Bias on the bench

A Herald-Tribune investigative report

DAY ONE OF FOUR | HERALDTRIBUNE.COM/BIAS

By Josh Salman, Emily Le Coz and Elizabeth Johnson

Justice has never been blind when it comes to race in Florida. Blacks were first at the mercy of slave masters. Then came Jim Crow segregation and the Ku Klux Klan.

Now, prejudice wears a black robe. Half a century after the civil rights movement, trial judges throughout Florida sentence blacks to harsher punishment than whites, a Herald-Tribune investigation found.

They offer blacks fewer chances to avoid jail or scrub away felonies. They give blacks more time behind bars—sometimes double the sentences of whites accused of the same crimes under identical circumstances.

Florida lawmakers have struggled for 30 years to create a more equitable system. Points are now used to calculate sentences based on the severity of the crime, the defendant’s prior record and a host

SEE JUDGES, A9

Trump team disputes intel

The CIA has concluded that Moscow tried to tip the election for Donald Trump. His presidential transition team challenged the agency’s assessment Saturday.

The art of philanthropy

Among the features in the Herald-Tribune’s quarterly Giving Report section is one on reporter Carrie Seidman’s FACEing Mental Illness art workshops. Inside Today

Jackson takes the Heisman

Sensational sophomore quarterback Lamar Jackson’s early season performance earned him the coveted trophy, making him the first Louisville player to win it.

The color of their skin.

Matching scores should mean matching punishment.

That’s not what happened.

The difference?
Blacks spend far longer behind bars. There is no consistency in the criminal punishments—individuals of similar points in the formula used to determine incarceration. When defendants score the same points, judges in Flagler County put blacks convicted of armed robbery away for nearly three times as long as whites. When the defendant is black, the judge has discretion to show mercy. That discretion is sometimes denied, according to the Herald-Tribune investigation found the data to review racial disparities in sentencing. Judges themselves don’t know their own tendencies. Without checks to ensure equality, bias reigns. Judges say they are not racist. But centuries of racial tension in America, a lack of cultural understanding and negative stereotypes cloud their judgment.

There’s little oversight of judges and how they come to sentences. Black make up 10 percent of Florida’s population and one-third of the state’s prison inmates. But fewer than 20 percent of all judges are black and less than half of them possess a law degree. The Herald-Tribune found that in Florida, sentence black defendants to 20 percent more time than whites. Despite the disparity, the two cases are not unusual. Since 2004, Lee County judges sentenced black defendants convicted of robbery to an additional three to six months in prison on average compared with whites who scored the same points. Experts say similar outcomes play out across Florida. Another one of his victims, a high school student, was also a child who got a slap on the hand or warning. Peters’ file was destroyed, according to the State Attorney’s Office.

“Racial disparities in the criminal justice system are evident as an inpenetrable wall and jewels. Prosecutors charged juvenile with one count of armed robbery with a deadly weapon. Peters and his co-defendant made out an additional three to six months in prison on average compared with whites who scored the same points.

To be sure, sentences across Florida are negotiated before they reach the judges for final approval. But a Herald Tribune investigation found the system still leaves judges with the discretion to show mercy. They just show more often to the people who look like them. Across Florida, when a white and black defendant score the same points for the same offense, judges give the black defendant a longer prison stay in 40 percent of his cases. For burglary, it’s 45 percent more. For battery, it’s 30 percent. For armed robbery, it’s 49 percent more. For other violent crimes, it’s 30 percent more. Judges who received a slap on the hand or warning. Peters’ file has been destroyed, according to the State Attorney’s Office.

"You may have had a white child from the suburbs. The judge sees you're more likely to be African-American, and that's ingrained in some of our judges," said Howard Simpson, a South Florida defense lawyer. "There's a built-in expectation that you're more likely to be violent if you're African-American, and that's ingrained in some of our judges," said Howard Simpson, a South Florida defense lawyer. "There's a built-in expectation that you're more likely to be violent if you're African-American, and that's ingrained in some of our judges," said Howard Simpson, a South Florida defense lawyer. "There's a built-in expectation that you're more likely to be violent if you're African-American, and that's ingrained in some of our judges," said Howard Simpson, a South Florida defense lawyer.
Bias on the bench
Sunday, December 11, 2016 A12

JUDGES
Continued From A11

you walk into the court,” said the Rev.
Sara Miles, a spokeswoman for the
Nassau County deputies arrested
Timothy Boulty for selling five grams
or cocaine to an undercover informer in
2009. He pleaded guilty and scored 28
points.

Judge Robert Foster showed mercy.
He sentenced the 21-year-old white
man to drug rehab and three years of
probation. The same judge was hard on
Zachary Jamieson.

Charged in 2009 with selling cocaine
in Nassau County, Jamieson, a black man also pleaded guilty, scored 28
points and was sentenced.

But probation was not the cards, if
southern Nassau to state prison for
13 months.

Nassau County has one of Florida’s
widest racial discrepancies in senten-
cing when it comes to sentences of black
versus white defendants.

Judges presiding over courtrooms in the
criminal behand have been calling on
Foster to give blacks an additional 332
days in lockup for felony drug charges.
That is more than double the time given
to whites with identical records.

That’s wrong, according to a former
Republican state senator from Milton who chaired the Senate’s Crim-
inal Justice Committee, referring to the statutes and research given in a
Herald-Tribune analysis of state
sentencing data.

‘A SYSTEM WORTHY OF RESPECT’
On the third time — a felony. Waters
pleaded guilty to
the same charge, he also went before
Nassau County deputies arrested
Zachary Jamieson for selling five grams
or cocaine in Nassau County.

The 42-year-old black man was
sentenced to 89 days in county lockup.

They’re part of a society that more
than African-Americans, more than the
whites. They’re part of a society that more
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whites.

The counties that are shaped, in part,
by the makeup of the bench. But
the appeals court can only
Decades in the making, racial
disparities in Florida are
common.

