

From Social Welfare to Social Control:
Federal War in American Cities, 1968-1988

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ABSTRACT

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The first historical account of federal crime control policy, “From Social Welfare to Social Control” contextualizes the mass incarceration of marginalized Americans by illuminating the process that gave rise to the modern carceral state in the decades after the Civil Rights Movement. The dissertation examines the development of the national law enforcement program during its initial two decades, from the Omnibus Crime Control and Safe Streets Act of 1968, which established the block grant system and a massive federal investment into penal and juridical agencies, to the Omnibus Anti-Drug Abuse Act of 1988, which set sentencing guidelines that ensured historic incarceration rates. During this critical period, Presidential Administrations, State Departments, and Congress refocused the domestic agenda from social programs to crime and punishment. To challenge our understanding of the liberal welfare state and the rise of modern conservatism, “From Social Welfare to Social Control” emphasizes the bipartisan dimensions of punitive policy and situates crime control as the dominant federal response to the social and demographic transformations brought about by mass protest and the decline of domestic manufacturing. The federal government’s decision to manage the material consequences of rising unemployment, subpar school systems, and poverty in American cities as they manifested through crime reinforced violence within the communities national law enforcement legislation targeted with billions of dollars in grant funds from 1968 onwards.

By highlighting the role of race-neutral language in federal policy following civil rights legislation, the study also exposes the way structural racism endured after racism in the public sphere was no longer acceptable. Tracking the discretionary portion of the law enforcement budget that Congress permitted the White House to spend autonomously illustrates the way racism grounded color-blind crime control programs over time. With novel use of discretionary aid, White House Officials enlarged the federal government's influence over local authorities while still operating through the new states' rights paradigm the Safe Streets Act created via block grants. On the ground, federal law enforcement assistance heightened patrol forces in black urban neighborhoods and social institutions, causing disproportionate arrest rates and the unprecedented entrance of young Americans from areas of segregated poverty into state and federal penitentiaries. At the close of the first twenty years of the national law enforcement program, the number of inmates in American prisons had more than tripled.

Ultimately, the dissertation questions the way the federal government helped to facilitate the process through which the state apparatus of punishment—including law enforcement, criminal justice, border management, and prison systems—quickly developed into its own viable industry in the context of urban deindustrialization and disinvestment. In contributing to debates about the persistence of poverty in the United States and drawing our attention to the federal government's role in sustaining punitive policy that first emerged in the 1960s, "From Social Welfare to Social Control" provides critical insight to one of the most important questions facing our society: why, in the land of the free, are more than one in a hundred American citizens in prison or jail?

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INTRODUCTION

From the War on Poverty to the War on Crime

It is striking that the mass incarceration of young black and Latino Americans in the late twentieth century occurred once overt racism no longer enjoyed public legitimacy.¹ The origins of this phenomenon can be traced to the height of the liberal welfare state, when President Lyndon Johnson created the Office of Law Enforcement Assistance in the spring of 1965 and set the federal government's punitive intervention in motion. The blueprint Johnson developed for a national crime control program remained entirely race-neutral, as did all of punitive measures designed by his predecessors. Yet as they unfolded on the ground federal law enforcement programs produced vast racial discrepancies.² Policymakers earmarked low-income urban areas for increased patrol and surveillance, and young Americans living in these communities entered the criminal justice system at historic rates. The fact that today black men are more likely than their counterparts to serve prison or jail time, and that half of all young urban African-American men are under criminal supervision, is rooted in the ways the first twenty years

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² There are countless statistics reinforcing the inherent racism in the American criminal justice system. More than half of young black men in major urban centers are currently in prison or jail, and across the nation black men are 6.5 times more likely than white men and 2.5 times more likely than Latino men to encounter the carceral state. See Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2011), 16; Heather C. West, William J. Sabol, and Sarah J. Greenman, "Prisoners in 2009," *Bureau of Justice Statistics Bulletin*, Revised 10-27-11, Department of Justice; Adam Gopnik, "The Caging of America," *The New Yorker*, January 30, 2012.

of race-blind federal punitive policy criminalized Americans living in areas of segregated poverty.³

The advent of mass imprisonment in the late twentieth century is the latest development in the evolution of the civil status of black Americans. State governments turned to punitive policy in the decades after emancipation and compromised the promise of Reconstruction by supporting the nation's first prison boom and disproportionately sentencing young black men to long terms.⁴ Roughly a century later, a new system of social control and exclusion quickly formed in the ashes of Jim Crow. The federal government turned to punitive policy in the decades after the "Second Reconstruction," and compromised the promise of full civic participation.⁵ With respect to the franchise, employment, healthcare, and fundamental social rights, the rise of the modern American carceral complex has redirected the social and economic progression that characterized postwar liberal reform and the racial inclusion championed by the civil rights movement.

This dissertation examines the way prisons, jails, and law enforcement institutions have functioned as the engine of social inequality since the mid-1960s. It treats crime control measures enacted by the federal government in the late 1960s and 1970s as a set of pre-emptive policies that criminalized entire communities and created a law enforcement infrastructure capable of incarcerating hundreds of thousands of new

³ Heather Ann Thompson calls this dynamic the "criminalization of urban space." See Thompson, "Why Mass Incarceration Matters: Rethinking Crisis, Decline, and Transformation in Postwar American History," *The Journal of American History*, Vol. 97, No.3 December 2010 (pp. 703-58), 705; Alexander 16.

⁴ See David M. Oshinsky: "*Worse Than Slavery*": *Parchman Farm and the Ordeal of Jim Crow Justice* (New York: 1997).

⁵ The term "Second Reconstruction" is Manning Marable's. See *Race, Reform, and Rebellion: The Second Reconstruction and Beyond in Black America* (Oxford: University of Mississippi Press, Third Edition, 2007).

offenders. The unprecedented scope of urban civil disorder, beginning with Watts in 1965, compelled Lyndon Johnson to design a major national law enforcement program that enhanced the government's ability to monitor and detain low-income urban Americans. This punitive turn birthed what sociologist Bruce Western calls the "mass imprisonment generation," or poorly educated black men born after 1965.⁶ Extending our gaze beyond the Electoral College, white backlash, and Ronald Reagan's ascent in the 1980s, this examination understands mass imprisonment as a process that developed over time. It is the product of reactionary federal policy that preserved historical inequality when the post-Reconstruction racial order lost its legal grounding.

Major incidents of urban civil disorder (or what policymakers, journalists, and most of the public at large called "riots") underscored the consequences of two decades of structural exclusion in the age of prosperity and abundance. Coming into the 1960s, more than half of all nonwhite Americans lived in poverty. By mid-decade, it became clear that while postwar policy had enabled many white Americans and European ethnics to achieve middle-class status through housing subsidies and the GI Bill, these and other federal programs had increased segregation in the United States and maintained inequality in the liberal welfare state. Riots and the reported crime rate called for the federal government to launch an intervention in vulnerable neighborhoods. In dismantling Jim Crow the federal government fully embraced the principle of antidiscrimination, but to truly realize the goal of equal opportunity it needed to combat the structural forces from which racial inequality flows.

⁶ Bruce Western, *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006) 31, 195.

Instead the federal government created an entirely new set of policies and institutions and transformed the activist state in the process.⁷ The development of the criminal justice system in the first half of the twentieth century shaped the punitive practices of the postwar period, but the federal government's choice to invest in law enforcement institutions in the immediate context of urban civil disorder and black demands for full socio-economic inclusion represented an entirely new approach to crime control and the purpose of state authority.⁸ Regulating the economy or enacting egalitarian policy no longer fell within the purview of the state, which moved towards regulating individual behavior and privileging the right to safety. Along these lines, the federal government transitioned criminal justice from a system focused on punishing offenders and preventing crime to a system of management, social control, and surveillance.

Although conservative principles of limited government, unregulated capitalism, and individual autonomy stimulated the transition of government functions to the private sector and discontinued social programs, the rise of federal punitive policy is a thoroughly bipartisan story. Indeed, crime control may be *the* domestic policy issue in the late twentieth century where conservative and liberal interests were heavily intertwined.

Democrats controlled both chambers of Congress from the Johnson Administration

⁷ Alan Brinkley, *Liberalism and its Discontents* (Cambridge: Harvard University Press, 2000); Steve Fraser and Gary Gerstle, eds., *The Rise and Fall of the New Deal Order*, (Princeton: Princeton University Press, 1989).

⁸ Orlando Patterson's view that of black criminality emerged forcefully in the post-emancipation period but did not become a "national problem" until the 1970s reinforces my own view. See *The Ordeal of Integration: Progress and Resentment in America's "Racial" Crisis* (New York: Basic Civitas Books, 1998). A few scholars have considered the ways in which riots in the 1960s shaped subsequent urban living conditions and policy at the federal, state, and local levels. See Robert M. Fogelson, *Violence as Protest: A Study of Riots and Ghettos*, (Garden City: Doubleday and Company, 1971); Gerald Horne, *Fire This Time: The Watts Uprising and the 1960s* (New York: De Capo Press, 1997).

through the final years of the Reagan Administration and worked with Republicans to devise a new approach to federalism, one that restored states' rights via block grants and replaced public social programs with privatized and punitive ones. Together, Democrats and Republicans increased urban patrol forces, enacted harsh and racially biased sentencing laws, and endorsed new penal institutions that made mass incarceration possible.

On the surface, policies of decentralization and disinvestment dissolved Great Society programs and with it the relationship between the federal government and municipalities established by the New Deal. But the bipartisan coalition retained these partnerships in the form of law enforcement programs. By reallocating public resources from a domestic social war based on welfare principles to a domestic social war based on control principles, the federal government remained in cities as a repressive, rather than a progressive, agent.

Given the gross exaggeration of rising crime rates by policymakers at all levels of government and the increasing coverage of urban disorder by the national media, the emergence of federal crime control policy in the mid 1960s should be understood both as a response to civil rights advances and the threat riots posed to American law and institutions. In fact violent crime steadily declined beginning in the 1930s and crime levels in the 1960s remained stable despite rising law and order rhetoric. Attorney General Ramsey Clark insisted in 1967, "there is no crime wave in this country," pointing out that the murder rate in 1965 was the same as in 1910.⁹ Even though law enforcement

⁹ The murder rate in 1965 was at 5.5. for every 100,000 Americans, the same rate as in 1910. Sidney E. Zion "Clark Says Rise in Crime is Small," *New York Times*, 19 May 1967; Thompson, "Why Mass Incarceration Matters."

officials and policymakers questioned the accuracy of FBI Uniform Crime Reports, in the context of urban uprisings the data reinforced the sense that crime was on the rise among specific sectors of the citizenry.

The development of crime statistics technology alongside early federal law enforcement measures meant that rising crime rates correlated directly to rising crime reporting, a fact that skewed perceptions of violence.¹⁰ During the progressive era, reformers and social scientists crafted what historian Khalil Gibran Muhammad calls a “statistical discourse” that associated black Americans with criminality, a notion that shaped the popular and political imagination in subsequent decades. When the federal government chose to invest in law enforcement and crime control in the mid-1960s, it similarly relied on a statistical discourse to reinforce and justify new social control programs.¹¹ Rates of reported crime among young black men justified their disproportionate numbers in the criminal justice system. However, arrest rates do not provide a sound indicator of actual crime but reflect the extent of police force in a given community.¹² By targeting low-income urban areas for law enforcement programs, the federal government unleashed conditions that heightened the chance of arrest for young black men and created a portrait of criminality in those areas. The resulting figures influenced and reinforced policy decisions and built a strategy for domestic social war based largely on anticipated crime. Accordingly, the explosion in prison populations

¹⁰ Vesla Weaver, “Frontlash: Race and the Development of Punitive Crime Policy,” *Studies in American Political Development*, 21 (Fall 2007), 258, 260-261.

¹¹ Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge: Harvard University Press, 2010).

¹² See Michael Tonry, *Punishing Race: A Continuing American Dilemma* (New York: Oxford University Press, 2012).

during the 1990s did not reflect actual crime rates, but expressed changes in law, budgetary allocations for crime control, and punitive practices at all levels of government.¹³

With overt racism no longer enjoying public legitimacy, legislators coded the racial dimension of law enforcement initiatives in race-neutral, social-psychological terms. As civil rights advocate Michelle Alexander reminds us, “It is the genius of the new system of control that it can always be defended on nonracial grounds.”¹⁴ Although federal policymakers often used the language of crime to discuss race, the extent of racial bias in the criminal justice system can be gauged through the discretionary portion of the crime control budget. Operating in the confines of the block grant system, discretionary funds offered the White House an opportunity to fund special law enforcement initiatives of its own choosing. Because of this degree of power and influence, the use of discretionary funds profoundly reflects presidential intent with respect to the national law enforcement program. Tracking the discretionary budget exposes the racial motivations behind anti-crime policy, motivations so pervasive that the Nixon, Ford, and Reagan Administrations contradicted their own avowed commitments to the principles of “New Federalism,” or devolution, to exert greater punitive authority in American cities with high rates of reported crime. Even if states did not allocate crime control resources to urban police departments as policymakers had intended, the White House targeted discretionary funds in areas of segregated poverty. In this sense, understanding the

¹³ See Western, *Punishment and Inequality*, Chapter 7.

¹⁴ Alexander 103.

president's use of the discretionary budget illustrates the way racism structured crime control programs over time.

The expansion of federal criminal justice programs in the 1970s built an enduring punitive environment in areas of segregated poverty by making law enforcement the primary mode of contact between the state and black Americans with limited education.¹⁵ When the reported crime rate doubled nearly ten years into the national crime control program as a result of the enlargement of the law enforcement apparatus, the federal government enacted pre-emptive legislation and funded special discretionary programs that targeted black youth and their families as a means to contain the problem. Ironically, this tactic worsened the issues policymakers had originally hoped to reduce.

As War on Crime programs reshaped War on Poverty programs, the integration of law enforcement in urban social institutions dramatically increased the chances of arrest and incarceration in targeted areas. After a decade of federal crime control measures, contact with law enforcement officials emerged as a condition of everyday life for low-income urban Americans. By the time the prison population sharply rose in the mid-1980s, patrol and surveillance had become a normative condition for a generation of young Americans. The placement of law enforcement officials and institutions in urban social programs serving racially marginalized populations shaped not only the individuals absorbed by the criminal justice system—who are denied access to the franchise,

¹⁵ In *Imprisoning Communities: How Mass Incarceration Makes Disadvantaged Neighborhoods Worse* (New York: Oxford University Press, 2007), Todd R. Clear discusses how high rates of incarceration in concentrated communities further contributes to the criminalization of those very communities, my work demonstrates the ways in which this process began in the decade before and alongside the rapid acceleration of prison populations.

employment opportunities, and welfare and housing benefits after release—but also their families and communities.¹⁶

By operating the national law enforcement program through warfare metaphors and defining the enemy under coded racial terms, the federal government fostered the militarization of urban police departments and introduced a host of new weapons on the streets of America's cities suffering from extreme rates of unemployment. This included helicopters, bulletproof vests, army tanks and guns, walkie-talkies, and computer management programs. Excluded from formal employment opportunities in the era of industrial decline and failing urban school systems, youth groups began to arm themselves for self-protection and to access the underground economy. Street crime quickly turned deadly. The term “post-industrial violence” captures this dynamic, which emerged following the initial hardware and patrol phase of the law enforcement program. Punitive policy removed the casualties of the War on Crime and the War on Drugs from the streets and sentenced them to correctional institutions, but other narcotics traffickers, thieves, vandals, and murderers rose in their absence. The phenomenon of post-industrial violence reached full force in the landscape of continued plant closures, the crack epidemic, and gang warfare in the mid-1980s.

At the height of the civil rights movement and direct action protest, when the nation seemed ready to embrace the egalitarian values and redistributive principles that guided the black political sphere throughout the history of the United States, the federal

¹⁶ Loic Wacquant, “The New ‘Peculiar Institution.’ On the Prison as Surrogate Ghetto,” *Theoretical Criminology* 4, 200: 377-89; Alexander 14.

government's punitive turn prevented this realization.¹⁷ In subsequent years, the relocation of domestic manufacturing jobs overseas, the assault on union benefits and working conditions, and the privatization of public programs disproportionately touched racially marginalized Americans. Yet the expansion of the black middle class and the visibility of nonwhite Americans in positions of power reinforced the notion that the United States moved beyond race-based systems of exploitation. Although black Americans grew more affluent after 1965, they are primarily concentrated in the public sphere and social services, where mobility is tied to the extent of state spending on domestic programs. In deciding to manage the material consequences of institutional racism with crime control programs, the federal government's set a process in motion that made mass incarceration possible and spawned new levels of intra-stratification among black Americans. Problems of crime, violence, and drug abuse demanded structural solutions, but the federal government has yet to move beyond law enforcement and incarceration as means of retaining social control.

Overview

This story begins at the peak of progressive social policy in the United States, when Lyndon B. Johnson led other liberals in a bipartisan, bi-regional effort that halted the trajectory of postwar reform. Chapter 1 stresses that, as the architect of modern crime control, Johnson's most enduring legacy with respect to domestic policy lies not in his Great Society programs but in the punitive turn his administration spearheaded. The Omnibus Crime Control and Safe Streets Act of 1968 contained the legislative origins of

¹⁷ Using the concept of "Frontlash" to describe this dynamic, Vesla Weaver demonstrates the way policymakers created a national crime control program that is best understood as a pre-emptive reaction to civil rights policy. See Weaver, "Frontlash."

the “New Federalism” favored by conservatives, and when Johnson signed the bill into law with block grants he led the federal government in returning funding power to states in the ashes of Jim Crow.

Chapter 2 traces the impact of the Safe Streets Act to show how the Nixon administration established crime prevention bureaucracies at the state and federal level to funnel law enforcement grants to local and private entities. Through the Law Enforcement Assistance Administration (LEAA) established by the 1968 Act, municipalities that confronted urban civil disorder in the second half of the 1960s received federal grants to train police officers and equip them with advanced weapons and communications technology. Corruption and mismanagement within the LEAA, however, exposed the limitations of the block grant system and the hardware focused approach to crime control. Despite the fact that the Nixon’s “New Federalism” and Revenue Sharing Programs had failed to reduce the crime rate or engender a cohesive national crime control program, and policymakers awareness of this failure, Congress continued to increase its annual allocation to law enforcement and prison construction.

With discretionary use of law enforcement aid, Nixon empowered police officers to disproportionately patrol low-income black neighborhoods and schools. Chapter 3 explores the way radical new patrol and urban policy programs unfolded in areas of segregated poverty and examines community responses to these practices. The development of the national juvenile justice program is the focus of Chapter 4, when the federal government drafted pre-emptive crime control policy. The federal government’s decision to raise penalties for drugs and juvenile infractions produced a significant population of new offenders, many of them young people, who entered state and federal

penitentiaries at unprecedented rates beginning in the mid-1970s. Building from the Nixon model, Gerald Ford used discretionary funds to support the burgeoning juvenile justice system by forming special programs addressing firearm use and gang membership among black urban youth.

When Jimmy Carter inherited the enlarged law enforcement complex sanctioned by these prior administrations, he attempted to relieve an increasingly overburdened justice system by conjoining punitive and general urban policies. Rather than resorting to fighting crime solely by increasing arrest rates, Carter unsuccessfully attempted to decriminalize marijuana and lower recidivism through a “community-based” approach to corrections. Yet Carter’s Presidency represented a key moment of transition in the construction of the American carceral state. Chapter 5 exposes the way his administration laid the groundwork for an increased reliance on private contractors and elite councils to direct federal law enforcement programs. As Carter’s Attorney General labored to replace the LEAA with cabinet-level policy boards and research centers, other officials consolidated the efforts of a range of federal agencies involved in crime control. Like Johnson, Carter believed only social justice and economic opportunity could have a long-range impact on crime. However, by increasing the power of local law enforcement to actively shape city planning, patrol urban public schools, and monitor housing projects, the Carter Administration strengthened the punitive authority of police departments in the everyday lives of marginalized Americans at the close of the 1970s.

By the time that Ronald Reagan instituted mandatory minimum sentences for minor offenses, thereby culminating more than two decades of federal crime control efforts, the number of inmates in American prisons had risen over five hundred percent.

This history concludes with Reagan’s Drug Abuse Act of 1988, which defined drug users as criminals and institutionalized a coordinated effort among law enforcement, the military, and intelligence. Now the Attorney General, the National Security Affairs Advisor, the Secretaries of State, Defense, and Housing and Urban Development, and the Directors of the FBI and the CIA collaborated on domestic and international law enforcement at National Drug Control Policy Board meetings. Not only did the law target black and Latino Americans by the end of the Reagan Administration under explicit terms, but it had reorganized and strengthened the carceral capabilities of the federal government.

Historiography

In his 2008 presidential address to the Urban History Association, Michael Katz characterized the retreat from direct action protest and civil violence of the 1960s and early 1970s as an “inward turn” towards criminal or “opportunistic” violence.¹⁸ Katz noted that while black Americans no longer found themselves legally marginalized from participation in the political system and consumer marketplace, the persistence of race-based economic inequality in the aftermath of the civil rights movement resulted in “depoliticization among African American youth.” Eschewing interpretations of the “inward turn” as the product of inherent cultural or behavioral deviance, Katz went on to speculate: “That a share of the responsibility for the turn toward criminal violence... rests with public authorities remains a hypothesis—intriguing, explosive in its implications, and in need of much research. Indeed, the lack of research on this question... remains

¹⁸“Opportunistic violence” is sociologist Charles Tilly’s term. See *The Politics of Collective Violence*. (Cambridge: Cambridge University Press, 2003).

stunning and surprising.”¹⁹ While there is a significant body of literature on the decline of collective action in the context of deindustrialization and divestment, the development of the national law enforcement program has yet to be considered as critical explanatory element in that story.

Recognizing this void, and calling for historians to “think critically about mass incarceration and begin to consider the reverberations of this never-before-seen phenomenon,” Heather Ann Thompson’s groundbreaking article in the *Journal of American History* in 2010 made a profound case for why the rapid expansion of the American carceral complex needs to be at the center of work that considers the rise of conservatism, the decline of the labor movement, and urban inequality in the postwar period.²⁰ In this vein, the history of the first twenty years of federal crime control policy enhances our view of the political, economic, and social transformations in the United States over the last fifty years that are embedded in the expansion of American penal and juridical institutions. Understanding the development of the national crime control program over time illuminates the ways the punitive turn shaped the contours of the

¹⁹Michael Katz “Why Don’t American Cities Burn Very Often?” *Journal of Urban History*, Vol. 34, No. 2, 185-208: January 2008.

²⁰ Thompson 705.

“inward turn” identified by Katz.²¹ It is a history that helps us make sense of the fact that today many states spend more money on penitentiaries than public schools.²²

From the mid-1960s onwards, sociologists and political scientists supplied the theoretical and statistical base for federal punitive policy.²³ These interpretations explained why Americans living in segregated poverty came to be disproportionately represented in carceral institutions through a social-pathological framework. By treating structurally disadvantaged African-Americans as monolithic, cultural deterministic arguments espoused by Daniel Patrick Moynihan and others relied on long-held racial stereotypes that naturalized criminal behavior. The idea of an urban “underclass” itself suggested that black Americans possessed transhistorical cultural traits that fostered dependence and deviance. Taken together, the sociologist Nathan Glazer and psychologist Kenneth Clark offered a new socio-historical interpretation of black American life to explain inequality and the development of the civil rights movement in

²¹ Within United States historiography, we have a much firmer grasp of the relationship between the criminalization of black Americans, imprisonment, and the development of the carceral state in the decades after emancipation.²¹ In addition to Muhammad’s work on perceptions of black criminality following Reconstruction, Rebecca McLennan’s *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941* (New York: Cambridge University Press, 2008) links the steady growth of incarceration with the development of what she calls a “mass carceral bureaucracy” that evolved throughout American history. McLennan’s research opened up new questions about the relationship between the expansion of state power and the growth of crime and penal institutions.

²² Reports from the Department of Justice and the National Education Association in 2011 indicated that California, New York, Georgia, and Michigan spent more money incarcerating citizens than on educating them. California spent approximately \$47,000 annually on a single inmate while only \$9,000 on a student. See Heather C. West, William J. Sabol, and Sarah J. Greenman, “Prisoners in 2009,” *Bureau of Justice Statistics Bulletin*, Revised 10-27-11, Department of Justice; National Education Association, *Rankings of the States 2010 and Estimates of School Statistics 2011*. The Pew Center on the States and the Public Safety Performance Project’s report, “One in 100: Behind Bars in America in 2008” reported that California, Michigan, Vermont, and Minnesota spent more on prisons than public universities and community colleges; Pew Center on the States and the Public Safety Performance Project, 2008.

²³ Scholars who have examined the rise of the prison system in the postwar period include Robert Perkinson, *Texas Tough: The Rise of America’s Prison Empire*, (New York: Picador, 2010); Volker Janssen, “When the ‘Jungle’ Met the Forest: Public Work, Civil Defense, and Prison Camps in Postwar California,” *Journal of American History*, 96 (Dec. 2009), 702-26; Christian Parenti, *Lockdown America: Police and Prisons in the Age of Crisis* (New York, 2000).

both structural and pathological terms. During Reagan’s War on Crime, the parameters of the debate that began amidst the War on Poverty resumed, but lost the economic groundings the earlier literature provided.

In the 1980s, scholarly and professional research into the urban “underclass” encouraged the federal government to disinvest from social programs. Reagan’s comment to the International Association of Chiefs of Police: “Only our deep moral values and strong institutions can hold back that *jungle* and restrain the *darker* impulses of human nature;” echoed George Gilder’s conclusion in the 1981 bestseller *Wealth and Poverty*: “The problem is... familial anarchy among the concentrated poor of the inner city, in which flamboyant and impulsive youths rather than responsible men provide the themes of aspiration”²⁴ According to Gilder and other prominent new-right scholars—including Edward Banfield, Milton Friedman, and Oscar Lewis—the “underclass” originated when changes in social policy under the Great Society attempted to govern the behavior of welfare recipients.²⁵ As Charles Murray argued in *Losing Ground: American Social*

²⁴ Ken Auletta expressed the same sentiment in explicitly racist terms in *The Underclass* (New York: Random House, 1982). While Auletta admitted that, “all races behave the same,” he went on to state that, “in the rural South (where many of the white poor reside) defiant anti-social behavior is less prevalent; the underclass is less visible. In urban America, the members of the underclass are as omnipresent as potholes, and can be considerably more dangerous.” Auletta 200; Reagan quoted in Brent S. Steel and Mary and E. Steger, “Death Penalty: Just Punishment or Legalized Homicide?” in Raymond Tatalovich, Theodore J. Lowi, and Bryon W. Daynes, eds. *Moral Controversies in American Politics*, 2nd ed. (New York: M.E. Sharpe), 115; George Gilder, *Wealth and Poverty* (New York: Bookthrift Company, 1981), 153.

²⁵ See Edward Banfield, *Moral Basis of a Backward Society* (New York: Free Press, 1967) and *The Unheavenly City: The Nature and Future of Our Urban Crisis* (New York: Little, Brown, 1970); Milton Friedman, *Capitalism and Freedom: Fortieth Anniversary Edition* (Chicago: University of Chicago Press, 2002); Oscar Lewis, *The Children of Sanchez: Autobiography of a Mexican Family* (New York: Vintage Books, 1979). Nicholas Lemann’s *The Promised Land: The Great Black Migration and How it Changed America* (New York: Vintage, 1992) intervened on the underclass scholarship by stressing social functions, but retained pathological conclusions by arguing that “underclass culture in the ghettos” is traceable to the culture of sharecropping in the South. See also Douglas Glasgow, *The Black Underclass: Unemployment and Entrapment of Ghetto Youth* (New York: Random House, 1980); Lawrence Mead, *Beyond Entitlement: The Social Obligations of Citizenship* (New York: Free Press, 1986).

Policy, 1950-1980, Johnson's activist state contributed to the breakdown of familial, educational, and religious institutions. The "underclass" imagined by Murray and others resulted in part from "liberal language" that prevented conversations that identified social welfare as poverty's source and the free market as poverty's solvent. To combat cultural deterministic arguments, structuralists similarly concerned themselves with issues of unemployment, welfare, and teen pregnancy.²⁶ Despite critical adjustments to the cultural deterministic view of perceived welfare dependency and violence as constitutive of poverty, lack of context obscured the relationship between a long history of structural racism and mobility and could not fully account for the ways in which crime is rooted in the specific historical conditions of its origin.²⁷ Even Katz's choice of the phrase "inward turn" implicitly retains the imprint of the consensus that rooted urban crisis in behavioral characteristics.

²⁶ Some of this literature includes Mary Jo Bane and David Ellwood, *Welfare Realities*. (Cambridge, Mass.: Harvard University Press, 1994).; Herbert J. Gans, *The War Against the Poor: The Underclass and Antipoverty Policy*. (New York: Basic Books, 1995); Tom Joe and Cheryl Rogers, *By the Few for the Few: The Reagan Welfare Legacy* (1985); Michael Katz, ed. *The "Underclass Debate:" Views from History*. (Princeton: Princeton University Press, 1993) and Katz, *The Undeserving Poor: From the War on Poverty to the War on Welfare*. (New York: Pantheon, 1990); Melvin L., Oliver, Jr., and Thomas M. Shapiro. *Black Wealth/White Wealth*. (New York: Routledge, 1995); Douglas Massey, and Nancy Denton, *American Apartheid: Segregation and the Making of the Underclass*. (Cambridge, Mass.: Harvard University Press, 1993); and Jill Quadagno, *The Color of Welfare: How Racism Undermined the War on Poverty*. (New York: Oxford University Press, 1994).

²⁷ Placing race at the center of the rise of punitive policy, Michelle Alexander, Vesla Weaver and Bruce Western offer the best examinations of contemporary mass incarceration. While they do stress the emergence of federal crime control in the post-civil rights, post-riot political and social landscape, the Ford and Carter administrations are almost entirely absent from their analysis. Other notable works on crime and prisons include Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary American Politics* (New York: Oxford University Press, 1997); Lawrence Bobo, Melvin D. Oliver, James Johnson Jr., and Abel Valenzuela Jr., eds., *Prismatic Metropolis: Inequality in Los Angeles* (New York: Russell Sage Foundation, 2000); David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2002); Clarence Lusane, *Pipe Dream Blues: Racism and the War on Drugs* (Boston: South End Press, 1991); Mark Mauer, *Race to Incarcerate* (New York: New Press, 1999); Jerome Miller, *Search and Destroy: African-American Males in the Criminal Justice System* (Cambridge: Cambridge University Press, 1996); Michael Tonry, *Malign Neglect; Race, Crime, and Punishment in America* (New York: Oxford University Press, 1995).

Given the proximity of the post-civil rights period to our own, historians have only begun to investigate the impact of deindustrialization, poverty, and the decline of postwar liberalism on black urban Americans.²⁸ In particular, African-American Studies and Urban Studies offers a middle ground between exclusively cultural or structural interpretations.²⁹ Thomas Sugrue's *The Origins of Urban Crisis: Race and Inequality in Postwar Detroit* avoided the tendency to portray black Americans as victims of an inescapable cultural cycle. Sugrue examined the way structural forces played out through homeownership, arguing that the intersection of deindustrialization and stratification intersected with racism and fostered unequal conditions that restricted black agency.

With a similar set of questions about white flight, the decline of liberalism, the rise of Reagan democrats, and the political dimensions of racism, Robert O. Self used Sugrue's interpretive framework in *American Babylon: Race and the Struggle for Postwar Oakland* to argue that residential segregation and urban decline resulted from

²⁸ Within sociology, Loic Wacquant has made important connections between the penal and welfare states. See especially *Punishing the Poor: The Neoliberal Government of Social Insecurity* (Raleigh: Duke University Press, 2009); "Racial Stigma in the Making of the Punitive State," in *Race, Incarceration, and American Values*, ed. Loury, 57-70.

²⁹The historical method employed by several key works in Black Studies offers compelling links between segregated poverty, mass imprisonment, and sites of possible resistance. This includes Manning Marable, *How Capitalism Underdeveloped Black America*. (Boston: South End Press, 1982), and *Race, Reform, and Rebellion*; Robin D.G. Kelley, *Race Rebels: Culture, Politics, and the Black Working Class*. (New York: Free Press, 1994), and *Yo' Mama's Disfunktional! Fighting the Culture Wars in Urban America*. (Boston: Beacon Press, 1997); Earl Lewis, *In Their Own Interests: Race, Class and Power in 20th Century Norfolk, Virginia*. (Berkeley: University of California Press, 1991); and J. Phillip Thompson, *Double Trouble: Black Mayors, Black Communities, and the Call for a Deep Democracy* (Cambridge: Oxford University Press, 2005). In addition, from the late 1980s onwards, ethnography probed how residents negotiated and responded to community-specific problems. These micro-level findings can be further illuminated by a macro-level approach. See Elijah Anderson, *Streetwise: Race, Class, and Change in an Urban Community*. (Chicago: University of Chicago Press, 1990); Martin Sanchez Jankowski, *Islands in the Street: Gangs and American Urban Society*. (Berkeley and Los Angeles: University of California Press, 1991); Christopher Jencks, *Rethinking Social Policy: Race, Poverty, and the Underclass* (Cambridge, Mass.: Harvard University Press, 1992); and Sudhir Venkatesh's work on the underground economy and gang leaders in Chicago.

racially motivated state and local tax and development policies.³⁰ While Sugrue, Self, and many others offered a useful method to examine the relationship between federal policy and local initiatives, scholars have yet to include crime control and police militarization in these discussions.³¹ Donna Murch's *Living for the City: Migration, Education and the Rise of the Black Panther Party in Oakland, California* is the standing exception. Murch offers an important consideration of militant protest and politics in the postwar period that links the criminalization of black urban populations with the modernization of local police forces.³²

³⁰ Social Geographers like David Harvey and Mike Davis have also undertaken questions of imprisonment and punishment. See Davis, *City of Quartz*. (New York, Verso: 1990); Harvey, *The Urban Experience* (Baltimore: Johns Hopkins University Press, 1989) and *Justice, Nature, and the Geography of Difference* (New York: Wiley-Blackwell, 1997). One of the only academics to focus on prisons specifically, Ruth Wilson Gilmore's *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley: University of California Press, 2007) pointed to the ways in which federal interstate systems facilitated suburbanization of white Americans and skilled, high-tech industries. The process secured California's dominance in both the military and prison operations. By considering the relationship between economic restructuring in urban and rural communities, Gilmore and I ask similar questions about the post-1965 shift from the state's role as an "urban growth machine" to a "federal devolution machine" in order to "produce stability and growth in the general political economy," when "equity is no longer on the agenda," Gilmore 22. See also Ann R Markusen, Peter Hall, Scott Campbell, and Sabina Deitrick. *The Rise of the Gunbelt: The Military Remapping of Industrial America*. (New York: Oxford University Press, 1991).

³¹The most recent works in Urban Studies have shifted the field's focus from inner-cities to explore suburban development. See Kevin Kruse and Thomas Sugrue, eds. *The New Suburban History* (Chicago: University of Chicago Press, 2006); Daniel M.P. Freund, *Colored Property: State Policy and White Racial Politics in Suburban America* (Chicago: University of Chicago Press, 2008). See also Arnold R Hirsch, *Making the Second Ghetto: Race and Housing in Chicago, 1940-1960*. (New York: Cambridge University Press, 1983); Raphael J. Sonenshein, *Politics in Black and White: Race and Power in Los Angeles*. (Princeton: Princeton University Press, 1993). Scholars are also beginning to note how the War on Poverty played out on a local context. See Susan Youngblood Ashmore, *Carry it On: The War on Poverty and the Civil Rights Movement in Alabama, 1964-1972* (Athens: University of Georgia Press, 2008); Robert Bauman, *Race and the War on Poverty: From Watts to East LA*. (Norman: University of Oklahoma Press, 2008).

³² In her study of Oakland in the postwar period, Donna Murch shows how the state of California and the local police department responded to integration by focusing on delinquency. While Murch demonstrates the ways crime control programs on the state and local level used youth-based punitive programs to manage white racial fears, roughly thirty years later the federal government implemented this practice nationally. See *Living for the City: Migration, Education, and the Rise of the Black Panther Party in Oakland, California* (Chapel Hill: University of North Carolina Press, 2010).

As historical treatments of the rise of the modern carceral state and mass imprisonment are only beginning to make a substantial impact on the literature, the most sustained discussion of the political shift towards social control appears in histories of late twentieth century conservatism. Like sociologists surveying the “underclass,” these scholars emphasize party politics, welfare debates, and tax reform to explain the advent of “law and order” discourse.³³ For Thomas and Mary Edsall, Jonathan Rieder, and Jim Sleeper, by the late 1960s, military Keynesian redistributive principles that began with Roosevelt’s New Deal and lasted through Johnson’s Great Society could not endure once “pathological dependency” in American inner cities became linked in the popular imagination to the inherent failure of government social welfare programs. The threat of Black Power, urban riots, and busing mobilized a new conservative grassroots base that secured the American Right’s electoral resurgence. Yet the emphasis scholars of conservatism placed on the way the national media and politicians depicted black Americans in the years after the civil rights movement ignored political and economic transformations that left a skilled suburban job market spatially inaccessible and that turned towards law enforcement to execute social control objectives.³⁴

³³ Michael W. Flamm focuses on this explicitly. See *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York: Columbia University Press, 2005).

³⁴ Thomas and Mary Edsall’s *Chain Reaction: The Impact of Race, Rights, and Taxes on American Politics* (New York: Norton, 1991) and T Edsall, *The New Politics of Inequality*. (New York: Norton, 1988) argue that race, taxes, and rights set up “a chain reaction, a reaction forcing a realignment of the presidential electorate,” Edsall and Edsall, 3-4. Lisa McGirr’s *Suburban Warriors: The Origins of the new American Right* (2002) is one of the key works in conservatism studies. See also Matthew D. Lassiter, *The Silent Majority: Suburban Politics in the Sunbelt South* (Princeton: Princeton University Press, 2007); Kevin M. Kruse, *White Flight: Atlanta and the Making of Modern Conservatism* (Princeton: Princeton University Press, 2007); Jason Sokol, *There Goes My Everything: White Southerners in the Age of Civil Rights, 1945-1975* (New York; Vintage, 2007); Becky M. Nicolaides, *My Blue Heaven: Life and Politics in the Working Class Suburbs of Los Angeles, 1920-1965* (Chicago: University of Chicago Press, 2002).

Conservatism Studies relies on party politics to answer the question of why policymakers embraced law and order rhetoric to shore up support for carceral measures. Electoral concerns certainly help explain the federal government's commitment to juridical and penal reform beginning in the mid-1960s, but Republican Party strategy is not a satisfactory answer alone. Barry Goldwater's 1964 campaign and the "law-and-order" focus of the 1968 election figures prominently into literature on mass incarceration. Without question, the rightward turn of the American political system is accountable for the appearance of anticrime legislation.³⁵ And segregationists in Congress such as John McClellan, Sam Erwin, and Strom Thurmond emerged as some of the most outspoken crime control proponents in the early stages of the federal government's law enforcement program. But research tracking post civil-rights realignment often conforms to a given set of social, political, economic categories that obstruct moments when liberals and conservatives shared criminal justice objectives. This critical historical shift must be extended outside of party politics and demands new consideration of party intersections in the domestic political sphere.

Examining the process through which racial discourse became subverted and reframed in the political and economic context of both Moynihan's *The Negro Family* and Murray's *Losing Ground* lends critical context to the advent of post-industrial violence in deindustrializing cities. The accessibility of high-tech military weaponry, the advent of drive-by shootings and gang violence, and the watershed in hard narcotics

³⁵Most recently, Rick Perlstein's *Nixonland: The Rise of a President and the Fracturing of America* (New York: Scribner, 2008), and Sean Wilentz's *The Age of Reagan: A History, 1974-2008* (New York: Harper, 2008) have framed this realignment through different Presidential "eras." While I do not find this a useful paradigm to examine the social, political, and economic dynamics of the late twentieth century United States, viewing this period as an "Age of Reagan" is applicable only if racism is not taken into account.

trafficking are just a few examples of historical manifestations of violence that are best posed as historical questions. While deindustrialization is one element of the story—and indeed it may prove to be the critical factor—the revolution in the American law enforcement that immediately followed the “Second Reconstruction” is also important to explore the question of why more black men are touched by the criminal justice system today than were enslaved in 1850.³⁶ In contributing to debates about the persistence of poverty in the United States and drawing our attention to the federal government’s role in sustaining punitive policy that first emerged in the 1960s, this history contextualizes the advent of mass imprisonment and provides critical insight to one of the most important questions facing our society: why, in the land of the free, are one in a hundred American citizens in prison or jail?³⁷

³⁶ Adam Gopnik, “The Caging of America,” *The New Yorker*, January 30, 2012.

³⁷ “One in 100: Behind Bars in America in 2008.”

CHAPTER ONE

“Progress of Justice or Equality:”The First Federal Crime Control Legislation and the Transition of Liberalism

President Lyndon Johnson sent three bills to Congress in March 1965 that encapsulated the federal government’s legislative response to the civil rights movement. The Housing and Urban Development Act subsidized private homes for low-income renters; the Law Enforcement Assistance Act established a role for the federal government in local police operations; and the Voting Rights Act gave black Americans in the South the opportunity to participate in the electoral process as full citizens. It was a landmark year for liberal reform, following closely upon the Civil Rights Act’s dismantling of Jim Crow the previous July. By summer’s end in 1965, the President and Congress had expanded educational and vocational opportunities for black youth through Head Start and Neighborhood Youth Corps programs and gave poor families and older Americans access to health care benefits with Medicare and Medicaid. Yet Johnson also told Congress: “I hope 1965 will be regarded as the year when this country began a thorough, intelligent and effective war against crime.”¹ Thus, the crest of constitutional change and socio-economic reform coincided with the beginning of a punitive turn in federal policy, particularly directed at black urban residents.

Today, the Voting Rights Act is regarded as the apex of the civil rights revolution. Few remember the Law Enforcement Assistance Act, yet it too would have a profound impact on American society and subsequent national policy. As Great Society legislation worked its way through Congress and black residents of Watts engaged in urban civil

¹ “President Forms Panel to Study Crime Problems,” *New York Times*, 27 Jul 1965, 1.

disorder, Johnson assembled research teams and supported experimental law enforcement practices to enable him to design the nation's first national crime control program.

From the outset, the Kennedy Administration had conjoined its social welfare objectives with social control objectives.² The federal government's earliest venture into anti-poverty policy focused on solving the problem of juvenile delinquency through social service institutions and social science research. Alongside a host of programs targeting youth, including Youth Opportunity Centers and Manpower Development and Training Act programs, in 1961 the Kennedy Administration established the Office of Juvenile Delinquency and Youth Development in the Department of Health, Education, and Welfare.³ Like subsequent executive-level crime control initiatives, in its early years the Juvenile Delinquency Office worked with public and non-profit local agencies on research and demonstration projects. It eventually served as a legislative precedent for Johnson's War on Poverty and, later, his War on Crime.

Although the Manpower Development and Training Act of 1962 represented the federal government's earliest effort to respond to the needs of unemployed black Americans, urban civil disorder seemed to underscore the shortcomings of Kennedy and Johnson's approach. The emergence of this new type of mass violence meant that the federal government could no longer evade social problems resulting from segregation in the nation's cities. Policymakers in Congress, the White House, and Executive Departments increasingly chose not to attack the root causes of crime through these

² See Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (New York: Oxford University Press, 2009).

³ For a discussion of the Office of Juvenile Delinquency and Youth Development and the links between law enforcement and early War on Poverty programs, see Michael W. Flamm, *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York: Columbia University Press, 2005), Chapter 1.

youth-based programs, but to mitigate its effects through new police department programs. Barry Goldwater's 1964 political campaign introduced "law and order" and "crime in the streets" into the political discourse and placed them on the domestic policy agenda. Following Johnson's substantial electoral victory, he recast fighting crime as part of the Great Society. Liberals themselves would now preside over a revolution in American law enforcement.

As the architect of modern crime control, Johnson's most enduring legacy with respect to domestic policy lies not in his Great Society programs but in the punitive turn his administration spearheaded.⁴ By devising a blueprint for a revolution in the nation's law enforcement and criminal justice systems, the Johnson Administration and key liberals in Congress laid the groundwork for a new approach to urban policy. Johnson understood his federal crime plan as an "instrument for social progress," in line with the larger aims of the Great Society, as a means to, "provide necessary resources to spur research and the generation of new thoughts, new approaches, and new methods in dealing with criminal activity."⁵ Johnson imagined that existing education, health, housing, and urban environment programs that contributed to eliminating the root causes of crime would operate in tandem with police training, correctional consolidation, and

⁴ Vesla Weaver's "Frontlash: Race and the Politics of Punishment," (PhD diss., Harvard University, 2007) stresses the significance of Johnson's law enforcement initiatives from a political science perspective. See also Glen C. Loury et al. *Race, Incarceration, and American Values* (Boston: The MIT Press, 2008) for a symposium on the punitive turn as it unfolded in subsequent decades.

⁵ Lyndon Johnson, "Annual Message to Congress on the State of the Union," 1967. *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1968-69* (Washington, D. C.: Government Printing Office, 1970), Volume I, entry 14, 25-33; House Subcommittee No. 3, Committee on the Judiciary, *Law Enforcement Assistance: Hearing Before the Subcommittee of the Judiciary*, 89th Cong., 1st sess., May 20th 1965 Hearings, 8; In his 1965 crime speech, Johnson falsely claimed that since 1940 the crime rate had doubled and that it had increased five times as fast as the national population since 1958. See "Crime, its prevalence, and measures of prevention. Message from the President of the United States relative to comments on crime, its prevalence, and measures of prevention." March 8, 1965. Serial Set Vol. No. 12677-3, Session Vol. No. 1-3 89th Congress, 1st Session H.Doc. 103, 3.

research programs that contributed to the suppression of criminal activity. As President during one of the most prosperous decades in the history of the United States, Johnson insisted that the federal government would continue to work towards social justice and economic opportunity.

Although from the Great Depression through 1965 the national crime rate had declined, FBI data depicted black urban neighborhoods as frequent sites of prospective crime and young, black men as representing a high proportion of violent criminals.⁶ Although their accuracy was highly contested, the figures indicated that people under the age of twenty-five committed roughly three-fourths of crimes, and that nearly two million of the 2.8 million crimes reported to the police occurred in cities.⁷ White men had the largest number of arrests, but the FBI statistics revealed that black men had a higher rate of arrest in every category except “offenses against public order and morals.”⁸ This led policymakers to conclude: “The common serious crimes that worry people most—murder, forcible rape, robbery, aggravated assault, and burglary—happen most often in the slums of large cities... the offenses, the victims, and the offenders are found most

⁶ Sidney E. Zion “Clark Says Rise in Crime is Small,” *New York Times*, 19 May 1967.

⁷ Only 500,000 crimes were reported in suburbs, and 170,000 in rural areas. Nicholas deB. Katzenbach et al. *The Challenge of Crime in a Free Society: A Report by the President’s Commission on Law Enforcement and Administration of Justice* (Washington, DC: United States Government Printing Office, 1967), 5. Even though Commission members used federal data to support the use of federal grant monies in urban policing efforts, they knew the figures they used to base these claims were highly flawed. James Q. Wilson, who consulted federal planners on law enforcement programs, pointed out that the violent crime statistics the Katzenbach group relied upon to make its case for federal carceral measures could not be based in reality. Though Wilson questioned the reliability of the FBI in accurately reporting the crime situation in the United States, he explained the perpetual increase of violent crime as the result of an increase in the nation’s youth population, ultimately concluding, “the only sure way we know of fighting crime is birth control.” For Wilson, to curtail crime rates “short of locking up everyone under 30 years of age,” lay in “making more secure the scene of the prospective crime...” And as black urban neighborhoods, statistically speaking, posed the most accurately predictable scene of prospective crime, the federal government anchored its new crime control system in these areas. Wilson in *The Public Interest*, Fall 1966, 32.

⁸ Katzenbach 44.

frequently in the poorest, and most deteriorated and socially disorganized areas of cities.”⁹ Though Robert F. Kennedy’s crusade against white collar and organized crime brought those issues into the law enforcement policy arena, the FBI data supported the Johnson Administration’s perception that, “most crimes, wherever they are committed, are committed by boys and young men, and that most crimes, by whomever they are committed, are committed in cities.”¹⁰ This gave the federal government a specific locale (urban centers) and a specific population (young men between the ages of 15 and 24) at which to aim its reconstitution of American law enforcement.

When the Watts section of Los Angeles erupted during the summer of 1965, just weeks after Johnson officially established the Crime Commission and the Senate Judiciary Committee subcommittee considered the Law Enforcement Assistance Act, the new federal crime control program won wide support among the larger American public and previously ambivalent liberals. Unlike the wartime race riots sparked by white hostility to integration, the form of collective violence that emerged in this later period represented an attack on exploitative and exclusionary institutions in black neighborhoods. The Johnson Administration increasingly understood the apparent increase in urban violence and crime as a consequence of socio-economic conditions that fostered criminal behavior. “Plainly, laws are less likely to command the respect of those forced to live at the margins of our society,” Johnson told Congress in his 1965 crime message, “Stability and order have little meaning and small advantage to those who exist in poverty, hopelessness, and despair.” But Johnson went on to explain the rising wave of

⁹ *ibid* 35.

¹⁰ *ibid* 5.

crime as the product of “a deep moral decay.”¹¹ Confrontations between looters and white business owners and between guerilla snipers and National Guardsmen forced the federal government to reorient its diagnosis of the causes of urban ills from historic inequality to community behavior.

Outnumbered and lacking a planned offensive, law enforcement officials combated a new type of urban guerrilla warfare during the Watts riot, tactics that recalled the violent encounters American troops faced in Vietnam and the Dominican Republic. Los Angeles Police Chief William Parker believed the riot represented a virtual insurgency that was “very much like fighting the Viet Cong.”¹² Coinciding with the major housing, voting, and crime bills Johnson brought to Congress in March 1965, the president sent an additional 20,000 troops to South Vietnam, bringing the total number of American soldiers in the region to 100,000. To prevent spread of urban civil disorder into white communities such as South Gate and Beverly Hills, black civilians and participants alike were subject to the National Guard, the LAPD, and the California Highway Patrol, who together comprised Chief Parker’s 16,000 strong self-proclaimed “attacking force.” Combined, the officers outweighed the number of soldiers Johnson sent to invade the Dominican Republic four months prior.¹³ Media coverage of the violence in Watts fully

¹¹ “Crime, its prevalence, and measures of prevention,” 3.

¹¹ Otto Kerner et al. *Report of the National Advisory Commission on Civil Disorders* (New York: Bantam Books, 1968), 14.

¹² James D. Calder, “Presidents and Crime Control: Kennedy, Johnson and Nixon and the Influences of Ideology,” *Presidential Studies Quarterly* 12, no. 4 (1982): 574-589, 580; President Lyndon B. Johnson, *op cit.*, 1966, p. 1209.

¹² Quoted in Gerald Horne, *Fire This Time: The Watts Uprising and the 1960s* (Charlottesville: University Press of Virginia, 1995) 64.

¹³ *ibid* 3.

justified paramilitary support. “This was not a riot. It was an insurrection against all authority,” CBS Radio concluded, “If it had gone much further, it would have become civil war.”¹⁴ The actions of the riot’s participants and the two hundred million dollars in property damage they caused seemed to call for an overthrow of public institutions or inclusion as full economic and social citizens, neither of which the federal government was prepared to accept.¹⁵

The Johnson Administration operated on the assumption that crime and violence comprised the “foremost condition of life in the ghetto,” and that only federal social control programs could restore law and order in cities.¹⁶ “There are very few affluent Americans that are attracted to crime,” Johnson insisted, “and very few of them have criminal records.”¹⁷ Based on FBI data, the Crime Commission echoed the President’s assumption in its report issued in early 1967: “Instead of turning out men and women who conform to the American norm... the slums are producing the highest rates of crime, vice, and financial dependence.”¹⁸ The continued exodus of industry, factories, and businesses from cities to suburban areas required new approaches to the problems municipalities faced with tax bases in decline.

Johnson established two special research teams to investigate urban violence, which devised a blueprint for the federally directed revolution in American law enforcement. The Law Enforcement Assistance Act of 1965 sanctioned the Crime

¹⁴ Quoted in *ibid* 36.

¹⁵ David O. Sears and John B. McConahay, *The Politics of Violence: The New Urban Blacks and the Watts Riot* (Boston: Houghton Mifflin Co., 1973), 13.

¹⁸ Katzenbach 59.

Commission, whose members closely monitored the first federal crime-fighting initiatives to assist the President in drafting a comprehensive crime control bill. The second task force Johnson appointed two years later, the National Advisory Commission on Violence and Civil Disorders (usually referred to as the Kerner Commission), reinforced suggestions advanced by its predecessor. The president formed the Kerner Commission during the Detroit riot and on the heels of the devastation in Newark, hoping it would provide urban police departments and the National Guard with concrete measures to prevent and manage urban unrest.

The Reports of the Crime and Kerner Commissions identified black urban neighborhoods as the War on Crime's primary battleground. The fact that fifteen and sixteen-year olds had the highest arrest rate in the United States, and that statistics pointed to black urban teenagers as the nation's largest criminal group, urged the commissions to focus their recommendations on revitalizing the juvenile justice system and the youth programs initiated by the New Frontier and the War on Poverty.¹⁹ The Crime Commission essentially viewed urban young people as juvenile delinquents, "from backgrounds of social and economic deprivation," living in broken homes, with low school performance.²⁰ The Kerner Commission identified them as the "hard-core" unemployed, locked out of manufacturing jobs as cities deindustrialized and susceptible to crime and rioting.

The War on Poverty effectively "laid the ingredients" for the social institutions the Crime and Kerner Commissions proposed, whereby the service agencies in urban

¹⁹ *ibid* 57.

²⁰ Katzenbach 57.

areas previously premised on Community Action adopted law enforcement components.²¹ The Commissions believed the perceived inability of autonomous urban social institutions to maintain order could be assuaged by recasting power in public programs from grassroots activists and social workers to professional planners and law enforcement officials. On the ground, this ceded “maximum feasible participation” by local residents and activists to educated policy planners who often lived outside the communities they served. Attorney General Nicholas Katzenbach and other liberal policymakers believed that the foot soldiers of the War on Poverty—grassroots activists, social workers, and “indigenous leaders”—could not effectively run many promising federal programs. It is not surprising that Johnson’s Law Enforcement Assistance Act prohibited anyone but professional planners from access to new federal funds.

After 1965, in the wake of urban uprisings and the Vietnam War, local police emerged as the vehicles through which residents, and particularly youth, in urban communities received social services. The Kerner Report described a situation where “police responsibilities in the ghetto have grown as other institutions of social control have lost much of their authority.” “It is the policeman,” it added, “who must fill this institutional vacuum.”²² By embracing an increased police presence to mitigate the perceived erosion of urban social institutions, the Crime and Kerner Commissions restructured the function of crime control as the primary social service provider for racially marginalized Americans and left police officers as the government’s first line of representation in segregated black neighborhoods.

²¹ *ibid* 83.

²² Kerner 300.

By instituting neighborhood centers and special programs for juveniles as suggested by both commissions, the Johnson Administration expanded the federal government's law enforcement capabilities in local communities. The commissions reconfigured the role of urban police departments so as to actively shape the city planning process and conceived of new institutions like Youth Services Bureaus and storefront law enforcement centers. The ultimate result of the policies devised by both commissions was to ease the transition from a domestic war based on social welfare to one based on social control. By enacting the commissions' suggestion to invest fiscal funds into local police departments as an immediate solution to urban crisis from 1965 onwards, the Johnson administration and liberal policymakers facilitated the process by which Community Action Programs in the War on Poverty morphed into Police-Community Relation Programs in the War on Crime.

The federal government's commitments to fighting crime and poverty beginning in the mid-1960s is often considered in terms of a dichotomy that pits liberals against conservatives, but the problem of law and order won bipartisan attention from the outset. The Law Enforcement Assistance Act and subsequent crime control legislation underscores the extent to which, even at the height of the liberal welfare state, these two seemingly opposing domestic policy approaches were complementary. With respect to the American system of criminal justice, Johnson is best understood as the engineer of a cohesive, unified national law enforcement system—a project he saw as “generations overdue.”²³ Working together, liberals and conservatives in the Johnson administration

²³ Lyndon Johnson, “National Strategy Against Crime: A Proposed Three-Stage Strategy Against Crime,” March 9, 1966. Serial Set Vol. No. 12724-3, 89th Congress, end Session, H. Doc 407. Historians generally attribute crime control legislation to conservatives, and see the issue as a thoroughly electoral

and Congress brought the Department of Justice to a new level of prominence, expanded the power and influence of the attorney general at the local level, and invited the private sector to participate in public social programs.²⁴ When Johnson signed the Omnibus Crime Control and Safe Streets Act in early June 1968, the Crime Commission witnessed the implementation of its comprehensive legislative plan for what policymakers called a revolution in the nation's penal and juridical institutions.²⁵

Through its crime control bills, the Johnson Administration set a process in motion that changed the nature of liberalism. The choice to bring carceral measures into urban policy, to channel funds to states and municipalities through block grants, and to contract with the private sector and employ professional planners, helped to lay the groundwork for subsequent federal action generally associated with conservatism. Over the course of his presidency, Johnson led the federal effort to increase the surveillance of hyper-segregated communities and restored states' rights under a new guise.

I. The War on Black Poverty

Just days after Johnson introduced the Law Enforcement Assistance Act to Congress and delivered his first message on crime in March 1965, Daniel Patrick

one, coming to bear in 1968. Flamm's contention that liberals "failed to take the [law and order] matter seriously until it was too late," is particularly representative of this view. The role of Johnson and other liberals in directing law enforcement legislation and pushing it through Congress brings this prevalent view into questions. See Flamm 2.

²⁴ Alongside the Law Enforcement Assistance Act, Congress also passed what Johnson called "the most significant reform in modern American penology," which allowed inmates to work in the daytime and return to their prison cells at night; See "National Strategy Against Crime."

²⁵ From Warren Lehman, "Crime, the Public, and the Crime Commission: A Critical Review of 'The Challenge of Crime in a Free Society,'" *Michigan Law Review*, Vol. 66, No. 7 (May, 1968): 1487-1540.

Moynihan submitted an internal report on what he called the “crisis of race relations” to Secretary of Labor W. Willard Wirtz, who promptly shared the Harvard sociologist’s data on black urban families with White House officials. Hoping to take advantage of the moment, and eager to work with fellow liberals in Washington on the problems of poverty and racial inequality, numerous academics had descended on Washington. Few came to exert more long-term influence than Moynihan. Johnson waged the War on Poverty largely on the basis of legislative proposals Moynihan and others produced in Kennedy’s Task Force on Manpower Conservation in 1963. When Johnson created an Office of Policy Planning and Research at the Department of Labor he appointed Moynihan as the agency’s first director.²⁶ Positioned in the Department of Labor during the Kennedy and Johnson Administrations and as Assistant to President Nixon for Urban affairs, Moynihan rose to the forefront of the federal attempt to manage the problem of racial disparities in income and education during the second half of the 1960s and early 1970s. Drawing in equal measure on social science data and psychological theory, Moynihan devised reforms that he believed would address the problem of socio-economic inequality. The debates about race, gender, and welfare ignited by his notorious *The Negro Family: The Case for National Action* of 1965 overshadowed the imprint Moynihan himself left on national policy, working behind the scenes with White House officials, fellow academics, and three presidents.

Coinciding with the federal transition from the War on Poverty to the War on Crime, Moynihan’s ideas helped to create a new strain of liberalism, one that recognized

²⁶ Moynihan served on the Task Force with fellow New Frontiersmen Sargent Shriver, Adam Yarmolinsky, and James Sundquist. See Gareth Davies, *From Opportunity to Entitlement: The Transformation and Decline of Great Society Liberalism* (Lawrence: University Press of Kansas, 1999), 38.

the limitations of civil rights legislation to overcome race-based inequality and emphasized the need for structural reform, but that explained the disproportionate reality of poverty among black Americans as a consequence of “the pathology of post-industrial society.”²⁷ For Moynihan the urban crisis resulted from the substantial migration of black Americans from rural areas to cities for newly available wartime production jobs, and the subsequent disappearance of those jobs as American corporations increasingly relied on suburban, rural, and overseas labor. Moynihan contextualized what he called “black ghetto poverty” in the socio-economic legacy of slavery and structural discrimination, but redefined the problem of inequality as a problem of the black family, a “fundamental source of weakness in the Negro community.”²⁸ Offering the federal government a “cornerstone for a new era of social legislation,” Moynihan argued that policies aimed at sustaining and creating two-parent households in poverty-stricken urban areas would alleviate the consequences of structural discrimination and exclusion for black Americans.²⁹

Writing in the wake of urban civil disorder in Harlem and Philadelphia during the summer of 1964, Moynihan believed the extraordinary scope of the riots represented an opportune moment to advocate for new federal employment measures. Though Moynihan did not intend his notion of “post-industrial pathology” to steer liberal policymakers away from fundamental socio-economic reforms, his understanding of the urban crisis provided the federal government an academic rationale for directing domestic programs

²⁷ Lee Rainwater and William L. Yancy, *The Moynihan Report and the Politics of Controversy* (Cambridge: MIT Press, 1967), 137.

²⁸ Daniel Patrick Moynihan, “A Family Police for the Nation.” *America* 16 Sep 1968;

²⁹ *ibid.*

specifically at the plight of black men, while removing itself from accountability for the larger social conditions that inspired black Americans to riot. Moynihan argued that delinquency, crime, unemployment, poverty, and lack of education resulted from unstable black families. His recommendations encouraged a kind of reform that responded to decaying urban school systems, high rates of unemployment, and substandard housing but looked inward instead of instead of addressing the structural factors that institutionalized exclusion for generations of black Americans.³⁰

Although Moynihan originally intended *The Negro Family* for a small audience of policymakers and state officials, on March 23, 1965, weeks after the initial “Eyes Only” copies were printed, Secretary of Labor Wirtz sent Johnson a memo summarizing Moynihan’s key findings. The memo, drafted by Moynihan himself, warned Johnson that he confronted “a second stage, a new crisis” of reform that demanded that the federal government move beyond rights “traditionally associated with *Liberty*” to meet demands for “the democratic ideal of *Equality*.”³¹ Johnson assigned his assistant Bill Moyers to

³⁰This view synthesized three decades of scholarship on the “Negro Problem,” particularly by the sociologists E. Franklin Frazier and Nathan Glazer. Moynihan drew heavily on the work of psychologist Kenneth Clark, who placed a perceived “tangle of pathology” in black urban communities at the center of his explanation for the breakdown in black family structure in *Dark Ghetto* (also released in 1965). Daniel Patrick Moynihan, *The Negro Family: A Case for National Action* (Washington, DC: Office of Policy Planning and Research, United States Department of Labor March 1965) in Rainwater and Yancey 76. Though less influential on Moynihan himself, Oscar Lewis explained poverty in Mexico City in his 1961 book *The Children of Sanchez* through a “culture of poverty” lens, and many Americans were familiar with Michael Harrington’s argument in *The Other America*, published three years before the release of *The Negro Family*, which depicted economic discrepancies in the United States through the idea that poor people were culturally trapped in their status. See Moynihan *The Negro Family* 9, 35, 41.

³¹ Daniel Patrick Moynihan to Willard Wirtz, boxes 28, 290, 104, Daniel Patrick Moynihan Papers; quoted in James T. Patterson, *Freedom is Not Enough: The Moynihan Report and America’s Struggle Over Black Family Life from LBJ to Obama* (New York: Basic Books, 2010), 43. Moynihan drew heavily from the sociologist Kenneth B. Clark to make many of these assertions. See Kenneth B. Clark, *Dark Ghetto: Dilemmas of Social Power* (New York: Harper Collins, 1967).

read the entire report in order to include Moynihan's recommendations in the national agenda.³²

In his first presidential message on race and black Americans, Johnson used his June address to the graduates of Howard's class of 1965 to commit his administration to developing social programs that would ensure greater equality as the principle behind the "next and more profound stage" of civil rights policy.³³ Whether Johnson read the series of memos he received from Moynihan remains unclear, but the president eventually took enough notice to ask Moynihan to draft his Howard speech. The night before its delivery, Moynihan penned Johnson's remarks with presidential assistant Richard N. Goodwin, transforming his social science data into political rhetoric.

Johnson's speech announced that the White House intended to advance beyond civil rights legislation by supporting measures to address structural inequalities in employment, housing, and education. "We seek not freedom but opportunity," Johnson said, "we seek not just legal equity but human ability, not just equality as a right and a theory but equality as a fact and equality as a result... to this end equal opportunity is essential, but not enough."³⁴ Johnson cited statistics from the Moynihan Report on unemployment, infant mortality, and black single mothers as evidence of the "breakdown of the Negro family," a problem for which he believed, "white America must accept

³² Rainwater and Yancey 26, 27.

³³ Lyndon Johnson, "Commencement Address at Howard University: To Fulfill These Rights" June 4th, 1965. *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965* (Washington, DC: Government Printing Office, 1966), Volume II, entry 301, 635-640.

³⁴ Davies 71.

responsibility.” Johnson claimed that without a policy to foster two-parent households, “the circle of despair and deprivation” in black urban America would never break.³⁵

Yet Johnson’s gesture towards a “War on Black Poverty” was short-lived. Roughly a month after his remarks at Howard, and shortly after the Voting Rights Act became law, Watts residents rioted. The Moynihan Report went public as journalists and policymakers looked for academic explanations for the outbreak. Meanwhile, Johnson escalated American involvement in Southeast Asia. Vietnam and the violence in Los Angeles placed the Great Society and postwar liberalism itself in question. The riots highlighted the sense that the United States faced its gravest racial crossroads since the civil war, and made clear that the monumental federal actions of the first half of the 1960s did not resolve entrenched structural inequality and disadvantage. Under growing criticism from civil rights leaders and a resurgent left for his decision to escalate the war in Vietnam, Johnson fell into retreat. The substantial socio-economic reform the president proposed at Howard dwindled on his Administration’s domestic agenda.

While urban rebellion in Watts may have weakened support for the War on Poverty, Moynihan’s policy option of strengthening the black family and the male role within it continued to gain ground politically and publically. For Johnson, the Watts riot confirmed Moynihan’s suggestion that his most viable political option lay in directing domestic social policy towards the restoration of stability and order within the black family. For the mainstream press, the report’s conclusions seemed to offer a sound explanation for what the *Wall Street Journal* called the “orgy of Negro rioting” in Watts and Chicago’s West Garfield Park. On August 16, 1965, five days into the Watts

³⁵ Johnson “Commencement Address;” Katznelson Chapter 1; Patterson *Preface: “To Fulfill These Rights,” Spring 1965.*

rebellion, the *Journal* printed a sensational article on its front page, warning the public: “Behind the Riots: Family Life Breakdown in Negro Slums Sows Seeds of Race Violence; Husbandless Homes Spawn Young Hoodlums, Impede Reforms, Sociologists Say; Racing a Booming Birth Rate.”³⁶ Drawing on Moynihan’s analysis, the article pointed to the “spreading disintegration of Negro family life,” as a possible cause of violence on the streets of Los Angeles in August 1965.³⁷ This and countless other sensationalized depictions of urban violence in Watts reinforced Moynihan’s assumptions about community behavior.

When policymakers and the media applied this pathological view to the Los Angeles uprising, they concluded that single black mothers raising illegitimate children not only explained poverty in urban neighborhoods, but also *caused* the riots. The *Journal* warned of the young people it largely perceived to be leading violent outbreaks: “A growing army of such youth is being bred in the Negro sections of cities across the country by broken homes, illegitimacy and other social ills that have grown steadily worse in recent decades.”³⁸ The *Journal* inferred that growing up in the slums “warped the minds” of black youth and that the reversal of this trend would be a “discouragingly long-term struggle.”³⁹ The implication was that civil rights laws themselves, “may

³⁶ “Behind the Riots: Family Life Breakdown in Negro Slums Sows Seeds of Race Violence; Husbandless Homes Spawn Young Hoodlums, Impede Reforms, Sociologists Say; Racing a Booming Birth Rate,” *Wall Street Journal*, 16 Aug 1965, 1.

³⁷ *ibid.*

³⁸ *ibid.*

³⁹ *ibid.*

temporarily—though surely unintentionally—make the situation worse,” by cultivating a new, unfounded sense of freedom that encouraged criminality.⁴⁰

Images of Watts rioters throwing rocks, beating white civilians, and setting fire to property reinforced the new prominence of crime prevention on the domestic policy agenda and upheld popular arguments that, as Senator Strom Thurmond put it, “No country has every incurred as much crime as America is enduring today.”⁴¹ A critical mass of policymakers, federal administrators, law enforcement officials, and journalists concluded that only intensified enforcement of the law in segregated urban communities where contempt for authority seemed widespread would quell the anarchy and chaos on the nation’s streets. Urban civil disorder in Los Angeles and elsewhere reinforced long-held racist fears of innate violent tendencies in black Americans; these fears contributed to the federal government’s decision to manage urban crisis through punitive measures.

The Watts uprising called Johnson’s anti-poverty record into question and reinforced conservative arguments about the shortcomings of liberalism. The exceptional damage fueled claims from conservatives and even some liberals that federal welfare and housing policy helped to cause the crime menace. Like many of his peers, Los Angeles District Attorney Evelle Younger criticized the War on Poverty for encouraging lawlessness. Younger believed that a “national guilt complex” about historic racism paralyzed the liberal state so that “every time a hoodlum throws a Molotov cocktail or

⁴⁰ *ibid.*

⁴⁷Strom Thurmond quoted in Senate Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, *Controlling Crime Through More Effective Law Enforcement: Hearing before the Subcommittee on Criminal Laws and Procedures*, 90th Cong., 1st sess., March 7, 1967, 47.

shoots a policeman society is somehow at fault.”⁴² The idea that “there is an indulgence of crime because of sympathy of those who have become criminals,” led directly to the conclusion that the civil rights revolution made necessary a renewed focus on public security and safety. Johnson’s friend and Crime Commission appointee Leon Jaworski implicated civil rights laws in the rising crime rate by asking the National Conference of Bar Presidents:

“If a civil rights leader... disobeys a law or court decree because it offends his moral beliefs of what is right... [and is] excused from obeying the law on such grounds, why shouldn’t members of the crime syndicate be granted similar exemption from obeying the law? ... Such reasoning could eventually view murder as justifiable homicide and destroy our moral concern for what we now consider wrong and evil. A moral callousness of the preservation of what we now consider to be right and decent, reminiscent of the days of the fall of the Roman empire, may well follow.”⁴³

Policymakers and the media did acknowledge unemployment, police brutality, and subpar urban school systems as factors contributing to what they labeled a national crime problem, but the Watts riots and subsequent urban civil disorder moved liberal sympathizers away from structural critiques of poverty.⁴⁴ By equating violence with a

⁴² Evelle Younger, “Bill of Rights” in Memo from Pollner to Mitchell “Re: Anticipated Criminal Activity Facing New Administration and Proposed Action to Combat Same.” n/d Richard Nixon Presidential Library, Martin Anderson Collection, Box 24.

⁴³ Robert Wiedrich, “Growing Disrespect for Laws Called Threat to Our Nation,” *Chicago Tribune*, 17 Feb 1968, W18.

⁴⁴ Thomas McDermott, the Vice President of the Police Chiefs Association of Southeastern Pennsylvania, submitted an article to the Senate entitled “Gangs in the Streets” from the *Philadelphia Evening Bulletin* concluded in the summer of 1966: “Those who... seek to understand and try to help correct the housing and other conditions which stir unrest cannot help but be both repelled and discouraged by the activity of roaming groups of hoodlums interested only in violence for the sake of violence.” By clinging to the idea that a marginal group of troubled slum “riff raff” engaged in rioting, politicians backing law enforcement measures could “strip from these outbreaks any legitimacy as a form of social or economic protest,” as a Philadelphia police captain testified. See *Controlling Crime Through More Effective Law Enforcement: Hearing before the Subcommittee on Criminal Laws and Procedures*, 90th Cong., 1st session, July 12, 1133.

cultural cycle of poverty among black Americans, policymakers configured crime as an issue of social pathology.⁴⁵

The growing clamor for safety as the “forgotten civil right” compelled policymakers to revisit the transformation of American racial law and social policy made possible by the reforms of the previous decade. “No right is more elemental to our society than the right to personal security and no right needs more urgent protection,” Johnson affirmed in his 1965 message to Congress on crime, emphasizing that, “one of the most legitimate functions of government is the preservation of law and order.”⁴⁶ The President’s remarks reflected a growing sentiment among Western Republicans and Southern Democrats that the foremost public need was the restoration of social order. These policymakers drew on Moynihan’s combination of structural criticism and pathological indictment to claim that liberal welfare policy demoralized black urban constituents and sustained an environment of criminality.⁴⁷

By making the issue of law and order the centerpiece of his 1964 campaign, Goldwater had demonstrated the extent to which crime control resonated with the public, but the election also exposed the fissures within the Democratic Party’s national constituency despite Johnson’s overwhelming victory. For Johnson and other liberals, the 1964 Presidential contest made clear that racial reform left key groups of white voters

⁴⁵ Harvard’s James Q. Wilson, with whom Moynihan corresponded throughout the 1960s on the crime issue, deserves mention here as a leading theorist behind the erection of the American carceral state.

⁴⁹ “Comments on Crime, its Prevalence, and Measure of Prevention.”

⁴⁷ I appropriate the language of Arizona Senator Paul Fannin here, who believed federal social programs left residents “aimless, demoralized” and with no other option but to engage in violent activity “in an environment which breeds crime and criminals.” See *Controlling Crime Through More Effective Law Enforcement Hearing*, 898.

highly disenchanted. For instance, even while voting for Johnson, in 1964 California voters overturned the Rumford Fair Housing Act outlawing restrictive covenants in the Proposition 14 referendum. To maintain the support of these critical portions of the electorate, Johnson vowed to protect the safety of “ordinary” Americans and moved his policy towards a new liberal synthesis that combined welfare and crime control. Now, federal grants awarded to states and municipalities to develop autonomous programs functioned to mitigate the states rights’ issue, and crime control and law enforcement enjoyed a new status as a main tenet of domestic policy.

The Law Enforcement Assistance Act of 1965

Although Southern conservatives relied upon anticrime rhetoric as a mode of opposition to changes in American racial law, it was liberal politicians who introduced the first federal legislation to restore law and order, or the Law Enforcement Assistance Act of 1965. In the fall of that year, as the reality of Watts and the backlash it spawned influenced policy considerations, Johnson scaled back the massive federal socio-economic program he had described at Howard University.⁴⁸ Vietnam occupied an increasing amount of the president’s attention and an increasing share of the federal budget. Johnson found himself on tenuous ground: he needed to placate liberals and respond to the riots so that it did not appear that he ignored the problem of urban poverty, but sensationalized depictions of urban civil disorder, the new electoral prominence of crime control issues, and growing conservative reactions to civil rights gains meant that

⁴⁸ See Davies Chapter 4; Rainwater and Yancey Chapter 5.

the president could not seem as if he were conceding to rioters or rewarding their actions.⁴⁹

To shore up support for the War on Crime during the early stages of the War on Poverty, elected officials acted on the assumption that continued social progress depended upon the arrest and punishment of lawbreakers. As Younger wrote in 1968: “The problems of our great cities were decades in building; they will be decades in their solution... But we cannot have patience with urban violence. Immediate and decisive force must be the first response.” Younger urged that law enforcement programs “deal with the immediate crisis—the riots” by containing “those engaging in riots and violence, those trying hardest to destroy our system based on this rule of law.”⁵⁰ This outlook left the young people living in segregated urban neighborhoods particularly vulnerable to the ever-expanding criminal justice system. While the structural diagnosis of urban civil disorder promised to curtail crime rates in the long-term through Great Society programs, enacting policies to improve the effectiveness of law enforcement presented the federal government with an opportunity to make an immediate impact on crime rates.

