

The Long History Of Johnson's Great Society:  
The Roots of Mass Incarceration In 1960s Poverty Reform

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## Abstract

This thesis is concerned with crime and poverty during the second half of the 20th century in the United States. Particularly, it concerns the process through which young, poor, urban, racial minorities became the nexus of criminality within public and political discourses around crime, and how this discourse created the conditions of possibility for the beginning of the mass incarceration movement during Nixon's Presidency. I examine the criminological discourse during Lyndon Johnson's Presidency with an eye towards the changing problematic of crime. To do so, I first study the emergence of the urban slum in post-war America, before studying the contemporary understanding of crime, both academically and within the public sphere.

I argue that Johnson's Great Society did not change the structural economic inequalities which contributed to rising levels of urban crime. Despite his administration's focus on economic and racial inequality, his policies were marred by Patrick Moynihan's culture of poverty theory, which understood both poverty and criminality as the result of individual pathology rather than structural inequality.

I then study Johnson's Presidential Commission on Law Enforcement and Administration of Justice, and their treatise: *The Challenge of Crime in a Free Society*. The work summarized Johnson's administration's understanding of crime, and argued that warring against poverty and discrimination constituted warring on crime. In attempting to implement the Commission's recommendations during his final year in office Johnson established the Law Enforcement Assistance Administration. This agency was ultimately greatly expanded under Nixon and became the locus of a punitive expansion of the American criminal justice system. I argue that the era of mass incarceration had its roots in the criminological discourse of Johnson's liberal 1960s.

# Table of Contents

List of Figures	iii
Introduction	1
Section 1 - The Criminological Discourse	8
Section 2 - The Emergence Of the Urban Slum	16
Section 3 - The Great Society: Kennedy and Johnson's Legislative Ambitions	22
Section 4 - The Fear of Crime: Law and Order politics and the Cultural Milieu	25
Section 5 - <i>The Problem of Crime in a Free Society</i>	37
Section 6 -The Political Mechanisms of Mass Incarceration	49
Conclusion	53
Bibliography	55

## List of Figures:

1. Time Magazine Cover: Harlem Riots Page 31
2. Time Magazine Cover: Los Angeles Riots Page 31
3. Time Magazine Cover: Detroit Riots Page 31

## 1. Introduction

This thesis is concerned with crime and poverty during the second half of the 20th century in the United States. Particularly, it concerns the process through which young, poor, urban, racial minorities became the nexus of criminality within public and political discourses around crime. Beginning in the 1960s there emerged an interrelated political concern between rising crime rates, and the poverty that was endemic despite of post-War economic prosperity. This concern materialized during Kennedy's presidency, and was carried forward by Lyndon Johnson's proposed Great Society, an ambitious series of federal legislation aimed at ending poverty and racial discrimination. Kennedy and Johnson's legislative ambitions were responses to both the domestic unrest of the civil rights movement and public anxiety with rising rates of crime. Both presidents sought, one one hand, to curb the turmoil of the civil rights movement through passing legislation, and, one the other to address the root conditions of crime through reducing national poverty.

The conflation of crime and poverty was a key discursive pivot during the 1960s. Previously the political discourse had focused on organized crime, particularly Irish and Italian mafias. An emerging intellectual and political fixation with urban slums reshaped the problematic of crime around juvenile violence. Urban slums became the locus of a new leftist academic study of poverty which focused upon the individual pathology of the poor. Kennedy and Johnson drew upon this academic work to develop their administrations' approaches towards addressing both crime and poverty. At the same time, Barry Goldwater pioneered the fear mongering political rhetoric of law and order. Taken together this focused political attention

from the left and right onto the rising crime rates and failing conditions of America's urban centers.

When Nixon was elected in 1968 he rejected Kennedy and Johnson's anti-crime measures and brought a punitive focus to America's federal criminal justice policy -- a punitive focus that continues to this day, and led to mass incarceration as we know it. This is not a thesis about the rise of mass incarceration per se, but is motivated by the fact that one in six black men in the United States today has been incarcerated<sup>1</sup>. Rather, this thesis explores how Johnson's promise and failure to address the root conditions of crime and poverty created the conditions of possibility which have shaped the past four decades of punitive criminal justice policy alongside a slow but steady rejection of federal welfare programs.

In order to do so, I begin by examining the material conditions and intellectual traditions that contextualized Johnson's ambitions and failures. My research focuses on Johnson's presidency, although I understand his ambitions as an extension of his predecessor, John Kennedy<sup>2</sup>. I first seek to explain that the poverty of America's urban centers resulted from long term structural changes in employment and population demographics, which Johnson's presidency was never fully prepared to address. This background historical work focuses on understanding the state of American cities during the 1960s. To do so I draw upon the scholarship of Ira Katznelson in her book *When Affirmative Action Was White* to understand

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<sup>1</sup> "NAACP | Criminal Justice Fact Sheet." 2017. NAACP. <http://www.naacp.org/criminal-justice-fact-sheet/>.

<sup>2</sup> Generally when I speak of Kennedy, Johnson, or Nixon's presidency I seek to encompass the broad work and spirit of their administrations. American history is never dictated by one individual, although it is often expedient to describe "what Johnson did," as a way of speaking generally about the work of the federal government between 1963 and 1968. Since my primary focus lies in describing the changing discourse around crime -- rather than telling a particular legislative history -- I often err towards generality.

racial discrimination in access to GI bill benefits, and Isabel Wilkerson and Nicholas Lemann's writing on the Great Migration in their books *The Warmth of Other Suns* and *The Promised Land* respectively. The Great Migration brought millions of blacks out of the south and into America's urban centers, which alongside white flight to the suburbs shaped the urban landscape which emerged as the physical and discursive site of crime during the 1960s. I then seek to show that, despite his focus on unemployment and poverty (and perhaps because of the focus on Vietnam), Johnson's presidency never rivaled the massive public spending of the New Deal which might have seriously addressed the structural conditions of economic and racial inequality which plagued America's inner cities. This builds upon the historical scholarship of Elizabeth Hinton's book *From the War on Poverty to the War on Crime*.

While I do not propose a master theory of crime, I introduce historian Roger Lane's understanding that crime is in large part economically conditioned in order to explain why Johnson's Great Society failed to address the rising crime rate. I argue that the influence of Michael Harrington and Patrick Moynihan -- two academics credited with theorizing the "culture of poverty" -- on Johnson's administration led to a misdirected emphasis on the social rather than structural aspects of racial discrimination and economic inequality.

I begin to look at primary material with a close reading of Barry Goldwater's acceptance speech at the 1964 Republican Presidential convention. I argue that Goldwater created a political rhetoric which established Republicans as tough on crime in contrast with Johnson's Democratic focus on warring against poverty. Goldwater played into fear of crime and racist resentment of the civil rights movement to restructure Republican and Democratic constituencies. While Goldwater lost the election, he demonstrated that fears of crime resonated with the electorate. To

further demonstrate the cultural salience of crime, I examined the archives of the *New York Times*, *Time Magazine*, and a number of mainstream cultural productions of the 1960s, all of which can be read as expressing a growing fear of urban violence. Working broadly under the assumption of cultural studies that middlebrow news and media can be used to gauge public sentiment, I read these texts as evidence that the problematic of crime had restructured itself around urban violence in the eyes of the public sphere.

While Johnson ultimately won the 1964 election over Goldwater, he entered his first full term with mounting political and public concern around crime which drove him to convene his Presidential Commission on Law Enforcement and Administration of Justice. Without writing a complete history of Johnson's presidency, I try to provide enough historical context to situate the work of the Commission in relation to Johnson's Great Society as a whole. The Commission's final report, *The Challenge of Crime In A Free Society*, serves as the main primary source of this thesis. The three hundred page report offers an extensive articulation of how Johnson's administration thought about crime. The report was prescriptive, concluding with over three hundred recommendations for addressing crime. Analyzing the report and these recommendations I argue that the Commission understood crime as a societal problem grounded in structural inequality. However, they maintained a focus on the culture of poverty, which they saw as seeding criminal behavior. Despite explicitly stating that racial discrimination and poverty causes crime, many of their recommendations failed to meaningfully address the depths of these issues.

Having contextualized the contemporary political and social climate, I argue that the Commission's findings were never given a fair chance because Goldwater's rhetoric had created



a political climate in which politicians were afraid of appearing “soft” on crime. Johnson’s Commission was the most comprehensive study ever of American crime, and they concluded that crime could only be reduced through ameliorating the conditions of racial and economic inequality. That was the very goal of Johnson’s Great Society: he was the first president to legislate comprehensive civil rights reform and he did more to expand the American welfare state than any President other than Franklin Roosevelt. In spite this, crime continued to rise throughout Johnson’s presidency, tarnishing the authority of the Commission. However, as I argued earlier, Johnson’s Great Society -- despite its great successes -- did not structurally improve the economic conditions of America’s urban centers where crime was rising. Particularly, Johnson did little to decrease unemployment, which Roger Lane convincingly argues is strongly correlated with rates of crime. While Johnson should not be criticized for failing to solve the enormous problems of poverty and racial discrimination, by overpromising and under-delivering he made possible Nixon’s -- and future generations of American politicians -- rejection of the social programs he so deeply cared about.

I conclude with an examination of the establishment of the federal Law Enforcement Assistance Administration through which Nixon ultimately funded the expansion and militarization of the American police. In his last year in office -- still facing public and political pressure to address crime -- Johnson pushed for the passage of legislation to encourage police reform. The 1968 Law Enforcement Act, which established the Law Enforcement Assistance Administration, was intended to channel federal funding to police departments that implemented the reforms recommended by the Commission’s report. In studying the relationship between the Commission and this legislation I draw upon William Bengton’s PhD dissertation: *The*

*Relationship of Theory To Policy: A Case Study of The President's Commission On Law Enforcement*, which provides an insightful analysis of the bill's Congressional history.

Ultimately the bill was drastically reworked in Congress; in its final form it provided federal block grants for police funding, distributed on a per-state basis, the majority of which went towards anti-riot initiatives. This removed the federal government's ability to use selective funding to encourage departmental reform, and eventually became a financial avenue through which Nixon funded the war on drugs.

In other words, what Johnson served to accomplish was the the emergence of a new problematic of crime which conflated crime with poverty and focused public, political, and police attention on non-white, urban crime -- a focus that later brought the abandonment of the very social welfare measures that might have prevented this type of crime from escalating into the problem it became between the 1960s and the 1990s.

Ultimately, this thesis seeks to explain what went wrong with American criminal justice policy. I did not start out writing about the 1960s, but rather I began my research studying the drastic drop in crime during the 1990s. By the early 1990s the era of mass incarceration was at its zenith -- any structural discussion of poverty or discrimination had disappeared.