In Broward County, a criminal judge
asked to be reassigned after an
attacked murder case was “Nilh” — an
acronym for “no human involved.”
The defendant, victim and all of
the witnesses were black.

But such examples of overt racism in
Florida are rare. Racial discrepancies in sentenc-
ing, experts say, more likely involve implicit bias — subtle stereotypes
developed through upbringing, school-
ing, television and movies.

Black men have long been stereotyped
as criminals. Broadcast flash im-
ages of blacks suspects lined up in
chairs and jailhouse orange. Holly-
wood often casts blacks as criminals.

A series of police killings of black
men in recent years has increased the
discussion. TV coverage shows through-
graffics of blacks and whites, in oppos-
ends of streets or separated by barricades,
jetting. Altercations are blasted across social
media. They rolled the presiden-
tial race.

‘A SYSTEM WORTHY OF RESPECT’

The county is a swath of inland
communities tucked just below
the edge of Tallahassee and is
remote. The closest towns and
rural ranch homes are about the
only things separating miles of pine
sand the Okefenokee Swamp.

But across the river, that rural land-
population shies to Amelia Island, a popular
vacation destination with black
inns.

Amlina was home to a slave
trading post during Spanish rule. A
plantation owner later divided the
southem 13.5-mile stretch of beach to
his workers, forming a pocket of
poor but free blacks.

In 1931, a black-owned insurance
company bought the land and turned it into a
black resort, dubbing it “American
Beach.”

It was called “the negro play-
ground,” said Evelyn Jones, who grew
up in Nassau County and now lives
on American Beach. “You couldn’t
even enter and not have to worry about humili-
ation. That’s what it made us or grand.

White vacations wanted no part of
it.

They walked off their gated sub-
divisions, manicured golf clubs and
Atlantic resorts on Amelia Island from
American Beach, where some of the
duplexes and cottages sit abandon-
ed — awaiting renovation.

Black at the other end of the island
near downtown Fernandina Beach
face a different kind of racial pres-
dence. They say police use informants
to comb their community for drugs
sending young residents to court over
and over and over contributing to a sense of
black despair.

This is a place where people
believe selling drugs is wrong, and
there should be consequences to it.
he said, “I am part of the community. I reflect the values of my
community.” A trochę is nothing new in Nassau.

Judge Foster presides over proceedings at the Robert Foster Justice Center in Yulee. An analysis of two state databases shows Foster sentences black defendants convicted of felony drug
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possession more harshly than white defendants convicted of the same crime.
Kenneth Nunn, a University of Florida law professor and assistant director of its criminal justice center, says the system does not get to the root issues.

**HOW WE DID IT**

Police discretion has sparked civil unrest and violent protests across the country. But the discrimination that results between black and white people does not end in the streets or the jailhouse. The Herald-Tribune found it flourishes in Florida’s courtrooms.

Investigative reporters spent a year searching through tens of millions of documents contained in two public record databases — one compiled by court clerks and the other by the prison system.

These databases allowed us to review crimes in Florida from 2004 through 2015 and to compare sentences handed down by judges based on the points that defendants scored under Florida’s sentencing guidelines.

The Herald-Tribune used these records to build a first-of-its-kind database of Florida judges, comparing sentencing patterns based on everything from their age and previous work experience to their race and gender.

The investigation revealed that blacks are more likely to be found guilty than whites in Florida. They are more likely to spend time behind bars; they are usually longer; and they are not given as many opportunities to avoid incarceration through pretrial diversion.

We also showed that Republican judges are more likely to deliver harsher punishment toward black defendants than Democratic judges. White judges are more likely to be harder on black defendants than black judges are, and the statistics show sentences handed down by male judges are more skewed than female judges.

Reaching these conclusions, however, wasn’t easy. It took editors and reporters years to learn how to use the offender-based system and only with help from the Tampa Bay Times.

Compiled by Florida’s court clerks, ORTs is a giant and unwieldy repository that tracks every criminal case from arrest through appeal.

It took editors and reporters years to learn how to use the offender-based system and only with help from the Tampa Bay Times. It contains a file for each defendant, for each arrest, for each charge, for each court appearance.

After scrubbing the database, we were ready to start reporting in April. But it wasn’t long before we ran into another complication.

When we explained our findings to judges, lawyers and other judicial system experts, some argued our data was flawed. Every criminal case is different, they said, and there may be good reasons for unequal treatment of blacks and whites.

Defendants, for example, might receive longer sentences because of more prior convictions or they carried guns during robberies.

ORS allows the user to correct for that weakness. It contains a field called “sentence specialty,” which identifies cases involving aggravating factors — such as extensive criminal history and the use of a gun — that lead to longer sentences of all kinds for all such cases.

But court clerks do not enter the data in the “sentence specialty” field the same way in every county. So it is not always possible to get clean comparisons.

Race and gender

Discriminacies in sentencing by race and gender of Florida judges.

Number of judges

Race and gender

Discriminacies in sentencing by race and gender of Florida judges.

Source: Offender Based Transaction System of Office of State Courts Administrator

Kentish Bawn, a University of Florida law professor and assistant director of its criminal justice center, says the system does not get to the root issues.

**Kenneth Bawn, a University of Florida law professor and assistant director of its criminal justice center, says the system does not get to the root issues.**

“Biased on the bench” Judges appointed by Florida’s most recent governor.

Source: Office of the Governor

*GATEHOUSE MEDIA*
Hollywood triumph for Bradenton screenwriter

By Thomas Becnel
thomas.becnel@heraldtribune.com

BRADENTON — Long before Mike Le made it in Hollywood — "Ten screenwriters to watch," Variety magazine — he was a lonely comic book fan on the Gulf Coast.

He laughs and notes that this was also long before comic books were cool.

At Bayshore High, where he graduated in 1991, he wrote stories and drew characters. He never ate in the school cafeteria.