To do so, the federal government needed to build institutions that would support police departments in reducing urban violence. Johnson’s Act instituted the Office of Law Enforcement Assistance (OLEA) with a three year, twenty-two million dollar grant to fund law enforcement research and experiments in urban areas and to professionalize the field through special training programs.⁵¹ By expanding the power of the Department

⁴⁹ Jacob Javits quoted in Davies 107.

⁵⁰ Younger, “Bill of Rights” in Memo from Pollner to Mitchell “Re: Anticipated.”

⁵¹ Chaired by Edwin E. Willis of Louisiana, the southern Democrat judged so liberal by his constituency that the more conservative Patrick Caffery defeated him after ten terms in Congress in the

of Justice and redefining the role of the attorney general, Johnson imagined that the new agency would support the development of law enforcement techniques. He suggested to Congress that “experiments might be undertaken with different kinds and intensity of police coverage in high crime districts in order to learn more about the effective allocation of manpower.”⁵² Under the direction of Attorney General Katzenbach, the Department of Justice’s newest agency would offer grants and contracts to public and private entities.⁵³ The Act left it up to Katzenbach (and his successor Ramsey Clark) to chart the course of the first battles of the War on Crime.⁵⁴

1968 Democratic primary, the Committee on the Judiciary’s subcommittee oversaw the first hearings on Johnson’s Law Enforcement Assistance Act. The subcommittee included two Congressmen who would go on to serve on the Kerner Commission: Republican John Lindsay of New York City and Democrat James Corman of Los Angeles. Other Democrats active in the bill’s production included Roy McVicker of Colorado, New York’s noted liberal Democrat James Scheuer and liberal Republican Jacob Javits, Ted Kennedy at the start of his Senate career, and Nebraska’s Republican Senator Roman Hruska. *ibid.*, Testimony of McVicker, 11. In his draft of the bill, which emphasized the importance of training law enforcement officials, McVicker saw the ultimate end of the legislation he introduced as “increasing the security of persons and property and of promoting respect for the law.”; *Law Enforcement Assistance Hearings* May 20, 1965, 8. Corman believed that the grant structure established by the Act provided “a spur to direct action in the States and local communities and a bit of Federal financial spark may serve to start a fire of enlightenment in several aspects of our criminal process.”; The extent to which the LEA operated primarily as a means to professionalize and train police officers is overstated by Paul M. Whisenand in “Equipping Men for Professional Development in the Police Service: The Federal Law Enforcement Act of 1965,” *The Journal of Criminal Law, Criminology and Police Service* Vol. 57, No. 2, 1966 (223). Whisenand was Assistant Professor of Police Science at California State College at Long Beach at the time he authored the piece, Police Science Departments emerged as an important lobby for developing college police curriculum and professionalizing the field.

⁵² “Crime, its prevalence, and measures of prevention.”

⁵³ The origins of the federal research and the rising importance of the Department of Justice and Attorney General in domestic policy lie in the New Frontier. In 1961, Kennedy’s Civil Rights Commission gave the Attorney General authority to redistribute federal funds with respect to the function and effectiveness of law enforcement. Senate Committee on the Judiciary, *The Law Enforcement Assistance Act of 1965: Hearing Before the Senate Committee on the Judiciary*, 89th Cong., 1st sess., July 22, 1965, 12. ; H.R. 6508, sec 8 (a) (1), (2)); H.R. 8027, 89th Cong., 1st Sess. Sec. 6 (b).

⁵⁴ Where special assistance and training programs had previously been under the exclusive domain of the FBI, the Department of Justice and the Attorney General gained new legislative authority in American law enforcement under the Act’s premises. J. Edgar Hoover set the precedent for federal intervention beginning in 1961, when the FBI’s National Academy in Washington opened its doors to state and local officers for equipment, training, and services. The Department of Health, Education, and Welfare provided vocational training for police; the Treasury Department’s Bureau of Narcotics Training Schools instructed narcotics enforcement officials. Kennedy’s bill proposed a National Academy of Criminal Justice, endorsed by the American Psychiatric Association and the Association of American Law Schools.

In its earliest incarnation, the Office of Law Enforcement Assistance encouraged local police and private firms to accept subsidies that would allow for experimental strides in the federal effort to eradicate the newly perceived crime problem.⁵⁵ In the style of grant programs under the War on Poverty, the OLEA channeled federal funds directly to local level operations. Katzenbach adamantly refused to grant money to states, both because Congress eschewed direct federal participation in writing crime control policy at the state level and policymakers did not want the OLEA to evolve into a federal police force. Instead, Katzenbach designed his new agency to provide “the means [for the States] to protect their own lives and property,” by supplying “the tools and training by which they can better exercise their responsibility.”⁵⁶ The OLEA allowed the federal government to invest taxpayer dollars in projects that advanced promising new directions for American law enforcement practices, and served as an information clearinghouse to instruct major metropolitan areas in modern crime control techniques.

Indeed, in a rare moment when the federal government encouraged innovative and experimental use of its anti-poverty aid, it excluded grassroots activists and social service professionals from policy discussions in matters of crime control.⁵⁷ Katzenbach’s direction of the OLEA set a precedent in federal law enforcement policy that relied on professional planners to develop crime control and prevention measures. The earliest

⁵⁵ Johnson intended the Law Enforcement Assistance Act to support radical new criminal justice programs. Johnson told Congress in his crime message: “We must do more. I believe a major opportunity lies in the development and testing of experimental methods of crime control.” The statement is italicized in the printed congressional serial text of the speech. “Crime, its prevalence, and measures of prevention..”

⁵⁶ Katzenbach before the Senate Committee on the Judiciary, *The Law Enforcement Assistance Act of 1965: Hearing Before the Senate Committee on the Judiciary*, 89th Cong., 1st sess., July 22, 1965, 4.

⁵⁷ Social workers stood at the center of Moynihan’s critique of Community Action Programs. According to him, their overrepresentation in planning the War on Poverty meant that job programs responding directly to unemployment needs were largely overlooked. See Moynihan, “The Professionalization of Reform,” *The Public Interest* (Fall 1965), 6-16.

grants the attorney general awarded closed law enforcement discussions to the communities where the implementation of new crime control methods supported by the OLEA were underway. Katzenbach told the Senate Subcommittee on the Judiciary during its hearings on the Act: “I would like really to deal with the professionals on this.”⁵⁸ As director of the new agency, Katzenbach allocated crime control funds through a professional channel, one staffed by people with training and expertise.

The first federal law enforcement grants in 1965, then, went primarily to private, nonprofit institutions: to universities to conduct research and law enforcement training programs, police organizations like the International Association of the Chiefs of Police, think tanks like the Kellogg corporation and the Vera Institute, and local groups of community businessmen eager to contribute resources to the larger crime fighting effort. Where Congress viewed experimental War on Poverty programs with trepidation, the Law Enforcement Assistance Act encouraged the development of radical new approaches to criminal justice, and conceived of the OLEA as an agency that would finance research to eventually culminate in a permanent institution.

To complement the work of the OLEA in launching the earliest federal law enforcement programs, the Act mandated a research team to develop programs that would advise Johnson on how to begin a new era in federal management of the nation’s penal and juridical institutions.⁵⁹ On July 23, 1965, the day J. Edgar Hoover released a

⁵⁸ *Law Enforcement Assistance Hearings* May 20th, 1965, 32.

⁵⁹ Johnson was not the first President to call a Commission to investigate the nation’s law enforcement and criminal justice systems. Herbert Hoover established the National Committee on Law Observation and Enforcement in 1929, known as the Wickersham Commission, to determine the extent to which prohibition lessened crime. President Kennedy also planned to appoint a Commission on organized crime and racketeering. But Johnson’s War on Crime was a war on “crime in the streets,” as Goldwater defined it, and aimed to supply federal resources to eradicate the perceived problem of rapes, murders,

report indicating a sharp increase in national crime levels, Johnson officially appointed the National Crime Commission he had mentioned only in passing during his first major speech to Congress on crime.⁶⁰ Johnson subscribed to the belief that the solution to social problems lay in knowledge, planning, and bureaucracy. As Johnson's first decisive action towards the maintenance of law and order, establishing the Crime Commission ensured that the new direction in law enforcement and crime control Johnson sought to place on the Congressional agenda would be well designed.

One week after the Law Enforcement Assistance Act unanimously passed in both chambers, on September 8th, 1965, the staff and members of the Crime Commission held their first series of meetings at the Department of Labor and the White House. Congress granted Katzenbach and his research team 1.1 million dollars for operation (by the time the Commission finished its work the total cost of its research endeavors nearly doubled this initial allocation; the law enforcement experts at the nation's top universities who served as consultants proved to be costly).⁶¹ The Crime Commission promptly divided itself into four major committees: police, general analysis of the crime problem, courts, and corrections. Some committees broke into various subcommittees during the course of the Commission's tenure, and to further investigate pressing issues such as juvenile delinquency and narcotics abuse.

thefts, and muggings in urban areas, as well as rioting. The Crime Commission responded to the "unsettling, even threatening changes" exhibited by the Watts outbreak, by calling on the federal government to protect the American people. Katzenbach 100.

⁶⁰ Michael Pakenham, "13 Pct. Rise in Serious Crime Reported by FBI," *Chicago Tribune*, 27 Jul 1965. It is worth noting that the Tribune announced Johnson's calling of the Crime Commission in a mere sentence, while the majority of article reproduced the crime statistics released by the FBI report. This coverage stood in stark contrast to articles that appeared after Johnson called the Kerner Commission.

⁶¹ Louis Dombrowski, "Urge 'Revolution' in Approach to Crime in U.S.," *Chicago Tribune*, 19 Feb 1967, 28.

Johnson worked actively with the commission as it collected data and summarized its findings, careful to control the political nature of the recommendations released in the final report. At times Johnson's insistence that the Commission comply with the official positions of his administration caused severe delays in the group's proceedings. For instance, while the commission upheld the Justice Department's stance on criminal and law enforcement issues, it broke with the Department over wiretapping. The law enforcement officials on the commission favored endorsing the controversial practice, while the Justice Department opposed it. Eventually the Crime Commission revised its stance and placed its recommendations in line with the Justice Department's defense of privacy.⁶²

This revision reflected the extent to which Katzenbach and his staff at the Department of Justice dominated the commission and steered its policy suggestions. Katzenbach chose Harvard Law School's James Vorenburg to serve as staff director. Vorenburg worked as part-time director at the Department of Justice's new Office of Criminal Justice, established in August 1964 by Attorney General Robert F. Kennedy. Once Vorenburg accepted the post on the President's Task Force, he left Harvard to begin working full-time for the Department. While he served in both capacities, as Director of the Commission and the Office of Criminal Justice, Vorenburg drafted a code of police procedures for the American Law Institute under a grant from the Ford Foundation. The code included a highly controversial "stop-and-frisk" law that Vorenburg strongly advocated in his post on the Crime Commission, as well as provisions that allowed police to question suspects without a lawyer present in certain

⁶² Warren Lehman, "Crime, the Public, and the Crime Commission: A Critical Review of 'The Challenge of Crime in a Free Society,'" *Michigan Law Review*, Vol. 66, No. 7 (May 1968), 1505.

circumstances and a broader definition of the constitutional requirement of “reasonable cause” for arrest.⁶³ Vorenburg hired his colleague at the Office of Criminal Justice, Henry S. Ruth Jr., a former prosecutor of the Department of Justice’s Organized Crime and Racketeering Section, to work directly under him.

To avoid controversy or divisiveness in his crime control project, Johnson carefully selected commission members. As Max Freedman of the *Los Angeles Times* wrote: “the committee is characterized less by experience and knowledge than by the blandness that makes for acceptability to all interested parties. The typical member is the safest of all creatures, a former or retiring official with ambitions.”⁶⁴ By bringing together representative experts from the law enforcement, academic, civil rights, and corporate worlds with moderate political orientations, Johnson could produce a comprehensive crime control and prevention plan to place on the agenda for the upcoming congressional year amenable to both liberal and conservative policymakers involved in the project.

In September 1965, Johnson met with members of his newest Task Force almost immediately upon their arrival in Washington, after Chief Justice Earl Warren swore in

⁶³ “Law Institute Suggests Code of Police Arrest Procedures,” *The Hartford Courant*, 6 Mar 1966; John P. Mackenzie “‘Frisk’ Plan Snarls Law Institute,” *The Washington Post*, 18 May 1966, A2.

⁶⁴ The Commission included Johnson’s friend Leon Jaworski and Massachusetts District Attorney Garret Byrne, judges Charles D. Breitel of the New York Court of Appeals, Luther Youngdahl and James Benton Parsons of the United States District Court, and law enforcement officials Thomas C. Lynch, the Attorney General of California, and San Francisco’s police chief Thomas J. Cahill. Columbia law professor Herbert Wechsler drafted the Model Penal Code for the American Law Institute just two years before he served on the Crime Commission, and accepted a post as director of the institute when he joined the Presidential Task Force. From outside of the criminal justice and law enforcement community came *Los Angeles Times* publisher Otis Chandler; Julia Davis Stuart, the President of the League of Women Voters; and Whitney Young of the National Urban League. Max Freedman, “National Crime Commission’s Strategy Has at Least One Flaw,” *Los Angeles Times*, 5 Aug 1965, A5.

each member.⁶⁵ When Johnson spoke with the Commission over a catered lunch at the White House, he promised to support members' suggestions and make every effort to get their comprehensive law enforcement plan enacted in Congress.⁶⁶ "When you find the answers I will try to see that corrective action is taken. So I ask this committee to be daring and creative and revolutionary in your recommendations."⁶⁷ Johnson went on to make drastic statements about the state of crime in the United States. "Crime is a sore on the face of America," the President told members of the Crime Commission, "It is a menace on our streets. It is a drain on our cities. It is a corrupter of youth."⁶⁸ After a chat with J. Edgar Hoover about the impact of recent Supreme Court decisions that expanded the rights of defendants and revised general arrest and interrogation methods, Chief Justice Warren discussed the change in the nature of crime from the days of the Wickersham Commission to the "great outburst of crime" that Warren felt the Watts riot displayed.⁶⁹

Johnson could filter additional funds for to the Commission through the OLEA without having to compromise the amount of support experimental demonstration projects under the Law Enforcement Assistance Act received. With OLEA director Katzenbach chairing the Commission and with top Justice Department officials in other leadership positions, the Commission had the power to reward experimental programs for

⁶⁵ Yale President Kingman Brewer was absent, however, in order to attend to duties on campus during the first week of classes.

⁶⁶ "Johnson Asks Crime Panel for Answers," *Chicago Tribune*, 9 Sep 1965, D23.

⁶⁷ *ibid.*

⁶⁸ *ibid.*

⁶⁹ David Kraslow, "Blueprint Crime War, President Asks Board," *Los Angeles Times*, 9 Sep 1965.

the benefit of its own research and analysis.⁷⁰ In this vein, both the OLEA and the Crime Commission mutually reinforced each other until Johnson offered the Commission's blueprint for a comprehensive federal law enforcement program to Congress in the Safe Streets Act of 1967.

Over the course of its eighteen-month investigation, the Crime Commission actively worked on forty projects with state and local authorities. Almost immediately following lunch with the President in September 1965, the Commission held meetings with black leaders and police officials before it began its fieldwork. Members interviewed and observed more than two hundred police chiefs and consulted with 2,200 law enforcement agencies to “identify successful police methods developed by local initiative and imagination.”⁷¹ Commission members gathered “precinct profiles” in key American cities as the primary source for understanding the nature of crime and “to learn where and when certain kinds of crime are committed, and which people are most likely to become victims.”⁷² The Commission's ethnographic approach to fieldwork in cities like Chicago, New York, Philadelphia, Washington, and Boston placed members in patrol vehicles with officers on the high crime beat.⁷³ In addition to surveying violent trends in a wide variety of middle and low-income neighborhoods, the Crime Commission introduced judges, sociologists, and law enforcement specialists to cutting-

⁷⁰ “LBJ Renews Pledge to Curb Crime,” *The Washington Post*, 9 Sep 1965, C25.

⁷¹ Lyndon Johnson, “National Strategy Against Crime,” 8.

⁷² Lyndon Johnson, “National Strategy Against Crime,” 8.

⁷³ Monroe W. Karmin, “Combating Crime,” *The Wall Street Journal* 28 Dec 1966.

edge law enforcement techniques at a series of conferences.⁷⁴ One conference brought scientists and businessmen together to consider ways to make crime control more technologically sound, another looked at legal manpower needs, and the final gathering of law enforcement personnel brought together state-level Crime Commissions. The staff of the national Commission worked directly with state and local criminal justice officials to determine how the recommendations of the Crime Commission could directly shape new law enforcement systems.

While the Crime Commission repeatedly mentioned socio-economic problems at the root of crime—leading *Life Magazine* to declare, “the report can only be called liberal, even adventuresome”—its recommendations focused on ways to improve the ability of federal, state, and local governments to establish social control in black urban communities.⁷⁵ For Commission members, “assuring all Americans a stake in the benefits and responsibilities of American life,” meant “strengthening law enforcement and reducing criminal opportunities.”⁷⁶ Extending the efforts of the OLEA, the Crime Commission urged the professionalization of police forces, intergovernmental agreements, and city-county pooling proposals that encouraged joint and cooperative activities as a means through which new resources in crime control techniques could be shared.⁷⁷

⁷⁴ The total cost of these surveys was \$145,000.

⁷⁵ Richard B. Stolley, “A Crisis Worse Than Anyone Imagined: Report,” *Life Magazine*, 24 Feb 1967, 24.

⁷⁶ Katzenbach vi.

⁷⁷ Katzenbach 123.

To make the case for federal intervention in local law enforcement, the Crime Commission condemned black urban families, schools, churches, and other social institutions for failing to “give young people the motivation to live moral lives.” And while the Commission knew that “young people today are sorely discontented in the suburbs and on the campuses as well as in the slums,” in black urban neighborhoods “there is no doubt that they more often express this discontent criminally.”⁷⁸ Echoing Moynihan’s analysis, this criminality arose from a generation of young people, “who have not received strong and loving parental guidance... [who] tend to be unmotivated people, and therefore people with whom the community is most unprepared to cope...”⁷⁹ As a preventive measure, the Crime Commission believed that urban social institutions needed to be reconstructed, a challenge that could not occur without a long-range federal crime control plan that integrated law enforcement into existing government agencies.⁸⁰ The Crime Commission concluded: “For the fact of the matter is that, whether or not the result in any given case is delinquency, society is failing slum youth. Their families are failing... The social institutions generally relied on to guide and control people in their individual and mutual existence simply are not operating effectively in the inner city.”⁸¹ New, community-based centers directed by law enforcement officials would operate as

⁷⁸ *ibid* 6.

⁷⁹ *ibid* 6.

⁸⁰ The statistics proved for Commission members that urban centers, and urban centers alone, created the conditions that bred crime. “Burglary, robbery, and serious assaults occur in areas characterized by low income, physical deterioration, dependency, racial and ethnic concentrations, broken homes, working mothers, low levels of education and vocational skill, high unemployment, high proportions of single males, overcrowded and substandard housing, high rates of tuberculosis and infant mortality, low rates of home ownership or single family dwellings, mixed land use, and high population density,” the *Challenge of Crime in a Free Society* claimed. *ibid* 35.

⁸¹ *Ibid* 59.

an umbrella for Great Society programs and provide a range of services for black urban youth. Here, the commission established a precedent that eventually allowed the War on Crime to eclipse the War on Poverty.

II. A National Strategy

In 1966, exactly a year after his first message to Congress on crime, President Johnson declared to both chambers: “For the first time in our history, an administration has pledged to the American people that the growth of crime—local, State, and National—will be checked.”⁸² The President lauded the progress of the Office of Law Enforcement Assistance in its first year of operation, which had begun the process of shifting federal funds to the “frontline soldier in the war on crime,” or to local police in technological advances like air surveillance and hand-held radios. Drawing on a model of business management, the OLEA encouraged the reorganization of local law enforcement institutions and professionalization of the field. State and local law enforcement officials strongly supported these new federal measures, and many established crime commissions of their own. The executive director of Philadelphia’s Crime Commission, Ephraim Gomberg, lauded Johnson’s initiatives: “The President’s message is an inspiration to all who have been waiting patiently for just this kind of federal leadership to bring about effective change.”⁸³ By creating regional law enforcement institutions, national training, conferences, and other measures, the development of a major law enforcement apparatus and bureaucracy was underway.

⁸² Lyndon Johnson, “National Strategy Against Crime.”

⁸³ “Plea for Federal Role In Crime Drive Hailed,” *The Hartford Courant* 11 Mar 1966, 4.

Meanwhile, the presidential crime commission continued working in its various subcommittees on specialized projects, surveys, and national conferences. Katzenbach frequently reported the commission's findings to Johnson, statistics that, by March 1966 when Johnson spoke to Congress on crime for the second time, morphed into fear-mongering sound bites public figures and policymakers repeated again and again when they discussed the nation's new "number one domestic problem." Johnson reported to Congress a year into his crime control efforts that in the United States a forcible rape occurred every 26 minutes; a robbery every five minutes; and an aggravated assault every three minutes.⁸⁴ In the context of increasingly vocal antiwar protest, a shift in black grassroots activism towards demands for socio-economic reforms, continued instances of urban rebellion, and the persistent escalation of troops in Vietnam, Johnson hoped to move legislative attention towards domestic policy that would appeal to the broad public.

The growing sense that the social conditions of the inner city furnished a breeding ground for crime demanded new law enforcement techniques and institutions to manage the problem.⁸⁵ Johnson's framing of the law and order issue linked social programs

⁸⁴ Lyndon Johnson, "National strategy against crime," 1.

⁸⁵ The Crime Commission's assessment of criminality among black youth reflected the general sentiment among Johnson and other liberal policymakers that the apparent increase in urban crime was a consequence of socio-economic conditions that fostered criminal pathological tendencies. Katzenbach and his team profiled the "typical delinquent" as follows: "[He or she] is 15 or 16 years old (younger than his counterpart of a few years ago), one of numerous children—perhaps representing several different fathers—who live with their mother in a home that the sociologists call female-centered. It may be broken; it may never have had a resident father; it may have a nominal male head who is often drunk or in jail or in and out of the house..." Building from the view of Moynihan and others, the Crime Commission's portrait of urban families led it to falsely attribute "resentment of policemen and teachers" to growing up in a home with a single mother receiving government assistance. The Commission also critiqued the specific parental style of the urban black families they surveyed, finding these parental techniques either too permissive or too stern. The Commission charged: "Many inner city parents express at once a desire to keep track of children, and keep them out of trouble, and a resignation to their inability to do so." Katzenbach 60; Katzenbach 63.

already in operation to his demand that Congress “meet the growing menace of crime in the streets by building up law enforcement and revitalizing the entire Federal system from prevention to probation,” as he declared in his 1966 State of the Union Address.⁸⁶ To make the case for a massive federal law enforcement program, the Crime Commission argued: “The criminal justice system... was not designed to eliminate the conditions in which most crime breeds. It needs help.”⁸⁷ By conflating social policy with crime control policy, Johnson attacked the symptoms of the urban crisis while evading the cause.

Arming the Footsoldiers

Johnson and the Crime Commission believed that in order to make an immediate impact on crime rates, local law enforcement officers should receive the majority of initial congressional allocations for law enforcement measures.⁸⁸ With federal law enforcement aid available to local entities for the first time, the OLEA worked to get its ten million dollars in congressional allocation to police departments as quickly and wisely as possible. Based on the success of the Crime Commission in evaluating early OLEA programs and assessing the crime problem, Johnson asked Congress to double the OLEA’s budget for 1967. Meanwhile, the FBI resurrected its COINTELPRO program in response to the rise of militant and radical black protest groups such as the Black Panthers in Oakland and Los Angeles.

⁸⁶ Calder 579.

⁸⁷ Katzenbach 6.

⁸⁸ Johnson “Crime, its prevalence, and measures of prevention,” 4.

Katzenbach wanted direct federal control over how new crime prevention funds would be distributed at the local level, and accordingly, the grant design of the OLEA rewarded statewide police and sheriffs groups, such as the California Peace Officers Organization and the National Institute for Crime and Delinquency. “It is the policeman on the corner who is our traditional symbol of personal security,” Katzenbach argued, and he would “provide the leadership, the research, and the experimental assistance which can help preserve that symbol.”⁸⁹ Unlike Johnson, Katzenbach did not make grand statements about addressing the causes of crime, but focused his agency on crime prevention.⁹⁰ “Not only must we reinforce the public’s respect for law and order,” Katzenbach maintained, “we must restore the public’s confidence that law enforcement agencies have the means and equipment to meet crime head on.”⁹¹ This meant limiting community participation and focusing on building up the weapon arsenal of local (and particularly urban) police departments.

The federal government’s intention to use law enforcement assistance programs for crime prevention meant that Katzenbach dedicated a disproportionate amount of OLEA funds to programs that addressed the problem of inadequate manpower to patrol black urban neighborhoods. The OLEA warmly received proposals to improve the effectiveness of patrol in these communities, often turning to private groups for additional support. In St. Louis, for instance, the OLEA funded a program that relied on computer technology to determine effective police deployment. Law enforcement

⁸⁹ Katzenbach in *Law Enforcement Assistance Hearings*, May 20th 1965, 19-20.

⁹⁰ *ibid* 27.

⁹¹ *Law Enforcement Assistance Act of 1965 Hearings*, July 22nd, 1965, 6.

personnel fed statistics into a machine to “show where and when particular types of crime are likely to occur and help police decide where patrols should be concentrated.”⁹² Other OLEA projects included street lighting initiatives, increasing the technological capacity of police departments, and making salary payments for the training of local police officers.⁹³ In California, the private think tank RAND teamed with the state government to develop ways in which systems analysis techniques could apply to innovations in police patrol.

The high crime rates reported in black neighborhoods in Washington, DC made the nation’s capital a special focus for the President and Congress. Katzenbach and the OLEA could easily monitor the accomplishments of its efforts with the local police department, which received 1.2 million dollars from Congress to fund experimental projects. Police effectiveness was the imperative of this early federal crime control effort, and the OLEA helped to bring more officers onto the streets in black neighborhoods and equip them with modern weaponry and communication systems. To give the nation’s capital, in Johnson’s words, “the best police force in the United States,” a substantial federal grant bought the Washington police department sixteen new station wagons, three patrol wagons, twenty-five motor scooters, thirty-four scout cars, walkie-talkie radios for patrolmen on foot, eighty new detectives, and 271 additional police officers.⁹⁴ “We’re not going to tolerate hoodlums who kill and rape and mug in this city,” Johnson said of

⁹² Katzenbach in *ibid.*, 8. The State of California also teamed with private companies like RAND to study the application of systems analysis to law enforcement.

⁹³ Similar to development of medical research, which had relied on research funded by private foundations since the 1940s, in the mid-1960s the federal government spent more than one billion on medical research, and used this to rationalize the federal government’s similar investment in law enforcement.

⁹⁴ Alfred E. Lewis, “LBJ Names City Crime Commission,” *The Washington Post* 17 Jul 1965, A1.

his effort to revitalize law enforcement in the District of Columbia.⁹⁵ The scooters went to a special roving Tactical Squad implemented by the OLEA for neighborhood patrol. They enabled police to move to crime scenes at a fast pace while maintaining a closer physical relationship to residents than wagon patrol. To provide the kind of special training the Law Enforcement Assistance Act stressed, Tactical Squad officers, as well as other policemen working in high crime areas in Washington, participated in a course run by the International Association of Chiefs of Police with an OLEA grant of 48,000 dollars on “current social problems and the psychological factors involved in personal relations with people in the community.”⁹⁶ The federal government contracted with the International Association to write a six hundred page report that proposed a reorganization of the Washington police force, which the Crime Commission used in its national plan.

In addition to addressing manpower and equipment needs of local police departments, the OLEA invested heavily in technological innovation for weapons development. Katzenbach awarded the Institute for Defense Analysis a 500,000 dollar grant to study how science and technology could be useful to the War on Crime. The Crime Commission used the most promising solutions in its final report to the president and Congress. The Institute proposed the development of “net guns,” whereby police officers would fire off a net, as one might catch a wild animal, and leave a suspect trapped as a way to prevent police from resorting to deadly force.⁹⁷ The OLEA also

⁹⁵ *ibid.*

⁹⁶ Alfred E. Lewis, “Police Training Planned at All A Levels With Goal of ‘Model’ City Departments,” *The Washington Post* 28 Jun 1966.

⁹⁷ “War on Crime Theory; Make ‘Em Look Silly,” *The Hartford Courant* 15 Mar 1966 11B.

funded a new communications system for the Washington police department that brought multiple radio channels to marked cars and in the personal cars of law enforcement officials, as well as a computer network to consolidate record keeping.⁹⁸ At the end of July, 1966, IBM held a three-day class in computer concepts for twenty one senior law enforcement officials in the Washington police department.

The Los Angeles Sheriff's Department received the most substantial OLEA grant, a likely product of the prominence of California policymakers and criminal justice officials in spearheading the federal crime control effort, and the fact that the Watts riot weighed heavily on national law enforcement discussions. In early 1966, the Sheriff's Department presented a helicopter plan for Los Angeles—called Project Sky Knight—to the attorney general's newest agency for funding.⁹⁹ For Katzenbach and the OLEA, air patrol seemed to be a quick, technologically astute and thrifty solution that would enable the Sheriff's Department to “abate the crime problem by enhancing the patrol unit's opportunities for apprehension and repression, without a significant increase in police manpower.” Seen as the most important crime deterrent vehicle available to law enforcement and increasingly used by US Troops in Vietnam, the helicopter enabled the LAPD to “see more, travel further, and respond with speed and directness heretofore impossible,” as the grant proposal boasted.¹⁰⁰ The early success of Project Sky Knight's effort to apprehend suspects and patrol in “high crime” areas reflected both the OLEA's

⁹⁸ Leonard Downie Jr., “Police Explain ‘Dick Tracy’ Radio Plans,” *The Washington Post* 12 Mar 1966 B2.

⁹⁹ According to the FBI Uniform Crime Report that year, Los Angeles had the highest crime rate in the nation, seen as a result of a severe lack of policemen on the city's most troubled streets.

¹⁰⁰ “Project Sky Knight: A Demonstration in Aerial Surveillance and Crime Control,” Richard Nixon Presidential Library, Egil Krogh Collection, Box 26.

presence in local communities and the potential function of federal participation in crime control.¹⁰¹ With an unmatched allocation of OLEA funds, Los Angeles pioneered the application of cutting-edge technology and punitive measures that would later be used in other major cities and would come to characterize American policing in the late twentieth century.

To ensure that state and local law enforcement agencies would follow the federal government's lead in modernizing penal and juridical institutions and increasing the patrol power of police officers, the Crime Commission and the OLEA worked actively with governors to establish long range crime control and prevention committees at the state level.¹⁰² In September 1966, in anticipation of the release of the Crime Commission's report, Johnson met with governors at the White House to plan how to carry forth the Commission's recommendations, urging the state leaders to, "exert every means to insure for all our people safety of the home and safety of the streets."¹⁰³ Then, in mid-October at another conference on State Committees of Criminal Administration, Johnson told roughly forty-four chairmen and directors of State Crime Commissions: "If we wish to rid this country of crime, if we wish to stop hacking at its branches only, we must cut its roots and drain its swampy breeding ground, the slum."¹⁰⁴ Even as he noted the root causes of crime, Johnson employed the language of war to rally the new heads of

¹⁰¹ *ibid.*

¹⁰² OLEA gave Connecticut Governor John Dempsey \$24,746 for a 21-member crime commission to form a State Planning Committee on Criminal Administration. "Anti-Crime Board Gets \$24,746 Federal Grant," 19 Aug 1967 4A.

¹⁰³ "States to Join Crime War Session Here," *The Washington Post* 30 Sep 66 A3.

¹⁰⁴ John A. Averill "Hit Poverty and Crime Will Fall, Johnson Says." *Los Angeles Times*, 16 Oct 1966, 3.

Crime Commissions and planning committees at the state level. Johnson pledged to “use every resource of the federal government to banish crime from these shores... nothing short of total victory will be acceptable.”¹⁰⁵ Johnson rhetorically approached the immediate need to fight urban insurgency much like the effort to fight insurgency in Vietnam.

To jumpstart the war at home, the Crime Commission directors urged the creation of an institution to coordinate the effort at all levels of government. The National Commission’s work would be completed in January 1967, and states wanted continued direction from the Attorney General and the Department of Justice. Though Katzenbach moved to the State Department in November 1966, he retained his post as chair of the Crime Commission. Ramsey Clark, who served as Katzenbach’s deputy attorney general and helped draft the Law Enforcement Assistance Act, took charge of the federal government’s assistance programs to state and local police departments during the final years of Johnson’s presidency and immediately after the Crime Commission submitted its report to the president.¹⁰⁶ Clark inherited a booming OLEA: Congress amended the Law Enforcement Act of 1965 and extended its grant-making office until 1967, dedicating fifteen million dollars to the OLEA for 1967, and doubling the budget to thirty million for 1968. From the perspective of officials in the Johnson administration, policymakers, and academics who advocated for federal investment in law enforcement at the state and local levels to complement the War on Poverty, the Crime War was off to a promising start.

¹⁰⁵ *ibid.*

¹⁰⁶ Ramsey Clark was promoted to Acting Attorney General after Katzenbach vacated the position to become Under Secretary of State on November 28, 1966. In March 1967, Clark was sworn in as attorney general.

Although FBI figures did not indicate that two years of federal law enforcement programs had reduced crime, policymakers believed that pouring money into police departments would eventually solve the problem of lawlessness. In any event, the War on Poverty and federal social programs had seemingly failed to change the course of violence and crime in the nation's urban cities.

III. The Challenge of Crime in a Free Society

While it focused on Vietnam and tax increases, Johnson's message of January 19th, 1967 marked the first time an American president discussed crime and law enforcement at length in a state of the union address. Four days later, Katzenbach submitted the Crime Commission's final report, entitled "The Challenge of Crime in a Free Society." The Administration had already begun drawing from the Commission's recommendations to craft the Crime Control and Safe Streets Act of 1967. In doing so, Johnson assured that two separate yet related domestic social wars would comprise his legacy: the War on Poverty combated crime by responding to the root causes liberal policymakers still intended to remedy, and the War on Crime battled the immediate manifestation of crime.¹⁰⁷ "Effective law enforcement and social justice must be pursued together, as the foundation of our efforts against crime," Johnson believed.¹⁰⁸ The report Katzenbach and his team produced for a federal crime prevention program that would modernize and consolidate American law enforcement—what the President called "a

¹⁰⁷Scheuer explained, "we must fight crime today and, at the same time, we must prevent the growth of tomorrow's criminals and thereby protect the future safety of our own children and grandchildren." Scheuer's testimony in *Law Enforcement Assistance Hearings*, May 20th, 1965, 12.

¹⁰⁸ Johnson, "National Strategy Against Crime."

major work of scholarship”—became the basis of the Crime Control and Safe Streets Act of 1967.¹⁰⁹ As the last significant piece of domestic legislation of Johnson’s presidency, the Safe Streets Act created the institutions that functioned to revolutionize American law enforcement in subsequent decades and sought to take possession of the law and order issue from conservatives.

Liberal proponents of federal involvement in crime control at the state and local levels imagined that new law enforcement initiatives would complement existing social programs under the War on Poverty. Positioning the federal government’s crime prevention program and anti-poverty programs as mutually reinforcing, Johnson urged Congress to grant unprecedented funding to attack employment, education, and housing issues.¹¹⁰ For Johnson and other liberals, a long-range solution involved, “an attack not only against crime directly, but against the roots from which it springs.”¹¹¹ The Crime Commission also defended the Great Society’s effort to address the structural factors that contributed to the nation’s crime problem in its report. “Warring on poverty, inadequate housing, and unemployment is warring on crime,” members wrote, “A civil rights law is a law against crime... More broadly and more important every effort to improve life in America’s ‘inner cities’ is an effort against crime.”¹¹² Welfare payments, Model Cities,

¹⁰⁹ Tom Lambert, “Johnson, 3 Senators Praise Crime Report,” *Los Angeles Times*, 19 Feb 1967, 8.

¹¹⁰ John A. Averill “Hit Poverty and Crime Will Fall, Johnson Says,” *Los Angeles Times*, 16 Oct 1966, 3.

¹¹¹ Calder 580, President Lyndon B. Johnson, *op cit.*, 1966, p. 1209.

¹¹² Katzenbach 6. The acknowledgement of structural racism often was used as a device to frame arguments for the expansion of American law enforcement. As North Carolina Senator Sam Ervin stressed, “a nationwide war on crime is as imperative as our continuing war on poverty and unemployment.” Senator Edward Kennedy echoed Ervin’s sentiment by noting, “it has become increasingly recognized that criminal behavior is intertwined with social forces—that many who transgress the law have themselves

special manpower training programs, Community Action Programs, and incentives for black suburban movement promised to improve conditions in urban centers.

Early drafts of “The Challenge of Crime in a Free Society” circulated among mainstream civil rights leaders, intellectuals, and policymakers, and seemed to satisfy all interested parties. Some civil rights leaders appreciated the Crime Commission’s focus on black Americans; others hoped to recast the racist undertones of crime control. Local Urban League directors like Edwin Berry believed that the Crime Commission’s “very important recommendations... are very long overdue,” while Whitney Young offered a different perspective on the report he helped to write.¹¹³ “I think the real criminals in our society are.... the employer who refuses to hire, the real estate agent who refuses to rent or the builder who refuses to sell to people because of their color,” Young commented. “The Negro community has learned to respect law because it has been through law that we got the Supreme Court decision, we got restaurants, hotels, and other places open.”¹¹⁴ Young’s comments countered familiar arguments about lawlessness by emphasizing that the outcome of civil rights gains increased respect for the American political process and legal codes among black Americans. Representing an entirely different political outlook, William F. Buckley wrote in the *Los Angeles Times*; “on the concrete questions... said to be distinctively liberal, the commission strikes me as having done excellent work by no

been transgressed—by their home life, by their environment, by their lack of opportunity.” *The Law Enforcement Assistance Act of 1965 Hearings*, July 22nd, 1965, 4, 33.

¹¹³ David Canfield, “Crime Study Reaction Good; Report is Called Most Complete Study Ever,” *Chicago Tribune*, 20 Feb 1967, C11.

¹¹⁴ “Old Scapegoats Seen Hindering Crime Fight,” *Los Angeles Times*, 20 Feb 1967, 6.

means uncongenial to conservatives.”¹¹⁵ House Republican leader Gerald Ford also praised the report, but took issue with the way in which the Commission and, by extension, the Administration, proposed to allocate federal law enforcement funds to state and local governments. Ford and other leading Republicans in Congress supported a federal role in the national crime control only if it awarded block grants that permitted states themselves to control autonomously law enforcement practices.

In contrast to the states’ rights rationale of the block grant system, the allocation structure of Johnson’s crime control program mirrored his general approach to federal urban policy. With the Crime Commission’s blueprint in hand and the OLEA set to expire, Johnson requested that Congress establish an Office of Law Enforcement and Criminal Justice Assistance with fifty million dollars at its disposal to fund grants, research, and pilot projects at the state and local level. This new federal agency would supersede the efforts of the OLEA with broader, more advanced research and experimental programs. More than half of the funds would be used to encourage state and local law enforcement agencies to improve and modernize police, court, and corrections operations. The remaining nineteen million would finance research projects to develop methods to improve crime control, mostly through contracts with public and private agencies. In Johnson’s initial version of the Safe Streets Act, the federal government would assume ninety percent of the cost in helping state and local governments develop long range master plans to combat crime, sixty percent of the cost of training tactical units and helping with cutting-edge weapons and communications technology, and fifty percent of the cost of the construction of training centers. In all, Johnson asked for 350

¹¹⁵ William F. Buckley Jr., “Conservative Doesn’t Feel Society Owes the Criminal,” *Los Angeles Times*, 30 Jan 1967.

million dollars to fund the War on Crime for the following two fiscal years. Given that the national budget for law enforcement and corrections totaled four billion, this represented a significant influx of federal funds into building crime control institutions.¹¹⁶

Coinciding with the release of the Crime Commission's report, Johnson brought seven hundred law enforcement officials from across the United States to Washington for a crime control conference in late March 1967. Both the Department of Justice and the Crime Commission encouraged all fifty governors to establish crime-planning committees. Not surprisingly, given the prominence of California in the earliest federal crime control programs, Governor Ronald Reagan's anticrime program was the first one to be approved by a state legislature. While opponents of the new California Council on Criminal Justice as well as a Technological Research Foundation feared that the agencies would create a privately funded police force, the public-private partnership established in California and elsewhere hoped to solve the crime problem in earnest.

Newark, Detroit and the National Commission on Violence and Civil Disorders

The Harlem uprising in July 1964 began a period of rioting during the summers of Johnson's presidency, but the unprecedented destruction and federal paramilitary response involved in Newark and Detroit's disturbances during the last two weeks of July 1967 raised new questions about the achievements of the Great Society and exposed its limitations. Urban civil disorder symbolized the failure of liberal social legislation and domestic programs to create sufficient opportunity for black Americans. The sense that

¹¹⁶ Lyndon Johnson, "Annual Message to Congress on the State of the Union," 1967, 6. *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1968-69*. Volume I, entry 14, pp. 25-33. Washington, D. C.: Government Printing Office, 1970.

violent uprisings would only increase in scope and continue for the foreseeable future placed additional pressure on the federal government to enact policies that would move the nation closer to its egalitarian ideals. Johnson cautiously adopted both an offensive and defensive stance by rhetorically combining the War on Poverty with the War on Crime.

The duration and proximity of the Newark and Detroit eruptions coupled with a mounting student protest movement reinforced the sense that the United States was under attack, and the black urban rioter emerged as the new public enemy. In televised remarks five days into the Detroit rebellion and roughly a week after the outbreak in Newark subsided, Johnson declared: “The apostles of violence, with their ugly drumbeat of hatred, must know that they are now heading for disaster. And every man who wants progress of justice or equality must stand against them and their miserable virus of hate.”¹¹⁷ By conflating the language of crime control with the language of civil rights, Johnson brought law enforcement programs into the Great Society’s effort to improve socio-economic conditions in black urban areas. “There is no American right to loot stores, or to burn buildings, or to fire rifles from the rooftops,” Johnson said: “That is crime.”¹¹⁸ Johnson went on to remind the nation: “preserving civil peace is the first responsibility of government.”¹¹⁹ Urban civil disorder in Newark and Detroit helped to push Johnson to privilege the right to personal safety—the “Forgotten Civil Right”

¹¹⁷ Kerner 540.

¹¹⁸ “Excerpts from President Lyndon B. Johnson’s Address to the Nation on Civil Disorders, July 27, 1967” in Kerner 538.

¹¹⁹ Johnson went on to state: “We seek peace based on one man’s respect for another man and upon mutual respect for the law. We seek a public order that is built on steady progress in meeting the needs of all of our people.” Kerner 323, 539.

championed by conservatives immediately after the *Brown* decision—as a value more important than economic opportunity and social welfare.

Despite the efforts of the Office of Law Enforcement Assistance and the pending Safe Streets Act of 1967, frequent incidents of urban civil disorder in major cities and smaller deindustrializing towns confirmed to a large segment of the American public that the urban crisis was escalating. In his speech to the nation as Detroit’s Paradise Valley burned, Johnson announced the creation of the Kerner Commission to evaluate the causes and suggest policy to prevent and suppress future urban unrest. “No society can tolerate massive violence, any more than a body can tolerate massive disease,” Johnson remarked when he issued the executive order establishing the Kerner Commission. The president emphasized, “This matter... goes to the heart of our society in a time of swift change and great stress.”¹²⁰ While the Crime Commission functioned to develop concrete policy to reconstitute American law enforcement, the Kerner Commission functioned as a symbol of direct, executive-level action against the violent outbreaks.¹²¹

On July 29th 1967, only two days after Johnson announced his intention to form the task force, the Kerner Commission met for the first time and Johnson hosted its members for a White House luncheon.¹²² Much like his choices for the Crime Commission, Johnson stacked the Kerner Commission with public figures known for

¹²⁰ Kerner 536-537.

¹²¹ “Remarks of the President Upon Issuing an Executive Order Establishing a National Advisory Commission on Civil Disorders, July 29, 1967,” in Kerner 537.

¹²² Roy Reed, “President Calls for Free Inquiry on Nation’s Riots,” *New York Times* 30 July 1967 p. 1. To underscore the importance of the Commission’s work, Johnson warned: “The Civil Peace has been shattered in a number of cities. The American people are deeply disturbed. They are baffled and dismayed by the wholesale looting and violence that has occurred both in small towns and great metropolitan centers.” “Appendix B: Remarks of the President Upon Issuing an Executive Order Establishing a National Advisory Commission on Civil Disorders, July 29, 1967,” Kerner 536.

relatively moderate political orientations.¹²³ In order that their recommendations, “affect this year the dangerous climate of tension and apprehension that pervades our cities,” Johnson placed the group on a strict schedule, giving members until March 1, 1968 to complete the task.¹²⁴

The Kerner Commission sought to understand the chronology of events during the riots, but also to explore the social, psychological, and political dimension of urban unrest. To do so effectively and meet Johnson’s six-month deadline, members opted to divide their work into two phases. During the first phase in the late summer and fall of 1967, the Commission brought mayors, police chiefs, state and local crime commissions, municipal officials, governors, federal officials, and other relevant experts to Washington to testify in closed hearings. Unlike the Crime Commission’s reliance on experts and professionals during the hearing stage, however, the Kerner Commission heard testimony from residents, civil rights leaders, public figures, reporters, and academics.¹²⁵

¹²³ Chosen for his progressive civil rights record, service as a National Guardsman, and experience as a prosecutor and judge, the respected Governor of Illinois Otto Kerner chaired the commission. New York’s Republican mayor John Lindsay served as vice-chair, and penned the commission’s well-known warning: “Our nation is moving towards to societies, One black, One white—Separate and Unequal.” Johnson also appointed Massachusetts Republican Senator Edward Brooke, the first black Senator since Reconstruction.¹²³ Senator Fred Harris, the liberal Democrat from Oklahoma, secured a spot for himself on Kerner’s team by being the first to suggest that Johnson bring together experts to study the riots. Los Angeles’s liberal congressman James Corman was joined by the more conservative (and vocal critic of Great Society programs) William McCulloch of Ohio, who held a high rank on the House Judiciary Committee and played a key role in pushing the Civil Rights Act through Congress. The presence of AFL-CIO President I.W. Abel, Executive Director of the NAACP Roy Wilkins, and Litton Industries CEO Charles Thornton complemented the range of political orientations carefully chosen from the House and Senate. The lone woman, Kentucky Commerce Commissioner Katherine Graham Peden, had previously served on Kennedy’s Commission on the Status of Women in 1963.¹²³ Recognized for his ability to work with civil rights leaders to prevent major civil disturbances other southern cities like Selma and Birmingham experienced, Atlanta’s veteran police chief Herbert Jenkins, seemed a natural law enforcement representative for task force’s purposes.

¹²⁴ “Appendix J: A Statement on Methodology” Kerner 574.

¹²⁵ The Mayors and Governors who testified included: Hugh Addonizio (Newark), W.H. Bachrach (Cincinnati), Jerome Cavanagh (Detroit), Alfonso J. Cervantes (Mayor of St. Louis), Carl Stokes (Mayor of

Commission and staff members visited Detroit, Newark, East St. Louis, and Milwaukee and interviewed residents, activists, and city officials. During the Kerner Commission's second phase, members labored frantically to submit a report of their findings to the president by the deadline, meeting a total of forty-four times in Washington and often working until midnight.¹²⁶ By the end of the process, the group supposedly reached consensus on every issue and recommendation: "I know there have been reports of disagreement among commission members. These were minor arguments about words, nothing basic," Kerner maintained. "The main thrust of the document, without question, was adopted by all the members."¹²⁷ In stark contrast to the Crime Commission, which split up the task of writing chapters according to committee and subcommittee, the Kerner Commission took a more active approach to understanding the urban social problem at hand.

Even though the Kerner Commission received more public attention than any other presidential commission in the 1960s, the group and its well-known report proved to be largely symbolic, lacking the long-term impact or direct legislative relevance as its predecessor in the Crime Commission. This was, in part, because the Crime Commission

Cleveland), Sam Yorty (Los Angeles), and governors: George Romney (Michigan). Scholars included: Lerone Bennett, David Capolovitz, Kenneth Clark, Herbert Gans, Dick Gregory, and James Q. Wilson. Law enforcement officials included: Ray Girardin (Detroit), Harris Hollis (Director of Operations for Military Operations Army Department), J. Edgar Hoover, William Lombard (Rochester Chief of Police), John McCone, Dominik Spina (Newark Director of Police), and Tamm Quinn (Executive Director International Association of Chiefs of Police). War On Poverty Administrators and Activists included: Mark Battle (OEO Director), Stokely Carmichael, Gerald Christenson (Executive Director President's Council on Youth Opportunity), Vernon Jordan, Ron Karenga, Martin Luther King, Floyd McKissick, Sargent Shriver (Director of OEO), and Robert C. Weaver (Secretary of the Department of Housing and Urban Development). Businessmen included: John R. Bunting (Executive Vice President of First Pennsylvania Banking and Trust Company); Berkeley Burrell (President of National Business League). The Kerner Commission also drew from a team of some 50 consultants and advisers, including Moynihan.

¹²⁶ "Appendix J: A Statement on Methodology," Kerner 574-575.

¹²⁷ James Yuenger "Commission Sought and Got Facts on Urban Riots: Kerner," *Chicago Tribune*, 1 Mar 1968, 1.

essentially operated as the research apparatus of the Office of Law Enforcement Assistance and Johnson created the commission as a means of producing a federal crime control program. Working closely with Katzenbach during the Crime Commission's tenure, the President relied upon its assessments of American law enforcement and criminal justice in order to begin a new era of juridical and penal reform.

The Hard-Core Unemployed and the New Liberal Reform

Like the Crime Commission, the Kerner Commission used population predictions to ground its suggestions to Johnson and Congress. Using current census population trends, Kerner Commission members predicted that the black population in cities would increase seventy-two percent by 1985, reaching roughly twenty-one million.¹²⁸ In particular, the Kerner Commission noted that the black population aged fifteen to twenty-four years old “will grow much faster than either the Negro population as a whole, or the white population in the same age group.”¹²⁹ Based on these figures, the black youth population—perceived as responsible for urban disorder and living in Moynihan's broken homes—appeared to be the fastest growing group in the United States. Although the Kerner Commission argued, “in a phrase... the problem is white racism compounded by poverty,” its policy suggestions offered a revised, punitive version of Moynihan's “unequal treatment for the Negro.”¹³⁰ Both the FBI and the census data sets reinforced the urgency of a new direction for the War on Poverty that targeted black Americans and

¹²⁸ Kerner 21.

¹²⁹ *ibid* 392.

¹³⁰ Yuenger “Commission Sought and Got Facts.”

responded to the growing number of young people living in segregated poverty who could not be absorbed into private sector manufacturing jobs.

The Kerner Commission believed the key to preventing future rioting lay in designing federal policy that would fully integrate American society by stimulating upward mobility for racially marginalized Americans. But the task of creating a black urban middle class through federal initiatives proved especially difficult given the grim economic reality city governments encountered by the mid-1960s. Existing grant-in-aid programs, which amounted to more than ten billion dollars in fiscal year 1968, insufficiently compensated for the shrinking tax base in riot-torn cities.¹³¹ As white homeowners accelerated the decades-long process of suburban flight, economic pressures amplified by the exodus of manufacturing jobs left municipal governments in a position where they could not adequately cope with socio-economic racial discrepancies or solve the urban crisis without federal financial assistance and substantial amounts of private capital.

New collaborations between public and private entities addressing issues of black unemployment, such as the Urban Coalition, the National Alliance of Businessmen, and the “hard-core” employment programs advocated by the Kerner Commission, did not receive the same amount of support as law enforcement initiatives, but the acknowledgement of the relationship between deindustrialization, job discrimination, and crime continued to typify the new public-private partnership that managed urban crisis. By mixing social programs with crime control programs, both the Crime and Kerner Commissions established a path for the federal government to work with the private

¹³¹ Kerner 394.

sector in black urban areas. This early combination of urban and punitive policy also abetted the eventual dissolution of the Great Society.

Johnson popularized the term “hard-core unemployed” in his 1967 State of the Union Message to classify roughly half a million black men between the ages of eighteen and twenty-five locked out of employment prospects. This grouping comprised the crux of the Kerner Report’s recommendations for future urban policy.¹³² Members of the Kerner Commission characterized the hard-core group by “the sense that they lack eighth grade literacy and mathematical skills, have only intermittent work histories at most, and often lack motivation to hold and perform a job.”¹³³ The Kerner Commission formed the Advisory Panel on Private Enterprise, chaired by Charles Thornton, to devise policy strategies to increase employment opportunities for this population.¹³⁴ Before he secured his position as CEO of Litton Industries, Thornton had trained thousands of officers at the War Department and used his technological expertise to improve the efficiency of fighting and the production of war materials. Thornton’s vocal support of Johnson’s antipoverty program and his active role in helping to create Job Corps camps and invigorate private sector involvement in the problem of black unemployment made him

¹³²Johnson said in his 1967 State of the Union: “I propose a \$2.1 billion manpower program in the coming fiscal year--a 25 percent increase over the current year. Most of this increase will be used to start a new partnership between government and private industry to train and to hire the hard-core unemployed persons. I know of no task before us of more importance to us, to the country, or to our future.”

¹³³ “Report to the Commission by the Advisory Panel on Private Enterprise, January 29, 1968,” in Kerner 561.

¹³⁴ The Panel consisted of: Thornton; John Leland Atwood (President and CEO of North American Rockwell Corporation); Martin R. Gainsbrug (Senior VP and Chief Economist of the National Industrial Conference Board); Walter E. Hoadley (Senior VP and Chief Economist Bank of America); Louis F. Polk, Jr. (VP Finance International and Development of General Mills, Inc); Lawrence M. Stone (Professor of Tax Law University of California, Berkeley).

Johnson's appropriate choice to devise public-private strategies for the Kerner Commission.

Ultimately, federal crime control efforts disproportionately targeted unemployed black urban youth. The link the Kerner Commission and liberal policymakers drew between the "hard core" and riot participation invigorated a federal commitment to job training programs for young black men; it took the devastation in Newark and Watts for Moynihan's insistence on the need for national policy to address the structural obstacles black men confronted to receive attention from policymakers.¹³⁵ Johnson brought together leaders from the public and private sectors in the Urban Coalition and the National Alliance of Businessmen immediately after the riots in the summer of 1967 to concentrate job-training efforts on what the Kerner Report called the "hard core disadvantaged." While the private sector started to bring members of the hard-core into its ranks in the late 1960s—the Ford Motor Company even instituted new industrial training and recruitment centers near the epicenter of the Detroit riot—the Commission wanted the federal government to develop a comprehensive urban policy that would mandate job creation and training opportunities.¹³⁶

The Kerner Commission's commitment to building a black middle class compelled members to suggest that major corporations conduct special training programs

¹³⁵ There was a strong link between the grouping of the "hard core unemployed" and riot participants. As the National Advisory Panel on Private Enterprise described this population: "The evidence before the Commission suggests that it is this group of late teenagers and young adults who are often the initial participants in civil disorders.... Data collected by the Commission in 20 cities which experienced racial disorder in 1967, including the most serious disorders, indicate that Negro males between the ages of 15 and 25 predominated among the rioters, that more than 20 percent of the rioters were unemployed, and that when they were employed, they tended to be underemployed in the sense that their employment was intermittent and in low status, unskilled jobs." Kerner 561.

¹³⁶ "Ford Plans to Employ Near 6,500 of Detroit's 'Hardcore' Unemployed; Firm Would Establish Centers in Inner City Neighborhoods to Hire Men on the Spot," *Wall Street Journal*, 27 Oct 1967, 24.

for the “hard core” unemployed, as “the disadvantaged need help in obtaining managerial experience and in creating for themselves a stake in the economic community.”¹³⁷ As an incentive to encourage private business to undertake this new responsibility, corporations received income tax credits for each hard-core employee hired. And in order to allow businesses themselves to avoid venturing into potentially dangerous areas of black urban poverty to recruit workers, a government agency or local community action agency identified candidates for private training programs.¹³⁸ To meet the immediate needs of business owners, the commission promoted incentives for special riot insurance. To build a long-range solution to urban poverty, the Kerner Commission proposed the use of federal tax benefits to promote industrial and commercial development and social assistance in areas of highly concentrated poverty.

The training schemes designed by the Kerner Commission exemplified the extent to which Moynihan’s notion of “post-industrial pathology” gained widespread acceptance in policy and corporate circles. Like Moynihan, the Kerner Commission believed only federal intervention could inspire, “as many disadvantaged Americans as possible... to enter the mainstream of American prosperity, to progress toward what is often called middle-class status.”¹³⁹ This goal reflected the ways liberals retained their commitment to federal activism and social inclusion—at least for those willing to embrace a prescribed set of values—despite incidents of collective urban violence and the Great Society’s limitations as identified by Moynihan and other policymakers.

¹³⁷ Kerner 424.

¹³⁸ “Report to the Commission by the Advisory Panel on Private Enterprise January 29, 1968” in Kerner 565.

¹³⁹ Kerner 402.

Programs that enabled private industry to absorb the hard core into its ranks, such as an “Intense National Program to Improve Verbal Skills of Ghetto Residents” revealed the deeply embedded fear of politicians, corporate executives, and academics that the culture of poverty Moynihan described left residents ill equipped to meet basic work requirements.¹⁴⁰ The National Advisory Panel on Private Enterprise concluded: “It is difficult to motivate hard core youths to remain on the job for more than a few weeks.”¹⁴¹ Fearing a “loss of productivity,” business owners hesitated to hire the hard-core as “tardiness and absenteeism are major problems for this group, who have previously found little social or economic benefit from conformity with the usual standards of commercial life.”¹⁴² From the perspective of the private sector, hiring the hard core meant that a number of “supportive services” would be required. In addition to job training, these special life skills classes included counseling in regard to “dress, appearance, social relationships, money management, transportation, hygiene, and health.”¹⁴³ From the perspective of the corporations involved in these sorts of ventures, the authority to impose behavioral regulations that extended into the private lives of new black employees offset the perceived risk of hiring the “hard core.”

While the Kerner Commission’s strategy recognized the impact of structural exclusion on black Americans, the proposal for a major employment program came too late to reap long-term benefits. Increasing numbers of domestic corporations preferred to

¹⁴⁰ *ibid* 449.

¹⁴¹ “Report to the Commission by the Advisory Panel on Private Enterprise, January 29, 1968,” *ibid* 563.

¹⁴² *ibid*.

¹⁴³ “Report to the Commission by the Advisory Panel on Private Enterprise, January 29, 1968,” Kerner 563.

establish new production facilities in the south or overseas, where laborers could be paid far less than even black Americans. In Detroit, where the Urban Coalition and the “hard core” employment programs received the most support, the Kerner Commission’s model lasted only until the final months of the 1960s. Instead, the federal government chose to manage the effects of poverty by placing more police officers in black urban neighborhoods under the Omnibus Crime Control and Safe Streets Act of 1968. Without massive support from the private sector to hire young black Americans, the federal government’s effort to fight crime by fighting poverty was doomed. Ultimately it became far easier to manage the effects of historical inequality by increasing the carceral capacity of urban police departments than to enact fundamental socio-economic changes.

IV. Safe Streets and Crime Control

“This year America must decisively capture the initiative in the battle against crime,” Johnson vowed on February 7th, 1968 when he delivered the final version of the Safe Streets and Crime Control Act to Congress a week after North Vietnamese forces launched devastating attacks on American and South Vietnamese troops in the Tet offensive. While the brutality in Vietnam and opposition to the war reached new heights, it was a landmark day for the president’s domestic social war: just before his remarks to Congress, Johnson signed an executive order establishing the Law Enforcement Assistance Administration (LEAA) within the Department of Justice as a more powerful replacement for the OLEA. The LEAA enabled the attorney general to coordinate the

entire criminal justice system, from the criminal law enforcement activities of all federal departments to the crime prevention activities of state and local governments.¹⁴⁴

Based on the early efforts of the OLEA and the Crime Commission's research, which pointed out the fragmentation within American criminal justice and law enforcement, Johnson proudly presented the LEAA as a model federal crime control institution.¹⁴⁵ The new agency provided state and local law enforcement a single office in Washington to get the most current information on research, technology, and patrol programs. "We are already beginning to see the healthy effects of the Commission's research and insights," Johnson noted in his speech.¹⁴⁶ By then, half the states had implemented criminal justice planning agencies.¹⁴⁷

Working with state and local agencies, Johnson insisted that his crime control program would manage the effects of socio-economic inequality.¹⁴⁸ "For decades the conditions that nourish crime have been gathering force," Johnson said. "As a result, every major city harbors an army of the alienated—people who acknowledge no stake in

¹⁴⁴ Lyndon Johnson, "The Challenge of Crime to Our Society," Message from the President of the United States, February 7th, 1968, Serial Set Vol. No. 12805-1, Session Vol. No. 1-1 90th Congress, 2nd Session, H.Doc. 250, 3, 8.

¹⁴⁵ Johnson also wanted to move Bureau of Narcotics and Bureau of Drug Abuse Control to the Department of Justice and proposed establishing a new Bureau of Narcotics and Dangerous Drugs.

¹⁴⁶ Johnson "The Challenge of Crime," 3.

¹⁴⁷ California, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New Mexico, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, Utah, Washington, West Virginia, and Wisconsin all had state criminal justice planning agencies underway.

¹⁴⁸ Johnson also said in the speech: "The hard facts show that crime victimizes most severely and most directly those in poverty and those in minority groups. No people need or want effective and fair law enforcement more than those who live in our crowded inner cities." Johnson, "The Challenge of Crime," 16.

public order and no responsibility to others.”¹⁴⁹ With the insights of the Crime Commission now available to the public, Johnson presented the Safe Streets Act as “the cornerstone of the Federal anti-crime effort to assist local law enforcement. It builds upon the fundamental tenets of the Crime Commission’s report: That crime prevention is a major national priority.”¹⁵⁰

Even though the Johnson administration initially used FBI statistics to justify federal intervention in local law enforcement, the inaccuracy of those very statistics served as fodder for additional federal crime control resources. During the House Judiciary subcommittee hearings in the first week of March 1968 considering the latest version of the Safe Streets Act, one witness asked: “Is crime going up or is crime going down? We do not honestly know.” The President’s Commission on Crime in Washington, D.C. also noted: “It is currently impossible... to determine the precise dispositions of the criminal cases of persons arrested in a particular year for serious crime such as robbery, housebreaking or aggravated assault,” a critique in which the National Crime Commission concurred: “We have no accurate or comprehensive view of the entire criminal process-where it succeeds, how it fails, and what happens to the people in it.”¹⁵¹ Elliot H. Lumbard, former chair of the New York State Crime Commission testified that the FBI Uniform Crime Report, “is a harmful document in many respects because it is highly inflammatory in its presentation... the figures are so gross in nature that they defy further analysis as to what you do next.” Lumbard went on to challenge the

¹⁴⁹ Johnson, “The Challenge of Crime.”

¹⁵⁰ *ibid.*

¹⁵¹ Carl Bernstein, “FBI Jealousy Hinted in Gap in Crime Statistics,” *The Washington Post*, 10 Mar 1968, B4.

FBI's immediate interest in raising the specter of the nation's crime problem by charging, "[The FBI] should not collect or be a statistical tool. It has a stake to a certain degree in the system."¹⁵² Nonetheless, faulty statistics that anchored the entire rationale for devoting federal resources to urban police departments failed to bring the aims of the new national crime control program into question.¹⁵³ The scope of the riots, the reality of black poverty and segregation, and social science research all underscored the fact of urban crisis. Crime control and punitive measures directed at black urban Americans seemed the most politically astute and economically viable way to solve it.

It is not surprising, then, that the Kerner Commission's recommendations achieved legislative implementation only when they reinforced the law enforcement measures put forth by the Crime Commission. Johnson viewed the Kerner Commission's assessment of urban social realities as too radical, and the controversial nature of some of its analysis led policymakers to distance themselves from the implications. But the Kerner Commission's identification of the criminal population (black men aged fifteen to twenty-four) and the solution (heightened patrol in black urban neighborhoods and community-based law enforcement programs) opened the door for the national law enforcement program put forth by the Safe Streets Act to unfold disproportionately in racially marginalized communities.

¹⁵² Bernstein, "FBI Jealousy."

¹⁵³ When the high-profile members of the Kerner Commission delivered their thorough analysis of the riots to Johnson on the March 1, 1968 deadline, the occasion received great media fanfare because of the Report's sensational and widely covered subject matter. CBS and PBS aired special news stories on the Commission's findings. Members Harris, Wilkins, and Kerner appeared on ABC's "Issues and Answers," and Mayor Lindsay on Face the Nation. Civil Rights leaders from Martin Luther King to Stokely Carmichael commented that the Kerner Report only reconfirmed the critique of racism activists had articulated for years. CORE's Floyd McKissick saw the Commission's conclusions as a turning point in the federal government's understanding of racial inequality because of its condemnation of white racism.

Title I of the Safe Streets Act replicated the Crime Commission's recommendations and Johnson's crime control agenda. By giving the LEAA legislative sanction beyond Johnson's executive order, Title I established the mechanism through which the federal government could dedicate unprecedented resources to police training, operations, and technological research. The Act gave the LEAA four hundred million dollars to design and implement new programs for law enforcement, corrections, and courts and to distribute the funds to states and municipalities. It began the process through which the federal government cultivated a permanent presence in local law enforcement. As a new agency staffed by experts and planners that utilized federal funds at the state and local levels, Johnson wanted the LEAA to function like the War on Poverty's Model Cities and Community Action Agencies. By focusing the majority of institutional energy in its earliest years on improving the technological capacity of police departments and modernizing patrol operations, the LEAA empowered police units with responsibilities previously held by Community Action Agencies.¹⁵⁴

President Johnson, the attorney general, and other liberal policymakers initially opposed ending the grant system that enabled Washington to influence directly programming designed for black urban neighborhoods, but after 125 cities erupted in the immediate aftermath of Martin Luther King's assassination in April 1968, Johnson in early June signed the Safe Streets Act into law without further revision in its grant structure.¹⁵⁵ The sustained reliance on federal troops and National Guardsmen for nearly a month after King's murder pushed Johnson to sign the Act, with block grants, a

¹⁵⁴ See Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (Cambridge: Oxford University Press, 2009).

¹⁵⁵ Johnson waited to sign the bill until the last possible day before it would be a pocket veto.

significant retreat from the liberal welfare state that began with the New Deal and expanded via Great Society programs.¹⁵⁶ When Johnson brought an earlier version of the Act to Congress in 1967, he imagined that the Law Enforcement Assistance Administration would function in the style of War on Poverty funds, which dispersed federal monies directly to local agencies. By signing the Safe Streets Act into law with Title I's adherence to states rights, Johnson effectively handed control of the nation's crime prevention program to an emerging coalition of Western Republicans and Southern Democrats.

Title I: "Better Pay, Better Training, and Better Equipment"

The federal government approached its venture into local law enforcement by insisting that the restoration of public safety depended upon buttressing the capability of the criminal justice system to handle substantial numbers of new offenders from the nation's urban areas. This could be accomplished only by enacting legislation—the product of the Crime and Kerner Commission's research, studies, and suggestions—to shift federal resources away from community action programs and towards community patrol programs. New federal crime control measures would turn back the decisions of the Warren Court by revamping police departments capabilities in the surveillance of suspects, arrests of the criminally accused, and conviction of offenders. Once the Safe Streets Act paved the way for a major federal intervention in American law enforcement,

¹⁵⁶ In all, Congress dedicated \$557 million towards the new national law enforcement program, an increase of twenty-eight percent in 1968, or a total of \$435 million, and almost three times the amount appropriated in 1960.

black Americans living in urban neighborhoods prone to rioting faced disproportionate arrest and imprisonment.

Based largely on the conclusions of the Crime and Kerner Commissions, the Johnson Administration and Congress embraced the law enforcement mantra that only increasing the patrol power of big city police departments in order to arrest more criminals and incarcerate offenders could resolve the urban crisis.¹⁵⁷ However, in the wake of Supreme Court decisions increasing the rights of defendants by protecting against illegal search and seizure, involuntary confessions, and guaranteeing the right to counsel, conviction of guilty criminals “is more difficult... than in this or any other country throughout recorded history,” Los Angeles District Attorney Evelle Younger lamented.¹⁵⁸ Policymakers believed judicial decisions of the 1950s and 1960s jeopardized the safety of citizens by scrutinizing police methods, resulting in a lack of general respect for law enforcement. Nevada’s Democratic Senator Alan Bible told the subcommittee on Criminal Laws and Procedures that this resulted in “unbalanced scales of justice,” leaving the United States government, “in the unenviable position of losing control of the crime and violence that are running rampant in our cities.”¹⁵⁹

Police programs occupied a substantial portion of the Crime and Kerner Commissions recommendations, and so it is not surprising that Title I of the Safe Streets Act mandated an increased punitive force in black urban neighborhoods as a short-range

¹⁵⁷ Younger “Bill of Rights” in Memo from Pollner to Mitchell “Re: Anticipated.”

¹⁵⁸ Evelle Younger, “Preamble” in *ibid.*

¹⁵⁹ Bible in *Controlling Crime Through More Effective Law Enforcement Hearings*, July 1967, 132-133.

solution to the problem of inequality.¹⁶⁰ The Crime Commission adopted the theory that “the widest patrol coverage is the most deterrent coverage,” and felt “increasing patrol force in an area, through use of special tactical patrols, causes a decline in crimes directed at citizens walking the streets in the heavily patrolled area.”¹⁶¹ Thus, the majority of OLEA grants went to local police department initiatives such as Project Sky Knight, which provided federal support for cutting-edge weapons and communications technology in order to make patrol more effective. In a rare moment of disagreement between the two Commissions on police matters, the Kerner Commission noted that new patrol programs funded through OLEA actually caused much of the tension that resulted in urban outbreaks. The Kerner Commission criticized the trend towards aggressive patrol in segregated neighborhoods and found that law enforcement officers engaged in disturbing post-riot patrol practices. Roving task forces instituted by some police departments subjected entire communities in high crime districts to “intensive, often indiscriminate, stops and searches.”¹⁶² Despite the Kerner Commission’s recognition of the punitive social climate tactical police squads helped to create, the federal government continued to fund these specialized forces, particularly after the Crime Control and Safe Streets Act passed. Policymakers were generally unwilling to challenge popular law enforcement theory, and believed that only increased patrols could prevent crime, despite the highly uncertain effects of these practices.

¹⁶⁰ Katzenbach 91.

¹⁶¹ Katzenbach 95.

¹⁶² Kerner 304.

Even though the Kerner Commission frequently mentioned the role of white racism in socio-economic inequality and the conditions that seemed to encourage urban civil disorder, its claim that citizens and the media exaggerated police brutality and misconduct overshadowed its critique of urban patrol practices. Despite widespread charges of aggressive patrol, the Kerner Report argued that racism occurred in only eight percent of police-citizen interactions, and it rejected widespread, “unfounded” misconduct charges.¹⁶³ The Crime Commission also downplayed the extent of police brutality, viewing any tension between community members and police as a result of citizen hostility. “Most policemen treat minority-group citizens in a nondiscriminatory manner,” the Crime Commission blithely reported. Displacing the blame to black urban Americans themselves for tension, the Crime Commission argued: “Ghetto residents will not obtain the police protection they badly want and need until policemen feel their presence is welcome and that their problems are understood.” Along these lines, the Crime Commission charged that the negative attitudes black Americans carried about police actually “stimulate crime,” as officers could not effectively perform their function in an “angry neighborhood.”¹⁶⁴ By developing programs that responded to community grievances and establishing policy guidelines for police on the beat in high crime areas for the LEAA, both commissions hoped that law enforcement institutions could soften the impact of increased patrol on residents.¹⁶⁵

¹⁶³ Kerner 306.

¹⁶⁴ Katzenbach 100.

¹⁶⁵ Kerner 17. The Kerner Report depicted a severe neglect of law enforcement in hyper-segregated urban areas, noting that, “police maintain a much less rigorous standard of law enforcement in the ghetto, tolerating there illegal activities like drug addiction, prostitution and street violence they would not tolerate elsewhere.” *ibid* 307-308.

If improvements in police-community relations rested on changing black Americans' perception of racism within local police departments, the Crime and Kerner Commissions proposed special programs funded by LEAA grants to emphasize the "humanism" and "friendliness" of officers.¹⁶⁶ Kerner Commission members postulated that black residents would endorse an increased police presence in their communities if aggressive patrol projected a strong commitment to reducing crime levels. The Kerner Report warned: "What may arouse hostility is not the fact of aggressive patrol, but its indiscriminate use so that it comes to be regarded not as crime control but as a new method of racial harassment."¹⁶⁷ Community relations programs would increase "the patrolman's knowledge of the ghetto," in order to ameliorate hostility and to encourage officers to interact with community members.¹⁶⁸ Operating on the assumption that, "there is more crime in the ghetto than in other areas," more officers patrolled black neighborhoods, but the Kerner Commission hoped special sensitivity training programs would indicate a genuine effort on the part of the federal government and local law

¹⁶⁶ This language is from a Los Angeles Police Department Community Relations Program Report. The Department wanted to emphasize the "humanism" and "friendliness" of police officers, who came to interact with some eight thousand students a week. The Report stated that "Police and school officials agree that this program, presented in an atmosphere of learning, is invaluable in creating a sense of concern for orderly behavior and responsibility for the maintenance of law and order." The program involved the distribution of pamphlets from police officers to primary and secondary schoolchildren. This would "provide students with an appreciation of the role of the police and their own responsibilities as good citizens. In 1968, more than 210,000 students from 1-12 grade in Head Start centers were exposed to this program. "Los Angeles Police Department Community Relations Program," November 1968, Richard Nixon Presidential Library, Egil Krogh Collection, Box 26.