Criminologists, police commissioners, and politicians in the 1990s did not debate how to ameliorate the root conditions of crime, but instead single-mindedly focused on the efficacy of policing. All discussions of the falling crime rate at this time traced back to improved policing techniques. One quote from William Bratton, New York police chief during the 1990s -- stands out as emblematic of this period. He states in his autobiography:

“we began to run the NYPD as a private profit-oriented business. What was the profit I wanted? Crime reduction. I wanted to beat my competitors -- the criminals -- who were out there seven days a week, 24 hours a day. I wanted to serve my customers, the public, better; and the profit I wanted to deliver to them was reduced crime<sup>3</sup>.” This is the language of the market, and it describes America’s largest police department. Starting from the 1990s I began to work backwards, trying to understand why crime fell, and how the discourse around crime had so completely collapsed upon the police.

Part of this I believe has to do with the sheer violence in America’s cities from the 1960s to the 1990s. The national homicide rate doubled from five to ten per 100,000 people between 1960 and 1975, with an overwhelming majority of that violence concentrated among young men in major cities<sup>4</sup>. A history thesis cannot convey the violence of the lived experience behind these macro crime statistics and people of all races desire to live without fear of violence, protected by effective police. However, Bratton’s words in 1998 read very differently than the Commission’s in 1967 when they wrote that “warring on poverty, inadequate housing and unemployment, is warring on crime.<sup>5</sup>” I seek to understand how we came from one discourse to the other.

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<sup>3</sup>William Bratton, *Turnaround* ( 1st ed. Random House 1998), 5

<sup>4</sup>Alfred Blumstein and Joel Wallman, *The Crime Drop in America*. (Cambridge: Cambridge Univ. Press, 2000), 224

<sup>5</sup> *The Challenge of Crime in a Free Society*. U.S. Govt. Print. Off., 1967.

## 1. The Criminological Discourse

“The problems of crime bring us together. Even as we join in  
common action, we know there can be no instant victory.

Ancient evils do not yield to easy conquest”

Message from President Johnson to Congress, March 19, 1966<sup>6</sup>

There exists a tumultuous relationship between knowledge and public discourse. Rarely do the limitations of the former inhibit the conviction of the latter. During the 1960s in the United States a particular criminological discourse was established between academia and the administrations of Kennedy and Johnson which located crime as a distinctly racialized and urban phenomenon. I locate this discourse somewhat broadly at the intersection of government policy, public opinion, and academic knowledge. Of particular importance is the ways in which academic knowledge is disseminated and understood by policy makers who legislate under a particular understanding of why and where crime occurs. This discourse permeated the era’s “common sense” logic, and informed the legislative agendas of Kennedy, Johnson and, later (with a militarized hue), Nixon. Understanding the interplay between the material conditions of crime and this criminological discourse is crucial to any illumination of how the Federal government’s approach to crime fighting narrowed from the amelioration of the social conditions of crime to a efficacious police force and the containment of criminal behavior.

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<sup>6</sup> Lyndon B. Johnson. “Special Message to the Congress on Crime and Law Enforcement.” Congress, March 9, 1966. <http://www.presidency.ucsb.edu/ws/?pid=27478>.

Historically, urban centers have been associated with crime. There is some truth to this: population density remains correlated with crime. The more people living in close proximity to one another, the more crime is likely to occur. This was as true during the 1960s as it is today: crime is, and is narrated as, a particularly urban problem<sup>7 8</sup>. However, the relationship between actual levels of urban crime, and perceptions of urban crime, is complicated. On the surface, the relationship is straightforward: police reports show that the majority of crime occurs in urban areas, and in turn there is a widespread consensus that cities are exceptionally unsafe. While this is broadly true, statistics, particularly crime statistics, cannot be taken on face value because the recorded crime rate fluctuates for many reasons that have little to do with crime. Furthermore, perceptions of crime are not necessarily related with the actual crime rate: according to contemporary work from the Pew Research Center, since 1989 a majority of Americans have perceived crime as getting worse, even while it has steadily and rapidly declined<sup>9</sup>.

Similarly, the perceived criminality of racial minorities has been an unfortunate, longstanding historical trope throughout US history. In particular, a deep fixation with black criminality dominates the 1960's criminological discourse. This fixation was thinly masked by many commentators who used class to codedly discuss race, and well as the general American hesitancy to explicitly acknowledge race. Nevertheless, this fixation underpins all discussions of crime.

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<sup>7</sup> The United Nation's 1996 study on global living conditions emphasizes the ongoing and international crime risks associated with urban living:

United Nations Centre for Human Settlements, ed. *An Urbanizing World: Global Report on Human Settlements, 1996*. Document (United Nations) ; Oxford ; New York: Oxford University Press for the United Nations Centre for Human Settlements (HABITAT), 1996.

<sup>8</sup> Johnson's Presidential Commission on Crime reported that in 1965, 26 core cities with populations over half a million accounted for 18% of the country's population but 50% of all reported crimes.

<sup>9</sup> John Gramlich. "5 Facts about Crime in the U.S." *Pew Research Center*, February 21, 2017. <http://www.pewresearch.org/fact-tank/2017/02/21/5-facts-about-crime-in-the-u-s/>.

The political and criminological discourse underpinning Johnson's presidency assumed the criminality of urban spaces and non-white bodies. This shares a distorted relationship with the truth. In both cases there exists an foundational "common sense" logic upon which the criminological discourse is built. This "common sense" logic was established and legitimized through its relationship to the material conditions of crime but, in becoming a generalized assumption, it problematically naturalized and severed its historical circumstances. In the United States the national crime rate began to rise following World War Two, precipitously so during the late 1950s and throughout the 1960s<sup>10</sup>. The majority of this crime occurred in large cities, and blacks committed violent crimes at disproportionate rates to whites. The governments of both Johnson and Nixon -- despite their drastically different approaches -- failed to address this problem of rising urban in part because the criminological discourse underpinning their policies took for granted the criminality of the urban, non-white, poor without also unpacking the historical conditions that led to this particular reality.

Unlike the generalized statistical correlation between crime rates and urban centers, there should be made no broad statistical claims regarding crime and race. Nevertheless, there do exist racial discrepancies in crime rates which cannot be ignored, at the least because they inform the construction of the criminological discourse. Simply put, during the 1960s specifically -- but generally throughout the 20th century -- blacks committed homicides at a higher rate than any other racial group<sup>11</sup>. While this is true throughout the 20th century, the perception of black

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<sup>10</sup> *The Challenge of Crime in a Free Society*. U. S. Govt. Print. Off., 1967. Page 23 Figure 4

<sup>11</sup> I am choosing to cite this statistic from Roger Lane's tremendously helpful book, *Violent Death in the City*, because I believe he does a terrific job contextualizing these statistics, from which my own thinking is greatly indebted. While his research focuses specifically on Philadelphia, he makes clear his observations are applicable across the United States:

Roger Lane. *Violent Death in the City* (Harvard University Press, 1979), 113

criminality predates the divergence of the black homicide rate from other population groups in similar socio-economic situations. During much of the 19th century the recorded homicide rate of Irish and Italian communities was comparable to that of blacks<sup>12</sup>. It is only during the 20th century as distinct European nationalities are collapsed under the identity of whiteness in the eyes of criminologists and politicians that these rates diverge<sup>13</sup>.

This is a line of reasoning explicated by historian Roger Lane in his 1979 book *Violent Death in the City*, which explicitly ties the development of an industrial working class during the nineteenth century with a steady decline in the violent crime rate. Lane's thesis has a practical and psychological component. Practically, he argues that unlike previous modes of employment, industrial labor forced large swathes of the male<sup>14</sup> population into rigid routines which limited possible violent criminal encounters and in particular forced the working class into daytime sobriety. Psychological, Lane argues that the emergence of mandatory secondary schooling disciplined the working class for industrial labor served to simultaneously discipline students against violent crime.

Lane extends this line of reasoning to explain the changing racial discrepancies in the homicide rates throughout the late 1800s and into the middle of the twentieth century. Blacks were systematically excluded from the dual systems of education and industrial labor, which drove down the white homicide rate. The black homicide rate began to diverge from comparable socioeconomic ethnic minorities because those ethnic minorities saw their socioeconomic

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<sup>12</sup>Lane. 103

<sup>13</sup> Homicides are used as a proxy for violent crime in general because homicides rarely go unreported. Reasonably accurate data on the homicide rate exists for far further back in history, and with higher fidelity, than any other type of crime.

<sup>14</sup> Because the overwhelming majority of violent crime is committed by men, almost all discussions of the violent crime rate largely ignore female criminality.

statuses change, while that of black American's remained stagnant. Lastly, Lane stresses the role the emergence of easily accessible handguns<sup>15</sup> had on rising black homicide rates during the 20th century: it became materially easier to kill another human being.

Lane's analysis is more thoroughly grounded in economic conditions than the general academic criminological discourse during Johnson's administration. Johnson's administration was deeply influenced by the culture of poverty theory, which understood poverty as fundamentally the result of the individual pathology of the poor. By this logic, the same lack of responsibility and self respect which seeded poverty was understood as seeding criminal behavior. A culture of poverty theory was first articulated by American anthropologist Oscar Lewis in his 1959 work *Five Families; Mexican Case Studies in the Culture of Poverty*.<sup>16</sup> In seeking to explain persistent poverty in the face of economic prosperity, Lewis studied five multigenerational families in the slums of Mexico City. He described poverty as self-perpetuating due to particular, cultural traits of the poor which are passed on generationally. Lewis obfuscated structural inequalities in access to education, work, and capital and described poverty as the result of the individual pathologies of the poor. While Lewis describes a culture of poverty, not a culture of crime, by moralizing and individualizing poverty he makes possible the extension of his logic into crime. Lewis's work deeply influenced the sociologist Patrick

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<sup>15</sup> The abundance of firearms in the United States is a known, but somewhat unspoken, contributing factor to this country's high homicide rate, especially when compared to similar countries. For example, since the 1960s, the United States' homicide rate has been roughly three times that of Canada's. Because it is unfortunately such a political issue, gun control is rarely discussed as a tool to be used against violent crime despite strong evidence from around the world, and within the United States, that stricter gun control decreases violent crime. Why gun control remains an unspoken issue in American criminology is a topic worthy of a thesis in its own right.

<sup>16</sup>Oscar Lewis, *Five Families*. (Science Editions, Wiley, 1962)



Moynihan and author Michael Harrington, both of whom went onto work for Johnson's administration and helped shape how his administration thought about crime.

Michael Harrington's book *The Other America*, shaped how the public, and public officials, thought about poverty. The book -- which describes the persistence and depth of poverty in America -- sold 70,000 copies in its first year, and was cited by John Kennedy as inspiring his commitment to fighting poverty<sup>17</sup>. Harrington was a freelance author and socialist political activist who had traveled the country researching *The Other America*, focusing his work on appalachia and urban slums. He proclaimed these regions of the country as left behind by mainstream politicians, which rings eerily true more than fifty years later.