"I sat in the hallway outside the art class," he says. "I would save my lunch money to buy comic books."

At the State College of Flor-

ida, where he didn’t graduate, Le wrote movie reviews and drew editorial cartoons for the student newspaper. He helped start the SFC Film Club.

Then he moved to Los Ange-

les to try to make it in the movies. His first job was at a Blockbuster video store.

One day Owen Wilson came in to look for a movie. Le gave him some good advice. And that was that.

"Everyone has an agenda," said Philip Padovano, a retired appellate judge in Florida. "We are kidding ourselves if we think we don’t."

The Herald-Tribune analyzed millions of criminal cases from the past 12 years to build a first-of-its-kind database of Florida judges, comparing sentencing patterns on everything from their age and previous work experience to race and gender.

The newspaper concentrated on third-degree felonies — the least serious and broadest class of felonies.

"We went from a potential referendums well over $200 million to something for these four projects that will be about a third of it," said Alan Maio, former Commissioner Chairman.

"We have to work around our borrowing limit," he said. "But the prices for a series of construction options developed this year consistently came in well above the $20 million we’re looking for projects with — without consent. In response, county commissioners pressed staff "for creative" ways to move forward.

"I sat in the hallway outside the art class," he says. "I would save my lunch money to buy comic books."
— and pulled voter rolls in each Florida county to determine the political registration of every county judge occupying the nonpartisan position.

Reporters first compared judges across the state according to data gathered by county clerks and then looked at their sentencing patterns using data from the Department of Corrections, which reveals the points scored by defendants at sentencing.

That review showed that race, politics, and gender most bias the bench — but like all humans, judges are full of contradictions.

Black judges, for example, don’t always show empathy toward their own race. In fact, no group has a wider gap when it comes to sentencing black and white defendants than Black Republicans. They sentence criminals of their own color to nearly 70 percent more confinement than whites who receive the same sentence on felony drug charges, 17 percent more lockup for burglary and 1 percent more time for the felony of driving with a suspended license for the third time.

Those points are assigned to defendants based on the nature and severity of the crime committed, as well as other factors, such as prior criminal history, use of a weapon and whether anyone got hurt. The more points a defendant gets, the longer the recommended sentence.

During a meeting with the newspaper, Williams attributed sentence disparities to plea negotiations. “One of the big misconceptions is that the judge goes in and sentences everyone in a vacuum,” Williams said. “I would say try to get 10 percent of the disparities as the result of negotiated pleas.”

Williams also cited the role of law enforcement officers, who decide who enters the system in the first place. “The judges are made out to be the most powerful people in the justice system,” he said. “I think the most powerful people are the prosecutors and law enforcement officers.”

Williams, who changed his political registration from Republican to “no party affiliation” five days after meeting with the Herald-Tribune, agrees there are racial biases in the system, especially with regards to the disproportionate arrests of black men. But he denied that he is — or any other judge in his circuit — sentences blacks with a bias.

“I grew up in the South. I understand racial bias. I understand what goes into it. I understand that there are people in this system — from law enforcement to judges — who have biases. But none of the judges I work with display racial biases, and if they did, I would call them on it.”

Those close to Williams say he is hammering out a system that puts his own race at a disadvantage. But they also say that he is surveying the political realities of conservative southwest Florida.

“You have to be a Republican to have any shot at the job here,” said Adam Tebrugge, a longtime criminal defense lawyer in Bradenton who considers Williams a mentor. Williams grew up in a middle-class neighborhood in Pinellas County. He attended Howard University in Washington, D.C., before returning to the Sunshine State to receive a law degree from the University of Florida in 1997.

Since then, he has remained immersed in issues affecting minorities.

“I think what puts him in a better

JUDGES

Wednesday, December 16, 2015

Racial disparities: Judge Charles Williams

Racial disparities in sentencing black and white defendants for third-degree felonies by 12th Circuit Court judge Charles Williams (DeSoto, Manatee, Sarasota).

Sentencing disparities: Black and white judges

Disparities in sentencing by black and white judges in sentencing offenders for third-degree felonies. Numbers are days in lockup for black and white defendants:

<table>
<thead>
<tr>
<th></th>
<th>Blacks</th>
<th>Whites</th>
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<tbody>
<tr>
<td>All judges</td>
<td>272</td>
<td>232</td>
</tr>
<tr>
<td>Black judges</td>
<td>318</td>
<td>319</td>
</tr>
<tr>
<td>Black male judges</td>
<td>246</td>
<td>257</td>
</tr>
<tr>
<td>Black female judges</td>
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<td>412</td>
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<tr>
<td>White male judges</td>
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<td>323</td>
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<tr>
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</tr>
<tr>
<td>Republican judges</td>
<td>461</td>
<td>461</td>
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<tr>
<td>Democratic judges</td>
<td>357</td>
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</tr>
</tbody>
</table>

Bias on the Bench

Judge Charles Williams presides over a case in Sarasota.

— Judge Charles Williams

SEE ALSO

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— Judge Charles Williams

Judges

Former Sarasota County Commissioner Carolyn Mason. A7 ARCHIVE

Bias on the Bench

Judge Charles Williams.

HERALD-TRIBUNE STAFF PHOTO / DAN WAGNER

Racial disparities

Racial disparities in sentencing black and white defendants for third-degree felonies by 12th Circuit Court Judge Charles Williams (DeSoto, Manatee, Sarasota).

Length of sentence (days in lockup):

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<th>Blacks</th>
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<tbody>
<tr>
<td>Blacks</td>
<td>249</td>
<td>249</td>
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<tr>
<td>White male judges</td>
<td>122</td>
<td>122</td>
</tr>
<tr>
<td>White female judges</td>
<td>234</td>
<td>234</td>
</tr>
</tbody>
</table>

Source: Florida Offender-Based Transaction System
position to understand and to do something to help people more in his upbringing,” said Thomas Macon, a former Sarasota County commissioner. “He came up during the civil rights era. He grew up and he has friends and acquaintances who for whatever reason got involved in the criminal justice system, and a lot of them were treated very unfairly.”

