

Ten Plagues

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Source: Baltimore Social Justice Seder

Leader:

God brought ten plagues upon the Egyptian people as part of the Israelites' journey to freedom. Tonight we read ten modern plagues that result from unfair, inequitable, and excessive practices in the criminal justice system. As we read each plague we remove a drop of wine from our glasses to symbolize our anguish at the suffering these plagues have caused.

Recite together:

- The concentration of police drug enforcement resources in poor communities of color
- The forfeiture laws and grant programs that incentivize making mass numbers of drug arrests
- Racial discrimination in conviction rates for drug offenses
- Racial discrimination in the length of sentences handed down for drug offenses
- Minimum sentencing rules that are overly punitive and tie the hands of judges
- The denial of parole to every prisoner serving a life sentence with the possibility of parole in Maryland
- The denial of civil rights, such as employment, education, housing, public benefits, and jury service to individuals with criminal records
- The sentencing disparity between crack and powder cocaine
- The garnishing of up to 100% of wages to pay back fines, fees and costs that are a condition of probation or parole
- The concentration of police resources on the war on drugs, which creates more crime than it prevents

1. The concentration of police drug enforcement resources in poor communities of color

About 9% of Marylanders violate drug laws each month, and people of all races engage in this illegal activity at similar rates. With such a large population of offenders to choose from, police have incredible discretion in deciding which neighborhoods and people to target. The police have chosen to direct their resources at impoverished communities of color, and to overlook suburban neighborhoods. It has become common for the police to use SWAT teams and militarized tactics in minority communities, while their use is rare in the affluent white neighborhoods where they would likely spur a political backlash. Beyond targeting African American communities, the police also disproportionately target African Americans within predominantly white environments. One study in Baltimore found that while only 21% of drivers on I-95 are African American, they represented 70% of those stopped and searched for drugs.^{xiii} What made this even more shocking was the finding that whites were more likely than African Americans to be carrying illegal drugs in their vehicles. The effect of the disproportionate concentration of police resources is that while African Americans use drugs at the same rate as whites, they are more than twice as likely to be arrested for a drug offense. This disproportionate targeting of African Americans represents a cornerstone of our new system of racial control.

2. The forfeiture laws and grant programs that incentivize making mass numbers of drug arrests

The federal government has created powerful financial incentives for local police departments to focus their resources on arresting people for low-level non-violent drug offenses. The government provides an estimated \$153 of funding to local police departments for each drug arrest, and the Pentagon further provides military equipment in proportion to the number of arrests.^{xiv} As a further inducement to increase drug arrests, the federal government has authorized local police departments to use the cash and assets connected with illegal drug activity to supplement their budgets.

3. Racial discrimination in conviction rates for drug offenses

Prosecutors have incredible discretion over the fate of criminal defendants. They decide whether to try or dismiss a case, what charges to bring, what plea deal to offer, and even whether to transfer a case to the federal system where the penalties are more severe. Studies have regularly shown that prosecutors use this discretion to the detriment of African American defendants. One study concluded that at nearly every stage of pretrial negotiation, African Americans were less successful than similarly situated whites at getting charges reduced to misdemeanors or infractions.^{xv} As a result, African Americans are three times as likely as whites to be incarcerated for a drug offense.^{xvi}

4. Racial discrimination in the length of sentences handed down for drug offenses

The U.S. Sentencing Commission recently found that African American men face prison sentences that are nearly 20% longer than those of white men for similar crimes. Studies have further found that the sentencing disparities faced by African Americans are even greater for drug offenses than for violent crimes. One explanation is that when judges are faced with less serious offenders, they are more likely to allow non-legal factors, such as race, to influence their sentencing decisions.^{xvii}

5. Minimum sentencing rules that are overly punitive and tie the hands of judges

The threat of mandatory minimum sentences empower prosecutors to extract guilty pleas from nearly all defendants. When cases do go to trial, mandatory minimums prevent judges from considering mitigating factors, such as the age or role of the defendant in the drug offense. Rather, judges are forced to deliver sentences that are far longer than would be the case if they were able to use their own discretion.

