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***The 1994 Federal Crime Bill: An Evaluation of the Past, Present, and Future of its
Impact on the Criminal Justice System***

An Honors Thesis submitted in partial fulfillment of the requirements for Honors in
Criminal Justice & Criminology.

By
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Under the mentorship of *Dr. Laurie A. Gould*

ABSTRACT

The 1994 Violent Crime Control and Law Enforcement Act was signed into law in response to the crack cocaine and crime epidemic of the 1980s. In this thesis I address the major elements of this bill, the racial, financial, and ethical conflicts that arose thereafter, and the reforms that should be implemented today to correct said conflicts.

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Introduction

The 1994 Violent Crime Control and Law Enforcement Act (hereafter referred to as the 1994 Crime Bill) was signed into law under the Clinton administration, but events dating back to the Nixon era fed into its creation. The 1990s saw an almost unexplainable spike in crime, following on the heels of the supposed crack epidemic of the 1980s.

Wanting to accomplish more than his predecessors, Clinton pushed for a bill that would uphold the tough on crime campaign that he based his presidency around. And so the crime bill of 1994 was born. This bill's initial goals were to put more police on the streets, fund the construction of more prisons, and dramatically increase the length of prison sentences for people convicted of drug and violent crimes. The unintended consequences of this bill cannot be overstated, as it is responsible for some of the more dire problems with the criminal justice system today. The school to prison pipeline for minority youth can be traced back to this legislation, as can increased racial discrimination in the justice system, the militarization of the police, and many others.

Major Components of the Crime Bill

The main objective of the 1994 crime bill was to reduce the rate of drug and violent crime by being "tough on crime." One of the major parts of the bill was putting 100,000 more police on the streets, with the goal of deterring crime. To accomplish this, police agencies received large boosts in their operating budgets, some of which was used to purchase surplus military equipment, leading to further militarization of the police. Secondly, the 1994 crime bill gave way to truth in sentencing, which eliminated "good time" in prisons and increased penalties for certain crimes. Additionally, the bill inspired a wave of punitive sentencing policies, such as 3 Strikes and You're Out legislation,

across the United States. Lastly, this legislation involved increased prison construction to accommodate the influx of new inmates, leading to an increase in both publicly run facilities and private prisons, both of which have contributed to mass incarceration.

Major Problems Associated with the Crime Bill

The passage of the 1994 Crime Bill ushered in an era of reform for our criminal justice system, but with this reform came a host of issues which have yet to be remedied. The first and most controversial of which being mass incarceration. The United States is home to less than 5% of the world's population, yet we account for 25% of its prisoners (Lee, 2021). There are a host of issues associated with mass incarceration including, prison overcrowding, the increase in the elderly inmate population, the increased cost of incarceration to taxpayers, racial discrimination, voter disenfranchisement for large proportions of the African American population (notably males), as well as a host of issues associated with families and communities of those incarcerated.

Purpose

The purpose of the current study is to analyze the unintended consequences of the 1994 Crime Bill and associated legislation, as well as to examine the effect of reform efforts that have been implemented to address these consequences and make recommendations for further reforms that are still needed.

Theoretical Framework: Critical Race Theory and Institutional Racism

Before an examination of the more detrimental aspects of the 1994 Crime Bill, it is first necessary to explore Critical Race Theory, as that is the primary theoretical framework being employed in this study. Since the United States' inception, this country has defined and divided its people by what they own, who they are, and what they look like. More often than not, nothing more than one's physical characteristics are enough to assume where they fall on the socioeconomic ladder and the physical characteristic that is usually to blame for this rush to judgment is race.