Harrington popularized the term culture of poverty, using it throughout *The Other America*. However, a close reading of *The Other America* shows that he used that phrase alongside another phrase "the vicious circle of poverty," and that Harrington meant something very different by it than Lewis and Moynihan. Harrington was deeply focused on the structural dimensions of poverty. For him the culture of poverty evoked systematic differences in opportunity rather than persistent, physiological differences between the poor and the rest of society. While Harrington went onto serve as an advisor on poverty for Johnson's administration, his primarily influence lay in popularizing the culture of poverty in the public sphere among those who read his book. Johnson's administration was far more guided by the alternative interpretation of the culture of poverty, promoted by Patrick Moynihan.

Patrick Moynihan was an American sociologist with a deep interest in racial and economic inequality who served as the Assistant Secretary of Labor for Policy, Planning and

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<sup>17</sup> Michael Harrington, *The Other America: Poverty in the United States*. (Reprint edition. New York: Scribner, 1997)

Research for presidents Kennedy and Johnson. In this role Moynihan worked to formulate the policies behind Johnson's Great Society. In this role he wrote the famous Moynihan report, which was first circulated as a brief within Johnson's administration before later being published<sup>18</sup>. Building upon Lewis's theory, Moynihan fixated on individual behavior while de-emphasizing structural inequality. In a break with mainstream contemporary sociological thinking, Moynihan argued that black unemployment and poverty was due to the deterioration of the black family, particularly the rise of black single-mother families. By shifting focus away from generations of economic inequality, perpetuated by unequal educational and employment opportunities, Moynihan cast black poverty as a problem of black families, rather than society as a whole. Both Moynihan and Johnson's administration had a genuine interest in addressing black poverty -- if only in an attempt to address rising rates of crime -- but failed to acknowledge foundational inequalities in economic opportunities which were continuing to diverge.

By listening to Moynihan rather than Harrington, Johnson's administration failed to address the diverging difference between black and white unemployment, which in turn exacerbated diverging black and white rates of crime. Harrington, similarly to Roger Lane, fixated on the role of employment and called for a broad federal jobs program in the vein of the New Deal. However, job programs are expensive, and Johnson's Great Society had one tenth the budget of the New Deal's public works programs<sup>19</sup>. Moynihan's focus on culture was incredibly appealing to Johnson's policy makers who were operating within budget constraints. As such, Johnson's Great Society was shaped around measures intended to eradicate the culture of poverty rather than poverty itself. Job training programs and improving public education became

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<sup>18</sup>Daniel P. Moynihan, *Miles to Go* (Harvard University Press, 1996), 87

<sup>19</sup> Harrington, XVII

the backbone of Johnson's Great Society, and while these were laudable causes they did not fundamentally alter the economic conditions of poor black families.

For the first half of the 20th century the white and black unemployment rate had remained roughly equal, but by 1960 these rates had significantly diverged with the black unemployment rate more than double that of their whites, six percent versus thirteen percent<sup>20</sup>. This two-times difference has held steady to the present, despite fluctuations in the overall numbers. By failing to address the root causes of racialized economic inequality and fixating on the morality of the black family, Johnson's administration failed address the root causes of crime.

Conspicuously absent from both Moynihan's scholarship and Johnson's administration were the voices of black families themselves. The report was controversial in its time and there was immediate pushback in the 1960s and 1970s from black and leftist academics, yet the report was still incredibly influential. Just recently Yale Law professor James Forman published a book *Crime and Punishment in Black America*<sup>21</sup> which attempts to repatriate agency to black leaders facing the same problems of crime and poverty described by Moynihan. The book focuses on Washington DC between the 1960s and 1980s and highlights the role black leaders had in advocating for more punitive anti drug intervention<sup>22</sup>. More of this scholarship is undoubtedly necessarily for illuminating the response of black communities to rising rates of crime. This

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<sup>20</sup>Drew DeSilver "Black Unemployment Rate Is Consistently Twice that of Whites." Pew Charitable Trust, August 21, 2013. <http://www.pewresearch.org/fact-tank/2013/08/21/through-good-times-and-bad-black-unemployment-is-consistently-double-that-of-whites/>.

<sup>21</sup> James Forman Jr. *Locking Up Our Own: Crime and Punishment in Black America*, (New York, NY: Farrar, Straus and Giroux, 2017)

<sup>22</sup>Khalil Gibran Muhammad, "Power and Punishment: Two New Books About Race and Crime." *The New York Times*, April 14 2017

perspective is sorely missed within the secondary literature, and urban black communities are essentially completely othered within the academic discourse. They are described as static vectors of criminality which are acted upon by white policymakers, rather than real communities doubly suffering from racial/economic inequality and excessive violence. Unfortunately this thesis does not address this gap in scholarship.

## Section 2: The Emergence of the Urban Slum

Moynihan's report described the "ghetto culture" which conditioned poverty and crime. Johnson's administration was concerned with the "urban slum." These implicitly racialized references described a new American environment: the urban slum. The era's criminological discourse was predicated upon an understanding that crime was concentrated in poor, overwhelmingly non-white<sup>23</sup>, inner cities. This was only made possible by the shifting problematic of crime. During the 1960s crime came to mean urban violent crime, and all other forms of criminal behavior were largely dropped from the discourse.

The decline of American cities was a relatively recent phenomenon in the 1960s, which can be traced to changing population demographics following World War Two and the slow process of deindustrialization. While these cities had always been more violent than the rest of the country, it was only during the 1960s -- as American inner cities expanded to include larger non-white populations -- that the criminological discourse began fixating on urban criminality.

American urbanization was a recent phenomena. Only in 1920 did the US census<sup>24</sup> show over half of American's living in urban areas<sup>25</sup>. This was driven a slow and broad shift from agricultural to industrial employment, which drew predominantly white American's away from agricultural land and into urban centers. Prior to World War Two blacks were largely barred from industrial employment, and in turn the opportunity to move to major cities. Only the

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<sup>23</sup> Throughout the 1960s the criminological discourse almost exclusively focuses on blacks. Throughout the later 20th century this non-white other is expanded to encompass Central and South Americans.

<sup>24</sup> Recorded every ten years.

<sup>25</sup> Confusingly, the US census only demarcates between urban and rural, while FBI crime data is divided between urban, suburban, and rural.

shortage of white, male labor during wartime expanded widespread access to manufacturing jobs for non-whites and women. Following World War Two urban demographics began to shift. The urban ghetto began to emerge, promptly to become the locus of the 1960's criminological discourse.

The intertwined broad migration patterns of the Great Migration and White Flight, racial discrimination implicit in GI bill benefits, and ongoing deindustrialization all contributed to constructing racially segregated, urban ghettos. The Great Migration refers to the mass exodus of six million blacks out of the rural South between 1910 and 1970. This migration occurred in two waves. First, in response to labor shortages brought on by World War One, some one million blacks left agricultural jobs in the South and traveled to Northern cities in search of industrial work. Later, beginning during World War Two and continuing until 1970 -- again initially in response to wartime labor shortages -- at least another five million blacks left the South, largely in search of industrial work. Notably, the second migration occurred on a far greater scale than the first. Often men would initially travel by themselves, only to be joined by their families when they secured work. The Great Migration brought blacks to industrial cities throughout the North and in California<sup>26</sup>. The Great Migration is one of the great voluntary mass migrations of the 20th century, as black families fled persistent racial discrimination in the South to pursue better lives in the North and West.

While the North was free of some of the South's overt racial discrimination, these migrants faced continued segregation upon completing their travels. Overt discrimination meant black families had fewer options for where they could live, leading to the rapid expansion of all

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<sup>26</sup>Nicholas Lemann, *The Promised Land*. (1st ed. A.A. Knopf, 1991)

black neighborhoods, often in the inner city. This coincided with the mass exodus of two million white residents from cities to the suburbs, exacerbating segregation. Much of this migration to the suburbs happened after World War Two, made possible by home loans through the GI Bill, which were systematically denied to black veterans. These migration patterns disproportionately concentrated blacks in city centers where they were heavily dependent upon employment tied to industrial manufacturing.

The GI Bill, provided economic and educational opportunities for veterans but due to ongoing discrimination the benefits largely accrued to white Americans, exacerbating racial inequality. Intended to help reintegrate 16 million American veterans returning from World War Two, the GI bill provided benefits for eight out of ten men born during the 1920s<sup>27</sup>. However, blacks were disproportionately underrepresented in the United States' armed forces: half of black men in their twenties and thirties served during World War Two, compared to three out of four white men. This is in part because a significantly lower percentage of black applicants passed various military tests for literacy and aptitude<sup>28</sup>. While the GI Bill built the United States' middle class, it offered this American dream to white Americans and few others.

Home loans, promised through the GI Bill, were often outright denied to black veterans, excluding them from the opportunity to participate in the rising movement towards suburbia, and the economic benefits associated with home ownership. Home loans were not issued directly by the federal government, but rather veterans were guaranteed access to loans through private banks. However, banks largely refused to loan to black veterans, despite the GI Bill's promises, and there was little recourse for black veterans who were denied loans. This was not limited to

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<sup>27</sup> Ira Katznelson *When Affirmative Action Was White*. (1st ed. W.W. Norton, 2005) 122

<sup>28</sup> Katznelson, 129

the South: of the first 67,000 home loans issued in the New York and New Jersey suburbs, less than one hundred went to non-whites<sup>29</sup>.

The GI Bill further exacerbated racial inequality because white veterans were disproportionately able to capitalize on the subsidizing education and job training provided by the bill. From the beginning to the end of the 1940s, the number of Americans graduating college tripled from 160,00 a year to over half a million. This was made possible by the GI Bill which paid for veterans' college tuition. Even more so than home ownership this created immense economic opportunity for veterans, but again black veterans were often excluded on account of ongoing discrimination.

Throughout the 1940s black enrollment in colleges and universities outside of the South never exceeded five thousand students a year. Whether due to de facto or de jure discrimination, black veterans were largely relegated to historically black colleges and universities in the South. Following World War Two there were not enough historically black colleges to handle the volume of students applying. Some fifty five percent of veteran applicants to historically black colleges and universities were turned away simply due to lack of space, compared to twenty eight percent of veterans across all colleges and universities. In total, twenty-three percent of white veterans received a college education because of the GI Bill, compared to eleven percent of black veterans<sup>30</sup>. Similar patterns occurred for veterans seeking vocational, job and farm training. Between 1946 to 1948 in Georgia, of the 102,000 veterans who participated in paid on the job training, only seven thousand were black. Out of 246 approved programs for such work,

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<sup>29</sup> "GI Loans: Colored Vets Who Borrow Cash Prove Sound Business Investments," *Ebony*, August 10 1947

<sup>30</sup> Katznelson, 132



only six accepted black applicants<sup>31</sup>. As more and more Americans attended college and university, it increasingly became a prerequisite for white collar work. This increasingly relegated (disproportionately black) undereducated workers to industrial labor just as deindustrialization was beginning to diminish the economic prospects of industrial work. Even though GI benefits were nominally open to all veterans, the opportunities for improving one's economic condition were largely by existing racial discrimination.

