October 21, 2016

Greetings, APDs!

 Let’s start with some recent news and events (as always, please visit the NC PDCORE [website](http://ncids.com/pd-core/?page_id=2) for more):

*        The Huffington Post gathered [18 Examples of Racism in the Criminal Legal System](http://www.huffingtonpost.com/entry/18-examples-of-racism-in-criminal-legal-system_us_57f26bf0e4b095bd896a1476).
*        Read these [two](http://www.slate.com/articles/arts/movies/2016/10/ava_duvernay_s_netflix_documentary_13th_reviewed.html) glowing [reviews](http://mobile.nytimes.com/2016/09/30/movies/13th-review-ava-duvernay.html?emc=eta1&referer&_r=0) of Ava Duvernay’s documentary *13TH*, which covers the “intersection of race, justice and mass incarceration,” and then head over to Netflix to view the film. (It is also being released in select theaters.)
*        The Durham City Council [has voted](http://www.indyweek.com/news/archives/2016/09/23/good-news-bull-city-stoners-the-durham-city-council-moves-toward-marijuana-deprioritization) that the Durham Police Department should issue citations rather than make arrests for charges of low-level marijuana possession, but [reports from Raleigh](http://www.indyweek.com/indyweek/durham-wants-to-deprioritize-marijuana-enforcement-whats-raleigh-doing/Content?oid=5070602) show that the decision there remains open.
*        Nearby, the Chapel Hill Town Council [approved a plan](http://www.newsobserver.com/news/local/community/chapel-hill-news/article107434467.html) for reducing racial bias in its policing.
*        The Massachusetts Supreme Judicial Court [ruled](https://bostonreview.net/us/simon-waxman-massachusetts-commonwealth-v-warren) that for a black man, “the decision to run [from police] cannot be seen automatically as an admission of guilt, for it ‘might just as easily be motivated by the desire to avoid the recurring indignity of being racially profiled.’”
*        A recent [nationwide analysis](http://interactive.fusion.net/how-to-rig-an-election/district-attorney-race.html) revealed that “93 percent of all prosecutors in the United States are white, though only 61 percent of the U.S. population is. . . . At the local level, America’s justice system is disproportionately white-controlled, and disproportionately oriented toward punishing minorities.”
*        Two Stanford professors [suggest reforms](https://www.washingtonpost.com/opinions/the-way-forward-after-black-men-are-shot-dead/2016/10/19/e2df0e2c-9553-11e6-9b7c-57290af48a49_story.html?utm_term=.bb6796733a3a&wpisrc=nl_popns&wpmm=1) to prosecutorial practices following fatal police shootings.
*        Human Rights Watch released a comprehensive report: “[Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States.](https://www.hrw.org/sites/default/files/report_pdf/usdrug1016_web.pdf)” The summary alone is powerful; news coverage of the report can be found [here](http://www.cbsnews.com/news/decriminalize-illicit-drugs-say-aclu-human-rights-watch/).
*        The NY Times published a short film entitled “[The War on Drugs is an Epic Fail](http://www.nytimes.com/2016/09/15/opinion/jay-z-the-war-on-drugs-is-an-epic-fail.html),” narrated by Shawn Carter (Jay Z) and featuring the artwork of Molly Crabapple.

For our main course today, we will be considering the concept of “white privilege” through a Q&A with Charlotte attorney Tim Emry.

**Who are you, Tim Emry?**

I was born and raised in lily-white Lincoln, Nebraska. I graduated from the largest high school in the State with over 600 in my graduating class, with about 6-10 of those graduates being Black.

I worked for the Mecklenburg County Public Defender Office for 3 summers as an Intern, then for nearly 3 years as an APD. I have practiced Criminal Defense in Charlotte since 2003. I joined the Racial Equity Network last year as a way to rekindle my passion for discussing and fighting racism.