Contrary to popular belief, race is not an actual biological trait, it is nothing more than a social construct (Barak et al., 2018), devised as a "strategy for dividing, ranking, and controlling colonized people to maintain existing power dynamics" (Pate and Gould, 2012, p. 216). The introduction of race into American society and culture has shaped the cultural environment since the 18th century. With regard to African Americans specifically, this began with slavery. As the demand for labor grew in colonial America, colonists introduced slavery on American soil, but were presented with the age old dilemma of how it could be justified (Public Broadcasting Service 2003). Perhaps the only way that treating human beings like property could be justified was to ignore the humanity of enslaved populations. As such, slaves were viewed solely as property and the constitution considered African Americans 3/5ths of a person. These views were justified on the basis of pseudoscience that supported the narrative that African Americans were inferior. This helped to justify the murder, torture, kidnapping, and forced labor of enslaved Africans at the hands of whites. Between 1626 and 1875, over 300,00 Africans were stolen from their homelands and shipped to what would become the

United States (Slave Voyages, n.d.). Their children, and their children's children were subsequently born into a life of servitude and shackles, and in 1860, according to the last census taken before the start of the Civil war, there were approximately 4 million slaves living in the U.S. alone (O'Neill, 2021).

The period of time immediately after the end of the civil war, from 1865 until 1877, is known in U.S history as the reconstruction era. The purpose of reconstruction was to unify a country torn in half, but in actuality, those 12 years defined race relations in America for centuries to come. The era began with promise for the future, with Congress passing three monumental amendments to the Constitution that would integrate the entire population of African Americans living on US soil. The 13th, 14th, and 15th amendments abolished slavery as a whole, granted birthright citizenship and due process and equal protection rights, and granted all males the right to vote (*History & culture*, 2021). But drafting and enacting federal legislation are two different things. To tackle the issue of enforcement Congress, under the direction of the newly elected Republicans, devised a plan to divide and conquer the nation in hopes to unify it under the law. The former confederate states were divided into military districts and occupied by Union Soldiers in order to ensure state governments implemented the new amendments. Even in the face of military influence, southern Democrats were still able to pass laws to the detriment of African Americans. The Black codes were sets of state laws that only applied to persons of color and were created out of the fear that the economy in southern states would completely collapse amidst abolition. Some of these codes included things like: vagrancy resulting in a sentence of hard labor, with the ability to be "rented out" to local plantation owners at the sheriff's discretion and requiring child orphans and the

children of vagrants to “apprentice” under white employers (Constitutional Rights Foundation, n.d.). Though the terminology may have changed, clearly elements of slavery remained long after the civil war ended and the 13th, 14th, and 15th amendments were passed.

Although slaves were free in a legal sense, not much had changed in the minds of the whites and a close examination reveals some important geographic differences in the treatment of African Americans. Specifically, in the Southern region of the United States former plantation owners banded together to commit cruel acts of violence against newly freed African Americans in an effort to subjugate the black population. This culture of violence and terror led to the creation of the Ku Klux Klan, a group of terrorists who continue to commit heinous crimes of violence against anyone deemed “racially inferior” (National Park Service, 2017). In addition to terrorizing African Americans who remained in the south, whether by choice or circumstance, plantation owners on the brink of losing their fortunes implemented slavery in the form of sharecropping.

Sharecropping developed after the civil war, when the newly freed slaves and wealthy plantation owners realized they had a common issue. The vast majority of African Americans had very few employment options following the abolition of slavery. Very few newly freed slaves had the means or opportunity to flee to the north and start anew, and with the threat of being targeted by groups like the Ku Klux Klan, leaving the plantations they were born on was a dangerous option. So, most did the only thing they could do and stayed on as sharecroppers. Generally, sharecroppers would work a section of the plantation in exchange for a share of the crop at the end of the harvest. On paper this sounds like a fair arrangement for both parties, but in reality, high interest rates and

unpredictable harvests resulted in few sharecroppers being able to repay their debts, effectively re-enslaving them (Public Broadcasting Service, n.d.).

