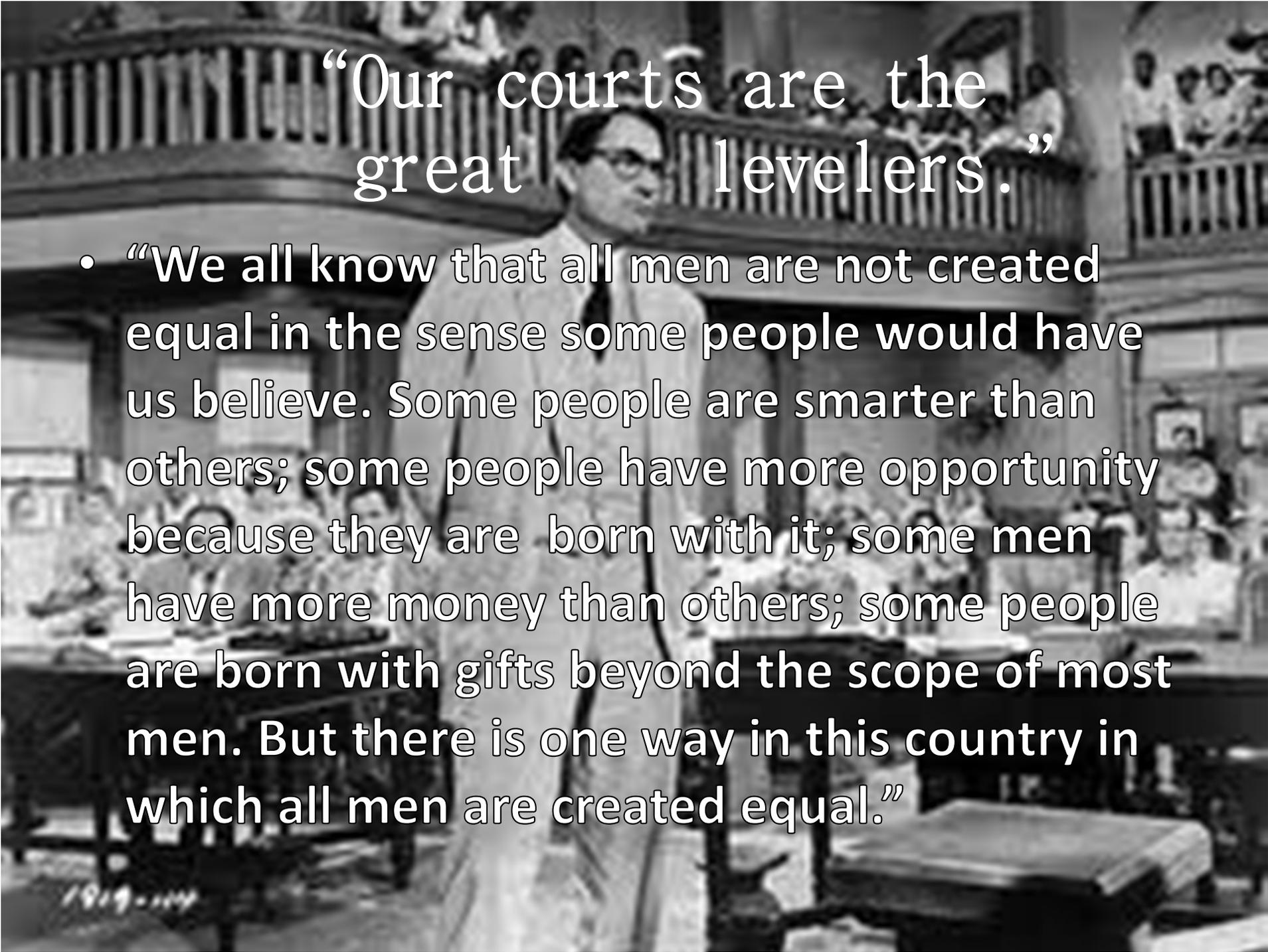




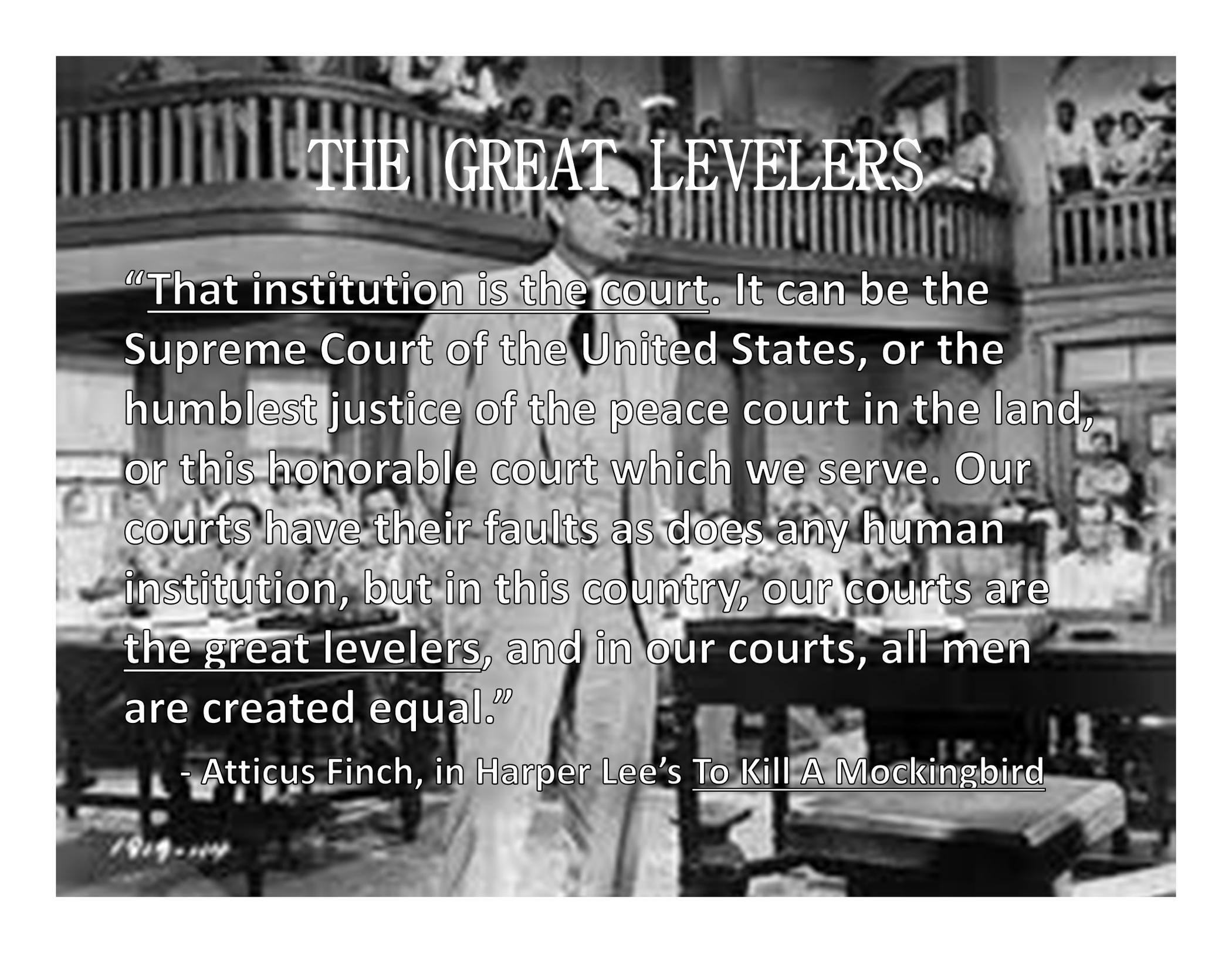
**SEEKING JUSTICE FOR ALL...
ONE CHILD AT A TIME**

**ATTACKING DISPROPORTIONATE
MINORITY CONTACT:
A JUVENILE COURT ACTION PLAN**



“Our courts are the great levelers.”

- “We all know that all men are not created equal in the sense some people would have us believe. Some people are smarter than others; some people have more opportunity because they are born with it; some men have more money than others; some people are born with gifts beyond the scope of most men. But there is one way in this country in which all men are created equal.”



THE GREAT LEVELERS

“That institution is the court. It can be the Supreme Court of the United States, or the humblest justice of the peace court in the land, or this honorable court which we serve. Our courts have their faults as does any human institution, but in this country, our courts are the great levelers, and in our courts, all men are created equal.”

- Atticus Finch, in Harper Lee's To Kill A Mockingbird



What does it take for "our courts" to be the "great levelers" we need?