By the 1970s industrial economic opportunities began to dwindle as industrial jobs were either automated or moved outside the country. It is a cruel irony that industrial jobs became fully accessible to blacks just as the United States' industrial economy reached its peak<sup>32</sup>. With the repeal of Jim Crow laws during the 1960s, and dwindling industrial economic opportunity, blacks began to return to the South<sup>33</sup>. However, most remained, concentrated in inner cities, saddled with rising unemployment rates and persistent poverty. The decades following World War Two saw a generation of white Americans become well educated home owners in the suburbs working middle class jobs. Meanwhile, the same generation of black Americans were relegated to underinvested cities, facing under and unemployment which would peak at 19.5 percent in 1983. This broad historical analysis risks oversimplifying racial and class distinctions. There exists no hegemonic history nor singular white or black experience. White poverty -- both urban and rural -- persisted past Johnson's Great Society, and black American should not be seen as a singular, poor and undereducated mass. However, this macro trends are important for how

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<sup>31</sup> Katznelson, 135

<sup>32</sup> Gerald D. Taylor. "Unmade in America: Industrial Flight and the Decline of Black Communities." Alliance For American Manufacturing, October 5, 2016. <http://www.americanmanufacturing.org/research/entry/unmade-in-america>.

<sup>33</sup> William H. Frey, "The New Great Migration: Black Americans' Return to the South, 1965-2000." (Washington, United States: Brookings Institution Press, May 2004)

they shaped the criminological discourse of the 1960s. These broad generalities became the common sense logic upon which the discourse was established.

By Kennedy's election in 1959, the United States looked very different than it had prior to World War Two, and there had emerged concentrated, disaffected and poor, black communities in America's major cities. When the national crime rate began to rise and political attention turned towards the plight of the United States' slums, Johnson's advisors were looking at the result of a particular set of historical forces which had disenfranchised the inner city. Problematically, the presidential administrations of Johnson, Kennedy and later Nixon assumed this to be the natural state of America's inner cities. The violence and poverty wrought by discrimination and deindustrialization was assumed as natural and ever present. When Patrick Moynihan wrote that "the fundamental problem, in which this is most clearly the case, is that of family structure. The evidence—not final, but powerfully persuasive—is that the Negro family in the urban ghettos is crumbling<sup>34</sup>," he overlooked the material histories of economic and racial discrimination central to the crumbling of the "urban ghetto."

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<sup>34</sup> Daniel Geary. "The Moynihan Report: An Annotated Edition." *The Atlantic*, September 14, 2015. <https://www.theatlantic.com/politics/archive/2015/09/the-moynihan-report-an-annotated-edition/404632/>.

### 3: The Great Society: Kennedy and Johnson's Legislative Ambitions

Kennedy's administration had been defined by an expansion of progressive federal programs, notably a commitment to social welfare and civil rights. Kennedy was also economically pragmatic. Speaking before Congress in 1963 he argued: "There is little value in a Negro's obtaining the right to be admitted to hotels and restaurants if he has no cash in his pocket and no job<sup>35</sup>." In the words of historian Elizabeth Hilton:

"Kennedy called for "a massive upgrading" of public schools and created programs that would stimulate literacy; provide vocational training; and improve access to secondary education, healthcare and public benefits. These measures would focus explicitly on African Americans and other groups who had been largely excluded from Social Security provisions and federal housing and education programs that primarily benefited white veterans and their families under the New Deal and the terms of the GI Bill<sup>36</sup>."

Kennedy sought to extend the American welfare state -- which had flourished by his election 1960 -- to all members of society. However, these programs were not coded as such. When Kennedy was elected the public criminological discourse was still color blind, fixated on problems of juvenile delinquency. While the focus was implicitly on black juvenile delinquency, the discourse had not yet developed the full extent of its racial focus. This focus emerged throughout the 1960s as Kennedy advocated for federal welfare programs as both anti-poverty and anti-crime measures. Kennedy's social welfare programs targeted those racial minorities left behind by the New Deal and the GI Bill. However, these programs were framed as measures against anti-delinquency. It was easier to garner political support for preventing youth crime than

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<sup>35</sup> Elizabeth Kai Hilton's *From the War on Poverty to the War on Crime*. (Harvard University Press, 2016), 30

<sup>36</sup> Hilton, 30

extending social welfare to racial minorities, even if the end result was the same. This began the conflation of anti-crime and anti-poverty measures which continued under Johnson's presidency.

On November 22nd, 1963, John Kennedy was assassinated in Dallas Texas, and vice president Johnson was sworn into office. Johnson quickly began pushing to complete Kennedy's greatest ambitious, the passage of a civil rights bill. In his first public address to Congress as president -- just five days after Kennedy's assassination -- Johnson used Kennedy's death to push for the passage of the civil rights bill, stating "First, no memorial oration or eulogy could more eloquently honor President Kennedy's memory than the earliest possible passage of the civil rights bill for which he fought so long."<sup>37</sup> Starting with the Clean Air Act of 1963, Johnson signed into legislation a range of progressive programs centered around eliminating poverty and racial injustice which became known as the Great Society<sup>38</sup>. Without delving into a history of the Great Society, the program's ambition must be understood to make sense of how Johnson's administration thought about crime. His legislative agenda was premised upon a belief that the federal government can and should spend money and intervene in individual's lives for the sake of building a more just and equitable society. The only historical precedent for Johnson's proposed reforms was Franklin Roosevelt's New Deal. While Johnson's programs did not go as far as the New Deal, he acted during a period of incredible economic growth rather than under the ongoing threat of the Great Depression. Despite these political challenges Johnson -- aided by a Democratic majority in both houses of Congress -- was incredibly successful in passing legislation during his first term as President.

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<sup>37</sup> Lyndon Johnson. "Address to Joint Session of Congress" United States Congress, November 27, 1963. <http://millercenter.org/president/lbjohnson/speeches/speech-3381>.

<sup>38</sup>Robert Dallek. *Lyndon B. Johnson*, (2004)

This should not canonize Kennedy and Johnson, it is important to understand the full intentions of their progressive agenda. Both were incredibly concerned with the the growing collective of restless, unemployed black youth concentrated in America's cities due to the Great Migration. Both were wary of appearing soft on crime in the eyes of their constituents. While they both had a deep faith in federal social welfare's ability to address the root conditions of crime, they had a pragmatic interest in doing so. Furthermore, whereas Kennedy had displayed a focus the structural conditions of economic inequality, Johnson's continuation of Kennedy's legislative agenda was marred by Moynihan's theory of the culture of poverty. Nevertheless both President's expanded the reach of the federal government with the dual goals of combating crime and poverty.

By interweaving anti-crime and anti-poverty programs as a particularly Democratic approach, Kennedy and Johnson made possible an eventual Republican abandonment of anti-poverty measures in the name of changing the national approach towards crime prevention. Kennedy and Johnson both worked under the assumption that poverty bred criminality, and in order to address rising crime they sought to ameliorate the root conditions of both. There are good political and moral reasons for the federal government to reduce poverty that are unrelated to crime, and there are other approaches to reducing crime in addition to seeking to reduce poverty. By conflating the two causes, Kennedy and Johnson set the Democratic party up for a political backlash. Ideologically, they created space for a Republican rejection of poverty reform for the sake of reducing crime, when in reality these two phenomena are interrelated but should not be held as equals. This is not to say that Kennedy and Johnson caused the Republican party

to turn away from addressing poverty but rather that they created a politically salient justification for doing so.

#### 4. The Fear of Crime: Law and Order politics and the Cultural Milieu

When Barry Goldwater called for “enforcing law and order” during his acceptance speech at the 1964 Republican Convention, he changed the way American politicians talked about crime. Goldwater pandered to racism and fear by conflating civil rights protests and the nation’s rising crime rate, reducing both to domestic disturbances distracting the country from the Cold War. The proverbial father of the modern conservative movement<sup>39</sup>, Goldwater’s rhetoric on crime helped established a political binary which cast Republicans as tough on crime, and unconcerned with non-white constituents, in opposition to a racially diverse Democratic coalition emphasizing social welfare. These are not natural binaries, and emerged out of political expediency rather than genuine ideological divisions. Goldwater’s politics and the emerging partisan divide ideologically primed the Republican party for a conservative backlash against Johnson’s political agenda.

Goldwater’s racist politics began before assuming the presidential nomination that August. Just prior, in June of 1964, then senator Goldwater voted against the 1964 Civil Rights Act. The bill ultimately passed; signed into legislation on July 2nd by President Johnson. But Goldwater’s election as the Republican presidential nominee later that summer, brought to an end a black American tradition of voting Republican that dated to Lincoln and the Civil War<sup>40</sup>. Simultaneously, Goldwater’s vote drew historically Democratic, anti-integration Southern whites into the Republican party. This transition broke apart the New Deal Coalition that had governed

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<sup>39</sup>Matthew, Dallek. “The Conservative 1960s.” *The Atlantic*, December 1995.  
<https://www.theatlantic.com/magazine/archive/1995/12/the-conservative-1960s/376506/>.

<sup>40</sup> This split is meticulously described in Michael Fauntroy’s fantastic book, *Republicans and the Black Vote*  
Michael K. Fauntroy, *Republicans and the Black Vote*. (Lynne Rienner Publishers, 2007)

Democratic political strategy since Roosevelt, and racialized party divisions: constructing the Democrats as the party of civil rights and the Republicans as the party of segregation. By playing into a segment of the country's fear and anxieties around racial integration, Goldwater demonstrated the political efficacy of opposing the liberal social reforms of Kennedy and Johnson.

In doing so, Goldwater politicized the issue of crime. By demanding law and order, Goldwater reduced the incredible complexity of crime and social unrest to an issue of political willingness to be tough on crime. He implicitly established the police as responsible for crime; under this logic rising crime was the result of poor policing. This erased any discussion of the social and economic conditions which predispose criminal behavior, and through the logic of Goldwater's political binary, anyone who sought to address these underlying conditions was guilty of being "soft" on crime. This foreshadowed Nixon's rhetorical and political moves four years later, when he built upon Goldwater's logic to focus on police efficacy rather than ameliorating poverty. Goldwater had tapped into a culturally salient issue; by the 1960s the rising crime rates -- alongside the well documented social unrest of the civil rights movement -- had become an issue of national attention.

I looked at Goldwater's acceptance speech and the archives of *Time Magazine* and the *New York Times* to examine how rising crime rates and the violence of the civil rights movement appeared in the national zeitgeist during the 1960s. In addition to my own research I drew upon Steven Pinker's survey of contemporary movies, books and television shows to flesh out this argument. These sources highlight three related narratives which circulated within the public sphere: the rising national crime rate, the violence of the civil rights movement, and a fading



interest in organized crime. In particular, the numerous race riots throughout the mid-1960s were encompassed by the media within the general the violence of the civil rights movement. This problematically over-associated the civil rights movement with violence. I argue that all these sources can be read to demonstrate the emergence of the rising crime rate as an issue of national attention.