There are 28 black judges in Florida who rule on felonies. Collectively, they sentence more evenly than other judges.

The 17 men in that group give whites 10 percent more time in lockup than blacks across third-degree felonies. Republican judges tip the scale in the other direction.

There are five black Republican judges in Florida who handle serious criminal cases. They confine white defendants for 17 days on average for third-degree felonies.

Those same judges give black defendants 222 days, or 60 percent longer. Based just on sentencing averages, black Republican judges have the widest discrepancies when it comes to punishing black defendants.

Black woman judges, by contrast, are the most fair.

But such comparisons can be deceiving. Black women also are the toughest judges. They hand down average sentences of 28 days for third-degree felonies — no matter the defendant’s race.

That compares with an average of 223 days for black defendants standing before black Republican judges, but one of whom is male.

So a typical black defendant will walk out of court with almost eight fewer months of jail time with a black GOP judge than with a judge who is a black woman.

“It’s a question of being fair versus being punitive,” said Marc Rabin, an economics professor at the University of British Columbia, who studied racial discrepancies in sentencing. “We may help minorities most not by increasing fairness, but by reducing the punitive nature of sentencing.”

Others argue they would rather be treated fairly — even if it means more time.

“We don’t mind hard but fair,” said Larry Byrd, a former Alachua County correctional officer. “There’s a difference when you deal with someone because you’re black versus me beating you up because you did something wrong.”

‘EVERYBODY SCREWS UP ONCE IN A WHILE’

Judge Dennis Murphy has presided over more than 8,000 criminal cases since 2004 alone.

He has overseen trials for murder, white-collar fraud and a number of cases involving high-profile athletes.

Through it all, the 10-year judge from Miami has kept an even keel.

Murphy is one of the fairest in the state when it comes to sentencing, giving both blacks and white defendants an average of 254 days in lockup for third-degree felonies.

Murphy is registered as a Republican. Conservatives are generally harder on blacks than Democrats. Across the state, GOP judges sentence blacks to 21 percent more time in jail or prison than while defendants busted on third-degree felonies. For Democrats, the sentence gap drops to 7 percent.

Murphy defines those statistics.

“That’s something I try to take to heart and apply to cases across the board,” the judge said. “This sentence gap drops to 7 percent. Does it fit the crime? Does it fit the others that I have seen? It’s a concern that is not within my individual case. I am trying not to be in the vacuum.”

Murphy doesn’t keep a personal log of his rulings. He hasn’t attended any special seminars on sentencing. He said each judge has his own approach and he’s all about second chances.

Murphy learned fairness at an early age, growing up in a household with nine siblings.

He’s from the white suburbs of Rochester, a blue-collar neighborhood just below Lake Ontario in western New York.

Most of the minorities lived in the city. But he says segregation never polarized him.

Murphy also has a different outlook on drug crimes after watching addiction rock his own family. His son was involved in an alleged burglary and strange-arms robbery — to be a drug habit. That experience taught Murphy that prison isn’t the place to address substance abuse.

“Everybody screws up once in a while,” Murphy said. “If you’re coming to me as a scarred criminal, we’ll give you a slap on the wrist, punish you a little bit, but also try and get you out from under it.”

Murphy presided over one particularly controversial case, according to Mark Seiden, a retired Miami defense attorney.

Brandon Rollie, a black man, was convicted of robbery and killing a tourist in 2015. The jury recommended death.

But despite one monstrous prosecution from the community, Murphy sentenced Rollie to life in prison without parole. He wasn’t the popular decision. But Seiden said it was the right one.

“He is one of the most non-racial people I’ve ever met,” Seiden said. “He sentences based on the case before him, the law and the facts, taking into account that the person that he is sentencing is a human being.”

Murphy was elected to the bench in 2010 on a nonpartisan platform, following a career in personal injury law.

Though registered as a Republican with the Miami-Dade Supervisor of Elections, the judge said his GOP affiliations do not define him. He also said in Miami has made him more of a liberal with regard to social issues.

“One and, you will always have those who recommit. It’s their life — a life of crime,” Murphy said. “On the other end is someone who just the arrest alone is punishment enough for them. They’re embarrassed. You can tell they’ll do anything like this again. Part of the process is trying to determine which it is.”

‘JUDGES ARE NOT PERFECT’

Nearly 60 percent of judges in Florida are Republican, and GOP judges are generally harder on blacks when it comes to sentencing for third-degree felonies.

But those tendencies vary from the rural hills of the Panhandle to the busy shores of South Florida.

There are 16 judges registered as Republicans in the 1st Circuit, which covers Escambia, Okaloosa, Santa Rosa and Walton counties in the Northwest corner of the state.

Those judges collectively give whites 14 percent more time behind bars for third-degree felonies. It is one of the low areas where GOP judges are more merciful toward blacks.

But nobody in the 1st Circuit shows favor of blacks more than Chief Judge Linda Nobles.

The 56-year-old Escambia judge now in family court — sentenced blacks to an average of 92 days across third-degree felonies over the past 12 years, according to data compiled by court clerks.

She gave whites more than double the time.

For robbery, she gave whites 44 percent more time than blacks with identical scoresheets, according to an analysis of Florida Department of Corrections data.

For battery, she handed whites 27 percent longer sentences than blacks who scored the same points at sentencing.

And she gave whites more than double the time.

For burglary, she gave whites 77 percent longer sentences than blacks who scored the same points at sentencing.

She also gave whites 14 percent more time after getting caught for driving with a suspended license for the third time.

But she was harder on blacks for third-degree felony drug charges.

“These disparities tell me that almost all of his sentences are negotiated between the prosecutor and defense.”