1. That the judge really believes in "justice for all"
2. That a person charged with a crime has "effective legal assistance" – a well prepared attorney
3. That law enforcement officers treat people equally and fairly under our laws and constitution
4. That prosecutors truly seek to advance justice fairly and consistent with the law

How to be a “great leveler” court?

5. That judicial magistrates screen cases fairly on a determination of probable cause
6. That probation officers and youth service officers seek “justice” for young people and their families through quality resources and prevention efforts
7. That our entire system of juvenile justice serves a benevolent function and not just punitive function

Cornel West, “Prisoners of Hope”

:

“We need a moral prophetic minority of all colors who muster the courage to question the powers that be, the courage to be impatient with evil and patient with people, and the courage to fight for social justice.

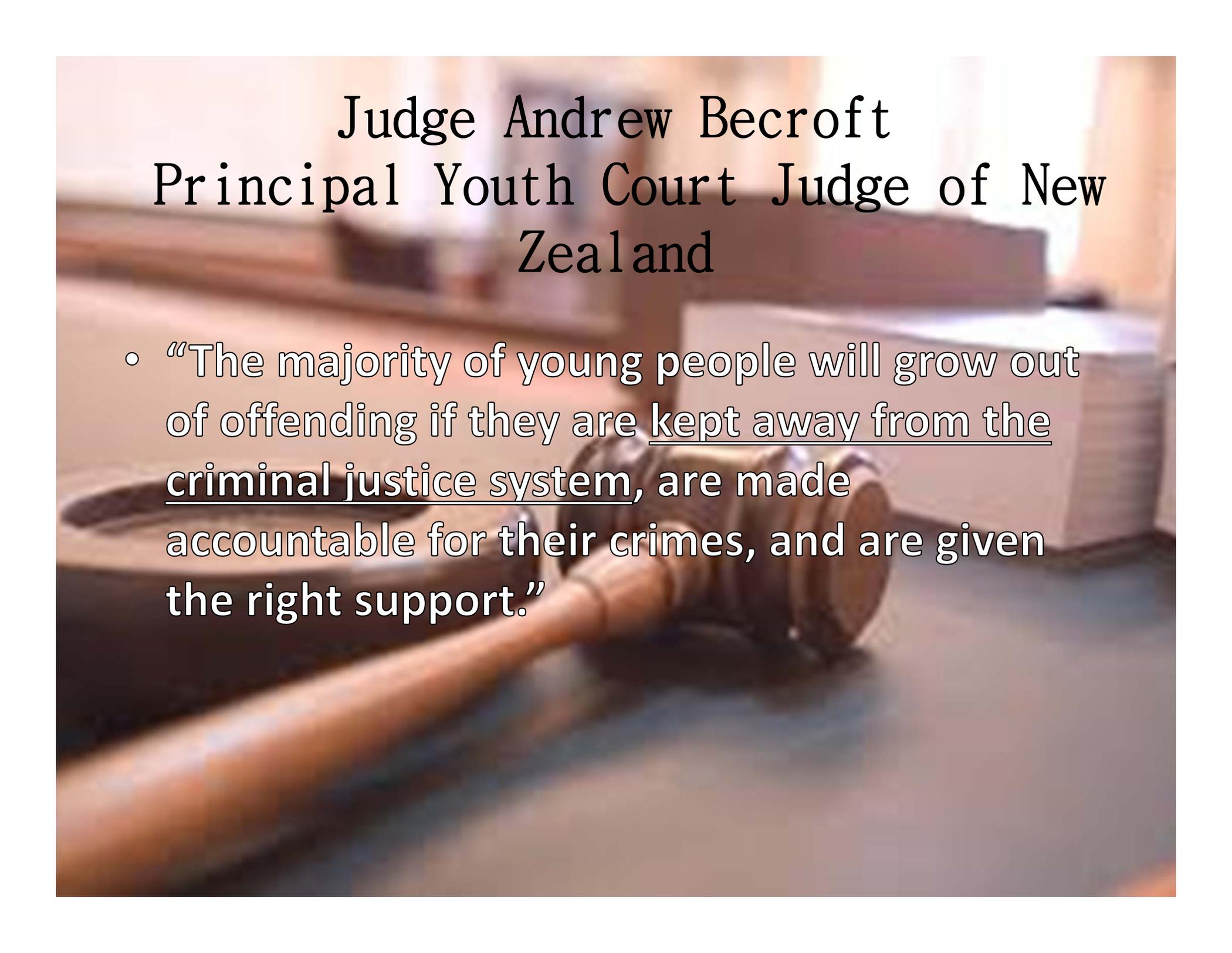
“Our courage rests on a deep democratic vision of a better world that lures us and a blood-drenched hope that sustains us.”