Southern re-enslavement tactics would eventually usher in the Jim Crow laws that gripped the post-civil war south through the better half of the 20th century. Jim Crow effectively kept whites and blacks separate, but nowhere near equal, despite the fact that federal laws and Supreme Court rulings required it. Terrorist organizations such as the Ku Klux Klan used this era to continue to intimidate, torture, and kill any African American they believed to be stepping out of order. Jim Crow laws did not see their end until 1964 with the enactment of the Civil Rights Act, which prohibited discrimination based on race, color, religion, sex, or national origin (Office of the Assistant Secretary for Administration & Management, n.d.). However, a change in law does not come with an immediate change in the mindset of the people, and African Americans and other minorities continue to fight for equal social, political, and economic status.

The fight for equality is heavily tied to the current political climate and this can be seen in former President Trump's banning of federal employees from participating in diversity training deemed divisive or other training that covered topics including systemic racism, white privilege, and other race and gender issues (Guynn, 2021). This decision was in direct opposition to movements like Black Lives Matter and #MeToo, organizations whose sole focus is to be seen, heard, and taken seriously by the government that has disregarded their demographics for centuries. One of the main objectives of both movements is educating people on the history of discrimination against minority groups and the struggles they still face today (i.e., police brutality) and this executive order forbade this education.

Discussions of critical race theory were specifically forbidden under this order, despite the fact that it is less of a theory and more of history lesson on race and discrimination in America (George 2021). The theory focuses on educating people on the history of racism and the role it plays in society today. This is important because the curriculum on race in the majority of public-school systems has been watered down and discussions of race are either not happening or they are limited in scope. According to a survey done by the Teaching Tolerance Project, nearly 90% of the K-12 teachers surveyed agreed that teaching about slavery is essential to truly learning and understanding American history, but many reported feeling uncomfortable having to address it and that they did not have proper guidelines to ensure that their white students specifically understood the gravity of the topic (Turner, 2018). Modifying public school curriculums to include discussions about systemic racism could be a critical first step in addressing broader issues of race in society. Unfortunately, during the summer of 2021, Texas lawmakers passed a bill that no longer required public school educators to teach about the moral wrongdoings of groups like the KKK, further reducing the amount of education that people receive about the oftentimes brutal treatment of marginalized communities. Laws like these that make it a point to cover up the true story of America's past are making necessary change much more difficult. Lasting social change does not just happen with the passage of a law, rather the people must have a change in their mindset and that only comes by way of education. Almost immediately after he took office, President Joe Biden rescinded Trump's executive order so, at least for now, discussion of systemic racism and white privilege can take place during diversity training for federal employees (Guynn, 2021).

Disparity in Crack and Cocaine Sentencing

Many consider the crack cocaine epidemic of the 1980's to be the catalyst for the tough on crime regime that led to the passage of the 1994 Crime Bill in the first place. An influx of crack related violent crime and overdoses plagued the media and the country, forcing politicians to act quickly on the issue. Crack cocaine emerged in the late 1970's but by the mid 1980's its use across the country had skyrocketed. This is accredited to extreme economic disparity during this time and the fact that crack was much cheaper than the powder cocaine. While the two are pharmacologically identical, crack cocaine was extremely appealing to users due to its ability to get an individual much higher much faster, compared to snorting the same amount of powder cocaine. Because of this, dealers could essentially sell one hit at a time which forced users to come back for more sooner.

These dealers were solely blamed for the epidemic, and politicians made it a point to make examples out of them in terms of sentencing. In 1986 at the height of the epidemic, congress passed The Anti-Drug Abuse Act (ADAA), which included mandatory minimum sentencing of 5 years for anyone convicted of possession of 5 grams of crack cocaine or 500 grams of powder cocaine (Karch 1999). This 100-1 sentencing disparity highlighted another issue, not only with the tough on crime politics of this era, but also in the system as a whole—racial discrimination. When congress held hearings in 1986 regarding the crack epidemic, they concluded that crack cocaine was a greater detriment than powder cocaine, and that it should be punished accordingly. This is where the 100:1 disparity was born. When congress enacted the ADAA, they didn't consider, or arguably care, that punishing these drugs differently would also punish the people that partake in these drugs differently as well. Considering the fact that African Americans

