Gay notes in his essay, "Some Thoughts on Mercy," this is certainly not the experience of African Americans. In fact, it is pretty much the exact opposite. And it is way more common than we realize. Just last week on Real Time with Bill Maher, his guest, Wendell Pierce ^B an actor on the cable show "Ray Donovan" ^B told his story of being stopped by the cops, essentially for DWB, driving while black. As Gay said in his essay, this is so familiar a scenario that it is almost invisible.

Why is it happening? And why is it happening with such frequency?

Michelle Alexander, in her extraordinary book, The New Jim Crow, answers those questions with disturbing and well-researched clarity. Among too many other things, she notes how our justice system, with the support of the Supreme Court, has consistently and systematically narrowed the range of the Fourth Amendment to our Constitution concerning unlawful search and seizure to the point where our police forces are allowed, and even empowered, to stop anyone on the slightest suspicion, or even the possibility of the slightest suspicion, of having illegal drugs or weapons in their possession. One telling example of this is the "drug-courier profiles" used by the Drug Enforcement Agency in their training programs for law enforcement agencies. Officers are trained to look for people who are

traveling with luggage, traveling without luggage, driving an expensive car, driving a car that needs repairs, driving with out-of-state license plates, driving a rental car, driving with mismatched occupants, acting too calm, acting too nervous, dressing casually, wearing expensive clothing or jewelry, being one of the first to deplane, being one of the last to deplane, deplaning in the middle, paying for a ticket with cash, using large-denomination currency, using small-denomination currency, traveling alone, traveling with a companion and so on. Even striving to obey the law fits the profile! (Alexander, p. 71)

Pretty much being in public and having a discernable heartbeat is cause enough to be stopped on suspicion. But the one characteristic that is not mentioned, but which Alexander proves to be the case time and time again, is race. Black and brown people are stopped far more often than white people. And not only are they stopped more often, but they are also far more likely to find themselves swept into the criminal justice system and marginalized for the rest of their lives.

All this thanks to the infamous War on Drugs.

The War on Drugs was declared in 1982, after the Justice Department announced that it would cut their program to identify and prosecute white-collar criminals by half and shift its attention to street crime, especially drug-law enforcement. At this time, less than 2 percent of the American public viewed drugs as the most important issue facing the nation. (p. 49) In just seven years, that figure jumped to 64%, due to the most part to the War on Drugs= sensational and racially biased media campaign. The insidious genius of this campaign was its avoidance of any explicit racial terms, even while its clear intent, proven by the campaign=s results, was to target black people.

Another increase occurring during this time was the increase in funding of federal law enforcement agencies. While it was a struggle to even maintain funding for education, drug treatment and prevention, and the arts (for instance), antidrug funding for the FBI leapt from 8 million dollars to 95 million dollars in the four years from 1980 to 1984. By 1991, the DEA=s antidrug spending grew from 86 million dollars to one billion, 26 million dollars.

Much of these funds turned into federal aid grants to local and state law enforcement agencies based upon their success in drug enforcement, creating a situation where these agencies were put in competition with each other. The better you did, the more money you got. Thus the use of the random stop (as Ross Gay pointed out, sometimes for as minor a cause as a burnt out license plate light), increased dramatically and remained a primary tool even though it has only about a 5% success rate. This low success rate meant that a high number of stops had to occur in order to keep the federal funds flowing. As one

officer is quoted saying, "It's sheer numbers. You've got to kiss a lot of frogs before you find a prince."

Another source of income became what was called "asset forfeiture." This was conceived as a way to cut into the profit motive that fueled drug-trafficking by large criminal organizations by allowing any of their assets which were connected with their illegal activities to be seized. This included money, planes, cars, and such. But this quickly changed from being a punishment to drug dealers to being a cash cow for law enforcement, who broadened the policies on asset forfeiture to include practically anything of value and created another source of competition among the agencies. This has become so corrupt now that two of the creators of this program in the '80s, John Yoder and Brad Cates, called for its abolishment in a recent *Washington Post* op-ed piece.

Now we all know that drug abuse is a very serious problem. Many a life both individual and family is compromised, threatened, and oftentimes damaged by drug abuse. No question about that. But one of the issues here is that there is a disproportionate amount of money being poured into drug law enforcement while funds for education and drug treatment languish and suffer. If we were serious about this drug problem, I would think those figures would be at least half and half, if not tipping more significantly toward the education and treatment side.

Another issue is the *target* of this enforcement, primarily no, overwhelmingly African Americans. Alexander notes that Human Rights Watch found that, in the year 2000 for example, 80-90% of all drug offenders sent to prison were African American. And since the War on Drugs gained full steam in the mid-1980s, prison admissions for African Americans increased by a factor of 22 from 1983 to 2000. In the past 25 years, the prison population in the United States has leapt from around 350,000 to 2.3 million. In 2006 alone, 1 in every 14 black men was behind bars, compared to 1 in every 106 white men - astonishing figures either way, but alarmingly so for African American men.