David Kairys, “With Liberty and Justice For Some”

- “... the minimum that this nation should require from its courts and government at all levels is that they carefully scrutinize any governmental measures that harm minorities, that they reject implausible and phony justifications, and that they refrain from covering up racism.”

What is our goal in juvenile court?

- THE GOAL OF THE JUVENILE COURT IS TO “ENGAGE IN CHILD-SAVING.” ALL PROFESSIONALS IN JUVENILE COURT NEED TO CLEARLY UNDERSTAND WE ARE IN A UNIQUE COURT SYSTEM DESIGNED TO INTERVENE IN THE LIVES OF CHILDREN AND YOUNG PEOPLE.



Judge Andrew Becroft
Principal Youth Court Judge of New
Zealand

- “The majority of young people will grow out of offending if they are kept away from the criminal justice system, are made accountable for their crimes, and are given the right support.”

TCA 37-1-101

“Juvenile Court and Proceedings”

Purposes of juvenile court:

- 1) Provide for the care, protection, and wholesome moral, mental and physical development of children...
- 2) Remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and substitute therefor a program of treatment, training and rehabilitation

TCA 37-1-101

“Juvenile Court and Proceedings”

Purposes of juvenile court (cont.):

- 3) Achieve the foregoing purposes in a family environment whenever possible, separating the child from such child’s parents only when necessary for such child’s welfare or in the interest of public safety
- 4) Provide a simple judicial procedure through which this part is executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced

ATTENTION: Juvenile Justice Professionals

- Juvenile justice professionals **MUST** use their skills and case preparation, including acquired knowledge about the young people and their families, to help craft and shape remedies to address the problems of young people--- including drug and alcohol issues, school conflicts, issues within the family, and on and on.....

PROCEDURAL FAIRNESS

- “Procedural fairness is the critical element in public perception and satisfaction with the court system.”
- “Procedural Fairness: A Key Ingredient in Public Satisfaction,” a White Paper of the American Judges Association, by Judge Kevin Burke and Judge Steve Leben

Four basic expectations of the legal system by the public

- 1) VOICE : the ability to participate in the case by expressing their viewpoint
- 2) NEUTRALITY : consistently applied legal principles, unbiased decision makers, and a “transparency” about how decisions are made
- 3) RESPECTFUL TREATMENT : individuals are treated with dignity and their rights are clearly protected
- 4) TRUSTWORTHY AUTHORITIES : authorities are benevolent, caring, and sincerely trying to help litigants

Four clear conclusions regarding procedural fairness- Burke and Leben

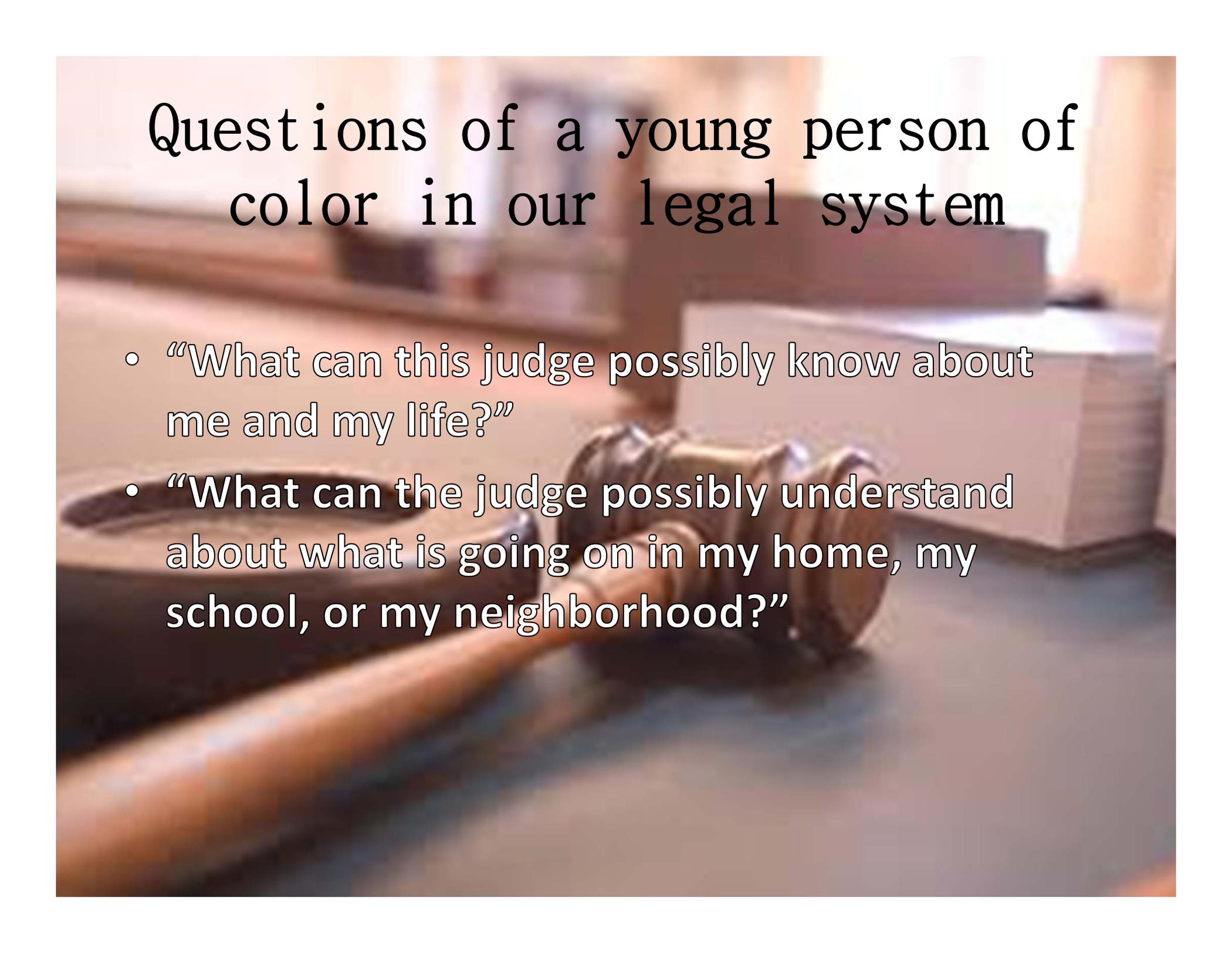
- 1) Procedural fairness increases compliance with court orders.
- 2) Litigants have a powerful need to express themselves vocally during court proceedings.
- 3) Case volume of courts is a management challenge for judges, not an excuse for de-emphasizing procedural fairness.
- 4) Perceptions of procedural fairness differ dramatically among minority and majority populations.