Goldwater first introduced his language of law and order<sup>41</sup>, during his acceptance speech at the 1964 Republican Convention. He went onto run a sensationalist campaign, pandering to fear and racial anxieties. While he eventually lost the election, his rhetoric of law and order shaped Johnson's own agenda during his second term, and laid the foundations for Nixon's successful 1968 campaign. I believe Goldwater's campaign can be read as a reflection of the country's own desires. Goldwater's campaign built a platform that they believed would resonate with enough of the country to win the presidency. Despite losing the election the very nature of his campaign deserves study. In that vein, I believe Goldwater's acceptance -- meant to galvanize support and unify the party -- offers a lens into the entire logic of his campaign.

This speech problematically conflates civil rights protests with crime, and established a loaded rhetoric that still carries political cache today. Goldwater does not mention crime specifically, but twice mentions violence. He first states: "Tonight there is violence in our streets" and secondly:

"Security from domestic violence, no less than from foreign aggression, is the most elementary and fundamental purpose of any government, and a government that cannot fulfill that purpose is one that cannot long command the loyalty of its citizens. History shows us - demonstrates that nothing - nothing prepares the way for tyranny more than the failure of public officials to keep the streets from bullies and marauders."

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<sup>41</sup> Barry Goldwater. "Goldwater's 1964 Acceptance Speech."  
<http://www.washingtonpost.com/wp-srv/politics/daily/may98/goldwaterspeech.htm>.

Taken within the context of rising national crime, Goldwater calls out Johnson's administration for failing "the most elementary and fundamental purpose of any government." "The loyalty" of citizens takes on added significance within contemporaneous dialogs of loyalty surrounding the Cold War.

When Goldwater proclaims the need to keep the streets clean of bullies and marauders he is implying African-American civil rights protesters, not racist cops. Coding civil rights protesters as bullies and marauders is one of the key discursive turns which explicitly racializes this speech. Coincidentally the same day Goldwater delivers this speech, July 16th, a New York City police officer shot and killed a fifteen year old black boy in front of numerous witnesses. This set off six consecutive nights of rioting in Harlem, and inspired subsequent riots later that summer in Philadelphia, Rochester, Chicago, and numerous other cities across the North. These followed riots in Birmingham Alabama the previous summer, in response to the the KKK bombing of civil rights leaders. By reducing protesters and rioters to bullies, Goldwater sought to delegitimize all solidarity with the civil rights movement, and shifted attention away from legitimate grievances regarding police brutality and ongoing discrimination which incited acts of collective violence. While Johnson as well condemned the rioting that summer -- and his campaign was incredibly fearful that the riots would drive voters to Goldwater<sup>42</sup> -- he importantly did not conflate the riots with the civil rights movement in general.

Goldwater goes on to proclaim the need for: "[balanced freedom] so that liberty lacking order will not become the license of the mob and of the jungle." While Goldwater does reference "the jungles of Vietnam" later in the speech this reference to "the jungle," appearing alongside

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<sup>42</sup>Michael W. Flamm, *Law and Order*, (2005), 65

“mob” appears overtly racially charged. Irrespective of Goldwater’s word choice, his convention speech signals his belief that the public was exceptionally concerned with crime, particularly violent acts of protest.

Goldwater’s speech played into already present public sentiment which can be read through popular news media. While far from exhaustive, my survey of New York Times articles from 1959 to 1964 reveals a steady stream of articles describing rising city-wide and national crime rate. With headlines such as: *Major Crime Rose 4.8% Here in 1959*<sup>43</sup> (February 12th, 1960), *Serious Crime Rose 13% Here; Rest of U.S. Shows 3% Increase*<sup>44</sup> (November 30th, 1962), *Record For Crime Set By U.S. In 62*<sup>45</sup> (July 19th, 1963), these articles often ran on the front page, their tone varying from the purely journalistic to the sensational. While major papers presumably always report on crime, the tone and volume of articles describing rising crime rates reveals a disheartening media landscape. These articles both describe the actual rising rates of crime, and the public perception of that crime. In particular, articles such as *Rising Fear Found On Upper West Side*<sup>46</sup> (June 25th, 1964) describe an incredibly frightful urban populace: “Apprehension over frequent muggings, thefts, robberies and other forms of violence cause many residents to “seal themselves in at night” and not venture outdoors after dark.” While public opinion is never hegemonic, and the news media only offers a distorted perception of public opinion, these articles speak generally to a climate of growing concern with rising crime.

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<sup>43</sup> Guy Passant. “Major Crime Rose 4.8% Here In 1959.” *New York Times*, February 12, 1960. <https://timesmachine.nytimes.com/timesmachine/1960/02/12/105418083.html?pageNumber=1>.

<sup>44</sup> “Serious Crimes Rose 13% Here; Rest of U.S. Shows 3% Increase.” *New York Times*, November 30, 1962.

<sup>45</sup> Associated Press. “Record For Crime Set By U.S. In ‘62,” *New York Times* July 19, 1963

<sup>46</sup> Laymond Robinson “Rising Fear Found On Upper West Side.” *The New York Times*, June 25, 1964. <http://www.nytimes.com/1964/06/25/rising-fear-found-on-upper-west-side.html>.

My study of *Time Magazine* cover articles during the 1960s demonstrates a focus on urban race riots and organized crime rather than on rising urban crime rates. The widely publicized race riots of the 1960s contributed to growing national fear. Unlike a daily newspaper such as *The New York Times*, which attempts to serve as an exhaustive source of news, *Time Magazine* concentrates upon fewer stories, presumably of larger appeal. In particular, the cover stories of *Time Magazine*, accompanied with captivating imagery, are meant to sell the magazine. These are stories intended to make a reader stop, pick up, and purchase the magazine, and as such reflect what *Time Magazine* perceives to be of national interest in any given week. Accordingly I believe they can be read as reflecting public interest.

*Time Magazine* ran cover stories on the Harlem<sup>47</sup> riots in 1964, the Los Angeles<sup>48</sup> riots in 1965, and the Detroit riots<sup>49</sup> in 1967. When searching through *Time Magazine* archives, these cover articles appear categorized both under the sections of Crime and Civil Rights. The covers themselves, which appear on the next page, are worthy of a close reading. Harlem is depicted before the riots. The cover is either drawn or painted, and a multigenerational black family sitting on a stoop. The entire cover has a pleasant, soft color palette. Behind the family is a wall of buildings ascending into the sky. It conveys the urbanness of Harlem, but is a peaceful image. The cover on the Los Angeles riots is completely different, featuring three black and white photos of the violence, stacked upon one another. The first image is taken from the air and shows a burning city block, the second shows the flipped, burnt out husk of a car, the third image

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<sup>47</sup> "TIME Magazine -- U.S. Edition -- July 31, 1964 Vol. 84 No. 5." 2017.  
<http://content.time.com/time/magazine/0,9263,7601640731,00.html>.

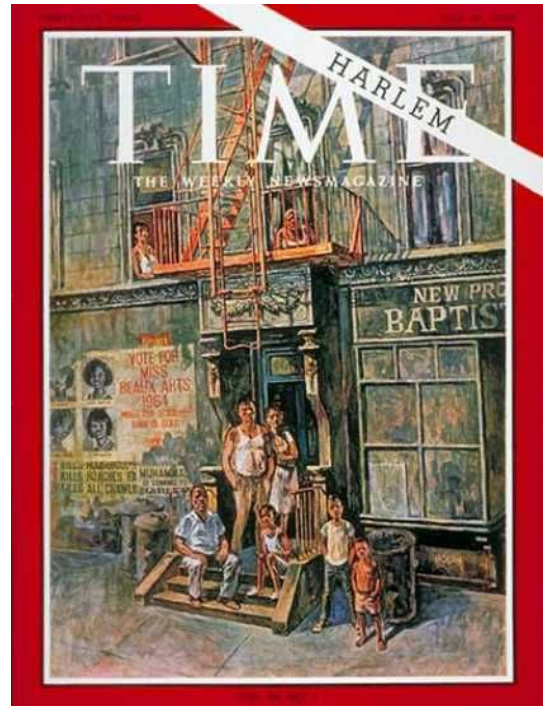
<sup>48</sup> "TIME Magazine -- U.S. Edition -- August 20, 1965 Vol. 86 No. 8." 2017.  
<http://content.time.com/time/magazine/0,9263,7601650820,00.html>.

<sup>49</sup> "TIME Magazine -- U.S. Edition -- August 4, 1967 Vol. 90 No. 5." 2017.  
<http://content.time.com/time/magazine/0,9263,7601670804,00.html>.

is of black protesters running through the streets. Unlike the previous cover which highlights the black family, this cover highlights the violence of young black men. Both these contrast to the cover on the Detroit riots.

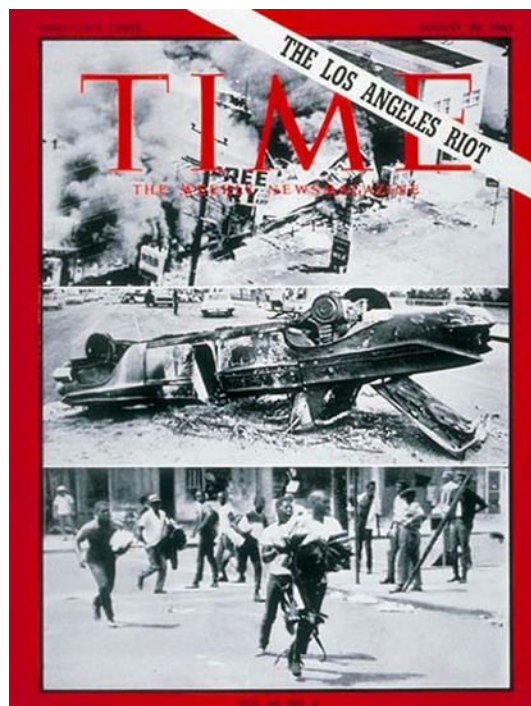


Detroit, 1967



Harlem, 1964

Los Angeles, 1965



Again drawn or painted, the cover centers an image of a burning building. On the top left of the cover is a scared looking national guardsmen, the right side of the cover features two images of scared looking white adults, while the bottom left features black firefighters.

These covers shift from a sympathetic portrait of a black family to images of scared white Americans. A shift in the portrayal of civil rights violence can be seen just in the covers of *Time Magazine*. This is important because on a weekly basis, many more Americans see the cover of *Time Magazine* than read the articles.

Between 1969 and 1972 *Time Magazine* also ran two covers drugs: “Drugs and the Youth<sup>50</sup>,” and “The Global War on Heroin<sup>51</sup>,” and two on organized crime: “The Mafia v. America<sup>52</sup>,” and “The Mafia at War<sup>53</sup>.” These covers display a persistent popular interest with organized crime, which all but disappears from the political discourse during the 1960s. While urban violence was a visceral issue which could incite political support, their seemed to be little political willpower to tackle organized crime. This contributed to the political reconfiguration of the problematic of crime, which is shaped but not dictated by public interest. Lastly, the emergence of cover articles around drugs begin during Nixon’s presidency and a rising national concern with drug use which goes onto shape the criminological discourse of the 1970s.