make up to 90% of those convicted of crack related offenses while Caucasians and Latinx make up 70% of cocaine users it is hard to argue that institutional racism did not play a part in this legislation (Zimmerman 2014). This disparity has led to African Americans being incarcerated at a higher rate for longer periods for essentially the same crimes. On average, black men convicted under the 100:1 ratio were spending the same amount of time in prison for nonviolent crimes as their white counterparts were for violent ones. Because of this, a generation of African American men and women have been subjected to longer sentences than their white counterparts. By the recession of 2008, 1 in 9 black men younger than 35 was behind bars (Zimmerman 2014). This has led to the dismantling of the African American family dynamic in low- income neighborhoods across the nation. While the 100:1 disparity in sentencing emerged well before the 1994 Crime Bill it has been argued that if the ADDA had not been passed, the effects of the 1994 Crime Bill in terms of mass incarceration may have been much less severe (Ray and Galston, 2020).

In 2010 President Obama signed the Fair Sentencing Act (FSA) which decreased the 100:1 ratio to 18:1, which is a start, but still unfair, especially considering that rates of crack cocaine usage have been steadily declining for the past two decades (Zimmerman 2014).

Law Enforcement Funding in the 1994 Crime Bill

A central initiative of the 1994 Crime Bill was a massive increase in federal funding for state and local law enforcement agencies. The bill authorized federal funding in the amount of \$10.8 billion from 1994-2000, with \$8.8 billion of that amount

earmarked for hiring additional officers (LAO, 1994). The initial goal was to put at least 100,000 more law enforcement officers on America's streets, with the hope that an increase in police presence would deter crime in local communities. The investment in more officers was intended to be an investment in community policing, which is defined as "a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime" (COPS, 2014: 1). In simpler terms, under a community policing model, community members and the police actively work together as partners to address community concerns. As the events of the past decade have shown, the collaborative relationship that community policing envisions between law enforcement and the community has not materialized in many communities across the U.S., particularly in communities of color.

In addition to hiring more police officers, millions of federal grant dollars were made available to purchase advanced equipment and technology for state and local law enforcement agencies (*PRESIDENT CLINTON ANNOUNCES NEW CRIME BILL GRANTS TO PUT POLICE OFFICERS ON THE BEAT* 1994). While the equipment purchased under these grants was intended to further community policing efforts, a greater level of militarization appears to have resulted. Despite funds from the grant, a vast majority of the equipment law enforcement agencies acquired from the department of defense came at little to no cost to them. Under the 1033 program, when military personnel no longer need equipment they can turn it over for reuse, sale, donation or destruction. Equipment distributed under the 1033 program are categorized as either

uncontrolled, prohibited, or controlled. Prohibited equipment is under no circumstances to be distributed to other agencies and includes things like aircraft with weapons, grenade launchers, and camouflage uniforms. Uncontrolled equipment has little to no limitations and conditions upon release and can include anything from furniture to hand warmers. Controlled equipment is subjected to routine inspections, and the agency acquiring it must not only present a valid reason as to why they need it, but the city's governing body must agree to the acquisition as well. As of 2018, over \$6 billion in excess uncontrolled and controlled DoD equipment has been acquired by approximately 8,000 law enforcement agencies across the nation (Davenport et al., 2018). This program has allowed small town police departments, that only handle a handful of violent crimes every year, to gain access to M16 rifles and night vision goggles, equipment more suited to a battlefield than a neighborhood (Andrzejewski, 2020).