How can judges and other key participants make everything clearer to participants?

- 1) Explain in understandable language what is to go on in court and what has gone on;
- 2) Learn to listen better as judges and professionals;
- 3) Need for judges to explain orders better;
- 4) Always remember that patience is a virtue;
- 5) Judges should explain the ground rules about what will be happening at the beginning of the docket;
- 6) Judges and others need to seek feedback about how effective communication is and has been with the public

A GAME PLAN TO ATTACK DMC

- EVALUATE YOUR COURT SYSTEM AND EACH PARTICIPANT
- Is there evidence of discrimination, racial profiling, or any type of racism in any aspect of your court system?

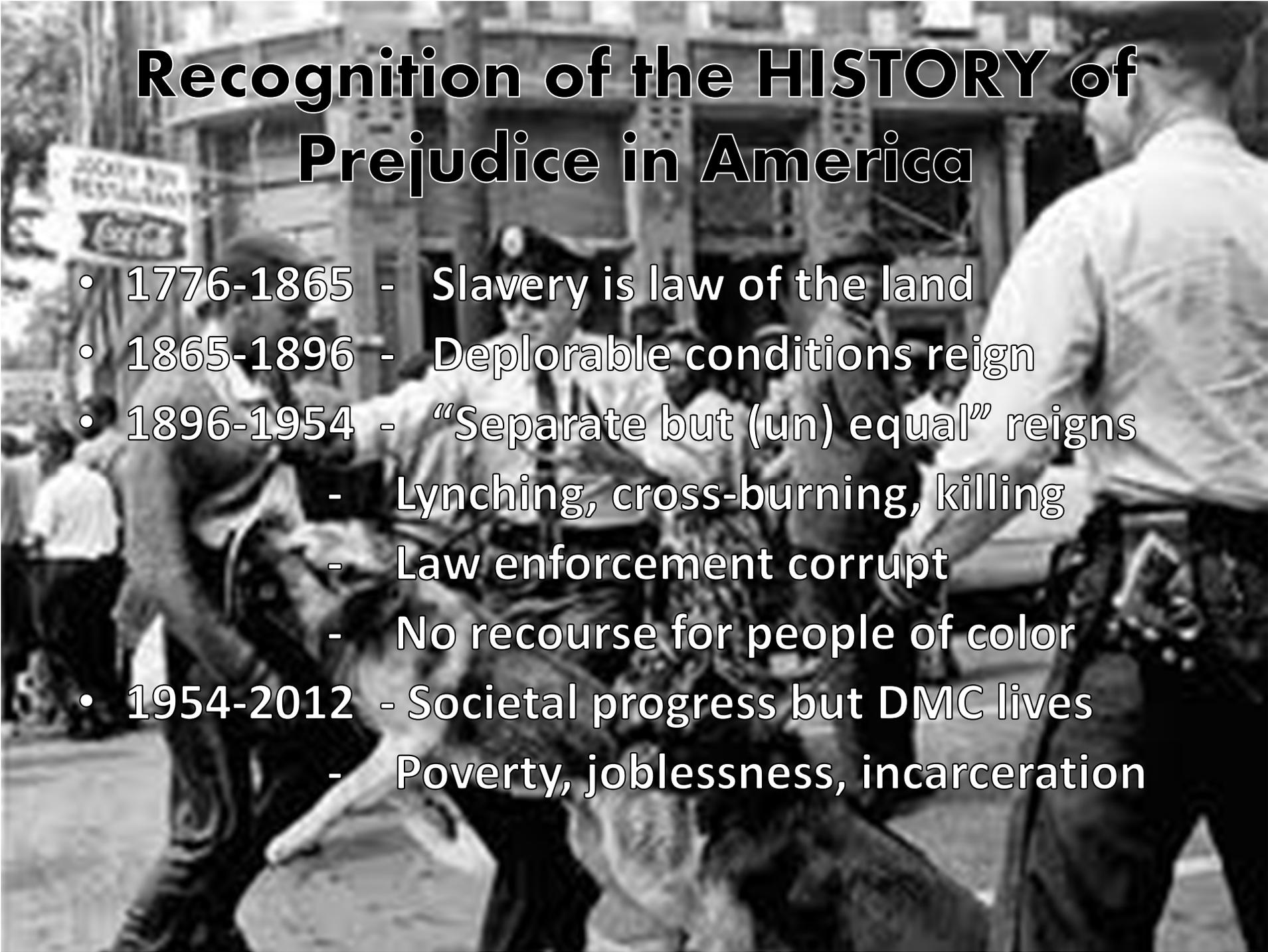


Questions of a young person of color in our legal system

- “What can this judge possibly know about me and my life?”
- “What can the judge possibly understand about what is going on in my home, my school, or my neighborhood?”