¹⁶⁷ Kerner 307. Moreover, if police departments remained lily-white "a feeling may develop that the community is not being policed to maintain civil peace but to maintain the status quo," Kerner 315. Black police officers would not only increase the stability of black families but also make residents more comfortable with new levels of law enforcement personnel in their everyday lives. The Katzenbach Commission actually held an opposite view, stating: "If there is not a substantial percentage of Negro officers among the policemen in a Negro neighborhood, many residents will reach the conclusion that the neighborhood is being policed, not for the purpose of maintaining law and order, but for the purpose of maintaining the ghetto's status quo." Katzenbach 102

¹⁶⁸ Kerner 307.

enforcement agencies to curtail discriminatory patrol practices in order to promote positive community relations and prevent violent outbreaks.¹⁶⁹

Increasing the involvement of major urban police departments in city government seemed an apt response to violence and social dislocation, and the LEAA used the funds provided through Title I to establish special grant programs for this purpose. The Crime Commission suggested creating police-community planning boards in order for officers to “formally participate in community planning in all cities,” by placing law enforcement officials in housing, parks, welfare and health departments.¹⁷⁰ To restore law and order at a moment of “increasing crime, increasing social unrest, and increasing public sensitivity to both,” the Crime Commission defined a role for police in all public programs as a remedy to the problem of urban disorder.¹⁷¹ By including law enforcement officials in aspects of the municipal infrastructure that touched black communities, the Crime and Kerner Commissions carved out a punitive element in federal social programs.

The LEAA endorsed the Kerner Commission’s alternative model that blended anti-poverty programs with law enforcement programs by incorporating police into service agencies established by the Great Society. The Kerner Commission lauded the work of police neighborhood service centers many municipal governments created in the aftermath of civil disorder. Conveniently located in storefronts or public housing projects and staffed by city anti-poverty employees and police officers, these centers connected residents to local social service agencies in order to “give the police in general the

¹⁶⁹ *ibid.*

¹⁷⁰ Katzenbach 99, 98.

¹⁷¹ *ibid* 99.

opportunity to provide services, not merely to enforce the law.”¹⁷² Bringing police officers into War on Poverty programs seemed to satisfy the need both commissions identified to strengthen law enforcement in black urban areas and improve police-community relations.

The recommendations the Crime and Kerner Commissions offered to the president and Congress on how to modernize and make more effective police departments responsible for maintaining order in major metropolitan areas foreshadowed the ways in which federal social programs took on punitive and carceral forms. In Los Angeles, for example, the police force eclipsed all other government organizations in providing social services for youth. The Los Angeles Police Department’s presence in public schools, housing projects, and on the streets correlated directly to the decline of the War on Poverty’s community action programs. After the Watts riot, uniformed police officers appeared in an average of fifteen schools daily to “dispel fear and unfamiliarity,” according to the LAPD’s Community Relations Program Report. The presence of police officers in inner-city schools functioned to “create a sense of concern for orderly behavior and a sense of responsibility for the maintenance of law and order.” The LAPD provided grand outings for some 25,000 “youngsters predominantly from the city’s lower socio-economic areas” to sporting, professional, and entertainment venues.¹⁷³ The recommendations of both commissions and the ways their suggestions unfolded in Los Angeles and other cities reflected how the War on Poverty’s attempt to offer health,

¹⁷² Kerner 319.

¹⁷³ In the summer of 1968, eight hundred youth from South Central also went camping with LAPD officers at Camp Radford in the San Bernardino Mountains. This was part of an “effort to combat the anti-police attitudes learned in the inner city.” In “Los Angeles Police Department Community Relations Program—Youth Services Material.”

housing, and educational opportunities gave way to providing momentary recreation as a means of improving police-community relations in the War on Crime.

The Juvenile Delinquency and Prevention Act

The nation's top law enforcement officials hoped to direct the federal investment in the American law enforcement and criminal justice systems most forcefully at juveniles. Leading the effort, J. Edgar Hoover believed that only cracking down on youthful offenders in urban neighborhoods would reduce the crime rate. "It is time to stop slapping young hoodlums on the wrist," Hoover argued, "and begin clapping them into jails and reform schools."¹⁷⁴ Though Title I and the LEAA disproportionately touched the fifteen to twenty-four year-old demographic, in the winter of 1968 Johnson proposed a separate Juvenile Delinquency and Prevention Act to complement the reorganization of federal crime fighting institutions under Safe Streets Act.¹⁷⁵

As a vehicle through which police officers and the juvenile court system could monitor urban youth, Youth Service Bureaus formed the cornerstone of the Crime Commission's blueprint to launch a national War on Crime and stood at the center of the Juvenile Delinquency and Prevention Act. For Johnson and the Crime Commission, Youth Service Bureaus invited an alternative to sending young people to penal institutions and provided necessary services in segregated urban areas that encouraged local authorities to respond more humanely to youth offenders and avoid, in some cases,

¹⁷⁴ Cliff Sessions, "Poor Moms, Dads Can Be Replaced," *Chicago Defender*, 26 Oct 1965, 11.

¹⁷⁵ In his plea to pass the Juvenile Delinquency and Prevention Act, Johnson noted in February 1968: "we know that children born into certain environments all too often view the policeman—and the civil order he protects—as an enemy, rather than as a protector. Many parents fail to impart to their children that respect for lawful and just authority on which a decent society depends. Thousands of these early, individual failures later become parts of a national tragedy." Johnson, "The Challenge of Crime to Our Society."

separating a delinquent from family members. Johnson recognized that community agencies had the potential to better handle youthful offenders than an already burdened court system, and the War on Poverty had already established many of these social agencies in urban areas.¹⁷⁶ “We know that America’s crime problem demands far broader efforts to reach young people trapped in poverty—without skills, without purpose, without hope,” Johnson informed Congress in February 1968 in support of the Juvenile Delinquency and Prevention Act. “Crime rates do increase markedly in an atmosphere that breeds hostility and frustration. They increase as the channels of opportunity are limited and social mobility is foreclosed.”¹⁷⁷ Johnson mentioned youth crime in suburban areas in passing, but identified the black urban population as the primary target of the juvenile delinquency legislation and new police social programs which Johnson viewed as, “giving disadvantaged young people the chance to break free of the waste and boredom that would otherwise characterize their lives.”¹⁷⁸

Johnson’s speech evoked the larger view of the Crime Commission on the problem of juvenile delinquency, which relied upon Moynihan’s arguments about black urban families rooted in “post-industrial pathology” to explain youth crime. Katzenbach chaired the Crime Commission’s Juvenile Delinquency Subcommittee, whose membership also included Secretary of Labor Wirtz and Secretary of Health, Education and Welfare John Gardner as well as such law enforcement officials as O.W. Wilson, the superintendent of the Chicago police department, who argued: “If we are to reduce crime

¹⁷⁶ Johnson, “The Challenge of Crime to Our Society.”

¹⁷⁷ *ibid.*

¹⁷⁸ *ibid.*

on a permanent basis, it must come in the area of control of juvenile offenders.”¹⁷⁹ Missouri’s Democratic Congressman James Symington directed the subcommittee, and firmly believed that it was the federal government’s responsibility to provide “institutional substitutes for parents,” as he felt that dysfunctional family life caused crime.¹⁸⁰ Like Moynihan, Symington felt that, “when parents fail to give the child everything he needs psychologically as well as materially for balance and direction, then he must get it somewhere else.”¹⁸¹ In more affluent communities, the subcommittee advocated, the school system should be charged with encouraging youth responsibility. In poor black neighborhoods, on the other hand, only public and private programs could provide sufficient alternatives by complementing existing federal programs for poor young people like the Neighborhood Youth Corps.

Crime Commission members carefully framed the juvenile crime control agency they designed as the basis of the Juvenile Delinquency and Prevention Act in the form of a service bureau to avoid the stigma and potential community outrage in response to new law enforcement centers built to handle young black Americans.¹⁸² Accordingly, the Crime Commission felt it necessary to make participation in Bureau services voluntary, “otherwise the dangers and disadvantages of coercive power would merely be transferred from the juvenile court to it.”¹⁸³ The Crime Commission hoped the availability of recreational facilities, employment training, tutoring, and youth development

¹⁷⁹“Daley Appoints 23 to Study Police Department,” *Chicago Tribune*, 26 Jul 1966, 6.

¹⁸⁰ Cliff Sessions, “Poor Moms, Dads.”

¹⁸¹ *ibid.*

¹⁸² Katzenbach 83.

¹⁸³ *ibid.*

programming at the Youth Service Bureau would facilitate the acceptance of this new urban law enforcement agency in urban communities throughout the United States.

The Crime Commission imagined that the Youth Service Bureaus would act as the central coordinator of all community-related services for the young and ease an overburdened juvenile justice system.¹⁸⁴ The Crime Commission required service bureaus to accept all court referrals.¹⁸⁵ Though the Youth Service Bureau would include counseling, foster home placement, work, recreation, and special education programs for “less seriously delinquent juveniles,” its primary function, “would be individually tailored work with troublemaking youths.”¹⁸⁶ While working in tandem with the courts, the Youth Service Bureau would “handle many troubled and troublesome young people outside the criminal system.”¹⁸⁷ Existing organizations, schools, and parents would contribute to the Youth Service Bureau’s clientele, but the Crime Commission imagined police and juvenile courts would supply the bulk of participants.¹⁸⁸ In effect, the Commission started a new approach to identifying worthy recipients of public social services by relying on law enforcement institutions to supply clients. The outcome ensured that federal social programs would be tied to punitive institutions.

¹⁸⁴ *ibid.*.

¹⁸⁵ *ibid.* 83.

¹⁸⁶ *ibid.*

¹⁸⁷ *ibid.* vii.

¹⁸⁸ The California Youth Authority offered both Commissions an early example of such a program. With early money from Kennedy’s Juvenile Delinquency programs and state funds, in 1961, the Youth Authority started testing community treatment alternatives by bringing juvenile offenders into community centers for counseling and therapy.

Title I: Block Grants and the Transformation of the Activist State

By establishing the block grant system, the Safe Streets Act charted a new course for state and federal functions. The LEAA funneled federal crime control funds to state governments via block grants to support the development of comprehensive law enforcement plans and to fund action programs administered by public and private agencies under those plans. In order to qualify for funding, states were required to establish law enforcement planning agencies to administer grants. Richard Nixon's effort to reorganize the structure of federal government in the style of his "New Federalism" would entrench this governing approach whereby states developed independent strategies on how to use federal monies based on their own determined priorities.

House Republican leaders Gerald R. Ford, Charles E. Goodell, and Albert H. Quie contended that the proliferation of grant programs had generated a giant federal bureaucracy that could not adequately respond to local needs. These congressmen proposed block grants as an alternative to allow state governments to determine how federal funds would be allocated. Opponents of the block grant system argued that state governments were ill-equipped to handle large sums of money, and critics feared that because rural areas often inherited a disproportionate share of funds, cities would not receive their due.¹⁸⁹ Even though Democrats controlled both chambers of Congress at the time, the pressing need to invest in national crime control pushed liberals to support the states' rights approach proposed by their conservative counterparts.

Although Johnson disliked the concept of block grants, when he signed the Safe Streets Act into law and established the LEAA he tacitly endorsed a form of grant

¹⁸⁹ "Congress Passes extensive Anticrime Legislation," *Congressional Quarterly Almanac*, 1968

making that ended the practice of citizen input—once a cornerstone of the War on Poverty—in how government funds would be distributed in a given community. Professionals working for state planning agencies now determined the priorities of local law enforcement, and the agencies offered limited representation (at best) to residents who lived in neighborhoods with the most severe crime rates. Community institutions dealing with crime-related problems such as poverty, health, and employment also found themselves largely excluded from law enforcement discussions.

Despite the block grant provision, discretionary funds allowed the federal government to take a direct role in local law enforcement matters in urban centers with significant black populations. Executive level officials now worked directly with mayors and police chiefs in cities like Philadelphia, Baltimore, New York, Detroit, and Los Angeles to design and implement crime prevention programs with federal discretionary funds. During the Johnson and Nixon administrations, action grants went to police departments for technological and statistical equipment and for law enforcement experimentation. As the federal law enforcement program unfolded into the seventies, the White House assumed a greater proportion of discretionary funds, in direct contradiction to its stated commitment to decentralization.

Both the Crime and Kerner Commissions predated the Safe Streets Act and Nixon's New Federalism in formulating some of the earliest models for block grants that materialized in the Safe Streets Act. The Crime Commission favored a multi-purpose funding approach, which redirected federal War on Poverty funds away from community action grants. As a means through which municipal governments rather than grassroots activists could spend federal dollars autonomously, late War on Poverty projects such as

the Model Cities program seemed to represent “the most effective weapon in the federal arsenal for a long-term, comprehensive attack on the problems of American cities,” as the Kerner Commission said.¹⁹⁰ In crafting the War on Crime, Johnson and other liberal policymakers hoped to continue this type of grant model, one that dispersed federal funds directly into local agencies.¹⁹¹

Block grants empowered state planning agencies to determine how the revolution in American law enforcement would shape the lives of the hard-core unemployed and the group the Crime Commission labeled “troubled and troublesome youths” who resided in ground zero of the War on Crime. As a necessary first step in modernizing American law enforcement and criminal justice, the Crime Commission proposed that the federal government invest in local police departments to make a quick impact on crime rates and to prevent further episodes of urban civil disorder. The transitory social institutions the Crime and Kerner Commissions described that effectively integrated police departments into social welfare agencies achieved expression in the Safe Streets Act, but the legislation positioned state governments to command the foot soldiers in the Crime War

¹⁹⁰ Kerner 479.

¹⁹¹ In Johnson’s version of the Safe Streets Act, one hundred percent of grants for research and demonstration were to be funded by the federal government, along with ninety percent for state and local planning, sixty percent for action grants, and fifty percent for construction grants. Johnson’s preferred alternative, which he articulated in his speech to Congress on Crime in 1968, was a merger of the War on Poverty’s Model Cities program with the War on Crime’s Model Precinct program. Johnson believed: “We must take advantage of our Model Cities program—the most comprehensive urban development program this country has ever undertaken—to promote the effective goal of law enforcement. The Model Cities program gives us an opportunity to plan ahead for law enforcement in a new environment.” Johnson promptly directed Secretary of Housing and Urban Development Robert Weaver to cooperate with Attorney General Ramsey Clark in the new requirement that all sixty-three urban communities receiving Model Cities grants also had to establish model precincts, police community recruitment and training centers, Youth Service Bureaus, and provide general programming that would improve police-community relations. With federal social welfare initiative intermixed with social control initiatives, the Johnson Administration seized the “opportunity to create safe streets in safe neighborhoods,” which meant that War on Poverty programs would now also include a “well-designed program for crime prevention and control.” Johnson, “The Challenge of Crime to Our Society,” 15, 5.

instead of municipal governments. The precedent Johnson signed into law through the Safe Streets Act helped to ease the transition to Nixon's New Federalism, and all the private contracting that approach to governing entailed.

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If riots in the second half of the 1960s constituted a moment of domestic bloodshed the nation had not experienced since the Civil War, the violent nature of these incidents brought to the fore the unanswered legacy of emancipation. In this social climate, policymakers and many of their constituents feared continued chaos in the nation's cities. At the annual meeting of the National Conference of American Bar Association Presidents in February 1968, James C. Davis of Cleveland articulated the common concern that mass political violence was on the horizon:

“Today there are close to 30 million Negroes in the United States. The total population of North Viet Nam is about 19 million or a little over 60 percent of the American Negro population. Yet the relatively small North Vietnamese population has tied down more than one million allied troops, troops that were unable to maintain security in the face of simultaneous disorders in the cities of South Viet Nam.... Should the majority of the Negro populations, in these cities alone, move from passive acquiescence in riots to active participation in rebellion, it is obvious what the result would be.”¹⁹²

The incidents of collective violence in American cities Davis described provided the federal government justification for its post-civil rights crime control priorities. Rather than attacking the roots of structural racism, the White House and Congress made a decision to cope with the failure of the nation's social institutions by launching a counter-revolution that brought to an end roughly three decades of progressive legislation. This bipartisan, bi-regional redirection of national priorities led policymakers to privilege

¹⁹² Robert Wiedrich, “Growing Disrespect for Laws Called Threat to Our Nation,” *Chicago Tribune*, 17 Feb 1968, W18.

punitive measures over providing economic security for all Americans. As the architects of modern American criminal justice and law enforcement, Johnson and other liberal policymakers conceded to the conservative crime package, which contained the seeds of the War on Poverty's undoing.

By signing the Safe Streets Act and establishing the block grant system, Johnson enacted a fundamental change that ended the direction of the liberal welfare state that began with the New Deal and continued through his own Great Society. The federal government ultimately granted power to the states to decide how to navigate the social and demographic transformations brought about by the Second Reconstruction. With the institutions and block grant structure of the federally directed revolution in American penal and juridical systems secured through the efforts of the Johnson Administration, Richard Nixon took office in a position to profoundly shape the development of what he called the "American law enforcement apparatus" in an all-out War on Crime.

CHAPTER TWO

The “Long-Range Master Plan”: The Rise and Fall of the New Federalism**I. Freedom from Fear**

By the time Richard Nixon launched his 1968 presidential campaign, “law and order” had emerged as a permanent fixture on the national policy agenda and in the minds of growing numbers of voters. Polling results indicated that the majority of Americans viewed crime as the top domestic problem. Nixon shrewdly made his first major policy statement in May 1968 a treatise on how he planned to end the crime menace.¹ In “Toward Freedom from Fear,” Nixon based his case for the failure of the Great Society on FBI statistics that indicated a sharp increase in crime after 1964.² Linking the federal government’s attempt to foster greater economic opportunity for historically marginalized populations to violence, Nixon repudiated centralized social programs and Johnson’s law enforcement strategy that placed the War on Crime inside the War on Poverty. While describing a general atmosphere of lawlessness and implying that the changing demographics of cities threatened the safety of “ordinary Americans,” Nixon offered no specifics on how new carceral policies would be implemented or the process through which states would receive crime control block grants. During the remainder of his campaign, and as President, Nixon redefined the urban crisis from a problem of inequality to one of violent behavior.

The “Freedom from Fear” mantra of the Nixon campaign did not resort to explicitly racist imagery but did evoke fears of neighborhood change (“vote like your

¹ Thomas E. Cronin, Tamia Z. Cronin, and Michael E. Millakovich, *U.S. v. Crime in the Streets* (Bloomington: Indiana University Press, 1981), 60.

² *ibid* 61.

whole world depended on it”).³ Taking cues from the law and order rhetoric Ronald Reagan successfully employed two years earlier in his California gubernatorial campaign, Nixon appealed to Americans who feared the social consequences of the great economic and legal changes they had witnessed during the previous decade. By selecting as his running mate Spiro Agnew, a staunch law and order proponent who once commented that the release of the Kerner Commission Report would only encourage more black Americans to riot, Nixon offered his “Silent Majority” a formidable crime control ticket.⁴

Given the actual similarities between Johnson’s law enforcement program and his own, Nixon’s tough on crime stance was to a great extent a matter of rhetoric. John Dean, a young lawyer working for Republicans on the House Judiciary Committee who joined Nixon’s domestic policy staff, understood the parallels between Johnson and his successor. “I was cranking out that bullshit on Nixon’s crime policy before he was elected. And it was bullshit, too,” Dean recalled, “We knew it. The Nixon campaign didn’t call for anything about crime problems that Ramsey Clark wasn’t already doing under LBJ. We just made more noise.”⁵ And the noise helped to get Nixon elected.

Although Republican strategist Kevin Phillips claimed that Nixon’s ascendance “bespoke the end of the New Deal Democratic hegemony and the beginning of a new era in American politics,” it was, in fact, Johnson who sowed the seeds of postwar

³ “Complete Text of the 1968 Republican Platform,” *Congressional Quarterly Almanac* 24 (1968): 987-994.

⁴ Although black voters secured Agnew’s victory in the 1966 Maryland gubernatorial race, he lost much of this initial support after he attributed the cause of the 1968 Baltimore riot to the shortcomings of black leaders in the community.

⁵ Quoted in Cronin 76.

liberalism's demise.⁶ For without the system of federal assistance to state and local governments Johnson established, and without the landmark crime control program his Administration designed, the infrastructure would not have been in place for Nixon to build his "American law enforcement apparatus." Johnson expanded the granting powers of the president and Congress for social programs, creating a new degree of federal influence in urban areas that conservatives seized on to transform the revolution in law enforcement and criminal justice in their own image. The first legislative step in the process of recasting domestic policy from poverty programs to carceral programs, the Omnibus Crime Control and Safe Streets Act of 1968, laid the groundwork for the block grant system. The legislation established a new, race-neutral states' rights paradigm that Nixon stepped in as the first president to execute.

The block grant system stood at the intersection of states rights and race in the aftermath of Jim Crow. While the Great Society transferred federal funds to state and local governments for the purpose of reducing poverty in the nation's most devastated urban and rural areas via categorical grants, block grants stipulated that decision making in crime control should be left to state and local governments with relative autonomy and less federal oversight. Republicans and southern politicians favored block grants as a means to preserve race-based social hierarchies following civil rights legislation. Over the course of his presidency, Nixon presided over a domestic social war that disproportionately touched young black urban Americans. The war offered race-neutral language; yet in memoranda, private meetings, and comments to the press, Justice Department and White House officials often used explicitly racist imagery. However,

⁶ Phillips quoted in Gareth Davies, *From Opportunity to Entitlement: The Transformation and Decline of Great Society Liberalism* (Lawrence: University Press of Kansas, 1999) 217.

after it became clear that many states used block grants to modernize law enforcement outside of urban “high crime” areas, Nixon and officials within his administration often abandoned their own political beliefs in order to refocus the War on Crime in low-income black communities by reasserting federal control.

The switch to the block grant model gave massive sums of money to states ill-prepared to manage their respective law enforcement programs. Soon, Nixon and White House officials grew frustrated with the limitations of their own small government strategy and the tension between upholding states’ rights and setting national priorities. By the end of Nixon’s first term the administration’s experience with the Law Enforcement Assistance Administration (LEAA) revealed the shortcomings of this deregulatory approach to domestic social programs. The inefficiency, contradictions, and corruption within the LEAA and the law enforcement institutions it spawned foreshadowed the problems within Nixon’s administration that the Watergate investigation revealed, but also (and perhaps more importantly) the danger in ceding federal control of social programs intended for the most marginalized populations. While pledging to uphold the principle of states rights, the White House and the Department of Justice led the federal government in exerting even more control over urban areas. While Nixon brought a number of crime control proposals to Congress, during his first term the LEAA merely erected a major law enforcement bureaucracy at the national and state levels and successfully funneled tens of millions of dollars into local police departments for mostly hardware programs. Ironically, the only way Nixon could redesign the American law enforcement apparatus would be to abandon his own commitment to New Federalism and assume direct control over local law enforcement operations.

The New Federalism intended to increase the power of states, but as the crime rate rose and states misspent federal law enforcement funds, the federal government under Nixon effectively *extended* its power over local authorities. In cities with “high crime” problems especially, the federal government maintained a carceral presence that exceeded its power in urban areas during the War on Poverty. Thus, if the federal government intended the Law Enforcement Assistance Administration to test the efficiency of block grants or revenue sharing, the concept failed as a functional method of governance and had grave consequences for the targets of crime prevention programs. The promise of state autonomy gave the national law enforcement program congressional and presidential support, but the Nixon Administration moved to increase federal power within the LEAA two years into its operation. Too much, it seemed, had been given to the states.

As a case study in the reasons why the block grant system and Nixon’s New Federalism ultimately failed, an examination of how a massive law enforcement bureaucracy was built at all levels of government through the Law Enforcement Assistance Administration not only provides a critical view into how American crime control institutions rapidly expanded in the 1970s, but also reveals the dangers inherent in investing unprecedented federal dollars into poorly planned and supervised programs with ambiguous and racially-motivated goals. The bulk of these funds went to private companies and existing federal agencies and initiatives that provided hardware for the federal crime control project, resulting in the creation of an entirely new criminal justice and law enforcement industry that proved highly profitable for those involved. The LEAA saw its operating budget grow from 10 million dollars in 1965 to some 850

million dollars by 1973.⁷ Over the course of the seventies, the federal government dedicated some 7.25 billion dollars to crime control, equivalent to some twenty billion dollars today.⁸ With full freedom to award block grants to states, the top three LEAA Administrators—a constantly-shifting troika due to high turnover at the Department of Justice during the Nixon Administration—commanded the fastest-growing federal agency in the 1970s. As new corporations and consulting firms emerged to reap the federal law enforcement benefits, the type of corruption this massive influx of funds perpetuated mirrored the criminal behavior of Nixon and his officials exposed by the Watergate scandal.

Nixon's law enforcement measures may have differed very little from Johnson's beyond their preferred grant structures, but Nixon greatly accelerated the shift in emphasis of the federal crime control approach from treatment to punishment and from attacking root causes to attacking effects. Attorney General John Mitchell carried forth Nixon's managerial approach to the crime issue. Soon after he received his confirmation, Mitchell remarked of the Department of Justice: "I think this is an institution for law enforcement—not social improvement."⁹ Like Mitchell, Nixon believed that Johnson focused too much on the social causes that bred high crime environments and did not

⁷ See Beth Lynch, *Dollars and Sense of Justice: A Study of the Law Enforcement Assistance Administration as it Relates to the Defense of the Criminal Justice System* (Washington, DC: National Legal Aid and Defender Association, 1973).

⁸ Vesla Mae Weaver, "Frontlash: Race and the Politics of Punishment," (PhD diss., Harvard University, 2007) 115.

⁹ Quoted in Ronald J. Ostrow, "Richardson to Shift Focus at Justice Department," *Los Angeles Times*, 17 Jun 1973, H1.

hold perpetrators sufficiently accountable for their behavior.¹⁰ Their attitudes mirrored the general sentiment of the Republican Party, whose 1968 platform declared: “We must re-establish the principle that men are accountable for what they do, that criminals are responsible for their crimes, that while the youth’s environment may help to explain the man’s crime, it does not excuse that crime.”¹¹ Although conservatives tended to stress individual and social pathology to explain the breakdown of law and order, Republicans and Democrats alike relied upon the blueprint Johnson’s Crime Commission had developed to set the national priorities for criminal justice. States received grants based on categories Johnson’s Commission established as areas of the criminal justice system in need of improvement. These systems—including prisons, corrections, and law enforcement technology—had formed the basis of the Safe Streets Act. The revenue sharing program the Nixon Administration developed during his first term promised to “return power to the people” in the aftermath of landmark social legislation.¹²

The cornerstone of what Nixon referred to as “The New Federalism” promised state and local governments far greater autonomy than Johnson allowed in developing social programs. Johnson and the early federal law enforcement assistance programs

¹⁰ Elliott Currie and James Q. Wilson, “The Politics of Crime: The American Experience,” in Kevin Stenson and David Cowell, eds., *The Politics of Crime Control* (London: Sage Publications, 1991), op. cit., p. 34; James D. Calder, “Presidents and Crime Control: Kennedy, Johnson and Nixon and the Influences of Ideology,” *Presidential Studies Quarterly* 12, no. 4 (1982): 574-589; quoted in Nancy Marion, *A History of Federal Crime Control Initiatives, 1960-1993* (New York: Praeger, 1994) 70.

¹¹ “Complete Text of the 1968 Republican Platform,” *Congressional Quarterly Almanac* 24 (1968): 987-994.

¹² Despite his opposition to the block grant component of the Safe Streets Act, Johnson too entertained the concept of revenue sharing. In 1964 Walter Heller, chair of Kennedy and Johnson’s Council on Economic Advisors, proposed an alternative to categorical grants that gave states a portion of taxable personal income to use as at their discretion. Heading Johnson’s 1964 Task Force on the issue, Joseph Pechman of the Brookings Institution developed a revenue sharing program with Heller as a means to restore surplus federal funds to the states in a decade of abundance. But as the Vietnam War and the Great Society escalated, the Heller-Pechman plan was indefinitely postponed. Marion 76; Cronin et al. 81.

followed the grant structure of the War on Poverty by doling out categorical grants to states, which distributed federal funds for a specific purpose. The block grant approach distributed money for a general purpose, and the federal government exerted very little control over how states chose to spend the funds. Mitchell believed that categorical grants led to fragmentation by forcing cities and counties to operate autonomously instead of collaborating with the federal government to make programs more effective. Mitchell viewed block grants as an “auspicious beginning” that would make possible the permanent implementation of revenue sharing and Nixon’s New Federalism. Nixon officials drew on the work of Edward Banfield and James Sundquist, who privileged the authority of state and local governments over a massive federal bureaucracy and shunned greater federal responsibility for social programs.¹³ The Law Enforcement Assistance Administration represented the first experience in New Federalism. When applied to the crime control issue, the Nixon Administration imagined that the federal government would provide states and local governments with a general framework to help steer their plans for law enforcement projects rather than mandating specific programs. The New Federalism promised to cut down on red tape in Washington by decentralizing and building smaller bureaucracies via criminal justice planning agencies at the state level.¹⁴

¹³ See Edward C. Banfield, *Moral Basis of a Backward Society* (New York: Free Press, 1967), and *The Unheavenly City: The Nature and Future of Our Urban Crisis* (New York: Little, Brown, 1970); James Sundquist, *On Fighting Poverty: Perspectives from Experience* (New York: Basic Books, 1969) and *Politics and Policy: The Eisenhower, Kennedy, and Johnson Years* (Brookings Institution, 1969); “Planning Assistance: Problems and Implications” Law Enforcement Assistance Administration, Box 37 Office of Law Enforcement Programs (Gen) 1970.

¹⁴ Planning did not originate with the Nixon Administration, as Johnson appointed more Commissions and Task Forces than any other President. But with respect to crime control, White House officials and state bureaucrats steered the course of the law enforcement revolution. The top LEAA Administrators viewed planning as, “the process of consciously exercising rational control over the development of the physical environment and of certain aspects of the social environment, in light of a common scheme of values, goals, and assumptions.” If insufficient planning created mismanagement of the

Social scientists and historians have largely ignored the federal role in the buildup of the carceral state, in part because state and municipal governments retained their control over criminal justice. Yet without massive federal support and subsidies, the revolution in American law enforcement would not have produced the largest and most expansive penal and juridical system in the world over the course of a single decade. Block grants and revenue sharing allowed the federal government to demand that states make law enforcement and crime control a priority at all levels of government.¹⁵ By launching a national War on Crime, the federal government forced states to make law enforcement into an issue, shifting the terms of social analysis and the nature of federal assistance. The federal government used block grant formulas to urge state governments to create criminal justice institutions and dedicate resources to increasing the nation's punitive and carceral capacities. Initially it did this by making states match federal funds, but eventually it assumed an even greater responsibility after a House investigation exposed vast mishandling of funds at the state level.¹⁶

Despite the rhetoric of federalism and states rights, direct White House involvement in launching the law enforcement apparatus underscored the extent to which the federal government designed the national program to focus on street crime in the nation's cities, regardless of whether the states shared this priority. Amidst mounting criticism from within Congress and law enforcement institutions, in 1970, two years into the national crime control program, officials in the Nixon Administration escalated

War on Poverty, by carefully developing programs, encouraging experimentation, and supporting academic research comprised the strategy of the War on Crime. "Planning Assistance: Problems and Implications" LEAA Box 37 OLEP (Gen) 1970.

¹⁵ Weaver 244.

¹⁶ "Planning Assistance: Problems and Implications" LEAA Box 37 OLEP (Gen) 1970; Cronin et al. 79.

federal involvement in state and local government by assuming ninety percent—rather than the sixty percent stipulated in the original act—of costs for experimental and highly punitive crime control projects in primarily black urban areas. With the federal government assuming the great majority of the financial burden of crime control initiatives, the Nixon Administration hoped to “create a law enforcement system of complete federal financial subsidy for the states, rather than a system of shared responsibility.” As one White House official noted, “states are failing to reorder their priorities now, irregardless of our consistent prodding them to do so through the matching funds program... The only recourse is to involve the federal establishment in state crime control to a greater degree, by increasing the ‘federal financial mix.’”¹⁷ By the end of his presidency, Nixon revised his New Federalism to end states’ discretion in the use of federal law enforcement funds. Now states would have to adhere to LEAA requirements and submit a formal application for federal funds.

With a penchant for longer prison sentences, preventative detention for offenders deemed particularly dangerous, and a reform of the criminal code, Nixon moved beyond Johnson’s initial focus on patrol and drafted amendments to the Safe Streets Act that rested on the assumption that only swift and sure conviction and harsh punishment could curtail the rising crime problem. Under Nixon and Attorney General John Mitchell, the War on Crime evolved into a “Vietnam-like conflict” that used federal grants to train and equip its state and local police footsoldiers.¹⁸ And while Nixon’s crime control programs

¹⁷ 7-13-70 Memo for Bud Krogh “Review of ‘Brainstorming Session’ Outlining Administration Responses and Initiatives Towards the Crime Problem for the Next Year (Santarelli, Kallen, Persce- Drug Issue Not Discussed),” no author. Richard Nixon Presidential Library, Egil Krogh Collection, Box 25.

¹⁸ Weaver, “Frontlash” 54.

included a rhetorical commitment to rehabilitation, his administration moved to impose mandatory minimum sentences and harsher penalties, stiffen bail procedures, and promote federal judges who favored severe sentences. Nixon's policies built a massive and highly dysfunctional crime control bureaucracy that changed the nature of law enforcement and insured that more Americans than ever before would enter the criminal justice system, interact with police officers, and face arrest.

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In December 1968, a month before his inauguration, Nixon's Advisory Council on Crime and Law Enforcement urged the President-elect to "place the crime crisis on par with the urban crisis, with national security, precisely where the American people placed it months ago during the national campaign, where 'crime in the streets' was the overriding national issue."¹⁹ Nixon selected Martin Pollner, a deputy attorney general under Kennedy, to sit as executive director of the Council with Los Angeles district attorney Evelle Younger as the chair. The Council drafted recommendations for Nixon's national crime control program, and included former LAPD police chief Thomas Reddin, Professor Walter Murray (who served as special consultant to the Watts Area Re-Development and Rehabilitation Project), as well as a number of US attorneys, district attorneys, and members and former presidents of the International Association of Chiefs of Police, the National Law Enforcement Association, and the American Bar Association. Like Johnson's Crime Commission, the Council developed a blueprint for a massive domestic "war," telling the President-elect: "This war on crime, should be declared with

¹⁹ Richard Nixon's Advisory Council on Crime and Delinquency- Recommendations. Attached to 12-20-68 letter from Martin Pollner to Martin Anderson; Nixon Library, Martin Anderson Collection Box 24 (n.d) 68-70, Folder "Crime" 3 of 3.

righteous rhetoric, and it is one that will win support from editorial pages to the cloakrooms of Capital Hill.” The members assumed that the “criminal species” could be “found predominately in the slums of urban America and not in the suburbs.” Thus, the crime war should be directed towards “the urban poor, upon whom [crime] is in many ways a heavier cross to bear than poverty.”²⁰

The correspondence among members of Nixon’s Advisory Council on Crime revealed that, from their perspective, at the heart of the matter of the crime problem lay the *street* crime problem, seen as a black, urban issue. It had already been sensationalized for the American public through widespread coverage of urban civil disorder. A few months after Nixon’s inauguration, Attorney General John Mitchell committed to getting law enforcement funds to cities and deindustrializing towns, allocating additional funds to states specifically for law enforcement in high crime, segregated neighborhoods.²¹ While the post-civil rights moment ensured that outright racism would no longer be tolerated in the public sphere, and policymakers followed suit by using only non-racialized language, all levels of government extended their punitive programs into specific urban spaces and against already marginalized Americans.

Nixon officials and Department of Justice employees rarely mentioned race as they planned to attack crime in low-income communities, but the Safe Streets Act made possible the emergence of a new system of racial subordination in the aftermath of the civil rights movement and changes in American racial law. In a major *Washington Post* article in 1972 ruminating on the first years of the War on Crime, former executive

²⁰ *ibid.*

²¹ “States Urged to Aid Cities in Crime Fight” *New York Times*, 9 Apr 1969, 7.

director of the Crime Commission James Vorenburg wrote, “Continuing denial of opportunity, combined with the anonymity of city life, is destroying the social pressure to abstain from crime. The riots of the mid-Sixties showed one possible outlet for the deep frustration and hatred felt by young blacks in the cities—the same group that is already responsible for a large portion of serious crime.”²² The language of the Safe Streets Act remained race-neutral, but the construction of the legislation and policymakers’ own assumptions and desires built racism into the law’s implementation. The racialized categories of “violent offender” and “drug addict,” as well as new technological and scientific programs, rationalized the increased surveillance and incarceration of black urban youth.

Academic research—much of it funded by the federal government—increasingly drew connections between race, geography, and criminality to justify the decision to fight the War on Crime in segregated urban communities. Nixon officials called attention to the work of G. Robert Blakey, a Notre Dame law professor and former member of the organized crime committee of Johnson’s Crime Commission who went on to work on the Judiciary Subcommittee on Criminal Laws and Procedures under John McClellan, one of the strongest forces behind the Safe Streets Act in Congress. Blakey concluded: “Public alarm is, indeed, founded in fact. A full 60 percent of all major crime against person—rapes, robberies, and assaults—occurs on the street or in other public places... street crime is increasing... It is not possible, of course, to talk of street crime without talking about the Negro riots that have rocked the ghetto areas of our cities in the last few

²² James Vorenberg, “The War on Crime: Five Futile Years,” *Washington Post*, 21 May 1972, B3.

years.”²³ The riots underpinned policymakers’ perception of crime as a problem that disproportionately involved unemployed young black men, but the domestic social war could not be launched under such specific terms. The ambiguity of the Safe Streets Act, subsequent legislation and the block grant concept enabled the War on Crime to unfold in segregated urban communities while protecting policymakers from charges of racism or discrimination.²⁴

II. An All-Out War on Crime

Almost immediately on taking office, Nixon enthusiastically embraced the War on Crime, treating it like any other military intervention and eagerly working to consolidate the federal law enforcement complex. In a memo circulated early in his presidency, White House staff asked themselves: “#1 How do we accomplish total mobilization of all our human resources for an all out war on crime?” To which an anonymous domestic policy advisor responded: “As is true in a military operation, we must get all of our professional and volunteer forces going in the same direction following a plan which puts every official and volunteer to work in a job he is qualified to do and which contributed to the overall effort in the war on crime.”²⁵ Nixon’s aide

²³ Professor Blakely quoted in Memo from Pollner to Mitchell, “Re: Anticipated Criminal Activity Facing New Administration and Proposed Action to Combat Same.” n/d Richard Nixon Presidential Library, Martin Anderson Collection, Box 24.

²⁴ Cronin et al. 78. Weaver shows how the media established links between black Americans and rising crime rates. Even though the rate of black crime remained stable through the second half of the 1960s, media coverage of inner-city crime increased. Coinciding with this increased coverage, after 1965, the mention of alongside criminal acts occurred more frequently. For instance, Weaver demonstrates that before 1965, *Time* Magazine averaged 20 stories on crime-related issues a year, but shortly thereafter, the magazine devoted roughly 48 stories to issues of crime annually. See Weaver 137.

²⁵ “How do we Accomplish mobilization of all our human resources for an all-out war on crime?” n.d., Nixon Library, Martin Anderson Collection Box 24, Folder (n.d. 68-70) “Crime” 3 of 3.”

Tom Charles Huston wrote in a memo to domestic council advisor and chief crime strategist Bud Krogh in early 1970 that the crux of the war meant getting policy equipment and hardware to the foot soldiers, as federal law enforcement assistance had functioned during the Johnson years. Huston suggested, “we must first establish the machinery that enables us to gain control of the problem before we can hope to solve it.”²⁶ First and foremost, police departments, like an army, needed better weapons and training.

Nixon viewed the Law Enforcement Assistance Administration as “the primary instrument for our attack on crime,” and police programs as the necessary “change agents” for the criminal justice revolution.²⁷ Each piece of law enforcement legislation Nixon’s White House brought to Congress served as a key weapon in the war. During his first six months in office, Nixon worked with Attorney General John Mitchell to draft twenty anti-crime bills, introducing some of the most repressive criminal penalties and investigation procedures in American history. These included pretrial detention measures, stop and frisk policing practices, and a provision that allowed the Justice Department to monitor any group deemed “subversive” without having to go through the courts to obtain warrants.

The LEAA functioned as the federal government’s law enforcement consultant, filtering to the states and, through them, local governments an unprecedented national strategy on crime. It provided and arranged for technical assistance, both directly and

²⁶ 3-20 70 memo from Huston to Krogh “Internal security” Nixon Library, Krogh Collection Box 14, Folder “internal security.”

²⁷ Draft Remarks for President Before the Regional Meeting of State Planning Agencies of Region VII of the LEAA Phoenix, AZ” May 8, 1970 Nixon Library, Krogh Collection Box 26, Folder “Proposals-President’s LEAA Trip (1970)” ; 5-1-70 Memo from Skoler to Rogovin, Velde, and Coster Subj: Policy Statements—LEAA Technical Assistance Responsibilities LEAA Box 37, Folder OLEA (Gen) 1970.

through contractors, consultants, and publications produced by the Agency's research arm.²⁸ As one administrator in the organized crime division put it: "LEAA is needed as the motivating force to tie the system together, not as a national system but as a truly Federal system, whereby we can provide the necessary means and resources."²⁹ While the LEAA did not operate as a law enforcement agency in its own right, it provided state and local governments direction in revolutionizing their criminal justice programs. Only in special cases (usually in response to black activism and protest) did the LEAA engage in tactical operations on the ground. For example, an LEAA administrator advised FBI agents and New Haven police officials when they raided Black Panther headquarters in May 1969.³⁰

Nixon criticized the Johnson Administration's management of the LEAA during the campaign, yet the institution came to suffer from the same problems once he took office. The lack of coordination among the various federal agencies involved in crime control, coupled with what Nixon officials characterized as a "mass of departments, bureaus and agencies with duplicative staffing, competing responsibilities, poor coordination and correlation, and self-defeating jealousies and suspicions," made the institution incapable of effectively addressing crime.³¹ The Nixon Administration worried about "overlapping authority," which placed law enforcement issues under the jurisdiction of a range of departments. Six executive offices and seventeen different

²⁸ 5-1-70 Memo from Skoler to Rogovin.

²⁹ *ibid.*

³⁰ 5-1-70 Memo from Skoler to Rogovin.

³¹ Memo from Pollner to Mitchell "Re: Anticipated."

bureaus, agencies, and divisions covered narcotics issues, for instance.³² Nixon believed that if he coordinated these efforts, implemented planning agencies, and addressed the problem of fragmentation the LEAA would be made more effective.

When Congress created the Law Enforcement Assistance Administration in 1968, it invested it with a special role as the only grant agency within the Department of Justice, but it viewed these initial grants as seed money and did not intend the agency to be permanent. The Safe Streets Act sanctioned the LEAA for two years, but it survived and its budgetary allocation swelled exponentially throughout the 1970s. By 1972, the organization had grown tenfold from its initial incarnation. When it finally disbanded in 1981 it had appropriated nearly ten billion dollars to the states and nonprofit agencies, funding roughly eighty-thousand crime control projects and awarding 155,270 grants. Yet even these figures do not reflect the growing allocations dedicated to criminal justice and law enforcement at the state level, which amounted to hundreds of billions of dollars.³³

Given the importance of the LEAA to President Nixon and Congress, the Department of Justice developed into one of the most highly funded and rapidly expanding executive agencies. Although the Nixon Administration made substantial cuts to most domestic programs, anticrime and criminal justice funding ballooned. During the first two years of Nixon Administration, total federal expenditures for the reduction of crime increased sixty-four percent to just under a billion dollars. Within two years, the White House earmarked 1,257,000,000 dollars for the War on Crime, nearly doubling the

³² *ibid.*

³³ Weaver "Frontlash" 224.

six hundred million Johnson initially secured.³⁴ With the highest budget the Justice Department had ever enjoyed, thousands of new employees joined the agency's criminal division after Nixon took office to concentrate on the problems of street and organized crime in cities. Nixon's commitment to quelling narcotics trafficking also enlarged the Department of Justice, as nearly two hundred new Border Patrol inspectors and Bureau of Narcotics and Dangerous Drug officers served the national law enforcement program.³⁵

In addition to block grants, the Safe Streets Act ushered in a new form of leadership in federal agencies, a "troika" administration that governed the LEAA from Washington. Instead of a single agency head, three administrators made all of the major federal law enforcement decisions—two of which had to be of the same political party. Initially, the Nixon Administration felt strongly that a Democrat should lead the agency, and selected the former head of the organized crime Task Force of Johnson's Crime Commission, Charles Rogovin. Rogovin left his position as an assistant attorney general in Massachusetts in charge of criminal investigations and prosecutions to direct the LEAA during the Nixon transition. Like many other policymakers, Rogovin believed: "there can be no progress in a lawless, disorderly society—no progress for anybody. Neither freedom nor any of its tangible benefits can long co-exist with the fear unleashed

³⁴ As early as 1969 the total federal outlays for the reduction of crime rose by thirty-six percent over the previous year to \$638, 885 million, and by 1970 increased sixty-four percent to just under a billion dollars. Fred P. Graham, "Crime," *New York Times*, 3 Feb 1970, 23.

³⁵ The War on Crime built momentum, and quickly: In 1968, \$63 million of the LEAA's budget went to planning programs and "setting up anticrime machinery" in every state. By early January 1970, the \$236 million budget allocated \$182.75 million in block grants to states and \$21 million for planning. Nevertheless, the LEAA expanded its federal aid to cities from \$1.1 million in the first year of the Safe Streets Act, to \$20 million in the second year. Three out of every four dollars the of the \$1.3 billion the LEAA dispersed went to police programs. "\$236-Million Allocated by U.S. To Help the States Fight Crime," *New York Times*, 19 Jan 1970, 28; Martin Weil, "U.S. Fund Aids War on Crime," *The Washington Post*, 19 Jan 1970, A1; "Crime Fighters' Funds to Rise \$310 Million in Year; War on Poverty to Become a Secondary Engagement," *Wall Street Journal*, 3 Feb 1970; Fred P. Graham, "Crime."

by widespread crime,” as he told the National Association of Attorneys Generals at a conference in St. Thomas in June 1969.³⁶ A chain-smoker who wore tinted glasses and loved to play golf, the thirty-eight year old Rogovin was described by a friend as “basically a cop in a way,” in that he, “loves cops, he loves investigative work. He can be one of them. They like him and he can talk back to them.”³⁷ This passion for the justice system compelled Rogovin to accept a job in the Philadelphia public defender’s office in 1959; he left the corporate world just before federal law enforcement programs started. He had the experience of working with urban criminals on both sides of the court system, conducted major studies on organized crime and held police forces in the highest esteem. These credentials made Nixon comfortable with trusting the Democrat to run his anti-crime agency. Richard Velde joined Rogovin and his three hundred employees as associate director. Also in his late thirties, Velde worked as a top aide to Roman Hruska when the Republican senator helped create the Office of Law Enforcement Assistance in 1965 and guided the Safe Streets Act through the Senate Judiciary Committee in 1968. Finally, Nixon brought Clarence Coster, the Police Chief of Bloomington, Minnesota, to round out the troika.³⁸ Coster’s previous experience as a narcotics officer for the Los Angeles Police Department complemented Velde’s knowledge of crime control policy and Rogovin’s of organized crime and the judicial system.

³⁶ 6-23-39 address by Charles H. Rogovin, Administrator LEAA Before the National Association of Attorneys General at the College of the Virgin Island Charlotte Amalie, St. Thomas, Virgin Islands, Nixon Library, Krogh Collection Box 25.

³⁷ Deirde Carmody “He Loves Cops,” *New York Times*, 23 Jul 1970.

³⁸ Charles Rogovin, “The Genesis of the Law Enforcement Assistance Administration: A Personal Account,” *Columbia Human Rights Law Review* Vol. 5, 1973, 7.

Nixon appointed Henry S. Ruth to direct the new National Institute of Law Enforcement and Criminal Justice. A former Justice Department attorney and University of Pennsylvania law professor, Ruth had worked with Rogovin on Johnson's Crime Commission. As Institute director, Ruth chose appropriate research projects to fund, primarily in the areas of police training and community-relations methods. At first the Institute focused on developments in police technology and equipment, exploring options in distributing non-lethal weapons to police departments and improving communications technology as a means to foster greater cohesion in the criminal justice system. Ruth, a veteran of the army, worked to bring the Department of Defense into crime control research, hoping that the lucrative programs the Institute supported would give defense an "incentive to get into the crime field."³⁹ In addition to its research arm, the Law Enforcement Assistance Administration had a giant constituency of criminal justice agencies at all levels of government and in private industry.⁴⁰

The federal government's choice to concentrate its domestic social war on low-income Americans meant that the LEAA worked closely with a number of departments that addressed complex social issues relating to crime control, and particularly in urban centers.⁴¹ As urban housing became an increasing problem in the 1970s and housing

³⁹ "Anticrime research hopes outlined," *Christian Science Monitor*, Jun 3, 1969, 4

⁴⁰ Groups related to issues of criminal justice and law enforcement, such as the International Association of Chiefs of Police and the Federal Public Defenders Associations, largely relied on LEAA funds for their survival. The agency also supported institutions interested in assisting the massive national effort to modernize and make more effective American law enforcement such as the National Council on Crime and Delinquency, the American Law Institute, the American Civil Liberties Union, and the Coalition of Concerned Women in the War on Crime. Organizations representing state and local governments, like the National League of Cities and the National Governor's Association also worked with the LEAA.

⁴¹ The Department of Housing and Urban Development's Model Cities Division, the Department of Health, Education, and Welfare's Juvenile Delinquency Prevention and Control programs, and the Department of Transportation all shared resources with the LEAA.

projects evolved into concentrated sites of criminal activity, the LEAA cemented a relationship with the Department of Housing and Urban Development and strengthened the surveillance of residents in housing projects. Though the LEAA and the Department of Justice engaged in a number of “turf wars” with the Department of Health, Education, and Welfare over the issue of drug abuse and juvenile delinquency, it worked closely with the Department of Housing and Urban Development and, in some cases, shared federal grant monies. The LEAA also sought greater coordination between Model Cities and Criminal Justice Planning Agencies and encouraged representation on the boards of both institutions.⁴² In the fall of 1970, Nixon officials drafted an interagency agreement between Housing and Urban Development and the LEAA amounting to 300,000 dollars to enable both agencies to conduct studies “on every phase of crime involved in dwellings and how to give homes better protection.” The federal government hoped the collaboration would lead to a general improvement of “physical systems, direct surveillance programs, and protection and education programs.”⁴³ In Pittsburgh, combining federal housing and crime resources allowed policemen on foot to carry walkie-talkies in order to communicate with radio car patrols as they policed forty thousand residents, seventy percent of them black, inside and outside of the city’s housing projects.⁴⁴

⁴² 3-23-70 Memo from Charles Lauer, Director Division of Grants Management and Review to Skoler Subj: Model Cities Coordination Efforts, LEAA Box 37, Folder OLEP (Gen) 1970.

⁴³ “U.S. Crime Probe Gets HUD Funds,” *Chicago Daily Defender*, 15 Sep 1970, 5.

⁴⁴ The Nixon Administration invested heavily in the development of effective portable communication devices, and walkie-talkies enabled officers on the beat to apprehend suspects with greater ease. “Housing Authority Sets Up Own 72-Man Security Force,” *New Pittsburgh Courier*, 29 Jan 1972, 1.

In addition to working with federal agencies created during the Great Society, the Safe Streets Act opened up new possibilities for defense and intelligence in the domestic law enforcement realm. Once the federal government decided to involve itself with law enforcement matters, it blurred the lines of distinction set by the Posse Comitatus Act of 1878, which limited and in some case prohibited the use of military for law enforcement. The National Security Act also outlawed the Central Intelligence Agency (CIA) from playing a domestic law enforcement role. But to cut costs and make federal crime prevention efforts more effective—especially with respect to local police departments—the army and the CIA played a key role in training local patrolmen. Police departments in Washington, DC, Montgomery, and New York all received training from the CIA, specifically regarding visual surveillance, bomb disposal, and records filing.⁴⁵ The CIA maintained that its law enforcement training sessions were consistent with the Safe Streets Act’s new federal sanctions for crime fighting agencies.⁴⁶ In Montgomery, Colonel Kenneth Watkins, the city’s chief of police, admitted that his department received “specialized training in street surveillance,” from the CIA and the Department of Defense.⁴⁷ “Since the CIA is continuously developing investigative techniques abroad, some of which are applicable to local police forces in the U.S.,” Watkins commented, “we avail ourselves of this resource.”⁴⁸

In Washington, DC as well, the police department not only received direct guidance from the White House on its law enforcement program, but also worked with the major defense and intelligence centers nearby. During the Johnson Administration, a

⁴⁵ Paul G. Edwards, “Area Police Confirm CIA Aid,” *The Washington Post*, 7 Feb 1973, D1.

⁴⁶ *ibid.*

⁴⁷ *ibid.*

⁴⁸ Quoted in *ibid.*

study by the International Association for the Chiefs of Police suggested that in order to “help the police anticipate riots and penetrate organized criminal activity” in the era of widespread urban civil disorder, the president should use CIA as consultants.⁴⁹ The District’s police chief under Johnson, John Layton, may have resisted the intrusion of special intelligence forces into his department, but it was “clear to Mitchell that Layton wasn’t the guy for a vigorous law enforcement program,” and Nixon installed Jerry Wilson into the city’s top law enforcement post.⁵⁰ Thereafter, the department readily exchanged intelligence-related information and equipment and CIA operatives trained DC police officers on matters such as lock-picking and electronic eavesdropping as well as “stress training” for extremely violent or hostile situations.⁵¹ By 1973, after training a dozen city and county police forces on wiretapping, bomb techniques, maintenance of intelligence files, and general surveillance, the CIA stopped its public involvement in collaboration and consultation with local police departments.⁵²

More than its reliance on defense and intelligence institutions, the growing power of the Law Enforcement Assistance Administration and the substantial amounts of money at its disposal encouraged new private law enforcement organizations to form and existing ones to expand their influence. The Safe Streets Act ensured a significant role for

⁴⁹ Thomas Lippman, “D.C. Police Now Free of White House,” *Washington Post*, 22 Jun 1975, 1.

⁵⁰ *ibid.*

⁵¹ Legal issues concerning the CIA’s relationship with local police departments have recently resurfaced, and the agency launched an internal investigation in the fall of 2011 to determine whether its work with the New York Police Department after the September 11th attack violated laws prohibiting intelligence-gathering at home. See Mark Mazzetti, “C.I.A. Examining Legality of Work With Police Dept.,” *New York Times*, 13 Sep 2011, A31; *ibid.*

⁵² Three CIA consultants received a \$166,000 grant from the LEAA to help the department reorganize its intelligence files. David Burnham, “C.I.A. Will Cur Training It Provides Police Forces,” *New York Times*, 6 Mar 1973, 29.

private institutions in the domestic social war.⁵³ The federal government did not have the resources to produce cutting-edge weaponry and equipment such as walkie-talkies on its own and required substantial support from the private sector to make the crime fight successful and generate widespread public support. Less than a month into his term as attorney general, John Mitchell spoke to the National Council on Crime and Delinquency during a conference on crime and the urban crisis, advocating that the LEAA work more closely with industry and pledging to reward private organizations with federal crime fighting dollars. As Nixon considered holding town hall meetings to mobilize the larger public in the national effort to fight crime and recruit citizens to volunteer in juvenile delinquency and ex-offender programs, Mitchell wanted private non-profits to play a large role in helping organize the grassroots. Mitchell suggested to the conference attendees that they lead the effort in creating local crime coordinating councils to meld private and public bodies.⁵⁴

A large portion of LEAA grants went to private non-profit social agencies that did not directly invest in fighting crime, but looked instead to raising citizen awareness of the issue and framing it into a national problem through a massive public relations campaign.⁵⁵ The State of California received a 740,000 dollar grant from the National Endowment for the Humanities for “Law in a Free Society,” a public school program that developed classroom material and curriculum “designed to effect a major change in the

⁵³ International Association of Chiefs of Police had only three thousand members and a very small budget in the last months of the Johnson Administration, but by 1970, the Association had raised its budget to \$2.5 million and increased its membership by 5,0000. See Weaver, “Frontlash” 235.

⁵⁴ John C. Waugh, “Mitchell hints plan for ‘massive citizen war on crime,’” *The Christian Science Monitor*, 12 Feb 1969, 4.

⁵⁵ Frank Coakley, “A Corrections project for Youth turns up \$277,000 question mark,” *Chicago Tribune*, 29 Dec 1974.

attitudes of both teachers and students in the lower school levels toward acquired learning in the general field of civic education.”⁵⁶ The Executive Committee chair of the project, Pasadena lawyer David K. Robinson, said it started after the American Bar Association brought a group of lawyers together to teach people about the legal system in 1970 as a response to riots on campuses and in high schools. The LEAA endorsed the project wholeheartedly, and fueled the public relations engine by granting “Law in a Free Society” a total of 1.3 million dollars by the fall of 1974.⁵⁷ To offset the sense of rising lawlessness in the nation, the program worked to, “increase understanding of the need for the legitimate exercises of authority in the political system, in the social system, and in the schools.”⁵⁸ More than a decade before Ronald Reagan launched his major anti-drug school program that also relied heavily on the private sector, the LEAA supported civic education projects as part of its effort to expand and modernize American law enforcement. Soon these civic programs became curriculum requirements in many public school systems.

The federal government’s public relations and educational efforts on crime control extended beyond public school classrooms, and federal support of television programs that explored the criminal justice system helped construct law enforcement into a national social issue. In the fall of 1974, the LEAA granted the Council on Population and Environment’s “To Reshape Urban Systems Together” (TRUST) program more than 150,000 dollars to air its series “And Justice for All,” which included separate thirty-

⁵⁶ “California to Get New Law Grant,” *New York Times*, 27 Aug 1974, 30.

⁵⁷ *ibid.*

⁵⁸ Brochure quoted in *ibid.*

minute segments on courts, police, prisons, and violent criminals. In an attempt to “bring people together thru television to solve their common problems,” the Council organized five hundred ten-person volunteer groups to watch the programs and discuss possible solutions and actions.⁵⁹ The concept fulfilled the LEAA’s need to create a base for community action on crime control.⁶⁰ In addition to the Council’s program, the LEAA also underwrote a controversial 1.2 million dollar TV series for a local PBS station in Los Angeles, consisting of sixteen one-hour talk shows. Lirol Productions of Burbank, California produced the segments after the firm spent nearly a year researching possible television program ideas for the LEAA. The television programs not only served as an endorsement for the LEAA as the agency faced mounting criticism by policymakers and non-profit agencies, but they normalized new law enforcement techniques and legal changes for the American public.⁶¹

In addition to bringing a punitive dimension to existing social programs, encouraging military and intelligence personnel to participate in local law enforcement trainings, and educating the public about crime, the LEAA aimed to make law enforcement into a viable profession.⁶² By prioritizing criminal justice, the federal government created new jobs in an era of economic stagnation. When colleges and universities launched police science programs, the LEAA funded tuition for many

⁵⁹ “ ‘And Justice for All’ –New urban cleanup plan,” *Chicago Tribune*, 3 Oct 1974, W3.

⁶⁰ *ibid.*

⁶¹ Jim Carmody, “A Series in the Name of Justice,” *Washington Post*, 11 Oct 1974, B8.

⁶² 1-1970 Memorandum for the President from Egil Krogh in “Law Enforcement Assistance Administration Denver Trip by President Monday August 3, 1970” Nixon Library, Krogh Collection, Box 47. The memo reveals that a major imperatives of the LEAA was to “develop a criminal justice system profession;” Weaver “Frontlash” 257

officers, and the National Institute of Law Enforcement and Criminal Justice provided academic assistance and created secondary education programs. The Law Enforcement Assistance Program (LEEP), supplied colleges and universities with special grants to offer to law enforcement personnel. During the program's first year, in 1970, LEEP received eighteen million dollars from the federal government to initiate criminal justice programs at eight hundred schools. This benefitted roughly one out ten employees in the criminal justice system, or about fifty thousand students.⁶³ At the height of the program the federal government dolled out forty-four million dollars to more than one thousand colleges and universities across the United States, funding just under one hundred thousand students seeking law enforcement careers. This was a major boon to the field, as only one percent of police officers held college degrees in 1964.⁶⁴ A good portion of these police science administration programs benefitted small suburban schools. Triton College in River Grove, Illinois, for example, received a thirty five thousand dollar grant to begin the law enforcement education program. In North Carolina, Elizabeth City State University received a modest three thousand to provide grants for aspiring police officers.⁶⁵

The federal government came to rely upon data produced by professors and think tanks in order to justify increased punitive measures. Research, described by one high law enforcement official as "an integral instrument to management," emerged as another crucial tool that the federal government used to pursue the War on Crime. It also fueled

⁶³ 8-2-1970 "Presentation By the Honorable Richard W. Velde, Associate Administrator, LEAA for President's Meeting in Denver." Nixon Library, Krogh Collection, Box 21, Folder "LEAA Trip-August"

⁶⁴ Weaver, "Frontlash" 257.

⁶⁵ "ECSU Law Enforcement Program Set," *New Journal and Guide*, Aug 30, 1969, B13

the professionalization of law enforcement.⁶⁶ In addition to the emerging academic emphasis on criminology and police science, criminal justice conferences helped sustain the burgeoning industry and enabled the LEAA to assist, direct, and consult states and municipalities. The LEAA also posted a number of announcements in the weeks after Nixon took office, offering federal funds to support manuscript preparation, to “speed up publication of research articles and books which contribute substantially to crime prevention and control and to the improvement of the administration of justice.”⁶⁷ Such grants encouraged academics to undertake research projects that could contribute in some way to the prevention of crime and the enhancement of law enforcement.

By making crime into a science that could be predicted and anticipated, policymakers hoped that federal law enforcement initiatives would reduce crime levels. Statistics could assist police departments and criminal justice planning agencies in predicting with greater accuracy when or where crime would occur, making law enforcement and criminal violence into a rational science. The Philadelphia, St. Louis, and Washington, DC police departments used the LEAA’s suggested mathematical principles of operations research to make crime predictions by feeding up to thirty five “factors” into a computer system—including the type of crime, the neighborhood in which it occurred, the demographics and numbers of the violators, the time of day, temperature, and even the phase of the moon. This would allow computers to “forecast

⁶⁶ Edith Flynn, “Report on the Task force on Corrections,” 4th National Symposium on Law Enforcement Science and Technology May 1-3 1972 Washington, DC., LEAA Box 19 (no folder).

⁶⁷ LEAA Announcement, LEAA Collection Box 37, Jan 31, 1969.

crime and deploy police manpower and equipment in anticipation of crime.”⁶⁸ The predictions resulted in disproportionate amounts of punitive resources flowing into segregated urban neighborhoods.

Prediction and computer management functioned as means through which institutions at all levels of government could classify and control specific groups of people. The federal government supported research that attributed criminal and violent tendencies to individual pathology rather than social conditions. In line with the sentiment of his White House colleagues, Ruth energetically sought psychological studies for the National Institute to fund that would determine the connections between political activity and violent behavior.⁶⁹ Attorney General John Mitchell awarded Temple University a 122,578 dollar grant to study “why some young people become delinquents and others do not,” by observing youth from homes receiving government assistance and non-welfare families at the poverty level and middle-class teenagers. The study aimed to uncover “how family values, attitudes and circumstances influence the behavior of the youths.”⁷⁰ The findings of such projects would assist the federal government in identifying patterns of criminality. Norval Morris and his team of researchers at the University of Chicago received a discretionary grant from the LEAA to study patterns of repeat violent offenders in order to “determine a plan to prevent recurrence of such acts from violence-prone persons.”⁷¹ The federal government’s embrace of scientific inroads

⁶⁸ n/d memo from Ben Cuning Jr. to Pollner “New Devices and Techniques deemed to have feasibility and practicability for Law Enforcement Usage,” Nixon Library, Anderson Collection, Box 24.

⁶⁹ “New U.S. agency to focus on violence, drugs, Mafia,” *Baltimore Afro-American*, 24 Jan 1970.

⁷⁰ “Temple gets aid to study delinquency,” *Baltimore Afro-American*, May 2, 1970.

⁷¹ “\$533,000 to reduce violent crime in state,” *Chicago Daily Defender*, 11 Nov 1972, 6.

in the realms of law enforcement and criminal behavior evolved as a key element that articulated a highly racist rationale in race-neutral, academic terms. By conducting research projects based on the premise that crime rates in low-income black communities were the result of pathological, rather than structural, conditions, many of these studies reinforced notions about inherent violence amongst black Americans that justified greater social control measures on the part of the federal government.

The substantial federal grant funds available for law enforcement purposes even helped lobotomy make a comeback after the procedure declined in the mid-1950s. The Law Enforcement Assistance Administration partnered with the National Institute of Mental Health to study the “role of neurobiological dysfunction in the violent offender.”⁷² The federal government awarded the Neuro-Research Foundation of Boston 108,931 dollars to conduct electrophysiological and neurophysiological tests on inmates in Massachusetts prisons to see if violence could be medically or technologically prevented. The awardees won the attention of the federal government after arguing in a *Journal of the American Medical Association* article that social conditions were not a causal factor of the 1967 Detroit riot since only a fraction of the population rioted and most participants did not engage in violence.⁷³ Authors Frank Ervin and Vernon Mark proposed the use of prophylactic treatments on those they determined had the pathological tendency to riot based on a preventive screening test to detect brain

⁷² Peter Breggin and David Greenberg, “We Need an Operation Like a Hole in the Head,” *The Guardian*, Mar 18, 1972, 11

⁷³ See V.H. Mark, W.H. Sweet, and F.R. Ervin, “Role of Brain Disease in Riots and Urban Violence,” *Journal of the American Medical Association* 11 Sep, 1967 Vol. 201, No. 11, 217; *ibid*, “Role of Brain Disease in Riots and Urban Violence,” *Journal of the American Medical Association* 29 Jan 1968, Vol. 203 no. 5, 130-131.

disease.⁷⁴ Ervin and Mark went on to write *Violence and the Brain* in 1970, arguing that living in a violent environment caused alterations in brain tissue that could be genetically transmitted, a line of research which interested both the LEAA and the National Institute of Mental Health, who supported the neuroscientist's research.⁷⁵

The federal government also funded controversial psychological and scientific studies in public school systems. In Baltimore, elementary schools subjected 4,500 mostly black children to a psychological testing project to identify and treat potential juvenile offenders after 1970. Funded in part by the LEAA, the school system's tests would determine if the children displayed "maladaptive behavior" that could eventually lead them to engage in violent acts. Although local officials and community activists questioned the accuracy of the tests results, researchers at city schools requested a combined 2.4 million dollars in funds from federal, state, and local programs to expand the project in Baltimore. In late 1973, after nearly two years of operation, Baltimore Mayor Donald Shafer decided to terminate the program after receiving complaints from parents and local organizations that it was, "totalitarian in concept and subject to possible abuse by government agencies."⁷⁶

Psychosurgery and psychological testing complimented the general assumption that technological innovation and research would increase the chances for arresting and removing offenders and potential offenders from society by making criminal histories and figures readily available to law enforcement. The FBI began its coordination of

⁷⁴ The California prison system also conducted these sorts of tests, subjecting small groups of inmates to lobotomy, but did not receive grants from the LEAA to do so. Breggin and Greenberg, "We Need an Operation."

⁷⁵ Stanley Williford, "Psychosurgery: A Threat to Blacks?" *Los Angeles Sentinel*, 26 Jul 1973, A5.

⁷⁶ Fred Barbash, "Mayor to stop tests to identify delinquents," *The Sun*, 18 Dec 1973, C18.

criminal information with the National Crime Information Center, which involved only ten states in 1968. After a fifty million dollar LEAA grant, it took only four years for forty-seven states to participate. In addition, several State Planning Agencies rallied behind Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories) in 1969, the first computerized attempt to make criminal histories accessible to officers. Five years into the project, every state had implemented a SEARCH. The effort of these new major statistical programs (which FBI Director J. Edgar Hoover unsuccessfully tried to house in the his agency) created a data collection monster with states selecting the kind of information they would store in their own autonomous systems, in some cases compromising the privacy of numerous Americans. In Kansas City, Missouri, the police department stored information on outstanding parking tickets and college students who participated in protests.⁷⁷ These statistical programs eased the burden for states to comply with new mandatory crime reporting laws in order to qualify for LEAA funds.

Although hardware and statistics may have received the greatest portion of LEAA funds, the federal government did not ignore the Crime and Kerner Commissions' focus on improving police-community relations. The effort was largely symbolic (one former police commissioner turned LEAA official during the Johnson Administration characterized many of the community relations programs as "window dress"), but allowed the LEAA to claim that the agency supported fundamental changes in urban

⁷⁷ Another state sought LEAA funds for crime reporting that would store the names and general information of people who "actively pursue their constitutional rights." Roger Wilkins, "An Information Monster That Threatens Our Privacy," *The Washington Post*, 27 Feb 1972.

patrol practices as departments used federal grant monies to purchase new hardware.⁷⁸ Still, federal research supported further inquiry into how to ease the “so-called ‘ghetto effect’” on urban police forces. The LEAA funded a fifty thousand dollar study conducted by the Miami police department to determine the ways patrolling low-income black communities “contributes to the psychological stresses and strains on the policemen.”⁷⁹ The study discovered that “some policemen speak of their nightly patrols in black areas as ventures into Vietnam.”⁸⁰ While this and other research endeavors recognized that the increasing presence of white policemen in black neighborhoods “inculcates bigotry” on both sides, their findings emphasized the importance of fostering “a more peaceful community.”⁸¹ This aim materialized in the form of greater surveillance and improved weaponry, rather than programs that eased interactions between officers and groups of already marginalized Americans. The grants themselves favored policemen and not the residents of their patrols.

The LEAA also supported some police storefront centers modeled on the Crime and Kerner Commissions’ suggestions, which raised the presence of punitive forces in low-income neighborhoods. In Fort Worth, Texas, a community relations program used a “service oriented policemen” to “assist illiterates in obtaining drivers permits” and

⁷⁸ David Burnham, “Police Seek to Alter Image, Not Operation,” *New York Times*, 29 Sep 1969, 33.

⁷⁹ Richard D. Lyons, “Miami Police Study Hints Bigotry Arises From Slum Duty,” *New York Times*, Nov 29, 1970, 32.

⁸⁰ *ibid.*

⁸¹ Lyons “Miami Police Study.”

“forward complaints about garbage or landlords to the proper authorities.”⁸² The LEAA awarded the Gary, Indiana police department 150,000 dollars to set up four police-community relations storefront centers in the troubled deindustrializing city. Richard Hatcher—the city’s black mayor—claimed the program would “help improve the image of police officers in the community, and identify them accurately as being totally involved in the life of the entire city,” as a means to, “help dissolve neighborhood problems that produce tension, anger, fear and frustration in the city.” In addition to the storefront centers, Gary received federal funds to support a mobile emergency center, a closed circuit television system, and a legal advisor for the police department, among other incentives.⁸³

To “avoid sharp conflicts with the Negro majority,” the federal government accompanied the push to enlarge and improve police forces in low-income segregated communities with special training programs and seminars.⁸⁴ In Washington DC, a private non-police organization received nearly one and a half million dollars from the Office of Economic Opportunity, led by Donald Rumsfeld and Dick Cheney, to provide twenty hours a month of training to three hundred police officers. The Justice Department granted the New York City police department 160,000 dollars to provide “intensive psychological training” for eighteen police officers before they could work for a special

⁸² 5-22-70 Memo to Egil Krogh from Richard Velde “Proposed Presidential Itinerary—Possible Crime Control Act Visit in Texas or Tennessee,” Nixon Library, Krogh Collection Box 26, Folder “Proposals- President’s LEAA Trip (1970)”

⁸³ “Gary gets \$150,000 Grant For Police Relations Program,” *Chicago Daily Defender*, 18 Jul 1970, 5.

⁸⁴ David Burnham, “Police Seek to Alter Image, Not Operation,” *New York Times*, 29 Sep 1969, 33.

family crisis unit.⁸⁵ Like similar projects already underway in California, the criminal justice planning agency in New York city funded weekend activities for police and youth and dialogues between firemen and juveniles. But unlike many of its counterparts in other states, the New York planning agency did not abandon the Johnson Administration's emphasis on root causes. LEAA grants helped give "multiracial teams of youth in tense neighborhoods" the opportunity to participate in vocational education and job placement programs at the East Harlem Youth Employment Service.⁸⁶ Following the advice of the Crime and Kerner Commissions, Philadelphia District Attorney Arlen Specter offered job training, therapy, and weekend camping excursions at new storefront youth centers staffed by former gang members.⁸⁷ In the early 1970s, the Los Angeles Police Department California turned away from the entertainment outings it planned for young people in Watts and other low-income black and Latino communities after the riot and started distributing gifts to thousands of junior high school students as an "outreach tool." The California Criminal Justice Planning Agency hoped that offering young people mini-bikes would "develop and improve their self concept" in order to make the youths more comfortable with the increased presence of police officers in their neighborhoods.⁸⁸

⁸⁵ *ibid.*

⁸⁶ New York's state criminal justice planning agency received LEAA grant for 14 projects in New York City totaling \$1.6 million in the summer of 1970. Programs included \$216,436 for weekend activities for police and youth, \$36,980 for the fire department's "Youth dialogue," \$65,947 for a "summer task force with multiracial teams of youth in tense neighborhoods"; \$108,000 for vocational education and job placement through the East Harlem Youth Employment Service. And service programs through University in the Streets for disadvantaged youth, \$71,093. Guidance and counseling \$26,229. Total state project was \$1.3 billion. Rochester got \$1.3 million (just a little less than New York City). See Peter Kihss, "City Police Study a 'Bug' For Drugs," *New York Times*, 28 Jun 1970.

⁸⁷ Allan L. Otten, "Curbing Crime," *Wall Street Journal*, 4 Feb 1970, 1.

⁸⁸ Nick Kotz and Bob Woodward, "U.S. Adrift in Crime Fight," *Washington Post*, 23 Jul 1972, A1.

Using federal law enforcement research findings, the planners in California assumed the tactic would lead to a general reduction in juvenile delinquency.

Taking its cues from the California planning agency, 350 YMCAs, police departments, boys clubs, and county agencies across the country continued the mini-bike program, or the “National Youth Project Using Mini-Bikes,” as part of its national juvenile delinquency prevention campaign supported by a substantial donation from the LEAA and ten thousand mini-bikes from Honda.⁸⁹ By 1976, more than four thousand young people between the ages of eleven and fifteen participated. The majority (seventy-five percent) of the youth were referred to the program from juvenile courts, probation officers, police, and schools. The YMCA recast the emphasis from the California program slightly, requiring the youth participants to set weekly behavioral goals under the advisement of the program director or school authorities. As a reward for meeting the weekly goals, the youth had the opportunity to ride a mini-bike or participate in planned activities at the YMCA—which included day trips to the beach, amusement parks, and tours of local universities and police departments.⁹⁰

By the early 1970s, Nixon officials turned against police-community relations programs as an effective crime prevention measure. In a memo to Nixon’s Domestic Counsel John Ehrlichman responding to the FBI’s “Outlook for racial violence in 1970” report, Special Counsel Leonard Garment (a friend of the President’s and partner in his law firm), observed: “In our urban areas, the ingredients which could precipitate wholesale rioting and violence are present. Tensions in the ghettos remain high, largely

⁸⁹ Carol Osmon, “Mini-bikes help ‘rescue’ juvenile offenders,” *Christian Science Monitor*, 25 Feb 1976, 19.