The continued use of military equipment has allowed police departments to function as quasi-armies that are deployed against everyday citizens. Examples of this can be seen in the way police departments around the country handled the protests that followed the deaths of Michael Brown in 2014 and George Floyd in 2020. In 2014, after the death of Michael Brown, unarmed peaceful protestors from minority, mostly black communities, were met with snipers on rooftops. And in 2020, following the death of George Floyd, police were seen throwing tear gas into large crowds of peaceful protestors and shooting at them with pellet guns filled with rubber bullets. Those weapons are not intended to be aimed directly at people or at close range, yet both were done in this instance and injuries did result. Linda Tirado, a freelance photographer who attended one of the Minneapolis protests, was permanently blinded in her left eye after being hit by a

rubber bullet that was fired into the crowd (Duffy, 2020). While it is tempting to think that practices such as these only occur in more authoritarian nations, to do so ignores the troubled history of American law enforcement, especially as it relates to the policing of African Americans. Furthermore, the tactics deployed in these instances are starkly different from the treatment of the “protestors” that raided the capital on January 6, 2021 in an attempt to violently overthrow the government.

While the use of military equipment and tactics during peaceful protests is a serious issue, the problems associated with the militarization of police can be felt each day in communities of color. Research from Mummolo (2018) reveals that each 10 percent increase in the number of African Americans living in an area leads to a 10 percent increase in SWAT team deployment, irrespective of whether the crime rate is increasing or decreasing. This is clearly problematic, as residents are being treated more like enemy combatants, than community members deserving of protection. All told, the policing provisions of the 1994 crime bill, along with the 1033 federal program, have led to a breakdown in trust between the community and police, as well as over-policing and over enforcement in minority communities.

Minimum Mandatory Sentencing

Though not included as part of the 1994 Crime Bill, California’s Three Strikes law was inspired by the get-tough mentality of the 1990’s and was one of the most controversial laws passed in the wake of the 1994 Crime Bill. Though California is the most notable of the bills, they were not the first to enact such a law, and to date almost 30 states have their own version of the bill. What sets California’s version of the law apart

from all others is the severe and unyielding nature of sentencing under the legislation (Sutton 2013).

California's Three Strikes law targeted habitual offenders with felony convictions. What set their bill apart from the other 23 states that enacted similar legislation between 1993 and 1995, is the severity of punishment and how many offenses could earn an offender another strike. Upon an individual's second strike, the law required that the defendant receive twice the normal sentence, no matter the felony class. Those convicted of a third strike received 25 years to life, again regardless of whether the felony in question was a violent felony (Cramer 2020). The fact that nearly any offense could qualify someone to receive a possible life sentence both set California apart from the vast majority of other states with Three Strikes laws on the books (Kelly 2019) and helped set the stage for a crisis inside California's prisons that would impact corrections in the state for decades to come.

One of the most notable fallouts of the crackdown on crime in the 1980s and 1990s is the effect it had on prison populations, specifically overcrowding. Prison overcrowding has become a national problem over the past two decades, but perhaps more than any other state California is a prime example of this crisis. Between 1980 and 2010 California's prison population rose 572%, largely due to legislation that required longer sentences and allowed imprisonment to be a punishment for a wider range of offenses. Nationally, incarceration rates have more than tripled between 1980 and 2010, making the United States the nation with the highest incarceration rate worldwide.

Overcrowded prisons are associated with a host of institutional problems including, unsafe conditions for both staff and inmates, increased risk of riots and other

forms of violence, increased incidence of communicable diseases, and many others. Overcrowding has also led to increased privatization of prisons and the rise of for-profit prisons, both of which are ethically questionable and cause their own hosts of problems such as in humane conditions, the dismantling of communities, and increased costs to taxpayers. Notably, in Alabama the culture of corruption and abuse of power within the state prison system has led to a formal investigation by the Department of Justice (“Prison Conditions” Equal Justice Initiative 2021). Perhaps most troubling is the fact that each dollar that is invested in prisons and the criminal justice system, is one less dollar being invested in communities. For example, in California’s 2016 state budget, 10% of the resources were allocated to corrections compared to just 7% for education (Hanna 2016), and a similar trend can be seen across the country. Over the 33-year period between 1979 and 2013, expenditures for corrections outpaced PK-12 education in all but two states. At its peak Massachusetts saw an 852 percent increase in money allocated to corrections. Nationwide, during this time period the majority of states actually reduced their investment in higher education spending (U.S Department of Education 2016), sending a clear message to citizens that the government would rather incarcerate than educate. In 2012, Californians overwhelmingly voted yes on Proposition 36, which scaled back Three Strikes, making it so that only serious or violent felonies could be grounds for a third strike (Sabate 2012).