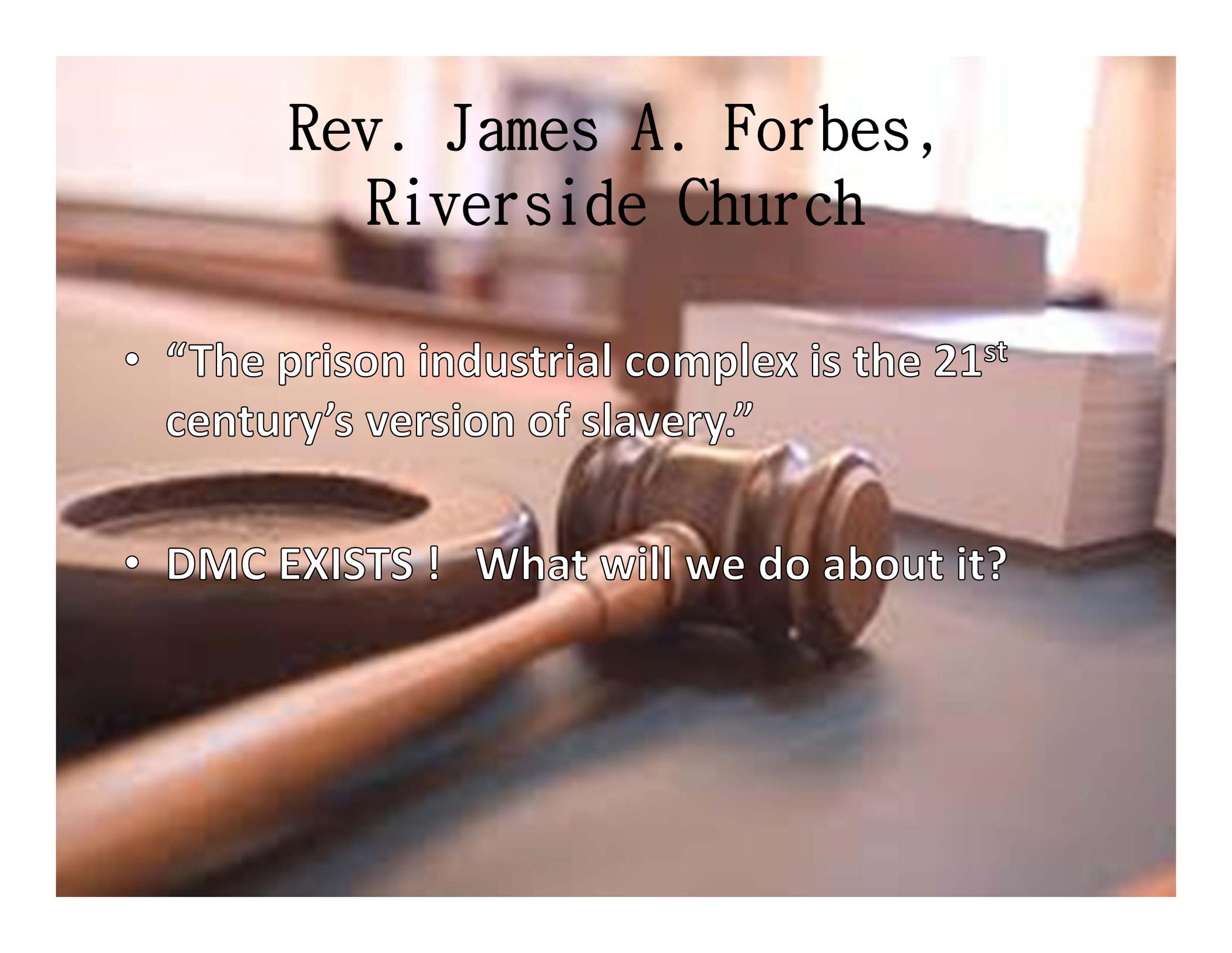
How does our court system stack up in dealing with DMC issues?

- 1. The judge? Judicial leadership?
- 2. Law enforcement?
- 3. District attorneys?
- 4. Public defenders? Defense counsel?
- 5. Probation officers?
- 6. Treatment providers?
- 7. Clerks and courthouse personnel?
- 8. The school system? Educators?



Recognition of the HISTORY of Prejudice in America

- 1776-1865 - Slavery is law of the land
- 1865-1896 - Deplorable conditions reign
- 1896-1954 - “Separate but (un) equal” reigns
 - Lynching, cross-burning, killing
 - Law enforcement corrupt
 - No recourse for people of color
- 1954-2012 - Societal progress but DMC lives
 - Poverty, joblessness, incarceration

