



Texas Criminal Defense Lawyers Association

March 7, 2018

Dear Judge McSpadden:

On behalf of the Texas Criminal Defense Lawyers Association (TCDLA), the nation's oldest and largest organization of attorneys dedicated to defending the rights of the accused and protecting the Constitution, I find some of your recent statements to the Houston Chronicle — specifically, those directed toward blacks in the criminal justice system — inaccurate and unacceptable. I call on you to retract your statements.

In your letter of 3.1.18 (“Judge McSpadden speaks loud and clear on Black Lives Matter”), you opined that “in the case of young black defendants who are disproportionately represented in our [criminal justice] system, they are not receiving good advice from their parents as did my generation, to cooperate with law enforcement at all times, and respect the laws.” You added that, “[t]hey are advised by ragtag groups like Black Lives Matter to have utter contempt for our judicial system.”

It shouldn't be necessary for TCDLA or anyone else to have to educate Harris County's most experienced criminal judge on why African Americans at times have a strained relationship with law enforcement, but I will attempt to do so. One hint: It has nothing to do with what you apparently view as a superior upbringing from your own parents or the advice of the advocacy group “Black Lives Matter,” which wasn't even founded until July 2013.

Numerous studies have proven what criminal justice practitioners and educated Americans have known for decades: When it comes to encounters with law enforcement, blacks and other races are not treated equally. Based on identical behavior, blacks are more likely to be stopped, questioned, searched and arrested. Blacks are more likely to be treated roughly once they are arrested. As we've seen in numerous videos, unarmed blacks are more likely to be shot by police.

As to the post-arrest “experience” (which is where prosecutors and judges get involved), blacks are more likely to be charged with a crime, more likely to be convicted and usually receive stiffer sentences.

If you truly wonder why blacks and law enforcement have a complicated relationship, you might wish to start by examining the basic facts stated above. However, as a judge who likely isn't profiled or targeted by law enforcement or anyone else, it is understandable how you may not be able to grasp what it is to experience the fear that many blacks feel when they simply encounter police — even in instances that do not result in an arrest. How can you possibly know what that's like? Moreover, as a person whose job it is to ponder these issues, how can you not know that there are alternative explanations for people's apparent behavior, to the grossly oversimplified explanation that you offered in your letter to the Chronicle. No one is challenging your upbringing, so why are you challenging theirs?

This response to your letter is not an indictment of your fairness in decisions you make from the bench. I have spoken with many criminal defense practitioners who say you are a fair judge, who isn't afraid to step up and do the right thing, even if it occasionally ruffles a few feathers. TCDLA urges you to use your intellect and reason to acknowledge that your statements about blacks in the criminal justice system are not only wrong, but they perpetuate false, harmful stereotypes that are hurtful to many people. This is especially so, because you are a judge with a great deal of power and influence in Harris County.

TCDLA calls on you to withdraw your public statements about blacks in the criminal justice system and to use your remaining time on the bench to publicly recognize the very real problems between blacks and law enforcement — and the actual reasons for these problems — which I have attempted to outline.

You are an intelligent man and have the power to retract your statements and change your thinking. TCDLA encourages you to do so.

David Moore
TCDLA President

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