

# Lessons From the O.J. Simpson Case for the Presidential Race and the Nation's Racial Divide

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*Twenty years after the so-called “trial of the century,” FX is presenting the miniseries “The People v. O.J. Simpson.” Like 100 million other people across the country, I watched the 1995 murder trial on television. I also was a legal commentator for CBS News and Court TV. “Cameras in the Courtroom: Television and the Pursuit of Justice,” a book I co-authored with veteran CBS News correspondent David Dow, was based largely on the Simpson case. I use transcripts and examples from the trial in my evidence and criminal procedure classes at Thomas Jefferson School of Law in San Diego. I am still convinced that race played a major role in the not-guilty verdict.*

It is no surprise that the miniseries begins with the vicious 1991 beating of Rodney King and the riots that ensued after the 1992 acquittal of the four Los Angeles Police Department officers who assaulted King. The incident, which had been recorded on videotape, went viral.

The jurors in the Simpson trial were well aware of the King case. Nine of the jurors were African-American, and one was Latino. The case was tried in downtown Los Angeles. These jurors knew the LAPD was notorious for committing misconduct, especially against blacks, and they could well believe that the police had framed Simpson. The prosecution made several strategic errors that enabled the jury to find reasonable doubt. Since the jurors were sequestered for nine months, they became a tight unit. It didn't take them long to agree on the not-guilty verdict.



O.J. Simpson reacts in 1995 as he is found not guilty of murdering his ex-wife, Nicole Brown Simpson, and her friend, Ron Goldman. At left is defense lawyer F. Lee Bailey and at right, defense attorney Johnnie Cochran Jr. (Myung J. Chun / AP)

During the preliminary hearing, LAPD Detective Mark Fuhrman denied that he had used the N-word in the previous 10 years. At trial, the defense presented two witnesses who testified that Fuhrman had recently used the expletive. Since the preliminary hearing was televised, these defense witnesses came forward after seeing Fuhrman's testimony on TV. The issue shifted from Simpson's guilt to Fuhrman's racism.

As prosecutor Marcia Clark intoned during the trial, there was “a mountain of evidence” against Simpson. His blood was discovered at the crime scene in Brentwood, an affluent neighborhood of Los Angeles, and blood matching the victims, Nicole Brown Simpson and Ronald Goldman, was found on a glove. Three different laboratories analyzed the DNA, but Simpson's “dream team” of top lawyers challenged the collection of the blood evidence and

raised the issue of possible contamination. The jury apparently believed that Fuhrman, a racist, could have planted the bloody glove on Simpson's property.

Blacks and whites, by and large, reacted differently to the not-guilty verdict, according to a Los Angeles Times poll. While most white people thought Simpson was guilty, many African-Americans felt vindicated by the verdict. For blacks, Columbia professor John McWhorter wrote in *The New York Times*, "it was about the centrality of police brutality to black Americans' very sense of self."

Viewing the verdict 20 years later through the prism of the Black Lives Matter movement, it is not difficult to understand. We see unjustified killings of black men all too often. Trayvon Martin, Eric Garner, Freddie Gray, Michael Brown and many others come to mind. "Talk to most black people about racism," McWhorter noted, "and you need only count the seconds before the cops come up."

The country's polarization between "black lives matter" and "all lives matter" and the pundits' divergent opinions on [Beyoncé's Super Bowl halftime performance](#) parallel the racial divide we saw in the aftermath of the Simpson trial. Many white people have tried to dilute the critical slogan "black lives matter" by saying, well, "all lives matter." Of course they do, but the history of this country is permeated with institutional racism and prejudice. Beyoncé's dancers were dressed as [Black Panthers](#), and in her [video for her newest single](#), "Formation," released the day before the Super Bowl, she dramatized the racist response to the Katrina tragedy by lying on a New Orleans police car as it sank into floodwaters.

We have come a long way since the days of slavery and Jim Crow, and we do have a black president. But institutional racism is unfortunately alive and well in the United States. Mass incarceration, racial profiling, infant mortality and lack of access to quality education and health care all disproportionately affect African-Americans.

As we ponder whom to support in the presidential primaries, let us ask ourselves which candidate will passionately and tirelessly fight racism on the institutional level. That means creating jobs, implementing universal health care, ending the militarism of the police and advocating legislation to reduce the draconian sentences that disproportionately impact African-Americans.

It is commonly thought that Hillary Clinton is more committed to the black community than Bernie Sanders is. But in the 1980s, when Clinton was the first lady of Arkansas, she vilified public school teachers and their union. Many or most of them were African-American, and as legal scholar and "[The New Jim Crow](#)" author Michelle Alexander has pointed out, the U.S. prison population increased more under Bill Clinton than any other president. He supported racial disparity in sentencing and the heavy-handed "three strikes."

When Hillary Clinton advocated for the 1994 Violent Crime Control and Law Enforcement Act, which created 60 new death penalty offenses, provided \$9.7 billion for prisons and eliminated inmate education programs, "she used racially coded rhetoric to cast black children as animals," Alexander wrote in *The Nation*. Clinton said at the time, "They are not just gangs of kids anymore. They are often the kinds of kids that are called 'super-predators.' No conscience, no empathy. We can talk about why they ended that way, but first we have bring them to heel." *Bring them to heel. ...*

When civil rights icon John Lewis announced that the political action committee of the

Congressional Black Caucus was endorsing Hillary Clinton in the 2016 presidential election, he said he had never encountered Bernie Sanders during the civil rights movement. But as Tim Murphy points out in *Mother Jones*, Sanders was very active in the movement at the University of Chicago. As president of the University of Chicago's Congress of Racial Equality, Sanders organized pickets and sit-ins. He was arrested for resisting arrest when he protested segregation.

As Democrats make their choice for presidential nominee, all of us must ask which candidate would better serve the interests of all of us and work to end racism in every possible way.

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