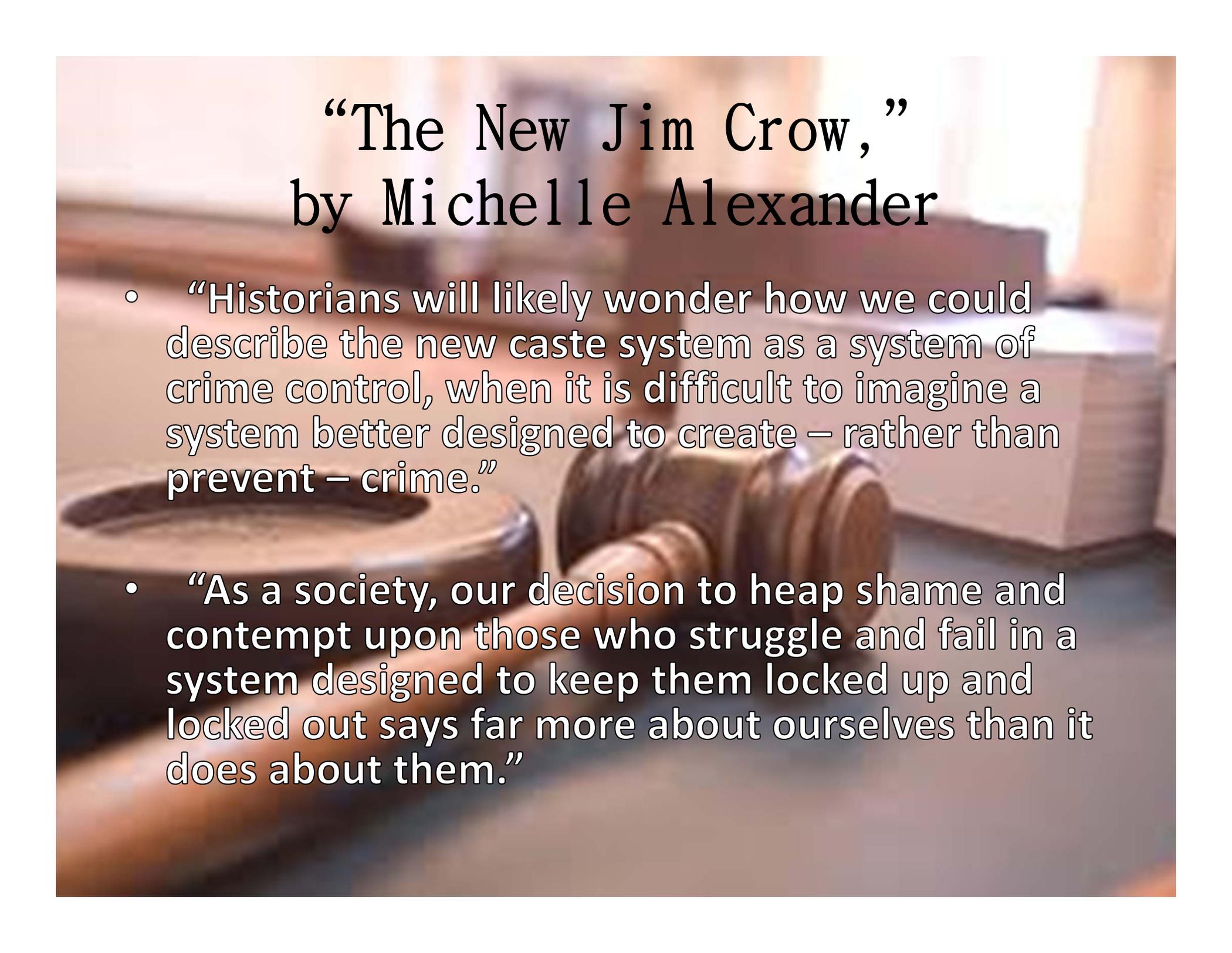


Rev. James A. Forbes, Riverside Church

- “The prison industrial complex is the 21st century’s version of slavery.”
- **DMC EXISTS ! What will we do about it?**

The New Jim Crow: Mass Incarceration In the Age of Color Blindness

- “When the system of mass incarceration collapses (and if history is any guide, it will), historians will undoubtedly look back and marvel that such an extraordinarily comprehensive system of racialized social control existed in the United States.”
- “How fascinating, they will likely say, that a drug war was waged almost exclusively against poor people of color – people already trapped in ghettos that lacked jobs and decent schools.”



“The New Jim Crow,” by Michelle Alexander

- “Historians will likely wonder how we could describe the new caste system as a system of crime control, when it is difficult to imagine a system better designed to create – rather than prevent – crime.”
- “As a society, our decision to heap shame and contempt upon those who struggle and fail in a system designed to keep them locked up and locked out says far more about ourselves than it does about them.”

“Marvel and wonder?” Juvenile Justice paraphrase of “The New Jim Crow”

- “One day, our society, and all of us in the juvenile justice system, will be forced to look back at our system of juvenile justice, a system which has failed to address issues of disproportionate minority confinement for many years, and marvel at the thought that such a system of juvenile justice was allowed to go on and on for such a long time.”
- “We will all have to look back on a system that incarcerated so many young people who could have been treated more humanely and wisely.”
- “We will see so many kids and young people utterly betrayed by a disgraceful system. We will have to wonder how we missed so many obvious signs that young people of color and of poverty were being mistreated in the juvenile justice system and given no real chance to succeed.”

