Introduction

In the heart of any individual, family, community or society, memory is of fundamental importance. It is the fabric of identity. At the heart of every oppressive tool developed by the apartheid regime was a determination to control, distort, weaken, even erase people's memories... The struggle against apartheid can be typified as the pitting of remembering against forgetting.

—Nelson Mandela

Memory is a funny thing. We like to believe that our memories are an accurate reflection of the way things were. When it comes to historical memory, however, the truth of the matter is often fleeting, distorted, and incomplete. As it turns out, to tell the truth about the past is not so easy a task. Our collective memories are clouded in myths, in silences, and with a stubborn insistence to put on a happy face.

On issues involving race and crime, we consistently wring our hands, point fingers, and cover our eyes. Whether it is racial profiling, capital punishment, police brutality, rising incarceration rates, Barry Bonds, O. J. Simpson, or racial hoaxes, as a society, we are loathe to invoke the country’s racial record. Our ever-ready attempts to run interference between the past and present reduce our racial history to a disembodied mass of curious data. The United States’ racial history and its impact on the justice system, however, do not go away simply because we ignore them. The proverbial tree that falls in the forest while no one is present does make a sound—a loud, crushing one. Luckily there are many people who seek to give history its due weight in analyses of contemporary conditions. Count me in.

Ten years have passed since I wrote the first edition of The Color of Crime. I am pleased that I have had the opportunity to continue this research in the form of a second edition. Each of the chapters has been
updated and rewritten. For the chapter on racial hoaxes (the most popular one), I have included data on twenty-five new hoax cases, raising the total number to ninety-two. There are also two brand new chapters. One examines how the deviance associated with Black skin “bleeds” into other areas, including the images associated with certain names (e.g., “Black-sounding” names) and accents and how all of this is directly tied to racial disproportiorality in the criminal justice system. The other new chapter makes the case for race and crime literacy. Two appendices are included. Appendix A reprints the Traffic Stops Statistics Study Act (proposed congressional legislation that would require police to gather race data at each traffic stop), and appendix B offers a brief summary of each racial hoax case.

Issues of race and justice persist. The iceberg’s tip includes cases such as the Jena Six, the Duke lacrosse Team, Amadou Diallo, Sean Bell, James Byrd, and the aftermath of Hurricane Katrina. The *criminalblackman* is still alive. Curator Thelma Golden has wryly observed that the African American male is “one of the greatest inventions of the twentieth century.” Barry Bonds and Michael Vick remind us that Black men continue to be the public face of deviance. O.J. Simpson returned to the front pages in 2007, and once again the media went O.J. wild. Because race issues continue to be portrayed in hues of Black and White, this book focuses on African Americans.

For many years, academics have pushed to move race analyses beyond the well-entrenched Black-White dichotomy. Part of the difficulty in making assessments more inclusive is that groups of color cannot be accurately discussed as a single entity and then compared with Whites. Each racial group has had a unique experience with the American criminal justice system. For instance, Native Americans, from their early encounters with Whites, had their land stolen and were stripped of their language and lineage. A complex and contorted tripart legal system exists to adjudicate Indian legal affairs. In contemporary times, American Indians, who make up less than 1 percent of the U.S. population, have the highest rates of victimization. Although there are some common themes of racial oppression across Blacks, Latinos, Asians, and Native Americans, the way the criminal law has been used to marginalize each group is notably distinct. Latinos, the largest U.S. minority group, have disproportionately high rates of arrest and incarceration. They acutely face the interrelated issues of immigrant rights and racial profiling. Asian Americans, approximately 4 percent of the U.S. population, are typically cast as being
involved in human trafficking or gang-related offenses. Given these distinctions, lumping Blacks, Latinos, and Asian Americans together, when discussing crime, though desirable in theory, is problematic. More research must be devoted to each of these racial groups. To this end, work on Latinos by professor Ramiro Martinez is particularly impressive, as is work on American Indians by professor Marianne Nielsen.

The primary and unapologetic focus for this text is on the relationship between African Americans and the U.S. criminal justice system. In various instances, however, references are made and data is presented regarding other racial groups.