The sense of rising violence was so prevalent it began informing contemporary pop culture during this era. I believe this pop culture can be read as reflecting the anxieties of the

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<sup>50</sup> “TIME Magazine -- U.S. Edition -- September 26, 1969 Vol. 94 No. 13.” 2017. <http://content.time.com/time/magazine/0,9263,7601690926,00.html>.

<sup>51</sup> “TIME Magazine -- U.S. Edition -- September 4, 1972 Vol. 100 No. 10.” 2017. <http://content.time.com/time/magazine/0,9263,7601720904,00.html>.

<sup>52</sup> “TIME Magazine -- U.S. Edition -- August 22, 1969 Vol. 94 No. 8.” 2017. <http://content.time.com/time/magazine/0,9263,7601690822,00.html>.

<sup>53</sup> “TIME Magazine -- U.S. Edition -- July 12, 1971 Vol. 98 No. 2.” 2017. <http://content.time.com/time/magazine/0,9263,7601710712,00.html>.

society out of which they emerged. In the words of Harvard psychologist Steven Pinker: “the flood of violence from the 1960s through the 1980s reshaped American culture, the political scene, and everyday life...Books, movies, television series used intractable urban violence as their backdrop, including *Little Murders*, *Taxi Driver*, *The Warriors*, *Escape from New York*, *Fort Apache the Bronx*, *Hill Street Blues*, and *Bonfire of the Vanities*.” *Little Murders* offers a great example. First conceived of as an off-broadway play in 1967 before becoming incredibly popular in London theatres and eventually turned into a feature film<sup>54</sup> the black comedy centers around a young couple, Alfred and Patsy, living in New York City during the 1960s grappling with the city’s violence and senseless chaos. The piece features a police officer driven insane by the number of unsolved murders, and after Patsy is killed without reason by a sniper the piece concluded with Alfred and Patsy’s father roaming the streets shooting down strangers. The film’s gratuitous violence and nihilistic themes demonstrate both a perverse relationship with death and an assumed culture of senseless urban violence. While the piece first ran as a play in 1967, plays are not written overnight and should be read as representing the culture of the years prior to its first release.

Taken together, these works reflect rising public concern with crime. This concern was not undue: there was a noticeable increase of crime leading into the 1964 election. As reported by the FBI there were some 3.3 million incidents of crime in 1960 as compared to 4.5 million in 1964. These macro statistics deserve some explanation. Prior to 1973 the single source of national crime data in the United States was the FBI’s Uniform Crime Reporting (UCR)

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<sup>54</sup> Roger Greenspun. “Little Murders’ Is Back As Film Arkin Directed” *New York Times*, February 10, 1971, sec. Movie Reviews.  
<http://www.nytimes.com/movie/review?res=9C0CE3D81F30E73BBC4852DFB466838A669EDE>.

Program. Beginning in 1930<sup>55</sup> the FBI began aggregating crime data for five types of violent crime and three types of serious property crime: murder, non-negligent manslaughter, rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft. The FBI set standardized definitions for these crimes, which were to be used by police departments across the country. The FBI does not collect crime statistics themselves, making this process of standardization incredibly important as the UCR simply aggregates reported crime as measured by local police departments.

As such, UCR data has two serious drawbacks. First, it is susceptible to the under-reporting of crime. While the FBI sets some definition for aggravated assault, it is ultimately up to the judgement of an individual police officer to classify a given crime as aggravated assault or a less severe charge such as battery, which is not recorded in UCR data. Secondly, UCR data only includes crimes reported to the police. UCR data is found to be extremely accurate in measuring murders and motor vehicle theft<sup>56</sup> but does a poor job of estimating rape, burglary and larceny-theft, all of which are less often reported to the police<sup>57</sup>.

Since the UCR report is thought to generally underestimate crime, the seventy five percent increase between 1960 and 1964 reflects a serious, and difficult to explain, spike in crime. Crime continued to rise until the early 1990s, and historians and criminologists continue to disagree as to why. Reasons range from an increase in leaded gasoline, rising economic inequality, the baby boomer generation coming of age, and the degradation of the family unit<sup>58</sup>.

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<sup>55</sup> Federal Bureau of Investigation. "Uniform Crime Reporting Statistics." *About the Uniform Crime Reporting Program*. Accessed March 7, 2017. <https://www.ucrdatatool.gov/abouttheucr.cfm>.

<sup>56</sup> As it is difficult to cover up murder, and almost all cars are insured so their theft is reported

<sup>57</sup> Franklin E Zimring *The Great American Crime Decline*. Studies in Crime and Public Policy. (Oxford University Press, 2007

<sup>58</sup> Why crime rose in the 1960s is often studied alongside why crime fell in the 1990s. Franklin Zimring's book offers the most conclusive study I have come across on the topic.



While I am inclined to believe Roger Lane's hypothesis, as described in Section 2, this thesis will not seek to conclusively analysis why the crime rate rises or falls. Rather, I would like to highlight the complicated relationship between American's perceptions of crime, the actual crime rate, and the political treatment of crime.

Public perception of crime is shaped by the actual crime rate as well as the broad public discourse around crime. I include the political rhetoric, new and popular media described earlier as part of this broad discourse. During the 1960s, the public discourse was that crime was increasing, and that this increase was a serious national problem. In calling for law and order Goldwater drew attention not just to the rising crime rate but to widespread social unrest which encompassed anti-war student protests, civil rights protests, and race riots. This social unrest was widely publicized and contributed to American's perception that crime was getting worse and that cities were becoming less safe despite these incidents having little impact on the overall rate of crime.

Throughout the campaign season Goldwater aggressively attacked Johnson as being soft on crime, but did not meaningfully propose any solutions. Rather, his inflammatory speech intertwined racial anxieties with fear of rising crime to derive political support. This served to further shape the criminological discourse around the problematic of black violence. Rising crime was a legitimate issue during the 1960s, and support for Goldwater, or any candidate preaching law and order politics -- as Nixon successfully did in 1968 -- does not necessarily indicate a racist backlash against civil rights. But, by conflating crime with civil rights protests and race riots Goldwater furthered this problematic entanglement.

While Goldwater eventually lost his presidential bid he established a still resonant political logic that made it difficult for Johnson to affect lasting change. Goldwater created the logic through which future Republicans could derive political capital from advocating for tough on crime legislation regardless of whether that legislation is effective. Johnson began his second term with a political need to address crime. His solution typified his legislative style and the 1960's faith in social science: he created a Presidential Commission to study the nature of crime in America, and sought to address the discrimination and inequality which his administration understood to be at the root of crime.

## 5. *The Problem of Crime in a Free Society*

On July 23rd, 1965 Lyndon B. Johnson issued his executive order 11236, which established the Presidential Commission on Law Enforcement and Administration of Justice<sup>59</sup>. The Commission brought together a diverse and distinguished group of individuals from academia, criminal justice, and politics who undertook a two year study of crime in the United States. They published their findings in a widely read and distributed report, *The Problem of Crime in a Free Society*, a three hundred page treatise on the American criminal justice system interspersed with over two hundred specific policy recommendations. The report was imbued with the progressive liberalism that defined Johnson's presidential legislative record. It described crime as a fundamentally social problem that could only be addressed through social welfare programs, and was optimistic about the role new technologies could play in improving the efficiency of the police and the courts. Some of this optimism derived from report's straightforward criticisms: the report gives the impression that the criminal justice system -- which they defined as the intersection of the police and the courts -- was largely dependent upon outdated methodologies and technologies. In highlighting the lack of rigorous social science research on crime prevention and prisoner rehabilitation, the report suggests that crime could be meaningfully reduced if only the proper research is conducted. They emphasized the lack of computer technology, particularly with regard to police deployment and court records. They claimed that there were simple things which could be easily implemented to make the police and the courts more effective and to reduce the crime rate. A deep faith in social science underpinned

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<sup>59</sup> Johnson, Lyndon. Executive Order 11236, Pub. L. No. 11236 (1965). <http://www.presidency.ucsb.edu/ws/?pid=105658>.

the entire report. Crime was presented as a vast social problem that could be broken down into constitutive components and researched in order to be understood and fixed.

The Commission's research must be understood within the contemporary climate of high modernism which privileged scientific knowledge's ability to disrupt existing social disorder and reshape social relationships. Stemming from Cold War politics, the 1950s and 1960s saw government spending in science greatly expand. In 1960 the US government invested roughly one hundred million dollars in social science research alone, by 1965 when the Commission was formed that number had grown threefold to three hundred million dollars<sup>60</sup>. This expansion in social science research inspired deep faith the government's ability to deploy newfound scientific knowledge to fix the issue of crime.

The United State's economic growth during the 1960s contributed to an overall sense of optimism and encouraged this spending on scientific research. Despite the plight of the inner city as described in section 3, the overall economic flourished. The unemployment rate sunk to 3.5 percent by 1968<sup>61</sup> and median family income rose by 57% between 1950 to 1960<sup>62</sup>. This sustained economic success contributed to an air of optimism and faith in government spending. The Commission freely and frequently calls for more government spending in any number of domains, which would have been unimaginable five years later during the recession of the 1970s.

The Commission began by bringing together a highly prestigious group of individuals to study crime. One of their first, and most often repeated, arguments was there lacked an existing

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<sup>60</sup> Hunter Crowther-Heyck *Age of System*. (Johns Hopkins University Press, 2015)

<sup>61</sup>Bureau of Labor Statistics Data Viewer:

[https://beta.bls.gov/dataViewer/view/timeseries/LNS14000000;jsessionid=4B2C2C8779675DD472140F563ADA3CEE.tc\\_instance6](https://beta.bls.gov/dataViewer/view/timeseries/LNS14000000;jsessionid=4B2C2C8779675DD472140F563ADA3CEE.tc_instance6)

<sup>62</sup> Bureau of Labor Statistics. "1960-1961," n.d. <https://www.bls.gov/opub/uscs/1960-61.pdf>.

body of rigorous, scientific knowledge of America's criminal justice system. In doing so they asserted their own expertise, because they were doing that exact research.

The Commission was composed of an impressive group of individuals, based around a core of 19 Commissioners. The background of these commissioners brought initial credibility to the Commission. The Commissioners included Kingman Brewster, the President of Yale University, Otis Chandler, the Publisher of the Los Angeles Times, Thomas Cahill, the Police Chief of San Francisco, Luther Yongdahl Breitel, a Senior Judge on the U.S. District Court, Julia Stuart, the President of the League of Women Voters, and Whitney Moore Young, Executive Director of the National Urban League, the oldest community based civil rights advocacy group in the country. Roughly half of these Commissioners were judges or lawyers, but their diverse CVs -- which fill three pages in their final report -- suggest that they almost all had backgrounds at the intersection of law and social justice.