VISION

MODERN TIMES

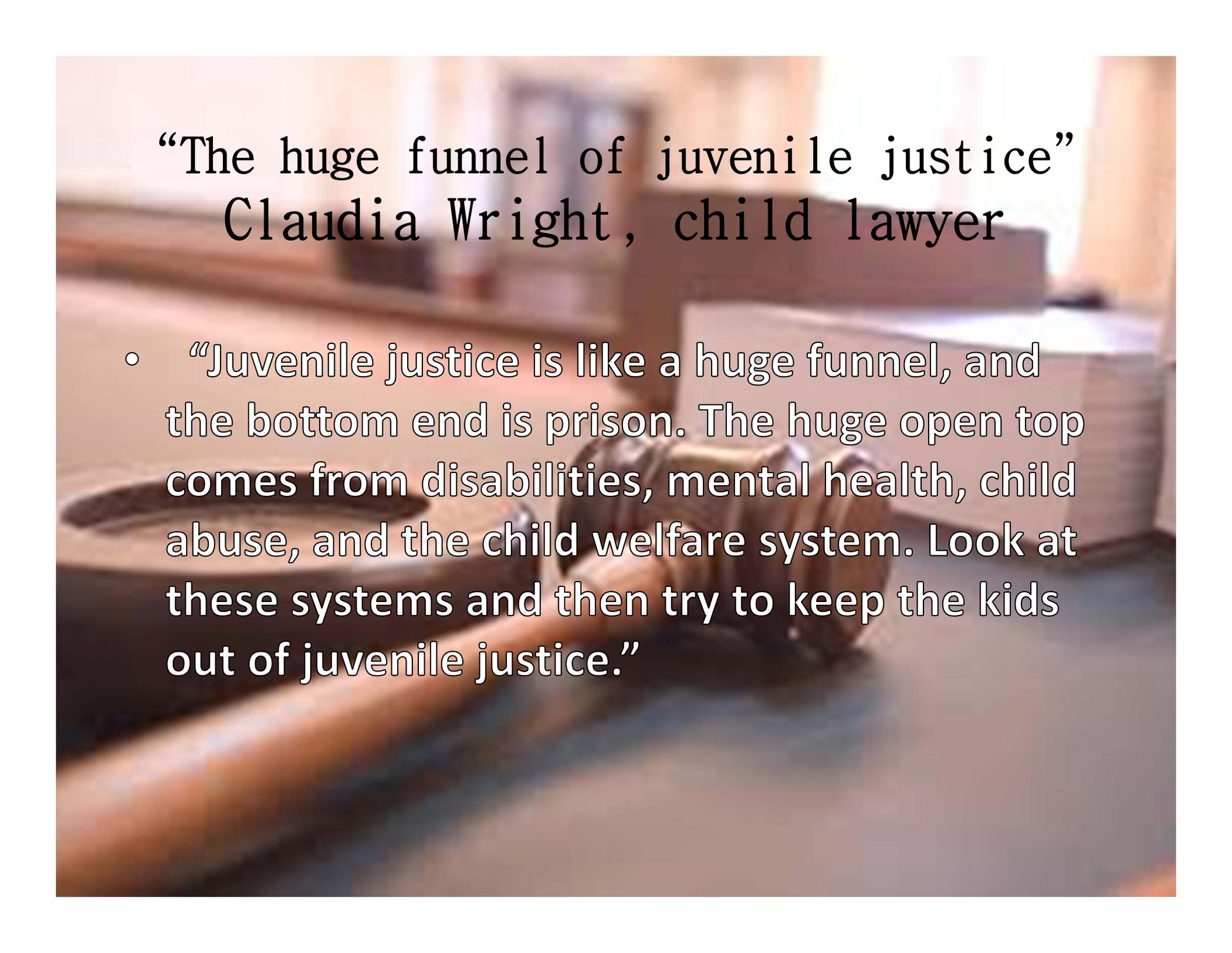
THE QUESTION

- What will history say about our efforts?



The “Special Education” Challenge

- What attorneys in juvenile justice must know about students in “special education”:
- 1) A good working knowledge of “disability advocacy” – access to services
- 2) Understand the significance of who initiates a petition and why it makes a difference
- 3) Disability considerations must be paramount in devising probation plans and solutions
- 4) Cases must be carefully evaluated and all available resources utilized to ensure that each child receives the individual attention required by the law and justice



“The huge funnel of juvenile justice”
Claudia Wright, child lawyer

- “Juvenile justice is like a huge funnel, and the bottom end is prison. The huge open top comes from disabilities, mental health, child abuse, and the child welfare system. Look at these systems and then try to keep the kids out of juvenile justice.”

Funnel Cloud

Disabilities

Mental health

Poverty

Minorities

Child welfare system



A wooden gavel with a light-colored handle and a dark, rounded head, resting on a dark wooden desk. The background is a blurred courtroom setting with wooden paneling and a window.

Judge Judith Kaye, New York
Take juvenile justice
“very personally”

- “IF THIS IS NOT GOOD ENOUGH FOR MY CHILD, IT IS NOT GOOD ENOUGH FOR ANYONE’S CHILD.”

WHAT A JUDGE MUST DO TO ATTACK DMC

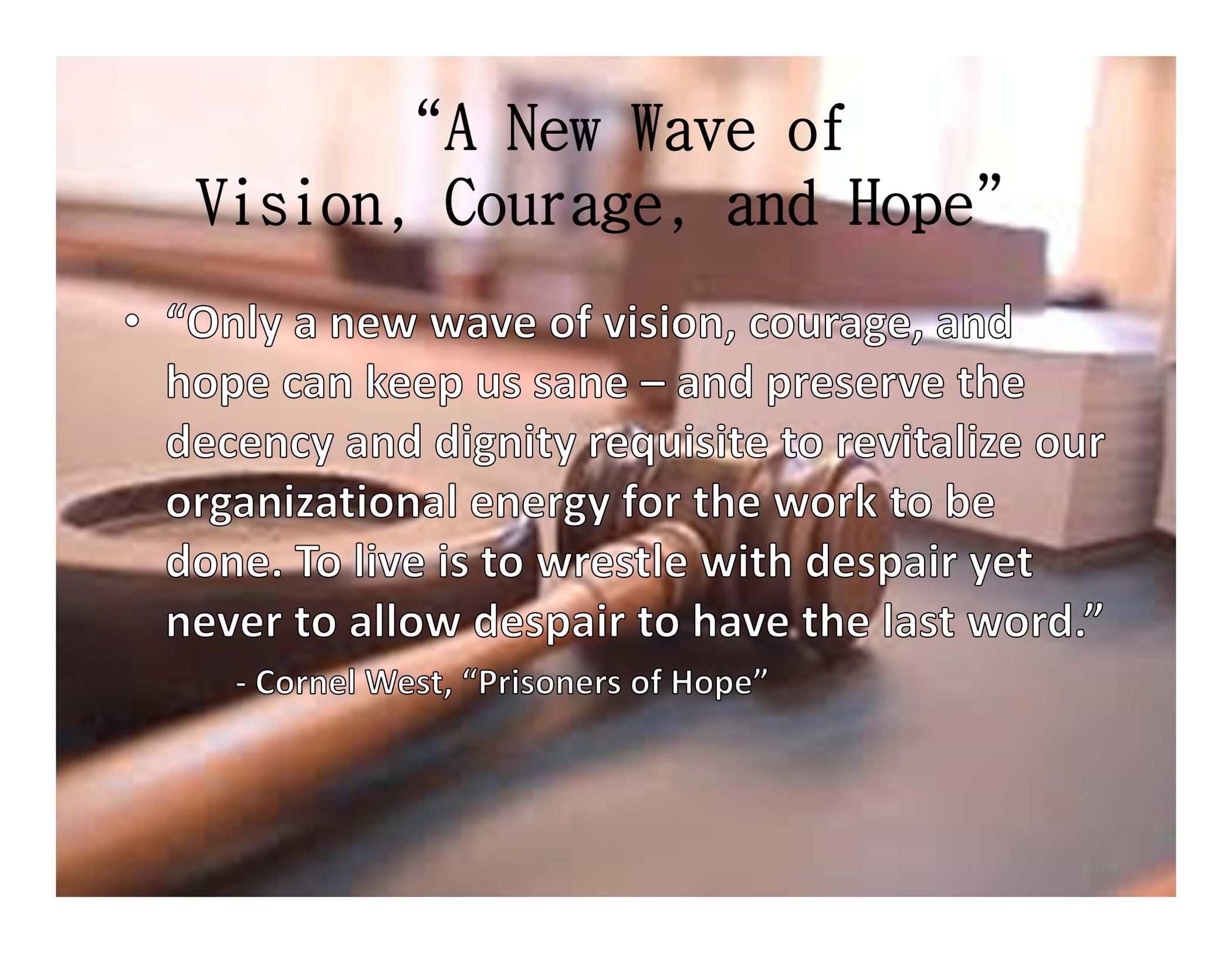
- 1) Set the standard for all others.
- 2) Be trained and informed.
- 3) See that everyone in your justice system is trained and informed.
- 4) Address the root causes of DMC.
- 5) Use detention only when absolutely necessary. One day in detention can have far-reaching negative effects.