Like others on the bench, the judge pointed out that almost all of his sentences are negotiated between the prosecutor and defense.

“Even something as wrong as you are seeing this.”

“Don’t you see that almost all of his sentences are negotiated between the prosecutor and defense.”

“Don’t you see that almost all of his sentences are negotiated between the prosecutor and defense.”
Racial disparities: Judge Heather Pinder Rodriguez

Disparities by judges’ ages

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Disparity</th>
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<td>10</td>
<td>Chiles</td>
</tr>
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<td>20</td>
<td>20</td>
<td>Scott</td>
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Disparities by governors’ appointments

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Disparity</th>
<th>Governor</th>
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<td>10</td>
<td>10</td>
<td>Crist</td>
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<tr>
<td>15</td>
<td>15</td>
<td>Scott</td>
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A perception that Chiles was picking soft judges would have been a political death sentence, said Susan MacManus, a professor of government and politics at the University of South Florida. “He had to prove he was tough on crime,” MacManus said. “If you have a crime wave going through and...”

Disparities are found in sentencing for third-degree felonies for judges appointed by Florida’s last four governors. Judges indicate how much more time blacks spend in lockup than whites.

<table>
<thead>
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A single difference of who appoints those judges will show up in their decisions,” said Keith Fitzgerald, a New College of Florida political science professor. “We’ve politicized the judiciary.”

The governor’s office declined to answer questions. But regarding other crimes — murders, more than 30 years, 55-59 — there’s more equitable, sentencing whites to slightly more time than blacks.

Pinder Rodriguez did not return three calls from The Tampa Tribune.

Karen Levey, the chief deputy court administrator for the 9th Circuit, said the judges only had discretion over 1 percent of the approximately 1,500 felony cases that came before them.

Before joining the bench, Pinder Rodriguez worked as a construction attorney for the Holland & Knight law firm.

She was the judge in the high-profile case of real estate agent Caryn Kelley, a white woman from the Orlando suburb of College Park who was accused of fatally shooting her boyfriend after a night of drinking.

“It’s kind of like watching a baseball game being played with the baseball cards,” she told the Orlando Sentinel.

“Just an absolute game at the ball,” she said, “so, you’ve got to question whether or not the refs were doing a good job. Find out if it be a sign that I have been doing a good job during that trial.”

But not everyone agrees. Central Florida defense attorneys changed their leaning in support of the Orlando Sentinel.

“She’s not a very nice woman, very pleasant, very gentle, very no hair — out of place, very young,” said Roger Orlando, an defense attorney. “She’s an intelligent woman, but she had no understand of or respect in the courtroom. I think that would account for the disparity.”

Scott successfully challenged Pinder Rodriguez for her seat in the 2014 election. She won with nearly 62 percent of the vote and the endorsement of the Orlando Sentinel.

“Just an intelligent woman, on the domestic docket and no longer over criminal cases, she told the Orlando Sentinel that her approach has changed.”

“If you ask me what’s my judicial temperament or my judicial philosophy, she asked, “I think, above all, it’s to follow the law, and I think if we don’t treat everyone fairly, everyone feels respected and everyone feels heard.”

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Circuit Judge Heather Pinder Rodriguez addresses court issues in 2013. ORLANDO SENTINEL / REE HEDER

Wednesday, December 24, 2014 A10

“...one of the younger judges selected by Scott.”

A registered Republican, she joined the circuit court in Orange County in 2013 and spent nearly nine years ruling on criminal cases. A Herald-Tribune review of her decisions during that time shows she was harder on blacks in some cases and harder on whites in others.

Across third-degree felonies, for example, she sentenced blacks to almost double the time as whites — or an extra three months in lockup. She also handed down an average sentence of 271 days for whites convicted of robbery, but she gave blacks who killed another person a shorter time — approximately 227 percent, according to a review of Department of Corrections data.

But regarding other crimes — such as burglary and driving with a suspended license — she was more equitable, sentencing whites to slightly more time than blacks.

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She also donated time as a guardian ad litem, helping children in custody and abuse cases, and she volunteered at the Orange County Legal Aid Societ,

Many of the judges that he appointed are nearing retirement.

They also are among the judges with the most respected on the bench.

Judges friends say he was always among the most respected on the bench. He says his demeanor both in court and on the weekends fit the laid-back surfer stereotype.

The judiciary and the surfing judge stepped down in October, putting off campaign for another term.

“WE’VE POLITICIZED THE JUDICIARY”

Chiles rose to power in Florida in the 1990s — a time when views on crime were through the roof. He then took a job on the other side, handling some 50 jury trials with the public defender’s office, including 12 death penalty cases.

“He was a lawyer’s lawyer who would make you read the opportunity to say what they needed,” said retired Judge Jay Spechler, Lynch’s former law partner and friend of more than 30 years. “Lawyers on both sides always appreciated going before him. He was tough on crime to those that deserved it. But he was always fair, and he always gave people second chances.”

In the 1990s, Lynch started as an intern with the state attorney’s office. He then took a job with the public defender’s office, including 12 death penalty cases.

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A Herald-Tribune investigative report
Gainesville’s war on drugs

The war on drugs is fought in the hood — not on campus

By Josh Salman and Emily Le Coz

Gainesville — On a Saturday night near the University of Florida campus, throngs of college students roam noisy streets lit by bars and restaurants. They clamor popular hangouts like The Social at Midtown. Their dance in an empty parking lot, animated by hip-hop from a white Honda Civic, is done thing spood and fuzzy dice hanging on the rear view mirror. Meanwhile, in the predominantly black neighborhood just east of the university, darkened streets obscure quiet homes illuminated from within by the flicker of televisions.>

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Citizens pitch traffic plans

A grassroots group is proposing "temporary solutions" it thinks will ease traffic congestion during the tourist season. By Billy Cox

In defense of the Bucs

Tampa Bay has been as effective as anyone in shutting down opposing offenses during the team’s winning streak. By Jay Handelman

Rebels retreat in Aleppo

Syrian rebels retreated from strongholds in a "terrifying" collapse as government troops pressed on with their advance. By Jay Handelman

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Call on campus nightclubs, H-T Staff Photo / Emily Le Coz

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# By Michael D. Shear and Maggie Haberman

WASHINGTON — President-elect Donald Trump on Monday settled on Rex Tillerson, the chief executive of Exxon Mobil, to be his secretary of state, dismissing bipartisan concerns that the globe-trotting leader of an energy giant had forged a too-close relationship with Vladimir Putin, the president of Russia, translation officials said.