⁹⁰ *ibid.*

as a result of the seemingly implacable hostility of black youths to local police, despite efforts in many cities to improve community relations with police departments.” No major urban civil disorders occurred after the series of outbreaks following the assassination of Martin Luther King, Jr. in the spring of 1968, but Garment went on to reiterate the FBI’s conclusion that: “Danger signals pointing to the possibility of racial violence in the United States are as plentiful this year as they have been every year since 1963.” The rhetorical gesture towards root causes remained to a degree, as Garment recognized that a “marked improvement in the social, economic, and educational conditions of the Negroes,” would curtail crime rates. Garment emphasized, however, that the cause of crime lay in “the attitudes of urban black youths toward the police” who would only continue to engage in, “such acts of violence as snipings, attacks on police, killings, arson, and sabotage.”⁹¹ Garment’s outlook shaped how he and other policymakers planned the War on Crime, a strategy that assumed urban crime—particularly among juveniles—was inevitable.⁹²

Popular law enforcement theories proposed that equipment had a direct impact on crime rates, and Garment’s view of urban crime also reflected the general sentiment of the nation’s top law enforcement officials, who did not see the same value in community relations programs as did state planning agencies and local authorities. Hoping to refocus

⁹¹ 5-25-70 Memo to John Ehrlichman from Leonard Garment; The White House; Nixon Library, John Dean Collection, Box 80.

⁹² In some cases, cities received military equipment at the behest of the federal government, and particularly as a riot prevention measure. At the urgent request of the Birmingham police chief who feared urban rioting, the LEAA purchased three Army tanks for the city’s police department, costing \$67,000. Far more states purchased riot control equipment than developed police-community relations programs. The Safe Streets Act encouraged this, as states only had to cover a quarter of the cost for “prevention, detection, or control of riots and violent civil disorders,” but forty percent of the bill for law enforcement improvement projects. This priority reflected the strong connections policymakers made between urban civil disorder and rising crime rates. Nick Kotz and Bob Woodward, “U.S. Adrift in Crime Fight.”

the efforts of these agencies away from “police psychiatrist activity” and towards more punitive programs, Richard Velde wrote Rogovin one year into the LEAA’s operation, “next year our efforts in the police area could turn to more fundamental areas such as the problems of ‘vertical policing’ in high-rise apartments... This appears to be a very major and growing problem for which the police departments almost uniformly seem to be unprepared.”⁹³ Even though police-community relations programs often appeared alongside modernization schemes in LEAA literature, the Department of Justice disproportionately supported equipment purchases, salary increases, and job training centers for officers. A quarter of LEAA grants in the first year went to equipment purchases alone.⁹⁴

In St. Louis a police-community relations initiative, whereby teams of officers counseled “hard-core delinquents,” did not receive the 150,000 dollar grant it requested from the LEAA, but growing numbers of low-income youth entered the criminal justice system as a result of a computer identification project launched by the same police department. This carceral measure catalogued demographic information on suspects based on the voluntary interviews officers conducted with teenagers largely unaware of their right to refuse such intrusions. As Geoff Shepard, a White House official who observed the program noted, “one immense difficulty here is that the computer files do not consist of convictions or even of records of arrests, but rather of opinions by police officers on individuals. Civil Rights is not my bag, Bud, but this stuff scares me to

⁹³ 2-17-70 Memo from Velde to Skoler Subj: 1971 Discretionary Grant Guidelines, LEAA Box 37, Folder OLEP (Gen) 1970.

⁹⁴ Allan L. Otten, “Curbing Crime,” *Wall Street Journal*, 4 Feb 1970, 1.

death.”⁹⁵ Clearly, some members of the Administration had an awareness of the inherently racist dimension of these practices but they were funded nevertheless, either directly by the LEAA or the state planning agency supported by the LEAA.

The St. Louis program manual stated: “If a youth persistently stays in a group of questionable purpose, charges of behavior injurious to his welfare by loitering may be brought against him.”⁹⁶ Recognizing the general disregard of freedom of assembly and the extent to which the “probable cause” for the field investigation rested on the race, class, and age of the suspects in question, Shepard wrote: “What you have here is the compilation of police-men’s opinions, without court tested evidence or proof, which turns people into suspects for future crimes. It seems to me that this could amount to computerized harassment, since the police will begin picking up suspects from their computers and the suspects will have no way of removing themselves from the computer files unless they can convince policemen that they are not likely to commit crimes.” Shepard’s remarks raised serious questions about the constitutionality of new law enforcement provisions and the racial dimension embedded within the federal program. Yet the administration pushed forward in an effort to restore the “forgotten civil right” and to stamp out what it saw as lawlessness. “What troubles me the most,” Shepard ended his memo, “is that the project is probably very effective.”⁹⁷

Regardless of whether they embraced highly questionable law enforcement tactics in practice, every state received a two hundred thousand dollar federal grant to develop a

⁹⁵ 11-2-70 Memo to Bud Krogh from Geoff Shepard; Nixon Library, Krogh Collection, Box 76.

⁹⁶ 11-2-70 Memo to Bud Krogh from Geoff Shepard.

⁹⁷ *ibid.*

state planning agency to address the crime control problems that Johnson's Crime Commission had identified. Once the LEAA reviewed state plans to address the problem of crime in areas such as training personnel, detecting and apprehending criminals, and improving prosecution and the courts, the states received a grant of over 100,000 dollars with additional funds based on population. The state planning agencies had full authority to dispense block grants to worthy local projects and special programs at the state level. Even through the LEAA guidelines frequently changed, the institution rarely turned down a proposal and often funded poorly conceived plans. In addition to the state planning agencies, a portion of block grants went to non-governmental agencies for demonstration projects ranging from rehabilitative centers to vocational training for juveniles.

The Law Enforcement Assistance Administration imagined that state planning agencies would represent a broad range of officials within the criminal justice system, but in fact local law enforcement officers and policymakers predominated. Though California produced the most polished and powerful planning agency, one UCLA Professor described it as "a ponderous Byzantine bureaucracy which spins its wheels in the sand."⁹⁸ It had twenty-nine members, including two oil company lawyers and a radio station secretary, as well as a small handful of sympathetic black elected officials from local governments. Sixteen separate planning boards reported to the agency. Across the country, most planning representatives had a personal stake in criminal justice and strongly supported the expansion of punitive measures, and so it is not surprising that within the first eight years of federal law enforcement initiatives, thirty-five states

⁹⁸ Quoted in Paul Houston, "Safe Streets: Is U.S. Money Helping Win War on Crime?" *Los Angeles Times*, 4 Apr 1971, F1.

enacted new capital punishment provisions, and twelve moved towards establishing mandatory minimum sentences for various crimes.⁹⁹

The lack of clear policy guidelines or purpose posed a fundamental problem in the structure of the Law Enforcement Assistance Administration that created a series of conflicts among agency officials. The federal government could easily blame the states for the ineffectiveness of the national law enforcement program. When an LEAA official asked Nixon's deputy attorney general, Richard Kleindienst, how to "correct and revolutionize law enforcement in a time that crime is a political issue," he responded, "that's up to the states."¹⁰⁰ For some Department of Justice administrators who oversaw state projects, block grants allowed them to adopt a "hands off" approach to crime control. As an institution that pumped law enforcement funds to states in the name of crime prevention, the LEAA did not hold itself responsible for reducing crime; instead, officials within the agency concentrated on how to allocate resources to state and local governments.

This federal approach entrusted state planning agencies mandated by the Law Enforcement Assistance Administration with much of the power in shaping the development of the American law enforcement apparatus on the ground. Officials within the LEAA saw the agency as a "business" which served "clientele" on the state level, as planning agencies determined fund expenditures with guidance from the parent

⁹⁹ Weaver, "Frontlash" 252.

¹⁰⁰ John Herbers, "Conflicts Beset U.S. Anticrime Agency" *New York Times*, 28 Dec 1970, 1.

administration.¹⁰¹ The president, however, preferred to command the domestic social war. “I don’t particularly like military metaphors,” Nixon told a cross-regional group of state criminal justice planners, “but if they are appropriate anywhere, it is in fighting crime. As the general staff in that campaign, your plans will determine what forces we array, on what ground we stand, and where we attack.”¹⁰² From his perspective, the members of the state planning agencies functioned as state-level commanders, selecting how the crime fight would play out on the ground. They reported to the LEAA generals, who guided the course of the War from their offices on Indiana Avenue. This dynamic allowed LEAA officials to claim that federal bureaucracy had been kept to a minimum, as the planning agencies utilized far more resources and employed far greater numbers than the Department of Justice in Washington.¹⁰³ It seemed, given the general attitude demonstrated by White House and Department of Justice Officials, that federal law enforcement policy was highly contradictory: while Nixon declared a crime war with grand rhetoric early on, implementation was left largely to the fifty states.

III. The Long-Range Master Plan

President Nixon promised a new age of reform in his first state of the union message in January 1970, telling the American public that “the seventies will be a time of

¹⁰¹ 8-2-1970 “Presentation By the Honorable Richard W. Velde, Associate Administrator, LEAA for President’s Meeting in Denver. Nixon Library, Krogh Collection, Box 21, Folder “LEAA Trip- August.”

¹⁰² 8-1-1970 Memorandum for the President from Egil Krogh in “Law Enforcement Assistance Administration Denver Trip by President Monday August 3, 1970,” Nixon Library, Krogh Collection, Box 47.

¹⁰³ 8-2-1970 “Presentation By the Honorable Richard W. Velde, Associate Administrator, LEAA for President’s Meeting in Denver. Nixon Library, Krogh Collection, Box 21, “LEAA Trip- August.”

new beginnings.” The president pledged to end the Vietnam War and promote world peace while stepping up the war at home. “If there is one area where the word ‘war’ is appropriate it is in the fight against crime,” Nixon said: “We must declare and win the war against the criminal elements which increasingly threaten our cities, our homes, and our lives.”¹⁰⁴ Revisiting the fear-mongering rhetoric of the 1968 campaign, Nixon prepared the nation for an all-out battle to restore law and order in cities. The first phase of the War on Crime had involved a massive investment into police equipment and hardware: in this next phase Nixon looked to prisons and courts as aspects of criminal justice system deserving legislative attention, even as a disproportionate amount of federal resources continued to support the acquisition of new equipment for local law enforcement. Nixon ordered the U.S. Bureau Prisons to draft a ten year “Long-Range Master Plan,” for the construction and expansion of the federal penal system that would serve as a model for the nation.¹⁰⁵

As the Bureau of Prisons planned for a revitalization and expansion of the nation’s correctional system, Nixon focused on local street crime issues. The president believed that lack of safety in Washington, DC, where his fellow policymakers would not “dare leave their cars in the capital garage and walk home alone,” was a “tragic example” of the national problem. The capital city had been a guinea pig for federal law enforcement initiatives since the Kennedy Administration. Launching a unique and

¹⁰⁴ Richard Nixon, “Annual Address of the State of the Union Delivered to a Joint Session of the Congress, 1970,” Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=4327>.

¹⁰⁵ “Long Range Master Plan,” United States Bureau of Prisons, Department of Justice, May 1970. Nixon Library, Krogh Files, Box 12 “Corrections [3 of 3].”

highly punitive crime control program in the District, where White House officials could work closely with police, judges, and corrections officials, Nixon anticipated that he would be able to claim that his administration embarked upon “the most massive effort to control crime in the nation’s history” in time for the 1972 election just two years away.¹⁰⁶

By familiarizing the public with his local law enforcement project, one that encouraged additional patrol forces and sanctioned new laws to allow widespread arrests and incarceration, the Nixon Administration intended the Washington DC Crime Bill of 1970 to “serve as a model for many crime ridden cities.”¹⁰⁷ Nixon’s proposed bill contained mandatory minimum sentence of five years for anyone convicted of a second armed offense and allowed life sentences for those convicted of a third felony. It also standardized sentences by establishing several categories to control how judges determined the extent of punishment. “Dangerous criminals” committed “offenses with high risk of additional public danger if the defendant is released,” such as bank robbery or narcotics trafficking; “repeat offenders” involved a far broader definition than dangerous crime; and judges could now sentence “narcotics addicts” in the capital city to prison time.

The latter category received special attention from members of Nixon’s domestic council, who labored to turn drug abuse into a criminal issue. As Krogh asserted: “Probably no more predictable person exists than the addict who must raise money to feed his habit... Only when the addict appears to have ‘graduated’ to crimes of violence

¹⁰⁶ Nixon “State of the Union, 1970.”

¹⁰⁷ “Remarks of the Attorney General: End-of-the Year Briefing to RN” (December 1969), Nixon Library, Krogh Collection, Box 17.

can he be subjected to pretrial detention.”¹⁰⁸ The Act manifested the crime control ethos of the most ardent law and order policymakers, who believed only severe sentences and widespread arrests could make a dent on urban crime. In addition to overturning bail reform decreed by the Warren Court, the DC Crime Control Bill also posed a direct assault on the Court’s expansion of defendants’ rights and search and seizure rulings by sanctioning broad wiretapping authority and “no knock” searches by the police.

Preventative detention, or the practice of detaining suspects deemed especially dangerous to the community without bail for months, offered a “reasonable and necessary approach to the crime problem,” as Nixon officials saw it.¹⁰⁹ The American and New York Bar Associations, however, charged that the “almost Kafkaesque” policy posed, “an unconstitutional abridgement of the presumption of a defendant’s innocence and of his right to bail.”¹¹⁰ Senator Sam Ervin of North Carolina—a staunch supporter of the federal assault on organized crime—called the DC bill “a garbage pail of some of the most repressive, nearsighted, intolerant, unfair and vindictive legislation that the Senate has ever presented.”¹¹¹ Nevertheless, Nixon signed the bill into law in July 1970, the same month that Nixon submitted his “White House Enemies List” to the directors of the FBI, the CIA, the National Security Agency, and the Defense Intelligence Agency. Known as the Huston Plan after its author, White House Coordinator Tom Charles Huston, the list included political dissenters from Black Panthers to George Wallace’s American

¹⁰⁸ 6-19-70 Memo from John Dean to Egil Krogh “Administration Position on Various Crime Bills” Nixon Library, Krogh Collection, Box 23, Folder “John Dean- Responses to Crime Bill 1970-71.”

¹⁰⁹ *ibid.*

¹¹⁰ Norman C. Millers, “Anticrime Debate,” *Wall Street Journal*, 16 Jul 1970, 1.

¹¹¹ Millers “Anticrime Debate.”

Independent party.¹¹² Hoover and the Nixon administration knew they would be unable to garner a substantial enough mandate through an ideological war to destroy the radical groups like the Panthers. Thus, the Huston Plan masked itself as a campaign against criminals and terrorists. Thereafter, the Black Panthers weren't simply "radicals," they were "criminals," and the administration increased its efforts to link Party members with criminal activity. In this sense, Nixon recast the War on Crime to complement the work of special federal initiatives like COINTELPRO that sought to undermine the radical left beginning in the late 1960s.¹¹³

Congress, too, moved to establish increasingly punitive policy to meet Nixon's lofty goals for the War on Crime. Shortly after the Nixon Administration introduced the DC crime bill, Senators McClellan, Hruska, and Ervin sponsored the Organized Crime Control Act which also sanctioned mandatory minimum sentences for repeat offenders and effectively changed criminal procedure. Because the bill permitted adult trials for juveniles, adult courts soon heard more than half of all juvenile cases. As part of the larger push to make the American judicial system more effective, Nixon looked to court reorganization in DC to offer a model for the nation, and his effort doubled the number of felony indictments. The Act permitted judges to increase the sentence of habitual offenders by thirty years if the suspects were charged with a third offense, and applied the same formula to first time offenders if the crime seemed to fit a "pattern of criminal

¹¹²“White House ‘Enemies’ List,” Exhibit F, Black Panther Party v. Alexander. (Quoted in Newton 51).

¹¹³ Huey P. Newton's Dissertation, “War Against the Panthers: A Study of Repression in America.” (PhD diss., University of California, Santa Cruz, 1980) illuminates the impact of COINTELPRO and other FBI surveillance and infiltration programs on black radicals. See also Ward Churchill and Jim Vander Wall, *Agents of Repression: The FBI's Secret Wars Against the Black Panther Party and the American Indian Movement* (New York: South End Press, 2nd Ed., 2001).

conduct” or if the suspects appeared to be “dangerous special offenders.” These provisions resulted in the incarceration of thousands more Americans, particularly from urban neighborhoods where federal resources were dedicated to monitoring black residents.

Simultaneously, college students found themselves subject to the kinds of brutality and surveillance many left-wing activists experienced, practices that were relatively commonplace in “high crime” urban areas. Despite his campaign promise to gradually withdraw American soldiers from Vietnam, Nixon ordered American troops to Cambodia as a means to cut North Vietnamese supplies in late April, 1970 and students around the country quickly rose in protest. In May, when the Ohio National Guard at Kent State University and local police at Jackson State University in Mississippi opened fire and killed a combined total of six students, law enforcement came to play a more dominant role on campuses across the country.¹¹⁴ Four million students went on strike at 350 colleges and universities, and troops occupied twenty-one campuses. The growth of the antiwar movement during the first year of the Nixon administration convinced the president that federal law enforcement programs were critical the maintenance of domestic social order.

With only forty-two Republicans in the Senate and 192 in the House, Nixon did not have as much control over the legislative agenda as Johnson and struggled to secure passage of many of his law enforcement measures. By 1970, Nixon officials recognized in a memo that, “the public is not persuaded that the Administration has succeeded with

¹¹⁴ See Raymond J. Adamek and Jerry M. Lewis, “Social Control Violence and Radicalization: The Kent State Case,” *Social Forces* 51 (1973): 342-347; Tim Spofford, “Lynch Street: The May 1970 Slayings at Jackson State University,” *The Viet Nam Generation* 2 (1990): 59-64.

anti-crime drive.”¹¹⁵ The White House opted to shift the blame to Congress for its inaction on crime bills “and concurrently hammer home comprehensive Administration programs.”¹¹⁶ In a rare public appearance before a group of law enforcement officials in August 1970, Nixon flew to Denver for the national meeting of Criminal Justice State Planning Agencies. In front of the courthouse, Nixon gave a rousing speech reported on national evening news programs, briefing the press on the administration’s “commitment to wage the crime fight,” and promising that while his administration made substantial cuts to other domestic programs like the Office of Economic Opportunity and the Department of Health, Education, and Welfare the budget for law enforcement would continue its upward climb.¹¹⁷ “I am personally proud of the LEAA’s record,” Nixon told the state criminal justice planners at a private meeting following the press conference, “because to me it is the beginning of the kind of government I want to bring to the United States.”¹¹⁸ The comment reinforced Nixon’s dedication to New Federalism and his recognition that the LEAA’s block grant structure was at the “cutting edge” of the emerging law enforcement apparatus and a test case for the future direction of federal social programs.

As the midterm election approached, Democrats in Congress responded to Nixon’s charges by enacting many of his major crime control proposals with very little

¹¹⁵ “Crime Control and Law Enforcement: Political Position for 1970 Elections” n.d., Nixon Library, Krogh Collection, Box 25.

¹¹⁶ *ibid.*

¹¹⁷ 8-1-1970 Memorandum for the President from Egil Krogh. The budget for law enforcement rose from \$60 million in 1960, to \$280 million in 1970, to \$480 million in 1971. “Nixon’s Remarks on Manson and Statement in Washington,” *New York Times*, 4 Aug 1970, 16.

¹¹⁸ 8-1-1970 Memorandum for the President from Egil Krogh.

debate. The DC crime bill passed even with its controversial preventative detention and “no knock” provisions as liberals competed to assume the mantle of law enforcement. This continued after the election. Democrats, who lost four seats in the Senate but retained control over both chambers, led Congress in exceeding Nixon’s own proposed allocation for the LEAA in fiscal year 1971 by roughly two hundred million dollars, bringing the young agency’s budget up to one billion for 1972 and 1.5 billion for 1973. In an attempt to be seen as a strong “law and order” Congress, both chambers passed the Safe Streets Act of 1970 in early October, reauthorizing the LEAA for an additional three years. Early in 1971, Senator Edward Kennedy introduced a group life insurance bill for police officers sponsored in part by the federal government. Representative Jonathan Bingham of New York backed a “safe schools” bill to provide federal aid for security, alarm systems, stop and frisk searches of students, and other measures to improve the safety of educational facilities. Senator Walter Mondale urged a crackdown on narcotics trafficking, and critiqued the Nixon Administration’s drug control efforts.

Nixon officials believed that only a “massive infusion of police power” or the “allocation of force in high density crime areas” could sustain the turn towards arrest and detention stipulated by federal law enforcement legislation.¹¹⁹ On the ground, Nixon’s law enforcement measures increasingly brought black urban areas under an increasingly harsh gaze of local police departments, whether through high intensity street lighting initiatives, the physical presence of greater numbers of officers on the streets, or the increased opportunity to detain suspects. Not surprisingly, with Hruska and McClellan leading the fight to enact the DC Crime Act, the Senate bill that eventually passed

¹¹⁹ “Crime Control and Law Enforcement: Political Position for 1970 Elections,” n.d., Nixon Library, Krogh Collection, Box 25.

contained far harsher provisions than the House version. It gave judges the authority to place individuals on probation without a verdict, and established a requirement for ex-offenders to submit to drug testing. The Senate also allocated nearly fifty million dollars for the federal War on Crime in DC, funding a four person “warrant squad” to arrest parole violators and measures to supervise suspects released on bail by relying on statistical systems like the National Crime Information Center and Project SEARCH.¹²⁰

The firm conviction that crime could not be reduced unless arrest and imprisonment increased justified the federal government’s overwhelming reliance on police hardware as its primary crime prevention device. But the strategy failed to dent the crime rate.

The federal government could exert the most direct authority over states by turning to the corrections arm of the criminal justice system, and as crime increased after the LEAA placed more police officers with advanced weapons on the streets, the Nixon administration led Congress in enacting fundamental changes to the practice of imprisonment. Incarceration now offered “the surest way for crime rates to go down,” as the Senate Judiciary Subcommittee concluded during its hearings considering the Omnibus Crime Control Act of 1970, introduced by McClellan and cosponsored by Hruska and House Minority Leader Gerald Ford. Congress devoted an entire section of the 1970 Act to prison acquisition, construction and renovation. Part E funded seventy five percent of the cost of prison projects and dedicated twenty percent of all block and

¹²⁰ 6-19-70 Memo from John Dean to Egil Krogh “Administration Position on Various Crime Bills,” Nixon Library, Krogh Collection, Box 23, Folder “John Dean- Responses to Crime Bill 1970-71;” “City Asks U.S. Approval of 6 Anticrime Projects,” *The Washington Post*, Jun 7 1969, B4.

discretionary grant funds states received to corrections.¹²¹ This forced states to increase spending on prisons, so that by 1971 states allocated 134 million dollars to corrections programs, while in 1969 the allocation had been two million dollars.¹²²

As increasing numbers of mayors and local officials criticized the LEAA for ineffective use of grant funds and LEAA officials themselves worried that the agency was going down the “OEO road,” meaning that it had “little quality control and inadequate fiscal oversight,” Part E and the turn towards corrections responded to general uncertainty about the function of the agency.¹²³ LEAA Administrators treated Part E as a “block grant within a block grant,” that is, “as a means of expressing national priorities without interfering with the states’ planning responsibilities.”¹²⁴ But because the federal government directed a greater proportion of discretionary funds toward “high crime” areas in cities, it offered an approach amenable to Democrats, who sought to revise block grant formulas to favor urban constituencies.

The ambiguous terms of Nixon’s Crime Control Act obscured the extent to which federal law enforcement legislation aimed to control specific parts of the citizenry. The provisions of the DC crime bill and the surveillance precedent it set in cities elsewhere disproportionately touched young urban black men. The detention of this specific group accounted for half of the increase in incarceration during what Velde saw as a “threshold

¹²¹ Address by Richard W. Velde, Associate Administrator LEAA Before the American Association for the Advancement of Science Hilton Hotel, Washington DC Saturday, December 30, 1972, LEAA Box 19.

¹²² Weaver, “Frontlash” 248, see also Law Enforcement Assistance Administration, *Sage Streets: The LEAA Program at Work*.

¹²³ n/d. Memo from Dave Miller to Bud Krogh, “LEAA Region 6: Meetings with Ed LaPedis and Staff, 18 Feb 1970, Nixon Library, Krogh Collection, Box 25.

¹²⁴ Cronin et al. 87.

of a new era” for corrections.¹²⁵ The Nixon Administration conceived of a new class of violators against which it aimed the crime control legislation it proposed to Congress. These categories of offenders reinforced the sentencing model the White House conceived for DC and retained gendered and racialized notions of criminality. From the outset, officials in the Nixon Administration felt that “our correctional systems are ill-equipped... to deal with and attempt to rehabilitate this most difficult category of prisoners.... The violent, aggressive, or disturbed offender.”¹²⁶ LEAA officials painted this violent criminal in more specific terms. “Many offenders come from urban slums,” Velde proclaimed at a law enforcement conference, “few have the equivalent of a high school education, and offenders also tend to lack vocational skills.”¹²⁷ As a member of President-elect Nixon’s Advisory Council, former U.S. Bureau of Prisons director James V. Bennett forcefully shaped the administration’s stance on the prison problem. Both Bennett and Nixon viewed prison as the site where many offenders acquired criminal knowledge, as roughly sixty percent of those discharged returned within five years.¹²⁸ Bennett urged the president to focus federal policy on the group responsible for the bulk of reported crime, the “half million alcoholics, pocketbook snatchers, two-bit numbers peddlers, sneak thieves, joy riders and marijuana dealers who go in and out of jail two,

¹²⁵ In 1950, half of all inmates were white, but in 2000, black and Latino Americans represented seventy percent of the national prison population. See Marie Gottschalk, *Prison and the Gallows: The Politics of Mass Incarceration in America* (Cambridge: Cambridge University Press, 2006); Weaver “Frontlash,” 272; Address by Richard W. Velde, Associate Administrator LEAA Before the American Association for the Advancement of Science.

¹²⁶ Memo from Pollner to Mitchell “Re: Anticipated.”

¹²⁷ Address by Richard W. Velde, Associate Administrator LEAA Before the American Association for the Advancement of Science Hilton Hotel.

¹²⁸ James V. Bennett, “A Program of Needed Action RE Prisons and Correctional Agencies,” attachment to Memo from Pollner to Mitchell “Re: Anticipated.”

three, perhaps even five times a year. This latter group has a sizeable component of social misfits, mental defectives, untreated epileptics, queers, panhandlers, pimps and bums.”¹²⁹

The “Large Cities Special Grants” section of the Safe Streets Act had sanctioned the disproportionate amount of federal assistance DC enjoyed, but when Congress reauthorized the LEAA in 1970 it allocated more funds for experimental law enforcement and crime control projects in, “the nation’s large cities where high crime incidence and law enforcement problems present the most difficult challenges.”¹³⁰ More than forty percent of the total discretionary allocation went to special grants, which advanced the federal government’s commitment to fighting urban street crime.¹³¹ Though officials tended to shy away from police-community relations programs in practice, the grants aimed to improve “coordination and understanding,” whereby “a major emphasis must be on building material cooperation and understanding in high crime neighborhoods with an active citizen role,” as a means to reduce violence.¹³² Still, nearly half of the twenty five million available for these projects went to police improvement programs that focused on hardware and manpower needs. New York City received the largest grant, taking the maximum award of one million dollars.

Even though the rhetoric of crime control stressed block grants and New Federalism, in practice the federal law enforcement program pushed for greater centralization. The White House and Congress struggled to address the tension between

¹²⁹ *ibid.*

¹³⁰ “E. Large City Special Grants” n.d. LEAA Box 37, Folder OLEP (Gen) 1969.

¹³¹ 12-14-70 Memo “Discretionary Funds Program for FY 1971” from Velde and Coster to Attorney General, LEAA Box 38 OLEP (Gen), 1971.

¹³² “E. Large City Special Grants.”

reported crime rates (usually in urban areas) and where LEAA block grants actually ended up (usually in rural towns). LEAA Administrators and Nixon Officials grew increasingly frustrated that millions of federal grant funds to fight urban crime ended up in the hands of rural police departments and legislators. The War on Crime was meant to target high-crime urban areas, as a means to dispel urban civil disorder and manage the effects of urban crisis, not revamp smaller departments with reportedly lower crime rates. Rogovin remarked less than a year into his directorship that, “there can be no assuming that the money is being intelligently spent on the local level.”¹³³ His concerns were valid: for example, Denver received less than twenty percent of the Colorado’s 1.8 million dollar LEAA grant, even though the city was home to thirty percent of the state’s total population and seventy percent of its crime; and New York City, which claimed roughly two thirds of serious reported crime in the state, received only thirty nine percent of the New York’s total action grant. States claimed that the discrepancy between crime rates and allocation of funds resulted from the constantly changing LEAA grant-making formulas.¹³⁴

In addition to the misappropriation of federal law enforcement grants to rural police departments, state planning agencies used substantial portions of grants for other agencies, such as the Federal Housing Authority and the Department of Defense, which could claim jurisdiction over some law enforcement projects.¹³⁵ Other projects funded by

¹³³ 1-3-70 Memo from Charles H. Rogovin to Daniel Skoler and George Trubow, Subj: Local Planning, LEAA Box 37, Folder OLEP (Gen) 1970.

¹³⁴ Peter Stuart, “Revolt in law enforcement?” *The Christian Science Monitor*, 21 Apr 1970, 2.

¹³⁵ The National Institute of Law Enforcement and Criminal Justice gave Maryland a grant in excess of \$1 million, the bulk of which went to other federal agencies and nearly half of which went to the Army. One such collaboration involved a \$175,000 grant to the Army to develop a homemade-bomb

the LEAA did not go directly to matters relating to the criminal justice system, and in some cases the agency assumed direction over anti-poverty programs. The LEAA wanted states to dedicate resources to police, courts, and corrections, but planners in states like Indiana used action grant funds to send cards to citizens urging them to pledge their commitment to the ten commandments as a crime prevention measure.¹³⁶ In San Mateo, California as well, the LEAA inadvertently funded a 75,000 dollar project designed to “aid kindergarten pupils with chronic problems,” and assumed the cost of a 216,000 dollar program for a youth employment service in New York City that had been previously funded by a poverty agency.¹³⁷

From the perspective of LEAA administrators themselves after nearly two years of operation, the plans the federal government received from state agencies were, on the whole, “poor.”¹³⁸ Administrators wondered if this paltry performance reflected general confusion over the planning process, or the imperatives of planning agencies in the realm of law enforcement. The federal agencies debated “the degree of federal intervention required to achieve national purposes,” wondering how to remedy the unforeseeable consequences of planning at the state level.¹³⁹ In an internal document describing the planning process, LEAA officials concluded that: “neither State or local government is

neutralizer. The Army contributed a mere \$30,000 to the project for domestic crime control, but received seven of the eight neutralizers, with the final device going to the Department of Justice. The project was designed to counter what Ralph Miller, the chief of munitions support at the US Army Explosion Ordinance Center called “the radical threat” by injecting a chemical into a package containing a homemade bomb. Kotz and Woodward, “U.S. Adrift in Crime Fight.”

¹³⁶ John Herbers, “Senators Seek to Divert Anticrime Funds to Cities,” *New York Times*, Nov 22, 1969, 38.

¹³⁷ Glen Elsasser, “Vast Waste of Funds Charged,” *Chicago Tribune*, 7 Apr 1972, 3.

¹³⁸ “Planning Assistance: Problems and Implications,” LEAA Box 37, Folder OLEP (Gen) 1970.

¹³⁹ *ibid.*

presently staffed, organized, or financed in a manner to enable effective planning and coordination. In some rural areas and smaller cities, there is absolutely no planning capability in existence.”¹⁴⁰ They concluded that the problem was state inefficiency. The Nixon Administration and the LEAA took precautions, in blatant contradiction of their own rhetorical and ideological commitments to states’ rights, to ensure that “high crime” urban areas would be adequately patrolled and that “hard core” urban criminals would receive a swift and sure punishment.

IV. Law Enforcement Assistance

Introducing a new national grant model in early 1971 that promised to uphold states’ rights, Nixon’s annual message anticipated the end of postwar liberal reform. “The time has now come in America to reverse the flow of power and resources from the States and communities to Washington, and start powering and resources flowing back from Washington to the States and communities and, more important, to the people all across America,” the president said.¹⁴¹ The New Federalism restructured the Great Society by directing what Nixon called “narrow purpose aid” programs into the revenue sharing categories. Among other federal programs that emerged in the 1960s, Nixon’s revenue sharing approach touched all of the programs under the Elementary Education Act, including Head Start and Americorps, and the 575 million dollars the federal

¹⁴⁰ *ibid.*

¹⁴¹ Revenue sharing, the legislative name for Nixon’s New Federalism, would divert a third of all federal grant programs into massive block grants under broad categories such as urban development, manpower training, education, and law enforcement. The plan matched the ten billion dollars the federal government already allocated towards social programs with an additional billion dollars to states and local governments to spend as they saw fit, despite the dismal spending record of state planning agencies and the problems the LEAA encountered as it navigated the block grant system.

government spent on Model Cities. “This can be a revolution as profound, as far-reaching, as exciting as the first revolution almost 200 years ago,” Nixon hoped.¹⁴²

New Federalism and the reorganization of the federal bureaucracy it entailed effectively increased the power of the president. While operating on a decentralized premise, “bringing power to the White House [was necessary] in order to dish it out,” as Nixon said.¹⁴³ Like the drive to incorporate business management models into local law enforcement institutions, Nixon sought to make the Executive Branch more effective. Almost immediately after his election, Nixon appointed the CEO of Litton Industries, Roy Ash, to head the Advisory Council on Executive Organization. With private executives and Texas’s Democratic Governor John Connally filling its ranks, the Council approached the reorganization of the Executive branch using business models. In its recommendations to Nixon, the Council proposed that by consolidating social programs such as the Office of Economic Opportunity, Legal Services, Head Start, and Job Corps and Manpower Training, centralized authority that resembled corporate management techniques would foster a more results-oriented bureaucracy.

Policymakers who took issue with Nixon’s proposed revolution attacked the LEAA in part to reveal the shortcomings of New Federalism. The House Legal and Monetary Affairs Subcommittee of the Committee on Government Operations opened an investigation of the LEAA in July 1971, ultimately concluding in its report, titled “The Unrealized Promise of Safe Streets,” that the LEAA’s block grant program had no impact

¹⁴² Richard Nixon, “Annual Address of the State of the Union Delivered to a Joint Session of the Congress, 1971,” Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=3110>.

¹⁴³ Quoted in Joan Hoff, *Nixon Reconsidered* (New York: Basic Books, 1995), 67.

on crime rates, even as it spent a total of 1.4 billion in taxpayer dollars in three years.¹⁴⁴ Connecticut's John S. Monagan, who discovered gross spending irregularities in the federal government's urban renewal program just a few years prior to his attack on the LEAA, chaired the special investigation and stacked his team with fellow Democrats. The Department of Justice and the LEAA, on the defensive, charged that the subcommittee and other critics of the federal crime program only focused on a few problem states and used the LEAA, in the words of new director Jerris Leonard, as a "whipping boy for those people who oppose special revenue-sharing."¹⁴⁵ Although the subcommittee exposed corruption at the highest levels of the Administration, general revenue sharing went on to pass just before the 1972 elections.

In effect, revenue sharing brought money from Washington to deal with serious gaps resulting from the vast reduction or complete dissolution of social programs. Although policymakers conceded direct control to states via block grants and revenue sharing, liberals in Congress appreciated the increase in public expenditures the program provided, while conservatives knew that most of the funds would go to Republican governors with no federal strings attached. Yet soon it became clear that revenue sharing programs promoted highly uneven development. Although the program enabled states to cut taxes in some instances, major metropolitan centers still struggled to maintain basic services while some affluent suburban communities built golf courses or horseback riding

¹⁴⁴ Cronin et al. 93

¹⁴⁵ As a revised version of Nixon's general revenue sharing program, special revenue sharing more closely resembled block grants and returned federal funds to states and local governments to use at their own discretion within a set functional areas; quoted in Cronin et al. 92.

trails with the revenue sharing funds.¹⁴⁶ While most governors welcomed the outpouring of block grants to spend as they chose, executives within Nixon's own federal agencies expressed a strong distaste for the program.¹⁴⁷ Local authorities, too, grew increasingly frustrated with the imposition of the new system. "I find myself chagrined that I don't know now what I have, except that I have less money in the short run and probably the prospect of less money in the long run," said Boston's mayor Kevin White, "The tough thing about Nixon is that he's like an ally you went to war with, and when the battle is over, you find you're being partitioned, and it's your ally that's doing it."¹⁴⁸

As revenue sharing faced mounting criticism, Monagan's hearings set the climate for the upcoming 1972 mid-term election and commenced just as a new director stepped into the Law Enforcement Assistance Administration. Frustrated with continued disagreements with Velde and Coster and the restrictions imposed by the troika leadership model, Rogovin left the LEAA in March 1970, resigning along with Henry S. Ruth at the National Institute of Law and Criminal Justice. Associate Administrators Coster and Velde insisted that all decisions within the LEAA be unanimous, and Rogovin could no longer handle the constant disputes with his two Republican colleagues over the direction and purpose of the LEAA.¹⁴⁹ After their official resignations, Ruth and Rogovin

¹⁴⁶ Lou Cannon and David S. Broder, "Nixon's 'New Federalism': Struggle to Prove Itself," *Washington Post*, 17 Jun 1973, A1.

¹⁴⁷ Housing and Urban Development's James T. Lynn was a vocal critic.

¹⁴⁸ quoted in Cannon and Broder, "Nixon's 'New Federalism.'"

¹⁴⁹ After Rogovin left the LEAA, he immediately went to direct the Ford Foundation's police development fund. The Fund was established in 1970 as a private agency to aid police departments to improve training and operations and encourage highly experimental programs. Members of the board included: Michael Canlis, President of the National Sheriffs Association; Quinn Tamm, the executive director of the International Association of Chiefs of Police; Rochester Mayor Stephen May; Herbert Sturz from the Vera Institute of Justice; James Vorenburg; and James Q. Wilson. The Ford foundation designed

continued to work as private consultants for the agency until Ruth stepped in to serve as special prosecutor during the Watergate investigation.¹⁵⁰ The Safe Streets Act stipulated that Nixon appoint a Democrat in Rogovin's place, and the President opted to leave the top leadership position in the Administration vacant until Congress amended the law so that he could designate a Republican to shape the development of American law enforcement.

After nearly a year without an official agency head, in the spring of 1971 Nixon selected Leonard to direct the LEAA based on his commitment to conservative principles and his work on federal law enforcement legislation. An aide to Roman Hruska, the Senate's loudest proponent of carceral measures, Leonard lacked any direct experience in law enforcement or criminal justice. A party man since his undergraduate days working for John Mitchell, Leonard isolated himself from increasing scrutiny of the organization, carefully selected his public speaking engagements, and refused to hold press conferences or speak to reporters concerning the crime issue at length.¹⁵¹

Like many of his counterparts in the Nixon Administration, Leonard engaged in highly corrupt practices that protected questionable decisions among top White House officials and the Republican Party, and only investigated charges of civil rights abuses when they did not hurt personal and political interests. John Mitchell's commitment to protecting the "forgotten civil right" provided a model for Leonard's own approach to the issue amidst calls for "Black Power." Both Justice Department officials often placed

the fund to be the largest private agency devoted exclusively to police affairs, and initially donated over \$30 million for five years of operation.

¹⁵⁰ Paul G. Edwards, "Deputy Ruth Says Job Was Depressing," *Washington Post*, 13 Oct 1974, A16.

¹⁵¹ Walter R Gordon, "Problems Sinking Law Agency," *The Sun*, 29 Mar 1971, A1.

crime prevention and law enforcement programs above protecting black Americans from further discrimination and racial exclusion by failing to cut off funds when states violated civil rights laws. When Mitchell testified before the Senate Appropriations subcommittee in the summer of 1969, he lobbied for additional funding for urban crime control by reducing employees in the civil rights division at the Department of Justice, claiming that the urban crime fight deserved “immense” and “urgent” federal attention.¹⁵²

When he took office, Mitchell chose Leonard as deputy attorney general in charge of handling the problem of racism even though Leonard had to resign from three all-white social clubs in Milwaukee before he could be sworn in.¹⁵³ As head of the civil rights division and the LEAA, Leonard followed Mitchell’s orders. When Leonard brought Mitchell a proposed suit which he described as “solid” with “good facts” alleging racial discrimination by the real estate firm Coldwell-Baker, the civil rights division quickly backed off after a conversation with Mitchell, who, as Leonard explained to his assistants, “knows some of top people in Coldwell-Banker and can’t believe that these practices are ‘co. policy.’”¹⁵⁴ When charged with desegregating schools in Mississippi, Leonard delayed the process until he eventually—if reluctantly—forced the state to comply. Nixon knew that as LEAA director, Leonard would continue to uphold the ideological principles of the administration.

In keeping with the outlook of Mitchell and White House officials, Leonard stepped in to head the LEAA in 1971 with the intent to refocus the national effort on

¹⁵² “Mitchell Asks Restoration of Crime Funds” *The Washington Post* Jul 29, 1969

¹⁵³ Patricia Sullivan, “Jerris Leonard; Justice Department Official,” *The Washington Post*, 3 Aug 2006.

¹⁵⁴ Fred P. Graham, “Head of I.T.T. Denies Link Of Suits and Aid to G.O.P.,” *New York Times*, 16 Mar 1972, 1.

urban areas. He doubled the size of the LEAA's auditing staff to supervise grant expenditures and the flow of federal funds. To support projects that Leonard determined had the potential to "revolutionize criminal justice," he established another bureaucratic layer to the national law enforcement apparatus by creating regional offices that gave final approval for anticrime plans.¹⁵⁵ Despite his commitment to greater oversight, Leonard operated the crime control grant system with urgency, and states received federal law enforcement funds in less than a month, in some instances before the LEAA had a chance to approve grant proposals.¹⁵⁶ The decision to bestow final grant approval outside of the LEAA's federal offices reflected the Nixon Administration's desire to channel crime control funds to riot-prone cities and to the expansion of the correctional system.

Even though Leonard had a massive budget from which to operate the growing law enforcement apparatus, and reorganized the LEAA, he inherited an agency that suffered from extreme misuse of federal crime control funds. In a number of states, the law enforcement program had evolved into a system of political patronage. The director of the Indiana Criminal Justice Planning Agency resigned within the first year of the program, telling LEAA officials that the governor appointed close acquaintances and "people who are publicly somebody but who don't know anything about crime." The city of Gary, considered the epicenter of crime in Indiana, had no representatives on the state planning agency entrusted with disbursing half a million dollars worth of federal

¹⁵⁵ Robert Smith, "U.S. Crime Agency is Decentralized" *New York Times*, 19 May 1971, 28.

¹⁵⁶ 3-31-71 Memo from Trubow to Leonard Administrator-Designate, "Fund Flow and Expenditure Problems," LEAA, Box 38, Folder OLEP (Gen) 1971.

law enforcement funds.¹⁵⁷ The director of the southwest LEAA region notified an LEAA Administrator that the Texas Criminal Justice Agency spent too much on narcotics and organized crime and not enough on riot control, and complained that “New Mexico’s Governor is wont to use the SPA as his personal staff for speech-writing.”¹⁵⁸ Florida also bankrolled additional staff with law enforcement funds to enlarge the governor’s office instead of the criminal justice planning agency.¹⁵⁹

Congressman Monagan’s investigation unearthed the waste of federal law enforcement funds at the state level to make a case for tighter federal controls, and exposed the problems inherent in New Federalism. St. Paul police officers enjoyed a marked car to bring home with them and drive off-duty as a crime deterrent, without any controls to measure the benefit of such practices.¹⁶⁰ In Illinois, the LEAA paid twenty thousand dollars a year for a luxurious Des Plaines office that the Illinois Criminal Justice Planning Agency rarely used.¹⁶¹ The Illinois SPA also bought a state airplane with LEAA funds in order to transport governor Edgar Whitcomb to various functions.¹⁶²

The scale of corruption in LEAA practices that Monagan revealed occurred at all levels, as governors, members of the boards of criminal justice planning agencies, top LEAA Administrations, and corporate executives extracted funds from the expanding

¹⁵⁷ John Herbers, “Senators Seek to Divert Anticrime Funds to Cities,” *New York Times*, 22 Nov 1969, 38.

¹⁵⁸ 3-13-70 Memo from Norval C. Jespersion to Skoler Subj: Policy: Role of LEAA in Operation Settings, OLEP Box 37, Folder (Gen) 1970

¹⁵⁹ Kenneth Reich, “U.S. Funds Misused in Florida, Audit Charges,” *Los Angeles Times*, 10 Jun 1971, 28.

¹⁶⁰ Kotz and Woodward “U.S. Adrift in Crime Fight.”

¹⁶¹ *ibid.*

¹⁶² “The Nation,” *Los Angeles Times*, 29 Jul 1971, 2.

federal criminal justice pot to suit their own interests. State policymakers used the available grants for moneymaking schemes. Louisiana invested more than thirteen million dollars worth of anticrime funds in U.S. Treasury bills and collected more than fifteen thousand dollars in interest from the money it loaned back to the federal government. In Arkansas, four state officials bought stock in the Texas consulting firm Interlock just before it received a half million-dollar LEAA grant to set up a computerized traffic safety information system and draft a prison management program for the State Board of Corrections.¹⁶³

The government contracting program made possible by the block grant system benefited corporate leaders closely tied to the Nixon Administration who joined the crime war. Headed by prominent members of Nixon's re-election campaign, the national accounting firm Ernst & Ernst received giant subsidies from the LEAA for various law enforcement projects. The chief of Ernst & Ernst's Washington office, Julian O. Kay, organized a number of fundraising galas for the "Victory '72 Dinner Committee."¹⁶⁴ Ernst & Ernst's managing partner, Richard Baker, also chaired the volunteer Certified Public Accountants Committee for the Re-election of the President. In all, Ernst & Ernst employees donated twenty thousand dollars to Nixon's campaign.¹⁶⁵ The company worked on both the state and local levels to report crime rates and draw up law enforcement literature. It conducted forty thousand dollar surveys for the Washington, DC police department and the state of New Mexico. In two separate manuals for

¹⁶³ "Arkansas Studies Crime Funds' Use," *New York Times*, 2 Jan 1972, 63.

¹⁶⁴ Paul W. Valentine, "Police Auditors Criticized," *The Washington Post*, 26 Oct 1972, A1.

¹⁶⁵ *ibid.*

Louisiana, law enforcement planners working at Ernst & Ernst plagiarized significant portions of existing government publications and still collected thirty thousand dollars.¹⁶⁶

Indiana, ripe with corruption and misuse of federal funds, granted the firm three hundred thousand dollars in law enforcement contracts without competitive bidding.¹⁶⁷

In some cases, criminal justice planning agencies supported consulting firms that formed to reap the newly available federal grants. In Alabama, a TV announcer, a newspaper editor, and an oil company executive started Criminal Justice Systems to design state-wide crime prevention plans. The firm received an LEAA contract just shy of six figures on the same day it incorporated. The three men used the funds to draft a proposal that involved spending a half million dollars on a secret state police force. Though the Justice Department did not accept that plan, Criminal Justice Systems received funds from the Alabama Law Enforcement Planning Agency. The LEAA sent five inspectors to the state and also discovered that the Alabama SPA funded a police cadet college costing the federal government more than a hundred thousand dollars, mostly attended by the sons, friends, and relatives of high ranking state officials.¹⁶⁸ Fed up with the misuses of federal funds, Velde met with governor George Wallace in early

¹⁶⁶ *ibid.*

¹⁶⁷ Other corporations worked with criminal justice planners at the national and state levels and amassed a monopoly over specific crime prevention areas. With novel use of LEAA funds, the Motorola electronics company monopolized the sale of police radio equipment, in most cases at or above list prices without competitive bidding. In Wisconsin alone, nearly \$200,000 in federal LEAA grant funds went to Motorola to supply the equipment. Elsewhere, the New York City firm Touché, Ross & Company received \$2.1 million from the city of Detroit and a million dollars for law enforcement consulting services in other cities. The International Association of Chiefs of Police gave enthusiastic testimony in Congressional hearings as soon as the federal government began to take an interest in crime control in the mid-1960s, and the Association quickly evolved into a lucrative law enforcement consulting institution. The LEAA found the group to have highly questionable practices, but awarded it multi-million dollar grants to cover its hefty consulting fees. "Police Lose Funds for Helicopters," *The Washington Post*, 22 Jan 1972, A3; Glen Elsasser, "Vast Waste of Funds Charged," *Chicago Tribune*, 7 Apr 1972, 3.

¹⁶⁸ Glen Elsasser "U.S. Finds Alabama."

1971. The federal government did little to curtail these practices, as Velde found himself “just charmed by George” during the visit.¹⁶⁹

Leonard’s indifference to corruption and discriminatory practices embedded within the LEAA and the block grant system is not surprising given his track record in the Republican party and the civil rights division. The LEAA continued to misuse War on Crime funds and pump millions to states with a general lack of oversight. In the fall of 1972, Leonard sanctioned a renovation of the LEAA headquarters on Indiana Avenue that cost slightly more than two hundred thousand dollars as part of the reorganization effort, redesigning his own office with modernistic silver foil.¹⁷⁰ George McGovern attempted to capitalize on the corruption charges as he launched his bid for the Presidency in 1972 and based much of his domestic platform on ending the block grant system. James Vorenburg, a former Crime Commission director and advisor to McGovern, called the Nixon years “the worst crime years in the nation’s history,” but coming into 1972 White House and Department of Justice officials appeared as the winners.¹⁷¹ Leonard left the administration in 1973 to represent Republican National Committee Chair George H.W. Bush. After building a strong case against the LEAA, Monagan lost his seat in the House in 1972. As it set the course for the revolution of American law enforcement and the restoration of law and order, the LEAA continued to expand and Congress eagerly allocated hundreds of millions more to the agency despite

¹⁶⁹ Kenneth Reich, “U.S. Refuses to Hold Back Alabama Funds,” *Los Angeles Times*, 20 Feb 1971, A7.

¹⁷⁰ A separate bathroom was customary practice for “an executive level three grade earning \$40,000 a year,” a two thousand dollar raise over Rogovin’s salary at the agency. “Lush and Plush,” *The Washington Post*, 13 Oct 1972, B10.

¹⁷¹ Bill Kovach, “McGovern Aid Calls Nixon Era ‘Worst Crime Years’ in History,” *New York Times*, 7 Sep 1972, 38.

its knowledge of mismanagement, corruption, and inefficiency. The Nixon Administration moved to remedy the problem by making sure major cities and smaller deindustrializing towns would be the primary battlegrounds for the War on Crime.

V. Back from Lawlessness

Even though no major civil disturbances occurred after 1968, in the fall of 1970 the *New York Times* boldly declared: “America’s cities seem to be on the edge of a form of guerrilla war.” In 1970, a group of young people living in Chicago’s Robert Taylor Homes opened fire on police manning the housing project, forcing the officers into a deadly gun battle, and police monitoring black neighborhoods elsewhere faced attacks by rocks and bottles on a nightly basis. The violent incidents in Chicago and other cities seemed to indicate that “the divisions have only deepened, with blacks and other minorities increasingly frustrated and angry and the police frightened and vengeful.”¹⁷² These sorts of news accounts, all too common in the mainstream media, depicted black urban residents as violent perpetrators who victimized police officers. “Just as the police have become more militarized,” the article reported, “alienated black youths appear to have begun to adopt ‘urban guerrilla’ techniques.”¹⁷³ A number of articles speculated about the prospect of urban rioting for the summer, not just in the nation’s major cities, but in smaller towns also experiencing high rates of unemployment.¹⁷⁴ The first eight

¹⁷² John Kifner, “Ominous Threat in Attacks on the Police,” Sep 6 1970.

¹⁷³ John Kifner, “Ominous Threat.”

¹⁷⁴ See Monroe Karmin, “The Summer of 71: A Lack of Recreation and Jobs for Youths Cause Fears of Unrest; Tensions Already Called High in Large Cities; Troubles Seen in Small Towns, Too. ‘Not a Big, Cheerful Festival,’” *Wall Street Journal*, Jun 9, 1971, 1.

months of 1970 witnessed the slaying of sixteen officers across the country. Even as the media increased its coverage of urban violence after 1965, rationalizing the federal government's law enforcement initiatives and reinforcing a sense of general disorder in urban centers, the coverage also implicitly called into question the effectiveness of the War on Crime.

In order to address the problem of "high crime" urban areas, the Nixon Administration and top officials in the LEAA turned to discretionary programs to compensate for the fact that many state planning agencies funneled money to rural law enforcement initiatives. Municipal authorities very much appreciated the renewed presidential attention. The Mayors of sixteen small cities in the Midwest, including Flint, Kalamazoo, Urbana, and Madison complained to the Attorney General, in a petition called "The Forgotten Cities," that state planning agencies kept law enforcement funds from the places in the state with the most serious crime problems and the highest minority populations in order to place crime control funds in the hands of powerful state legislators representing rural constituencies. These mayors as well as like-minded policymakers contended that urban crime was as much a threat to the security of the United States as Vietnam.¹⁷⁵ "The forces of lawlessness appear to be alarmingly close to victory over the forces of peace," Indiana Democrat Vance Hartke told his colleagues in Congress, "If positive action is not taken, and taken soon, a crime crisis of unprecedented proportions will soon surely envelop the nation."¹⁷⁶ It seemed to Hartke and many other

¹⁷⁵ Mayors of Flint, Kalamazoo, Urbana, and Madison, among other cities, signed the petition. John Herbers, "Senators Seek to Divert Anticrime Funds to Cities," *New York Times*, Nov 22, 1969, 38.

¹⁷⁶ *ibid.*

legislators, businessmen, and law enforcement officials that the LEAA did little more than build criminal justice bureaucracies at the state level.¹⁷⁷

Although the White House and the Justice Department lacked control over state criminal justice expenditures, they shaped the course of federal crime control in the nation's capital during Nixon's first term through special LEAA operations. Nixon's DC Crime Control Act of 1970 converted the capital into an experimental site where innovative law enforcement techniques could be tested in haste. As Velde explained, "we have had to resort less to reforming institutions here than pouring a lot of money into police and narcotics."¹⁷⁸ Roughly an eighth of the total LEAA budget for federal crime control went to DC, resulting in the largest number of police per capita in the world.¹⁷⁹ With mounting pressure coming directly from the White House, Washington police chief Jerry Wilson instructed his captains in 1971 to reduce crime in the city or expect to leave the force.¹⁸⁰ Velde noted, "we are not getting at the root causes of crime," but Nixon needed results coming into the election of 1972.¹⁸¹ Just as Nixon vowed in his first state of the union message two years earlier, the special involvement of his Administration in managing DC's unique but pressing crime problem went on to serve as a blueprint for similar programs in cities elsewhere.

¹⁷⁷ Democrats from the Midwest, northeast, and sunbelt all co-sponsored Harke's amendment, including Senators Alan Bible (Nevada), Howard Cannon (Nevada), Ralph Yarborough (Texas), Joseph Tydings (Maryland), and Birch Bayh (Illinois).

¹⁷⁸ Cronin et al. 94.

¹⁷⁹ \$6 million of the LEAA's \$80 million dollar budget went to DC.; Cronin et al. 94

¹⁸⁰ *ibid* 95.

¹⁸¹ *ibid* 94.

In the spring of 1973, when the end of the Vietnam War seemed imminent, Nixon escalated the Crime War. The Administration widdled away at many existing federal social investments set in motion by the Johnson Administration and federal anti-crime efforts gained top priority.¹⁸² While drastically cutting other programs, the administration proposed in its budget for fiscal year 1974 to increase the LEAA's spending authority from 35.8 million to over 891 million dollars. At the same time, Nixon pounced on the remnants of the War on Poverty. He moved educational programs such as Head Start into the Department of Health, Education and Welfare and abandoned the Better Schools and Better Communities Act—once a cornerstone of Nixon's New Federalism program.¹⁸³ Nixon also transferred many programs administered by the Office of Economic Opportunity to other federal departments. In one of his most controversial appointments, Nixon positioned Howard Phillips to direct the OEO and ordered him to withhold community action funds in anticipation of the agency's dissolution. However, a Federal District Court forced the unconfirmed Phillips to resign and ruled that the president could not withhold funds that had been allocated by Congress.¹⁸⁴

Although the LEAA was meant to be the hallmark of New Federalism as the first federal block grant program, the agency actually contradicted the tenets of the governing approach. In the end, Congress did not pass an act that would generate special revenue-sharing for law enforcement, but instead passed a three-year, 3.25 billion dollar reauthorization of the agency that tightened federal review of state and local crime-

¹⁸² Bill Hazlett, "Concern Over Crime Causing Widening Crack in Fiscal Dam," *Los Angeles Times*, 3 Apr 1973, E1.

¹⁸³ Cannon and Broder, "Nixon's 'New Federalism.'"

¹⁸⁴ Even though the court ruling kept the agency alive, Ford officially closed the office in 1975 and replaced it to the Civil Services Administration.

fighting programs.¹⁸⁵ And despite the small government mantra of New Federalism, in the mid-1970s the LEAA moved towards further consolidation of law enforcement agencies. For instance, the agency suggested that police departments of fewer than ten officers merge with nearby forces for improved effectiveness and efficiency.¹⁸⁶

The move towards centralization within the Department of Justice responded to charges that the LEAA functioned as the hub of a massive new criminal justice bureaucracy and little else. Many senators, once optimistic about the promise of federal crime control funds, found the LEAA to be generally ineffective. Senator Edward Kennedy remarked that he did not think the LEAA “had any significant impact of crime,” despite claiming the largest budget in the Department of Justice and its well-publicized penchant for hardware.¹⁸⁷ Police chiefs in Alabama, Birmingham, and Berkeley echoed Kennedy’s sentiment, calling the LEAA a “tremendous failure” characterized by “bureaucracy and red tape.”¹⁸⁸ A staff member of the Criminal Justice Council in California shared a poem he wrote about the agency with the *Los Angeles Times*: “I joined this crew to fight high crime/ But now I just can’t find the time/ Oh well, we can always reminisce/ Of many former days of bliss/ When the criminal victim’s impassioned pleas / Could be answered in other than bureaucratise.”¹⁸⁹ More frustrating was the fact that the LEAA gave 235 million dollars to California in its six years of

¹⁸⁵ “The Fading of the New Federalism,” *Washington Post*, 13 Aug 1973, A22.

¹⁸⁶ “U.S. Lists Plans to Improve Police,” *New York Times*, 1 Oct 1973, 21.

¹⁸⁷ Quoted in Peter C. Stuart, “Congress renews war on crime,” *Christian Science Monitor*, 4 Dec 1975, 4.

¹⁸⁸ Quoted in *ibid.*

¹⁸⁹ Quoted in Evan Maxwell, “Justice Council: Controversial Ally in Fight Against Crime,” *Los Angeles Times*, 27 Apr 1975, OC1.

operation, but crime rates continued to rise in the state—and at a much faster rate than before the agency was established.¹⁹⁰

“In spite of the difficulties, we have made dramatic progress,” Nixon insisted in his final crime message on March 14th, 1973. With no major incidents of urban civil disorder on his watch, Nixon believed his administration had restored America from the “record breaking lawlessness” of the 1960s.¹⁹¹ Evidence of this was the unprecedented amount of funds his administration pumped into state and local law enforcement institutions, on “the front lines of the battle against crime.”¹⁹² While operating within the tenets of his New Federalism on the surface, Nixon created new opportunities for White House and Department of Justice officials to shape directly penal and juridical institutions on the local level. The effort subjected low-income residents to unprecedented levels of federal surveillance and detainment and proved to only exacerbate crime and violence in these neighborhoods.

Yet despite his self-aggrandizement, Nixon did not heed early warnings from high law enforcement officials about the consequences of the continued escalation of state force in segregated low-income communities. Back in 1969, the nation’s first SWAT team premiered in Los Angeles under the tutelage of Law Enforcement Assistance Administration funds. The city’s police chief suggested to his captain school: “In areas where there has been a pattern of using strong physical force to achieve police objectives, a concurrent pattern of resistance develops within the individual or group. The result is

¹⁹⁰ Evan Maxwell, “Justice Council.”

¹⁹¹ Richard Nixon, “State of the Union Message to Congress on Law Enforcement and Drug Abuse Prevention,” March 14, 1973. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=4140>.

¹⁹² *ibid.*

resistance and lack of cooperation on the part of the law violator and the subsequent necessity for resorting to force on the part of the police. The use of force is thus-self perpetuating.”¹⁹³ Davis’s point about self-perpetuating force offers a telling commentary on Nixon’s War on Crime.

State-sanctioned violence is often seen as a response to crime, but in the case of the federal government and the urban police forces it modernized through the LEAA it should be understood as preemptive. Those who engaged in urban civil disorder and the groups of “juvenile delinquents” the Nixon Administration went on to target responded to their violent conditions; the federal government forced state and local authorities to respond with greater penetration that disproportionately touched non-white Americans despite the race-blind terms of anti-crime legislation. Once the growing law enforcement apparatus successfully channeled resources to carceral programs at all levels of government, Americans living in segregated “high-crime” neighborhoods confronted increased incarceration and police brutality. The new, ever-more punitive laws enacted by the federal government invested heavily in the surveillance and incarceration of black urban Americans. In turn, the institutionalized racism and benign neglect entrenched in federal crime control policy fostered sociological discrepancies that fertilized post-industrial violence. As his second term began, having essentially abandoned the New Federalism when it came to the War on Crime, Nixon positioned the federal government to work directly with municipal authorities and police departments, cultivating federal involvement in the lives of historically marginalized Americans that far surpassed postwar liberal programs.

¹⁹³ Memo to Pollner “Re: Anticipated.”

CHAPTER THREE

A “Reign of Terror”:

Tactical Squads, Community Mobilization and the Battlegrounds of the Crime War

I. High Impact

By the early 1970s, with the law enforcement bureaucracy established by the Safe Streets Act rapidly developing at the federal and state levels, new local crime control institutions hit the ground at full force. The grant process had been completed, and police departments now had new levels of funds in their budget and many more patrolmen. Street wars between tactical units operating in segregated urban neighborhoods and young residents emerged as a consequence of the federal government’s increase of punitive forces in those areas deemed “high crime.” Simultaneously, White House and Department of Justice Officials looked to redesign the urban landscape itself in an effort to create a living environment that would allow law enforcement institutions to bring residents of housing projects and low-income communities under the gaze of the state.

The Law Enforcement Assistance Administration and federal law enforcement officials responded to the racist outcomes of its crime control policy by proclaiming a commitment to equal opportunity, affirmative action, and minority recruitment. In practice, however, the LEAA was generally uninterested—even symbolically—in challenging the racial status quo in law enforcement. More important was to appear tough on crime by providing local law enforcement with greater opportunities to make arrests, and giving judges the tools to send violators to prison under stiffer penalties and longer sentences. The White House and the Department of Justice waged a domestic social war, which quickly evolved into an actual violent conflict with real gun battles, real victims,

and real strategy and collective mobilization on the part of the police departments and residents of the neighborhoods they increasingly came to monitor.

The most ambitious project the LEAA launched in its short history, the High Impact Program, aimed to restore law and order in eight carefully selected cities with sizeable populations of black Americans. Discretionary funds had largely been used for modest projects; High Impact was the first major program funded and designed by the federal government.¹ It retained the decentralization premise of New Federalism, however, in that the LEAA gave each city a considerable degree of freedom to use the discretionary funds as they deemed appropriate. Somewhat ironically, it took the Law Enforcement Assistance Administration four years before it launched the type of major federal urban crime control program that Lyndon Johnson had sponsored in his original drafts of the Safe Streets Act. Despite the fact that Richard Nixon increasingly concerned himself with corrections, and the LEAA came under fire as a police weapons supplier, the High Impact Program, touted as an “across-the-board attack on burglaries, robberies, muggings, assaults and rapes,” focused primarily on increasing patrol on the streets of racially marginalized communities and improving public relations for the president.²

Vice President Spiro Agnew, Attorney General John Mitchell, and head Law Enforcement Assistance Administrator Jerris Leonard planned the one hundred and sixty million dollar venture with researchers at the National Institute of Criminal Justice Enforcement for three months before announcing the initiative in January 1972 to great media fanfare. The Administration hoped the program would meet the twin goals of

¹ “U.S. Aid to 8 cities in Fight on Crime,” *New York Times*, 14 Jan 1972, 21.

² *ibid.*

justifying the tens of millions of dollars in federal research funds the Institute received to research crime prevention techniques, and would allow the president to appear aggressive on crime on the eve of his re-election bid. But like its parent institution, the LEAA's Impact Program suffered from the same overly ambitious goals and a disorganized administration.³

No matter that the project promised to reduce crime rates by 1976, and arbitrarily lower the categories of serious crimes by five percent in the first two years and as much as twenty percent within five years. The symbolic presence of the program far outweighed its limited success. Martin Danziger, one of the main High Impact planners at the Institute, later commented on the crime indication figures: "I just made them up. It sounded good... It got attention... They needed the twenty percent goal for sex appeal. It was an educated guess and it was important to start sending quantified goals in the criminal justice system."⁴ As a model program for other urban areas, the Department of Justice and the LEAA designed High Impact to "bring sharp, rapid reduction in street crime and burglary—the types of violent, serious crime most prevalent and most feared by the public."⁵ This meant that only cities with populations of 250,000 to one million with serious crime problems were eligible for High Impact funds. The federal government chose Newark, Denver, Baltimore, Dallas, Cleveland, Atlanta, and St. Louis for High Impact funds because of their size and location in key states that could help

³ Thomas E. Cronin, Tamia Z. Cronin, and Michael E. Millakovich, *U.S. v. Crime in the Streets* (Bloomington, Indiana University Press, 1981), 96.

⁴ Danziger quoted in Cronin et al 97.

⁵The decision to focus on street crime and burglary in these smaller cities reflected the sense that robbery occurred more frequently than any other violent crime. n/d memo from Leonard to Ehrlichman, 1971 "High Impact Program" attached to 10-5-72 Memorandum for Bud Krogh from Geoff Shepard "LEAA High Impact City Program" Nixon Library, Krogh Collection.

secure Nixon's reelection.⁶ Federal officials screened each of the mayors to determine whether they would use funds effectively, and required that each city supplement the grants with a twenty-five percent matching grant.⁷

It is no coincidence that as State Planning Agencies faced mounting criticism, Congress enlarged the amount of discretionary funds and special projects hand-selected by the highest government officials. White House staff also increased their direct participation in the crime fight. Nixon aide Bud Krogh described how the domestic counsel and the president together determined the use of discretionary funds on the streets of major American cities: "Whatever discretionary money there was... in many cases would come directly to the White House, and be addressed there by Mr. Ehrlichman, by my staff, and in some cases the president directly."⁸ Like many other law enforcement officials with federal crime control money at their disposal, Nixon often signed the grant checks himself, and usually when the deal benefitted him in some way. When the President needed an endorsement from Philadelphia mayor and former police chief Frank Rizzo, he sent Krogh to review law enforcement plans with city officials. Within days of the meeting, Nixon authorized a one million dollar grant to the city of Philadelphia. Nixon also gave local police chiefs discretionary funds when they organized narcotics strike forces through the Office of Drug Abuse and Law Enforcement. These special LEAA funds went to Governor Nelson Rockefeller of New York for narcotics treatment programs, to Miami for added police protection during the

⁶ Author interview with Ann Goetchus and Carol Kaplan, 2 Nov 2011.

⁷ n/d memo from Leonard to Ehrlichman, 1971 "High Impact Program" attached to 10-5-72 Memorandum to Bud Krogh from Geoff Shepard "LEAA High Impact City Program" Nixon Library, Krogh Collection.

⁸ Krogh quoted in Cronin et al. 98.

national party conventions, and to the city of San Clemente in order to protect Nixon and his family when they visited their hometown. As one group of scholars observed some years later, “the discretionary portion of LEAA’s budget had originally been a lever for congressional liberals to get more money to their constituents in the cities, it was now a tool of the Republican administration to advance its own interests in the 1972 elections.”⁹

Like many of the grant guidelines the LEAA drafted, the High Impact Program also operated under vague law enforcement guidelines. It aimed to improve, “anticrime patrols by police—more policemen, with better tactics, equipment, and training. Equipment could include helicopters—which have been successful as a crime deterrent in some areas—and improved radio and dispatch systems to get police to the crime scene faster.”¹⁰ Although this approach resembled previous programs, Leonard promised Nixon’s domestic counsel John Ehrlichman: “This will not be another demonstration or pilot program. We expect concrete results.” Leonard hoped the experiment would allow the Administration to, “make the blueprints of the programs in each of the eight cities available to every small, medium, and large city in the country.” Like Nixon’s venture into crime control in DC, “We have every reason to expect that successes in the High Impact cities will prompt development of comparable programs in scores of other metropolitan areas.”¹¹ By providing local law enforcement the tools to better patrol and monitor residents, the High Impact program increased the extent of punitive forces in the

⁹ Cronin et al. 99

¹⁰ n/d memo from Leonard to Ehrlichman, 1971 “High Impact Program.”

¹¹ *ibid.*

nation's most troubled urban neighborhoods and, by extension, the number of black Americans in the criminal justice and prison systems.

The eight cities that enlarged their crime fighting capabilities with federal High Impact funds continued the practice of investing in hardware, special tactical squads, and increasing patrol, even if it remained to be seen whether such efforts could be sustained without federal assistance. Initially, Atlanta did not make the short list of cities eligible for funds, but Mayor Sam Massell presented a strong appeal to the Justice Department by demonstrating how closely his law enforcement measures aligned with the larger objectives of the War on Crime. The city focused on improving police training and education by introducing tuition incentives and psychological testing and raising patrolmen's salaries by twenty-two percent. High Impact funds allowed the Atlanta chief of police to hire an administrative assistant with a twenty-eight thousand dollar salary and redesign report forms at a cost of some seventy-thousand dollars to ease the completion process for policemen.¹² Atlanta also joined Los Angeles, DC, and Detroit and spent a million dollars on helicopters while also increasing mounted patrol on the streets.¹³ Massell received additional support for these efforts from the Atlanta Regional Commission and the Atlanta Commission on Crime and Juvenile Delinquency and contracted with the International Association of Chiefs of Police to start a twenty man narcotics squad. High Impact funds allowed Massell to continue these practices and to fund a special drug police force.¹⁴

¹² Jack Anderson and Les Whitten, "Crime War Lags in Targeted Cities," *The Washington Post*, 29 Nov 1975, B10.

¹³ *ibid.*

¹⁴ "Vice President Agnew Reveals Crime Grant," *Atlanta Daily World*, 16 Jan 1972, 1.

Unlike Atlanta—seen as an exemplar High Impact city—St. Louis received the grant because of its demographics and markedly high crime rate but did not know how to properly spend the vast amount of law enforcement booty it received. One police officer remarked: “We’re suddenly rich, but we don’t know who gets what.”¹⁵ The city was unsure which agency should receive the funds, and how and to what programs the resources should be allocated. Mayor Alfonso Cervantes also rightly worried that the deindustrializing city with a declining tax base would be unable to support the salaries of new police officers added to the force with High Impact funds at the close of the program.

The Department of Justice selected Baltimore as a High Impact city due to its especially grim crime figures: homicides rose from 249 in 1970 to 353 in 1971 and the school system experienced four separate shooting incidents resulting in the death of one student. Baltimore officials told the federal government that High Impact funds would help the city reach its goal of increasing foot patrolmen from seventy to 410 by 1973. Once it received its first check (before any other city selected for the program, in the amount of 1.8 million dollars) Baltimore spent 633,008 dollars to place fifty-two new policemen on the streets.¹⁶ The additional funds bought a number of walkie-talkies, two helicopters, and allowed the police department to set up nine special five-man teams at a cost of over half a million dollars. The police force added officers with college degrees in the social sciences, humanities, and education to talk with grassroots organizations and make home visits in order to improve police-community relations. The federal grant also

¹⁵ Guy Halverson, “Calling the urban crime rate,” *Christian Science Monitor*, 20 Jan 1972, 1.

¹⁶ “First Installment,” *The Sun*, 27 Oct 1972, A11.

continued the larger objective of additional surveillance through police-community relations programs, as the city pumped resources into the state parole and probation division, making possible more intensive supervision of residents who committed violent crimes.¹⁷ As in Atlanta, Baltimore used High Impact funds to focus on police desk work, and employed civilians in order to free officers for street patrol at a cost of nearly half a million dollars. To bolster the capacity of police departments to monitor citizens living in segregated poverty, Baltimore spent another half million dollars on a helicopter patrol system, and more than two hundred thousand for additional guards, television monitors, and intercoms in public housing projects.¹⁸ For other cities, High Impact proved to be crucial for the larger effort to boost public relations for crime control. With Cleveland's grant, the city focused on law enforcement employment, deterrence, detection, apprehension control, and the state planning agency, but also spent one hundred thousand dollars on publicity alone.¹⁹

Newark was still recovering from the riots five years prior at the time the federal government selected it for High Impact. Suburban commuters held half of the jobs in the city, and black men confronted a thirty percent rate of unemployment. Just over half of the city's adult population received an education beyond the eighth-grade level. Even those residents who found jobs made, on average, roughly fifteen hundred dollars a year, far below the six thousand dollar national average. The extreme level of segregation and poverty in the city (seventy-one percent of residents were nonwhite), and the fact that

¹⁷ Stephen Lynton, "Crime aid set for City," *The Sun*, 13 Jan 1972, A1.

¹⁸ Jack Anderson and Les Whitten, "Crime War Lags."

¹⁹ "City to Get 4 Grants for Law Enforcement," *Call and Post*, 24 Mar 1973, 7A; Anderson and Whitten, "Crime War Lags."

Newark led the nation in infant mortality, venereal disease, and crime made it a prime candidate for special federal attention.²⁰

Although Newark's program resembled the majority of its counterparts in that it funded police training seminars and community-relations programs, bought helicopters, implemented new court programs to prosecute street criminals, and turned to street lighting, the LEAA forced Earl Phillips, the only black executive director of any High Impact Program, to resign.²¹ The administration threatened to give Newark's twenty million dollar grant to another city unless Phillips vacated his post. A psychologist in his late thirties who previously had directed Newark's Urban League chapter and worked with the Urban Coalition in DC, Phillips used High Impact to plan community-based programs that addressed the intersections between crime and social issues. As High Impact director, Phillips proposed alternative high schools for dropouts, citizen-based crime patrols and neighborhood probation centers. This agenda conflicted with larger federal goals that intended to make High Impact, "basically a matter of police work and enforcement," as Phillips put it.²² Mayor Kenneth Gibson, who had appointed Phillips, strongly opposed his ouster, and called Vice President Agnew to discuss the problem but White House officials remained adamant. Leonard justified the LEAA's coup on the basis that Phillips "could not operate, did not have the capabilities and was causing

²⁰ Stephen D. Isaacs, "Anticrime Director Resigns in Newark" *Washington Post*, 22 Nov 1972, A1.