6. The denial of parole to every prisoner serving a life sentence with the possibility of parole in Maryland

Since 1995, Maryland's governors have vetoed every decision by Maryland's parole board to grant parole to eligible prisoners serving life sentences. Contrary to legislative intent and the expectations of judges, the sentence of life with the possibility of parole has become a de facto sentence of death in prison. At the same time, more than one in ten of those sentenced to life in prison in Maryland are teenagers, the people most in need of meaningful opportunities for release. Moreover, this is a rate that is higher than in all but two other states. Racial disparities characterize these sentences, with African Americans constituting 84% of juveniles serving life sentences, a rate that is tied with Alabama for the highest in the country.

7. The denial of civil rights, such as employment, education, housing, public benefits, and jury service to individuals with criminal records

Upon completing their formal sentence, individuals with felony convictions enter a new more permanent phase of punishment. Similar to the system of control during the Jim Crow era, highly disproportionate numbers of African Americans begin what has been termed an "internal exile." They are permanently stripped of many of their basic civil rights, and prevented from reintegrating into the mainstream society and economy.

Across the country, employment and housing discrimination against individuals with criminal records is widely prevalent, with fewer than one in four employers saying that they would be willing to hire someone with a drug-related felony conviction.^{xix} The U.S. government bars those with drug convictions from

receiving federal student aid. Moreover, many states permanently bar individuals with felony convictions from receiving food stamps, cash assistance, and living in public housing. While Maryland restores these benefits after a period of time, those recently released from prison are often unable to access them at a time when they are most in need of support. Finally, Marylanders with felony convictions are automatically excluded from jury service, one of the basic rights of American democracy.

8. The sentencing disparity between crack and powder cocaine

Mandatory minimum sentences for the possession of crack cocaine are 18 times longer than those for the same weight of powder cocaine. While this disparity has been reduced from 100:1 in 2010, the presence of any disparity disproportionately discriminates against African Americans. According to the U.S. Sentencing Commission, African American constitute 79% those convicted of crack cocaine offenses and 28% of those convicted of powder cocaine offenses. At the same time, these numbers also represent racially discriminatory arrest and conviction rates, with African Americans constituting only 38% of crack cocaine users and 15% of powder cocaine users. The disparate treatment in sentencing is difficult to justify on non-racial grounds. The key difference between the two substances is that powder cocaine becomes crack after combining it with baking soda and heat. Research has shown both powder and crack cocaine to have an identical biological impact on the body.^{xx} There are currently an estimated 2,700 individuals serving prison sentences under the discriminatory 100:1 sentencing guidelines, who would be free under the revised law.

9. The garnishing of up to 100% of wages to pay back fines, fees and costs that are a condition of probation or parole

Upon release from prison, returning citizens in Maryland often face a daunting numbers of fines, fees and costs related to their imprisonment. Returning citizens are billed to cover the cost of parole supervision, drug testing, treatment, community service programs, and some court proceedings. This is in addition to court mandated restitution and child support payments. With two-thirds of returning citizens unemployed, most are unable to pay these charges and thus face mounting nonpayment penalties. These debts then lead to civil judgments, negative credit reports, and wage garnishment. As a result, individuals caught in this impossible situation are often forced into the underground economy. Moreover, while debtor's prisons are illegal, Maryland threatens to revoke parole for individuals that fail to make court payments, creating added stress that can prevent successful reentry into society.

10. The concentration of police resources on the war on drugs, which creates more crime than it prevents

Research shows that in many communities mass incarceration has reached a tipping point, where so many people have been removed as to undermine the social cohesion that helps maintain safety. The war on drugs rips apart community networks, destabilizes families, and locks people out of the mainstream economy. This has made it a leading cause of poverty, joblessness, and crime.