Trump planned to announce the selection on Tuesday morning, finally bringing to an end his public and private debates over which of his top aiding diplomats — a process that at times veered from rewarding Rudy Giuliani, one of his most loyal supporters, to musing about whether Mitt Romney, one of his most vicious critics, might be too late. In the end, Trump did neither, discounting not only Giuliani and Romney, but Tillerson, as well.

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# SEE TULLESON, A11

# SEE JUDGES, A5

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# SEE KEILLOR, A12

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# SEE TULLESON, A12

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The analysis showed:

Law enforcement in Alachua County takes the war on drugs to the college campuses, targeting those with darker skin for petty infractions that ultimately up the crime rates on the black communities. Those arrested are more lenient toward college students than their white peers.

The prisons now offer more opportunities for pretrial drug programs and, ultimately, lengthier sentences than their white peers.

For hard drugs, whites and blacks arrested by campus police don’t have any time behind bars, while college-aged blacks busted by city police spend an average of 210 days and whites average 76 days.

“IT’S LIKE THERE’S A MINEFIELD”

The University of Florida’s campus is a site of racial tension. Gainesville, boasting manicured lawns, stately white houses and one of the most expensive football stadiums in the nation.

Each fall, more than 50,000 students show up for classes. Fewer than 4,000 are black.

Black UF says they are treated fairly by campus police, but they cannot say the same for city cops.

“The campus police make you feel that they’re here to protect you, whereas campus police are different,” said Gill-Setum, a black student from Zambia.

The 18-year-old was caught in an experiment, both with your mind and the national drug war.

The courts in Alachua County examined more than 8,000 drug cases handled by city and university police in 2014 and interviewed more than a dozen former residents involved in Alachua County’s criminal justice system.

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crime.

There’s William Donelan.

Harry McNeal, a 24-year-old black man, was riding his bicycle in east Gainesville when a city police officer stopped him because his bike lacked a seat belt, illegal window tint or going 15 mph over the speed limit. McNeal couldn’t provide the officer with a valid ID, so he was charged with possession of drug paraphernalia, a misdemeanor offense — which McNeal couldn’t provide the officer with a valid ID, so he was arrested for marijuana possession.

But the officer then ran McNeal’s driver’s license and found that McNeal had a warrant for drug paraphernalia. The officer then ran McNeal’s driver’s license and found that McNeal had a warrant for possession of marijuana. McNeal was taken into custody.

Or Darnell Sylvester, a black teen-

When university officials learned of the incident, they suspended him for two semesters. He returned home to Marion County, once in 2009 and once in 2011. He pleaded guilty to a minor marijuana possession charge, but was ordered to pay $301 in court fees. When university officials learned of the incident, they suspended him for two semesters. He returned home to Marion County, once in 2009 and once in 2011. He pleaded guilty to a minor marijuana possession charge, but was ordered to pay $301 in court fees.

Jackson Nelson, the 63-year-old east Gainesville resident, told police he purchased the marijuana that night without going to jail. He spent 10 days in jail and was ordered to pay $301 in court fees. When university officials learned of the incident, they suspended him for two semesters. He returned home to Marion County, once in 2009 and once in 2011. He pleaded guilty to a minor marijuana possession charge, but was ordered to pay $301 in court fees.

If you’re in jail, you are more likely to be placed just guilty to get out. If you’re in jail, you are more likely to be placed just guilty to get out. If you’re in jail, you are more likely to be placed just guilty to get out.
There was a war on poverty as blacks, according to the Census Bureau. There are slightly more whites living in poverty in Gainesville than in east Gainesville. But “there is a whiff of delinquency,” said Reed. “I don’t think that’s racist.”

The 66-year-old black woman spends her days perched on a chair outside her home in the Pine Meadow homeowner’s association, clutching a cordless phone, ready to call the police or the housing project manager, or other neighbors at the first sign of trouble.

The reality is more blacks commit more drugs. Studies show the two races partake at the same rate. They say it’s more about the color of their skin.

“Why are more blacks caught up in the criminal justice system?” asked Gainesville Police Chief Tony Perry. “It’s a socio-economic issue: not a criminal justice issue.”

But statistics don’t support that. Nearly twice as many whites Gainesville residents live in poverty as blacks, according to the latest figures from the U.S. Census Bureau. There are slightly more than 22,000 impoverished white households with nearly 12,000 impoverished blacks.

If poverty alone explained drug usage, blacks would use twice as much drugs as whites, but statistics don’t support that. Nearly twice as many white Gainesville residents live in poverty as blacks, according to the latest figures from the U.S. Census Bureau. There are slightly more than 22,000 impoverished white households with nearly 12,000 impoverished blacks. If poverty alone explained drug usage, blacks would use twice as much drugs as whites.

The war on drugs did not start in some urban metropolis, it began in the White House. Roosevelt Nixon declared drug abuse “America’s public enemy number one,” in 1972 and vowed to wage a “war on drugs.” He then created the Drug Enforcement Administration (DEA) to enforce laws that targeted low-income and minority communities.

The war accelerated under Ronald Reagan with the rise of the crack epidemic and the Anti-Drug Abuse Act. It was a war on the black and white working classes. It was easier to perhaps enforce drug laws in poor communities than it is behind the gates of Upside Condo.