²¹ *Ibid.*

²² Richard J.H. Johnston, "Newark Crime Foe Quits, Charging Fund-Cut Threat," *New York Times*, 22 Nov 1972, NJ74.

delays.”²³ The *Washington Post* characterized his resignation as the result of institutional insensitivity to blacks, and to racism, and “a victory for the forces of repression in America.”²⁴ The incident underscored the fact that the High Impact Program encouraged experimentation and radical new approaches to crime prevention, only as long as these approaches retained the punitive drive behind Nixon’s law enforcement policies. Any vestige of the structural emphasis Johnson embraced was quickly marginalized by the Nixon Administration’s War on Crime.²⁵

Despite the promises of the nation’s top law enforcement officials, the High Impact program was, on the whole, a failure. Instead of dropping five percent as Attorney General Mitchell promised, total crime in the eight cities rose more than forty-three percent from 1972 to 1974.²⁶ As it focused on hardware and security for housing projects, crime in Baltimore went up 49.6 percent during this period.²⁷ In Dallas, which wasted more than fifty thousand dollars on a program that tied sensory burglar alarms to a helicopter response system, crime skyrocketed 81.9 percent.²⁸ In the end, High Impact

²³ *ibid.*

²⁴ Isaacs “Anticrime Director.”

²⁵ After Phillips’ resignation, in Newark the High Impact program focused on juvenile delinquency and emphasized alternatives to institutionalization through community-based corrections. The city re-opened the Society Residential Treatment Center for one year beginning in 1973 with a grant just under a half million dollars to offer “those youths who have been judicially determined delinquent and for those who possess characteristics indicating they have a significant chance of becoming target offenders.” Similarly, Independence Alternative High School received two hundred thousand to provide tuition for five students who had been expelled from other Newark public schools. “LEAA released funds for anti-crime plan,” *Afro American*, 14 Jun 1973, 17.

²⁶ Jack Anderson and Les Whitten, “Crime War Lags.”

²⁷ *ibid.*

²⁸ *ibid.*

received a grand total of 140 million in federal funds for 233 various anticrime projects that had no immediate effect.²⁹

When in 1976, the National Security Center released an assessment of the program, it largely blamed the LEAA and its “multiple layers of red tape” as the reason for the rising crime rates. The Center’s report concluded: “Many of the cities had no idea how to effectively spend such a high level of funding in such a short period of time and complained bitterly of LEAA’s lack of assistance.”³⁰ The Center determined the discretionary initiative to be “an irresponsible, ill-conceived and politically motivated effort to throw money at a social program.”³¹ Highly critical for the rehabilitative and experimental dimension of High Impact’s stated goals, the Center argued that its findings indicated that: “So far, the agency’s biggest accomplishment seems to have been to prove that Washington can’t do much about street crime across the nation.”³²

In addition to the National Security Center, the LEAA granted a private firm, Mitre Corporation, 2.4 million dollars to evaluate the results of the High Impact Program in 1976. Mitre felt that Nixon officials “foolishly” claimed the program alone would reduce crime, and that the urgency with which the administration launched the High Impact program, in all its, “political pressures to achieve the goal and to set specific

²⁹ “Anticrime Drive Failed to Fulfill Promise, Report Says,” *Los Angeles Times*, 2 Mar 1976, A2.

³⁰ Quoted in “U.S. Anticrime Project Scored: Study Urges Agency’s Abolition,” *New York Times*, 11 May 1976, 18.

³¹ Quoted in Mitchell C. Lynch, “Federal Law Enforcement Aid,” *Wall Street Journal*, 7 Jul 1976, 14.

³² *ibid.*

projects,” ultimately discouraged adequate planning.³³ Perhaps because the evaluation was itself bankrolled by the LEAA, Mitre argued that the crime increases in the eight cities “might have been much greater if the program had not been in operation,” and it also provided “officials in the eight cities valuable training in planning and carrying out crime-fighting projects.”³⁴ After the Security Center and Mitre’s studies went public, policymakers and the news media seized upon High Impact as evidence of the failure of the federal government’s foray into crime control. In July 1976 the *Wall Street Journal* proclaimed the program a “dud.”³⁵ Even the pioneers of federal law enforcement efforts looked dismally upon the ability of the government to effectively control crime by the mid-1970s. “I was once optimistic,” top LEAA Administrator Henry Ruth lamented, “But now, after examining the problem from every angle, I’m not.”³⁶ The federal government’s decision to focus on hardware and patrol without simultaneously focusing on adequate training for officers and major socio-economic reform failed to adequately manage the material outcomes of declining tax bases and disinvestment in the nation’s cities.

Once the federal government presented crime to the American public as a major domestic social problem and a general security issue, it unleashed a seemingly inescapable punitive apparatus. “Because more and more people are worried about crime,” a senate staff member commented, “there’s a tremendous amount of pressure for the government to ‘do something.’ The problem is that nobody knows just what the hell

³³ “Anticrime Drive Failed to Fulfill Promise.”

³⁴ *ibid.*

³⁵ Mitchell C. Lynch, “Federal Law Enforcement Aid.”

³⁶ *ibid.*

to do. Everybody knows what we *can't* do, and that is to pull out altogether.”³⁷ As Senator Edward Kennedy explained in defense of High Impact: “You can’t just throw out something like that... I mean, you have to make sure it gets a fair test.”³⁸ Awareness of the mismanagement, corruption, and contradictory premises of the federal crime control programs did not discourage policymakers from fundamentally restructuring or even reforming new punitive measures. In fact they moved in the opposition direction and expanded the upward climb of the carceral state.

II. STRESS and Tactical Squads

As eligible cities received their first High Impact checks, cities ineligible for the program’s funds like New York, Philadelphia, Baltimore, Atlanta, Los Angeles and Detroit used other sources of federal support to create elite tactical squads to patrol high-crime, low-income communities. White House officials and many other policymakers subscribed to the popular law enforcement theory that the key to reducing crime lay in increased arrest and incarceration. To meet these objectives, many big city police departments turned to patrol tactics that blurred the line between entrapment and sound undercover detective work. By placing officers in targeted areas as “prey” in order to provoke assailants, suspects could be identified and apprehended with far greater ease. Many criminal justice and civil rights organizations deemed these types of operations “ineffective,” but the tactical decoy squads did satisfy crime control needs by pursuing

³⁷ *ibid.*

³⁸ *ibid.*

potential criminals who police departments felt belonged under the supervision of the criminal justice system.³⁹

The most violent and notorious of the tactical squads, STRESS (an acronym for “Stop the Robberies, Enjoy Safe Streets”), was inaugurated in Detroit in January 1971. During the first fifteen months of its operation, STRESS officers killed a young, black male roughly once a month, and often in the dead of night in Detroit’s Cass-Woodward corridor. In just two years, STRESS made more than six thousand arrests and caused the deaths of eighteen civilians and suspects, all but one of them black.⁴⁰

The Detroit Police Department’s use of decoy operations was not new, for the first squad premiered just before the city erupted in flames in July 1967. In March of that year, the department created a small plainclothes patrol unit to address the recent upturn in reported robberies, using surveillance of possible victims and suspects as their principal means of prevention.⁴¹ Although reported rates of increase coincided with new innovations and federal requirements for crime reporting, the lack of impact the plainclothes force seemed to make on crime did not stop Nichols from expanding the program in the 1970s.⁴² Like law enforcement officials in Washington, Nichols opted to research the problem further and ordered the department to study patterns of street crime.

³⁹ “Ineffective, Dangerous,” *Baltimore Afro-American*, 1 Jan 1972, 4.

⁴⁰ STRESS had a strong arrest record behind it: In 1971 it made 2,496 felony arrests and 300 misdemeanor arrests. It led to the incarceration of 160 juveniles and the seizure of 600 guns. In its first full year of operation, in 1972, the plainclothes force made just under 3,000 felony and 300 misdemeanor arrests, in addition to seizing over one thousand guns and large quantities of narcotics and contraband. Nichols in 4-12-1973 Hearings Before the Select Committee on Crime (385); Frances Ward, “Crime in the Streets: Detroit Solution Provokes Controversy,” *Los Angeles Times* 22 Jan 1973, A1.

⁴¹ Nichols in 4-12-1973 Hearings Before the Select Committee on Crime, 382.

⁴² From 1968 to 1970, Nichols reported that robberies skyrocketed sixty-seven percent, and major crime in the city increased thirty two percent; *ibid.*

For Nichols believed: “If we can predict in which direction the criminal will move we can be waiting for him.”⁴³ The study determined that victims were usually nonwhite males living in the neighborhoods where the robbery occurred and that the perpetrators were usually armed, young nonwhite males.⁴⁴

To drastically reduce the onslaught of robberies and assaults in Detroit, Nichols implemented STRESS to patrol the low-income, mostly black neighborhoods the study identified. When the Detroit police department announced the program, eight hundred men volunteered immediately for duty. About half of these men received some degree of screening, and from those screened a quarter were accepted—only nine of them black. The majority had five to seventeen years of experience on the force, but forty percent had only two to five years of service when they took the STRESS post. Even without careful screening or extensive training, the tactical officers were heavily armed. All too often, STRESS policemen “simply draw their guns and shoot instead of trying to catch the suspect without using deadly force,” critics of the unit charged.⁴⁵ The consequences of the lack of adequate pre-screening cannot be understated. Nichols appointed Raymond Peterson as one of the STRESS crew chiefs because of his commendable record (he had

⁴³ Nichols in 4-12-1973 Hearings Before the Select Committee on Crime, 385.

⁴⁴ *ibid* 382.

⁴⁵ After a number of controversial shootings that received national attention, Nichols maintained STRESS as a volunteer-based unit, but began to screen officers who volunteered for the program, “for a good work record, for an absence of disciplinary indication, for an absence of citizen’s complaints, and for ability to get along with their fellow workers.” The department also required officers to undergo psychological evaluations and a training program in surveillance techniques and additional range training to reinforce “the proper applications and the circumstances under which force can be used are given,” as Nichols said. Nichols in 4-12-1973 Hearings Before the Select Committee on Crime, 394.

⁴⁵ “Detroit (Mich) Police Department Analysis of STRESS, submitted by John F. Nichols, Commissioner” in 4-12-1973 Hearings Before the Select Committee on Crime (418); Frances Ward, “Crime in the Streets: Detroit Solution Provokes Controversy,” *Los Angeles Times*, 22 Jan 1973, A1.

one thousand arrests behind him during his eleven years on the job), despite the fact that when Nichols formed STRESS in January 1971, Peterson already had nine citizen complaints. But once Peterson assumed a leadership position within the elite tactical squad, he took it to a new level of violence.

Every morning, Peterson and other commanders of the three to four-person STRESS crews met at headquarters to plot the previous day's street crimes to determine patrol routes in the identified "problem areas" that covered between two to four police precincts. As the normal patrol cars monitored their designated territories, STRESS officers in car models "not usually associated with police duty" drove the streets in the targeted neighborhoods.⁴⁶ The small teams would then walk streets where the department predicted crimes would occur in one-one-two configurations: a point person, his immediate backup, and two others following as cover.

STRESS police officers enjoyed the results of the massive federal investment in police equipment and technologies. Each officer carried a "prep radio," or a small, concealable version of a military walkie-talkie, and each officer wore a "second chance" armored vest made of fiberglass.⁴⁷ The STRESS officers "all dressed in such a way as to blend in with the neighborhood," posing as pedestrians, indigenous residents, cabdrivers, deliverymen, bill collectors, and newsboys.⁴⁸ If a handful of victims reported a purse snatching on a particular block, STRESS officers even dressed in wigs and dresses to

⁴⁶ 4-12-1973 Hearings Before the Select Committee on Crime, 418.

⁴⁷ Ricci in 4-12-1973 Hearings Before the Select Committee on Crime, 394.

⁴⁸ Michael Graham, "How the City of Detroit Tries to make Its Streets Safe," *Chicago Tribune*, 26 Dec 1971, A8.; "Detroit (Mich) Police Department Analysis of STRESS, submitted by John F. Nichols, Commissioner" in 4-12-1973 Hearings Before the Select Committee on Crime, 418. See Heather Thompson's discussion of STRESS in *Whose Detroit? Politics, Labor, and Race in a Modern American City* (Ithaca: Cornell University Press, 2004).

trick potential robbers.⁴⁹ Peterson embraced his role as an undercover police officer, patrolling Detroit neighborhoods dressed like a “radical college professor,” as one national newspaper described his STRESS costume.⁵⁰ This type of work was exciting, and risky: when the crew decided to “drop off a target” to goad residents who appeared suspicious, the necessary distance from the rest of the crew and patrolmen made key decoys like Peterson vulnerable to attacks.⁵¹ Moreover, as Nichols testified before the Select Committee on Crime in 1973: “Depending on the time of day and ethnic characteristics of the neighborhood, the race of the officer may give him away, so this is an important consideration in team composition.”⁵² Sometimes the decoy or plainclothes tactic worked, sometimes residents would recognize a STRESS crew team member and avoid contact, and sometimes residents approached disguised officers to warn, “watch out, he looks like a STRESS copper,” or that “the man” was in the area.⁵³

The presence of STRESS operations in these targeted communities seemed to achieve the intended results. As Nichols reported: “Many arrests have resulted from this type of orientation. However, far more apprehensions have resulted from the presence of officers on or near the scene of the crime, operating as surveillance units, unrecognized by the criminal.”⁵⁴ As long as punitive and carceral forces made their presence known, law enforcement officials believed potential crimes could be curtailed. Although the

⁴⁹ *ibid.*

⁵⁰ Graham “How the City.”

⁵¹ Ricci in 4-12-1973 Hearings Before the Select Committee on Crime, 394.

⁵² 4-12-1973 Hearings Before the Select Committee on Crime, 418.

⁵³ 4-12-1973 Hearings Before the Select Committee on Crime, 418.

⁵⁴ *ibid* 387.

Detroit police department refused to disclose specific numbers, STRESS officers likely totaled somewhere between one hundred and 250 of Detroit's five thousand man force.⁵⁵ Commenting on the lack of disclosure, Nichols testified that STRESS had a profound "psychological impact" in that, "if the average person knew exactly how few officers there were out there we would be depriving ourselves of the major effect, which is a deterrent effect."⁵⁶

Less than a year into his position as STRESS crew chief, Peterson was already involved in a number of shootings that resulted in the deaths of eight black residents and serious injuries to three more. Among Peterson's victims was a twenty-six year old Peterson claimed tried to rob him in the spring of 1971, followed by a resident Peterson claimed attacked him at knifepoint just a few days later; two weeks passed before Peterson killed a twenty-two year old who the STRESS chief said tried to rob him. It seemed Peterson loosened his grip on the revolver for a number of months, but in the fall of 1971 Peterson killed a twenty-four year old he said tried to resist arrest, followed by a twenty-one year old suspect who attacked a member of Peterson's STRESS crew with a broom handle.⁵⁷ Peterson explained his actions by the nature of the unit's patrol work: "I think the reason I've been involved in so many shootings is because we're walking so

⁵⁵ Frances Ward, "Crime in the Streets: Detroit Solution Provokes Controversy," *Los Angeles Times*, 22 Jan 1973, A1.

⁵⁶ Nichols in 4-12-1973 Hearings Before the Select Committee on Crime, 408.

⁵⁷ Robert L. Pisor, "Detroit Policeman Is Charged with Murder in 6th Killing," *The Washington Post*, 23 Marc 1973, A3.

much,” he told a reporter.⁵⁸ Nichols retained Peterson on the STRESS payroll in spite of his record.

Finally, in March 1973, Peterson killed yet another black resident, but this time his attempted cover-up exposed corrupt police practices and the brutal practices of STRESS received media coverage outside of Detroit. After Peterson murdered twenty-four year old Robert Hoyt when he was off-duty, he stuck to his usual routine. Peterson filed a report claiming that while driving with another off-duty patrolman, the two officers noticed Hoyt and forced his car to the side of a freeway service drive. Peterson said Hoyt promptly slashed him with a knife, leaving a six-inch tear in his top coat, and the STRESS officer fired shots in self-defense.⁵⁹ Yet when investigators examined the knife, the cat hairs they found on its handle belonged to Peterson’s own pet. The lab tests led to second-degree murder charges against the most notorious killer on the squad.⁶⁰

Although Peterson may be an extreme example, his patrol practices arose from a climate within the unit that seemed to advance a relentless assault on young black Detroiters. In March 1972, a five minute gun battle ensued between one of the teams of black STRESS officers and four black sheriff’s deputies playing poker. While the STRESS officers remained unharmed, deputy Henry S. Henderson lost his life and deputy James Jenkins faced serious injuries. When the STRESS officers burst into the apartment and interrupted the game, Jenkins threw his hands in front of his face and

⁵⁸ Quoted in Michael Graham, “How the City of Detroit.”

⁵⁹ “Office With Busy Gun Held in Killing,” *New Journal and Guide*, 31 Mar 1972, 1.

⁶⁰ “Detroit Policemen Accused in Slaying,” *New York Times*, 23 Mar 1973, 34.

yelled, “We’re police officers in here,” mistaking the STRESS officers for robbers.⁶¹ But the STRESS team assumed the sheriff’s deputies were hardened criminals trying to resist arrest, and quickly fired shots. Their bullets hit Jenkins in the stomach, temple, and leg, causing the officer to lose sight in one of his eyes.⁶² “Henderson was pointing a gun at Mr. Martin and Patrolmen David Marshall and Dennis Shiemke, when they opened fire,” as Wayne County prosecutor William Callahan believed, “They were, therefore, not using undue force,” and thus did not face charges.⁶³ Although Callahan’s office did bring assault charges for Jenkins’s injuries, all of the officers eventually received acquittals. By that time, STRESS had earned a reputation in the Midwest for the slayings it brought into Cass Corridor, but Henderson’s murder received widespread national coverage and sparked an outcry from the black law enforcement community.⁶⁴

The Guardians, a black policemen’s organization representing some 325 officers in the Detroit Metropolitan area, used the Henderson killing and the twelve other STRESS-related deaths to demand that Mayor Roman Gribbs abolish the unit. Nichols

⁶¹ Agis Salfukas, “Black Police Ask Detroit End Unit,” *New York Times*, 11 Mar 1972, 14.

⁶² Agis Salpukas, “3 Detroit Policemen Charged in Shooting,” *New York Times*, 25 Mar 1972, 62.

⁶³ *ibid.*

⁶³ *ibid.*

⁶⁴ STRESS had gained such a reputation that the spokesman for Philadelphia Police Commission James Herron assured his citizens that the city’s own tactical unit, ACT (the Anti-Crime Team) was, “not a STRESS-type of operation.” Despite the increasing scrutiny and criticism STRESS faced, ACT and other decoy-operation based patrol forces sprang up in cities across the United States in the name of stopping street muggings and burglaries, bankrolled in large part with LEAA funds. Operating in North and West Philadelphia, Herron, the Pennsylvania State Planning Agency, and 1.3 million dollars worth of LEAA funds implemented ACT as an experimental unit composed of two volunteer-based teams, each with 140 officers. Unlike STRESS, however, the Philadelphia police department committed to recruiting black officers to patrol and act as undercover agents in black neighborhoods, and their ranks represented forty percent of ACT. In contrast, only five black officers worked for STRESS by 1973. quoted in Len Lear, “Anti-Crime Team (ACT) Lowers Crime Rates in North and West Phila.” *Philadelphia Tribune*, 7 Jul 1973, 1; Tom Gorman, “Compton Armed With Federal Funds in War on Crime,” *Los Angeles Times*, 19 Oct 1975, SE1; Martin in 4-12-1973 Hearings Before the Select Committee on Crime, 387.

defended STRESS as the department's principal means to reduce street crime, for he attributed it to the city's 9.9 percent reduction in robberies in 1972.⁶⁵ This justified further expansion, even though young people continued to die from STRESS bullets. Weeks after Henderson's murder, STRESS officers killed a fifteen year old boy and wounded two of his friends. The officers claimed they acted out of self defense after five teenagers held up a decoy at knifepoint.⁶⁶

Soon young residents of Detroit launched what appeared to be a counter-attack on STRESS officers. In December 1972, on the northwest side, a group of young men who the police believed to be riding shotgun for a narcotics runner fatally shot four plainclothes officers and seriously wounded three others. A few days later, another off-duty STRESS officer lost his life as he tried to stop a bank holdup.⁶⁷ Finally, in January 1973, a twenty-five year old STRESS officer died in what Nichols called an "execution-style" shooting by "mad dog killers."⁶⁸ Almost immediately, the Department held John Perry Boyd Jr. 23; Clyde Bethune, 22; and Hayward Brown, 18 responsible for all of the patrolmen's deaths.

In retaliation, STRESS officers resorted to a new degree of harassment and violence against the suspects' families. They launched what black Detroit residents aptly called a "campaign of terror" in the name of bringing the killers to justice. The excessive search—the largest in Detroit's history up to that point—reinvigorated the energy behind grassroots campaigns against STRESS and raised serious questions about the practices of

⁶⁵ Agis Salpukas, "A Cops 'n' Cops Story," *New York Times*, 12 Mar 1972, E2.

⁶⁶ Agis Salpukas, "Detroit Altering Decoy Operation," *New York Times*, 18 Mar 1972, 28.

⁶⁷ "Another STRESS cop dies, 1 critical," *Chicago Daily Defender*, 28 Dec 1972, 5.

⁶⁸ "Police Angered by STRESS Killing," *Baltimore Afro-American*, 6 Jan 1973, 1.

big-city tactical squads.⁶⁹ Fearing another large scale rebellion, the city council held an open hearing at Ford Auditorium. For more than three hours, witnesses testified before nearly two thousand concerned citizens about their encounters with STRESS officers. The pastor of the New Galilee Spiritual Church remembered STRESS officers smashing his front door down at four in the morning on December 27th and holding a gun to his head. A young woman spoke about the night of January 6th, when STRESS officers forced her to strip to her underwear after the crew received a tip that her family planned to leave Detroit.⁷⁰

Nichols listened to the descriptions, then stepped to the podium before the mostly-black audience to read his prepared statement. The Police Chief acknowledged that his men made “some errors” and promised to investigate the witnesses’ charges. He noted that Michigan law permitted police to enter any building without a warrant if they had reasonable cause. But once Nichols defended STRESS officers’ indiscriminate use of firearms, the crowd erupted. “Mad dog killer!” they shouted—a fitting reappropriation of Nichols’ indictment of the three young suspects. Nichols remained on the stage through the taunts with his arms crossed. Unable to finish his prepared statement, the police commissioner shook hands with the seven council members and left.⁷¹

⁶⁹ By July of 1974, Baltimore terminated its special fifty-five man “high crime area” plainclothes team and returned officers to the regular police force. The force worked in the Northwest, Northeast, and Southwest sections of the city, and was charged with preventing crime in targeted zones and working with community groups in “problem areas.” Baltimore’s squad had a much shorter life span than STRESS, at it began operating in 1973 when the city received its first federal grant of more than five hundred thousand from the LEAA to start the special patrol. “U.S. to probe police ‘breach’” *The Sun*, 7 Aug 1974 C 22.

⁷⁰ William Richards, “Police Search Tactics Enrage Blacks in Detroit,” *The Washington Post*, 12 Jan 1973, A3.

⁷¹ Richards, “Police Search Tactics.”

While for Nichols the meeting was a complete failure, it as a triumph for Detroit-based activists who struggled against these issues for decades. The former labor organizer and League of Revolutionary Black Workers co-founder Kenneth Cockrel used the meeting as a basis to start a coalition of local organizations. He collected 100,000 signatures on a petition that called STRESS nothing more than “a murder squad with an unlimited license to kill and maim.”⁷² Again the community demanded for the unit’s abolition. The coalition had a point: STRESS and the Detroit police department had the largest number of civilian deaths at the hands of law enforcement officers than anywhere else in the United States.⁷³

If STRESS operated within an existing climate of violence, its very presence helped to sustain and even worsen that climate. A year into the operation of the squad, Detroit’s homicide reached a peak. Yet prominent members of the Detroit police department insisted that it helped reduce crime rates in the city based solely on impressive conviction rates, at seventy-five percent on felonies and ninety-four percent on misdemeanors.⁷⁴ Detective Inspector James D. Bannon, the head commander of STRESS, remarked to a reporter: “We’re involved in a violent business. We just don’t walk up and shoot somebody. We ask him to stop. If he doesn’t, we shoot. The criminal himself can set the rules of the game.”⁷⁵ Nichols also defended the squad in earnest. “It is a traditional dilemma. If you do not police those areas, you’re not providing the

⁷² Quoted in Frances Ward, “Crime in the Streets: Detroit Solution Provokes Controversy,” *Los Angeles Times*, 22 Jan 1973, A1.

⁷³ “Detroit police chief defends STRESS unit,” *Baltimore Afro-American*, 28 Apr 1973, 3.

⁷⁴ Frances Ward, “Crime in the Streets.”

⁷⁵ *ibid.*

services,” Nichols remarked to a *New York Times* reporter, “If you do come in, you’re an occupying army. How do you police a whole community without alienating some elements? You can’t do it.”⁷⁶ Head commander Bannon and police chief Nichols seemed to rationalize the violent tendencies of STRESS officers by emphasizing the challenges of police work in segregated urban neighborhoods.

As the mayoral election of 1973 approached, Coleman Young used the widespread community mobilization against STRESS to ground his campaign against Nichols. The black candidate pledged to abolish STRESS, effectively assuring his forty-five percent black constituency that a Young Administration would reform the Detroit police department.⁷⁷ As part of a growing cohort of more than a 100 black mayors across the United States presiding over deindustrializing and rural towns as well as major cities in crisis, Young stuck to his campaign promise and officially disbanded STRESS in March 1974. As a replacement, Young instituted thirty twenty-four hour mini-stations in Cass Corridor and other low-income black neighborhoods—much like the storefront centers suggested by the Crime and Kerner Commissions. Young also committed to increasing black representation in the Detroit Police Department by fifty percent by 1977.⁷⁸ This liberal approach allowed Young to focus on community policing while continuing the steady increase of law enforcement officials in neighborhoods deemed high-crime. Even though federal support for these types of programs lasted only a few years, in the 1970s the highly experimental, even radical direction of law enforcement

⁷⁶ William K. Stevens, “Tactics of an Elite Police Unit Election Issue in Detroit,” *New York Times*, 11 Jun 1973, 30.

⁷⁷ “Mayor Young kills STRESS in Detroit,” *Baltimore Afro-American*, 16 Mar 1974, 3.

⁷⁸ “Detroit’s STRESS Unit Abolished by Mayor Young,” *Philadelphia Tribune*, 19 Mar 1974, 5.

programs funded by the LEAA made possible the indiscriminate use of decoy and street patrol in targeted urban areas that had experienced urban civil disorder in the late 1960s.⁷⁹

Outside of Detroit, Police Commissioner and former Crime Commission member Patrick Murphy established a unit in New York City as police chief that often engaged and even sustained an environment rife with street wars. But Murphy believed his own decoy squad to be “very successful” because it managed to make a substantial number of arrests while involving itself in only half a dozen shootings and one death during its two and a half years of operation.⁸⁰ One of the central architects of federal and local crime control policy, Murphy worked as the public safety director for Washington, DC during the Johnson Administration, served as the first Administrator of the LEAA, and accepted a position as Detroit Police Commissioner prior to the more high-profile role in New York City.⁸¹ As president of the National Police Foundation—an offshoot of the Ford Foundation focused on innovative crime control techniques—Murphy viewed these decoy squads as part of the federal government’s larger move towards police

⁷⁹ By 1974, with the brutality of STRESS and other tactical units exposed, many of similar troops elsewhere disbanded. In the name of police-community relations, increasing numbers of civilian and auxiliary forces also emerged at the same time as decoy operations, but remained even after plainclothes forces fell out of vogue. In New York City, after a police car ambushed by five black women and men believed to be part of the Black Liberation Army killed four policemen with automatic weapons, auxiliary police forces consisting of civilian troops formed to buttress street patrol. By 1973, New York had more than five thousand auxiliary officers, more than double the number the previous year. In Atlanta, civilians volunteered to participate in a special burglary, robbery, and rape squad called Project THOR funded by the LEAA and instituted by the Atlanta Bureau of Police Service. In part as a means to humanize crime control and police departments, the volunteers helped residents burglar-proof their homes. Trained in both law enforcement theory and the direct application of preventative tactics, THOR volunteers believed visiting the homes of fellow Atlanta residents functioned to improve the overall image of the police department. Max H. Seigel, “Auxiliary Police to Resume Patrols, but in Civilian Garb,” *New York Times*, 2 Feb 1973; Don Hetzler, “THOR Civilian Inspectors: People Prevention Crime,” *Atlanta Daily World*, 3 Jun 1975, 3.

⁸⁰ “Solution to Crime is Police Professionalism--- Murphy,” *Atlanta Daily World*, 3 May 1974, 1.

⁸¹ Atlanta also had a “decoy squad” which led to the death of seven people; “Solution to Crime.”

professionalism. Murphy's tactical squad, called the "Citywide Anti-Crime Section," consisting of two hundred men and six women, sought out as much publicity as possible. Like STRESS, New York City's anti-crime section managed to make a large number of arrests—3,600 in 1972 alone.⁸² With Murphy's endorsement, the decoy squad evolved into a key model for the LEAA to assist in meeting its law enforcement objectives.⁸³ If nothing else, it gave frustrated officers who, in the words of Murphy, felt they were "losing the war on crime" amidst ever-rising crime figures, a new sense of purpose.⁸⁴

As Detroit Police Chief John Nichols boasted before the House Select Subcommittee on Crime in 1973: STRESS had become a "nationwide symbol."⁸⁵ For Nichols and his supporters, STRESS epitomized a new approach to fostering greater protection and safety for innocent residents, but for many others the force symbolized brutality and discrimination. "I am black and am no law and order man of the ilk of Vice

⁸² 83 percent of the arrests were for felonies, 750 for armed robbery, and 450 for gun charges. Lynch in 4-12-1973 Hearings Before the Select Committee on Crime, 416; Conyers in 4-12-1973 Hearings Before the Select Committee on Crime, 413.

⁸³ The federal government moved to support other types of undercover police forces, sometimes outside of hyper-segregated neighborhoods. In February 1974, Illinois established an undercover police force to arrest and prosecute low-level drug pushers and users in several counties. At a cost between three and four million dollars (covered mostly by the LEAA), the Metropolitan Enforcement Groups (MEG) project brought one hundred officers who received only one month of training into high schools and colleges. The project's sole focus—to "wage war on low-level drug peddling"—would complement activities of the Drug Enforcement Agency and big city police departments responsible for attacking organized crime. The MEG received special gear for its anti-drug battle, including a video camera (costing just under \$2,500 alone), a binocular camera, and dozens upon dozens of portable radios. One hundred thousand dollars went to make drug buys and to pay informants working with MEG officials, a five thousand went to outfit the officers in hip, unassuming clothing. In spite of the great outpour of federal funds for the MEG effort, the project had a mixed final outcome. One MEG operating in Cook County made 952 arrests, yet only seven hundred resulted in criminal charges and courts ruled less than half of the suspects guilty. Most were convicted for marijuana offenses, and only thirteen percent of those arrested were involved in hard drug offenses. John O'Brien, "Seek Local Pushers," *Chicago Tribune*, 25 Feb 1974, 5.

⁸⁴ "Solution to Crime is Police Professionalism--- Murphy," *Atlanta Daily World*, 3 May 1974, 1.

⁸⁵ Nichols in 4-12-1973 Hearings, 410.

President Agnew, but I am no thief and robber either,” a black resident wrote the police department in gratitude, “Many other blacks are glad to have policemen around regardless of their race, but for them to say so publicly leaves them open for much criticism and harassment.”⁸⁶ Other community members expressed an opposing view, charging that STRESS inflicted, “a reign of terror upon honest citizens of the black community.” By the time the unit disbanded, it had illegally entered the homes of black Detroit families, kicking in their front doors without the benefit of a search warrant (an iteration of the same no-knock policies the Nixon administration produced for Washington, DC), and had lined up residents in their own homes and waved guns in their faces.⁸⁷ “We know,” black residents wrote in a joint community statement, “that no suburban community would allow for one instant the kind of abuses, intrusions and excesses now being exercised in the City of Detroit.”⁸⁸ Widely regarded among law enforcement officials as “as a policeman’s policeman,” Nichols could not deny the indiscriminate use of force in segregated areas of Detroit, a practice that mobilized community members Detroiters against the onslaught of police officers patrolling their neighborhoods.⁸⁹

III. Minority Representation

⁸⁶ Nichols read the contents of this letter during his testimony to the House. Quoted in “Detroit (Mich) Police Department Analysis of STRESS, submitted by John F. Nichols, Commissioner” in 4-12-1973 Hearings Before the Select Committee on Crime, 421.

⁸⁷ Jerry M. Flint, “Detroit Manhunt Stirs Controversy,” *New York Times*, 8 Jan 1973, 111.

⁸⁸ *ibid.*

⁸⁹ Conyers in 4-12-73 Hearings, “Street Crime in America: the Police Response.”

The Nixon administration could not obscure the extent to which the federal crime control program disproportionately touched the lives of black Americans. But it could deny that racism affected the development of the LEAA and policymakers more generally by promising to increase minority representation and business ownership. However, Nixon's policies ultimately fostered racist results and exacerbated the problem of urban inequality. To appeal to both black militants and the silent majority, Nixon advocated "Black Capitalism" during his 1968 presidential campaign. The separatist dimension of Nixon's response to increasingly vocal and militant protest not only appeased certain nationalist advocates of Black Power but also white voters wary of integration.⁹⁰ Although on the surface "Black Capitalism" seemed a reasonable economic program for a president associated with the progressive wing of the Republican party, it implicitly promised to retain segregation and Nixon associated it with the larger domestic campaign issue of "law and order." Nixon emphasized the links between the two problems, as he commented to a reporter in the spring of 1968: "People who own their own homes don't burn down their neighborhoods."⁹¹ Indeed, black ownership offered Nixon a formidable response to urban civil disorder. It allowed him to embrace continued segregation instead of fundamental structural change. "There's a danger," warned speechwriter Raymond K. Price warned Nixon in 1967, "in letting the rash of riots harden

⁹⁰ Dean Kotlowski, "Black Power Nixon-Style: The Nixon Administration and Minority Business Enterprise," *The Business History Review* Vol. 72, No. 3, Autumn 1998 pp. 409-445; See Joan Hoff *Nixon Reconsidered* (New York: Basic Books, 1995), 95-97.

⁹¹ "Black Power and Private Enterprise," *Wall Street Journal*, 21 May 1968, 16. In Memo, Price to Nixon 27 July 1967 PPS 500.10-5.13, Nixon Pre-Presidential Papers, Nixon Library. Quoted in Kotlowski.

attitudes into a simple formula of ‘it’s us against them.’⁹² Only by replacing, in Price’s words, “the Negro habit of dependence,” with “one of independence” and “personal responsibility,” could the trend be reversed. Though urban neighborhoods would face an increased punitive and federal presence, residents could now enjoy unrestrained and assisted access to property, consumer goods, and capital. This sentiment guided Nixon’s approach to race-specific programs. White House staff member Sallyanne Payton commented that Nixon and his advisors believed that “getting black people to behave like whites,” or “get into business, go to school, become homeowners,” would solve the problem of poverty and racial marginalization.⁹³

The brainchild of economist Alan Greenspan, “Black Capitalism” presented an alternative to the War on Poverty as a means of reducing socio-economic inequality and crime. In the fall of 1968, Greenspan suggested in a memo to Nixon that federal policy shift from “reparations for past exploitation” to programs that would “help Negroes help themselves.”⁹⁴ The Nixon campaign settled on expanding economic ownership and inviting black Americans to participate in the free market as a means to address the effects of racism in a challenging electoral climate.⁹⁵ As Martin Anderson wrote in a memo to Domestic Council Ehrlichman, Black Capitalism “built heavily on the concepts

⁹² Memo, Price to Nixon 27 July 1967 PPS 500.10-5.13, Nixon Pre-Presidential Papers, Nixon Library. Quoted in Kotlowski.

⁹³ Sallyanne Payton, “Remarks at Hofstra,” in *Richard M. Nixon* eds. Friedman and Levantrosser, 180. In Memo, Price to Nixon 27 July 1967 PPS 500.10-5.13, Nixon Pre-Presidential Papers, Nixon Library. Quoted in Kotlowski.

⁹⁴ Memo, Alan Greenspan to Nixon, 26 Sept. 1967. PPS 500.10-6.10, Nixon Pre-Presidential Papers, Nixon Papers. Quoted in Kotlowski.

⁹⁵ Democratic candidate Hubert Humphrey also drew from Nixon’s pro-capitalist approach, advocating a “Marshall Plan” for black Americans during the campaign.

of pride, self-esteem and the opportunity to have control over one's work," and had won the President, "instant acclaim across the entire political spectrum." Nixon's embrace of opportunities for black ownership offered a "fresh departure" from Johnson's emphasis on education, jobs, and housing.⁹⁶

Almost immediately after taking office, Nixon formed the Cabinet Committee on Minority Enterprise, and wrote in a memo to the heads of all departments and agencies that expanding property and business ownership among black Americans was "a major concern of this Administration."⁹⁷ Like federal crime control policy, the Johnson administration provided the foundation for these initiatives. In 1967, Congress instructed the Small Business Administration to dedicate half of its loans to business owners in hyper-segregated urban areas. As a response to urban civil disorder and urban crisis, the special loans fit well with other Great Society programs. Yet Johnson's effort failed to make a dent in the lack of minority ownership: by 1969, black and Latino Americans represented just under twenty percent of the population but owned only four percent of businesses and one percent of total business assets.⁹⁸ When Nixon established the Office of Minority Business Enterprise by Executive Order in March 1969, he hoped to shift the course of black economic development and reduce crime in the process.

⁹⁶ 12-11-69 memo from Martin Anderson for John Ehrlichman, Nixon Krogh Box 6 "New Capitalism 69-70.

⁹⁷ 12-5-69 Memorandum to Heads of Departments and Agencies From Richard Nixon; Nixon Library Martin Anderson Collection Box 12.

⁹⁸ Maurice H. Stand, "Nixon's Economic Policy Toward Minorities," in *Richard M. Nixon: Political, President, Administrator*, eds. Leon Friedman and William F. Levantrosser (Westport, Conn., 1991) 239-41. In Memo, Price to Nixon 27 July 1967 PPS 500.10-5.13, Nixon Pre-Presidential Papers, Nixon Library. Quoted in Kotlowski.

As black Americans waged more militant, structural demands for policies that could begin to repair historically specific legacies of exploitation and exclusion in calls for self-determination and community control, Daniel Patrick Moynihan and other advisors close to Nixon proposed he approach racial problems from a more inclusive lens. “As you have candidly acknowledged,” Moynihan wrote to Nixon in January, 1970, “the relation of the administration to the black population is a problem.” Moynihan praised Nixon’s “intense effort” to “develop programs that will be of help to the blacks. I dare say, as much or more time and attention goes into this effort in this administration than any in history. But little has come of it.”⁹⁹ Stepping into the presidency at the end of the civil rights movement, Nixon enacted key liberal reforms and retained Great Society programs like Model Cities, even as his New Federalism promised states greater power to spend on social programs via block grants and revenue sharing.¹⁰⁰ In this social milieu, Moynihan suggested: “The time may have come when the issue of race could benefit from a period of ‘benign neglect’ ... We may need a period in which Negro progress continues as racial rhetoric fades. Greater attention to Indians, Mexican Americans, and Puerto Ricans would be useful.”¹⁰¹ Like Nixon’s special counsel Leonard Garment, Moynihan proposed that the administration approach the problem of racism in its entirety, responding to the needs of all racial minorities.

As the Office of Minority Business Enterprise (OMBE) moved to implement Black Capitalism, White House officials felt that the initial burst of energy that marked

⁹⁹ 1-16-1970 Memorandum For the President from Daniel P. Moynihan. Nixon Library, Krogh Collection Box 10 “Black Vote” (72).

¹⁰⁰ See Hoff 66-67.

¹⁰¹ 1-16-1970 Memorandum For the President from Daniel P. Moynihan. Nixon Library, Krogh Collection Box 10 “Black Vote” (72).

the concept faded once it assumed its bureaucratic form and the program's focus on black Americans hampered its potential political impact. To prepare for Nixon's first annual message, Anderson proposed that Nixon expand the concept to include "not only blacks, but all the disadvantaged," and rename it the "New Capitalism—of extending the opportunity of ownership to everyone, regardless of color."¹⁰² This, Anderson felt, would allow the administration to "recapture most, if not all, of the civil rights 'cards' we held in the summer of 1968."¹⁰³ Nixon responded enthusiastically to Anderson's idea, opting to incorporate a more multicultural tone into the state of the union and consider "New Capitalism" as a possible domestic program for 1970.¹⁰⁴ But a program that would open up opportunities for access and ownership to racially marginalized Americans required a budget far surpassing that of the LEAA, Model Cities, and the Office of Economic Opportunity combined. The administration lacked a commitment to such spending. "One important, final point," Anderson declared as he closed his memo, "the cost of such a program should be relatively small."¹⁰⁵

Much like the LEAA, the Office of Minority Business Enterprise struggled to accomplish its stated goals—in part because the initial thrust of the agency went to building up a new federal bureaucracy. It, too, suffered from high turnover rates. The first director, Thomas F. Roeser, stayed for only six months; Abraham Benablean, the agency's first black director, left in early 1971 and was replaced by John Jenkins, another

¹⁰² 12-11-69 memo from Martin Anderson for John Ehrlichman, Nixon Krogh Box 6 "New Capitalism" 69-70.

¹⁰³ *ibid.*

¹⁰⁴ *ibid.*

¹⁰⁵ 12-11-69 memo from Martin Anderson for John Ehrlichman.

black director who worked to invigorate corporate and private sector support of the program as Congress cut its funds.¹⁰⁶ The effect, as with the LEAA, was to centralize the program within the White House where Leonard Garment and Robert Brown, Nixon's liaison to minority groups, coordinated policy.¹⁰⁷ At the urging of Brown and Moynihan, Nixon settled on a multi-billion dollar procurement program for the office that included minority set asides. Nixon took special precautions not to upset white voters, and ensured that OMBE programs would not appear to give black Americans an unfair advantage, or "preferential treatment."¹⁰⁸

Echoing similar criticisms of the LEAA, one historian described the Office as "hampered by excessive promises, narrow focus, and structural problems, not to mention meager funding, bureaucratic in-fighting, and popular skepticism."¹⁰⁹ And like the LEAA and other federal agencies during the Nixon Administration, OMBE advanced Nixon's presidential campaign and later forced grant recipients to support his reelection. Nixon advocates received large funds from the Office, like "one of our most stalwart black supporters in Texas," as Brown described one grantee in a memo.¹¹⁰ Others, like the chair of the Watts Labor Community Action Committee, felt pressured to support Nixon's bid or risk losing his 1.5 million dollar contract with the agency.¹¹¹ Like some

¹⁰⁶ Kotlowski, "Black Power Nixon-Style" 424.

¹⁰⁷ *ibid.*

¹⁰⁸ *ibid.* 415.

¹⁰⁹ *ibid.* 420.

¹¹⁰ Memo, Brown to Nate Bayer, 6 Oct 1972, folder: [CF] PQ 2 Purchasing Contracting Procuring [1971-71] Box 50, Confidential Files, Nixon Presidential materials.; Parmet *Richard Nixon and His America*, 601; in Kotlowski 440.

¹¹¹ Kotlowski 440.

LEAA grant recipients, Nixon campaign contributor and former pro football player Jim Brown applied for a renewal grant for his Black Economic Union in 1973, despite the fact that the Union accomplished, in the words of an aide to John Ehrlichman, “absolutely nothing” with the hundred thousand dollar grant it received in 1972. Yet based on an “assessment of performance,” Brown’s Union received 250,000 dollars the following year.¹¹² Moreover, members of the Small Business Administration awarded contracts to white-owned firms with “minority” funds.¹¹³ Despite the mismanagement from 1970 to 1975, minority business purchases managed to increase 265 percent, reaching just under five hundred million dollars.¹¹⁴ By 1971, the Office of Minority Business Enterprise had enshrined a set of policies that went on to steer affirmative action programs in the decades to come.

The LEAA followed suit and in 1971 established a civil rights compliance office in order to ensure that black Americans did not suffer discrimination in the professional law enforcement realm. With the OMBE working to foster black capitalism, the LEAA emerged as a testing ground for the federal government’s commitment to affirmative action and equal opportunity. While the five largest police forces in the United States increased the number of black officers nearly twenty-five percent in the aftermath of the Safe Streets Act, other departments remained ambivalent about hiring black officers.¹¹⁵

¹¹² *ibid.*

¹¹³ *ibid.*

¹¹⁴ *ibid* 415.

¹¹⁵ Thomas Johnson “Racial Bias is Laid To Justice Systems in Crime Prevention,” *New York Times*, 10 Jul 1976, 19.

Even as Nixon and the Department of Justice committed to increasing the number of black law enforcement officials, the LEAA responded sluggishly to charges of racial discrimination. Black policemen's organizations launched vocal protests and campaigns against local departments. The most prominent such movement came out of Chicago, headed by Renault Robinson, the president of the city's Afro-American Patrolmen's League. In June 1971, the League requested the LEAA investigate the hiring, promotion, and operational policies of the Chicago Police Department with respect to minorities. The LEAA sent a specially appointed team of investigators to Chicago for three months to examine the department's practices. The investigation ultimately confirmed the League's claims, citing racial discrimination in the police department that affected both employment and methods of operation. The League in turn requested the removal of the six million dollars the Chicago Police Department received from the LEAA until it complied with the agency's recommendations. The LEAA, however, refused to cut off the funds despite the fact that it had determined the police department violated federal law, gently encouraging voluntary compliance instead. Robinson and the League continued to fight as the department brought 1,400 new hires into the force, with fewer than ten percent of them minorities, in direct defiance of the LEAA provisions. The department also promoted twenty-five police lieutenants, only one of them minority.¹¹⁶ In an impassioned *Chicago Defender* editorial Robinson wrote: "Since the Chicago Police Department was assured there would be no fund cut off by LEAA, it had absolutely nothing to lose by not complying with the federal law."¹¹⁷ And while the

¹¹⁶ Renault Robinson, "Black Watch," *Chicago Defender*, 21 Jul 1973, 22.

¹¹⁷ *ibid.*

LEAA admitted in May 1973 that “there was no hope in securing voluntary compliance” by the police department, it continued to grant funds to Chicago police and transferred the case to the Department of Justice’s Civil Rights Division.¹¹⁸

Facing mounting pressure from Chicago and other state and local law enforcement institutions, the LEAA released equal employment opportunity guidelines in the spring of 1973. As a forerunner for federal equal employment guidelines, the LEAA became the center stage to test the extent of the federal government’s commitment to affirmative action policies. The guidelines stipulated that “Any law enforcement agency which receives LEAA financial assistance in excess of 25,000 dollars and which employs fifty or more persons is required to implement and maintain an Equal Employment Opportunity Program if the population it serves has a minority component of at least three percent.”¹¹⁹ The guidelines also brought the Civil Service Commission into the effort, responsible for the “recruitment and selection of minorities to new posts and promotions.”¹²⁰ While policymakers regarded the LEAA as a leader in the field of equal employment, the agency refused to even pause the expansion of American law enforcement and continued to grant funds to police departments it knew discriminated against black officers.

With standards in place that carried far greater power than the LEAA’s office of civil rights compliance, major national organizations combated the racist practices of federal and state law enforcement with an onslaught of class action lawsuits charging

¹¹⁸ *ibid.*

¹¹⁹ Eric M St. John II, “LEAA Guidelines Ask More Minority Hiring,” *Atlanta Daily World*, 11 Oct 1973, 5.

¹²⁰ *ibid.*

violations of the Civil Rights Act. Sometimes the Department of Justice partnered in the suits against states, sometimes it defended the discriminatory practices of local law enforcement agencies.¹²¹ Class action suits succeeded at the local level, but only if the state criminal justice commission supported the goal of increasing minority representation in law enforcement. In November 1974 in Detroit, Robert Booth and William Harris, with more than fifteen years each on the police force, filed a federal suit charging that the results of an arbitrary oral examination excluded them from promotion within the police department. At the time, the Wayne County Sheriff's Department received roughly 3.8 million dollars from the LEAA annually, for a police force that was twenty eight percent black but did not have black officers in any top-level positions and kept only a small number of black sergeants and detectives. Although Booth and Harris won the case and the court ordered the sheriff's department to give fifty percent of future promotions to black officers, the LEAA refused to withhold funds from the Detroit Police Department when it failed to follow the judge's order.¹²² In Pennsylvania, the NAACP and National Organization of Women filed a suit in which the federal court ruled in favor of the plaintiffs in July 1975 and required the governor's Justice Commission to withhold all LEAA grants to the Pittsburgh police bureau until the city submitted proper

¹²¹ In April 1973, a coalition of seven civil rights and women's organizations, including the NAACP and the National Organization of Women (NOW), filed a suit with the Attorney General charging that nineteen police departments in California practiced discrimination against women and minorities in hiring and promotional policies. The coalition demanded for a suspension of LEAA grants unless the state-level departments developed "effective affirmative action programs," in direct violation of Titles VI and VII of the Civil Rights Act and the LEAA's own equal employment opportunity guidelines released one month prior to the suit. Public Advocates, a non-profit public interest firm, prepared the complaint on behalf of the organizations. "California Police Unites Accused in Job-Bias Suit," *Wall Street Journal*, 13 Apr 1973, 23; "19 California Cities Accused of Hiring Bias," *Los Angeles Sentinel*, 26 Apr 1973, A15.

¹²² Robert McClory, "Suit demands LEAA break police bias," *Chicago Defender*, 13 Sep 1975, 5.

affirmative action plans. For the first time, a state planning agency sanctioned by the LEAA halted the flow of federal law enforcement funds to a major American city.¹²³

The National Black Police Association—which included thirty nine black police organizations across the country—filed a series of police bias complaints with the LEAA in 1975. The Association and civil rights organizations viewed these suits as a powerful tool. As Robinson noted, “no police department I know of has found a way yet of being able to get along without the federal money.”¹²⁴ The LEAA responded by monitoring the hiring of state and local law enforcement agencies, but still refused to cut off funds from departments completely, once again encouraging voluntary compliance.

The federal government’s lackadaisical approach to equal employment and disregard for its own guidelines compelled the National Black Police Association to sue the LEAA for failure to comply with the Civil Rights Act in the fall of 1975. The Association had fifty member organizations in seventeen states, and its lawsuit cited places where the LEAA permitted discriminatory practices. Massachusetts only had two officers on its 870-man force.¹²⁵ In Indiana, the state police department had a total of 937 uniformed troopers, only three of them black, despite the fact that the state had a seven percent black population.¹²⁶ In Ohio, the Akron police department had 523 policemen in its ranks, with only fourteen—or less than three percent—black officers. The DC police department, responsible for the safety of an eighty-five percent black population, had

¹²³ “Justice Commission Withholds City Cops LEAA Funds,” *New Pittsburgh Courier*, 26 Jul 1975, 4.

¹²⁴ Francis Ward, “Law Enforcement Grants Challenged,” *Los Angeles Times*, 17 Feb 1975, A8.

¹²⁵ James Vorenberg, “The War on Crime: Five Futile Years,” *Washington Post*, 21 May 1972, B3.

¹²⁶ Robert McClory, “Suit demands LEAA break police bias,” *Chicago Defender*, 13 Sep 1975, 5.

only 1,600 black officers on its 4,500-member force.¹²⁷ In New York City, Police Department minorities constituted only 8.7 percent in a city where the minority population was thirty percent.¹²⁸ Finally, states like Alabama and Mississippi violated the Civil Rights Act by excluding black officers from state police forces, but they too continued to receive federal LEAA grants. The figures moved the ACLU, the United Church of Christ's Commission for Racial Justice and the NAACP to file a joint class action lawsuit against the Department of Justice and the LEAA on behalf of the Association in an attempt to force the agency to cut off funds to discriminatory departments.¹²⁹

The LEAA did not consider representation to be a goal worth upsetting the flow of federal crime control funds. Even in rare instances when the LEAA did threaten to withhold funds rather than urge voluntary compliance, some police departments and municipal authorities responded with strong resistance. The Los Angeles City Council proposed a complete break with the LEAA in 1976 on the grounds that the agency violated its own affirmative-action law by implementing a hiring quota system for women and minorities. City Attorney Burt Pines informed Attorney General Edward Levi of the city's "indignation over the bad faith demonstrated by the LEAA," and its intention to refuse to distribute 3.5 million in federal funds allocated to the LAPD.¹³⁰ Police Chief

¹²⁷ Victor Okoroji "ACLU Charges Police Bias; Federal Aid Object of Suit," *New York Amsterdam News*, 17 Sep 1975, A5.

¹²⁸ "United Church tells LEAA of N.Y. police race bias," *Baltimore Afro-American*, 11 Oct 1975, 5.

¹²⁹ Okoroji "ACLU."

¹³⁰ Even after the LEAA in the past "commended the LAPD's minority recruitment program as a model for others. The 7400 member police force includes 411 black men and 16 black women, 631

Edward M. Davis claimed that Richard Velde threatened that if the city refused to accept the LEAA's guidelines for hiring, the federal government would retaliate. Davis informed the city council that Velde, "told me that if you dump us and send the money back... you'll have about thirty minutes of protection because we'll have the general revenue-sharing people from the Treasury Department down on you. And then if that doesn't go, in another fifteen minutes we'll get the Office of Civil Rights Compliance of the Department of Justice on you."¹³¹ Under the LEAA's "quota demands," Davis complained that black Americans, women, American Indians, and other minorities would eventually comprise fifty five percent of the department. "LEAA probably has reached the position where it should be abolished," Davis remarked to a reporter, "For one percent of your budget, they become your personnel department and run your organization."¹³² Opposition helps to explain why the LEAA seemed ambivalent about its own stated commitment to minority representation in law enforcement.

The equal opportunity issue might have achieved greater salience for the LEAA had it included nonwhite Americans in its policymaking. The agency itself had only eighty-seven black and three Latino Americans on a staff of 466. Only nine of its black employees, one Latino, and one Native American occupied high-level positions.¹³³

Hispanic men and five Hispanic women, 50 Oriental men and one Oriental woman, plus 10 Indians, and 132 Caucasian females. A number of minority policemen hold high ranks." Sid Bernstein, "L.A. Near Break With Federal Agency," *Los Angeles Times* 5 Jun 1976, OC8; Crime and Empire Building," *Wall Street Journal*, 1 Sep 1976, 10.

¹³¹ Bernstein, "L.A. Near Break."

¹³² *ibid.*

¹³³ Some states also maintained virtually lily-white criminal justice planning boards. There was not a single black representative in the State Planning Agencies of South Carolina, Alabama, and Georgia. Earl Nelson, "Legislators map strategy on aid," *Chicago Daily Defender*, 18 Sep 1972, 1; "Job Equality" *Call and Post*, 24 Jun 1972, 9B; "Blacks Have Little Impact Or Input on Drug Programs," *Call and Post*, 3 Feb 1973, 20A.

The problem was rampant throughout the Department of Justice and other agencies responsible for the federal crime control program. The Joint Center for Political Studies and New York Congressman Charles Rangel issued a report in 1973 that revealed that federal institutions administering drug abuse programs had a extremely low number of black Americans and minorities in “top decision-making positions, even though the problems of drug abuse have a heavy impact on these minority groups.”¹³⁴ The Special Action Office for Drug Abuse Prevention did not include any minorities in its top fifteen policymaking positions. The division of narcotic addition and drug abuse at the National Institute of Mental health had only eight black and two Latino Americans out of a staff of 149, and only one black man held a high-level position.¹³⁵

The issue of representation seemed to provide black organizations with some power over the development of the American law enforcement. The efforts of black leaders and their constituencies forced police and public agencies to hire more minorities and women to participate in decision-making. And even though the class action suits had mixed outcomes, the LEAA began to make civil rights compliance reviews in some cases before it awarded grants. Between October 1973 and June 1974, the agency reviewed some seventy-three criminal justice proposals, requiring twenty-one recipients to meet equal hiring criteria.¹³⁶ Yet for some elected officials and community organizations, this

¹³⁴ “Blacks Have Little Impact Or Input.”

¹³⁵ Even if the agency struggled to meet its own goals for diversity, the Nixon Administration worked with the LEAA to include greater numbers of black Americans and other minorities in the burgeoning college programs that supported careers in criminal justice. With a \$751,000 grant for an eighteen-month pilot project at nine historically black colleges and universities, the Nixon Administration hoped to swell the numbers of minorities in criminal justice careers. Thomas Johnson “Racial Bias is Laid To Justice Systems in Crime Prevention,” *New York Times*, 10 Jul 1976, 19.

¹³⁶ Johnson “Racial Bias.”

was not enough. They hoped to formulate a collective response to the new punitive programs the federal government implemented that targeted low-income black Americans.

IV. Black on Black Crime Control

A larger transition within black politics occurred after the civil rights movement. As COINTELPRO and internal ideological debates crippled many promising social justice movements, black activists invested in the electoral system and economic development by the mid-1970s. Instead of pressuring the federal government to approach the problem of crime through job programs, rehabilitation, and improved community-relations, the most vocal response amongst established black organizations stressed reform in the already existing law enforcement system. While the black press and political leaders often viewed crime as the consequence of larger structural issues and did not share the pathological conclusions of many policymakers, black politicians retreated from new approaches to law enforcement and instead looked inward to discuss violence within the community. Grassroots efforts in New York, Philadelphia, New Orleans, Memphis, Buffalo, Washington, and Chicago mobilized to address the issue of what black elected officials deemed “black-on-black genocide.”¹³⁷

Seeking to take some of the federal crime fighting capacity outside of the LEAA and foster greater accountability between police departments and the segregated low-income neighborhoods they patrolled, Detroit’s John Conyers, the Chairman of the Subcommittee on Crime of the House Judiciary Committee, introduced legislation to

¹³⁷ Charlayne Hunter, “Blacks Are Developing Programs to Fight Crime in Communities,” *New York Times*, 23 Feb 1976, 14.

authorize the Community Relations Service of the Department of Justice to “provide anti-crime assistance grants for the purpose of improving community relations with the criminal justice system and increasing the level of citizen involvement and cooperation with local governments in crime prevention efforts.”¹³⁸ Conyers’ effort to link private industry, business and labor to larger citizen-based anticrime efforts was in line with the federal shift towards privatization of community-based crime prevention and rehabilitation programs. But he criticized the LEAA on the floor of the House, charging that the agency, “is not structured to provide the kind of assistance necessary to improve community relations in the criminal justice system... Very little LEAA money and resources have been directed to the critical area of improving community relations with the criminal justice system.”¹³⁹ By the mid-1970s, policymakers and key civil rights and law enforcement organizations could recognize the LEAA suffered from an unbalanced commitment to hardware and technology and failed to dedicate sufficient resources to solving some of the fundamental issues, such as police brutality and arbitrary detainment, that resulted from the increase of police patrol in low-income communities of color.

Other black leaders throughout the United States mobilized in response to the immediate impact of crime in their communities. A national study released in 1976 found that young black men were both the most common perpetrators and victims of crime. As Executive Director of the Urban League Vernon Jordan pointed out: “Black people constantly rank crime in their community amongst their most serious concerns.”¹⁴⁰ The

¹³⁸ Quoted in “Conyers Introduces Community Anti-Crime Assistance Measure,” *Atlanta Daily World*, 20 Jul 1973, 8.

¹³⁹ *ibid.*

¹⁴⁰ Quoted in “Safer Black Neighborhoods,” *New York Times*, 8 Nov 1976, 30.

United Church of Christ's Commission for Racial Justice sponsored a two-day series of workshops in Washington, DC in October 1974, representing one of the first attempts by black leaders to design a national strategy to fight crime. "For years we have shied away from the problem for fear of being accused of joining the establishment," said Charles E. Cobb, the executive director of the Commission, "But we are here this weekend to work on the problem."¹⁴¹ Most of the meetings and critiques ultimately reinforced the conclusions of the Department of Justice and the White House: that the federal government needed to stimulate minority participation in law enforcement professions. For black leaders, representation would balance the disproportionate expansion of crime control in black communities.

The federal government strongly resisted funding black grassroots organizations that sought to direct and control anti-crime programs. The Urban Coalition charged as early as the summer of 1969 that the LEAA did not involve minorities in planning federal law enforcement programs, but with no result. Nevertheless, black groups started to operate their own projects without government funding, ranging from educational videos to "big brother" counseling programs. In Chicago, residents of the Robert Taylor Homes signed a compact not to buy stolen goods.¹⁴² The city's Woodlawn Organization acted as a liaison between residents and the police department through its "block watcher program."¹⁴³ Chicago's Metropolitan Anti-Crime Coalition also produced a number of videos for community groups instructing citizens on how to cope with various crimes.

¹⁴¹ Shawn G. Kennedy "Blacks Seek Solution."

¹⁴² Hunter, "Blacks Are Developing."

¹⁴³ *ibid.*

Jesse Jackson's Operation PUSH started a campaign in Chicago that sought to involve parents and children in the problem of school discipline through catchy slogans like "Get off the dope, get on hope."¹⁴⁴

In Memphis, the NAACP used its own funds and worked with the black policemen's association to mentor two hundred young men in female-headed households. In New Orleans, the Dixon Research Center did receive federal funds in its attempt to reduce "black on black" crime through education and research, relying upon consciousness-raising workshops and audiovisual presentations. It employed twelve teenage volunteers to patrol the construction site of a new Treme Community Center for three hours a day in order to prevent vandalism.¹⁴⁵ In Buggalo, Louisiana, the "We Care Committee" brought fifty black men and women representing twenty-two public and private social and government agencies to counsel black youth in a "big brother" program. Finally, the *New York Amsterdam News* launched a War on Crime of its own, emphasizing maximum involvement by black citizens.¹⁴⁶

National black political organizations, however, grew increasingly vocal about race-based exclusion from planning and participating in crime control projects. In July 1976, a group of black criminologists charged at the Urban League's national symposium, "Black Perspectives on Crime and the Criminal Justice System," that "predominately white interest groups in the criminal justice system... had deliberately

¹⁴⁴ *ibid.*

¹⁴⁵ *ibid.*

¹⁴⁶ *ibid.*

kept blacks out of crime prevention projects.”¹⁴⁷ Robert L. Woodson, Director of the League’s Justice Division, summarized the group’s views: “the continuing experience finds the efforts of blacks to play an active role in programs to control and prevent crime are greeted with cold indifference, limited technical and funding support and, on too many occasions open and hostile resistance. . . . How strange it is that the war on crime has been one of the few battles in our nation’s history in which the black community has not been enlisted.”¹⁴⁸ Woodson had a point: while LEAA studies revealed that black Americans fell victim to crime at a much higher rate than their white counterparts, they were not involved in the development of critical crime control policy within federal, state, and local law enforcement institutions.¹⁴⁹

Both the National Urban Coalition and the Urban League pressed federal and state government to give black Americans a greater voice in the development of crime control programs. “Blacks resent the suggestion that either they have been covering up for criminals or that they have been afraid to look at the problem,” said the first black President of the National Urban Coalition, Carl Holman, “It has not been the minorities who have had control of the machinery to deal with crime.”¹⁵⁰ Woodson continued: “None of the current research on black crime is being done by blacks. . . . And part of that has to do with the fact that the LEAA has only one black in a policy-making position.”¹⁵¹

¹⁴⁷ Quoted in Thomas Johnson “Racial Bias is Laid To Justice Systems in Crime Prevention,” *New York Times*, 10 Jul 1976, 19.

¹⁴⁸ Quoted in *ibid.*

¹⁴⁹ *ibid.*

¹⁵⁰ Quoted in Hunter, “Blacks Are Developing.”

¹⁵¹ *ibid.*

In response to these and other charges, in 1976, the LEAA established a Minority Advisory Council on Criminal Justice composed of nine black Americans, two Mexican Americans, a Native American, a Puerto Rican, a Cuban, an Asian American, and four women.¹⁵² As Velde proclaimed: “The council represents a cross section of minority and female viewpoints with firm backgrounds in the criminal justice system.”¹⁵³ The fifteen member council advised the LEAA on problems specific to the recruitment of women and minorities in state and local criminal justice institutions, but its efforts did not fundamentally alter the exclusion of nonwhite Americans from top law enforcement policy-making positions.

Frustrated by the lack of black influence on federal punitive measures, the Urban League launched a national program of its own to coordinate community-based efforts in 1976. Launched with a grant from the Carnegie cooperation, the project was spearheaded by Woodson, who concentrated the League’s efforts on an education program and a national data bank “so that the League can serve as a clearing house for services to citizen crime fighting units.”¹⁵⁴ By 1976, the League’s crime control program operated in ten cities and had recruited 12,025 black and Hispanic Americans and provided them free preparation for the necessary civil service exams. The League successfully placed 5,159 minority recruits in law enforcement positions in various cities.¹⁵⁵ In addition, Woodson launched a pilot demonstration project in Chester, Pennsylvania, an industrial community

¹⁵² The members included Irv Jaycee, of the Commission For Racial Justice, Lennox Hinds, executive director of the National Conference of Black Lawyers and *Chicago Defender* editor Ethel Payne. “LEAA appoints advisory council,” *Afro-American*, 24 Jul 1976, 20.

¹⁵³ *ibid.*

¹⁵⁴ Ethel Payne, “League Fights Crime,” *New Pittsburgh Courier*, 17 Apr 1976, 6.

¹⁵⁵ *ibid.*

thirteen miles from Philadelphia with one of the highest crime rates in the nation and three times that of its Metropolitan neighbor. By establishing a model to deal with family disputes and neighborhood conflicts—said to account for some fifty percent of all homicides and in the arrest and incarceration of many perpetrators—the program brought League volunteers into homes and neighborhoods to resolve disputes through mediation. The early success of the program compelled the League to move to plan for its expansion.¹⁵⁶

Residents of communities facing increased patrol, as well as the black left and nationalists, observed new law enforcement programs unfold in black urban centers with a careful eye, sometimes adding to “law and order” hysteria and sometimes forcefully critiquing the LEAA and local police departments. In Philadelphia, the *New York Times* reported that the census could not take accurate statistics in black neighborhoods because “ghetto residents believe that the information is being gathered as part of a plan to exterminate Negroes.” Appearing on the public broadcasting show “Black Journal” in Atlanta, *Newsweek*’s Washington correspondent Samuel F. Yette contended that the LEAA “is right now building what they call regional detention facilities which, in fact, are concentration camps in virtually every state and country.” On PBS’s “Check it Out” show, Muhammad Kenyatta, Daoud Fattah, and Rev Wycliff Jangdharrie pointed out that “every time hell is raised about the cops, they wind up getting more money—your tax dollars.”¹⁵⁷ In Philadelphia, syndicated columnist Pamela Haynes wrote that the city’s police force, “has been stimulated to do its own thing in the Black community... It wants

¹⁵⁶ Payne “League Fights.”

¹⁵⁷ “Black People May Face Extermination in America,” *Atlanta Daily World*, 24 Oct 1971, 12.

law and order when it applies to ‘those people’ only. When the law orders the Philadelphia Police Department to obey the law, that’s a different story.” Despite these criticisms, the statistics indicated an increasing crime rate, and federal crime control resources rose accordingly.¹⁵⁸

The fact that ten years of federal law enforcement programs and hundreds of millions of federal funds allocated to construct the law enforcement apparatus had resulted in a marked increase in crime rates brought the entire war on crime into question. Atlanta public safety director Reginald Eaves charged that the lack of concrete results reflected the fact that the federal government had, “no commitment to reducing crime.”¹⁵⁹ The *Wall Street Journal* criticized the LEAA’s apparent concern with “sociological matters,” arguing that the agency, “was created as a direct federal response to public concern about crime—not about minority recruitment...”¹⁶⁰ The task of revolutionizing American law enforcement within the confines of New Federalism and block grants kept the agency from operating with a clear and well-executed focus. While the LEAA would continue to consult with state planning agencies throughout the remainder of the decade, the federal government under Gerald Ford’s administration would move beyond the LEAA to modify existing criminal law. If the federal law enforcement bureaucracy struggled to shape the national law enforcement apparatus as federal policymakers originally hoped, they could enact reforms that would eventually

¹⁵⁸ John Kifner, “Ominous Threat in Attacks on the Police,” Sep 6 1970; Pamela Haynes, “Right On!” *Philadelphia Tribune*, Aug 19, 1972, 9.

¹⁵⁹ Johnson “Racial Bias.”

¹⁶⁰ “Crime and Empire Building,” *Wall Street Journal*, 1 Sep 1976, 10.

bring violent offenders and those identified as potential violent offenders under state supervision.

IV. “Got Ya Again”

Even with the widespread community outrage and harmful media coverage tactical plainclothes squads received, the federal government continued to fund decoy operations. But it shifted support from police patrol to police sting operations that made mass arrests possible.¹⁶¹ In the spring of 1976, the LEAA granted police departments in New York, Washington, and Chicago money to purchase stolen goods and set up warehouses to fence the black market merchandise. Like STRESS, the practice of fencing came dangerously close to entrapment. The stings, carefully orchestrated by law enforcement officials at the federal, state, and local levels, baited criminals or would be criminals. Although the federal government helped launch these projects in the name of attacking organized crime, they quickly evolved into an attack on black petty thieves.

The Washington, DC police department conducted the most elaborate and contrived sting effort ever staged in any metropolitan city. Beginning in the fall of 1975, police officers posing as Mafia “dons” sold 2.5 million dollars in stolen property to hundreds low-income black residents in DC for a five month period.¹⁶² Working with the FBI, the Treasury Department’s Bureau of Alcohol, Tobacco, and Firearms, and the LEAA, the project, called “Operation Sting,” succeeded in its intended goal: to incarcerate hundreds of low-income crooks. The effort culminated in a huge party thrown

¹⁶¹ G.R. Newman, “Sting Operations,” *Problem Oriented Guide for Police Response Guides Series Community Oriented Policy Services*, United States Department of Justice No. 6, 2007, 1.

¹⁶² Ben A. Franklin, “Police ‘Part’ Is a Trap for 60 Thieves,” *New York Times*, 8 Mar 1976, 18.

by the police department and the FBI posing as New York Mobsters. The undercover agents encouraged the mostly black fencers to attend and spread the word about the event, held in a warehouse near Langdon Park in the northeast side of the District. At the party, the participants (referred to as “street hoodlums” by the law enforcement officials) had the opportunity to sell stolen typewriters, adding machines, radios, television sets, and government checks to a major New York City-based “don.”¹⁶³

For the police officers themselves, the ornate acting involved in Operation Sting offered a welcome break from routine beat work. “We played a game with them,” one of the detectives remarked, “We were romance, the mob, the greatest thing that ever happened to them.”¹⁶⁴ Lieutenant Robert Arscott echoed this sentiment, commenting of the crooks: “They thought they were in Hollywood.”¹⁶⁵ The undercover police officers and FBI agents who participated all gave themselves Italian names, straight out of the recent *Godfather* films: such as “Angelo Lasagna,” “Rico Rigatone,” “Pasquale Larocca,” “Tony Bonano,” “Mike Franzino” and “Bohana LaFontaine.”

After the “mobsters” arrived at the party in a fleet of limousines, a hidden video camera in the warehouse recorded all of the transactions in order to arrest every individual who brought fenced merchandise. The *New York Times* reported, “The operation was conceived by the police as the easiest way to draw the string on their net and make tidy arrests.”¹⁶⁶ And arrest they did: almost immediately, the mobsters slapped

¹⁶³ The warehouse was located at 2254 25th Place, NE. Ruth Jenkins, ‘The Sting II: ‘Got Ya Again’ police trick gets ‘fencers,’” *Baltimore Afro-American*, 17 Jul 1976, 15.

¹⁶⁴ Ben A. Franklin, “Police ‘Part’ Is a Trap for 60 Thieves,” *New York Times*, 8 Mar 1976, 18.

¹⁶⁵ *ibid.*

¹⁶⁶ *ibid.*

handcuffs on sixty of the thieves, and later issued warrants for more than fifty others caught on camera. In all, two hundred offenders faced charges for their participation.¹⁶⁷ Yet the burden of the mass arrests fell on the city jail and the criminal court docket, already overcrowded from the court reorganization plan and preventative detention practices the Nixon administration had implemented in the District. Residents in DC also expressed outrage at the stereotypical Italian characterizations the law enforcement officers portrayed and wrote letters to Police Chief Maurice J. Cullinane. In response, the officer posing as Pasquale LaRocca thanked “the Italian-Americans for the use of their mythology,” and insisted the police did not act in an ethnically insensitive manner. “We meant no harm, except to the thieves,” he assured the public.¹⁶⁸

Federal law enforcement institutions and the DC police department found Operation Sting to be so successful that they planned and funded another fencing event that summer called “Got Ya Again.” This time, police officers posed as “customers,” eager to buy goods in a bogus fencing operation. Instead of the ethnically insensitive Mafia front, the officers courted the thieves and potential thieves by operating under a fake company name called PFF Inc, or “Police-FBI Fencing Incognito.”¹⁶⁹ FBI Agent Charles E. Harrison handled most of the goods, which included more than 1,500 stolen credit cards, welfare checks, negotiable papers, and personal household items like stereos, televisions, radios, and cameras. The police and FBI also managed to recover

¹⁶⁷ *ibid.*

¹⁶⁸ Ruth Jenkins, “The Sting II.”

¹⁶⁹ *ibid.*

seventy-one guns.¹⁷⁰ A more expansive effort than the previous sting, “Operation Got Ya Again” involved police departments in Prince George County, Alexandria, and Montgomery County; as well as the FBI, the US Attorney’s Office, Alcohol, Tobacco, and Firearms, the General Service Administration, and the US Secret Service. Police believed that half of the 141 suspects were repeat offenders, many of whom were out on bail, and many of whom had also participated in Operation Sting.¹⁷¹

Even though its proximity to major federal law enforcement centers rendered DC an opportune site for such elaborate schemes, the federal government supported local fencing operations across the United States. Police in Atlanta bought nineteen cars, six trucks, and 1,700 stolen items with sixty-four thousand dollars in federal funds. The effort led to the arrest of one hundred thieves, who sold the fences roughly 1.5 million dollars worth of stolen merchandise, or about two-thirds of the one hundred thousand dollars provided by the LEAA.¹⁷²

Once the sting operations in DC received national coverage and acclaim, police departments in other cities also wanted to participate in fencing federally-financed stolen goods. “Frankly, we’ve been swamped with requests,” LEAA Administrator Richard Velde said in a press release shortly after Operation Sting, “and we would like to do even more if we could get the money.”¹⁷³ Yet when reports of the fencing operations hit national newspapers, many others objected to the controversial police tactic, as they had to STRESS. The journalist Sanford J. Ungar astutely noted in a *Washington Post*

¹⁷⁰ *ibid.*

¹⁷¹ Jenkins “The Sting II.”

¹⁷² “Federal funds used break up fencing operation,” *Christian Science Monitor*, 21 Oct 1976, 14.

¹⁷³ Quoted in Sanford J. Ungar, “Tempting the Criminal,” *The Washington Post*, 26 Dec 1976, 79.

editorial: “the very existence of a major fencing operation in Washington’s inner city—be it government run or a form of free enterprise—may in effect encourage burglaries and robberies by providing a viable outlet for their proceeds. That is a hazard and a factor that must be considered before LEAA, pumped up with funds by Congress, runs off and sets up a kind of nationwide chain-store fencing network.”¹⁷⁴ With STRESS police officers in Detroit behaving as cold-hard killers in their own right, and federal agents posing as mobsters encouraging low-income residents to steal from one another, federal law enforcement programs seemed to make the problem of crime into a self-fulfilling prophecy.