The Commission eventually swelled to forty full time employees, and enlisted hundreds of consultants to address particular topics. The Commission was initially divided into four major components: police, courts, corrections, and the assessment of crime. As work progressed a number of special research groups were organized to focus attention on the issues of organized crime, juvenile delinquency, drug abuse, drunkenness, and Science and Technology. Each of these topics became a section in their final report. The actual work of the Commission vacillated between assembling knowledge and data when available, and conducting independent research when necessary information was not readily available. For example, they surveyed over 2,200 police departments regarding their best practices. Often, they concluded that much more research was necessary. In particular, the working group on the assessment of crime found that reliable

crime data was very difficult to come by, and one of the Commission's most lasting legacies was establishing a national crime victimization survey.

The limitations of UCR data are only known because of the National Crime Victimization Survey (NCVS), an alternative measure of crime gathered from a national survey<sup>63</sup>. The NCVS formerly began in 1973, and grew out of crime surveys commissioned by the Commission in response to what they saw as a lack of accurate crime statistics. The NCVS is premised upon the assumption that individuals are more willing to report crime in an anonymous survey than directly to the police. NCVS data has a lasting legacy in criminology: any subsequent discussion of crime was forced to reconcile contradictions between UCR and NCVS data.

The Commission spent the later half of 1965 and all of 1966 conducting extensive research on all aspects of crime in the United States before publishing their findings in the lengthy report *The Problem Of Crime In A Free Society*. The very divisions of their academic labor -- focusing equally on the police and the criminal justice system -- indicates that the Commission was broadly conceptualizing crime as a multifaceted problem. Due to the report's length it is difficult to cover the diversity of its scope; however, a close reading of the report's Introduction articulates the Commission's way of thinking about crime:

“ Warring on poverty, inadequate housing and unemployment, is warring on crime. A civil rights law is a law against crime. Money for schools is money against crime. Medical, psychiatric, and family-counseling services are services against crime. More broadly and most importantly every effort to improve life in America's “inner cities” is an effort against crime.” (6)<sup>64</sup>

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<sup>63</sup> Michael R. Rand. “The National Crime Victimization Survey.” U.S. Bureau of Justice Statistics, February 2005. <http://www.stat.fi/sienagroup2005/sienarand.pdf>.

<sup>64</sup> *The Challenge of Crime in a Free Society*

This call for social reform in the name of reducing crime is solidly in the tradition of Johnson's Great Society, which placed great faith in the Federal Government's ability to intervene in the name of improving society. By highlighting education, medical and social services, and civil rights in the introduction of a report on crime reduction the authors make a strong case for Johnson's Great Society as a whole. The Introduction concludes by doubling back on this point:

"The Commission finds, first, that America must translate its well-founded alarm about crime into social action that will prevent crime. It has no doubt whatever that the most significant action that can be taken against crime is action designed to eliminate slums and ghettos, to improve education, to provide jobs, to make sure that every American is given the opportunities and freedoms that will enable him to assume responsibilities. We will not have dealt effectively with crime until we have alleviated the conditions that stimulate it. To speak of controlling crime only in terms of the work of the police, the courts, and the correctional apparatus, is to refuse to face the fact that widespread crime implies a widespread failure by society as a whole." (13)<sup>65</sup>

The report correctly describes a "well-founded alarm about crime," experienced across society, but unfortunately the Commission's claim that that alarm indicates a "widespread failure by society as a whole," is largely ignored within the political discourse.

The Commission describes crime as a fundamentally racialized issue. The entire report stresses that poverty breed crime, with the implicit assumption that in America the poor are disproportionately non-white. In the vein of Moynihan's culture of poverty -- *The Problem of Crime In A Free Society* specifically locates the root of criminality in abnormal or failed childhood psychological development, which the report associates with poverty. The report describes how poverty breeds crime through disrupting the usual mechanisms through which children grow into responsible adults: notably strong male role models but more generally a solid, nuclear family and economically stable home. The section *Understanding and Preventing*

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<sup>65</sup> *The Challenge of Crime in a Free Society*

*Juvenile Delinquency* describes the extremely adverse effects of poverty on children's development before honing in on the role of the family:

“The family is the first and most basic institution in our society for developing a child's potential, in all its many aspects: Emotional, intellectual, moral, and spiritual, as well as physical and social...This early training -- management of emotions, confrontation with rules and authority, development of responsiveness to others --has been repeatedly related to the presence or absence of delinquency in later years....If one parent (especially the father of a son) is absent...such family arrangements tend to reduce parental control and authority over children and consequently increase vulnerability to influences towards delinquent behavior.<sup>66</sup>”

This describes the perceived mechanism through which single parent families develop children who are predisposed to delinquency; the parenthetical inclusion of “especially the father of a son” speaks to the fundamentally gendered logics behind this physiological model. The assumption is that poor families are more likely to be headed by a single mother. The logic follows this basic form: society is failing poor families, poor families are failing to properly raise their poor children, poor children are failing society and becoming criminals. The first step, that society is failing poor families, is essential in understanding how this logic differs from less generous interpretations of the culture of poverty that exclusively focus on the process through which poor or single mother families predispose children to delinquency without interrogating how those families became poor or single. Importantly, the Commission fails to account for multi-generational families. One of the central critiques of Moynihan's emphasis on single mother families is the deep multi-generational kinship networks of black families.

The Commission's emphasis on juvenile delinquency is in part motivated by a simple demographic concern that the number of young adults in the peak crime-committing age range was on track to rise. The Commission began their chapter on juvenile delinquency by stating: “America's best hope for reducing crime is to reduce juvenile delinquency and youth crime. In

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<sup>66</sup> *The Challenge of Crime in a Free Society*, 63



1965 a majority of all arrests for major crimes against property were of people under 21...The juvenile population has been rising, and at a faster rate than the adult population.<sup>67</sup>” While contemporary criminologists argue that changing age demographics have little to do with variations in the national rate of crime, the Commission correctly addresses the fact that the problem of crime in the United States was and continues to be largely a problem of juvenile crime.

A further and perhaps stronger motivating factor behind the Commission’s emphasis on juvenile delinquency was the widespread believe among the Commission’s members that criminal rehabilitation was largely ineffective. The Commission’s research concluded that the United State’s correctional institutions -- its prisons, jails, probation and parole programs and juvenile training schools -- did very little to prevent recidivism. The Commission’s conclusion matched a general consensus within the criminal justice discourse. This pessimism stands in contrast to much of the report’s optimistic tone. The emphasis on addressing juvenile delinquency with alternatives to prison then becomes an intervention to prevent juveniles from entering a correctional system which everyone acknowledged was failing.

The chapter on correctional institutions bluntly states this on its first page: “For a great many offenders, then, corrections does not correct.<sup>68</sup>” However, the Commission does not abandon the notion of rehabilitation. The Commission studied correctional programs across the country, and while noting that the vast majority failed, singled out a number of promising programs and called for further research. In particular, they highlight a study in California which found that 52% of juvenile delinquents sent into the prison system would have their parole

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<sup>67</sup> *The Challenge of Crime in a Free Society*, 55

<sup>68</sup> *The Challenge of Crime in a Free Society*, 159

revoked within five years, opposed to 28% of similar juvenile delinquents who instead of being sent to prison were placed in an experimental program which left those individuals in their community while providing intensive individual, group, and family counseling. This program was still found to be less expensive than sending them to prison<sup>69</sup>. The Commission's research was conducted during a potentially promising time for prison reform: prisons were found to be ineffective, but it was still politically and economically tenable to suggest alternatives. This would change beginning with Nixon's presidency

The history of this promising program, run by the California Youth Authority, demonstrates that the prisoner corrections are governed by politics rather than the efficacy of rehabilitation. Throughout the 1960s and early 1970s the California Youth Authority was a national leader on innovative community centered programs to treat youth offenders. By the late 1970s, in response to the political power of strong correction workers and victims-advocacy groups, California passed laws mandating longer sentences for juvenile offenders. California's prison population swelled, and the ideology of the California Youth Authority shifted from rehabilitation to mass incarceration<sup>70</sup>. All of this occurred despite the provable and obvious success of the California Youth Authority's previous measures. This is in part because crime in California -- and across the country -- continued to rise for reasons separate from the number of individuals in prison. Anger and frustration over rising crime rates was mis-channeled at the California Youth Authority's innovative reform programs, and similar programs across the country, even though these programs could have prevented the problems from becoming worse. Regardless, the Commission had a deep focus on juvenile delinquency.

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<sup>69</sup> *The Challenge of Crime in a Free Society*. U. S. Govt. Print. Off., 1967. Page vii

<sup>70</sup> Barry Krisberg. "The Long and Winding Road: Juvenile Corrections Reform In California." *Berkeley Law*, May 2011. [https://www.law.berkeley.edu/files/Long\\_and\\_Winding\\_Road\\_Publication-final.pdf](https://www.law.berkeley.edu/files/Long_and_Winding_Road_Publication-final.pdf).

Drawing upon sociologists Émile Durkheim and Edwin Lemert the Commission argued that there was a powerful need to think critically about juvenile delinquents' initial encounters with the criminal justice system. Generally, the report calls for the funding of a wider, more diverse network of social services that could absorb misbehaving children and young adults, rather than sending them to the police. This was because of the belief that exposing children to the criminal justice system -- particularly the police, jails, and courts, whether or not they were convicted -- predisposed them to lifelong criminal behavior. This was drawn from Lemert's notion of primary and secondary deviance, which itself grew out the sociological concept of labelling theory from Durkheim's work. Lemert's theory<sup>71</sup> states that all individuals break laws in some capacity but do not consider themselves criminals -- jaywalking being a prime example. This is primary deviancy: initial, and often harmless law breaking that does not result in individuals self identifying as criminals. Secondary deviance occurs when individuals act in such a way that they are labeled as deviant (law breaking) by society. Lemert theorized -- and the Commission agreed -- that engaging in secondary deviance can turn a young adult into a lifelong criminal. In this assumption Lemert drew heavily upon the work of Erving Goffman, who argued that individuals take on the character traits given them by society<sup>72</sup>.

Notably, secondary deviance was not associated with any particular crime but rather defined relationally to the observers, and as such is often a matter of police judgement. If a police officer chooses to arrest a young adult for shoplifting, that child then theoretically committed secondary deviancy and literally entered the criminal justice system. These

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<sup>71</sup> Edwin Lemert 1967. *Human Deviance, Social Problems and Social Control*. (Englewood Cliffs, NJ: Hale Prentice)

<sup>72</sup> Milton Bloombaum "Encounters: Two Studies in the Sociology of Interaction. Book Review"

sociological concepts were foundational in the Commission's understanding of juvenile delinquency.

The report does not engage directly with sociological theory but rather emphasizes the magnitude of the juvenile delinquency problem and then offers a number of explicit recommendations for keeping children out of the criminal justice system. This stance is implicitly optimistic about the possibilities of preventing juvenile delinquency from spreading to adult delinquency while evading the question of criminal rehabilitation.