The disparities in arrests also drive more whites. According to data from the Florida Department of Law Enforcement (DOLE), Gainesville Police arrested 253 whites versus 221 blacks in 2015. That was 253 arrests for whites and 221 arrests for blacks.

The war on drugs, as Howard Finkelstein, Broward County’s public defender, said: “The disparity doesn’t mean you need to use more enforcement resources. It’s one of the things that used to make me crazy. One of the reasons I’m not a judge anymore. The other reason I tested early.”

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The CIA’s conclusion does not speak to the product of specific new intelligence obtained since the election, several U.S. officials, some who had read the agency’s briefing, said on Sunday. Rather, it was an analysis of what many believe is overwhelming circumstantial evidence — evidence that others do not support firm judgments that the Russians put a thumb on the scale for Trump, and got their desired outcome.

It is unclear why the CIA did not produce this formal assessment before the election, although several officials said that parts of it had been made available to President Barack Obama in the presidential daily briefing in the weeks before the vote. But the conclusion that Moscow ran an operation to help install the next president is one of the most consequential and direct uses of U.S. spy agencies in years.

Trump’s response has been to dismiss the reports by citing multiple other intelligence assessments — the botched 2002 assessment that the Iraqi leader, Saddam Hussein, had weapons of mass destruction — and poring over his record. He is now free to golf and fish on the weekends. He has read the agency’s briefing, a Democratic official said on Sunday, but he did not bring it up.

“Both men pleaded no contest to two counts of armed robbery. They went before the same judge, in the same courtroom of Judge Sherwood ‘Chip’ Bauer Jr. Both men pleaded no contest to two counts of armed robbery,” The Herald-Tribune investigative report on Black defendants get longer sentences in the Treasure Coast court system.

Black defendants get longer sentences in the Treasure Coast court system

By Josh Salman, Emily Le Coz and Elizabeth Johnson

S TUART — Chase Legleitner was 18 when he robbed a Pizza Hut and gas station at the following year. Both men pleaded no contest to two counts of armed robbery. They went before the same judge, in the same courtroom. Each had a single misdemeanor on his record. They tallied the exact same points on the 1000 point scale used to determine criminal punishments in Florida. But the sentences could not have been more different.

Legleitner spent less than two years in county jail. He is now free to golf and fish on the weekends. Lamar Lloyd was 21 when he robbed three men in a 2008 drug deal. He stuck up a Pizza Hut and gas station at the following year. Both men pleaded no contest to two counts of armed robbery. They went before the same judge, in the same courtroom.

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Last week, CIA officials presented lawmakers with a stunning new judgment that upended the debate: Russia, they said, had interfered with the primary aim of helping Donald Trump president.

The CIA’s conclusion does not speak to the product of specific new intelligence obtained since the election, several U.S. officials, some who had read the agency’s briefing, said on Sunday. Rather, it was an analysis of what many believe is overwhelming circumstantial evidence — evidence that others do not support firm judgments that the Russians put a thumb on the scale for Trump, and got their desired outcome.

It is unclear why the CIA did not produce this formal assessment before the election, although several officials said that parts of it had been made available to President Barack Obama in the presidential daily briefing in the weeks before the vote. But the conclusion that Moscow ran an operation to help install the next president is one of the most consequential and direct uses of U.S. spy agencies in years.

Trump’s response has been to dismiss the reports by citing multiple other intelligence assessments — the botched 2002 assessment that the Iraqi leader, Saddam Hussein, had weapons of mass destruction — and poring over his record. He is now free to golf and fish on the weekends. He has read the agency’s briefing, a Democratic official said on Sunday, but he did not bring it up.
family man is characterized by col-

of the “highest moral and ethical

Treasure Coast says he’s a person

“We all think we’re fair. We would

sentence more harshly one race or

Civil cases, substance abuse issues and

County before moving to felony court

appeared on a ballot before voters.

Bauer to the 19th Circuit Court in May

Circle K and a Caucasian robs a Circle

behave like that.” But these things

they say, ‘Nobody gets treated like

Martin County. “When you go to the

Jerry Gore, president of the NAACP of

defender’s office lauded Bauer’s dedi-

qualities desired in a judge.

leagues as having a humble disposition,

in the courtroom, displaying a sense

of humor when the time is appropriate

to ensure defendants with the same

to his peers, Bauer embodies all of

results. Blacks also are more likely to

worst courts in Florida to be black,

ancies in the 19th Circuit — one of the

Blacks also are more likely to

receive matching punishments. Both

The judge gave Sheehan, a white

The judge finds unlikely to re-offend can

prison term of 497 days to whites

offered to withhold adjudication for

14 percent of black defendants.

The discretion lies with the judge, and

for those in Bauer’s courtroom, the

oppose is slanted.

Across third-degree felonies, Bauer

offered to withhold adjudication for

14 percent of black defendants.

The adjudication withhold rate was 25 percent for whites.

That means even though they were charged with crimes that the law

considers equally severe, blacks were more likely to lose their civil rights,

such as voting or owning a gun.

“We call it a kangaroo court,”

Jackie Gore, a retired correction-

lency deputy and chief of the local

NAACP president, referring gener-

ally to courts in her county. Blacks

are afraid to go through the system

because they’re afraid they’re going to

get railroaded. There’s no justice.

The STICKUP

Caroline Robinson knew something

was wrong the night of March 18, 2009. She started from a deep sleep.

Lloyd, her stepson, was missing.

He was on a crime spree.

First, Lloyd and another black

friend from work walked into a

Pizza Hut. Lloyd was unarmed, but

his friend pointed a revolver at an

employee. The employee called

police, and Lloyd was arrested.

Next, they hit a Sunoco gas station.

His friend pointed a revolver at an

employee. The employee called

police, and Lloyd was arrested.

Next, they hit a Sunoco gas station.