While the use of urban tactical squads fizzled by the mid-1970s, the federal government continued to invest in fencing and sting operations through the Reagan administration. Stings made possible mass arrests, a tactic that enabled law enforcement officials to identify and imprison repeat offenders in an efficient manner. By the end of the 1970s, the federal government focused fencing operations on larger thefts and complex crimes as “Operation Bear Trap II” in Baltimore. Financed with a quarter of a million dollars from the LEAA, “Bear Trap II” led to the arrest of forty-seven residents on charges related to 1.5 million dollars in stolen property at the end of a seventeen month undercover investigation. Law enforcement agents set up an antique store, an auto parts store, and a brokerage firm that allowed officials to pose as fences to target career criminals. The stolen property confiscated by Baltimore police included fifty thousand dollars worth of silver from the Hampton Mansion, a National Historical Site in the city. Like Operation “Got Ya Again,” these criminals faced arrest in the context of an

¹⁷⁴ Ungar “Tempting the Criminal.”

orchestrated law enforcement spectacle, involving two hundred state, city, and county police officers as well as a host of journalists and television reporters.¹⁷⁵ In a similar operation in San Francisco in 1978, federal agents opened up what they called “The Store,” and moved 721,900 dollars worth of stolen property before arresting nearly three hundred people in a single day on charges ranging from car theft to burglary.¹⁷⁶ In Nashville, three hundred thousand dollars from the Department of Justice bankrolled “Operation Sting.” Like “Got Ya Again,” federal agents posed as Mafia fences and arrested one hundred people in a matter of hours and obtained warrants for two hundred more.¹⁷⁷

With the LEAA allocating eight million dollars for federal, state and local joint sting operations in 1978, it is not surprising that police departments from Penobscot County, Maine to Norfolk, Virginia welcomed the opportunity to hone their acting skills and make sweeping arrests. The Los Angeles County sheriff’s department received the largest federal grant for a major sting, called “Operation Tarpit,” whereby thirty three deputies and FBI agents set up fake storefronts at seven locations. Once the local police had established a formidable underground economy for nearly two years, they had gathered forty-two million in stolen property with nearly half a million dollars in buy money.¹⁷⁸ In the four years after the “Got Ya” test-case in Washington, DC, police went

¹⁷⁵ Sandy Banisky, “ ‘Bear Trap II’ snares 47 in stolen-goods ruse,” *The Baltimore Sun*, 27 Nov 1979, A1.

¹⁷⁶ “Sting” Operation Thrives in Eight Months With Aid of Thieves, Burglars,” *New Journal and Guide*, 11 Aug 1978, 11.

¹⁷⁷ “100 Seized, More Arrest Expected in ‘Operation Sting’ in Nashville,” *New York Times*, Nov 10, 1977, 33.

¹⁷⁸ “Sting” Operation Thrives.”

on to issue arrest warrants for a total of 4,222 people on 6,817 separate charges and recovered 114 million dollars in stolen property. The LEAA was particularly enthusiastic about the operations because of the ninety-eight percent conviction rate for sting-related charges, and the high percentage of guilty pleas many defendants accepted.¹⁷⁹

The reliance on decoy, fencing, and sting operations to identify, arrest, and incarcerate potential criminals evolved into a key tactic in the War on Crime. In effect, federal, state, and law enforcement literally invested into criminal enterprise and created crime markets in order to fight crime. By manufacturing crime, local police departments were able to make mass arrests. From the mid-1970s onwards, this tactic was critical to the engine of mass incarceration.

V. Defensible Space

As municipal governments managed the millions they received from the White House to launch the High Impact program, and tactical squads roamed the streets of the nation's inner cities, top law enforcement and domestic program officials moved away from police-community relations as a crime reduction tactic and focused on developing surveillance and patrol methods for low-income housing projects. With crime control as a top domestic priority and an issue of national security, the federal government invested millions of dollars in crime prevention research that would offer a punitive solution to the urban crisis. An LEAA-funded study found that in New York City, a massive high-rise project and a modest six-story unit across the street from one another and virtually identical in size, population density, and social demographics experienced markedly

¹⁷⁹ *ibid.*

different levels of violence: the high rise had a fifty six percent higher crime rate than the project across the street.¹⁸⁰ The federal government worked with local and state law enforcement and housing agencies under the assumption that the design of housing projects encouraged residents to resort to crime. The research justified the expansion of the law enforcement institutions into public housing, targeting low-income black Americans in the process. The architectural designs the Nixon Administration funded to create what planners and policymakers called “defensible space” laid the groundwork for the integration of urban policy and punitive policy in the last decades of the twentieth century. The construction of barriers, walls, and gates helped to create a carceral climate in areas of segregated poverty that extended the bounds of correctional institutions themselves.

Policymakers and the scholars they consulted frequently treated the urban crisis as inevitable, a condition bound to continue for decades given the reality of deindustrialization, middle-class flight to the suburbs, and eroding municipal tax bases that left many cities unable to maintain public services. Rather than pursuing major socio-economic changes that addressed unemployment, failing schools, and the decline of social programs, the White House and Congress concluded that government reform was incapable of eliminating slums or preventing chronic poverty and chose to manage the problem through crime control programs. Nixon officials and LEAA administrators frequently cited Edward Banfield in their internal correspondence on crime control and

¹⁸⁰ “Crime Fight Study Turns to New Field,” *Los Angeles Times*, 22 Mar 1973, L12.

urban crisis, and his work best expresses this view.¹⁸¹ “The presence of large concentrations of people who have relatively little education and income accounts for—perhaps I should say constitutes—the so-called urban crisis,” Banfield wrote in *Daedalus* in 1968, “Most of these people are black.”¹⁸² And while Banfield recognized, “it is the presence of a large lower class, not of Negroes as such, that is the real source of the trouble,” the assumptions his analysis contained about racial pathology influenced housing legislation and law enforcement programs as they hit the ground during Nixon’s first term.¹⁸³

Nixon, and later, Ford officials supported research and endorsed the concept of “defensible space” as a means to improve surveillance and security in segregated neighborhoods while addressing urban architectural problems. Assuming that major residential developments bred crime, defensible space was, as Ford aide Malcolm Barr would come to define it, “anchored in the belief that opportunities for and fear of crime can be substantially reduced through design approaches that utilize the natural setting to increase social cohesion and territoriality and to discourage entry and escape by intruders.” Defensible space presented the federal government “an approach to facilitate physical and social integration.”¹⁸⁴ Here, “social integration” meant the entrance of law

¹⁸¹ For instance, Banfield’s work is discussed at length in “Planning Assistance: Problems and Implications” Law Enforcement Assistance Administration, Box 37 Office of Law Enforcement Programs (Gen) 1970.

¹⁸² Banfield in *Daedalus* 1968 1232. See also Banfield *The Unheavenly City* (1970).

¹⁸³ Banfield in *Daedalus*, 1968.

¹⁸⁴ 5-15-75 Memorandum to Jonathan Rose, Douglas Marvin, Jack Fuller from Malcolm Barr, Director Office of Public Relations Subj: Draft Papers for Consideration in Preparation of the Presidential Crime Message,” Ford Library, Parsons Collection Box 3 “Crime Message of 6-19-75—Action Memoranda May 1-8 1975.”

enforcement institutions, technologies, and offices into the neighborhoods and living spaces of public housing residents.

Beginning in March 1973, the Nixon administration moved to finance research into “defensible space” as an “attempt to reduce so-called crimes of opportunity such as muggings and rapes in dark alleys and armed robberies in subways.”¹⁸⁵ The LEAA invested two million dollars into a major new national crime prevention program centered on the idea. The movement relied on architects to design buildings, public schools, street patterns, and public transportation elements that would lead to safer living conditions. The description of the program opened itself to broad implementation, but the federal government targeted the new, radical architectural schemes on two cities with reportedly high crime rates.¹⁸⁶ Not surprisingly, the turn towards street lighting—already underway in the majority of High Impact Cities and experimental law enforcement centers like Washington, DC and Los Angeles—fit into the concept’s general purpose, that is “the elimination of physical conditions that encourage crimes of opportunity.”¹⁸⁷ The federal government opted to get a better sense of who engaged in these crimes than in the socio-economic factors that bred these conditions.

The LEAA’s National Institute for Criminal Justice Planning conducted a major study meant to buttress the federal government’s defensible space program by examining crime in housing projects. Backed by more than 150,000 dollars in grants from the LEAA and the Department of Housing and Urban Development, New York City-based architect

¹⁸⁵ “Crime Fight Study Turns to New Field,” *Los Angeles Times*, 22 Mar 1973, L12.

¹⁸⁶ *ibid.*

¹⁸⁷ *ibid.*

Oscar Newman investigated a number of sites in order to assist other architects and city planners. Newman concluded that a rising generation of young delinquents in housing projects preyed on their elderly neighbors and suggested that future housing plans offer separate facilities for older Americans. Newman found youth primarily responsible for theft and vandalism in housing projects because it was easier to “engage in burglary, muggings, and mailbox theft among neighbors rather than more sophisticated white-collar crimes.”¹⁸⁸ Newman’s solution involved replacing high-rise projects with smaller enclaves of defensible space that would allow residents to monitor and control their immediate environments.¹⁸⁹ Ultimately, Newman’s study found that defensible space, as a concept, would only work if families who lived in housing projects shared similar social backgrounds. Newman argued that federal urban developers working in the mid-twentieth century had designed housing projects to combine retired, older Americans with young families, but “the results backfired and fostered criminal tendencies among the low-income young.”¹⁹⁰ While the housing projects were originally conceived under “a vision of the new contemporary man no longer tied to his own individual hearth and garden,” Newman’s report found that by the mid-1970s, the effect of the environment was to “produce crime, fear, and decay instead of freedom.”¹⁹¹ As a remedy, defensible space did little to change rates of crime and violence in high-rise projects, but it provided the federal government a means to fund law enforcement programs and research that

¹⁸⁸ Quoted in “Aged Mixed with young blamed for project crime,” *Chicago Tribune*, 19 Jul 1976, 5.

¹⁸⁹ “Architects Scored on Housing Projects,” *New York Times*, 19 Jul 1976, 31.

¹⁹⁰ “Utopian’ Projects Fail by Design,” *The Washington Post*, 24 Jul 1976, D1.

¹⁹¹ *ibid.*

would allow local police departments to better monitor segregated low-income Americans.

With Newman and other urban planners set out to create “defensible space” in low-income neighborhoods, in the final months of Nixon’s presidency, federal, state, and local law enforcement and housing institutions in Atlanta worked together to reduce “stranger-to-stranger” crimes by hastening police response time. The LEAA awarded Atlanta Model Cities and the local police department nearly half a million dollars to add fifteen patrol policemen to the federal housing project and operate two storefront police offices.¹⁹² In Pittsburgh, the local police department, the Housing Authority, the State Criminal Justice Planning Commission, and the Tenant’s Organization collaborated to operate a special Housing security force comprised of fifty patrolmen operating in ten high-rise apartment buildings. Initially, Housing Authority director Churchill Kohlman wanted to install surveillance cameras throughout the housing authority, and conceived of the security force as an eighty-five man team. Strong tenant opposition to these measures successfully stalled their implementation. Kohlman stepped down from his position, and the end product designed by the Housing Authority responded to residents’ concerns by adding community service officers to the force and giving the tenants representation in its decision-making.¹⁹³

The final plan, funded largely through an LEAA grant, called for only fifty guards with limited gun carrying powers and eighteen community service officers to function as

¹⁹² “\$450,000 Grant to Boost Policing of Low Income Areas” *Atlanta Daily World*, 25 Jun 1974, 1.

¹⁹³ “Housing Force in Operation” *New Pittsburgh Courier*, 6 Apr 1974, 1.

liaisons between the tenants and the security force as well as the police department.¹⁹⁴ While the security guards operated only in senior citizen homes, the Housing Authority installed closed circuit televisions in every housing project in Pittsburgh.¹⁹⁵ The service officer position, also part of the collaborative program in Atlanta Model Cities, offered tenants a new prospect for steady employment (the positions each paid \$8,000 a year). Still, the “number one priority” of the force was to guard federal housing in urban centers by preventing vandalism and destruction of property.¹⁹⁶ While these gestures may have addressed some of the concerns of the Metropolitan Tenant’s Organization, the additional officers only further entrenched a punitive presence in the city’s Housing Projects in the name of community relations.

In addition to state agencies, the LEAA also relied upon the private sector to help it better monitor low-income citizens. The agency’s largest competitive private contract went to Westinghouse Corporation of Baltimore’s program to “reduce crime in homes, schools, business and transportation through environmental design” at a cost of two million dollars.¹⁹⁷ As part of the larger aim of the LEAA to reduce crime by redesigning segregated neighborhoods, Charles Work, a Deputy Administrator for the LEAA, described the agency’s rationale for funding the private contract. “In many communities the environment is custom-made for crime. Streets are often poorly lighted and deserted, doors and windows can be easily entered, and bus and subway stops offer natural lurking

¹⁹⁴ *ibid.*

¹⁹⁵ “Revised Housing Authority Security Force OKed,” *New Pittsburgh Courier*, 29 Dec 1973, 29.

¹⁹⁶ “Housing Force in Operation.”

¹⁹⁷ “LEAA puts \$2 million for new anti-crime plans,” *Baltimore Afro-American*, 25 May 1974, 5.

places for the criminal.”¹⁹⁸ Westinghouse would create a “model environmental design” for homes, schools, transportation systems, and commercial centers to reduce burglary and robbery to ease the violent consequences of urban crisis in Baltimore.¹⁹⁹ These and other measures intended to create “defensible space” in areas identified statistically as “high crime” made it easier for law enforcement authorities to patrol and monitor residents, but did not improve the violent social conditions many communities confronted.

As federal policy and ever-more punitive initiatives at the state level disproportionately targeted low-income urban neighborhoods, black Americans emerged as the victims on two fronts: by one another and by state forces. In conjunction with the census bureau, the LEAA conducted a major survey to ascertain a more nuanced portrait of crime and violence in America than FBI statistics could provide. The survey revealed that poverty correlated to crime more directly than race, as both white and black families who earned less than 7,500 dollars annually suffered from violent victimization at a

¹⁹⁸ Work quoted in *ibid.*

¹⁹⁹ The effort to increase the use of private and public police forces in housing projects coincided with a restructuring of the Department of Housing and Urban Development. In 1973, under the direction of George Romney, the Department cut its staff by twelve percent, resulting in the loss of sixteen thousand jobs. The federal government also placed a freeze on federally subsidized housing and a halt to all new urban renewal projects. With the LEAA spearheading the Safe Streets Act’s block grant and Nixon’s New Federalism program, the White House structured Housing and Urban development upon a similar model, merging seven of the departments programs (urban renewal, water and sewer grants, Model Cities, parks, public facility loans, rehabilitation loans, and neighborhood facilities) into the Urban Community Department Revenue Sharing program in mid-1974, permitting states to decide how to spend federal monies for housing serving low-income Americans. “Nixon Proposes Sharp Cutbacks in Some Federal Programs,” *The Washington Post* 30 Jan 1973, A7. The Office of Economic Opportunity experienced a similar phase out in beginning in the spring of 1973. Like their counterparts in the federal housing agency, seven hundred OEO employees lost their jobs and the Office’s regional bodies closed as policymakers increasingly felt that the Office was a waste—even as criticism of the LEAA’s misuse and mismanagement of federal funds grew increasingly vocal. Jules Witcover, “OEO to Close Regional Unites in April,” *The Washington Post*, 13 Mar 1973, A1.

higher rate than the rest of the nation.²⁰⁰ Yet black males were victimized at alarming rates: eighty-five of every hundred black males experienced violent crime, while seventy-two of every thousand white males had been victimized.²⁰¹ Given the special attention young black men received from Congress, the LEAA, and the White House, the fact that by the mid 1970s, young black men were more likely to be victimized than any other group of Americans is not surprising.²⁰² For the remainder of the decade, after the Ford Administration revitalized the nation's juvenile justice system and imposed handgun sanctions, rates of victimization as well as arrests and incarceration reached historic levels.

VI. To Ensure Domestic Tranquility

The contradiction between Nixon's pursuit of law and order and the lawlessness and criminal behavior rampant in his own administration finally ended his political career in August 1974, when the House Judiciary committee voted to impeach the president for obstruction of justice. Key figures in the federal crime control program, including Attorney General John Mitchell and domestic council John Ehrlichman, served time in the criminal justice system they had labored to modernize while in their Washington offices. Gerald Ford, who served as House Minority Leader when the Safe Streets Act passed and mobilized the Republican Party and Southern Democrats to insist that the first federal law enforcement program include block grants, stepped into office and selected Nelson Rockefeller as his Vice President. A strong proponent of crime control,

²⁰⁰ "The Cost of Being Poor," *Call and Post*, 8 mar 1975, 2b.

²⁰¹ *ibid.*

²⁰² The figures were based on LEAA's 1973 \$12 million poll of 60,000 households and 15,000 businesses. "Young blacks lead as victims of personal crime," *The Sun*, 13 Aug 1975, A6.

Rockefeller took office on the heels of signing the extremely punitive Rockefeller Drug Laws in his home state of New York.

Like Nixon, Ford was a staunch New Federalist who advocated small government in all things, except for law enforcement. The 1975 reauthorization of the LEAA included a “High Crime Program” based on the War on Poverty categorical grant structure. Ford’s Attorney General Edward Levi proposed a supplemental block grant program, modeled on the High Impact Program, that could draw on the discretionary law enforcement budget to offer cities and counties with high crime rates additional federal assistance.²⁰³ Unlike High Impact, however, the special High Crime Program would channel funds into major metropolitan centers like Detroit, Philadelphia, Chicago, and Los Angeles. It aimed to “assure that areas with high crime rates received additional funds for programs specifically designed to address those ‘crime of fear’ most prevalent in highly urbanized areas,” as James T. Lynn informed to President Ford.²⁰⁴ This would, in effect, create a categorical grant program for localities with significant low-income populations living in segregation.²⁰⁵

It took ten years for a critical mass of policymakers, including the conservatives who refused to include categorical grants in the first federal crime control legislation, to embrace the grant structure Johnson originally intended for the Safe Streets Act. While the Nixon Administration developed the High Impact program in part because White

²⁰³ 24 May 1975 Memorandum for the President from James T. Lynn Subj “Reauthorization of the Law Enforcement Assistance Administration,” Ford Library, Parsons files Box 10 “LEAA- Reauthorization Bill Jan-April 1975.”

²⁰⁴ *ibid.*

²⁰⁵ Memorandum for the President from Jim Cannon n.d. Subj “Reauthorization of the Law Enforcement Assistance Administration,” Ford Library, Parsons files Box 10 “LEAA- Reauthorization Bill Jan-April 1975.”

House aides knew that pumping federal funds into the inner-city for punitive purposes had electoral benefits, the turn towards categorical grants carried forward Johnson's desire to foster strong crime control partnerships between federal and local governments. Jim Cannon, the Executive Director of Ford's Domestic Council, wanted to use half of the block grants for the high crime program. This, as Cannon wrote to Ford, "would give added vitality to your expressed interest in reducing 'street crime' and would not require the expenditure of new monies."²⁰⁶ As Congress imposed greater restrictions on how states and cities could spend crime control funds, the Advisory Commission of Intergovernmental Relations also embraced the Johnson model, suggesting that the agency make direct grants to large cities rather than channeling resources through state governments.²⁰⁷

The shift towards more centralized control of the LEAA by the Attorney General reflected the general tendency to shift the agency's thrust every time it faced a Congressional reauthorization. In the first reauthorization in 1970, Nixon mandated that the corrections system receive special funds, since police hardware programs had enjoyed the great majority of federal crime control resources. As he continued Nixon's proposals for mandatory minimum sentences, Ford steered the LEAA's focus to courts. To implement the mandatory minimum program, Ford recognized that the federal government would need to stimulate more judgeships and help shorten the trial process. Common legal theory held that mandatory minimums would generate a reduction of guilty pleas and encourage greater numbers of offenders to seek trial. Thus, to

²⁰⁶ *ibid.*

²⁰⁷ Robert M. Press, "How to control anti-crime funds," *Christian Science Monitor* 19 Nov 1975, 6.

compensate for the harsher, more punitive policy Ford hoped to enact, the LEAA needed to reorient its approach towards courts, prisons, and the police. Detention facilities needed to be further developed and modernized with improved security, and even more police officers would be placed on the streets in high crime areas to apprehend repeat offenders.²⁰⁸ Ford argued that the federal government could make a major dent in the crime problem by modifying the federal code to make sentences mandatory and, consequently, punishment more certain.

In the spring and summer of 1975, as Congress debated the LEAA's reauthorization, Ford worked on his first message to Congress on Crime. White House officials wanted the president to make clear that crime "is becoming intolerably destructive of the quality of life for Americans of all regions and races."²⁰⁹ As Ford's "crime guy" Richard Parsons (one of the most prominent black officials in his Administration) observed in a memo to Cannon: "the antiquated 'law and order' rhetoric was and is empty—it sets us against one another; it invites us to be careless of our heritage of civil liberty; and, it offers no practical program suggestions."²¹⁰ Instead, Ford needed to reaffirm that the federal government would insure domestic tranquility by fostering swift and sure punishment. Policymakers increasingly blamed a small group of repeat offenders for the rising rate of crime in the nation, and Ford's program centered on sentencing restrictions, so that anyone convicted of a second felony would serve a modest minimum prison term. First offenses that involved a firearm would also carry a

²⁰⁸ "Elements of a Program;" 4-11-1975 attachment to Memo from Parsons to Cannon. Subj "Crime Program," Ford Library, Parsons Files Box 4 "Crime Message of 6/19/1975- Background materials. Feb 15- May 14 1975."

²⁰⁹ *ibid.*

²¹⁰ *ibid.*

mandatory penalty.²¹¹ If increasing street patrol and installing video cameras into public housing had failed to lower the crime rate, then perhaps focusing on repeat offenders would. Ford believed that, “the crime rate will go down if persons who habitually commit most of the predatory crimes are kept in prison for a reasonable period, if convicted, because they will then not be free to commit more crimes.”²¹²

When courts, jails and prisons became overcrowded as arrest rates soared in the aftermath of the Safe Streets Act, the tendency to release offenders early meant that convicts served only half of their sentence in many districts.²¹³ Ford officials felt this encouraged an environment that bred crime and made it profitable. “The fact seems to be that for many unskilled persons crime (with the present low risk of doing time) is in fact more profitable than selling their modest capacities for modest wages,” Parsons wrote, “in such a cost-benefit context crime, with its excitement and relatively big rewards for time and effort expended, has an unfair competitive edge over gainful employment or training (anti-poverty style) for employment. The edge must be eliminated.”²¹⁴ The Ford Administration argued that the imposition of mandatory minimums would effectively reduce discrimination in the criminal justice system, as the “horrendous sentencing discretion presently exercised by judges gives rise to differences in treatment of similar offenders which are often capricious and increasingly perceived as unfair to the point of

²¹¹ The memo read: “As it is clear that most crimes are committed by repeaters (J.Q. Wilson) there will be a reduction in the crime rate simply through incapacitation...” *ibid.* The federal government relied heavily upon the work of James Q. Wilson to justify its attack on repeat offenders.

²¹² 4-25-1975 Remarks of the President at the Yale Sesquicentennial Convocation Dinner, Yale Law School; Ford Library, Parsons Collection Box 4 ‘Crime Message of 6-19-75—Background materials Feb 15- May 14 1975.’

²¹³ “Elements of a Program.”

²¹⁴ *ibid.*

scandal.”²¹⁵ Mandatory minimums, then, seemed a means to make the criminal justice system more predictable and equitable.

Although Ford did not make his approach to the national crime control program public until he addressed Congress on June 19, 1975, roughly two months prior to the message, he delivered the keynote address at the Sesquicentennial Convocation of Yale Law School. Ford used the occasion at his alma mater to preview his crime message to Congress and to reveal his plans for federal crime control.²¹⁶ “Have we achieved on our streets and in our homes that sense of domestic tranquility so essential to the pursuit of happiness?” Ford asked his audience, “Do we provide that domestic tranquility which the Constitution seeks? If we take the crime rates as an indication, the answer has to be no.”²¹⁷ While discussing Watergate and “crime in high places” Ford pledged “to restore to the Executive Branch decency, honesty, and adherence to the law at all levels.”²¹⁸ Yet Ford vowed that, as president, he intended to focus his energy on confronting the problem of “street crime, crime that invades our neighborhoods and our homes, murders, robberies, rapes, muggings, hold-ups, break-ins—and the kind of brutal violence that makes us fearful of strangers and afraid to go out at night.”²¹⁹ Ford went on to blame the onslaught of these types of crimes on repeat offenders, “the core of the problem” from whom, “the

²¹⁵ *ibid.*

²¹⁶ After chatting with his former professor Myers McDougal, who interviewed the future president before he was admitted to Yale Law, Ford started his address just before ten pm. 4-25-1975 Remarks of the President at the Yale Sesquicentennial Convocation Dinner.

²¹⁷ *ibid.*

²¹⁸ *ibid.*

²¹⁹ *ibid.*

rest of the American people have a right to protection from their violence.”²²⁰ Ford also expressed compassion for victims of crime, “the poor, the old, the young, the disadvantaged minorities, the people who live in the most crowded parts of our cities, the most defenseless.”²²¹ By describing crime as a problem of inner-city street life, and the victims of crimes as residents of “disadvantaged” neighborhoods, Ford identified the specific location where federal law enforcement programs already had forcefully unfolded, and where they would continue to unfold during his presidency.

The bulk of Ford’s remarks at Yale law, however, focused on the chaos federal crime control programs helped to foster in the court system. Ford blamed plea bargaining for preventing many cases from actually reaching the trial stage. The problem seemed also to stem from the fact as arrests increased more the number of judges, prosecutors, and public defenders remained stable. This discrepancy created an imbalance that favored guilty pleas. Ford cited a recent LEAA-funded report that revealed that in New York, half of those convicted of felonies received no detention time. Of the other half of convicted felons, only one-fifth received a sentence of more than a year of imprisonment. “I am urging that virtually all of those convicted of a violent crime should be sent to prison,” Ford promised.²²² It seemed, however, that as the LEAA made arrest more possible, law enforcement struggled to accommodate the onslaught of new offenders, and the prison population system grew to numbers that state and local governments could not handle. Although Ford primarily concerned himself with urban crime threat, it was a

²²⁰ *ibid.*

²²¹ *ibid.*

²²² *ibid.*

young white woman, a follower of Charles Manson, who first pointed a gun at the president on his way to address the California legislature on crime in the fall of 1975. Ford proceeded to deliver his remarks as scheduled, calling for a nationwide effort to control crime and “the abandonment of partisanship on a scale comparable to closing ranks in war time against an external enemy.”²²³ After nearly a decade of federal law enforcement programs launched in the name of modernization and efficiency, Ford inherited a criminal justice system quickly spiraling out of control.

²²³ James Naughton, “Ford Safe as Guard Seizes a Gun Woman Pointed at Him on Cast; Follower of Manson is Charged,” *New York Times*, 6 Sep 1975, 49.

CHAPTER FOUR

Pre-Emptive Policy:

Juvenile Delinquency and the Ford Administration's Assault on Urban Youth

Ten years into the national law enforcement program urban violence peaked and the War on Crime appeared to be an utter failure. The rise of thefts and homicides coincided with the rise of federal crime control initiatives. Yet once the federal government began to invest in law enforcement, policymakers could not retreat until the statistics improved. The White House and Congress moved to intensify crime control programs. The commitment to states' rights and the strategy of increasing patrols and investing in hardware generated a record number of arrests that caused urban juridical systems to collapse and prisons to overflow. By 1974, when the crime rate rose seventeen percent over the previous year, the Department of Justice received a record two billion dollars from Congress to remake the juvenile justice system. This process involved integrating crime control and urban social programs that disproportionately targeted young black men.

Although a formal law enforcement system designed for young offenders did not exist before the Juvenile Justice and Delinquency Prevention Act of 1974, the issue underlay the creation of the modern carceral complex. Beginning with the New Frontier, juvenile-focused policy uniquely positioned the federal government in low-income black communities. President Kennedy combined anti-poverty programs with programs designed to reduce juvenile delinquency when he created the Office of Juvenile Delinquency and Youth Development in 1961. Lyndon Johnson included an attack on juvenile delinquency as part of his larger War on Poverty when the federal government enacted a juvenile crime control policy in 1968 and designed youth service bureaus

through which the courts and police could constantly monitor, rather than institutionalize, black urban youths. And Richard Nixon's Law Enforcement Assistance Administration worked with the private sector to implement community-based corrections for juveniles.

Yet by the mid-1970s, the crime problem and the material conditions urban youth confronted reached a turning point. As the last significant piece of domestic legislation during Nixon's presidency, the Juvenile Justice and Delinquency Prevention Act of 1974 absorbed the issue into the growing national law enforcement apparatus. The Act moved juvenile delinquency programs from the Department of Health, Education, and Welfare's purview to the Department of Justice and enhanced federal power over those young offenders by establishing an Office of Juvenile Justice and Delinquency Prevention, tasked with administering 350 million dollars in federal grant funds to municipal authorities via state planning agencies. By placing delinquency, rather than social welfare or rehabilitation, at the center of its approach to the problem of urban youth crime, the federal government launched a juvenile justice program premised on arrest and state supervision.

By reducing the power of executive-level departments concerned with social welfare programs, the Juvenile Justice and Delinquency Prevention Act of 1974 completed the War on Crime's redirection of the War on Poverty. Although the 1974 Act retained the strategy of preventing would-be delinquents from committing crime, the program would now support juvenile court systems, foster and protective care programs, and shelter facilities rather than school systems and youth service bureaus. Under the purview of the Department of Health, Education and Welfare, these Great Society-era programs had proven, in the words of Congress "inadequate to meet the needs of the

countless, abandoned, and dependent children who, because of this failure to provide effective services, may become delinquents.”¹ By labeling all young Americans living in segregated poverty “potentially delinquent” the 1974 Act criminalized urban social problems. In low-income urban communities across the United States, arrest, detainment, and incarceration of young black Americans skyrocketed.

The Act was a pre-emptive strike, waged by the federal government, to institutionalize young offenders. It offered a quick response strategy focused on swift and sure punishment as means of ensuring domestic tranquility—the hallmark phrase of the War on Crime under Gerald Ford. The category of potentiality introduced by the legislation made possible the intrusion of punitive programs into the everyday lives of marginalized youth in the name of attacking crime. Although Johnson was the first to mention the importance of offering “potential delinquents,” or those young Americans from “broken families, burdened with financial and psychological problems,” an alternative to incarceration, the concept did not take hold until the federal government prepared to enlarge the nation’s prison population as a mode of deterrence.²

When Ford assumed the presidency, he continued to amass greater control over urban social programs by enlarging the discretionary portion of the crime control budget in order to target the population seen as responsible for the crime problem: young black Americans. The perception among Ford officials that “most young offenders who commit acts of violence and pursue criminal careers come from minority ghetto and poverty

¹ “Juvenile Justice and Delinquency Prevention Act of 1974” 42 U.S.C. 5601, 1.

² “Message to Congress: Johnson on Children and Youth.” In *Congressional Quarterly Almanac* 1967, 23rd ed., 20-54-A-20-58-A. Washington, DC: Congressional Quarterly, 1968.

backgrounds” structured the administration’s general approach to crime control.³ With nearly one hundred and fifty million dollars to use at the discretion of his administration, Ford strengthened the federal government’s attack on two overlapping aspects of the nation’s urban crime problem: gangs and guns.

Working with the new Office of Juvenile Justice and Delinquency Prevention, Ford and officials within his administration targeted young black Americans via two separate but interrelated White House initiatives: the Career Criminal Program and “Operation Disarm the Criminal.” The Career Criminal or Repeat Offender Program implemented a separate, expedited criminal justice system with maximum sentencing, while “Disarm the Criminal” established a federal handgun control squad operating in urban centers. These two initiatives illustrate how juvenile justice policy and executive-level law enforcement measures functioned as pre-emptive crime control strategies that disproportionately targeted black urban teenagers and their families.

I. The 1972 Act: Prediction and Potentiality

Urban civil disorder in the 1960s had served as a catalyst for the national law enforcement program, and the federal government saw juvenile delinquency policy as a way of preventing future outbreaks and as a solvent for rising crime rates. Nixon and his advisors believed that young black Americans represented “the hard core group participating in the urban riot,” a group that needed to be controlled in order to restore

³ “The Justice Department’s Fight Against Youth Crime: A Review of the Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration,” Prepared by Robert W. Woodson, Consultant to the Subcommittee on Crime. Subcommittee on Crime of the Committee on the Judiciary, House of Rep, 95th Congress, Second Session, December 1978, 6.

public safety.⁴ Throughout the first ten years of the War on Crime, juvenile programs remained rehabilitative and community-based. The mid-1970s witnessed a punitive shift in the federal government's approach to low-income youth that ushered in more black and Latino teenagers into the prison system and buttressed the rapid and substantial expansion of the carceral state.

Congress saw youth criminality as “a growing threat to the national welfare requiring immediate, comprehensive, and effective action by the Federal Government,” and set out to reconstitute the nation's juvenile justice system.⁵ In enacting the Juvenile Delinquency Prevention Act of 1972, the Democratic-controlled Congress claimed greater federal jurisdiction over youth anti-crime programs. The legislation established a channel from the federal government to private nonprofit and public youth service programs, and it opened new possibilities for the development of community centers and social programs based on law enforcement principles. Policymakers meant for their investment to reach troubled cities like Baltimore, where local police attributed half of the city's crime rate to juveniles.⁶

If the War on Poverty failed to dent the rising crime rate, an identification of the root cause of crime transitioned during this period, one that carried racist assumptions about criminality to justify the federal government's assault on youth crime. The

⁴ n/d letter to Jack (Caulfield) from Tony; Nixon Library, John Dean Files Box 25 n.d.; April, 1968 Letter from the Republican National Committee Press Release, April 22, 1968 from Richard Nixon Presidential Library, John Dean Collection, Box 27, 7.

⁵ Hearings before the Subcommittee on Equal Opportunities of the Committee on Education and Labor, House of Representatives, 93rd Congress, Second Session on HR 6265 and HR 9298. Held in LA March 29; Wash DC April 21, May 1, 2, 8 and 21 1974.

⁶ Larry Carson, “An ever costlier battle against juvenile crime,” *The Baltimore Sun*, 14 Sep 1975, K2.

arguments about family pathology Daniel Patrick Moynihan put forth in his 1965 *The Negro Family: The Case for National Action* to explain inequality and crime remained influential through his tenure as special domestic policy advisor to President Nixon and beyond. Policymakers drew on popular depictions of black children growing up in broken families with little parental guidance to link these youth to crime and violence in the United States.

Here, theory and the practice were mutually reinforcing: the federal government invested in increased surveillance and patrol in areas of segregated poverty, a practice that subjected young Americans of color to arrest at unprecedented rates. New mandatory crime reporting laws implicated black urban youth in roughly half of all violent crime, a statistic that fueled increasingly punitive guidelines for urban social programs. This occurred, in part, because Congress planned juvenile delinquency policy based on the arrests rates federal data had predicted.⁷ Accordingly, the concept of *potentiality* sanctioned by the legislation made possible the criminalization of this entire population of young people of color. Acting largely on anticipation, Congress authorized a new level of punitive control in areas of segregated poverty.

Actual and predicted arrest rates underpinned the potentiality clause, or the intent to bring those “in danger of becoming delinquents and their families” into the domain of

⁷ Reported crime committed by juveniles increased faster than reported crime in general. White House officials estimated that youth crime had increased 144% since 1960, while adult crime increased only 17%. Youths under age 18 accounted for 45 percent of the arrests for all serious crime in the U.S. during 1973. Juveniles were involved in 23 percent of the arrests for homicide, rape, robbery, and aggravated assault. They represented 51 percent of the arrests for major property crimes, or burglary, larceny, and auto theft. Arrest data for 15-to-18 year olds for the period 1963 to 1975 indicated that the arrest rate for violent crime steadily increased, moving from 2.4 per 1000 juveniles in 1963 to 5.2 in 1973. 5-15-75 Memorandum to Jonathan Rose, Douglas Marvin, Jack Fuller from Malcolm Barr, Director Office of Public Relations Subj: Draft Papers for Consideration in Preparation of the Presidential Crime Message,” Ford Library, Parsons Collection, Box 3, “Crime Message of 6-19-75—Action Memoranda May 1-8 1975.”

rehabilitative and preventative services.⁸ The legislation required that the new juvenile delinquency prevention agencies exist apart from formal law enforcement and criminal justice programs. Congress recognized that once law enforcement authorities detained a typical first time offender, “it is much more difficult to help him because he has already been labeled and has probably labeled himself as ‘delinquent’ or ‘troublemaker,’ ” as the House Education and Labor Committee wrote in its Report on the bill.⁹ After some debate over the meaning of “potential criminal,” the Senate vaguely defined young people “in danger of becoming delinquent” as youth “whose conduct might bring him within the jurisdiction of a juvenile court.”¹⁰ To avoid ushering more youth into an ill-prepared justice system, the legislation envisioned programs that could reach potential criminals and admit them into community-based carceral institutions such as youth service bureaus or group homes.

The decision to base federal crime prevention strategy on the identification of violent-prone children before they had contact with police did not pass through Congress without vocal objections to the language of the potentiality clause.¹¹ A number of Congressmen argued that the legislation made, in the words of Missouri’s Republican Representative Durward Hall, “vague promises that there has been a technical breakthrough so that we can ascertain those impinging upon near delinquency... As a

⁸ "Juvenile Delinquency," *Congressional Quarterly Almanac 1972*, 28th ed., 06-510-06-512. Washington, DC: Congressional Quarterly, 1973.

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ *ibid.*

profession, I just do not believe it.”¹² Another Republican, Ohio’s John Ashbrook, pointed out that by encouraging the diagnosis and treatment of future criminals, the legislation “can open up a Pandora’s box. How do we diagnose and treat a youngster in danger of becoming delinquent? I think anybody with common sense knows that every youth is in danger of becoming delinquent... Where do we draw the line?”¹³

The pre-emptive strategy of preventing crime by targeting potential criminals restored power to local governments they had not enjoyed since the Great Society.¹⁴ By 1972, Congress and the Law Enforcement Assistance Administration wanted to compensate for the mismanagement of block grants at the state level and with the overlapping authority of law enforcement and criminal justice programs. The Nixon Administration and Congress restored Lyndon Johnson’s categorical grant approach in the administration of juvenile delinquency prevention programs. Novel use of discretionary aid provided an opportunity to ensure that preventive programs reached low-income minority youth without compromising the principles of New Federalism.

Discretionary funds allowed law enforcement institutions to heighten their punitive approach in places like the predominately black city of Compton, with one of the highest crime, unemployment, and youth population rates in the nation.¹⁵ In the immediate postwar period, black Americans who made industrial gains moved to the western edge of Compton’s outskirts. Located just south of South Central, this settlement

¹² *ibid.*

¹³ *ibid.*

¹⁴ *ibid.*

¹⁵ Chief Edward Davis in Hearings before the Subcommittee on Equal Opportunities of the Committee on Education and Labor, House of Representatives, 93rd Congress, Second Session on HR 6265 and HR 9298. Held in Los Angeles March 29, 1974, 35.

had been the first area in Los Angeles where working-class black residents enjoyed the promise of suburban paradise in southern California.¹⁶ White resistance to integration, block busting and “panic selling” rapidly segregated the city through the 1950s, and Compton emerged as the largest black American town outside of the south: black Americans comprised seventy percent of the population, Chicanos represented twenty percent.¹⁷ With an unusually high proportion of young people representing over half of the population, by 1967 Compton had one of the highest rates of youth poverty in the United States.¹⁸

Based on predictions that one hundred thousand young people would be arrested in Los Angeles County in 1973, and that young African-American and Mexican-American men would account for more than half of these potential suspects, the Probation Office requested emergency discretionary funds for Compton.¹⁹ “There is a disadvantaged culture there and poverty,” Chief Kenneth E. Kirkpatrick explained to the House Subcommittee on Equal Opportunities, “that really contributes towards the overall incidents of delinquent acts.”²⁰ For Kirkpatrick and federal policymakers, this pathology represented a major cause of crime that could be controlled by pre-emptive strategies.

¹⁶ See Douglas Flamming, *Bound for Freedom : Black Los Angeles in Jim Crow America* (Berkeley: University of California Press, 2005).

¹⁷ Leroy F. Aarons “Anxiety Pervades a Black Community” *The Washington Post, Times Herald* 29 May 1973 pg. A8

¹⁸ 56 percent of men and 52 percent of women in Compton were under the age of twenty. See Josh Sides, *L.A. City Limits : African American Los Angeles from the Great Depression to the Present* (Berkeley: University of California Press, 2003).

¹⁹ Kirkpatrick in *ibid*, 99.

²⁰ *ibid*.

The way the legislation defined the potential delinquent, as a young person prone to contact with penal and juridical authorities, effectively joined crime control and social programs serving low-income Americans. With new federal funds available, community-based institutions emerged soon after the 1972 Act passed to serve those youth who the federal government saw as “in danger of becoming delinquent.” This preventative approach augmented the punitive power of state and local crime control institutions in the lives of young Americans from low-income backgrounds. To receive funding, urban social programs now included crime control measures in their programming and relied on law enforcement agencies to supply clients. Youth service bureaus, a vestige of the War on Crime under Johnson, coordinated services for young potential criminals in order to ease overburdened urban court systems in a number of cities.²¹ The “Prevention of Delinquency Through Intensive Supervision” program, or PODTIS, in Los Angeles, handled less serious first-time offenders, or, as Kirkpatrick called them, “the youngsters who are actually the delinquent-prone youngsters, mostly incorrigibles.”²² PODTIS worked within low-income, mostly black families to “keep the youngster in the community and get the family communications reestablished and get the family problems worked out.”²³

As arrest rates escalated alongside the intensification of urban law enforcement, the need for a juvenile justice infrastructure large enough to meet construction, personnel, and court service needs became an immediate concern. When the Juvenile Delinquency

²¹ Johnson, “The Challenge of Crime to Our Society;” Cliff Sessions, “Poor Moms, Dads Can Be Replaced,” *Chicago Defender*, 26 Oct 1965, 11.

²² Kirkpatrick in 3-29-74 Hearings.

²³ *ibid.*

Act came up for reauthorization in 1974, Congress called for a massive federal investment in youth crime control and the formation of a permanent federal office to manage the problem. Liberals led this effort, advocating strongly for the expansion of federal criminal justice programs for juveniles.²⁴ Yet some moved further away from the socio-economic approach that had guided New Frontier and Great Society programs. “We can no longer afford the luxury of confusing social progress with progress in the war on crime. We face the crime menace now,” Senator Edward Kennedy wrote in the *New York Times*, “Perhaps the social policies we initiate in the 1970’s will reduce the crime rate in the 1980’s. But that is too long to wait. We fool ourselves if we say, ‘No crime reform until society is reformed.’” As the White House and Congress prepared to revisit the problem of urban crime, seen largely as a problem of juvenile delinquency, Kennedy informed the American public, as well his colleagues in Congress: “It is time to fight a more practical, less ideological war.”²⁵

Like Kennedy, policymakers who supported crime control measures from the outset wanted to give the Department of Justice greater authority in the national juvenile justice program they established in 1974. In many ways this would continue the fight against urban youth “in danger of becoming delinquent” set in motion by the 1972 Act. “The essential goal is one of delivering needed services or attention in such a way and at a time that may be crucial in preventing the development of a criminal career,” officials of the Law Enforcement Assistance Administration emphasized in congressional

²⁴ By serving on the House Select Committee, Chisholm hoped to “protect the most powerless and helpless in this entire situation, the juveniles who have been just cast aside at the bottom of everybody’s priorities because they are not a real power group in the sense of the word to be reckoned with in our county in terms of money and grants.” In Hearings before the Subcommittee on Equal Opportunities of the Committee on Education and Labor, House of Representatives, 93rd Congress, Second Session on HR 6265 and HR 9298. Held in LA March 29; Wash DC April 21, May 1, 2, 8 and 21 1974, 434.

²⁵ Edward M. Kennedy, “Punishing the Offenders,” *New York Times*, 6 Dec 1975, 29.

testimony.²⁶ As the juvenile delinquency program unfolded under the purview of the Department of Justice, the concept of prevention indicted entire communities as criminal.

II. The 1974 Act: A More “Practical” (and Punitive) War

While the 1972 Act labeled children from so-called disadvantaged backgrounds as “in danger of becoming delinquent,” the 1974 Act subjected those young potential criminals to punitive supervision before they had committed a crime. The national crime rate doubled after ten years of federal law enforcement programs and the investment of billions of taxpayer dollars. Without questioning the effectiveness of the LEAA or the federal crime control program generally, policymakers assumed that the rising crime rate resulted from a breakdown of social values that began in the 1960s and had reached epic proportions by the mid-1970s. Although the crime rate and the sense of urban crisis only escalated alongside the massive federal investment in punitive measures, the statistics justified a continued infusion of federal funds into juvenile delinquency programs.

Debates about whether to place the new, more powerful juvenile delinquency agency within the Department of Health, Education, and Welfare or the Department of Justice reflected political divisions and tensions in Congress. The House version of the 1974 Act offered a juvenile justice program that continued to provide rehabilitative and preventive social services. Representatives wanted the first federal office of juvenile delinquency and the first block grant for such purposes to remain in the Department of

²⁶ Charles Work in 3-29-74 Hearings.

Health, Education, and Welfare and passed the bill in early July by an overwhelming majority.²⁷

But the Senate's more punitive vision for the federal juvenile justice intervention ultimately prevailed. The nation had reached a "turning point in the way we handle children in trouble," the Senate Judiciary Committee reported, and it was the federal government's responsibility to devise new methods of "redirecting behavior that endangers society."²⁸ Juvenile crime rates had increased under the Department of Health, Education, and Welfare's watch, and the Senate wanted the new federal system to manage delinquency with punitive force rather than rehabilitative or preventative services. The Senate did give the social welfare agency authority over the only aspect of the national juvenile delinquency program associated with the white middle class: runaway youth. At up to ninety percent of the cost, the Department of Health, Education, and Welfare funded special programs and facilities for runaways, a category that rarely included black children.²⁹ Viewing social issues facing young people living in segregated poverty as matters of crime and punishment, the Senate insisted that the Department of Justice handle the problem. Even though the Law Enforcement Assistance Administration had a record of waste and mismanagement, it had experience using the

²⁷ On July 1, an overwhelming majority (329-20) approved the bill. Albert H Quie, the Republican from Minnesota, argued that "juvenile justice and delinquency prevention programs are not separate entities and should not be treated separately," and introduced an amendment that shifted responsibility to LEAA from HEW. The House rejected the transfer, with only 114 Republicans and 30 Democrats supporting the measure. "Juvenile Delinquency," *Congressional Quarterly Almanac 1974*, 30th ed., 278-82. Washington, DC: Congressional Quarterly, 1975.

²⁸ *ibid.*

²⁹ Steven Nicholas, Associate Director of Focus Runaway House in Las Vegas in Hearings before the Subcommittee on Equal Opportunities of the Committee on Education and Labor, House of Representatives, 93rd Congress, Second Session on HR 6265 and HR 9298, 272.

block grant system and thus was seen as the only agency that could meet the new federal objectives for juvenile crime control.³⁰

The formation of the Office of Juvenile Delinquency offered the federal government with an opportunity to address the problem of crime and violence among young Americans by addressing related problems in urban public school systems, public housing, and low-income neighborhoods. Instead, Congress shifted the federal government's approach to delinquency towards punishment and managing the symptoms of urban crisis. On the day his fellow representatives approved the more punitive direction of juvenile justice, Congressman William Steiger issued a grave warning. "By eliminating HEW," the Wisconsin conservative said on the House floor, "we have done serious damage to our efforts to prevent people from becoming delinquents instead of simply seeing them wound up in the juvenile justice system as it is now."³¹ Steiger's points reinforced the way debates about preventative approaches did not follow liberal or conservative divisions.

With delinquency framed as a matter of crime control in the 1974 Act, the Senate considerably enlarged the national juvenile justice program. While the House requested 380 million dollars for a three-year program to be dispersed under Health, Education, and

³⁰ Given his influence in shaping the Safe Streets Act of 1968, it is not surprising that Roman Hruska introduced the key amendment that transferred juvenile justice authority to the LEAA. The five members of Subcommittee to Investigate Juvenile Delinquency who voted against the Hruska Amendment were Birch Bayh (the Democratic Senator from Indiana), Phillip Hart (the Democratic Senator from Michigan), John Tunney (the Democratic Senator from California), Charles McC. Mathias Jr (the Republican Senator from Maryland), and Edward Kennedy of Massachusetts.

³¹ By the end of July, even those who strongly opposed the placement of the Office of Juvenile Delinquency in the Department of Justice, like Chairman of the Judiciary Juvenile Delinquency Subcommittee Birch Bayh, passed the bill in order to get it enacted as soon as possible. On July 25th the Senate version passed with only one vote of opposition from North Carolina Republican Jesse Helms. quoted in "Juvenile Delinquency," *Congressional Quarterly Almanac* 1974, 30th ed., 278-82. Washington, DC: Congressional Quarterly, 1975.

Welfare, the Senate gave the Office of Juvenile Justice and Delinquency in the Department of Justice six hundred million dollars in block grants but required the states to dedicate two-thirds of the juvenile crime control funds to local programs, supported by the federal government at ninety percent of the cost. To ensure that this investment reached youth “in danger of becoming delinquent,” the Office awarded block grants to states based on age and income characteristics alone.

To make youth crime control a national priority, all fifty states received a minimum of two hundred thousand dollars to establish juvenile delinquency advisory boards that brought together relevant public and private figures to plan and implement programs. The legislation also created a federal counterpart, the Coordinating Council on Juvenile Justice and Delinquency, which required the attorney general and key Department of Justice officials to meet with the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Secretary of Housing and Urban Development, and various representatives designated by the president.

The 1974 legislation’s broad programmatic definition of juvenile delinquency gave the federal government punitive authority in the lives of all youth whose families received government assistance or who participated in social programs.³² As defined by the Act, a “juvenile delinquency program” constituted any activity related to, “the development of neglected, abandoned, or dependent youth and other youth who are potential criminals.”³³ Now any public or private agency working toward this goal could

³² The Department of Labor defined “disadvantaged,” as: “those on public assistance and those whose family income levels are below the poverty guidelines established under criteria issued by the Office of Management and Budget.” 4-8-1976 “Summer Youth Employment Programs Fact Sheet,” Ford Library Parsons Collection Box 17 “Summer Jobs for Urban Youth.”

³³ “Juvenile Justice and Delinquency Prevention Act of 1974” 42 U.S.C. 5601, 4.

receive federal juvenile justice grants, and any youth-based program conducted by the Department of Health, Education, and Welfare, the Department of Housing and Urban Development, the Department of Justice, or the Office of Economic Opportunity constituted a delinquency program. The effect was to increase contact between the emerging carceral state and young Americans living in segregated poverty.

Resistant to a socio-economic attack on juvenile delinquency, the federal government relied upon the private sector to address the structural factors at the root of the problem. Congress empowered nonprofit organizations to direct criminal prevention and rehabilitation programs by earmarking twenty percent of all youth crime control funds to agencies outside of public control. The Teledyne Packard Bell Corporation used funds from the Office of Juvenile Delinquency Prevention to offer black and Chicano youth from low-income neighborhoods training in automotive mechanics, welding, small appliance and furniture repair, food service, and forklift operations. The young men traveled eighty miles from their homes in Los Angeles to Camp Fenner Canyon for two weeks of vocational courses, remedial education, job placement assistance, and employment coaching.³⁴ In Manhattan, the Department of Justice established the Supported Employment for Adolescents Program on the Lower East Side. The Henry Street Settlement handled the organization's daily operation, which employed local residents aged fourteen to sixteen in social service projects for ninety dollars a week.³⁵

Yet even as it worked to provide vocational opportunities for potential delinquents and softened previously stiff penalties on minor offenses, the first major

³⁴ Douglas W. Cray, " 'Work Release' for Prisoners Gains," *New York Times*, 22 Aug 1971, F17.

³⁵ Jo Ann Lewis, "Work program helps youths," *Christian Science Monitor*, 27 Aug 1975, 21.

juvenile delinquency legislation ensured that young Americans would enter adult and youth correctional facilities at unprecedented rates. Following the Supreme Court's 1967 decision guaranteeing juveniles the right to due process, the 1974 legislation deinstitutionalized status offenses for curfew violators, truants, and runaways. Because policymakers viewed juvenile detention centers as the gateway to criminal careers, the legislation stressed diversion programs that offered nonviolent young offenders treatment and counseling.³⁶ The Act also encouraged the use of community-based detention, whether in a juvenile facility close to home or foster care, and required separate corrections facilities for juveniles and adults.³⁷

At the same time, the legislation lowered the age threshold for violent crimes. Now, any sixteen year-old who committed a crime that would be a felony punishable by a maximum penalty of ten years imprisonment or more, life imprisonment, or death, could be tried as an adult if the attorney general deemed the offender to be particularly "dangerous to the community."³⁸ In anticipating the expansion of the national prison population as a consequence of these measures, Congress added a special amendment to the juvenile justice bill that also introduced the National Institute of Corrections within the Bureau of Prisons as a means to strengthen the federal role in penal institutions.

Although Congress created the Office of Juvenile Justice and Delinquency Prevention in the final months of Nixon's presidency, the Ford Administration steered the

³⁶ Tom Gorman, "Compton Armed With Federal Funds in War on Crime," *Los Angeles Times*, 19 Oct 1975, SE1.

³⁷ James L. Buckley, the Conservative Republican from New York, added an amendment prohibiting the participation of unconvicted juveniles in behavior modification programs—including electric shock and drug treatments—without parental approval. The Senate adopted Buckley's provision in its version of the Bill.

³⁸ As termed in the "Juvenile Justice and Delinquency Prevention Act of 1974" 42 U.S.C. 5601.

course of the new national program. Ford officials believed the nation was on the verge of a major demographic change that needed to be controlled and managed. The theory behind the actual and predicted crime increases used psychological pathology as an explanatory factor for urban violence. White House Officials argued that “trends in family structure and in the divergence of values among Americans” had produced, “amoral youths—youths without remorse for brutal acts, who show no signs of ‘conscience’ as we know it.”³⁹ The Ford Administration crafted a crime control program that sought to institutionalize these types of offenders to foster greater public safety.

Ambivalence about the potentiality clause introduced by juvenile delinquency policy did not outweigh the general cynicism among Ford officials about the federal government’s ability to develop public policy that could address income stratification, education, employment, and housing conditions. These changes, as Public Relations Director Malcolm Barr wrote, “would require massive social and economic reforms in our society which should be pursued or not pursued for reasons more important than the control of crime and delinquency.”⁴⁰ Barr warned that the potentiality approach “becomes problematic since our ability to predict which youths will become delinquent is not well developed and by identifying certain youths as high risk, we may be creating self-fulfilling prophecies.”⁴¹ Yet despite his own reservations, Barr suggested that the president “focus on identifying those youths who would appear likely to become involved

³⁹ 5-15-75 Memorandum to Jonathan Rose, Douglas Marvin, Jack Fuller from Malcolm Barr, Director Office of Public Relations Subj: Draft Papers for Consideration in Preparation of the Presidential Crime Message,” Ford Library, Parsons Collection Box 3 “Crime Message of 6-19-75—Action Memoranda May 1-8 1975.”

⁴⁰ *ibid.*

⁴¹ *ibid.*

in delinquency” as a cost-effective approach to juvenile crime control amenable to the American public.⁴² In effect, the federal government resolved to base its juvenile crime control program on assumptions, potentiality, and prediction.

IV. The Policing of Black Youth

Urban school systems took on new crime control functions when the federal government began constructing a national system of juvenile justice and detention. Young Americans who survived on public assistance, lived in housing projects, or attended segregated urban schools came into contact with patrolmen, probation officers, and surveillance equipment on a daily basis. They were the “potential delinquents” of the Juvenile Justice and Delinquency Prevention Act of 1974.

The federal government approached the problem of school violence as it had the rest of its crime war battles: through planning, patrol, and hardware. None of these strategies fostered the greater social control policymakers and law enforcement officials had intended. At the same time that Congress brought the Department of Justice’s authority into public school systems, it introduced crime control programs in schools serving “economically and educationally disadvantaged children,” when it renewed the Secondary Education Act in the summer of 1974.⁴³ The “Safe School Study Act” authorized widespread patrol in school hallways and classrooms and asked the National Educational Association to gather data on the scope of the problem. The figures

⁴² *ibid.*

⁴³ Bell in Hearings before the Subcommittee on Equal Opportunities of the Committee on Education and Labor, House of Representatives, 93rd Congress, Second Session.

suggested that American public school students committed one hundred murders, twelve thousand armed robberies, nine thousand rapes, and two hundred four thousand aggravated assaults against teachers and students in 1975. Vandalism alone cost local public schools a combined six hundred million dollars.⁴⁴

The Ford Administration responded to these unfavorable statistics by increasing patrols. In the spring of 1975, White House officials proposed “target hardening” techniques, or the combination of electronic surveillance, improved security of school buildings, and an increasing presence of law enforcement officials on the campuses of urban public schools. While some Ford staffers recognized that the approach “may contribute to a feeling that the schools is really under siege,” the president and Congress pressed on for implementation.⁴⁵

In major urban areas particularly, public schools evolved into key sites of punitive contact as a result of juvenile delinquency policy. In Washington, DC, the police department established the Action for Children in Trouble (ACT) Team to identify youth “in danger of becoming delinquent” by attacking truancy. While the 1974 Act had reduced the penalty for this offense, the Ford Administration viewed absenteeism as a gateway to delinquency. The Law Enforcement Assistance Administration enthusiastically funded seventy-five percent of the cost of the ACT program, which involved interrogations of suspected truants in a public housing development from an

⁴⁴ “Violence—growing blot that hurts U.S. schools,” *The Christian Science Monitor*, 26 Aug 1976, 13.

⁴⁵ 5-15-75 Memorandum to Jonathan Rose, et al.

apartment owned by the police department but decorated to look like a comfortable family room.⁴⁶

In the predominately black community of Crenshaw, the Los Angeles Police Department's Family Treatment Program connected probation officers and social work students to families in conflict with school authorities at local elementary schools.⁴⁷ Federal juvenile delinquency and secondary education funds also enabled the city of Los Angeles to install cameras to monitor children on school buses and in classrooms.⁴⁸ Not only did teachers working in South Central lock their classrooms from the inside, schools were also assigned police task forces as large as one hundred. Schools became guarded like prisons, with monitored entrances, stationed patrol cars, and flying helicopters.⁴⁹ By 1976, at the annual meeting of the National Association of School Security Directors in Alexandria, security companies and law enforcement experts hawked the inventions they had produced with federal grants: metal detectors, hidden cameras, ultrasonic alerters, and fountain pens that functioned as communications devices for urban high school teachers.⁵⁰

The treatment of students by school authorities and instructors had profound consequences for the criminalization of black youth and the national portrait of juvenile

⁴⁶ J.Y. Smith "D.C. Teams Tackle Truancy Problem," *The Washington Post*, 2 Apr 1972, D1.

⁴⁷ Statement of Los Angeles Police Chief Ed Davis in 3-29-74 Hearings.

⁴⁸ *ibid* 18.

⁴⁹ David Rosenzweig, "Black Principal Describes School as 'Ft. Crenshaw'; Terror Makes Learning Impossible, Supervisors Told; Crackdown Urged Principals Call for Help on Violence in Schools," *Los Angeles Times*, 19 Dec 1972, 3A; John, Kendall. "A Ghetto Is Slow to Die." *Los Angeles Times (1886-Current File)* 1975, B1.

⁵⁰ "Violence—growing blot that hurts U.S. schools."

delinquency. School districts with a ninety percent minority enrollment expelled black students at a rate three times higher than their white counterparts. In southern schools, now largely integrated, black children faced severe rates of expulsion.⁵¹ An NAACP study examining the twenty largest school districts with significant numbers of black students found that they received 90,000 of 125,000 total suspensions.⁵² In Little Rock, two decades after white resistance forced President Eisenhower to deploy the National Guard to accompany black children in the initial process of integration, black children faced a seventy percent expulsion rate even though they represented less than a third of children attending public schools.⁵³

As a former New York City public school teacher, Congresswoman Shirley Chisholm explained the connection between youth crime and school disciplinary measures, or the “push out” phenomenon. “When school systems are not able to cope with the uniqueness and specific needs of black children... we find the development of discipline problems,” Chisholm said as she opened the Subcommittee on Equal Opportunity’s hearings on juvenile delinquency. “We find these children being forced out of school without any kind of follow-up. In many instances, they will become juvenile delinquents.”⁵⁴ Fellow members of Congress did not act upon Chisholm’s call for policies that would address discrimination and marginalization within American school systems. Instead punitive practices endured.

⁵¹ Hearings before the Subcommittee on Equal Opportunities of the Committee on Education and Labor, 21 May 1974.

⁵² *ibid.*

⁵³ *ibid.*

⁵⁴ *ibid.* 455.

The increased surveillance and patrol of students spawned a climate of delinquency that created greater opportunities for arrest, supported the practice of discriminatory expulsions, and severely compromised educational access. A number of southern school districts resorted to tactics from the days of Jim Crow: students who failed to pay school fees found themselves vulnerable to suspension.⁵⁵ After a fight erupted between black and white junior high school students in Raleigh, North Carolina, the police arrested the black students and jailed them for five days. At their court hearing the students all received expulsion notices. Seventy miles south of Raleigh, in Sampson County, black students attempted to hold a meeting with the principal and administrators to address their mistreatment by staff and fellow pupils. Instead of hearing the students' grievances, the administration suspended all of the students who agreed to attend the meeting. The Los Angeles Public Schools expelled an average of forty-five students a year in the 1960s; by 1973, the system expelled a record number of 225 students.⁵⁶ If a student received more than one expulsion from the predominately-black Washington, Fremont, Crenshaw, or Jefferson High Schools, he or she would be banished from the Los Angeles Public School System altogether.

In line with the federal government's larger approach to the urban crisis, instead of working to combat the racism black students experienced in administrative offices and classrooms, the Ford Administration and Congress used juvenile delinquency prevention funds to support alternative school systems that would handle youth with disciplinary problems. A high school student in Dade Country, Florida who received a suspension for

⁵⁵ From Statement of Diana Jones, Staff Member, NAACP Legal Defense Fund, in Hearings before the Subcommittee on Equal Opportunities of the Committee on 5-21-74 Hearings, 517.

⁵⁶Peterson.

more than ten days would attend an alternative school. If he received an expulsion, he would face closer supervision in a special penal school or an “opportunity center.” In both cases, he would receive vocational training instead of the traditional college preparatory curriculum. And in both cases, as a “potential delinquent,” he would be removed from the general student population and placed in a highly disciplinary, criminalized environment. As the director of a nonprofit organization working to protect black children in newly integrated southern schools testified before Chisholm’s subcommittee, just as penal institutions were accused of being colleges of crime, “schools are being found to be harborers of institutions of delinquency.”⁵⁷ The federal government failed to target educational inequality as part of its pre-emptive attack on the population identified as potentially delinquent, preferring instead to manage the problem’s symptoms as they manifested themselves through crime. In the process, violence festered within urban public classrooms and hallways and spilled out into surrounding communities when the final bell of the school day rang.

V. Gangs and Guns

By the mid-1970s, officials at the local level described an emerging form of crime in the oil crisis economy, a type of post-industrial violence that emerged at the moment when the federal government prepared to move beyond the hardware stage of its national law enforcement program. Testifying before the House Judiciary Subcommittee on Juvenile Delinquency, Los Angeles police chief Ed Davis brought this “new phenomenon in the black community,” or “killing someone you have never seen before on the street,

⁵⁷ From Statement of Leon Hall, Director, Southern Regional Council in 5-21-74 Hearings, 472.

by a juvenile,” to the federal government’s attention.⁵⁸ Youth gangs in Los Angeles, Detroit, New York, and Philadelphia emerged alongside the school expulsion and coincided with the sharp upturn in the federal crime control budget during the first half of the 1970s.⁵⁹ The gang-related deaths of young men from these urban centers skyrocketed in this period; in Los Angeles the police department attributed fifty to seventy five percent of homicides from 1972 to 1974 to gang violence, and from 1964 to 1974, juvenile arrests increased 168 percent.⁶⁰ Even more alarming was federally funded research arguing that black and Latino Americans comprised eighty percent of gang membership nationwide and that minority youth in large cities had “the highest potential for involvement in violent and predatory crime.”⁶¹

Ford officials turned to what they called the most “obvious solution” to the gang problem: urging urban street patrols and juvenile courts to “deal more harshly with repeat offenders who are gang members and remove them from the community.”⁶² In an internal memorandum, White House Officials argued, “the need for swift and sure punishment of serious violent gang members is apparent. Repeat offenders who are gang members must be prosecuted and removed from the community... This removal from the community

⁵⁸ Davis in 3-29-74 Hearings, 25-26.

⁵⁹ Jobs were especially important in this regard, Watts and Compton had a 62 percent unemployment rate for blacks aged 16-19 (unemployment rate is for those who once had jobs who were currently unemployed.); Rosenzweig, “Black Principal Describes School as ‘Ft. Crenshaw’; Yusuf Jah and Sister Shah’Keyah, *Uprising: Crips and Bloods Tell the Story of America’s Youth in the Crossfire* (New York: Touchstone Books, 1997), 26.

⁶⁰ 5-15-75 Memorandum to Jonathan Rose et al; Jack McCurdy, “L.A. Hearing,” *Los Angeles Times* 27 Aug 1974, 26.

⁶¹ Quoted in Joseph B. Treaster, “Violence of Youth Gangs is Found at a New High,” *New York Times*, 1 May 1976, 42.

⁶² 5-15-75 Memorandum to Jonathan Rose et al.

would protect the public and the young less hardened members of the gang.”⁶³ When the Ford Administration introduced the idea of removal into its crime control strategy it ushered in a turn in federal law enforcement towards the construction of penal institutions in rural and suburban areas.

In late September 1974, Ford outlined the two major priorities of his administration’s War on Crime at the annual meeting of the International Chiefs of Police. First, law enforcement needed to concentrate on “violent crime and street crime in the inner city.” Ford believed that crime in these neighborhoods, committed by repeat offenders and gang members “does the most damage to our whole urban structure.”⁶⁴ Ford hoped to manage the crisis many cities confronted by sending more residents to prison and preventing future crime in the process. In a memo to President Ford, staffer Dick Cheney summed up the rationale and process plainly: “the data points out that most of our violent crime is committed by a relatively small number of individuals, and with the right kind of effort we could substantially reduce the crime rate simply by taking them off the streets.”⁶⁵ Many of the police chiefs in the audience shared this view of rehabilitation as a failure and incarceration as the chief crime deterrent.

To further the larger federal commitment to punitive force in designated communities, Ford’s second priority involved intensifying and accelerating the urban juridical process in urban areas to “ensure that swift and prolonged imprisonment will

⁶³ *ibid.*

⁶⁴ Reading Copies of Presidential Speeches and Statements, Gerald Ford Presidential Library, Box 1 Folder, “September 24, 1974 International Association of Chiefs of Police.”

⁶⁵ 6-17-75 Memo for Jim Connor from Dick Cheney; Ford Library, James E. Connor Files, Box 9, “Crime Message (2).”

inevitably follow each offense.”⁶⁶ Ford officials believed that the crime increase resulted from a proliferation of caseloads in urban areas that courts and correctional facilities could not handle. The assembly-line approach many American court systems assumed after the Safe Streets Act of 1968 encouraged prosecutors to strike plea bargains with suspects, and defense attorneys knew that requesting continuances and postponements could help secure a dismissal or acquittal. Research funded by the federal government made clear that police investigations and case management procedures needed to be improved in order to guarantee that dangerous, professional, and recidivistic criminals would face jail time.⁶⁷ A study conducted by the Institute for Law and Social Research revealed that prosecutors rejected or dismissed half of felony arrests without a trial or a plea. A third of these dismissals resulted from a lack of witnesses, while the Institute attributed another third to lack of evidence.⁶⁸

The national law enforcement program that emerged after major urban civil disorder produced historic arrest levels of black men; by the mid-1970s, the steady influx of patrolmen this policy endorsed caused the urban court system to reach a breaking point. Speaking as head of the newly formed National Institute for Juvenile Justice and Delinquency Prevention, John Greacen declared to the Associated Press that fifteen percent of the nation’s young offenders needed to be “locked up because they’re

⁶⁶ 5-15-75 Memorandum to Jonathan Rose et al.

⁶⁷ Work in Hearings Before the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary, United States Senate, 95th Congress, 2nd Session on S.28 and S.3216. Part II Career Criminals. 27 September, 1978, 7.

⁶⁸ *ibid.*

dangerous and we don't know what to do with them."⁶⁹ Even with the twenty-five million dollars Congress earmarked for juvenile crime control programs, Greacen lamented: "I don't see any substantial likelihood that the amount of youth crime in the United States is going to go down any substantial degree between now and 1990."⁷⁰ In response, the federal government empowered local court systems serving significant black populations to imprison larger numbers of suspects. If block grants limited the White House from imposing its own priorities, the Ford Administration prepared to work with police, prosecutors, and judges to implement an accelerated and highly punitive criminal justice program in select cities to make punishment more certain.

A stay in Juvenile Hall became the norm for most gang members. Stanley Tookie Williams served time in a juvenile detention center—or what he called “prison prep school”— until he was released on his seventeenth birthday. Seeking to “attack and declare war” on “neighboring gang menaces,” Williams co-founded the Crips.⁷¹ Shortly after his release, Williams was interrogated by a police officer while walking in a white neighborhood and returned to Central Juvenile Hall. Because the arrests of Black youth were so easily justified, thousands entered into the system as small children and teenagers, often on minute chargers.⁷² Authorities recognized that the Juvenile justice system was flawed, but they identified the quick release of youth back into the

⁶⁹ “Prisons Urged for 15% of Young Felons,” *Los Angeles Times*, 21 Aug 1975, 2.

⁷⁰ *ibid.*

⁷¹ Stanley Tookie Williams, *Blue Rage, Black Redemption* (New York: Touchstone Books, 1997) 69.

⁷² “Violence in L.A. Schools Come Under Fire From 3 Directions” *Los Angeles Times*, 15 Dec 1972, A1; Jah and Keyah 27.

community as the source: they argued that young offenders were released only to commit more crimes.⁷³

The Ford Administration's Career Criminal Program established a separate criminal justice system for new categories of offenders that laid the groundwork for the widespread arrest and detainment of young black, Chicano, and Latino Americans. By spending discretionary crime control funds wisely, the White House hoped to "take the criminal out of circulation," as Ford articulated it, by providing law enforcement officials with the tools to prosecute and secure convictions of Americans with limited formal employment opportunities who appeared to make crime into a career.⁷⁴ Although the program focused on gang members, federal policymakers and law enforcement officials used the less rhetorically charged "Career Criminal" to launch the program.

Shortly after Ford spoke to the big city police officers, Attorney General William Saxbe appeared on the CBS morning news program "Face the Nation" to generate public support for the Administration's law enforcement agenda. In the face of accelerating crime rates, Saxbe argued that locking up criminals would circumvent the pervasive "atmosphere of violence" sweeping the nation. "We do not believe that you are doing them any favors by saying well, he's misunderstood, he's poor, he's black and send him back to the community where he is going to get in trouble again," the attorney general told host George Herman.⁷⁵ If local court systems failed to sentence criminals to long

⁷³Iver Peterson "Student Violence and Teacher Militance Are Plaguing the Nation's Schools." *New York Times*, 14 Oct 1974, 25.

⁷⁴Ford Speech before the International Association of Chiefs of Police, Washington Hilton Hotel, Washington DC Tuesday 9-24-1974. Reading Copies of Presidential Speeches and Statements, 1974-1977, Box 1 Folder "September 24, 1974 IACP."

⁷⁵"Prosecute more felons," *Chicago Defender*, 7 Oct 1974, 4.

prison terms, “there is every possibility that crime will inundate us,” Saxbe warned law enforcement officials in Chicago: “The nation would then be faced with the prospect of falling apart or devising a national police force in one final effort to restore domestic order.”⁷⁶ The Career Criminal Program would stamp out the root causes of crime by increasing opportunities to arrest and incarcerate the group seen as responsible for the problem.

Beginning in 1975, the federal government invested three hundred and thirty million dollars in Career Criminal Units in twenty-two American cities, from San Diego to Memphis, Kalamazoo, and Providence.⁷⁷ The typical career criminal selected for special prosecution tended to be a single nonwhite man, without employment, and under the age of twenty-four.⁷⁸ After only a few months of operation the program had begun to produce a high rate of conviction and had successfully reduced the time from arrest to trial by at least three weeks.⁷⁹ With a stronger and more punitive criminal justice system in place in key urban areas, Ford argued, “the career criminals now realize that serious cases will no longer simply slip through the cracks in the system.”⁸⁰ In the name of fostering a swift and sure justice system, the Career Criminal Program would help guarantee that habitual offenders, or gang members, received convictions. Meanwhile, the federal government opened up new carceral space by investing twenty-four million

⁷⁶ Quoted in Joel Weisman, “Saxbe Sees Prospect of U.S. Police,” *The Washington Post*, 28 Aug 1974, A1.

⁷⁷ Nicholas von Hoffman, “Throwing Money At Crime: the Multibillion-Dollar Nightstick,” *The Washington Post*, 8 Oct 1976, B3.

⁷⁸ “Picture Painted of a Criminal,” *Los Angeles Times*, 28 Sep 1976, A1.

⁷⁹ Ford Speech before the International Association of Chiefs of Police.

⁸⁰ *ibid.*

dollars in relocating young people charged with minor offenses into private, community-based facilities closer to home.⁸¹

Almost immediately, black Americans recognized the direct consequences of these federal measures within their communities. The *Baltimore Afro-American* warned of the Career Criminal Program: “Unless President Ford looks at those poor people in the inner city ghetto and their relationship to crime in a different way, his crackdown on crime will prove another disaster.”⁸² Robert Woodson, the director of the Urban League’s criminal justice program, noted: “The Harvards of this country can never solve the problems of the Harlems of this country.”⁸³ These critiques went largely unnoticed, even though the Ford Administration emphasized its concern about the impact of crime and violence in black urban communities. When White House officials spoke about the crime issue to reporters and national audiences, they consistently expressed concern for the disproportionate rate of victimization black Americans experienced in the mid-1970s.

The states quickly joined the federal government’s new battle against gang members and juvenile delinquency. In Houston, one of the first cities to receive a discretionary grant, four experienced district attorneys, a statistician, an investigator, several police officers, and a secretary composed the special “Career Criminal Unit.” If the team decided to place a defendant in the program, the judge immediately set exorbitantly high bail so that he or she would remain in detention. The Houston unit successfully placed five hundred offenders in the program each year, sentencing them to

⁸¹ Quoted in Judith Cummings, “Funds to End Youth-Gang Violence Termed Misspent,” *New York Times*, 29 Oct 1976, 92.