Alongside California, today there are 27 other states with their own versions of Three Strikes laws and there is also a federal version that was passed nearly a decade before the 1994 Crime Bill. The Armed Career Criminal Act (ACCA) was passed 10 years prior to the crime control bill of 1994, as a part of the Federal Comprehensive

Crime Control Act. This law provides that an offender who has been previously convicted at either the state or federal level for a violent crime or serious drug offense, must serve a mandatory minimum of 15 years in prison and pay a fine of less than 25,000 dollars (Kopp 2019). The federal version of this bill is different, and arguably better, than California's because of its clear-cut definition of what is a strikable offense and what is not. The bill describes "violent felony" as "the use, attempted use, or threatened use of physical force against the person of another" (18U.S.C. § 924(e)(2)(B)(i)) or second, "is burglary, arson, extortion, involves use of explosives or otherwise involves conduct that presents a serious potential risk of physical injury to another" (18 U.S.C. § 924(e)(2)(B)(ii)).

Prison Spending and Privatization

As seen in previous sections, many of the problems with the 1994 Crime Bill and related legislation are rooted in federal funding provisions. The money was not only used as an incentive for law enforcement agencies to hire more police officers as well as buy militarized equipment, it was also used to build more prisons and correctional facilities to house the influx of new offenders. State prisons and correctional facilities are primarily funded by state and local tax dollars, whereas federal prisons are funded by the federal government and the costs at all levels of government are astronomical. According to the U.S. Bureau of Prisons, the annual cost to house just one inmate is more than \$28,000, however that figure varies depending on the level of security, as well as the various needs of inmates. High security institutions, like Guantanamo Bay can cost taxpayers upwards of \$900,000 a year (*What is the Average Cost to House Inmates In Prison*, 2020). Given

that the median income of the average American household is only \$67,000 a year (Bureau, 2022), tax dollars are sometimes not enough to fund the level of incarceration that the government would like. The solution in some states, as well as the Federal government, is to turn to privatized prisons.

Private prisons are prisons that are built and operated by for-profit corporations, with the goal of reducing the financial burden of state and local governments. Private prisons are typically paid a flat per diem rate by the government for each inmate they house, and proponents claim that private companies can provide all of the same services and level of security that publicly run facilities offer, but for a substantially cheaper price. This claim is somewhat dubious, as research reveals that the only way to make a profit is to drive costs per inmate below the per diem rate. And this typically comes at the expense of institutional safety for both inmates and guards.

While few studies have actually documented the effects of private prisons on inmates, the stories and figures we do have are shocking to say the least. From the warden to the inmates, just about everyone involved in private prison daily operations has a story to tell about the poor conditions facilitated by for-profit institutions. At East Mississippi Correctional facility, a for-profit institution operated by one of the largest corporations, Management & Training Corporation, front-line correctional guards are paid well below the \$12 an hour wage that state-run prison guards make. In addition, they are only provided 3 weeks of training before being placed in the unit, compared to the 12 weeks of training that state prison personnel are provided. Although the East Mississippi Correctional facility is the primary mental health correctional institution (deemed by the

state) and 4 out of 5 inmates housed there require psychiatric care, the facility has not had a psychiatrist on site since late 2017 (Williams, 2018).

There are countless stories of inmates being beaten, tortured, and sexually assaulted for lengthy periods before guards responded to the situation. Many of these incidents have been verified by the official statistics provided by private prisons about rates of institutional violence. It is estimated that private facilities experience 49% more violent incidents and guard assaults, compared to state run institutions. Inadequate staffing can contribute to rates of violence because response times are longer and there are fewer officers able to respond to violent situations. Private prisons report a 6.7:1 officer to inmate ratio, which translates to 10 officers per 67 inmates. This is problematic, considering the fact that in heated situations, it can take at least three officers to control one inmate (Blakely & Bumphus, 2004). Not surprisingly, staff turnover at private prisons is quite high, due to low wages, minimal training, and a generally unsafe work environment.