WHAT A JUDGE MUST DO TO ATTACK DMC

- 6. Understand that each child and each family is unique and worthy of understanding.
- 7) Be slow to judge young people on appearance, posture, or attitude. Immaturity, discomfort, unfamiliarity with the system, and lack of good counsel and guidance impact how they come across in court and in the juvenile justice system.
- 8) Look at strengths and weaknesses of young people and their families in establishing goals and objectives.

WHAT A JUDGE MUST DO TO ATTACK DMC

- 9. Be open to complaints of people in your court and to challenges of authority – they might be right. Power can be easily abused or misused.
- 10. Always have this thought: If my actions and attitude are not good enough for my own child, they are not good enough for anyone's child.



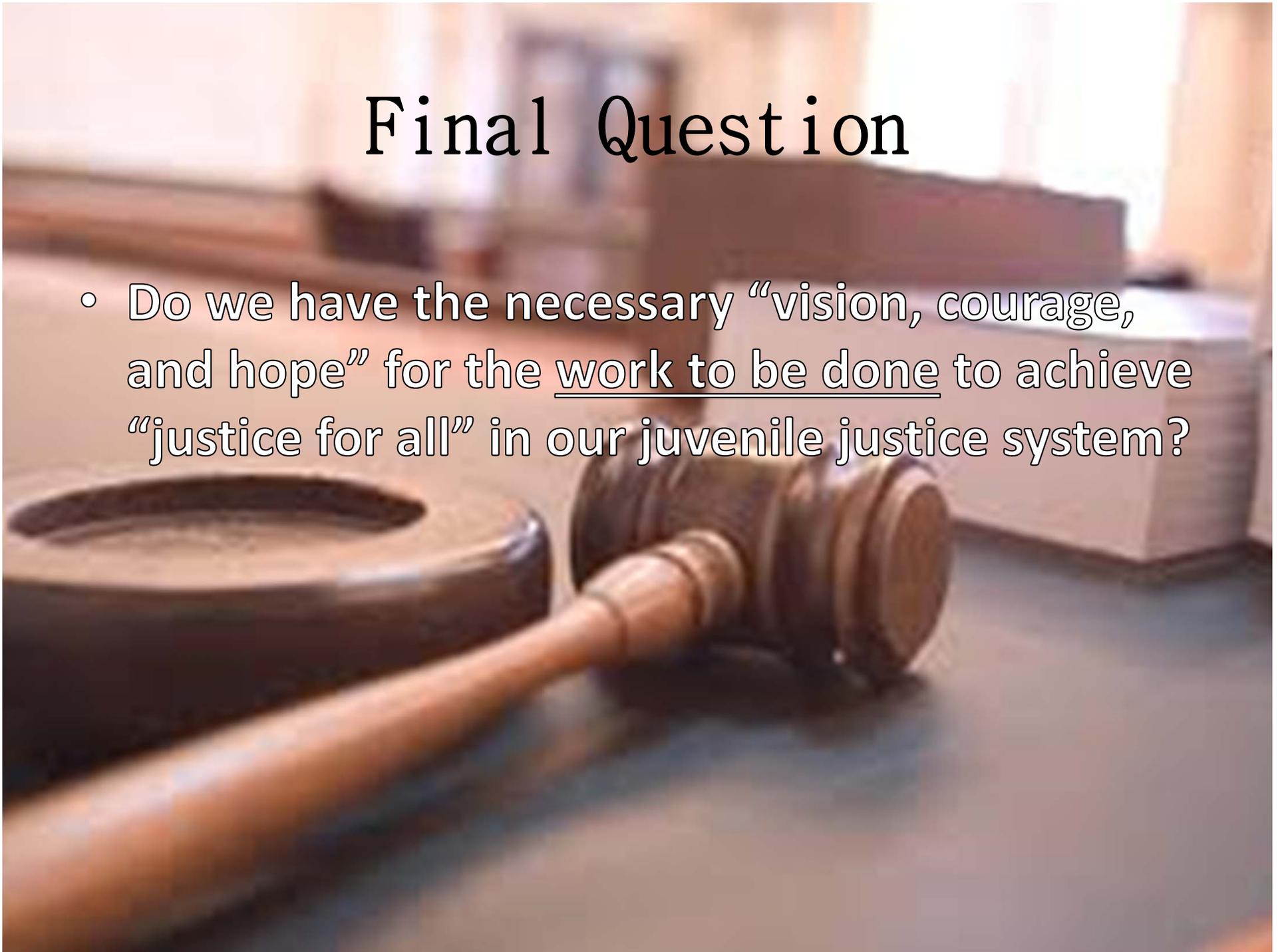
“A New Wave of Vision, Courage, and Hope”

- “Only a new wave of vision, courage, and hope can keep us sane – and preserve the decency and dignity requisite to revitalize our organizational energy for the work to be done. To live is to wrestle with despair yet never to allow despair to have the last word.”

- Cornel West, “Prisoners of Hope”

Final Question

- Do we have the necessary “vision, courage, and hope” for the work to be done to achieve “justice for all” in our juvenile justice system?





**SEEKING JUSTICE FOR ALL ...
ONE CHILD AT A TIME**

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