⁸² “New Crime Game,” *Afro-American*, 5 Oct 1974, 4.

⁸³ Quoted in Judith Cummings, “Funds to End.”

an average of thirty years in prison.⁸⁴ In effect, Houston's Career Criminal program developed an early formulation of the "three strikes and you're out" sentencing approach later adopted by California and New York. Houston expanded its crime categories to include felons previously convicted of a violent crime and another conviction of any kind, even a misdemeanor. One defendant tried under these terms received a life sentence for possession of a firearm.⁸⁵

The Career Criminal program also encouraged local district attorneys to try juveniles as adults. Another early recipient of LEAA discretionary funds for Career Criminal Programs was the District Attorney's Office in Indianapolis, Indiana. After three years, Indianapolis's prosecuting Attorney James F. Kelley boasted that defendants convicted as Career Criminals received fifty percent longer sentences and noted a decrease in plea bargaining and an increase in trials. Most of these career criminals had long crime records in juvenile courts, a fact that led the unit to prioritize its prosecution of juvenile offenders, or "identifying these youthful criminals and waving them over to felony court to be tried as adult career criminals."⁸⁶ Similarly, New York's democratic governor Hugh Carey held a "small core of violent youngsters" responsible for the urban crime problem. As Carey told a *New York Times* reporter, the foremost responsibility of law enforcement authorities was to "protect the community from this group of youths

⁸⁴ See testimony of Carol S. Vance, DA of Harris County, Texas in 9-27-78 Hearings.

⁸⁵ George C. Smith, Chairman, *National District Attorneys Association—Career Criminal Committee Report for Year 1977* in Urban Crime Policy Hearing Before the Subcommittee on Economic Growth and Stabilization of the Joint Economic Committee. Congress of the United States, Ninety-Fifth Congress, Second Session May 17, 1978.

⁸⁶ James F. Kelley, Prosecuting Attorney for the 19th Judicial Circuit, Indianapolis in Hearings Before the Subcommittee on Criminal Laws and Procedures of the Committee on the judiciary United States Senate, 95th Congress, 2nd Session on S.28 and S.3216. Part II Career Criminals. 27 September, 1978, 63.

who threaten our safety and welfare.”⁸⁷ Based on the lower age limits authorized by the 1974 Juvenile Justice Act, Carey introduced legislation that required offenders aged fourteen and above who were found guilty of a major violent crime and ruled “dangerous to society” to receive a mandatory minimum sentence in family court.⁸⁸

Prosecutors who operated Career Criminal Units soon found themselves with an increased status within their districts and a greatly enlarged budget. These special attorneys tended to have lighter caseloads than their staff prosecutor counterparts, who handled three times the number of trials on a weekly basis. The result was to speed up the sentencing process, and Career Criminal cases typically took thirty to sixty days less from arrest to conviction than defendants prosecuted under standard court procedure. The United States Attorneys Office also ran its own Career Criminal Program called “Operation Doorstop,” named after its principal goal: “to stop the revolving door of arrest-release, conviction-release, rearrest-release, that for too long has characterized the criminal justice process,” as Earl Silber, the US Attorney for Washington, DC, characterized it.⁸⁹ Silber framed “Operation Doorstop” and other Career Criminal Programs as urban programs, or, “an integral part of our national effort to revitalize our beleaguered cities.”⁹⁰ For the Chairman of the District Attorney’s Career Criminal

⁸⁷ Quoted in Maurice Carroll, “Carey Urges Harsher Law Against Juvenile Violence,” *New York Times*, 10 Dec 1975, 1.

⁸⁸ Quoted in *ibid.* In 1971, the LEAA, the Astor Foundation, and the Mellon Foundation funded the Juvenile Standards Project—a two million dollar research endeavor conducted by the American Bar Association and the Institute of Judicial Administrations. By the fall of 1975, the National Commission of Juvenile Justice Standards and Goals recommended radical new changes in the treatment of young offenders.

⁸⁹ Silber in 9-27-78 Hearings 29.

⁹⁰ In Mathias testimony, 5-17-78 Hearings 48.

Committee George Smith, “the violent, career criminal is the number one enemy of big city life.”⁹¹ And if prison removed criminals from their communities, the US Attorneys could claim they generally improved urban social conditions by securing a ninety-two percent conviction rate.⁹² Fencing and sting operations funded by career criminal grants also created possibilities for identification of repeat offenders and mass arrests.⁹³

Although judges tended to support the federal government’s attempt to revitalize urban justice systems, a number of civil rights organizations and criminal defense attorneys challenged the practices of the Career Criminal units. The National Commission on Law Enforcement and Social Justice endorsed an American Enterprise Institute report that found that the focus on black youth for special prosecution in New York City and Philadelphia “may result in the discriminatory labeling of minority children,” and called for a more equitable selection process.⁹⁴ The National Commission warned: “This incompetent and insensitive administration of this program, whether intentional or not, is condemning countless minority youths to misery and failure within the criminal justice system.”⁹⁵ A number of the defendants presented as career criminals appealed their prison terms on the grounds that the program had denied them due process and equal protection. In Ohio, Robert Morton Walker felt he suffered discrimination

⁹¹ Smith in *ibid* 50.

⁹² *ibid* 2.

⁹³ See Chapter 3 for a discussion of local sting and fencing operations partially financed by the LEAA. Sandy Banisky, “‘Bear Trap II’ snares 47 in stolen-goods ruse,” *The Baltimore Sun*, 27 Nov 1979, A1; Testimony of Norman Caron Chief of Police, Kansas City, MO in 5-17-78 Hearings, 5.

⁹⁴ “\$37 million for juvenile crime but minority groups ignored,” *Baltimore Afro-American*, 30 Dec 1978, 8.

⁹⁵ *ibid*.

based on his selection for the program and challenged his conviction on theft and robbery charges in the State Supreme Court. The court ruled that the selectivity of defendants in criminal law enforcement did not violate Fourteenth Amendment protections and rejected his appeal.⁹⁶

The program had seemingly produced results, however, and continued unabated. In urban areas where Career Criminal units operated, crime rates decreased by as much as eight percent.⁹⁷ In the nation's ten largest cities, the program convicted a combined 6,641 habitual criminals on more than ten thousand separate charges. Career Criminal units receiving discretionary funds boasted a ninety-five percent conviction rate with the average sentence at fifteen years.⁹⁸ In the United States as a whole, crime decreased by five percent in cities with more than twenty-five thousand residents. Still, in calling for the nationwide expansion of the career criminal program, policymakers cited FBI data indicating that a quarter of a million Americans continued to pursue careers in street crime.⁹⁹

The conservative columnist James Kilpatrick lauded the program in an editorial that ran in both the *Baltimore Sun* and the *Los Angeles Times* in the fall of 1976, calling the career criminal program the first effective federal law enforcement initiative. Kilpatrick defined the career criminal as “utterly without conscience, he is indifferent to

⁹⁶ See *State of Ohio v. Robert Morton Walker*.

⁹⁷ *ibid.*

⁹⁸ From testimony of George C. Smith, Prosecuting Attorney, Franklin County, Columbus OH and National Chairman, Career Criminal Committee, National District Attorneys Association in 5-17-78 Hearings, 26.

⁹⁹ James J. Kilpatrick, “Rehabilitation be Hanged: Lock Career Criminal Up,” *The Baltimore Sun*, 21 Nov 1976, K5.

every consideration of right conduct; his animal instincts lead him, without pity to prey on unoffending victims.”¹⁰⁰ According to Kilpatrick, arguments linking crime with social conditions had failed to stop the rising incidents of urban violence, and when it came to this latest major LEAA venture: “The purpose is plain—to prosecute the career criminals to the very limit of the law, and to send them to prison for long, long terms. In a word, incarceration... The object is to get these particular criminals on ice, behind bars, where for a number of years they cannot terrorize the people.”¹⁰¹

Given the impressive incarceration record of this prosecutorial approach, four years into the initial pilot program Congress moved to make Career Criminal units more permanent and juvenile-focused while expanding operations to fifty cities during the first half of Jimmy Carter’s presidency. The Repeat Offender Prosecution and Prison Improvement Act of 1978, introduced by New York’s Democratic Congressman Edward Pattison and Maryland’s Republican Senator Charles Mathias, proposed establishing criminal career prosecution projects as part of the LEAA’s larger aim to identify and expedite the prosecution of habitual offenders under severe prison terms. As Ford had argued when he announced the program, the federal government wanted to guarantee the conviction of young offenders and Americans in their early twenties—the population seen as susceptible to continued violent infractions. In practice, however, many units

¹⁰⁰ *ibid.*

¹⁰¹ *ibid.*

often apprehended older offenders and slapped them with harsh prison sentences, while crime-prone youngsters remained on the streets.¹⁰²

With federal support, the RAND Corporation conducted several research studies examining the repeat offender phenomenon, and ultimately suggested that the federal government further concentrate its efforts on young adults, entering “the most active period of their career.” Fifteen year olds experienced the highest rate of arrest in the country, followed closely by sixteen year olds, and RAND determined that criminality peaked before the age of twenty-four. As young people accounted for the highest rates of burglary, larceny, and auto theft, the federal government needed to make career criminal programs more responsive to juvenile offenders in order to secure prison terms.¹⁰³

Meanwhile, the Office of Juvenile Justice and Delinquency Prevention gathered data that reinforced the federal government’s decision to target repeat offenders in urban areas. The LEAA awarded Walter Miller of Harvard Law School’s Center for Criminal Justice forty-eight thousand dollars to determine the source and solution to the problem of violence in cities with gang problems. Miller did not speak with a single gang member during the course of his study, but his understanding of youth crime, one that placed gang activity at the core of urban violence and guns at the core of gang activity, profoundly shaped popular conceptions of black neighborhoods and the national crime control program.

¹⁰² See statement of William A. Hamilton, President, Institute for Law and Social Research in 9-27-78 Hearings.

¹⁰³ “Mandatory Prison Sentences: Their Project Effects on Crime and Prison Population” by Joan Petersilia and Peter W. Greenwood, October 1977. Petersilia worked as a Research Association in RAND, while Greenwood served as the Director of RAND’s Criminal Justice program and coauthored work on Criminal Careers and Habitual Felons. Both James Q. Wilson and Daniel Glaser reviewed drafts of the article.. In 9-27-78 Hearings, 411.

Although Miller viewed gangs as historically endemic to urban life, by the mid-1970s, the problem of youth violence was, “of the first magnitude which shows little prospect of early abatement.”¹⁰⁴ Miller pointed out that gang members tended to be males between the ages of twelve and twenty-one concentrated in low-income neighborhoods throughout the twentieth century, but the increase in the population of urban young people of color, “a population that currently manifests the highest potential for involvement in violent and predatory crime,” in Miller’s words, required new federal gang control and prevention resources.¹⁰⁵ The increasing demographic significance of young black and Latino Americans indicated to Miller that gang violence would escalate over the following decade. “Only massive infusions of federal money or massive jailing of gang members could stem the coming tide of youth gang violence,” Miller concluded in a nod to the larger objectives of the Ford Administration.¹⁰⁶

Using the findings from Miller’s study, Ford officials worried about the significant share of homicides youth gangs in New York and Philadelphia committed, but the fact that the research indicated that black and Chicano gang members committed fifty to seventy-five percent of all murders in Los Angeles alarmed the administration.¹⁰⁷ Miller also brought what he called “proto-gangs” or “troublesome youth groups” rising in Cleveland, Baltimore, St. Louis, and Washington, DC to the attention of policymakers.

¹⁰⁴ Quoted in “Gun-toting teen gangs called threat to schools,” *Chicago Tribune* 1 May 1976, 6; Joseph B. Treaster, “Violence of Youth Gangs is Found at a New High,” *New York Times*, 1 May 1976, 42.

¹⁰⁵ “Gun-toting teen gangs.”

¹⁰⁶ Quoted in Cummings, “Funds to End.”

¹⁰⁷ Miller estimated there were as many as 2,700 gangs with 81,500 members in 6 largest cities, figures he said were conservative. The greatest concentrated appeared to be in “New York, with 315 gangs, 8,000 verified members and another 20,000 alleged members. LA and Philly have highest proportion of gang members... six out of every 100 male youths in those cities were associated with a gang or a group... most of the victims continue to be members of gangs;” Quoted in Treaster, “Violence of Youth Gangs.”

The research revealed that the availability of high-quality weapons on the campuses of schools shaped the nature of gang violence.¹⁰⁸ In Miller's description, public schools evolved into a site where, "the gang extorts fees of a quarter to a dollar from students for the 'privilege' of passing through hallways or using school facilities."¹⁰⁹ The situation had deteriorated to the point that one official in Philadelphia called the schools "citadels of fear."¹¹⁰ In Los Angeles, gangs had "taken over individual classrooms and would have taken over the whole school if the police had not intervened."¹¹¹ The principal of Crenshaw high school nicknamed the institution "Fort Crenshaw," and with Washington high school serving as the Eastside nexus of the Crips, the gang spread rapidly through South Central.¹¹² Thus, in the years after the federal government made juvenile delinquency policy, punitive forces in urban schools, and a concerted attack on gang members the centerpiece of its new crime control strategy, the very problems it attempted to solve had only escalated.

The outpouring of support the Ford Administration's attack on youth gangs received from criminal justice and law enforcement institutions also helped the cause gain salience publically and legislatively. Drawing on Miller's work, the American Bar Association endorsed Ford's hard-nosed strategy in its report on the Juvenile Justice System in 1976. It seemed the administration's approach was necessary to address the

¹⁰⁸ Claudia Luther, "L.A. Called One of 3 Cities With Youth Gang Crisis," *Los Angeles Times*, 20 Nov 1975, C1.

¹⁰⁹ Treaster, "Violence of Youth Gangs."

¹¹⁰ quoted in *ibid.*

¹¹¹ *ibid.*

¹¹² Rosenzweig, "Black Principal Describes School as 'Ft. Crenshaw.'"

inevitable increase of “youth gangs roaming city streets and terrorizing residents.”¹¹³ In the words of LEAA director Richard Velde, Miller’s work was both “important and disturbing,” and the Department of Justice quickly took action.¹¹⁴

The release of Miller’s report in May 1976 served two political purposes for Ford: it instilled fear in the voting public and supplied figures enabling the president to call for greater social control in designated urban areas. The *Chicago Tribune* recalled sensationalized depictions of urban civil disorder: “Gun-toting teenage gangs with such names as ‘Savage Skulls’ and ‘King Kobras’ represent a growing threat to schools and communities in the nation’s big cities.”¹¹⁵ Meanwhile, as Ford prepared for his southern tour during the 1976 campaign, he assumed an even tougher stance on crime. At an event in Miami Beach, he called for juveniles to be tried as adults. “If they are big enough to commit the crimes they are big enough to go to jail,” Ford said, “Too many violent and street-wise juveniles are using their age as a cloak of immunity.”¹¹⁶ When the president proclaimed: “It is time to give the streets back to the law-abiding citizens and put the criminal behind bars,” the audience launched into uproarious applause¹¹⁷

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In the spring of 1975, with the Career Criminal Program underway in its first eleven cities, the Ford Administration had simultaneously developed a firearms policy

¹¹³ Clayton Jones, “Target: Youth Gang Violence,” *Christian Science Monitor* 22 Jun 1976, 3.

¹¹⁴ Quoted in Treaster, “Violence of Youth Gangs.”

¹¹⁵ “Gun-toting teen gangs.”

¹¹⁶ Harry Kelly, “Teen Criminals Deserve Adult Penalties: Ford,” *Chicago Tribune*, September 28, 1976, 6.

¹¹⁷ George Skelton, “Ford Proposes Adult Punishment for Juveniles Who Commit Vicious Crimes,” *Los Angeles Times*, 28 Sep 1976, B5.

meant to target handgun use among youth living in segregated poverty. Ford's "Handgun Crime Control Act" carried with it a mandatory minimum sentence of up to three years and could help create opportunities for law enforcement authorities to identify and remove career criminals and gang members in possession of firearms from the community. Ford officials hoped the measure would help the embarrassing escalation of the nation's reported crime rate.

The discriminatory gun control program policymakers developed demonstrated the extent to which the White House used discretionary funds to meet its own desired purposes while operating through a block grant, states' rights paradigm. The outpouring of support this racially targeted measure received from ardent gun control *opponents* such as Republican National Committee Chairman Bob Dole and Senate Republican leader Hugh Scott seemed to contradict their Party's commitment to the second amendment. But the legislation carefully distinguished between the rifles, shotguns, and well-constructed handguns "ordinary Americans" and "sportsmen" possessed for leisure activities from the "shoddy" handguns offenders carried on the streets of the nation's most poverty-stricken cities.¹¹⁸

As a statutory control on low-income urban Americans premised on possession rather than victimization, Ford's handgun control Act advanced federal preemptive strategies based on abstract notions of potentiality.¹¹⁹ The policy targeted black and

¹¹⁸ Hearings before the Subcommittees of the Committee on Appropriations, House of Rep, 94th Congress, part 2 Tuesday, October 21, 1975—Supplemental Appropriations of FY 1976, 691.

¹¹⁹ For sociological considerations of the use of criminal law to contain the threat marginalized groups posed to state power, see Georg Rusche, "Labor Market and Penal Sanction," *Crime and Justice* 10: 2-8, 1933; Richard Quinney, *Criminal Justice in America: A Critical Understanding* (Boston: Little, Brown, 1974); Steven Spitzer, "Toward a Marxian Theory of Deviance," *Social Problems* 22: 638-51,

Latino Americans by proposing a ban on “Saturday Night Specials”—or cheap (\$50 or less), low-quality (.32 caliber or less), and easily concealed guns policymakers associated with urban street crime. Ironically, the availability of these weapons increased only after the Gun Control Act of 1968 banned the importation of low-cost handguns. The legislation inadvertently promoted a gun trafficking system whereby factories in the south assembled the parts of low-cost handguns and shipped them to urban centers in the north. A 1973 study conducted by the Bureau of Alcohol, Tobacco, and Firearms traced the source of half of the firearms used in New York City street crime to South Carolina, Georgia, Florida, and Virginia.¹²⁰ Although thirty-seven Democrat and thirty-one Republican Senators supported Ford’s proposed measure, the House ultimately declined to pass major gun control legislation on the heels of the 1976 election.

Yet with novel use of discretionary aid, Ford pressed on with “Operation Disarm the Criminal.” Attorney General Edward Levi and other Ford officials even exploited the terms of the 1965 Voting Rights Act to justify the anticipated punitive intervention into low-income urban areas. For this landmark civil rights legislation contained the statute the Ford Administration understood as the most “nearly analogous to a selective handgun control law.” Drawing from the Supreme Court’s decision in *Katzenbach v. South Carolina*, which empowered Congress to “limit its attention to geographic areas when

1975; Bruce Western, *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006) 55.

¹²⁰ William Claiborne, “N.Y. Guns Traced to South,” *The Washington Post*, 18 Dec 1973, A3.

action seemed necessary,” Ford and Levi reasoned it could “prevent excessive localized misuse” of handguns by implementing selective controls.¹²¹

But the attempt to ban Saturday Night Specials was largely a federal concern. Police chiefs in Boston, Los Angeles, San Antonio, Atlanta and Newark argued in separate testimony before the Government Operations Committee for far broader gun control laws—some even proposing banning all handguns in their jurisdictions. For these local law enforcement chiefs, the proposed federal measure to attack only the distribution and possession of Saturday Night Specials would guarantee arrests of urban teenagers but would not alleviate the general problem of gun violence.¹²² Here, the United States was unique. Unlike most of Western Europe and Asia, licensing and registration was required to possess a handgun, and a number of European, Asian, and African countries prohibited handgun possession.

Like drugs, the issue of firearms enabled the president and Congress to exert direct influence over designated communities. “Operation Concentrated Urban Law Enforcement” (CUE) was formed shortly after Ford’s major congressional message on crime in June 1975, and used the terms of Johnson’s Gun Control Act and the Explosives Control Act of 1970, which prohibited “the acquisition of firearms or explosives by certain types of individuals considered to represent potential threats to society.”¹²³ The program doubled the number of Alcohol, Tobacco, and Firearms agents engaging on

¹²¹ “Memorandum on the Problem of the Criminal Use of Handguns,” March 26, 1975 in Hearings before the Subcommittees of the Committee on Appropriations, House of Rep, 94th Congress, part 2 Tuesday, October 21, 1975—Supplemental Appropriations of FY 1976.

¹²² Hearings before the Subcommittees of the Committee on Appropriations, House of Rep, 94th Congress, part 2 Tuesday, October 21, 1975—Supplemental Appropriations of FY 1976, 691.

¹²³ Rex Davis in *ibid* 616.

“street work,” or acting undercover to purchase guns from illegal sellers in the eleven largest cities, where Career Criminal Programs were just getting underway. Using discretionary funds, the Ford Administration awarded the Bureau of Alcohol, Tobacco, and Firearms its requested 15.5 million dollars for the program, using two million dollars for support programs and the rest to hire new agents. The force did not reflect the demographics of the communities where it operated: of 1,674 total agents working for the Bureau, only forty-eight were black or Hispanic, none of whom worked in the southeast region.¹²⁴

To complement the addition of federal gun control agents on the streets of every major American city and to focus these manpower sources, Alcohol, Tobacco, and Firearms worked with White House Officials to implement what they called the “Significant Criminal Enforcement Program.” The broad definition the Bureau used to identify significant criminals made possible widespread arrest and federal prosecution of offenders. The program gave the federal government authority to label any “active criminal (even though not previously convicted) with a high potential towards crimes of violence, as documented by specific current and reliable intelligence data.”¹²⁵ The Bureau would use the arrest records of the significant criminals to compile a secret list of firearms violators, much like the FBI’s Most Wanted List, although the names would not be available to the public.

The Concentrated Urban Enforcement Program culminated in a sweeping series of handgun raids in Delaware, South Carolina, Kentucky, Virginia, Maryland, North

¹²⁴ “Gun Control Unit Faces Shakeup,” *The Washington Post*, 1 Dec 1976, C25.

¹²⁵ From Bureau of Alcohol, Tobacco, and Firearms “Significant Criminal Enforcement Project,” Supplemental Material in 10-21-75 Hearings. (654-655).

Carolina, and Ohio. Working with federally-financed fencing operations like “Operation Sting” already underway in cities like Washington, DC, Alcohol, Tobacco, and Firearms agents drew from more than 1.5 million dollars in federal funds to purchase firearms at gun shows in cities like Baltimore, Boston, Chicago and on the black market.¹²⁶

These operations ultimately led the Bureau to determine that young urban adolescents used guns with greater frequency than any other group, and that this use constituted a cause of the overall juvenile delinquency problem. Congress and the president cited these and other data to legitimize legislative initiatives that would continue to target low-income teenagers. A study of ten thousand minority youth in Philadelphia funded by the Department of Health, Education and Welfare found that only 650 of the group accounted for a third of the arrests and half of the convictions in the city and that “over half of the black youngsters were delinquent, as compared to 28.64 percent of white youngsters.”¹²⁷ The study, conducted by the University of Pennsylvania’s Marvin Wolfgang, ultimately suggested that since “more non-whites go on after the first offense to more offense,” the federal government’s “major concern should be with this racial group.”¹²⁸

This research reinforced Walter Miller’s findings on gangs, and encouraged policymakers to make sweeping statements about the relationship between racial background and violence. “Most young offenders who commit acts of violence and

¹²⁶ Juan Williams and Alfred Lewis, “1,100 Illegal Guns Seized in Raids,” *The Washington Post*, 19 Nov 1976, C2.

¹²⁷ Work in 9-27-78 Hearings 12.

¹²⁸ See Marvin E. Wolfgang, University of Pennsylvania, “Youth and Violence,” HEW Report, 1970. See also “The Justice Department’s Fight Against Youth Crime: A Review of the Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration,” Prepared by Robert W. Woodson, Consultant to the Subcommittee on Crime. Subcommittee on Crime of the Committee on the Judiciary, House of Rep, 95th Congress, Second Session, December 1978, 6.

pursue criminal careers come from minority ghetto and poverty backgrounds,” Charles Work of the Law Enforcement Assistance Administration testified to Congress based on Wolfgang’s findings, and “so do their victims.”¹²⁹ From the perspective of federal policymakers, the problem could be solved only by subjecting these groups to intensive patrol, court processing, and imprisonment.

At the same time as the Bureau of Alcohol, Tobacco, and Firearms cracked down on gun law violators in the final weeks of the Ford Administration, the Treasury Department moved to reorganize its ever more powerful law enforcement arm by de-emphasizing field investigations. As quickly as it got off the ground, the federal government’s gun control squad came to an end with the Ford presidency.¹³⁰ But the widespread arrest, prosecution, and incarceration of young Americans who joined gangs, possessed Saturday Night Specials, or had the potential to commit such crimes had only begun.

V. The Mass Incarceration of Black Youth

By the late 1970s, when the Career Criminal program failed to halt the rising crime rate and Ford’s Handgun Control Bill faltered, policymakers grew increasingly concerned about the breakdown in law and order they perceived. In order to prevent crime, as Senator Lloyd Bentsen argued: “The time has come for a concentrated effort to imprison those hardened and dangerous criminals who repeatedly commit violent acts.”¹³¹

¹²⁹ Work in 9-27-78 Hearings, 6.

¹³⁰ “Gun Control Unit Faces Shakeup.”

¹³¹ Bentsen in 9-27-78 Hearings 87.

What Bentsen called the federal government's "new realism" with respect to the national law enforcement program sounded like the law enforcement theory behind Ford's Career Criminal Initiative, as it represented a "concentrated attack on the chronically violent, a method of imprisoning the dangerous and making deterrence a factor in criminal law."¹³² Moreover, the federal government's effort to "make justice an integral, not secondary, aspect of urban policy," was at the center of the "new realism" and greater bipartisan consensus about crime by the late 1970s.¹³³

When Jimmy Carter took office in 1977, assessments of crime that took into account socio-economic factors returned to federal conversations about the issue, as they had during the previous Democratic administration. Yet like Johnson's framing of the crime problem and the need for federal intervention to solve it, practices adopted by the Carter administration complemented the government's larger impulse to assert greater punitive control in areas of segregated poverty as a means to manage the symptoms of urban crisis. During his presidential campaign, Carter painted the LEAA, or what he called "The Republicans' showcase agency," as wasteful, poorly coordinated, and grossly mismanaged. The federal government had invested more than five billion dollars into state and local law enforcement since the Johnson Administration, but the national agency had made "no contribution to reducing crime."¹³⁴ Carter's advisor to the Secretary of Housing and Urban Development, Lynn A. Curtis, believed that the prevalence of crime led to urban deterioration, and the federal government should

¹³² *ibid* 89.

¹³³ *ibid*.

¹³⁴ Bill Boyarsky, "Carter, in Detroit, Scores Ford on Crime, Then Offers 16-Point Plan to Reduce It," *Los Angeles Times*, 16 Oct 1976, A23.

develop anticrime policy in order to reverse the general trend of residential desertion and the decline of urban tax bases.

In the face of mounting crime rates and rising youth violence, liberals like Curtis argued that the idea of deterrence needed to move beyond the prison and include economic and social programs. As the prison population rose to 110 to 115 percent capacity at the national level and up to 175 percent in some southern prisons by the late 1970s, inmates “could be regarded as part of a secondary labor class, with little chance of escaping perpetual joblessness,” as Curtis pointed out to Congress. Without question, the federal government’s decision to manage the urban crisis punitively had created its own crisis with respect to the national prison population.¹³⁵ Curtis had a clear analysis of the net impact of the deterrence philosophy favored by the previous administration, which had provided “intellectual rationalization for the continued Vietnamization of the criminal justice system—more men, more equipment, more incursions, swift and sure punishment to deter a nonwhite enemy whose psychology the white power brokers of this Nation presume to understand.”¹³⁶

Criticizing Ford’s focus on repeat offenders as too narrow, the Carter Administration believed that the federal government needed to work towards effective and efficient administration of justice that reduced fundamental inequalities in the system while also undertaking massive urban rehabilitation and revitalization programs as a crime prevention measure. With federal researchers and civil rights organizations estimating the unemployment rate for black youth at forty to sixty percent, it seemed for

¹³⁵ Curtis in 5-17-78 Hearings, 14.

¹³⁶ *ibid* 7.

some liberal policymakers that a guaranteed jobs program was the answer. As Curtis explained, employment opportunities would help make the nonwhite crime rate “more comparable to the crime rates of whites.”¹³⁷ The Carter Administration similarly believed that by focusing on the labor issues of “the most desperate people in the critical places” crime rates would decrease.¹³⁸ Conservatives, however, clung to punishment as the only road to deterrence and, by extension, the national crime problem.

Even as Congress and the Department of Justice recognized near the end of the 1970s that, “federally funded programs to combat juvenile crime are perpetuating class and racial segregation,” the government turned towards greater institutionalization and concentration of federal funds to reach what policymakers now defined as “at-risk” populations. In the end, Carter’s crime proposals essentially continued the objectives of his predecessors. Carter called for swift and uniform sentencing for crimes and court reform. He continued to concentrate on serious and violent crimes and policing high crime urban areas as well as increased pay and training for officers. And he saw community-based initiatives such as street lighting and recreational opportunities for urban young people as necessary measures for preventing crime.¹³⁹

As the 1980s approached, Congress warned that the decade would be marked by “a greater concentration of minority youth in the ‘at-risk’ population,” the potential consequences of which meant that, “an even greater number of minority youth will be

¹³⁷ The federal government estimated the unemployment rate at forty percent, the Urban League claimed it was as high as sixty percent. In 5-17-78 Hearings, 11.

¹³⁸ Boyarsky, “Carter, in Detroit.”

¹³⁹ Ibid.

handled by juvenile and adult correctional facilities than is currently the case.”¹⁴⁰ Based largely on demographic research, these predictions linked birth rates to crime rates. Faced with the continued rise in the population of low-income youth, the federal government prepared for an even greater influx of marginalized Americans into the ranks of the carceral system. In one of the first major research projects funded by the Office of Juvenile Delinquency and Prevention, University of Chicago law professor Frank Zimring used birth rates in the “at risk” population to warn that the a justice system would concentrate its resources on nonwhite Americans.¹⁴¹

Drawing on Zimring’s work, Congress blamed the Office of Juvenile Delinquency for building a system that pushed alarming numbers of nonwhite youth into adult correctional facilities.¹⁴² It seemed the agency had focused too much on diversion and de-institutionalization, and not enough on programs that would reach potential delinquents, disadvantaged youth, or the “at risk” populations Congress now envisioned.¹⁴³ The block grant structure proved to be a highly limited model. As in the case of the Law Enforcement Assistance Administration, block grants dispersed through the Office of Juvenile Justice and Delinquency Prevention did not prevent states from spending money on crime in rural and suburban communities. “The Justice Department’s Fight Against Youth Crime,” the first major Congressional report on the activity’s of the Office, concluded that the failure of the federal government to concentrate its program on

¹⁴⁰ “*The Justice Department’s Fight Against Youth Crime,*”

¹⁴¹ *ibid.*

¹⁴² *ibid.*

¹⁴³ *ibid.*

youth living in segregated poverty and investments into runaway youth and community-based diversion programs at the state level meant that “at risk” populations had not received their necessary share of crime control resources.¹⁴⁴ In the middle of the Carter Administration, at the height of the federal government’s awareness of the racism inherent in its crime control program, Congress failed to act. Policymakers witnessed the phenomena of post-industrial violence, hard drug use, and structural deterioration happen before their eyes as white homeowners in California passed Proposition 13 by an overwhelming majority, cutting social programs and decreasing property taxes.

The emergence of juvenile delinquency policy and the Ford Administration’s attention to young black urban men through its career criminal and handgun control programs reveals the ways in which, when it came to disrupting racial hierarchies, policymakers consistently turned to an increasingly punitive approach which clouded their attention to other social problems in urban centers. Instead of arresting actual criminals, the federal government entered the category of potentiality into juvenile justice legislation to hunt for future and possible criminals. Policymakers’ view of juvenile delinquency as the pathological result of welfare, poverty, and racism rationalized their investment in police departments and court systems to solve social problems. The federal government blamed the victim. Policymakers focused on pathology as though it was a surprise when they knew that poverty, subpar school systems, and unemployment created crime. When Ford attempted to remove young delinquents and potential delinquents from targeted communities by creating a special court system and instituting a corps of

¹⁴⁴ *ibid.*

special federal agents to arrest handgun violators, the federal government demonstrated its willingness to attack the mechanisms of violence while skirting away from the causes.

CHAPTER FIVE

Urban Policy as Crime Policy: The End of the Law Enforcement Assistance
Administration and the Rise of the Modern Carceral Complex

I. The Carter Synthesis

The combined impact of the exodus of domestic manufacturing from urban centers and the decision to invest in punitive institutions in the aftermath of civil rights legislation and urban uprisings reached a structural breaking point by the late 1970s. “The riots have ended,” a Carter campaign paper declared, “but the cities have grown more violent. They have become the enclave for the poor and they are becoming less and less able to support a growing demand for social services.”¹ This understanding of historical inequality led Carter and his advisors to conclude that federal policy in the postwar period had caused many of the social and economic problems the nation faced in the late 1970s. “It was federally-financed farm mechanization programs that cost thousands of jobs for southern black people and it lured them to our urban areas,” Carter pointed out, in addition to “mortgage subsidies and highway construction programs” that facilitated suburban growth.² With respect to crime control, Carter believed the federal government was responsible for building more equitable institutions. “We pride ourselves on having a good, fair criminal justice system,” Carter told Bill Moyers in an interview, “Now wealth is a major factor in whether or not you get justice.”³

¹ “The Urban Crisis,” n.d.; Carter Library; 1976 Pres Campaign-Issues Office-Noel Sterrett; Box 88 Folder “Memoranda (Nodak).”

² *ibid.*

³ Jimmy Carter radio interview with Bill Moyers on the 1976 campaign, Public Broadcasting Systems, 6 May 1976; quoted in Thomas E. Cronin, Tamia Z. Cronin, and Michael E. Millakovich, *U.S. v. Crime in the Streets* (Bloomington: Indiana University Press, 1981), 120.

The development of federal punitive policy over time, involving the use of tactical police squads, high impact hardware programs, pre-emptive policy, firearms sanctions, and career criminal court units, resulted in the unprecedented entrance of young black men from urban areas into the ever-expanding national prison system. During the campaign, Carter insisted that a full employment program and the end to federal law enforcement assistance could revitalize the neighborhoods where disproportionate numbers of these inmates had once resided.⁴ “Overall, I think the best way to reduce crime is to reduce unemployment,” a Carter position paper on crime stated.⁵ Campaign polls indicated that most Americans believed “cleaning up social and economic conditions in our slums and ghettos” would reduce crime. These results made Carter comfortable in suggesting a more structural approach.⁶ The limitations of the block grant model favored by the previous administrations had fully revealed themselves.

It seemed to many federal policymakers that autonomous state-level authority over local programs generated a “kaleidoscope of waste,” resulting in the greater marginalization of Americans living in urban segregation.⁷ Carter believed the situation could be remedied only by turning back to the categorical model the Johnson Administration originally proposed for national law enforcement. Like Johnson’s,

⁴ *ibid.*

⁵ Jimmy Carter, speech at Portland, Oregon rally, 27 September 1976, quoted in *The Presidential Campaign 1976*, Vol. 1, pt. 2 (Washington D.C.: U.S. Government Printing Office, 1978); *ibid.*

⁶ 3-31-80, “Urban Initiatives Anti-Crime Program First Annual Report to Congress in Response to the Public Housing Demonstration Act of 1978 and as Part of the President’s National Urban Policy,” Carter Library, Administration—Staff Offices, Ethnic Affairs, Box 1, Folder Anti-Crime Program [Lynn A. Curtis].

⁷ 9-18-76 Letter to Governor Carter from Sam Bleicher Thru Stu Eizenstat RE: Re-authorization of the LEAA. Carter Library, 1976 Campaign Issues Office-Sam Bleicher, Box 36, Folder Law Enforcement.

Carter's punitive intervention invested directly in local programs, cutting out the states as the middlemen. Using population and crime data to devise a formula determining the needs of a given community, Carter hoped to foster a more effective and equitable funding structure. Whether through block grants or formula grants, or through a welfare framework or a crime framework, general purpose or categorical funding options enabled the federal government to maintain a degree of control in low-income communities.

During the campaign and in the early into his presidency, Carter promised to restore confidence in the federal government and foreign affairs by stressing equity and human rights. He played up combating poverty in the "Third World," remedying the urban crisis, preventing the spread of nuclear weapons, and solving international ruptures through diplomatic negotiation. He promised to bring inflation down by increasing government expenditures, but ended up abandoning the Keynesian policy of spending to combat the recession and turned instead to high interest rates. Domestically, corporations mobilized against unions, and the combined impact of unemployment and inflation promoted economic restructuring based on a service economy. Rather than improving the social conditions of middle and working-class Americans and promoting international cooperation and progressive social development in former colonial nations, by the end of the Carter administration inflation peaked at twenty percent and the drastic increase in the nation's military budget severely cut social spending and federal economic regulation. In effect, Carter positioned the Reagan administration to continue the drive towards

privatization, the unprecedented growth of the military-industrial complex, and the rise of mass incarceration.⁸

Like Carter's approach to foreign policy and the domestic economy, the policies of his administration in practice did not approximate the president's idealistic rhetoric and his attention to the structural causes of inequality. Instead, the administration synthesized the approaches of his predecessors and laid the groundwork for the Cold War policies and deregulation of the Reagan Administration. While Carter sought to increase federal control at the local level, he did not want new anti-crime resources for low-income communities to arrive in the form of law enforcement grants.

By conjoining crime control and urban policy, the Carter Administration turned the popular debate stemming from the Johnson era about the root causes of crime on its head by treating crime as the root cause of urban decay. With all urban policy classified as crime control policy, the Carter Administration removed federal punitive programs from urban communities and recast them as general social programs. The administration's Urban Anti-Crime Program exemplified how the full inclusion of law enforcement functions into urban social programs operated on the ground. As the first attempt to make a "comprehensive, long term commitment to the Nation's urban areas" since Johnson, the program focused on revitalizing the most troubled public housing projects in the nation with security hardware.⁹

⁸ See Judith Stein, *Pivotal Decade: How the United States Traded Factories for Finance in the Seventies* (New Haven: Yale University Press, 2011).

⁹ Jimmy Carter: "National Urban Policy Message to the Congress.," March 27, 1978. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*.

For the Carter Administration, the resources of federal agencies could be easily combined in public housing projects to make an immediate impact on crime and, with it, larger urban problems. Carter officials framed the Public Housing Security Demonstration Act of 1978 as an anti-crime measure, but inside the White House, officials considered the legislation an “ethnic” proposal.¹⁰ The funds were targeted at the most deteriorated and segregated areas in the country: places like the South Bronx, Chicago’s Robert Taylor Homes, and Liberty City in Miami.¹¹ Even as the Carter Administration cast the Public Housing Demonstration Act as a community-based initiative, in practice the program functioned to increase patrol and surveillance in public housing communities.

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From the Johnson Administration onwards, managing the modernization and expansion process of the lucrative law enforcement apparatus was a presidential responsibility.¹² The federal investment in law enforcement and criminal justice institutions approximated five billion dollars alone, and total national expenditures increased three-fold from 1965, when Johnson’s Office of Law Enforcement Assistance first opened its doors, to 1977, when Carter moved into the White House.¹³ The growth

¹⁰ In the Jimmy Carter Presidential Archives, the Public Housing and Security Demonstration Act of 1978 is filed under “ethnic affairs.”

¹¹ 7-1-1980 Letter to Stephen R. Aiello, Special Assistant to the President for Ethnic Affairs, from Lynn A. Curtis Director Urban Initiatives Anti-Crime Program. Jimmy Carter Presidential Library, Ethnic Affairs-Aiello. Box 10 Folder “Urban Anti-Crime Initiatives [Meeting] Shoreham Hotel 7-15-80.”

¹² “The Urban Crisis.”

¹³ While in 1965, the nation spent 4.6 billion on criminal justice, by 1977 the figure had reached twenty-three billion, or roughly seventeen billion in constant 1965 dollars. Spending at the state and local level followed the federal government’s example and grew eighty-seven percent from 1971 to 1976. Federal government spending more than doubled (101.6 percent), state government spending was up by

was remarkable: Nixon started the LEAA with a sixty-three million dollar allocation in 1969; five years later, the agency received its highest budget from Congress, at 871 million dollars.¹⁴ Even in the context of inflation in the 1970s, the exponential increase of the federal government's investment into law enforcement at the state and local levels occurred as other domestic programs received substantial cuts.

As much as Carter wanted to avoid the “policy of confrontation with our cities” adopted by Nixon and Ford, and hinted that he would abolish the Law Enforcement Assistance Administration during the campaign, he quickly discovered that the national carceral complex could not be easily dismantled.¹⁵ Nixon had converted the LEAA into “a bureaucratic monster,” as one Carter campaign called it, so that by 1976, the agency supported five hundred planning and development agencies and 2,400 staff members.¹⁶ With leadership constantly in flux—the LEAA fell under the command of five attorney generals and six head administrators before Carter took office—the agency could not function to meet its stated goals.¹⁷ For the Carter campaign, the FBI data proved this.

94.1 percent, and the local government increase was 81.6 percent. 1-4-78 Memorandum To Annie Gutierrez from Bill Albers, Subj: LEAA/NIJ Proposal, Carter Library, Gutierrez Files, Box 25, Folder 8; “US DOJ LEAA News Release 2-2-78. Gutierrez Files Box 12 Folder 11 “Crime Statistics;” See also “Expenditure and Employment Data for the Criminal Justice System, 1976.”

¹⁴ The yearly budget allocations of the LEAA are as follows: 1969- 63 Million; 1970- 278 Million; 1971- 529 Million; 1972- 699 Million; 1973- 855 Million; 1974- 871 Million; 1975- 866 Million; 1976- 810 Million; 1977- 753 Million; 1978- 704 Million (Requested) General Briefing of the LEAA, Department of Justice April 1977. Gutierrez Files Box 25 Folder 10 LEAA [3].

¹⁵ Democratic governors had already begun to downsize the LEAA. In California, where governor Jerry Brown succeeded Ronald Reagan, the Office of Criminal Justice Planning reduced its employees from two hundred and sixty to thirty-six. 7-19-76 letter to Arnold Sagalyn, Coordinator, Task Force on Crime and Criminal Justice from Daniel Glaser, Professor. Jimmy Carter Library, 1976 Campaign Issues Office-Sam Bleicher. Box 26, Folder Law Enforcement-Arnold Sagalyn.; 9-18-76 Letter to Governor Carter from Sam Bleicher Thru Stu Eizenstat RE: Re-authorization of the LEAA. Carter Library, 1976 Campaign Issues Office-Sam Bleicher, Box 36, Folder Law Enforcement.

¹⁶ 9-18-76 Letter to Governor Carter from Sam Bleicher.

¹⁷ *ibid.*

Crime had increased fifty-eight percent over its pre-Nixon levels, and rose an alarming twenty-seven percent during the Ford Administration alone.¹⁸

Like the law enforcement budget, incarceration rates had reached historic heights when Carter announced his candidacy. Street patrol, longer sentences, and stricter parole boards resulting from federal punitive policy had promoted the rapid construction of prisons during the Nixon and Ford Administrations.¹⁹ After falling in the 1960s, the population reached nearly a quarter of a million inmates by the 1976 election, and corrections authorities planned for eight hundred and sixty additional facilities.²⁰ If construction continued at this pace, five hundred thousand new inmates would occupy two thousand new penal institutions by May 1980, effectively doubling the nation's prison population.²¹ In 1945, the average sentence was sixteen and a half months, by 1965 it had jumped to nearly three years, and by 1975 the average sentence was just under four years.²² Mass incarceration seemed imminent.

Recognizing the legal system as too overburdened to provide humane treatment and prisons and jails as too antiquated to “correct” offenders, Carter developed punitive

¹⁸ 7-19-76 Letter to Arnold Sagalyn; 9-18-76 Letter to Governor Carter from Sam Bleicher.

¹⁹ “Some Random Notes on Crime and Corrections”/ “Sykes Memo,” Jimmy Carter Presidential Library, 1976 Campaign Files, Box 33, Issues Office-Bleicher, Folder Crime and Criminal Justice [4].

²⁰ Each correctional institution averaged seven million dollars a piece, or roughly than twenty-six thousand dollars an inmate, and two hundred thousand American entered the American prison system from 1972 to 1978. “Magnitude of the Wave of Jail and Prison Construction in the United States During the 1970s,” National Moratorium on Prison Construction, January 1977, JCL, Gutierrez, Box 11, Folder 1; “Jimmy Carter on Prisons,” sent as a memo to Sam Bleicher. Re: Paper on Prisons, JCL, 1976 Campaign Files, Box 33- Issues Office Bleicher, Folder Crime and Criminal Justice [4]; 2-8-78 Open Letter to Attorney General Griffin Bell from Milton G. Rector, President of National Council on Crime and Delinquency, JCL Gutierrez Box 11, Folder 16.

²¹ “Magnitude of the Wave of Jail and Prison Construction.”

²² 2-8-78 Open Letter to Attorney General Griffin Bell from Milton G. Rector.

urban policy that would dissolve federal law enforcement programs as a solution.²³ Carter noted a “direct correlation between high unemployment t, high crime rates, and high inmate populations,” and linked his commitment to provide segregated and incarcerated Americans with jobs in the urban policy he formulated.²⁴

The campaign internally recognized that black Americans bore the brunt of the intersection Carter identified. On the surface, the figures seemed to be improving: black families earned more money in 1974 than they did in 1964. During the recession of 1975 to 1976, however, one hundred thousand black families fell below the official poverty level, and the unemployment rate for black Americans was two times that of their white counterparts.²⁵ Nearly thirty-six percent of all black teenagers could not find jobs.²⁶ The fact that social scientists described a typical inmate as a black twenty-six year old high school dropout serving a six and a half year sentence for a violent crime further embodied these circumstances.²⁷ By the end of his administration, Carter successfully reduced the federal crime control function and made patrol and surveillance of segregated communities an easier task for law enforcement via his urban policy. But the social conditions in low-income urban neighborhoods failed to improve significantly: crime and

²³ “Some Random Notes on Crime and Corrections”/ “Sykes Memo.”

²⁴ “Jimmy Carter on Prisons.”

²⁵ “Strategies for Controlling Crime: A Position Paper,” Prepared by The Administration of Justice Division, National Urban League, March 1978, JCL, Gutierrez Box 12, Folder 8.

²⁶ Thirteen percent of black Americans were unemployed in at the end of 1976, *ibid.*

²⁷ By 1977, the typical woman prisoner in the United States was black and under the age of thirty. This is finding of \$289,025 study by LEAA and the California youth Authority interviewing some 3,000 women in 15 state prisons, 42 local jails. “LEAA Study Shows: High Numbers of Women Prisoners are Young Blacks,” *Philadelphia Tribune*, 13 Aug 1977, 4; “Typical State Inmate Called Black, 26, Dropout,” *The Baltimore Sun*, 1 May 1977, B2.

drug use worsened, employment discrepancies remained, and record numbers of black Americans entered the prison system.

II. Back Towards Johnson

In the spring of 1977, the newly inaugurated Carter and Attorney General Griffin Bell appointed a joint study group to examine the controversial LEAA and make recommendations for its future.²⁸ During the campaign Carter aides considered the idea of abolition, and many others in the law enforcement community questioned the utility of federal assistance to states. In 1976, the Center for National Security Studies had evaluated the LEAA as a complete failure and suggested closing it down, and Baltimore City Police Commissioner Donald D. Pomerleau also called for the disbanding of the agency.²⁹ Others, like the Independent Twentieth Century Fund believed the agency could still contribute to crime control by focusing on statistical research and cutting ties to local and state law enforcement and criminal justice institutions.³⁰

The first Democratic attorney general since Ramsey Clark, Bell made his dissatisfaction with the LEAA clear from the outset. At the time, the agency took up

²⁸ As fellow Georgians and close friends, Bell and Carter could meet “on some of the most important things in five minutes,” yet fundamental tensions between the White House and the Department of Justice remained. Carter’s domestic policy staff felt that “Bell apparently feels that much of what they do is not really our business, and largely a function of enforcement.... Bell is very skiddish about White House ‘interference’ at Justice.” Similarly, Bell refused to take action when the Department of Justice did not share its law enforcement priorities with the White House, often. In March of 1977, for example, when Carter began talking about the fight against organized crime as a critical element of his law enforcement program, Bell stalled in developing a comprehensive approach to the problem. Memorandum for Stu Eizenstat from Annie M. Gutierrez. Subject “Getting to Work with Bell and Justice” March 24, 1977. Gutierrez Files, Box 24 Folder 4 “Justice, [Dept. of]- Policy.”; United Press International Clipping, 3-24-77 in Gutierrez files Box 12 Folder 1 Crime [2]; Timothy D. Schellhard, “Carter’s Lawman,” *Wall Street Journal*, 20 Jan 1978, 1.

²⁹ Roger Twigg, “Pomerleau faults LEAA study release,” *The Sun*, 17 Apr 1977, B8.

³⁰ “A Good Concept Gone Awry,” *Los Angeles Times*, 28 Jul 1977, D6.

thirty-two percent of the Department of Justice's budget, exceeding the FBI's 513 million dollar allocation by nearly two hundred and fifty million.³¹ Bell was especially upset about the types of programs the LEAA operated and funded. The agency spent two and a half million dollars on brochures encouraging police departments to seek federal law enforcement funds, and 1.5 million on three thousand bulletproof vests that had failed on test animals.³² The new attorney general immediately fired LEAA director Richard Velde, who had worked as deputy administrator from the time the agency first opened its doors and commanded it during the Ford Administration. Velde's vacancy left the agency without a director for the first half of Carter's presidency.

The Carter administration charged that planning under the block grant concept spawned corruption and mismanagement.³³ Under the previous administrations, without coherent objectives or strong leadership, the LEAA had established a bureaucratic apparatus so vast that it could not effectively deliver money to the "areas of greatest need."³⁴ The problem was immediate and crime had increased under state control. Bell and Carter proposed formula grants to fix the LEAA's problems. A channel needed to be reestablished between the federal government and local organizations.³⁵ If the federal government could resolve the inaccuracies in crime reporting, it could disperse funds

³¹ John M. Goshko, "LEAA's Fate Weighed at Justice Dept.," *The Washington Post*, 9 Apr 1977, A1.

³² *ibid.*

³³ 3-28-77 Memorandum For Peter Flaherty, Deputy Attorney General from Bill Albers, Subj "LEAA Recommendations," Carter Library, Gutierrez Box 25, Folder 10.

³⁴ 7-10-1978 Letter to Congress from Office of the White House Press Secretary, JCL Neustadt Files, Box 25, Folder 1.

³⁵ "The Future Role of the Law Enforcement Assistance Administration: A Draft NCSCJPA Policy Statement—revised January 31, 1977," Carter Library, Gutierrez Box 25, Folder 12.

more effectively. By ensuring that states would receive funds for law enforcement and criminal justice purposes based on a preset formula, Carter's crime control policy focused resources on urban centers and offered Congress a punitive program in the form of an urban program.³⁶

In the summer of 1977, Carter began to reorganize federal law enforcement agencies. The president ordered the Department of Justice to close all regional LEAA offices by the fall in order to cut a quarter of all agency employees and effectively "streamline" federal crime control.³⁷ Deputy Attorney General Peter F. Flaherty said when he announced the program, the change would "improve existing services provided by the LEAA, by reducing delay and providing more direct communication between LEAA and the states and localities involved."³⁸ By cutting out a layer of bureaucratic obstruction, the Carter Administration moved closer to its desired local target.

With the first step towards dissolution in place and the comprehensive evaluation of the LEAA by private consultants well underway, the White House began working on Carter's first major crime message in November 1977. Requesting his input on the president's law enforcement program, Vice President Walter Mondale wrote to Bell: "This program could be one of the most important initiatives of the Administration. The crime issue cuts across the regional, economic, and social differences that so often

³⁶ "A Good Concept Gone Awry," *Los Angeles Times*, 28 Jul 1977, D6.

³⁷ Will close LEAA offices in NY, Boston, Philadelphia, Atlanta, Chicago, Denver, Dallas, Seattle, San Fran, Kansas City. Seen as a way to cut down delay. "In the Nation," *The Baltimore Sun* 21 Jun 1977, A9; John M. Goshko, "LEAA's Fate Weighed at Justice Dept.," *The Washington Post*, 9 Apr 1977, A1.

³⁸ Jun 20, 1977 DOJ Press Release, JCL, Gutierrez Files Box 25 Folder 10 LEAA [3].

separate and divide Americans.”³⁹ Both the White House and the Department of Justice believed that, if the LEAA could not be entirely abolished, criminal justice councils should replace state planning agencies and include local representatives.

The criminal justice community that had emerged alongside the LEAA had a mixed reaction to Carter’s proposed abolition of the agency. While local authorities praised Carter immediately after he closed the LEAA’s regional offices, governors did not respond as enthusiastically. The states wanted the focus of national crime control to remain on hardware and to provide autonomous spending of criminal justice funds. In late December 1977, two dozen state and local criminal justice officials met in Columbia, Maryland to discuss the federal government’s proposal restructuring the system of crime control. Their consensus statement urged for the preservation of the comprehensive planning process in each state, argued for the necessity of block grants for criminal justice, and resisted the gestures towards greater community involvement.⁴⁰ Recalling the old debates surrounding Johnson’s Safe Streets Act, the governors argued that by earmarking crime control funds for specific purposes in a formula, rather than through a block grant model the federal government would compromise the nation’s safety. The lack of access to adequate planning resources at the local level would create even greater fragmentation in the national crime control program.⁴¹

³⁹ 11-2-1977 Memorandum for Attorney General from Vice President, Subj: Crime Message. Carter Presidential Library, Eizenstat Files, Box 164, Folder 4; Carter sent the request to attorney general in 9-16-77 memorandum for his cabinet officials “Crime Program,” JCL Eizenstat Collection, Box 164, Folder 2.

⁴⁰ “Consensus Statement Resulting From Criminal Justice Leaders’ Meeting,” 12-20-1977 Columbia, Maryland, JCL, Gutierrez Files, Box 25, Folder 8.

⁴¹ 1-27-1978 Letter to the President from Noel C. Bufe, Chairman, National Conference of State Criminal Justice Planning Administrators, JCL, Gutierrez Box 25, Folder 8.

Carter and Bell also confronted a host of private agencies dependent on federal law enforcement grants as a critical source of funding. Although the International Association of Chiefs of Police had been in existence since 1893, when the LEAA opened its doors the organization received twelve million dollars from the federal government for fifty-three crime control programs.⁴² By the summer of 1978, after pressure from the International Association and other private law enforcement and criminal justice interests, Carter backed off from his proposed overhaul of the LEAA. Law enforcement grants to these agencies could continue as long as the federal government supported research and pilot programs, and the Carter Administration planned a new federal law enforcement agency that preserved this partnership.

Ten years after the federal government required states to modernize their crime reporting systems, it became clear to policymakers and experts that fundamental inaccuracies in data gathering had created systemic flaws in the execution of federal punitive policy. Conflicting figures produced by seventeen departments using fifty-four different data sets had compromised the federal government's ability to create effective programs. By surveying victims, the LEAA found little, if any, increase in property crimes in 1975, while the FBI reported that crime rate increased nearly ten percent.⁴³ The only inference that crime statistics made clear was that police patrol and technological

⁴² These included the Police Legal Office Program, a Farm Equipment and Theft Program, a Multi-Agency Narcotic Unit Manual, Labor Relations Training Program, National Law Enforcement Equipment Information Center, Organized Crime Bulletin, and the Uniform Crime Report Validation Program. Document, no title, no date in White Files Box 17 Folder 6 National Minority Advisory Council on Criminal Justice

⁴³ Margaret Gentry, "LEAA Study Challenges '74-'7 FBI Crime Data," *The Washington Post*, 25 May 1977, A5.

advances had failed to impact urban violence and crime.⁴⁴ From the perspective of Carter's domestic policy staff, the criminal justice data was virtually useless. All of the administration's consultants confirmed to the White House that: "We simply do not know why the rate seems to be declining. It may suddenly go up."⁴⁵ Carter deliberately avoided discussing the crime rate at all in his public statements on the issue, in light of unreliable data and failed past promises.

If measuring the crime rate itself posed the "single biggest issue in the American criminal justice system today," as law enforcement consultants told White House officials, then refocusing the federal law enforcement program as a research and data-gathering enterprise could offer a more responsive and effective alternative.⁴⁶ After spending more than a year reviewing the LEAA, the Carter administration devised a plan that maintained some of the functions of the agency, but divided it into three separate organizations.⁴⁷ The LEAA would continue to provide money to state and local law enforcement agencies, the National Institute of Justice would oversee all federal crime control research, and the Bureau of Justice Statistics would be a clearinghouse for the data the LEAA and the FBI gathered. All three agencies would report to the new Office of Justice Assistance, Research, and Statistics designed by Bell in the summer of 1977.⁴⁸

⁴⁴ 12-31-1977 Memo to Annie Gutierrez, Domestic Policy Staff, from Bill Albers, Consultant to ACTION, Subj: The Crime Rate , JCL, Gutierrez Box 25, Folder 8.

⁴⁵ 2-25-78 Memorandum for Stu Eizenstat From Annie M. Gutierrez Subj: President's Response to Bourne Memo on Crime Rate Eizenstat Files, Box 164, Folder 1 Civil Rights-Court Reform-Crime Issues.

⁴⁶ 1-4-78 Memorandum To Annie Gutierrez from Bill Albers, Subj: LEAA/NIJ Proposal, Carter Library, Gutierrez Files, Box 25, Folder 8.

⁴⁷ 7-10-1978 Letter to Congress from Office of the White House Press Secretary, JCL Neustadt Files, Box 25, Folder 1.

⁴⁸ "Bell Updates Crime Data Unit," *Chicago Tribune*, 22 Aug 1977, 7.

The Institute would replace the crime reporting function of both the FBI and the LEAA to standardize and centralize federal law enforcement planning and research effort.⁴⁹

The administration assured states that their share of federal block grants for law enforcement would remain constant, but the Office of Justice Assistance could devise formula grants that took into account crime rates, local criminal justice expenditures, and tax bases to determine how to direct available federal funds. For federal policymakers, the formula approach ensured that the grants would foster greater community participation in cities with high crime rates. Meanwhile, with the LEAA's end looming, state planning agency employees recognized that they were the next to go and many resigned from their positions.⁵⁰ Across the board, Americans working in domestic programs found themselves vulnerable to layoffs as part of Carter's larger effort to refurbish the social service function of the federal government.

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Carter announced his crime control plan from the White House Rose Garden on a ninety-degree day in early July 1978. The Justice System Improvement Act would limit the amount of criminal justice funds that could be used for hardware, salary increases, and construction and instead focus on research, local empowerment, and community participation.⁵¹ By placing crime control policy inside urban policy, Carter promised to

⁴⁹ 2-25-78 Memorandum for Stu Eizenstat.

⁵⁰ Thomas B Edsall, "Lawmen link LEAA to chaos in plans," *The Baltimore Sun*, 2 May 1978, D3.

⁵¹ Carter also cut down on the lavish conferences and training seminars the agency sponsored. The Commonwealth's Attorneys Institute, the Virginia Sherriff's Association, and the State Crime Commission all received separate federal grants under the previous administration for conventions in the resort areas of Virginia Beach. When Carter eliminated the funding for these lavish law enforcement gatherings, the city of Virginia Beach immediately warned the LEAA that the decision "would have severe ramifications on the

“target resource to those areas of the country with especially severe crime problems” while providing cities with flexibility in deciding how to use crime control funds via formula grants.⁵²

Carter placed cities with severe crime problems front and center of his new anti-crime legislation. It seemed reasonable to provide the seventeen states responsible for fifty-five percent of crime in the nation with additional urban law enforcement funds.⁵³ Local governments confronting high crime rates “will be given greater discretion to select projects and programs particularly suited to their own crime reduction and criminal justice needs,” Carter told Congress.⁵⁴ By improving the research and statistical capabilities of the federal government, policymakers could devise computerized formulas to “eliminate guesswork in state and local budget processes and result in the maximum lead time possible for sensible program planning.”⁵⁵ The field of criminology emerged when the federal government set out to modernize law enforcement institutions, and more than a decade’s worth of field research and statistics provided policymakers the grounds to treat crime as a scientific phenomenon that could be anticipated and controlled.

economy of Virginia Beach and the entire Commonwealth of Virginia.” “The Future Role of the Law Enforcement Assistance Administration;” Jan 25, 1978 Letter to LEAA Officials from George L. Hanbury, City Manager City of Virginia Beach, Gutierrez File Box 25 Folder 8, LEAA [1]; 7-10-1978 Letter to Congress from Office of the White House Press Secretary, JCL Neustadt Files, Box 25, Folder 1. At this time, LEAA had a \$650 million budget. August 3, 1977 Letter from James M.H. Gregg Assistant Administrator Office of Planning and Management to Honorable William F. Hyland AG State of New Jersey Trenton, NJ. DPS Gutierrez Box 25 Folder 8 LEAA [1]; “Attorney General to Delay Filling Top LEAA Posts,” *The Washington Post* 3 Mar 1978, C-6.

⁵² 7-10-1978, “Remarks of the President Upon Announcement of LEAA Reorganization,” JCL, Neustadt Files, Box 25, Folder 1.

⁵³ 7-10-1978 Letter to Congress from Office of the White House Press Secretary, JCL Neustadt Files, Box 25, Folder 1.

⁵⁴ *ibid.*

⁵⁵ *ibid.*

In effect, Carter's Justice System Improvement Act planted the seeds of the end of the LEAA. The legislation gave state and local government a three-year timeline to apply for federal grants, thereafter they were expected to operate law enforcement programs independently. As Assistant Attorney General Benjamin Civiletti told the press: "The scheme is to get more money to the counties, major cities and high crime areas with less red tape, less overhead, less bog-down in both money and time than through the prior grant process."⁵⁶ The Act reduced planning requirements to offer states and local governments a different kind of autonomy in the implementation process. Instead of submitting a criminal justice plan the size of a telephone book every year, states now had three years to produce a more condensed version.⁵⁷ Under these provisions, cities like Los Angeles, Chicago, Atlanta, and Newark now provided the federal government with one application a year instead of forty.

As one political scientist aptly observed: "Even as the LEAA took on a life of its own, it became the unwanted child of the national government."⁵⁸ Although Congress rejected the vast majority of Carter's domestic policy proposals, including the decriminalization of marijuana, policymakers agreed that it was time to "phase down the LEAA program." The dissolution of the LEAA occurred just as the agency had its first black director, and grassroots community members received an unprecedented degree of representation in the national law enforcement program.⁵⁹ The budget cuts Carter

⁵⁶ *ibid.*

⁵⁷ *ibid.*

⁵⁸ Cronin 108.

⁵⁹ After the Morris controversy, Carter appointed Homer Broome to the post. Broome had worked as police commander in Los Angeles, and as deputy administrator and then acting administrator of the

proposed in late 1979 and early 1980 to a host of federal social programs as inflation increased eliminated the agency and with it all federally funded crime-fighting programs in the face of accelerating violence. Only federal juvenile justice programs and the new Bureau of Justice Assistance, Research and Statistics survived.⁶⁰

III. From Police Hardware to Housing Hardware

The federal government's punitive turn in the context of deindustrialization and accelerating unemployment created extreme cases of marginalization and isolation in American cities.⁶¹ Carter believed that only "increased access to opportunity for those disadvantaged by economic circumstance or a history of discrimination" could reverse the urban crisis, but punitive policy was still necessary to retain social control in the statistically violent neighborhoods in the United States.⁶² Like his plan for federal law enforcement, Carter's national urban program involved fostering partnerships between the public and private sectors and community and volunteer organizations.⁶³ As his predecessors recognized, the federal government could launch public works programs,

LEAA. As director of the agency, Broome awarded Atlanta University 550,000 dollars to set up a criminal justice institute and research, in the words of Broome, "some of the reasons for black crime." Jay Barrow, "New AU Institute To Seek Ways to Aid In Curbing Black Crime," *Atlanta Daily World*, 3 Jun 1980, 3. The Senate voted to eliminate the agency 67 to 8. "Senate Votes to Permit Wider Local Choices in Spending LEAA Funds," *The Baltimore Sun*, 22 May 1979, A8.

⁶⁰ Briefing Summary, Justice System Improvement Act: Reorganization Proposal August 28, 1979, JCL, White Box 17, Folder 6.

⁶¹ Remarks for Presentation By David Rubenstein, Deputy Assistant to the President for Domestic Affairs and Policy at the National Urban Initiatives Anti-Crime Technical Assistance Conference, The Shoreham Hotel Washington, DC July 15, 1980

⁶² Jimmy Carter: "National Urban Policy Message to the Congress."

⁶³ *ibid.*

but could not tackle the problems of the “long-term unemployed and the disadvantaged in cities” without substantial support from the private sector.⁶⁴

The Justice System Improvement Act advanced Carter’s assault on the LEAA by giving the Department of Housing and Urban Development authority over urban crime control programs. Even as Carter cut off LEAA funding for police hardware programs, he sent Congress a housing hardware program framed as an urban revitalization initiative. With some of the worst living conditions in the country, the federal government believed that housing projects with more than twelve hundred units like Columbia Point in Boston, Stella Wright in Newark, Hunter’s Point in San Francisco, and Carmelitos in Los Angeles required a punitive intervention to be improved and secured.⁶⁵

As a visible manifestation of both socio-economic and crime problems, public housing projects offered Carter a viable testing site for punitive urban policy.⁶⁶ At the time, the Federal Housing Authority handled two million units inhabited by 3.4 million Americans, but it grew especially concerned by the 152 “problem projects” scattered throughout the nation, the large family projects in “problem neighborhoods of distressed cities” where minorities—the large majority under the age of eighteen—constituted sixty-three percent of all residents.⁶⁷ These sites were, “breeding grounds for crime, vandalism, delinquency and despair,” as Secretary of Housing and Urban Development

⁶⁴ *ibid.*

⁶⁵ 7-10-1978 Letter to Congress from Office of the White House Press Secretary.

⁶⁶ On July 19, 1978 Carter announced his intention to make public housing a major part of his national urban policy.

⁶⁷ 7-10-1978 Letter to Congress from Office of the White House Press Secretary.

Patricia Harris described them.⁶⁸ The Carter Administration believed that until conditions in these projects improved, crime would continue unabated. By defining social services and neighborhood programs as security measures, Carter reframed the way in which the federal government presented its role in crime control.

Carter's choice to place the anti-crime program within the Department of Housing and Urban Development embodied his synthesized approach to law enforcement that conflated anti-crime policy with urban revitalization policy.⁶⁹ It was the first major law enforcement assignment the Department of Housing and Urban Development had received. Linking crime prevention with urban redevelopment, the Carter administration wanted to address the needs of the majority of public housing tenants, who had "low income levels, high unemployment rates, high percentages of people receiving Aid for Dependent Children, high percentages of female-headed single parent households and high percentages of youth," as the Act characterized its intended constituency.⁷⁰ In all, the federal government invested more than two hundred million dollars to make public housing "more attractive and to make them less crime-ridden."⁷¹ The hope was that by the end of March 1980, the Department of Housing and Urban Development could launch a comprehensive, nationwide program based on its experience in the first thirty-nine sites selected from a pool of nearly two hundred applications.⁷²

⁶⁸ Patricia Harris speaking in 7-10-1978, "Remarks of the President Upon Announcement of LEAA Reorganization," JCL, Neustadt Files, Box 25, Folder 1.

⁶⁹ 3-31-80, "Urban Initiatives Anti-Crime Program First Annual Report to Congress."

⁷⁰ *ibid.*

⁷¹ 7-10-1978 Letter to Congress from Office of the White House Press Secretary.

⁷² 3-31-80, "Urban Initiatives Anti-Crime Program First Annual Report to Congress."

In the context of inflation, economic stagnation, and budget shortages, Carter approached the urban crisis by “co-targeting funds” and using the full resources of his cabinet.⁷³ The Urban Anti-Crime Program brought together officials from thirteen separate federal agencies and a new federal nonprofit organization called ACTION with local criminal justice and law enforcement employees, community leaders, security directors, tenants, and municipal authorities. Carter was especially proud of the new representation his crime control program opened up to “local folks.”⁷⁴ The Department of Housing and Urban Development contributed the largest share of funds for the program. It allocated twenty million dollars for physical development, which translated to more secure lobbies, improved doors and locks, and better lighting in housing projects, and gave two million to help pay for the salaries of law enforcement officials involved in the effort.⁷⁵ The LEAA committed nearly a half a million dollars for a program supporting victims and witnesses.⁷⁶ The Department of Labor handled the youth employment dimension of the program, giving eight million to youth conservation and improvement projects that offered employment to “at-risk” youth living in housing projects.⁷⁷

⁷³ 7-1-1980 Letter to Stephen R. Aiello, Special Assistant to the President for Ethnic Affairs, from Lynn A. Curtis Director Urban Initiatives Anti-Crime Program. Jimmy Carter Presidential Library, Ethnic Affairs-Aiello. Box 10 Folder “Urban Anti-Crime Initiatives [Meeting] Shoreham Hotel 7-15-80.”

⁷⁴ *ibid.*

⁷⁵ 3-31-80, “Urban Initiatives Anti-Crime Program First Annual Report to Congress.”

⁷⁶ 9-27-79 Press Release “HUD announces Finalists in Urban Initiatives Anti-Crime Program,” HUD News Washington DC., JCL, White File Box 3 Folder 7 Community Anti-Crime Legislation [1].

⁷⁷ 3-31-80, “Urban Initiatives Anti-Crime Program First Annual Report to Congress.”

More than direct employment, the Carter Administration focused on providing incentives for private investment in deteriorating urban communities. With respect to the cities and public housing projects selected for Urban Anti-Crime funding, Carter's concern responded to the exodus of business from urban areas. Three-quarters of his urban policy involved strong incentives that would attract private investment in what Carter officials termed "distressed communities."⁷⁸ Following the previous administrations, Carter also looked to the private sector to provide jobs to "the long-term unemployed and disadvantaged in cities."⁷⁹

Private firms were reluctant to remain or return to many cities because of crime, and the Carter administration needed to offer businesses an anti-crime component in their incentives package to ensure the program's success.⁸⁰ The president pointed to the success of the subcontracting awards the Department of Defense started in urban areas to stimulate employment and redevelopment.⁸¹ In the face of continued resistance to urban economic revitalization, by the end of the summer in 1978 Carter signed a series of executive orders that directed agencies to reestablish themselves in downtown urban areas and to work with local retailers in areas with high rates of unemployment. The NAACP lobbyist Clarence Mitchell interrupted the signing ceremony to say: "In my 30

⁷⁸ The White House: "A New Partnership to Conserve America's Communities: A Status Report on Actions Taken to Improve Existing Federal Programs," Greg Schneider's Files Box 63 Folder Urban Policy.

⁷⁹ *ibid.*

⁸⁰ 4-4-78 Memo from Curtis to Gregg, JCL, Gutierrez Files, Box 25, Folder 8.

⁸¹ Memorandum for Honorable Anne Wexler Subj: Weekly Urban Policy Report June 7 1987 from John G. Kester, The Special Assistant to the Secretary of Defense. Office of Anne Wexler, Jane Hartley's Urban Policy Files Box 113 Folder "Department of Defense: Program to Target Procurement to High Unemployment Areas."

years in Washington, this is the most magnificent thing I have seen done by government.”⁸² Carter’s merger of urban policy and crime policy seemed to be working.

The Urban “Software” Program

Carter frequently mentioned the importance of vibrant neighborhoods during his campaign and as president. He advocated community participation at a moment when Americans were increasingly growing more fearful, more segregated, and more isolated. As he framed it for the public, the Justice System Improvement Act would place grassroots organizations at the center of the Urban Anti-Crime Program. The Carter Administration allocated more than half of the funds provided by the legislation on “software programming.”⁸³ Program officials believed this “people-oriented” approach could, “have a greater, more cost-effective impact on crime prevention for the dollar.”⁸⁴

Although the legislation incorporated community-based programs into its public housing initiative, the Carter Administration ultimately empowered crime prevention at the grassroots level in affluent and middle-class areas. Under Carter’s broad definition of urban program, small towns could also qualify for funds. In the process of reasserting its partnership with local governments via formula grants, the federal government created assistance programs in small towns and newer communities. The arrival of organizations from these areas asking for federal aid influenced Carter’s focus on smaller suburban and

⁸² Rochelle L. Stanfield, “Toward an Urban Policy With a Small-Town Accent,” *Publius*, Vol. 9, No. 1, The State of American Federalism, 1978 (Winter 1979), pp. 31-43.

⁸³ 3-31-80, “Urban Initiatives Anti-Crime Program First Annual Report to Congress.”

⁸⁴ *ibid.*

rural communities. In 1976, the National Association of Towns and Townships and the American Association of Small Cities opened up office headquarters in Washington.⁸⁵

The Carter Administration did not include punitive measures in the programs it designed for these smaller suburban and rural communities. The Department of Health, Education, and Welfare and the Department of Labor formulated an interagency agreement to build three hundred rural health clinics and to train five hundred local residents to staff them.⁸⁶ Carter also focused on public works in these areas, offering 2.5 billion dollars in water and sewer grants to small communities, and supplementing the improvements with training programs for 1,750 rural Americans.⁸⁷ The Carter Administration believed this interagency, community-based approach offered a “model of partnership and cooperation for the 1980s.”⁸⁸

In low-income neighborhoods, on the other hand, a “self-help development program” encouraged local residents to participate alongside local government and the private sector in housing and revitalization projects. To assist in its drive to encourage community participation in urban crime prevention, the federal government brought the volunteer agency ACTION into collaboration with the LEAA and the Department of Housing and Urban Development to administer the Urban Crime Prevention Program with 5.5 million dollars. Incorporated non-profit groups in cities with 250,000 residents could receive up to a half million dollars to develop crime prevention projects for low-and-moderate income neighborhoods to “improve urban life and make our cities safer and

⁸⁵ Stanfield, “Toward an Urban Policy.”

⁸⁶ *ibid.*

⁸⁷ *ibid.*

⁸⁸ 3-31-80, “Urban Initiatives Anti-Crime Program First Annual Report to Congress.”

safer places to live,” as LEAA Administrator Henry Dogin put it.⁸⁹ This community-based approach to crime prevention would ease the shift away from the direct presence of federal law enforcement institutions in areas of segregated poverty.⁹⁰

Even with his emphasis on community and neighborhood-based voluntary initiatives, the Carter Administration knew that a strong correlation existed between unemployment and crime. By the late 1970s, policymakers treated crime as a fact of American life and blamed it for eroding urban tax bases. But instead of investing in major new employment and education programs, the federal government decided to phase out its own law enforcement agency and infuse its previous responsibilities with domestic social programs.⁹¹ ACTION based its criminal justice program on the supposition that socio-economic factors caused crime, and that crime reduction programs needed to address material conditions. As ACTION’s director Bill Albers wrote to Carter’s domestic policy staff, the agency “recognizes that the criminal justice system is characterized by a crime control mentality and capability not well-suited to the task of delivering social services. ACTION’s approach recognizes that citizens and not the police, prosecutors, judges, defenders, jailers, prison and parole officials must be

⁸⁹ “Neighborhood Volunteers Set Urban Anti-Crime Program,” *Atlanta Daily World*, 23 Oct 1979, 1.