As mentioned before, the bulk of issues stemming from privatized prisons comes from cost cutting in a variety of areas including, staff compensation and training, inmate programs, and institutional security. As of March 2021, the federal government had contracts with three corporations who monopolize the industry: GEO Group, CoreCivic, and MTC (Management & Training Corporation) (Valentin, 2021). Due to their lengthy experience with federal government contracts, which spans nearly three decades, these companies have also become the go-to for contracts with state governments as well. However, the goal of these corporations, like any other for-profit company, is to make money and often that comes at the expense of people. While, private prison leaders, like

Issa Artina of MTC, have stated that the goal of private prison corporations is to, “help these men make choices in prison and after they’re released that will lead to a new and successful life in society” (Williams, 2018), a review of their lobbying activities reveals that they actively lobby federal and state legislatures in an effort to keep their prisons full and functioning (Williams, 2018). For example, former Florida US senator Marco Rubio was given over \$40,000 in campaign funds by GEO Group, and in his time as senator he awarded the company with a \$110 million dollar contract for a new facility (Valentin, 2021).

While it may seem as though the privatization of prisons is a newer concept brought along after the enactment of the 1994 Crime bill, privatization of correctional facilities is a practice whose roots can be traced back to the colonial era. At that time, privately owned jails would charge inmates and their families for necessities like food, blankets, and candles. Eventually privately run facilities were able to generate profits through the use of convict-leasing. Convict leasing became a common practice after the end of the civil war, when labor demands were at an all-time high after wealthy landowners lost the right to own slaves. Inmates were contracted out to work on farms, plantations, and businesses for a few dollars a day to be paid not to the inmate, but to the jail in which they were incarcerated (Pate & Gould, 2012).

Forms of convict leasing are still seen in today’s correctional facilities in states like Texas, Georgia, and Florida who routinely do not pay their inmates for their labor, thereby generating a huge profit for the prison. In states like Louisiana, prison labor mirrors the slave labor of the past, with guards riding on horses while inmates work in fields and kitchens (Benns, 2021). The racial implications of this system cannot be

overstated. At Louisiana's Angola prison, named after the homeland of the slaves that worked the lands in the 17th and 18th century, 78% of inmates are black, and of the total population, over 70% are serving life sentences (Chavez, 2021). Angola's inmates are required to work and may be punished with solitary confinement if they refuse (Selby, 2021).

In general, private prisons do not offer substantial cost savings to state governments, but they can help alleviate prison overcrowding in some places. This benefit alone is not enough to outweigh the negative consequences of permitting private corporations to profit from incarcerating people. Private prisons have assisted in the evolution of slavery, contributed to the mass incarceration epidemic, and furthered racial discrimination in the justice system. In 2021 President Biden signed an executive order that will phase out the federal use of private prisons, however he admits that this is not enough to address mass incarceration (Adams, 2021).

Racial disparities can be seen in incarceration, regardless of whether the institution is run by a corporation or by the government. Across the country African Americans are incarcerated at five times the rate of whites. Currently, one in 81 African American Adults are serving time in a state prison and in 12 states African Americans comprise over half of the prison population (Nellis et al., 2021). As of 2016, on average, African American males receive 19.1% longer sentences than their similarly situated white counterparts (Schmitt et al., 2021).

Reforms that are still needed

Calls to end mass incarceration have been ongoing for many years now, and while some progress has been made, there is still much to be done. Addressing the unintended consequences of the 1994 Crime Bill and related pieces of state legislation is an astronomical task that cannot be achieved with just one piece of legislation. To truly and effectively put an end to this epidemic, it is going to take many pieces of legislation, each one repealing a detrimental law of the past, to institute lasting change.

