



The Racial Inferences of Crime

By Dr. Lorne Foster

One of the taken-for-grant presumptions in this society, expounded almost on a daily basis - particularly among some of the right-wing media mavens at the National Post and the Toronto Sun in their on-going critique of welfare, immigration, racial profiling and other contemporary social justice issues - is that Blacks commit more crime than other groups.

It is true that nearly one in three Black men by the mid-1990s was under criminal justice supervision in North America – including prison, probation, parole, or pretrial release. Today, in the United States, chances of imprisonment are 30 percent for Black males, 16 percent for Hispanics, and 4 percent for Whites. In Canada, Black males are now incarcerated at 5 times the rate of Whites in relation to their total populations.

However, the potential problem of extrapolating from the criminal justice system race statistics to inferences about racial conduct and the attributes of race (“Blacks commit a vastly disproportionate share of Toronto's crimes,” Toronto Sun, July 3, 2003) is that it assumes all groups in society are policed and litigated in the same way - ignoring the larger sociopolitical context in which opportunities and rewards as well as constraints and social controls are unequally and unfairly distributed.

Consider, for example, the recent WorldCom fraud scandal and settlement approved by a federal judge in the United States.

WorldCom, which was among the fastest-growing and most aggressive players in the 1990s telecom and Internet boom, was accused of falsifying balance sheets to hide expenses and inflate earnings. This came to light (like the collapse of Enron, the corporate paradigm of financial mendacity) when WorldCom filed for bankruptcy protection in July 2002 and was forced to disclose accounting irregularities that have now soared to into the billions.

To be precise, what we have here is an \$11-billion (and still counting) corporate accounting fraud that (like the Enron Corporation) is potentially devastating to employees, shareholders and creditors alike.

The Securities and Exchange Commission and the company had initially proposed a \$500-million fine, but agreed last week to increase that amount after complaints the company would emerge too easily from bankruptcy. So, Manhattan federal court judge Jed Rakoff approved a \$750-million (U.S.) settlement between federal regulators and WorldCom Inc. As a result, all things being equal, WorldCom's “white-collar” criminality is going to net its senior management team over \$10-billion, give or take a few hundred million.

“The proposed settlement is not only fair and reasonable, wrote judge Rakoff in the 14-page decision, “but as good an outcome as anyone could reasonably expect in these difficult circumstances.”

(Until WorldCom's Chapter 11 case, the bankruptcy case of Enron was the most expensive in history, it has 20,000 creditors owed an estimated \$67 billion US. Enron Corp.'s thousands of creditors will get next to nothing when the scandal-ridden company emerges from bankruptcy as two companies with new names – CrossCountry Energy Corp. and International Co. As part of its reorganization plan, most Enron creditors will receive 14.4 cents to 18.3 cents on every dollar owed. By comparison, bondholders in WorldCom's bankruptcy are to receive 36 cents on the dollar.)

As part of its reorganization, WorldCom senior management is asking the bankruptcy court for approval to change its name to MCI and to establish new headquarters in Ashburn, Virginia. A fresh start rather than jail time.

We can take judicial notice that most so-called “white-collar” crimes - as in the celebrated cases of Enron and WorldCom - are committed by White people who occupy positions of power, rank, and confidence in an organization. And the ease with which corporate management can escape personal repercussions for business duplicity and cover-ups (even of biblical proportions) speaks volumes about society’s policy process as it affects criminal justice.

Even a casual observer will acknowledge the possibility that society has selective policing, surveillance, and litigating priorities. So, whereas so-called Black “street” crime may evoke calls for bigger-and-better-Super-jails in Penetanguishene; White collar crime by White people typically evokes calls for better corporate disclosure, and, perhaps a refresher course in business ethics.

In the end – and contrary to the sentiments of the right-wing media mavens in Toronto – the fact that Blacks throughout North America are charged, arrested, convicted and jailed at a rate far beyond their proportion in the community does not prove a racial predisposition to crime. Indeed, the only sociological inference that can be reasonably made about race and crime is that Black folks have to go to jail for their transgressions, while White folks get to go to Virginia.