First, the report highlights the numerical significance of juvenile delinquency, writing in the Introduction:

“three-quarters of the 1965 arrests for Index crimes, plus petty larceny and negligent manslaughter, were people less than 25 years old. More 15-year olds were arrested for those crimes than people of any other age, and 16-year-olds were a close second. Of 2,7280,015 “offenses known to the police” in 1965...some 2 million occurred in cities...In short, crime is evidently associated with two powerful social trends: the increasing urbanization of America and the increasing numerous, restlessness, and restiveness of American youth” (6).

This quote spatially and temporally locates crime among the urban youth. Having established the severity of juvenile delinquency, contextualized within the Commission's interest in childhood development, the Commission goes onto suggest

“society's aim of reducing crime would be better served if the system of criminal justice developed a far broader range of techniques with which to deal with individual offenders....while there are some who must be completely segregated from society, there are many instances in which segregation doe more harm than good. Furthermore, by concentrating the resources of the police, the courts, and correctional agencies on the smaller number of offenders who really need them, it should be possible to give all offenders more effective treatment. A specific and important example of this principle is the Commission's recommendation that every community consider establishing a Youth Services Bureau, a community-based center to which juveniles could be referred by the police, the courts, parents, schools, and social agencies for counseling, education, work, or recreation programs and job placement.<sup>73</sup>”

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<sup>73</sup> *The Challenge of Crime in a Free Society*, vi, vii

This quote begins a section of the report's summary entitled: *New Ways Of Dealing With Offenders*. The section goes on to describe a range of alternatives for sending individuals -- particularly juveniles -- to prison. Focused around educational and work opportunities these suggested programs also include intermediary "correctional institutions" which still house inmates away from society but maintain the inmates ties to society again through work and education. The goal of these programs was to serve as "a port of reentry to the community for those difficult and dangerous offenders who have required treatment in facilities with tighter custody"<sup>74</sup>. Simply put, the report advocates for rehabilitation on practical grounds.

The report's findings were too broad, and were published too late in Johnson's presidency, to meaningfully impact crime policy during Johnson's presidency. Published with less than a year remaining in Johnson's presidency, the report included some two hundred specific recommendations for how to improve crime in the United States. These suggestions are interspersed throughout the report and are not specific policy recommendations but rather operate as general suggestions. While some are specific and insightful ("Suggestion 236: Eliminate criminal treatment of drunkenness when not accompanied by disorderly or otherwise unlawful conduct") others lean towards the vacuously general: "Suggestion 111: Increase police salaries, especially maximums, to competitive levels"<sup>75</sup>. Paying police more was not a bad recommendation, and the Commission undoubtedly had good reason to suggest increasing pay. But, without context it was a useless recommendation: plenty of government employees were underpaid. The chapter on police spends many pages arguing the need for getting better, more

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<sup>74</sup> *The Challenge of Crime in a Free Society*. vii

<sup>75</sup> *The Challenge of Crime in a Free Society*, 295, 297

qualified individuals interested in policing. Their central insight is that police departments have a difficult time attracting top talent, because in general the job does not pay well and is not exceptionally well respected. This type of insight speaks generally to the report's recommendations: they describe many practical ways to improve the criminal justice system as a whole, under the logic that taken together these improvements would reduce the crime rate. Taken individually however, the recommendations sometimes appear obvious or too idealistic. The reports many suggestions convey the difficulty of addressing crime: there is no single, quick fix. The recommendations make sense in the fiscally and socially optimistic world of Johnson's Great Society -- when the government had money to spend and the will to spend it. Financially, these recommendations seemed less viable during the high inflation of the early 1970s.

## 6. The Mechanisms of Mass Incarceration

Tragically, the Commission's research and findings went largely unheeded. Many of their recommendations were too vague to be implemented, and Commission's general stance that warring on poverty constituted warring on crime was promptly ignored by Nixon when he took office in 1969. However, before Johnson left office he sought to implement some of the Commission's reforms. In doing so he ran into the problem that the criminal justice system largely operates locally, relatively removed from federal power.

The Omnibus Crime Control and Safe Streets Act of 1968 was meant to be Johnson's legislative response to the Commission's findings. Even before the Commission concluded, its members were advising Congress on the bill<sup>76</sup>. The bill itself had a long legislative history, beginning as a piece of gun control legislation following Kennedy's death. Johnson's intention had been for the bill to allow the federal government to encourage police departments to implement the Commission's suggestions through provisional funds for departments willing to commit to reform. The bill created a new federal department, the Law Enforcement Assistance Administration, to administer these grants. However, the bill became an amalgamation of

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<sup>76</sup> William F. Bengton. "The Relationship of Theory To Policy: A Case Study of The President's Commission On Law Enforcement And Administration Of Justice." Fordham University, 1980. Page 187

differing agendas as it passed through Congress, and the final bill accomplished little of Johnson's desired agenda<sup>7778</sup>.

For example, Republicans in the senate introduced legislation making it easier for law enforcement officers to acquire wiretapping permits. This was strongly opposed by Johnson and Northern Democrats. At the same time, Democratic members of the senate introduced gun control legislation establishing a minimum age of 21 to purchase handguns, as well as prohibiting the interstate sale of guns. There was initially little belief that this would make it into the final bill, however the assassinations of Martin Luther King and Robert Kennedy during the bill's debate in Congress galvanized support for gun control, and the final bill included all three measures.

Also included was a provision mandating judges to accept the voluntary confessions of criminal defendants. Proposed by Republicans and Southern Democrats, this was intended to reverse the Supreme Court's 1966 decision in *Miranda v. Arizona* creating the requirement that a defendant's confession cannot be used if they were not explicitly informed of their legal rights, under the belief that this ruling was allowing too many criminals to go free. This was the most bitterly contested aspect of the bill,<sup>79</sup> and while it made it into the final bill, the Justice Department made an official policy of not enforcing this updated piece of legislation, declaring it unconstitutional<sup>80</sup>.

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<sup>77</sup> Bengton provides a detailed discussion of the bill's many proposed versions as it passed through Congress.

<sup>78</sup> Bengton, Chapter 5

<sup>79</sup> William F. Bengton, 209

<sup>80</sup>William Glaberson "After 33 Years of Controversy, Miranda Ruling Faces Its Most Serious Challenge." *The New York Times*, February 11, 1999.

<http://www.nytimes.com/1999/02/11/us/after-33-years-of-controversy-miranda-ruling-faces-its-most-serious-challenge.html>.



The legislative change which ultimately derailed Johnson's ambitions of implementing the Commission's suggestions had to do with the distribution of federal funding. Originally, Johnson had intended that the federal government would directly fund police departments who opted into implementing recommendations of the Commission. In Congress though, this became contentiously debated as a States' rights issues, with Republican congressmen demanding block grants to states. Instead of giving the federal government the discretionary ability to fund programs in line with the Commission's report, each state would receive a block grant to be used on policing as they chose. This funding was meant to be distributed in a matching program: the federal money could be used to match some percentage of a police department program. This matching program was co opted and manipulated to further depart from Johnson's desired intention. The bill was amended such that the grants would fund sixty percent of all programs, except those programs meant to address organized crime and riot control, for which the funds would match seventy five percent of spending, and for prison, parole, or prison-alternative programs, for which the funds could only match twenty percent<sup>81</sup>. Lastly, the bill was amended to not make these funds dependent upon police departments achieving a racial balance corresponding to the locals they served, one of Johnson's, and the Commission's, central desires.

Through political manipulation in Congress, the 1968 Law Enforcement Act ultimately contributed almost nothing towards enacting the Commission's recommendations. Rather, set a precedent of federal funding for the militarization of the police through riot control programs. In the 1968-1969 fiscal year, the bill directed some one hundred and ten million dollars to local police departments, the majority of money going towards riot control programs, an incredibly

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<sup>81</sup> William F. Bengton, 204

different emphasis than the Commission's focus on social welfare programs and prison alternatives<sup>82</sup>.

Crime was still rising by the end of Johnson's presidency. In 1968, Richard Nixon was elected President, campaigning on Goldwater's promise of domestic law and order (as well as on bringing an end to the war in Vietnam). Nixon dismantled much of Johnson's Great Society, and turned the federal government away from social reform. Using the Law Enforcement Assistance Administration to fund police reform was one of Johnson's few programs which Nixon did not abandon. Rather, Nixon greatly expanded upon the LEAA, and the Administration became Nixon's avenue for funding his emerging war on drugs. Nixon proudly describes this expansion in a speech before Congress:

At my direction, the Law Enforcement Assistance Administration (LEAA) has greatly expanded its efforts to aid in the improvement of State and local criminal justice systems. In the last three years of the previous Administration, Federal grants to State and local law enforcement authorities amounted to only See million. In the first three years of my Administration, this same assistance totaled more than \$1.5 billion--more than 67 times as much<sup>83</sup>.

This massive expansion of federal funding in criminal justice sparked the beginning of mass incarceration. Motivated by the political logic constructed under Goldwater and using Johnson's programs, Nixon changed the direction of American criminal justice. Gone was Johnson's Great Society and its focus on poverty. Nixon had been elected by an angry and fearful electorate, and he brought a punitive focus to American policing.

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<sup>82</sup> Bengton 202

<sup>83</sup> Richard Nixon. 1973. "Richard Nixon: State of the Union Message to the Congress on Law Enforcement and Drug Abuse Prevention." March 14. <http://www.presidency.ucsb.edu/ws/?pid=4140>.

## Conclusion

The decades after World War Two saw a reconfiguration of American cities. This change concentrated non-white poverty in urban areas with little economic opportunity. Crime began to rise across the country, and increasingly became a topic of conversation, rising crime popular culture. Presidents Kennedy and Johnson realized, acknowledged, and failed to solve the persistent problems of economic and racial inequality that they believed conditioned the rising crime rate. In the spirit of 1960s social science, Johnson convened a presidential commission to study crime.

Johnson's Presidential Commission on Law Enforcement and Administration of Justice was the most comprehensive study ever of crime in the United States. Their overwhelming consensus was that economic and racial inequality caused crime, and that all aspects of the criminal justice system warranted both improvement and additional study. Meanwhile crime rates continued to steadily rise throughout Johnson's presidency: his Great Society did not reduce crime, nor reduce public concern with crime.

The end of Johnson's presidency saw a reconfiguration of the United State's political landscape. Up until Eisenhower's two terms from 1953-1961 the past four decades had seen

progressive Democratic Presidents expand the role of the Federal Government, starting with Roosevelt's New Deal. Following World War Two the United State's assumed global political and economic hegemony and American's quality of life steadily rose. The violence of the late civil rights Movement began a process of de-stabilizing this post-war prosperity. Abroad, the failed war in Vietnam and domestically the economic hardships of the 1970s continued destabilizing US hegemony. If the prosperity of the 1960s made possible the Commission's emancipatory understanding of crime, the troubles of the 1970 precluded the enactment of the Commission's suggestions.

Instead Nixon's administration brought about a punitive pivot in America's criminal justice system, shifted its emphasis on containment rather than rehabilitation, marking the beginning of tough on crime politics that led to the rise of mass incarceration. We are living with Nixon's criminal justice system today.

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