[**White privilege**](https://www.washingtonpost.com/video/national/white-privilege-explained/2016/01/16/0173cba6-bbbc-11e5-85cd-5ad59bc19432_video.html)**has been discussed by a**[**presidential candidate**](http://www.nbcnews.com/news/nbcblk/clinton-kaine-are-challenging-white-americans-racial-issues-n628531)**but remains a murky concept in many people’s minds. What is your definition of “white privilege”?**

White privilege to me is a factual reality. In our society, white privilege means that I, as white AND male, can get away with things that others would have a difficult time with.  I am not going to appear suspicious to a police officer for merely being myself. I won't be harassed in stores. White women won’t cross the street when they see me coming down it. I suspect most black men reading this can probably share multiple experiences of being on the bad side of this. Being white in the US gives one permission not to think about the systemic racism and white supremacist system we still have. If I want, I can "turn that off" and go about my day as a person. On the other hand, I have heard many compelling shares from black people that they do not have that ability, that to a greater or lesser extent they are constantly aware that they are black in a society that prefers whiteness.

**How, if at all, do you see white privilege operating in the courthouse?**

In the courthouse, I have noted at least one Judge that seems to treat black attorneys much more harshly than white attorneys, and that Judge is black. I am given more latitude in making arguments and "carrying on" in the courtroom than attorneys who are not white and male. I have never been questioned if I am a paralegal or a defendant by court personnel. I think the deputies in the courtrooms give me better treatment and police officers are more candid with me about the details of their cases and interactions with my clients than if I were not a white man.  I would probably be less likely to be accused of "playing the race card" in those situations.  In reality, since race is a social construct that was invented by whites to justify enslaving Africans and killing Indians, white people created, invented, and manufactured this "race card."

**How has your awareness of your white privilege changed how you interact with your clients of color?**

I believe that an essential part of being a good attorney is developing and earning the trust of your client. One way I try and earn that trust with clients of color is to make clear to them that I am aware of the white supremacy and the institutional racism they face. I often share with my clients of color stories about how I have driven on expired plates for months at time--even with police directly behind me--without being stopped. My clients of color do not have that same privilege. While I will never know what it is really like to be black or be a female in the US, I can practice empathy to imagine how they must feel when they have to go to a courtroom where it feels like, and actually functions like, they are the enemy.  I think many clients see the sincerity of my words when I speak with them. However, it is still a challenge. It is easy for me to turn that part of my brain off and judge my clients and give them lectures about how they just need to get a job, just need to quit getting arrested, or just need to get money together to pay their court costs or restitution.

**How has your awareness of your white privilege changed how you interact with your white clients?**

It has sometimes hindered my relationship with some white clients. I typically do not allow bigoted, racist comments to go unchallenged. As a result, I have an aversion to affluent white clients who are typically charged with DWI and want to complain about the police are not pursuing “real crime,” because I know what they are really saying is “why aren't they pursuing black people.” I have offended some clients by telling them, “trust me, the police harass black citizens at a far greater rate than you or people in your neighborhood.”  I find it very hard to be empathetic to white clients who get indignant about these issues and insist they are being unfairly targeted by police.

**In your view, should a white defense attorney take advantage of or seek to minimize the benefits of their own white privilege? Why?**

I believe I should use the benefits for my clients. White privilege exists whether I acknowledge it or not. If I pretend it is not there, I do a disservice to my clients. A judge will give me more latitude when discussing race and racial bias with a jury. A judge will listen to and consider my arguments more patiently about racially motivated police actions. I believe that as a white attorney who is trying to be part of the solution, I have an affirmative duty to push the envelope so that my black and female colleagues do not have to fight alone. I am better positioned to make unpopular arguments about racial bias and not face the same repercussions from judges, jurors, DAs, and other court officials as a black lawyer might.  I have always been influenced by a great sociology professor I had in college who was black and who taught me about a radical Dutch philosopher. This philosopher believed that the greatest threats to an unjust system were not those oppressed by it but rather those who grew up benefiting from it, realized it to be unjust and then attacked the system from the inside. I don't know if that will really work, but I believe my niche in fighting against institutional racism, racial bias, and white supremacy is that of the white male who has benefited from the system and is now speaking out to reveal the system for what it is. Perhaps that will cause a few people to listen that otherwise would turn off their minds to the "angry black person."

*We would love for you to join our committee! You will find the link to do so on the bottom right portion of the* [*webpage*](http://ncids.com/pd-core/)*. If you have feedback about Race Judicata, we’d love to hear from you; feel free to reply to the original poster.*