Sheenah and Ruthama DeLaw, both women were

charged with felony drug crimes. Both

talled 14 points on their sentencing

scoresheets, indicating that they should

receive more leniency. The worst

before Bauer.

The 19th Circuit’s record

GATEHOUSE MEDIA

Residents of East Stuart say the criminal justice system treats black defendants more harshly than whites.

Bauer spent his first three years

working for the public defender’s

office and then moved to family court

in St. Lucie County. “When you go to the

court, he has sentenced blacks
triple the time of whites who commited

the same crimes under similar circumstances.

That uptime nearly five years in prison.

“Now do you sleep at night when you

wonder what that this will be like,” said

Jerry Gore, president of the NAACP of

Martin County. “When you go to the

jail or the courthouse and start talking

about African-American problems, they

say, ‘Nobody gets treated like

there’s no justice.’ ”

If “an African-American robs a

Circle K and a Caucasian robs a Circle

K, the African-American is getting more

time. We know it’s a problem but we

wonder what we talk to?”

Where do you go to talk?

When Lloyd and his friend

Spencer were arrested outside a

3rd

Sentencing disparities

Racial disparities in sentencing in Martin County for burglary, robbery and three broad classes of felonies.

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The chief prosecutor on Florida’s

Bias analysis of points

harder on blacks, according to a

His average sentence was 141

He gave blacks

began the crime spree.

The lower average score for blacks

is to get railroaded. There’s no justice.

The St. Lucie County Courthouse in Fort Pierce.

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Racial disparities in sentencing in Martin County for burglary, robbery and three broad classes of felonies.

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**THE AMBUSH**

Three men gathered at the back corner of a subdivision, but before midnight. They were going to meet a pair of women they had found online to exchange drugs for sex.

Stuart resident said. "It shouldn't be based on a pair of shoes and a necklace. They took cell phones and wallets. They took midnight. They were going to meet a corner of a subdivision just before entering criminal court.

"He should be judging equally, sentenced the same," Robinson said. "It shouldn't be based on color."

**IT'S STILL GETTING THE ROUGH END**

Coastal Living Magazine named Stuart the happiest seaside town in America this year, landing the community for its quaint downtown, its resort boutiques and cafes over looking the blue St. Lucie River. East Stuart is just a mile across the railroad tracks. The black neighborhood produces many of the defendants entering criminal court.

Lifesaving residents say East Stuart was built for the maids and butlers. Groups congregate on the porch steps of small pastel cottages that pepper the district. Windows are broken and broken. Children play around clothing lines that run between the stucco apartments, reserved for public housing.

With a 90 percent black population in Martin County, minorities struggle to find equality. One historian called Martin County's shortage of black teachers "an atrocity." Minorities remain underrepresented in law enforcement. Defense attorneys say they cannot find diversity for jury pools.

A black judge has never served on the bench. "It brings down morals, and as a result, you find black children rebellious in the system," said , a retired teacher who has lived in East Stuart for nearly 30 years and written books on the community's history. "It's sad because they're still getting the rough end."

Bauer said he factors family support when considering a sentence, along with a defendant’s willingness to turn his life around. If the community stands behind a defendant, that is reflected in the punishment. But he says he only does this when plea deals have not been negotiated up front or when a case goes to trial.

"It has a different view. "You can get up there, you can talk, you can see things; it's not even things," said , a Martin County resident and local court watcher whose son was sent to prison for drug crimes.

"One that the mind is made up, it's made up," said in reference to Martin County's court system. "They do not care who speaks on your behalf. They never take the time to see what's going on in those kids' lives."

**ONE OR TWO OF EVERYBODY**

Stuart is nearly 1,400 miles downtown the Eastern seaboard from Shelter Island, New York — a small town on the tip of Long Island where Bauer grew up. But segregation in both communities is stark.

"People here think everything is hunky dory, and there's no need to change anything," said the retired captain, who is black. "This is the greatest community in the world if you don't look like me."
Bauer’s policy is to approve them all, and he says that may contribute to more sentences that go into the system that result in more than six out of 10 cases.

To countywide discrepancies. “Doing criminal defense in Martin County is the trying to pursue civil rights in Alabama in 1965. A lot of other defendants are just not welcomed here.”

“They say they don’t see the benefit. They believe that judges (are) pro-agriculture.”

— Robert Watson, a criminal defense lawyer on the Treasure Coast, referring to countywide discrepancies.

“IT’S EQUAL?”

“I live for it. I live for it. I live for it.”

— Lloyd, on the other hand, spends his 250 days reading in prison.

“Bias comes of most cases are negotiated beforehand and then go into the system, including a defendant’s past criminal activity, play into those decisions,” Colton said. He said the 19th Circuit is known to be much more lenient than the circuit just to the south, such as Palm Beach or Miami-Dade, which offer more second chances or mercy in their punishment. Martin County has zero mercy for crimes.

But Colton could not explain any race-related disparities.

“It really surprises me to hear these comments,” said Bauer. “We’re not saying black people are worse, we’re just saying if you’re incorrect if you think it’s just a judicial problem. (They) are just saying that there’s a policy that may have to be addressed. … The last day you sign the order is easy to find after, but there are a lot of variables that come into that.”

“Bauer is not easy, but he’s not evil either,” Colton said.

Colton, the state attorney for the 19th Circuit, agreed that the out-of-case most are cases are negotiated beforehand and then go into the system, including a defendant’s past criminal activity, play into those decisions, which is why there is a policy to be tougher on certain groups of people sentenced gay.

“Bauer is not easy, but he’s not evil either,” Colton said.

“Bauer graduated high school a year earlier, in 1981. His grades were good enough to pursue a law career and he followed his brother twin boys — Kirk and Jeff — to Florida. Bauer earned a bachelor’s degree in political science from Stetson University and graduated law school from Nova Southeastern University in 1988. He was president of his fraternity.

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