The first of these reforms can focus on the disparity in sentencing between crack and powder cocaine. When President Obama signed the Fair Sentencing Act into law, the 100:1 ratio for crack and cocaine sentencing was reduced to 18:1 and, while this is certainly a step in the right direction, it is clear that crack and powder cocaine offenses are still not being prosecuted or sentenced equally. This is problematic because pharmacologically they are identical drugs, the only major difference can be found in the users. It is a widespread misconception that crack cocaine gets the user higher than it would if they were to snort powder cocaine. This is not the case, however, because crack cocaine is smoked the user becomes higher faster, but for a shorter period of time (Tucker, n.d). It is hard to argue that the running stereotype that poorer, minority people smoke crack and affluent whites snort cocaine, did not play a part in the harsh disparity in sentencing. While the First Step legislation allows the hundreds of thousands sentenced under the disparity to apply for resentencing under the new law, more can and needs to be done. Moving forward, the ratio of crack to powder cocaine should be 1:1, meaning there should be no difference in sentencing between powder and crack cocaine.

Another crucial reform that will have an impact on mass incarceration, is resentencing, and in some cases freeing people incarcerated on cannabis charges. As of 2022, 18 states have legalized the recreational use of cannabis, despite the fact that it remains classified as a Schedule 1 drug by the federal government. Even with this move towards legalization and decriminalization, racial disparities in cannabis arrests are still present. African Americans are 3.64 times more likely to be arrested for a cannabis offense, and this is consistent across the nation, legalized state or not (Edwards et al., 2020).

There are still 40,000 people incarcerated for cannabis offenses across the nation, despite the booming cannabis industry. Legal sales of cannabis in the United States totaled nearly \$17.5 billion in 2020, which represents a 49% increase from the previous year (Yakowicz, 2021). Given that it is now legal for recreational or medicinal use in the majority of states, there is no reason to continue prosecuting cannabis users at the state or federal level. Cannabis needs to be removed from the Schedule 1 drug classification and instead be treated the same way that alcohol is treated now. State and federal laws clearly contradicting each other only makes way for chaos and confusion within the system, allowing for people to fall through the cracks and become victims of a broken system. All individuals currently serving prison time for the possession or sale of cannabis should be swiftly released. Addressing the crack and powder cocaine disparity and legalizing cannabis throughout the U.S. would go a long way to helping alleviate mass incarceration.

The issues with law enforcement have been laid bare for all to see with the host of lethal encounters between officers and unarmed African Americans. There has been a

call to redirect police funding to other social services that are of greater benefit to the community, but it is too early to tell whether this will manifest. It is clear that communities of color are over-policed and citizens are not well served by a militarized police force. Reexamining existing law enforcement funding and access to equipment is a necessary first step to demilitarizing our local police. Additionally, law enforcement training needs to be reevaluated and techniques to deescalate situations need to be reinforced throughout the police academy curriculum.

Conclusion

The 1994 Federal Violent Crime Control and Law Enforcement Act was enacted to provide sweeping reforms to our criminal justice system, with the hope of addressing the perceived crime epidemic of the 1990s. In reality, it brought along a host of issues that we as a nation are still dealing with almost three decades later, all of which are reflective of the problems at America's core. The bill's disparity in sentencing with regard to crack and powder cocaine opened the gates for racial bias within the justice system and put a generation of black and brown men and women behind bars for substantially longer periods than their similarly situated white counterparts. Privatized prisons place capitalism over human life, and actual people become for profit entities and not human beings who require a certain standard of care, no matter their social standing. Lastly, the militarization of law enforcement put power in the hands of those who have for centuries acted with bias against particular groups of people.

Reversing the wrongs that the crime bill set up will take a lot more than pieces of legislation. Instead, it will require a true change in the culture in terms of race, how we

look at people convicted of crimes, and where we draw the line with capitalism. The 1994 Crime Bill was thought to be a change for the better, but in reality, it highlighted, and is now forcing us as Americans to deal with the conflicts we have held with us since our nation's inception. And that, I believe, is the greatest consequence of all.

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