I wrote *The Color of Crime* to answer the many unanswered questions I had about race, as a law student and later as a graduate student. I went to law school hoping to learn about the intersections between law, race, and justice. Likewise, when I returned to graduate school for a doctoral degree in criminology, I presumed that my studies would focus in part on how and why race matters in the administration of justice. In both instances, I was frustrated with the slim pickings of assigned readings and the infrequent and uninformed discussions on these seminal issues. Beyond addressing my own queries, this book's modest objective is to offer students and interested others a richer and fuller backdrop with which to understand and critique the workings of today's criminal justice system. I have written the second edition to continue this—my academic expedition.

Chapter 1, “Media Messages,” looks at how Native Americans, Asian Americans, Latinos, and Blacks are portrayed by the media, including television and movies. As the chapter details, when it comes to people of color, it is the best of times and the worst of times. Today there are more faces of color that appear on situation comedies and dramas, but the substance of these roles raises interesting questions. The discussion identifies some remarkable trends in these portrayals, including how some minority groups (e.g., Native Americans and Asian Americans) are rarely seen or heard but are discussed without being at the table.

Chapter 2, “The Skin Game,” illuminates the issues raised in chapter 1, specifically, how the racialized media images of Black skin have become embedded within the American fabric. It traces how the widely accepted perception of Black skin as a representation of deviance manifests itself in popular culture and ultimately in the criminal justice system. The discussion of various forms of racial assaults, including microaggressions and macroaggressions, identifies some of ways that Blackness is interpreted and talked about publicly. The chapter details how race is “found”—via
“Black-sounding” names and accents—and used as a way to marginalize and block access to the mainstream.

Chapter 3, “History’s Strange Fruit,” sets out the historical role of race in the development and operation of the U.S. criminal justice system, from the slave codes to Jim Crow legislation. This history is used to determine which operating principles are necessary for a racially fair criminal justice system. These “fairness principles” lay the groundwork for the book’s assessment of whether the criminal justice system is racially biased.

Chapter 4, “Discrimination or Disparity?” offers a detailed look at Black involvement in the criminal justice system. It examines how racial discrimination is understood and assesses the value of traditional tools of analysis. The chapter also takes a close look at the relationship between Black men, the law, and the police and considers why this relationship continues to be a problematic one.

Chapter 5, “Are We Still Talking about O.J.?” looks back at the Simpson criminal case and details why the case was so racially charged—how the case tapped our greatest fears and hopes about race and crime. The chapter examines “Black protectionism” as the reason for the steadfast support that Simpson received from African Americans. The media treated the case as a “Black v. White” issue, to the exclusion of Latinos, Asian Americans, and Native Americans, even though together these three racial groups total almost one-fifth of the nation’s population.

Chapter 6, “Racial Hoaxes,” examines cases involving a false allegation of crime against someone based on his or her race. Some of the more well-known cases include Jennifer Wilbanks (“the runaway bride”), Susan Smith, Charles Stuart, and the Duke lacrosse case. False allegations of crime, particularly against Black men, are not as uncommon as we might hope. The chapter evaluates the phenomenon of racial hoaxes and details more than ninety cases, concluding that perpetrators should be subject to greater criminal penalty.

Chapter 7, “White Crime,” examines how crime committed by Blacks is labeled “Black crime,” yet crime by Whites is not accorded a similar race label. The chapter considers crimes that would fall within the category of “White crime.” It also considers whether racial labels should be attached to crime and, if so, which crimes it should encompass. The chapter concludes with a critique of professor James Q. Wilson’s argument that White racism is caused by high rates of Black crime.

Chapter 8, “Race Literacy,” makes the case that there is an identifiable body of material that is required for a working knowledge of race and
crime issues. This progressive extension of professor E. D. Hirsch Jr.’s arguments for a “cultural literacy” rests on university president Judith Shapiro’s writings on “sociological illiteracy.” The chapter identifies important names, terms, phrases, and concepts that should be considered part of this body of knowledge.

The Color of Crime is devoted to remembering. The task of remembering is work indeed. As Nelson Mandela cautions, vigilance is required to fight against practices that dismiss or disappear histories. Through an analysis of cases, ideological and media trends, issues, and practices that resonate below the public radar, this text “remembers” race. The Color of Crime acknowledges and explores the tacit and subtle ways that deviance is systematically linked to people of color, particularly African Americans.

A Note on Racial Terminology

Throughout the book, I capitalize both “Black” and “White” when used as a racial reference. I use “Black” and “African American” interchangeably. “Latino” is the preferred term for people of Spanish descent, but when I refer to research that uses another racial term, such as “Hispanic,” I use that term.