Now, ok, you can say that it is all because crime rates have risen and our law enforcement system has been doing an increasingly effective job. That would be nice were it the case, but it is not. Michelle Alexander observes that

it has been changes in our laws particularly the dramatic increases in the length of prison sentences that have been responsible for the growth of our prison system, not increases in crime. (p. 93)

We may also credit the *types* of crime for which individuals are arrested and sentenced, which tend to be for minor infractions, and particularly class D

felonies, the lowest felony with which one can be charged. Thus another disproportionate figure comes into play, that of the large number of non-violent offenses which land people in prison B not pushing or dealing, not assault or even murder as a result of drug use or activity B but being caught with small amounts, sometimes very small amounts, of drugs.

And now we begin to get to the real reason for the War on Drugs. It was, and still is, not a program to make us safer, to get drugs off the streets where our children play, or to reduce the damage done by drugs to our families, our friends, our neighbors. It is a systematic program designed to sweep a certain population among us off the streets, into prisons, and then out again, now labeled a felon. As Alexander writes,

Once a person is labeled a felon, he or she is ushered into a parallel universe in which discrimination, stigma, and exclusion are perfectly legal, and privileges of citizenship such as voting and jury service are off-limits. (p. 94)

In addition, many people with this label have never even been sentenced to prison, merely threatened with it. In 2008, there were 2.3 million people in prison, but Aa staggering 5.1 million@ on probation or parole, what is called Acommunity correctional supervision.@ The overwhelming number of them are African American. And it is the stunning efficiency of this program of creating and maintaining a second-class citizenry, a second class caste, that Michelle Alexander calls Athe new Jim Crow.@

Jim Crow is the label for the systematic practice of discriminating against and segregating Black people, especially as practiced in the American South from the end of Reconstruction to the early 1960s. The term, Jim Crow, originated as the title of a post-Civil War period song in a minstrel show, and used at that time as a general, derogatory name for any African American.

The Reconstruction Era is what followed our Civil War. It was a time of gains for African Americans in social and economic equality. But these gains created a backlash among the Southern white elite who vowed to reverse them. They Afought a terrorist campaign against Reconstruction governments and local leaders, complete with bombings, lynchings, and mob violence.@ (p. 30) As they regained their power, they began to pass what came known as Jim Crow laws, which were designed to control the African American population again. Later, Asegregation laws were proposed as part of a deliberate effort to drive a wedge between poor whites and African Americans.@ These latter two groups had been experiencing a growing affinity, an affinity which also threatened the white elite who sought to encourage the poor whites to hold a sense of superiority over blacks, thus dividing and weakening a potentially threatening social and political

bloc. By the turn of the century, writes Alexander,

every state in the South had laws on the books that disenfranchised blacks and discriminated against them in virtually every sphere of life, lending sanction to racial ostracism. Politicians competed with each other by proposing and passing ever more stringent, oppressive... legislation. (p. 35)

The Civil Rights Era of the 1960s overturned much of Jim Crow. Once again, social and economic equality seemed possible, attainable, and once again the elite were threatened. But this time they were not mostly confined to the South; they were, and are, all over our country. And since the overt and blatant tactics of the original Jim Crow would not work, there began a race-neutral movement that Ross Gay calls *A* corruption of the imagination. Blacks and browns were more and more presented as criminals, as suspicious, as dangerous *B* and this image has embedded itself into our psyche to the extent that the connection between African Americans and crime has become a strong but invisible thread, a thread that has allowed the mass incarceration and the mass correctional supervision of millions of people, millions of people of color. This is what Michelle Alexander names *A*the new Jim Crow,*@* the new system of control and suppression. And it is way long past time for it to stop.

Alexander calls for a social movement and a reorganization of civil rights groups who have become ineffective against the new Jim Crow. Out of her call has come such a movement, Stop Mass Incarceration/Puncture the Silence, that in turn is calling for a Month of Mass Resistance in October featuring events throughout the month. Some of our own who are involved in this movement will be available during Coffee Hour to answer your questions and sign you up.

I close with my hope that we also deal with the corruption of the imagination that has occurred, the corruption that places stereotypes and negative labels on one another, that create fear and keep us from fully seeing the inherent worth and dignity of one another. And I do not mean this in a *A*colorblind*@* sort of way; I mean seeing each other=s worth and dignity as black and brown and yellow and white *B* seeing the worth and dignity in each, as we are. We do not need to be blind to the differences in our skin colors; we need to be, as Martin Luther King, Jr. said, lovestruck by them *B* delighted, amazed, and grateful for the wonder of our diversity.

Our systems need to change, yes; but just as importantly, so do we. May the two grow together, and may we be truly visible, one to another.

(All noted quotations are from Michelle Alexander, The New Jim Crow, The New

Press:2012)