⁹⁰ Letter to the President of the Senate from Jimmy Carter 22 May 1978 Office of Anne Wexler, Jane Hartley’s Urban Policy Files Box 113, Folder Department of Justice, from LEAA Document; May 9 1978 Memorandum for Anne Wexler from Stephen T. Boyle Director Office of Congressional Liaison Subj: Initial Report on LEAA Urban Policy Responsibilities Box 113, Office of Anne Wexler Jan Hartley’s Urban Policy Files, Folder Department of Justice.

⁹¹ 4-4-78 Memo from Curtis to Gregg Gutierrez Box 25 Folder 8; Press Release LEAA/ACTION Launch Urban Crime Prevention Program 12-2-80 White Files Box 3 Folder 7 Community Anti-Crime Legislation “More LEAA Funds Sought,” *The Baltimore Sun*, 23 May 1978, A9.

responsible for holding that system accountable.”⁹² If the federal government itself was unwilling to produce major new employment measures for potential delinquents, it could rely on ACTION to give unemployed, inner-city youth the opportunity to earn modest wages through community service programs.⁹³

The Department of Housing and Urban Development moved residential security to the forefront of its programming in the late 1970s. In housing projects, as the black planner and criminologist Victor Rouse suggested to Harris, “software” and “hardware” approaches needed to be combined for an effective residential security system.⁹⁴ The idea was to use hardware grants from the Department of Health, Education, and Welfare with software grants from the LEAA and ACTION for youth service and community-based programs.⁹⁵ By fostering stronger neighborhoods and encouraging volunteer and citizen involvement, the federal government believed it was stimulating a powerful deterrent to crime.⁹⁶

As stipulated by the Public Housing and Demonstration Act of 1978, the “software programming” approach involved three aspects of residential safety: management, tenant involvement, and youth employment. The management dimension trained internal security forces, screened tenants, evicted tenants, and improved “the

⁹² 12-31-1977 Memo to Annie Gutierrez, Domestic Policy Staff, from Bill Albers, Consultant to ACTION, Subj: The Crime Rate , Carter Library, Gutierrez Box 25, Folder 8.

⁹³ *ibid.*

⁹⁴ April 4, 1978 “Coordination of Anti-Crime Programming Between LEAA and HUD” Memorandum from Lynn A Curtis to James M.H. Gregg Gutierrez Box 25, Folder 8 LEAA [1]; 4-4-78 Memo from Curtis to Gregg Gutierrez Box 25 Folder 8

⁹⁵ 4-4-78 Memo from Curtis to Gregg Gutierrez Box 25 Folder 8

⁹⁶ “LEAA/Action Launch Urban Crime Prevention Program,” *Call and Post*, 23 Feb 1980, 15B.

exterior personalization of buildings to facilitate tenant social interaction and stake.”⁹⁷

The federal government wanted to fund projects that would bring additional security guards into public housing, heighten awareness of housing authority rules, group elderly residents in clusters, and prevent vandalism by keeping apartment units occupied.

Past experience taught program officials that, “receiving ‘help’ from outsiders often perpetuates the sense of impotence and powerlessness that is a cause as well as a consequence of poverty.”⁹⁸ The Department of Housing and Urban Development believed that for the program to successfully function as a viable crime prevention measure, planned activities must emerge from the people who lived in the housing project themselves. It would encourage, “enabling the poor to take charge of their own lives, on helping them gain a feeling of competence and worth, a sense of being somebody who matters.”⁹⁹ On the surface, low-income Americans had opportunities to become involved in shaping domestic social policy once again.

The emphasis on grassroots involvement was, in part, a measure of necessity. Urban police forces were undermanned and overtaxed as a result of the decline of manufacturing and the middle class in cities, and tenant patrols promised to solve the twin problems of community exclusion from law enforcement activities and lack of adequate surveillance. Yet even as the Act demonstrated a commitment to citizen-based initiatives and grassroots representation, under the terms of the program community groups could not operate their plans without approval from the city or the federal

⁹⁷ 3-31-80, “Urban Initiatives Anti-Crime Program First Annual Report to Congress.”

⁹⁸ *ibid.*

⁹⁹ *ibid.*

government. The Act stipulated that local police, court, corrections officials, and delegates from the mayor's office were included in all neighborhood group decisions.¹⁰⁰

Aware that young people disproportionately committed crime in and around housing projects, and that young people in the nation's "problem projects" also suffered from an unemployment rate of sixty percent and above, the legislation mandated that Public Housing Authorities use resources from the Department of Labor to train and place young people in crime-fighting and security positions.¹⁰¹ The idea was that by paying young people to install security hardware, landscape, maintain and repair buildings, participate in "team policing" with police officers, and work in drug treatment and senior citizen programs, residents could gain viable skills and training in the field of crime prevention that would eventually benefit them in the larger labor market. Residents welcomed the new tenant patrols as an alternative to the encroachment of law enforcement officials and private security officers.¹⁰²

One housing authority used its demonstration grant to train youth in security hardware and establish a small business to offer continued employment to program participants. At another housing project, a local community college worked with youth residents to provide vocational training and partnered with unions to establish apprenticeship programs. Some of the young residents who joined the federal

¹⁰⁰ "Summary: ACTION-LEAA Anti-Crime Proposal," 5-8-78, Jimmy Carter Library, White Box 3, Folder 8; 12-29-78 "LEAA/ACTION Memorandum of Agreement for the Urban Crime Prevention Program," Jimmy Carter Presidential Library, White Collection, Box 3, Folder 7.

¹⁰¹ 3-31-80, "Urban Initiatives Anti-Crime Program First Annual Report to Congress."

¹⁰² In New York City, where there had been none in 1968, by the time the Carter Administration introduced its public housing program there existed 156 such patrols in 251 housing projects throughout the city. In the Johnson Housing Project in Harlem, twenty teenagers formed a special group in the larger three-hundred person volunteer tenant patrol. They alerted the adults when they observed crime, such as burglary, in their hallways and on the streets surrounding the project. Ward Morehouse III, "FOCUS: Tenants Mount Crime Vigils," *The Christian Science Monitor*, 23 Mar 1978, 2.

government's urban anti-crime effort even received college credit for their community service contributions.¹⁰³

The local programs essentially mirrored the larger objectives of the Carter Administration for urban crime prevention. In Rochester, the Urban League received a two-year joint grant from the LEAA and ACTION in the amount of 350,000 dollars to implement seven neighborhood project organizations. One of the projects provided services for victims, two separate initiatives addressed the growing problem of arson, and another set up a community dispute center for civil matters. These ventures would “reduce social isolation and fear of crime in specific inner-city neighborhoods” and “increase the cohesiveness of neighborhoods through the regeneration of grassroots, volunteer involvement in crime prevention activities,” as the Urban League described the program's goals.¹⁰⁴ In Newark, the Coalition for Neighborhoods received nearly half a million dollars for ten projects to address the rise of property crimes and arson in the city. Working in housing projects, schools, and with nine different community organizations, the Coalition hoped to “motivate citizens to become active participants in the partnership with the City and criminal justice system to address the rapidly escalating crime rate and the socio-economic forces which affect it.”¹⁰⁵ But the ambitions of these community-based programs did not have an opportunity to fully execute their vision, as the Carter

¹⁰³ 3-31-80, “Urban Initiatives Anti-Crime Program First Annual Report to Congress.”

¹⁰⁴ US DOJ, LEAA Grant Manager's Memorandum, Project Summary Jack Watson-Cabinet Secretary Stephen Page Box 126 Folder 2 Community Crime Prevention Grants /930-10/1/1980.

¹⁰⁵ *ibid.*

Administration ceased funding in early 1980 as part of his elimination of the LEAA's grant function.¹⁰⁶

The Urban "Hardware" Program

In practice, Carter's Urban Anti-Crime Program allocated the vast majority of its funds to hardware programming even though the administration framed it as a community-based effort. For all his rhetorical gestures and awareness of institutionalized inequality, Carter's law enforcement investment differed very little from his predecessors. The Public Housing Act formulated by the Carter administration set "a Congressional mandate to mitigate crime and fear in public housing."¹⁰⁷ It did so by constructing physical barriers, new landscaping, new walkways and lighting to increase security. The Act added new surveillance technology and patrol to the lobbies of housing projects. It equipped apartments with metal doors, peep holes, dead bolts, double locks, steel framed windows, and bars on the first floor windows of federal housing projects with concentrated populations of black Americans.¹⁰⁸ It also called for a complete physical overhaul of public housing, which required a far greater share of funds than programs for tenants themselves.

Although the Carter Administration steered the federal government away from its investment in most local police forces, policymakers recognized that patrol coverage in housing projects was highly inadequate, and that patrol should be increased "to whatever

¹⁰⁶ See White Files, Box 3, Folders 7 and 8 on Community Anti-Crime Legislation.

¹⁰⁷ 3-31-80, "Urban Initiatives Anti-Crime Program First Annual Report to Congress."

¹⁰⁸ *ibid.*

point diminishing returns set in.”¹⁰⁹ The Act emphasized hiring more police to monitor residents of housing projects, but it also stressed the need for sensitivity training of these forces, including specialized police services. To stop crime more effectively, police officers needed to understand “social dynamics” in the dwellings and work more closely with management.¹¹⁰ New community centers inside housing projects would serve as substations of police precincts as a means to improve general communication between police departments and residents.

Even though White House officials believed that “jobs for kids in this program are just as important as sensitively trained police in housing projects,” this insight was not reflected in the types of programs that actually received funding.¹¹¹ For example, in New Orleans, the St. Thomas housing project received 1.2 million dollars from Public Housing Crime Prevention funds. Half went to physical security and modernization, 53,000 to community development, and 260,000 to programs that employed youth in the security field.¹¹² A four bedroom unit in the St. Thomas project was converted into the Anti-Crime program center, where the resident council acting as the program advisory

¹⁰⁹ *ibid.*

¹¹⁰ *ibid.*

¹¹¹ In a public speech, David Rubenstein, Deputy Assistant to the President for Domestic Affairs and Policy, framed the program as such: “... Crime prevention is not just a response of the criminal justice system, even though that system is essential... crime prevention must be bound up with human and urban economic development. Jobs for kids in this program are just as important as more sensitively trained police in public housing projects. Development of tenant cohesion is just as important as improved public safety management. Rehabilitation of a nearby urban park and establishment of a food co-op are just as important as improvement of physical security design. Creation of youth self-help and drug abuse programs is just as important as establishment of victim/witness services. All must function together—in complementary ways that draw on the discretionary resources of the agencies that the president’s urban policy has assembled. Such a broad, interagency view of crime prevention is essential for your continued success.” Remarks for Presentation By David Rubenstein.

¹¹² “New Orleans, LA Public Housing Agency,” Jimmy Carter Presidential Library, Office of Congressional Liaison Moore, Box 80, Grants File, Folder HUD Anti-Crime 9-25-79.

board met, and where the youths who were responsible for installing security hardware and working on improving the general facilities to create “defensible space” picked up their modest paychecks.¹¹³ Similarly, the Jeffries Homes and the Douglass projects in Detroit spent 1.3 million dollars on physical security hardware; roughly half a million for youth employment opportunities that involved installing light fixtures, fences, and a new lobby control system; and just fifty thousand dollars to fund the forty-person youth security patrol and pay the salary of the new Safety and Security Coordinator.¹¹⁴ Working with the Detroit Urban League, the Health Department, and the County Department of Social Services, the Brewster project established a youth recreation facility and a new mini-police station.¹¹⁵

The residents of the Robert Taylor Homes in Chicago had called for their own “War on Crime” in February 1978, a time when public programs and private security guards seemed incapable of keeping tenants safe. Chicago police estimated that roughly ten percent of the rapes, murders, and assaults in the city occurred in the massive complex, consisting of twenty-eight high rises.¹¹⁶ In this milieu, the Residents Advisory Council, the Afro-American Patrolman’s League, and tenant organizations formed the League to Improve the Community and unsuccessfully demanded that the Department of Housing and Urban Development fund unarmed resident patrols to keep the twenty

¹¹³ *ibid.*

¹¹⁴ “Detroit, MI Public Housing Agency,” Jimmy Carter Presidential Library, Office of Congressional Liaison Moore, Box 80, Grants File, Folder HUD Anti-Crime 9-25-79.

¹¹⁵ *ibid.*

¹¹⁶ Clarence Page, “Taylor Homes Residents Declare War on Crime,” *Chicago Tribune*, 13 Feb 1978, C14; Edith Herman, “A ‘forgotten’ story of pain in the Inner City,” *Chicago Tribune* 15 July 1979, M3.

thousand tenants living in the housing project safer.¹¹⁷ Months later, the federal government arrived with a form of the League's model that ushered in new degrees of surveillance.

The Department of Housing and Urban Development awarded the Robert Taylor Homes its largest grant under the Public Housing Act. In summer of 1979, the Carter Administration allocated 3.4 million dollars for improving living conditions in the project via surveillance and security measures, matched by an additional two million from the city of Chicago. Nearly three million dollars of the investment went to hardware, half a million for youth employment to install hardware and make repairs, and a quarter of a million for tenant organizations.¹¹⁸

The housing authority of the Taylor Homes decided to focus the program on the reconstruction of lobbies, the use of fences to secure courtyards, the installation of vandal-proof mailboxes, security outpost offices, and elevator safety.¹¹⁹ Tenants were hired as Security Building Managers to monitor the lobbies and establish block watches and patrols. Young residents worked as receptionists and security aides. The city supplemented these community-based patrols with a thirty-man police force to monitor tenants.¹²⁰ Using the "vertical policing" technique developed by the LEAA in the early 1970s, many of these officers simply rode up and down the elevators all day. The effect of these practices continued the hardware approach under a social welfare guise and

¹¹⁷ *ibid.*

¹¹⁸ "Chicago, IL Public Housing Agency," Jimmy Carter Presidential Library, Office of Congressional Liaison Moore, Box 80, Grants File, Folder HUD Anti-Crime 9-25-79.

¹¹⁹ *ibid.*

¹²⁰ *ibid.*

created new opportunities for local law enforcement to bring already marginalized Americans into the criminal justice system.

IV. The Rise of the Modern Carceral Complex

As the Carter Administration worked to eliminate federal law enforcement involvement outside of research and criminal justice, the federal and state prison system expanded rapidly. Without taking into account demographic shifts, unemployment, new sentencing patterns, and the inaccuracies the Carter administration identified in the crime rate, the federal government led the states in a massive prison construction project based on prediction and projection. The federal government and law enforcement officials insisted incarceration would reduce crime, mandatory sentences would ensure law and order, prison alone offered the best deterrent, and removing offenders from the community would ensure safe streets. None of these myths, however, proved to have a substantial impact on crime and violence in the nation.¹²¹

These approaches had produced a carceral complex that disproportionately incarcerated nonwhite Americans by the late 1970s. A study conducted by the American Foundation's Institute of Corrections revealed that states "with low crime rates and high black population rates had larger prison populations; conservative states incarcerated more; no correlation could be established between race and crime rate, but rather race and

¹²¹ Alvin J. Bronstein, Executive Director of the National Prisons Project of the ACLU, "Corrections Policy: Pandering to the Public About Prisons," A Presentation to the American Society of Criminology at its Annual Meeting November, 1977, Atlanta, Georgia. A Plenary Session: Public Policy and Criminal Control. JCL, Gutierrez Box 11, Folder 7.

incarceration rates.”¹²² The state with the largest percentage of black Americans, Mississippi, had a lower crime rate, while states like Nevada and Colorado, with a much smaller minority population, had higher crime rates.¹²³

The demographic changes in the nation’s prison population emerged after Nixon’s Crime Control Act of 1970 stimulated prison construction. Federal funds earmarked by the legislation required states to craft master plans for the design and building of prisons with assistance from architectural and construction firms. At the same time, statisticians projected prison populations and informed policy based on those projections. The situation did nothing for the crime rate and was already draining limited state resources. Organizations like the National Council on Crime and Delinquency called for a moratorium on prison construction. Carter was sympathetic to this view but turned to community-based programs.¹²⁴ Instead of a complete halt to construction, the Carter

¹²² Study by William F. Nagel and Jack Shaller of the American Foundation’s Institute of Corrections published in *Crime and Delinquency* in April 1977 Alvin J. Bronstein, Executive Director of the National Prisons Project of the ACLU, “Corrections Policy: Pandering to the Public About Prisons,” A Presentation to the American Society of Criminology at its Annual Meeting November, 1977, Atlanta, Georgia. A Plenary Session: Public Policy and Criminal Control. JCL, Gutierrez Box 11, Folder 7.

¹²³ “Corrections Policy: Pandering to the Public About Prisons.”

¹²⁴ Carter’s experience as governor of Georgia convinced him that diversion and privatization offered a better alternative than incarceration for ““culturally, vocationally, and economic disadvantaged persons.” Working with the Office of Juvenile Delinquency, in 1972 had Carter implemented a juvenile crime control program that provided young people sentenced to the Georgia detention system “self-responsibility” courses and vocational training before supervised release. Carter used two million dollars in LEAA funds to establish a similar program for adults, placing six-hundred ex-offenders in restitution centers where they could receive supervised job assistance services. The state could operate the cost of shelters at one-fourth the cost of prisons, and the program was designed to reduce recidivism. By opening up Georgia correctional institutions to private industry, Carter also hoped to cut costs. As one of the first governors to work with the LEAA in replacing the federal prison industries program with private industries, Carter hoped to create employment opportunities upon release. In exchange for housing and salaries for incarcerated residents of the state, the inmates would provide a labor force, security, and the opportunity for a graduated release program. The success of the community-based and private alternatives Carter used in Georgia Carter realized that at the current rate of prison expansion, “we cannot afford to confine every individual who breaks the law.” Jimmy Carter on Prisons,” sent as a memo to Sam Bleicher Re: Paper on Prisons, JCL, 1976 Campaign Files, Box 33- Issues Office Bleicher, Folder Crime and

Administration explored alternatives to incarceration and the decriminalization of minor drugs as a means to reduce overcrowding. Yet Carter failed to redirect the federal government's turn towards incarceration as a means to control crime. Instead the prison population soared as the national law enforcement program unfolded on the heels of Ronald Reagan's presidency.

*

When Nixon called for a ten-year, "long range master plan" to expand and modernize the American correctional system in 1970, he did not subscribe to the belief that poverty fostered criminal behavior, but he did see imprisonment as a factor in preventing it. "We cannot effectively combat crime unless our correctional processes become more effective in reshaping the attitudes of the offender and giving him the education and training which will enable him to become a law abiding citizen," Nixon wrote to Attorney General Mitchell: "It is well known that most crime in this country is committed by persons who have been through the correctional processes."¹²⁵ Referring to prisons as "colleges of crime," Nixon argued that the key to reducing crime lay in expanding the correctional system and reforming punitive practices to turn ex-offenders into productive members of society.¹²⁶

Criminal Justice [4]; "Georgia Gets Funds for Major Correctional Plans," *Atlanta Daily World* 11 Jul 1974, 11.

¹²⁵ "Long Range Master Plan," United States Bureau of Prisons, Department of Justice, May 1970. Nixon Library, Krogh Files, Box 12 "Corrections [3 of 3];" n/d (likely summer 1969) "Improving the Correction of Criminal Offenders" Memo from Nixon to Mitchell; Nixon Library, Charles Clapp Collection Box 46.

¹²⁶ At the National Corrections Conference in Williamsburg, Virginia in December 1971, Nixon provided a taped message to the 350 conference delegates, calling prisons "colleges of crime," a popular catchphrase amongst Nixon aides working on the issue. See Nixon quoted in Address by Richard Velde before the American Association for the Advancement of Science Hilton Hotel, Washington DC Saturday, December 30, 1972; LEAA Box 19 (no folder); see also *Proceedings of the National Conference on Corrections* (Washington, D.C.: Government Printing Office, 1972).

Nixon urged Mitchell to place regional facilities for “hard-core criminals who require close supervision and particularly secure quarters, and with the mentally ill and narcotics and alcoholic addicts who need extensive medical treatment” at the center of the ten year plan¹²⁷ This included new juvenile programs, probation services and group homes that could be coordinated with the Department of Health, Education and Welfare. After a joint LEAA and census bureau survey conducted in 1970 revealed that more than half of inmates in local and county jails were detained for reasons other than conviction of a crime, that only thirty five percent were arraigned and waiting trial, and that another seventeen percent were being held for other reasons or awaiting arraignment, the restructuring of jails and the creation of regional facilities seemed a particularly expedient law enforcement measure.¹²⁸ If prisons were meant to keep society safe by removing hardened criminals from the streets, it was curious that the majority of incarcerated or detained Americans had not been convicted of a crime at all.

To meet the aims of the Nixon Administration’s long range plan, the LEAA created a National Clearinghouse of Criminal Justice Planning and Architecture. The Administration recruited the Department of Architecture at University of Illinois to design adult prisons, and the Architecture Department at the University of Pennsylvania to plan juvenile facilities. State prison bureaus received the final products through their respective criminal justice planning agencies. The architects at Illinois favored a “total systems planning approach,” to fix general correctional problems and the physical

¹²⁷ “Statement by the President” November 13, 1969 Nixon Library, Anderson Collection Box 30.

¹²⁸ These figures were collected on March 15, 1970. “Morre condemns jail system, ‘plantation justice,’” *Chicago Daily Defender*, 11 Jan 1971, 4. Puts exact figure at 52% for 160,863 total.

environment of the prison as well as alternatives to incarceration through community treatment programs.¹²⁹ The administration also sent out teams of correction specialists composed of technical personnel, architects, food service specialists, and management experts to provide general guidance and assist prison authorities with any problems they encountered as an influx of new inmates joined the system.¹³⁰

By May 1972, the master plan envisioned building thirty-five prisons before the decade's end. It represented an entirely new plane of expansion for federal prisons: the government operated only three for the first thirty years of the Department of Justice's existence, and slowly opened twenty-four more over the course of three decades.¹³¹ Under Nixon's watch in the initial phase, law enforcement institutions prepared to embark on a half a billion-dollar program to double the number of federal prisons. The federal government set out to construct a dozen prisons for adult men, a dozen reformatories, four women's prisons, four psychiatric facilities, and special Metropolitan Correctional Centers to replace overburdened urban jails.¹³² As the long range master

¹²⁹ "Functions of the National Clearinghouse for Correctional Programming and Architecture." LEAA Box 38, Office of Criminal Justice Administration 1972.

¹³⁰ Address by Richard W. Velde, Associate Administrator LEAA Before the American Association for the Advancement of Science Hilton Hotel, Washington DC Saturday, December 30, 1972; LEAA Box 19 (no folder)

¹³¹ The federal government had established a tepid approach to the national prison system until the Nixon Administration. The federal government did not join the business of incarceration until the last decade of the nineteenth century. Persons convicted on federal charges were confined in state prisons up until that point. The federal government created a law enforcement apparatus of its own in the 1920s, via prohibition and the rise of the FBI in 1924. Under Hoover's control, as the federal government began investigating crimes previously restricted to local agencies, and the three federal prisons operating out of the Department of Justice evolved into the Bureau of Prisons in 1939. Construction a new federal prison system began and by the end of the 1940s thirteen new correctional facilities opened.

¹³² William G. Nagel, "An American Archipelago: The United States Bureau of Prisons," presented at the luncheon general session, National Institute for Crime and Delinquency; Statler-Hilton Hotel, Boston, 6-25-74; Jimmy Carter Presidential Library, Noel Sterrett—Issues Office Files, Box 78, Folder 14.

plan unfolded on the ground, the Bureau of Prisons refused to share its contents with the larger law enforcement community.¹³³ Corrections expert William Nagel explained to the National Council of Crime and Delinquency at its annual meeting: “Everywhere the Bureau approaches its problems in secret.”¹³⁴

The Bureau had to keep quiet as prominent criminologists and law enforcement experts called for a moratorium on prison construction, and the National Advisory Commission on Criminal Justice Standards and Goals urged that construction of new adult prisons should cease and that juvenile detention facilities should be closed, and implicated penal institutions in creating, rather than preventing, crime.¹³⁵

As part of a separate prison construction plan, the Bureau of Prisons planned to add twelve new youth institutions at a time when a number of demographers claimed the youth population had already peaked for the foreseeable future.¹³⁶ This contrasted sharply with the figures federal policymakers cited when they drafted juvenile delinquency legislation in 1974. During the Carter Administration, with prison construction well underway, law enforcement and correctional officials began to question the utility of preparing facilities for nearly thirty thousand new offenders in the context of a decline in the youth population and the general crime rate.¹³⁷

¹³³ *ibid.*

¹³⁴ *ibid.*

¹³⁵ National Advisory Commission on Criminal Justice Standards and Goals, *Task Force Report on Corrections* (Washington, DC: Government Printing Office, 1973).

¹³⁶ *ibid.*

¹³⁷ Nagel said: “Even straight line projections of populations trends causes one to wonder about the need for this massive expansion. According to the Federal Bureau’s own statistics, it had 19,730 prisoners in its 11 prisons way back in 1940. Thirty years later its 22 prisons held only 19,623 (107 less).”

Meanwhile, the number of black Americans in the federal, state, and local prisons skyrocketed as a direct result of the five hundred million dollar construction project initiated by the Nixon Administration. In Philadelphia, the percentage of black prisoners in the county jail increased from fifty percent in 1970 to ninety-five percent in 1974.¹³⁸ In the state as a whole, black citizens accounted for more than sixty-two percent of those in Pennsylvania jails, even though they constituted less than ten percent of the entire population.¹³⁹ In federal prisons, black Americans received longer sentences and more punitive treatment.¹⁴⁰ If the Bureau of Prisons worked to eradicate the institutionalized racism in its sentencing practices, it would have freed up hundreds of new cells instead of merely constructing more.¹⁴¹ Nagel put it plainly: “We must conclude, therefore, that the new prisons are for blacks.”

Instead, the additional prison beds the long-range master plan called for came to be occupied almost entirely by black and Latino Americans. By 1977, the total number of juvenile and adult prisoners had reached 450,000, fifty-five percent of whom were white offenders.¹⁴² In the seven years after the Bureau developed its ten-year plan, fifteen new federal prisons opened for 4,871 new inmates. During that time, the percentage of nonwhite federal prisoners increased from 27.4 percent to over thirty-eight percent, or the

What cataclysmic social upheaval is going to create the 27,000 prisoners it is now building for? Certainly not that many people involved in Watergate;” *ibid.*

¹³⁸ *ibid.*

¹³⁹ *ibid.*

¹⁴⁰ They were typically incarcerated five months longer than their counterparts for assault, two months longer for burglary, nineteen more for drugs, six more for embezzlement, five more for robbery, and ten more for selective service violations; *ibid.*

¹⁴¹ *ibid.*

¹⁴² “Magnitude of the Wave of Jail and Prison Construction in the United States During the 1970s,” National Moratorium on Prison Construction, January 1977, JCL, Gutierrez, Box 11, Folder 1.

addition of 4,904 black and Latino prisoners into the federal system—exceeding the available new beds by thirty inmates.¹⁴³ It is not surprising that black Americans filled an alarming share of these newly constructed prison spaces given the grim socio-economic trends federal researchers observed. In 1972, when thirty four percent of black Americans lived below the poverty level as opposed to ten percent of the white American population, forty-two percent of all Americans in jail were black.¹⁴⁴

Given the historic arrest levels low-income black Americans faced after the federal government began to invest in local law enforcement institutions, access to educational and employment opportunities often determined the likelihood of incarceration.¹⁴⁵ Of these black Americans detained in local jails, seventy percent did not receive a high school diploma, and nearly sixty percent earned less than three thousand dollars a year.¹⁴⁶ Similarly, in state prisons, forty-eight percent of all inmates were black in 1973. Of those, sixty four percent did not complete high school, and seventy-five percent were under the age of thirty. In Florida, where black Americans constituted only fifteen percent of the state population, they took up fifty five percent of the prison beds.

¹⁴³ *ibid.*

¹⁴⁴ “Strategies for Controlling Crime: A Position Paper,” Prepared by The Administration of Justice Division, National Urban League, March 1978, JCL, Gutierrez Box 12, Folder 8.

¹⁴⁵ The FBI Uniform Crime Reports indicated that, even though they represented just twelve percent of the national population, in 1976, black Americans constituted over a quarter of all those arrested, at roughly two million. In cities, black residents constituted 36.9 percent of total arrests. In suburban areas, blacks constituted just under a quarter of all arrests. In rural areas, blacks constituted seventeen percent of all arrests. Similarly, uneducated black men living below the poverty level and under the age of thirty constituted the typical victim. The poorer the person, the more likely they were to be victimized by crime. “Strategies for Controlling Crime: A Position Paper.”

¹⁴⁶ *ibid.*

In Alabama, where they accounted for twenty-six percent of the total population, they accounted for sixty percent of the prison population.¹⁴⁷

Despite the fact that black Americans were disproportionately represented in criminal justice statistics as both victims and offenders, they were largely excluded from planning and implementing the national law enforcement programs. Their exclusion hindered the federal government's ability to bring an end to crime and violence, and may have even worsened the problem. The federal government had funded enough studies that indicated that nearly half of all non-whites were afraid to walk in their communities alone at night. Even though Carter's urban policy stressed community participation and grassroots representation as a means to foster a sense of residential safety, the decision to invest most of these funds in security hardware and to include law enforcement officials in all community-based programs forced many residents to turn to their own tactics. An Urban League Report noted: "It is not unusual to see entire neighborhoods in black communities with bars on windows and doors resembling fortresses of old."¹⁴⁸ The effect was to perpetuate the "culture of fear" in urban centers, leading to social isolation and hindering the development of vibrant communities.

V. Urban Fire

American cities burned again as new carceral institutions emerged in the 1970s. In the South Bronx, vacant lots and ashes of apartment buildings were so prevalent that had they burned down all at once it would have been declared a national disaster. Private

¹⁴⁷ *ibid.*

¹⁴⁸ *ibid.*

businesses set many of the fires in an attempt to collect a shred of insurance—more valuable than maintaining a business in an area of extreme poverty. Residents, however, set most of the fires themselves.¹⁴⁹ Policymakers who ventured to the area in the mid-1970s noted: “the overall effect of driving through areas of the central and south Bronx is that of driving through Berlin shortly after the second World War. Shell after shell of empty burned out buildings greets the eye, relieved here and there with empty lots, which are left after the buildings themselves have been completely demolished. An occasional packing case in which people are actually living punctuates this dreary landscape.”¹⁵⁰ And while the Bronx may have represented a more extreme case of the impact of deindustrialization and divestment in areas of segregated poverty, New York was burning elsewhere, too—in Brownsville, Bushwick, and Bedford-Stuyvesant in Brooklyn; and in Harlem and the Lower East Side in Manhattan.

Astute observers of urban social trends saw the flames coming. As early as 1970, Daniel Patrick Moynihan mentioned the likelihood to Nixon as special advisor to the president on urban policy. For Moynihan, arson in “slum neighborhoods, primarily black,” was linked to the “certain types of personalities which slums produce,” and paralleled general crime problems.¹⁵¹ “Fires are in fact a ‘leading indicator’ of social pathology for a neighborhood,” Moynihan wrote Nixon, “They come first. Crime, and the

¹⁴⁹ 7-7-75 Memo to Cannon from Aldrich Sub “Summer Urban Youth Project: New York City Trip,” Ford Library Parsons Collection Box 17 “Summer Jobs for Urban Youth”

¹⁵⁰ *ibid.*

¹⁵¹ Moynihan noted that in New York City the fire alarm rate tripled from 69,700 alarms to 240,000 alarms between 1965 and 1969 1-16-1970 Memorandum For the President from Daniel P. Moynihan. Nixon Library, Krogh Collection Box 10 “Black Vote” (72)

rest, follows.”¹⁵² Moynihan believed the fire setting phenomenon expressed the extreme degree of social alienation low-income black Americans experienced.¹⁵³

Moynihan’s warning foreshadowed what characterized the urban landscape for the remainder of the decade, and by the late 1970s, arson was the nation’s fastest growing major crime.¹⁵⁴ It began to rise sharply in 1972, two years after Moynihan penned his memo on the subject.¹⁵⁵ The problem did not receive attention until the Aerospace Corporation received its “Arson and Investigation” Report, researched with a ninety thousand dollar grant from the LEAA.¹⁵⁶ The study uncovered that property losses from arson amounted to 1.2 billion dollars in 1974, compared with only 325 million dollars in 1964. Almost immediately after the Aerospace Corporation released the report and the National Fire Protection Association produced data sets confirming its conclusions, the Senate Permanent Subcommittee on Investigations called a series of hearings to begin planning a federal fight against what was fast becoming a “nationwide epidemic.”¹⁵⁷ In

¹⁵² The underline is Moynihan’s, *ibid.*

¹⁵³ Moynihan assumed that “a great deal of crime, the fire setting, the rampant school violence, and other such phenomenon in the black community have become quasi-politicized. Hatred—revenge—against whites is now an acceptable excuse for doing what might have been done anyway;” *ibid.*

¹⁵⁴ Arson-related crimes had begun to grow at 25 percent a year. Stephen E. Nordlinger, “Arson ‘epidemic’ stirs U.S. to take lead in crackdown,” *The Baltimore Sun*, 2 Jan 1979, A1; “Law Enforcement Aid Unit to Fight Arson More: Percy,” *Chicago Tribune*, 9 Oct 1978, 22.

¹⁵⁵ Stephen E. Nordlinger, “Arson ‘epidemic’ stirs U.S. to take lead in crackdown,” *The Baltimore Sun*, 2 Jan 1979, A1.

¹⁵⁶ *ibid.*

¹⁵⁷ *ibid.*

declining cities, the Department of Justice concluded that arson had reached “near-plague proportions.”¹⁵⁸

The Department of Justice quickly made its “Arson Control Strategy” a top priority. Even as the LEAA closed down offices, fired employees, and prepared to cut off its law enforcement assistance to states, the agency launched a four million dollar anti-arson program in 1979.¹⁵⁹ That year alone, communities across the United States faced thirteen thousand deliberately set or suspicious fires. Law enforcement officials estimated that juveniles set about a quarter of these fires, and accounted for more than half of all arson cases in some jurisdictions.¹⁶⁰

In drawing Nixon’s attention to urban fire setting, Moynihan argued that riots constituted a precondition, or a mass incidence of fire, from which crimes subsequently flowed. “Fires in the black slums peak in July and August,” Moynihan wrote, “The urban riots of 1964-1968 could be thought of as epidemic conditions of an endemic situation.”¹⁶¹ And while the federal government did not confront any major incidents of urban civil disorder in the 1970s, when Miami’s Liberty City housing project erupted in May 1980 it reopened the familiar debates about pathology, poverty, crime, and decay that had inspired the federal government’s punitive policy during the Johnson Administration.

¹⁵⁸ “Arson and More Arson,” *The Washington Post*, 20 Apr 1979, A14.

¹⁵⁹ Nordlinger, “Arson ‘epidemic’ stirs.”

¹⁶⁰ Lois Timnick, “‘Spite’ Blacked for Most of Arson in L.A. Last Year,” *Los Angeles Times*, 10 Dec 1980, 3.

¹⁶¹ 1-16-1970 Memorandum For the President from Daniel P. Moynihan.

After an all-white jury acquitted four Miami police officers for the brutal death of black insurance agent, former Marine, and beloved Liberty City resident Arthur McDuffie during a routine traffic stop, black and West Indian residents turned their outrage into material violence. At the time, Miami had an official black unemployment rate of twenty-three percent, and some estimates placed it as high as fifty percent.¹⁶² Although Liberty City (nicknamed “germ city” by its young residents) bore the brunt of the damage from the riot, eruptions occurred in neighboring black communities of Brownsville, Overtown, and Coconut Grove. In an attempt to provide a constructive outlet for the community after the McDuffie verdict, black moderate political leaders called a silent protest vigil. Five thousand residents promptly arrived to protest in front of the Miami police department courthouse, chanting “we want justice!” The militant turn of the vigil quickly spiraled out of control.

Unlike the more contained urban civil disorder in the 1960s, the riot spread to white communities nearby and was brutally violent. While black-owned businesses were largely unaffected by the uprising, the participants torched factories, clothing stores, and supermarkets along Northwest 54th street—the central commercial district of Liberty City—leaving most of the businesses virtually empty or completely destroyed. Segregated bands on all sides hunted for residents to shoot, and some even mutilated and burned civilians.¹⁶³ It took 3,600 National Guardsmen and the local police department four days and eight hundred arrests to halt the uprising.¹⁶⁴

¹⁶² Manning Marable, “Miami and the Fire This Time,” *In These Times*, May 28-June 3, 1980, 3.

¹⁶³ *ibid.*

¹⁶⁴ Manning Marable, “The Fire This Time: The Miami Rebellion, May 1980,” *The Black Scholar*, 11 (July-August 1980), 2-18; *ibid.*

On June 9th, Carter attended a meeting with local leaders at the James E. Scott Community Association conference hall. In line with general cuts to domestic programs, Carter informed the audience that he could not provide any programs or federal investment for the devastated area, but would “meet the community half-way” in any plans they devised to rebuild the riot-torn neighborhoods of Miami.¹⁶⁵ As the *Miami Times* reported: “The audience was almost speechless.”¹⁶⁶ When Carter left the conference hall, destined for Air Force One, black youth and Liberty City residents threw bottles and bricks at the president and his entourage.¹⁶⁷ In the end, most of the federal grant money Carter managed to provide benefited Cuban business owners, many of whom followed the lead of Sears, JC Penney, and Grand Way Supermarket: they left the riot area after the incident and never returned.¹⁶⁸ If the Law Enforcement Assistance Administration offered a federal response to urban civil disorder and violence beginning in the mid-1960s, then the riot in Liberty City and the enduring marginalization of low-income black Americans seemed to fully justify the end to the agency the Carter administration had secured and the full integration of urban and crime control policy.

The return of urban civil disorder coincided with renewed demands for law and order. New political opportunities opened for conservatives as white Americans grew increasingly anxious about the decline of the U.S. economy and international relations during the Carter years. Inflation made conservative tax principles, cuts in social

¹⁶⁵ Manning Marable, “Small Changes Come to Dade County,” *In These Times*, Jul 2-15, 1980, 6.

¹⁶⁶ *ibid.*

¹⁶⁷ *ibid.*

¹⁶⁸ See Bruce Porter and Marvin Dunn, *The Miami Riot of 1980: Crossing the Bounds* (Lanham, Maryland: Lexington Books, 1984); Melissa Patterson and Robert Samuels, “McDuffie riot memories fade in Liberty City, but Neighborhood Still Bears Deep Scars,” *Miami Herald*, 16 May 2010.

spending to encourage private investment, and reduced government regulation appealing to those Americans resentful of the progressive social rights movements championing gender equality, gay liberation, and immigrant rights. Neoconservative thought arguing that domestic political developments in the 1960s led to a decline in morality and defiance of traditional authority gained ground. Although many neoconservatives had once participated in left-wing movements and supported liberal causes, they came to believe that social programs were more harmful than helpful, that welfare encouraged unwarranted dependency, laziness, and single motherhood rather than eliminate poverty. The Heritage Foundation and the American Enterprise Institute emerged in the early 1970s but grew in popularity during the Carter administration and further decimated these ideas. Neoconservative principles proved highly influential to Ronald Reagan as he prepared for another presidential bid.

White House officials and consultants had a profound understanding of the larger social impact of the federal government's punitive turn, even if they were unwilling or unable to address the structural discrepancies within it. In his luncheon speech at the National Institute for Crime and Delinquency's annual meeting, the Carter Administration's law enforcement consultant William Nagel described the daily operations of Philadelphia's court system to emphasize the consequences of crime control programs as they operated on the ground:

“Each morning at 8:30 am, I pass through the courtyard of the magnificent French Renaissance building that is our City Hall. There, 15 to 20 policemen (Friday 19 of the 20 were white) with shiny boots, Nazi-type hats, mace, shot guns, pistols and police dogs oversee the unloading of two, three, four blue buses marked Philadelphia Sheriff's Department. And anywhere from 70 to 150 prisoners—almost exclusively black—file out in handcuffs and sometimes chains. They have been locked up in our jail, in our handcuffs, in our chains, and that night—after their day in

court—many will be locked up in our prisons. As Bill Moyers has observed we are withdrawing into a locked up society with locked up homes, locked up expectations; locked up human urges. We are not an integrated people, we are a separated people.”¹⁶⁹

Within the first ten years of the national crime control program, more black Americans died on the streets in neighborhoods of segregated poverty than in the fields of Vietnam.¹⁷⁰ If arson and the Liberty City riot represented a symptom of general urban decline and decay, they also represented the devastating impact of the rise of the carceral complex on black Americans and their families.

¹⁶⁹ William G. Nagel, “An American Archipelago.”

¹⁷⁰ Derek Dingle, “Community Seeks Answers to Black-On-Black Crime,” *New Journal and Guide*, 19 Nov 1980, 1.

CONCLUSION

From the War on Crime to the War on Drugs

The limitations of civil rights legislation to fundamentally alter race-based inequality quickly revealed themselves to policymakers by the time Watts erupted in the summer of 1965. Daniel Patrick Moynihan and many others in the Johnson administration pointed out the need for federal programs to foster greater socio-economic inclusion of black Americans. Although Johnson briefly committed his Administration to a “War on Black Poverty,” widespread and mounting incidents of urban civil disorder convinced the president and Congress that a restoration of “law and order” in areas of segregated poverty was essential. Sensationalized coverage of the riots convinced the nation that crime was indeed rising when in fact it had stabilized since the prohibition era. Believing that “warring on poverty is warring on crime,” the Johnson administration produced a blueprint for a national law enforcement program modeled after the federal-local partnership the Great Society established in the nation’s urban centers. Contrary to popular belief, Johnson did not reluctantly sign the Omnibus Crime Control and Safe Streets Act of 1968 because he opposed federal punitive policy, but because he knew in doing so he would bring postwar liberalism to its end by changing the course of federalism and endorsing the legislation’s block grant provision. Johnson could not have foreseen the unintended consequences of the process he put in motion.

Yet the decentralized approach to governance—championed by the Nixon, Ford, and Reagan administrations as the “New Federalism”—failed to meet federal social control objectives. In the aftermath of the riots, the problems of the cities and the plight of urban black Americans were major domestic concerns. After it awarded block grants

under a general purpose, the federal government grew frustrated with state-level mismanagement of tens of millions of dollars in new law enforcement funds. If it did not succeed in substantially lowering the crime rate or stopping urban violence, the Law Enforcement Assistance Administration did succeed in constructing a massive and highly corrupt bureaucracy that grounded the modern security industry, the professionalization of law enforcement, and the expansion of carceral institutions. Frustrated with the lack of federal authority the block grant system provided, Nixon reallocated increasing amounts of the law enforcement budget to use at his discretion. This translated to increasing patrol and hardware for police departments responsible for monitoring predominately black urban areas that FBI statistics identified as “high crime.”

The War on Crime’s material manifestations spawned and reinforced violence within the communities it targeted. This is itself reflective of the ironic consequences of federal punitive policy during its first twenty years. Soon after states received their first federal law enforcement grants, the police footsoldiers engaged in street battles with black urban youth. Tactical mobile units—from STRESS in Detroit to the Citywide Anti-Crime Section in New York—unleashed the “self-perpetuating force” Los Angeles Police Chief Ed Davis warned about back in 1969. In the immediate context of Nixon’s Office of Minority Business Enterprise and early affirmative action programs, black political organizations responded to the intrusion of police officers and surveillance equipment in their neighborhoods by accepting the premise of national law enforcement and demanding greater representation to offset the effects of police brutality. Meanwhile, as the Nixon administration eradicated community action programs and other Great Society

initiatives, local police officers overshadowed the social workers and grassroots activists that had once benefitted from federal partnerships.

By the mid-1970s, with the court system on the brink of collapse as a result of increased urban patrol and the corresponding increase in arrests of young black men, the Ford administration moved beyond the police hardware stage to focus on juvenile delinquency and the judicial system. By framing its attack on the root causes of crime as an attack on black youth “in danger of becoming delinquent”—which translated to all low-income young people living in housing projects, on government assistance, or from a “high crime” area—the Ford administration criminalized entire communities in urban centers struggling to compensate for the decline of domestic manufacturing and with it the middle-class tax base. To sharpen the federal government’s ability to reach this “potentially delinquent” population, Ford supported handgun control programs in designated cities and a new, expedited court system for gang members.

Ten years after the Safe Streets Act, the fact that both the crime rate and socio-economic inequality increased called the entire national law enforcement program into question. Carter dissolved federal law enforcement assistance programs by conjoining urban and punitive policy. Now law enforcement would factor prominently in all domestic social programs. Carter anticipated many of the policies later adopted by the Reagan administration with respect to urban policy and deregulation. Rather than a sharp break, the Carter administration positioned Ronald Reagan to revolutionize the federal government’s approach to crime control and inequality.

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The unprecedented expansion of the prison system in the mid-1980s and sensational media coverage of the War on Drugs has served as a point of origin for most examinations of the rise of mass incarceration in the late twentieth century. Yet by considering Reagan's Omnibus Anti-Drug Abuse Act of 1988 as the culmination of the federal crime control measures described above, we can understand the contemporary carceral complex as part of a much longer historical process. Twenty years after the federal government's first major crime control bill, Reagan's 1988 legislation brought to fruition some of the most radical proposals put forth by the Nixon and Ford administrations, refurbished federal law enforcement in the institutional vacuum the Carter administration created, and opened up what had previously been a domestic social war to the military. Although Johnson ignited the federal government's retreat from postwar liberal reform when he signed the Safe Streets Act with the block grant provision, Nixon and Ford transitioned federal domestic programs away from Democratic officials. The promise of state autonomy benefitted conservative strongholds in small towns and suburbs, and Reagan and George H.W. Bush reinvigorated "New Federalism" by drastically reducing federal domestic programs.

During the mid-1970s, as crime rates escalated alongside the federal law enforcement budget, pre-emptive policy criminalized urban social programs and made encounters between young urban Americans and law enforcement authorities a frequent occurrence. In the context of stagflation, the rise of Soviet forces in the Middle East, and unsuccessful military interventions in Southeast Asia and Latin America, Carter scaled back domestic spending to reassert the military strength of the United States. Reagan

advanced this strategy by shifting the federal government's focus towards defense concerns while extending this policy into crime control via the War on Drugs.

By framing his crime control program as a narcotics control program, Reagan's War on Drugs connected the Department of Defense with the Department of Justice. It was a domestic social war that required patrol both at the nation's borders and in segregated urban neighborhoods. Defense agencies shared responsibilities with local law enforcement by land, air, and sea, and Congress criminalized drug users, especially low-income black users, by deciding to concentrate and stiffen penalties for crack cocaine. Nancy Reagan's "Just Say No" program and a major anti-drug public relations campaign unfolded when the most destructive drug epidemic the nation confronted in its history bore devastating consequences in the communities where the federal government had been fighting a War on Crime for two decades.

"In the eleventh hour of this presidency," Reagan said when he signed the 1988 Anti-Drug Abuse Act, "we give a new sword and shield to those whose daily business it is to eliminate from America's streets and towns the scourge of illicit drugs."¹ It was the last major piece of domestic legislation the Reagan administration secured, the product of a seven year effort.² "We worked hard in the early '80s on our national recovery so that

¹ 11-18-1988, "Remarks by the President at Signing Ceremony for the Anti-Drug Abuse Act of 1988," The White House, Office of the Press Secretary, Ronald Reagan Library, Addington Files, Drugs (1) OA 16788.

² The more punitive and invasive aspects of the Anti-Drug Abuse Act that Congress refused to enact troubled the Reagan Administration. White House officials worked around the imposed limitations. Although the proposed ban on random drug testing did not get approved, the Department of Transportation retained its authority to submit its employees to that scrutiny. Reagan eschewed the aspects of the bill's final version eased the language of the exclusionary rule. The administration favored the establishment of "good faith" exceptions to the rule, which prohibited the introduction of illegally seized evidence in drug cases. In particular, the Reagan administration was concerned about the fact that 45,000 to 55,000 of felony and serious misdemeanor cases were dropped by prosecutors because of exclusionary rule problems in 1977 to 1978, as a study by Harvard's James Q. Wilson indicated. Congress also did not approve Reagan's

we might be able to recognize, indeed, deal with social problems that had been too long ignored and sometimes obscured in the past,” Reagan said. But the president was not interested in dealing with the root causes of the social problems he mentioned. Over the course of his political career, Reagan redefined notions of governmental accountability by refusing to enact policy that attempted to remedy historical injustice.³ By centralizing control over federal law enforcement programs, inviting the military to fully participate in the domestic social war, and bringing black drug users into the prison system at unprecedented rates, Reagan believed he had effectively ushered in a “renewal of our fundamental beliefs and values as a nation.”⁴

The Anti-Drug Abuse Act of 1988 made possible a militaristic intervention in domestic crime control, a critical policy shift that received widespread support from Congress. Thirty-nine Democratic senators and thirty Republicans sponsored the Act, and it passed the House by a 346-11 vote. A number of Democrats in Congress worked alongside the Administration during the 1980s to bring about the militaristic turn. “Crime is a national defense problem,” said Senator Joe Biden in 1982, “You’re in as much jeopardy in the streets as you are from a Soviet missile.”⁵ Indeed, Democrats also treated

proposed sentence of ten years in prison for the use of an automatic weapon in the commission of a crime. 5-23-984, “Briefing Book: DOJ for Administration Anti-Crime Legislation,” TO Meese from AG William French Smith, Subj: Anti-Crime Leg, RRL, Meese Files, Anti-Crime Legislation (2) OA 10246.

³ During the 1976 primary, Reagan asserted this view when discussing the law and order issue, appearing even tougher on crime than Ford. “What is the cause of crime in America?” Reagan asked during the campaign, “if one should listen to the Congress of the U.S., its most vocal voices, you will hear the old refrain, ‘Poverty is the root cause of crime.’ But time *has* proven these people wrong—dead wrong in too many cases.” Thomas E. Cronin, Tamia Z. Cronin, and Michael E. Millakovich, *U.S. v. Crime in the Streets* (Bloomington: Indiana University Press, 1981) 119.

⁴ 5-18-1988, “Remarks by the President at U.S. Coast Guard Commencement,” Nitchem Field New London, CT, RRL, Addington Files Drugs (7) OA 16788.

⁵ Mary Thornton, “Senate Votes to Toughen Federal Sentencing Law,” *The Washington Post* 1 Oct 1982, A3.

domestic social war as any other war. In the words of Oklahoma's Congressman Glenn English: "We in the Democratic Party realize that the war on drugs has to be fought like World War II—a complete and thorough effort, one dedicated to victory at any cost."⁶

Ironically, while Reagan gained popularity by pledging to fight big government, his renewal of the fight against the USSR's "evil empire" sponsored the largest military buildup in the history of the United States. As the administration continued to cut federal spending on domestic programs, seeking instead private solutions, it wasted billions of dollars on a "Star Wars" space-based system to intercept enemy missiles under the Strategic Defense Initiative. By casting the War on Drugs as part of his larger commitment to preserving traditional American values in the face of outside influences, Reagan made battling street crime and stopping the urban drug trade at any cost the foremost domestic concern of his administration.

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The LEAA had sponsored special equipment and training programs for local police officers administered by the Department of Defense and the Central Intelligence Agency in the early 1970s, but during the Reagan administration policymakers worked to solidify national security partnerships. After directing Secretary of Defense Frank Carlucci in May 1988 to "tap the best minds both inside and outside government to come up with creative solutions on how we can better use military resources and technologies to detect drugs and support civil law enforcement agencies in interdiction," Reagan delivered a rousing speech at the commencement exercises of the United States Coast Guard. "Our military assets can be used for greater command and control functions in

⁶ 5-25-1988 "Statement of Congressman Glenn English," Press Release, RRL, Williams Files, WH Conference Recommendations OA 19050.

surveillance and drug detection,” Reagan reminded the graduates.⁷ In effect, Reagan integrated the domestic social war into the objectives of defense agencies fighting the Cold War.

Immediately after Reagan’s inauguration, White House officials set out to revise the Posse Comitatus Act of 1878, which precluded military involvement in domestic law enforcement. Reagan’s Military Cooperation with Civilian Law Enforcement Agencies Act passed at the end of his first year in office. It permitted defense agencies to provide local law enforcement institutions access to weapons, intelligence, research, and military bases to improve drug interdiction efforts. Following the Administration’s lead, when Congress reauthorized the Department of Defense in 1982 it expanded the Military Cooperation Act’s definition of “indirect military involvement” to include the exchange of information, equipment, facilities, and manpower.⁸ The new authorization allowed the Navy to offer vessels to the Coast Guard and air surveillance assistance to local law enforcement, the Air Force to give police sea and air traffic information, and the Army to lend customs and the Drug Enforcement Agency aircraft and helicopters.⁹

The rise of military involvement in domestic law enforcement coincided with the demise of the crime control institutions associated with Reagan’s predecessors. Widely accepted as an inefficient failure during the Carter administration, which phased out the agency in 1980 after thirteen years of existence and a total of eight billion dollars in expenditures, the LEAA shut down completely on April 15, 1982. Although state-level

⁷ 5-18-1988, “Remarks by the President at U.S. Coast Guard Commencement;” See also Stephen Graham *Cities Under Siege: The New Military Urbanism* (New York: Verso, 2011).

⁸ 5-11-1988 Memorandum for Jim Miller From Wayne Army and Alan Raul Subj; DOD Anti-Drug Program, RRL, Addington Files, Drugs (8) OA 16788.

⁹ *ibid.*

criminal justice bureaucracies remained the prevailing legacy of the LEAA, the concept of “massive federal expenditures of the Great Society sort and not spending much time defining the problem is dead,” Deputy Attorney General Stanley Morris declared when the Department of Justice closed the agency.¹⁰

In the absence of a single federal institution responsible for directing the ambitious scope of the War on Drugs, Reagan officials worked to coordinate federal resources. The Carter administration introduced the War on Crime into domestic social programs, especially in urban areas of segregated poverty, and Reagan similarly introduced the War on Drugs into defense programs, especially on the Caribbean and Mexican border. Building from the partnerships the Military Cooperation Act established, Reagan directed Vice President George H.W. Bush to implement the border control dimension of the Administration’s law enforcement program. Early in 1982, Bush called the South Florida Task Force to coordinate all law enforcement and defense activities in the Miami area. A year later, Reagan expanded the program as the National Narcotics Border Interdiction System. Under Bush’s direction, the interdiction system coordinated federal, state, and local law enforcement and defense resources in an international anti-drug effort.¹¹

Meanwhile, as Nancy Reagan’s “Just Say No” campaign gained ground in American public schools, Congress passed its first major piece of crime control legislation in fourteen years. The Comprehensive Crime Control Act of 1984 offered what Reagan’s Attorney General William French Smith called, “the most far-reaching

¹⁰ “Crime Fighters at the End of the Road,” *Washington Post*, 15 Apr 1982, A23.

¹¹ n.d., George Bush, “National Law Enforcement: A Personal Perspective.” Ronald Reagan Library, Counterterrorism and Narcotics Files, NNBIS (1) Box 92258.

and substantial reform of the criminal justice system in our history.”¹² By imposing the radical sentencing and bail procedures tested by the Nixon administration’s D.C. Crime Control Act of 1970, the 1984 Act ensured that incarceration rates would similarly rise in states and locales far outside the nation’s capitol.

Among twenty-three other law enforcement measures, Reagan’s Act authorized judges to indefinitely hold defendants deemed potential “dangers to the community” when setting bail. This practice had disproportionately touched young black men in Washington, DC after Congress passed the Nixon administration’s measure, but it persisted once the 1984 Act instituted pretrial detention nationally.¹³ The legislation also obliterated the federal parole system by requiring judges to use “truth in sentencing” stipulations without the possibility for early release. Detailed guidelines developed by the United States Sentencing Commission included a mandatory minimum of five years in prison for any person who used a firearm in connection with a violent crime or terrorists who damaged domestic aircraft.¹⁴ As a result of the sentencing provisions contained in the Act, the average prison sentence increased thirty-three percent, from forty-six months in 1980 to sixty-one months in 1986.¹⁵ The legislation also moved narcotics violations from the criminal to the civil realm so that offenders could be tried in a court system with

¹² Keith B. Richburg, “Congress Approves Major Overhaul of the Nation’s Anticrime Statutes,” *The Washington Post* 12 Oct 1984, A21; George Bush, “National Law Enforcement: A Personal Perspective.”

¹³ 5-23-1984, “Briefing Book: DOJ for Administration Anti-Crime Legislation,” To Meese from Attorney General William French Smith, Subj: Anti-Crime Leg, RRL, Meese Files, Anti-Crime Legislation (2) OA 10246.

¹⁴ *ibid.*

¹⁵ 6-30-1988 “Statement by the President.”

a lower burden of proof, and allowed local police departments to seize as much as ninety percent of cash and property from accused drug dealers.¹⁶

The forfeiture provisions introduced by the 1984 Act brought the federal government, local police departments, and civilian whistle blowers lucrative returns from the assets of drug dealers and other criminals. Nixon's Comprehensive Drug Abuse Prevention and Control Act of 1970 included a civil forfeiture clause, but the practice lead to the substantial budgetary increases in local law enforcement after the 1984 amendments allowed police departments to keep the majority of the proceeds. Many state and local governments initially resisted this massive imposition on limited local resources to fight a war that eluded serious and violent crime. However, the promise of huge cash grants obtained through forfeiture subdued the views among some local officials that the War on Drugs violated states' rights and local control. After the legislation passed, gross receipts of all seizures increased from one hundred million dollars to over one billion within three years.¹⁷ As Vice President Bush said: "We can use the criminals' own property to help finance law enforcement."¹⁸ Sharing the federal forfeiture surplus with state and local governments would advance the entire system and improve state-level investigations.

Although federal law enforcement agencies supported small-scale sting and fencing operations beginning in the mid-1970s, forfeiture practices in the 1980s encouraged major operations leading to the arrest of thousands more. Even if a suspect

¹⁶ Sam Enriquez, "Seized in Raids," *Los Angeles Times*, 20 Apr 1986, B1.

¹⁷ Christian Parenti, *Lockdown America: Police and Prisons in the Age of Crisis* (New York: Verso, 2000), 54; George Bush, "National Law Enforcement: A Personal Perspective," 5-18-1988, "Remarks by the President at U.S. Coast Guard Commencement."

¹⁸ George Bush, "National Law Enforcement: A Personal Perspective."

was acquitted his property was still subject to forfeiture, and the provision hit low-income Americans unable to afford adequate representation the hardest. While Washington, DC's "Operation Got Ya Again" led to the detainment of 250 suspects in 1974; by 1988 Miami police arrested five thousand suspects in a single sting.¹⁹ The federal government helped to make crime in order to fight crime; by the end of the Reagan administration and beyond, crime and violence in the United States had fully emerged as mutually reinforcing.

The dismantling of the LEAA meant police departments only received federal benefits for drug-related programs.²⁰ While making the War on Drugs a local priority, the federal government offered patrol officers training in narcotics investigations to increase arrest levels. The Drug Enforcement Agency launched Operation Pipeline in 1984, teaching representatives from more than three hundred state and local law enforcement agencies how to turn a routine traffic stop into an opportunity to conduct a drug search by manipulating consent from a reluctant suspect.²¹ This practice, known as a "pretext"

¹⁹ 4-28-1988 "Remarks by Dr. Donald Ian MacDonald, National Drug Policy Board," RRL, Williams Working-Legislative Initiative 1988 [2] OA 16690.

²⁰ For individual agents involved in the seizures, the forfeiture process opened up new opportunities for white collar crime. Former FBI undercover agent Dan Mitrione Jr. stole more than ninety pounds of cocaine and accepted \$850,000 in bribes and payoffs. By 1995, local drug task forces had become so dependent on federal drug fighting grants that the commander of a special task force within the Oakland Housing Authority began shifts by proclaiming "Let's go out and kick ass," as well as: "Everybody goes to jail tonight for everything, right?" in order to keep arrest numbers up to continue to receive federal funds. By the late 1990s, places like Jackson County, Wisconsin quadrupled their federal subsidy by quadrupling drug arrests Eric Blumenson and Eva Nilsen, "Policing for Profit: The Drug War's Hidden Economic Agenda," *University of Chicago Law Review* 65 (1988), 64, 82; "FBI Drug Sting Probed After Agent's Arrest," *The Washington Post*, 16 Mar 1985, A4; Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2011), 78, 80.

²¹ After fifteen years, the DEA's Operation Pipeline trained twenty-five thousand officers and developed large-scale training programs for law enforcement agencies in forty-eight states. In the 1990s, when pretext stop cases were brought to the Supreme Court, the Court upheld pretext practices on the grounds that the reason police stopped motorists was insignificant, as long as an actual traffic violation occurred. the Supreme Court upholds pretext practices, ruling that it was insignificant the reason police

traffic stop, encouraged racial profiling and proved to be an important tactic in the War on Drugs. The majority of drug-related searches that started with a routine traffic stop did not end in possession charges, but the practice meant that the drug war loomed heavily over segregated urban areas that were already under extreme surveillance.

In anticipation of the next major frontier of the national crime control program, the Reagan administration reestablished federal law enforcement assistance for prison construction. During the Ford and Carter presidencies and Reagan's first term, the prison population at the state level ballooned from 204,000 inmates to 400,000. The cost of each new bed, ranging from thirty thousand to ninety thousand dollars, posed a strain on state governments that federal policymakers believed required special attention.²² While ending the practice of block grants for police departments and court systems, the 1984 Act established a national clearinghouse at the Department of Justice to assist states in expanding penal institutions via general purpose funds. Indeed, the legislation represented what Senator Strom Thurmond championed as the "beginning of a new era" in law enforcement, coinciding with the launch of the private prison industry: the Corrections Corporation of America opened its first for-profit facility in Texas that year.²³

stopped motorists, as long as a real traffic violation provided an excuse to stop. See *Florida v. Bostick*, *Ohio v. Robinette*; U.S. Department of Justice, Drug Enforcement Administration, *Operation Pipeline and Convoy* (Washington, DC, n.d.), www.usdoj.gov/dea/programs/pipecon.htm; Alexander 70.

²² Leslie Maitland Werner, "Getting Out the Word on the New Crime Act," *New York Times*, 16 Nov 1984, A24.

²³ Bruce Western, Becky Pettit, and Josh Guetzkow, "Black Economic Progress in the Era of Mass Imprisonment," in Marc Mauer and Medea Chesney-Lind, eds. *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* (New York: The New Press, 2002) 167. See also Kimberly E. Gilmore, "States of Incarceration: Prisoners' rights and United States Prison Expansion After World War II," Unpublished Dissertation, New York University 2005.

With parole eviscerated, new sentencing practices in place, and public and private prison construction underway, the Reagan Administration could fully reconfigure the federal government's two-decades long War on Crime as the War on Drugs. In doing so, the president established tougher penalties for federal drug offenses and stronger money laundering laws. The Anti-Drug Abuse Act of 1986, or the "Drug Free America Act" as Reagan called it, doubled federal spending on the criminal justice system during the Administration's first term and tripled drug enforcement resources so that national expenditures on criminal justice reached an all-time high of nearly three and a half billion dollars.²⁴ In April 1986, Reagan transformed drugs into a matter of national security by issuing National Security Decision Directive 221.²⁵ By framing narcotics trafficking and consumption as a threat to the national well being, the policy strengthened cooperation among local, state, and federal law enforcement with defense institutions. Although Reagan placed the issue of narcotics treatment and education at the center of his "national crusade against drugs" when he spoke to the American public, in practice the nine hundred million dollars allocated by Congress for drug abuse programs went mostly for the purchase of helicopters, airplanes, and intelligence-gathering facilities.²⁶

²⁴ 1-21-1987 Memorandum to Donald T. Reagan from Charles Hobbs and Richard L. Williams, Subj "The Anti-Drug Abuse Budget," RRL, MacDonald Files, Anti-Drug Abuse Budget, 1987- Working Papers OA 16316; George Bush, "National Law Enforcement: A Personal Perspective."

²⁵ As the directive stated: "The expanding scope of global narcotics trafficking has created a situation which today adds another significant dimension to the law enforcement and public health aspects of this international problem and threatens the national security of the United States." Ronald Reagan, *National Security Decision Directive 221, 'Narcotics and National Security,'* April 8, 1986, partially declassified on November 7, 1995, redacted version available at www.fas.org/irp/offdocs/nsdd/nsdd-221.htm.

²⁶ 3-21-1987, "Radio Address by the President to the Nation," Camp David, Maryland, Reagan Library, MacDonald Files, Anti-Drug Abuse Budget, 1987-Working Papers OA 16316; 1-21-1987 Memorandum to Donald T. Reagan.

Reagan's form of "New Federalism" broke sharply from Nixon's when it came to social policy, and the administration refused to offer major law enforcement assistance programs. Given the dismal track record of the LEAA and the President's penchant for centralized power and privatization, the Reagan administration formed crime control boards and committees as an alternative to block grants and major bureaucratic institutions. In 1987, Reagan convened a National Drug Policy Board by Executive Order. Chaired by Attorney General Ed Meese, the former White House counselor during Reagan's first term, the Board brought together the Secretaries of Defense, State, Housing and Urban Development, Labor, Education, the CIA Director, the National Security Advisor, and other relevant cabinet officials and consultants to coordinate all activities concerning public safety needs.²⁷

The terms of the 1988 Act prohibited the Board from awarding "restrictive categorical grants" or, "attaching conditions to Federal grants that are unrelated to the purpose of the grants; detracting from the Administration's zero tolerance policy; and establishing highly prescriptive and burdensome requirements for certification of private laboratories."²⁸ To implement the Board's policies and bring together officials at all levels of government, the legislation established law enforcement coordinating committees, chaired by United States Attorneys, in every judicial district.²⁹

²⁷ 3-24-1987 Memorandum for the President From James Miller III Subj "Proposed Executive Order Entitled 'National Drug Policy Board,'" RRL, Williams Files, 3703: 0913011988NDPB Issues, November 1988-WHC Responses (5) OA 19052.

²⁸ 9-7-1988, "Statement of Administration Policy: H.R. 5210—Omnibus Drug Initiative Act of 1988," RRL, Williams, Congressional Drug Proposals 1988 # 1 1300; OA 16900.

²⁹ 3-24-1987 Memorandum for the President.

The Drug Policy Board's first annual report to the President reinforced the larger directives of the Reagan administration with respect to crime control and drug enforcement. It prepared to carry forth some of Reagan's most controversial strategies. "I join the Chairman in emphasizing that we cannot tolerate criminals who violate our borders, terrorize our communities, or poison our citizens," Reagan announced when he received the report from Meese to great media fanfare in June 1988, "likewise, we cannot tolerate drug users who provide the illegal market for the drugs or who benefit from the taxpayers' generosity through Federal grants, contracts, or loans."³⁰ The board recommended greater accountability for drug users by making federal student loans "conditional upon a college's adopting an effective anti-drug program," and withdrawing federal student aid from those convicted of drug offenses.³¹ At the end of his administration, through mandatory drug testing for all federal employees and the refusal to award drug users federal grants or assistance, Reagan enabled the War on Drugs to exert authority over every facet of American life within its reach.³²

During the Reagan administration the Supreme Court emerged as "a loyal foot soldier in the Executive's fight against crime," as Justice John Paul Stevens noted.³³ The

³⁰ 6-30-1988 "Statement by the President," RRL, MacDonald Files, Box 4, Folder Legislation-Anti Drug Abuse Act of 1988 [5 of 7].

³¹ *ibid.*

³² The Drug Policy Board also worked to include the private sector in its narcotics control effort as much as possible. While the federally-controlled nonprofit agency ACTION worked during the Carter Administration to foster tenant patrols and security hardware in the nation's housing projects, by the late 1980s it was responsible for managing drug abuses activities. In 1987 alone, the year Reagan called the Board, funding of ACTION increased by five million dollars, giving the agency an unprecedented annual budget of thirteen million dollars. 1-16-1987 Memorandum for Ed Meese from Joseph R. Wright Jr. Subj "Funding in the 1988 Budget for Drug Abuse Activities," RRL, MacDonald Files, Anti-Drug Abuse Budget 1987 Working Papers)A 16316.

³³ *California v. Acevedo*, 500 U.S. 565, 600 (1991), Stevens. J., dissenting.

police fought the primary battles of domestic social war during its initial phase, but as the national crime control program evolved from the mid-1970s onward, juridical institutions worked with federal, state, and local law enforcement to make the court process swift and sure and prison sentences severe. In the 1980s, the court not only compromised the Fourth Amendment by upholding the constitutionality of a number of unreasonable search and seizures, but it defended racial bias in the law enforcement and criminal justice systems.³⁴

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While the federal government focused on strengthening patrol at the nation's borders, it also witnessed a substantial rise in homelessness, eliminated half a million families from welfare rolls, and declared one million Americans ineligible for Food Stamps.³⁵ The poverty rate drastically increased during the Reagan administration, from fifteen percent in 1975 to twenty three percent by 1987.³⁶ Clamping down on basic social services as deindustrialization peaked in metropolitan centers stimulated the expansion of underground economies that sustained themselves via narcotics trafficking. In Los Angeles, the recession from 1979 to 1982 completely wiped out the industrial manufacturing sector, and dealing crack evolved into an employment option of last resort.³⁷ Ultimately, Reagan responded to the devastating impact of deindustrialization

³⁴ Alexander 61.

³⁵ "Strengthening the Social Fabric," *Christian Science Monitor*, 15 Nov 1988, 1.

³⁶ Leith Mullings, "Losing Ground: Harlem, the War on Drugs, and the Prison Industrial Complex," *Souls* 5 (2) 2003, 1-21.

³⁷ A.T. Callinicos, "Meaning of Los Angeles Riots," *Economic and Political Weekly*, Vol. 27, No. 30 July 25, 1992, 1603-1606.

and urban divestment as it materialized in the crack epidemic by attacking social welfare programs and replacing them with punitive and carceral programs.

Included among the twenty-nine mandatory minimums Reagan's Anti-Drug Abuses Act of 1986 imposed were sentences for "offenses involving one hundred grams of heroin, five hundred grams of cocaine or five grams of cocaine freebase known as crack."³⁸ As drug-related arrest skyrocketed, the disproportionate number of black Americans who abused crack rather than powder cocaine rendered the law virtual "apartheid sentencing."³⁹ In the same year that Reagan's Comprehensive Crime Control Act of 1984 passed, when income inequality had returned to higher levels than the nation experienced before World War II, the crystalline rock form of cocaine, or crack, visibly emerged in the streets and public housing projects of "high crime" urban areas, the same neighborhoods that caused policymakers great concern from the riots onwards.⁴⁰

Although Reagan pledged to aim the drug crusade at major kingpins, in practice the domestic social war led to the mass incarceration of black and Latino men, who compromised as much as ninety percent of new inmates for drug offenses in many states.⁴¹ Most of those arrested on narcotics charges were eventually dismissed, and most of the cases judges tried did not involve hard drugs. By the 1990s, nearly eighty percent

³⁸ The legislation also included provisions stipulating that any person caught in possession of small amounts of illegal drugs now faced a civil fine of up to ten thousand dollars. Individuals convicted of a drug-related murder or in federal court were now subject to the death penalty. 11-18-1988 "Fact Sheet: Anti-Drug Abuse Act of 1988," The White House, Office of the Press Secretary, Regan Library, Addington Files, Drugs (1) OA 16788; Christian Parenti, *Lockdown America: Police and Prisons in the Age of Crisis* (New York: Verso, 2000), 57; "Congress clears massive anti-drug measure," *Congressional Quarterly Almanac*, Vol. 42, 1986, p. 98.

³⁹ Though in 1985 roughly 800,000 Americans faced drug-related charges; by 1989 the number had shot up to roughly 1.4 million. Parenti 58.

⁴⁰ "Strengthening the Social Fabric," *Christian Science Monitor*, 15 Nov 1988, 16.

⁴¹ Alexander 58.

of drug arrests were for possession of marijuana.⁴² Moreover, the massive amount of public support Reagan's drug crusade received was not based upon an actual shift in drug use.⁴³ Instead, the perception of drug use as a major domestic problem arose from the way the media reported the Administration's crime control policy.

Extensive news coverage of "thugs" and "crackheads" fueled the engine of mass incarceration and the racial discrepancies within it. For policymakers, crack abuse was the root cause of violence in the inner city, the deterioration of housing projects, and the rise of urban gangs employing highly sophisticated weapons.⁴⁴ Just as the House allocated two billion dollars to the War on Drugs in 1986, *Time Magazine* anointed the crack phenomenon the "issue of the year" and *Newsweek* called it "an authentic national crisis."⁴⁵

In the era of multiculturalism, when conservatives declared that civil rights gains had solved historical inequality, the Supreme Court tacitly endorsed racism in the criminal justice system. The Court's ruling in 1987's *McCleskey v. Kemp* declared racial bias in law enforcement acceptable for the sake of public safety. Sentenced to the death penalty for killing a white Atlanta police officer, Warren McCleskey appealed on the grounds that the all-white jury administered the verdict in a racially discriminatory

⁴² *ibid* 60.

⁴³ A CBS poll conducted in August 1989 found that sixty-four percent of participants believed drugs were the most significant problem in the United States. *ibid* 54.

⁴⁴ 6-23-1988, "Issue Paper for Discussion at the National Drug Policy Board," RRL, Counterterrorism and Narcotics Files, Policy Board Minutes (1) Richard Porter NSC Staff, Box 92258; 3-3-1988 Letter to Mac from Dick (Williams) "Re: Crack Use in Inner Cities," RRL, Williams Files, Crack/Cocaine OA 19050.

⁴⁵ Richard M. Smith, "The Plague Among Us," *Newsweek*, 16 Jun 1986, 15; "Drugs: The Enemy Within," *Time Magazine Special Report*, 15 Sep 1986.

manner. The Court upheld McCleskey's execution. "If we accepted McCleskey's claim that racial bias has impermissibly tainted the capital sentencing decision," the majority opinion stated, "we could soon be faced with similar claims as to other types of penalty."⁴⁶ The alarming statistics McCleskey's lawyers produced on racial discrepancies in Georgia sentencing failed to persuade the Court. "In order to successfully challenge racial bias in the criminal justice process, offenders would need to prove that discretion had been abused or that law enforcement enacted or maintained a statute because of an anticipated racially discriminatory effect."⁴⁷ The decision preserved the role of racial profiling in the criminal justice process, and particularly the discretion of police officers to interrogate potential suspects. Not surprisingly, courts used the *McCleskey* precedent to absolve the system from charges of racial discrimination in crack sentencing laws.⁴⁸

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When Ronald and Nancy Reagan invited more than a thousand concerned citizens to the White House Conference for a Drug Free America in early 1988, Reagan could boast of his administration's accomplishments. Drug convictions had doubled since 1979. Prison sentences were forty-percent longer.⁴⁹ The federal government had seized hundreds of millions of property gained through the drug trade. The military provided sixteen thousand hours of air surveillance and 2,500 ships to assist in the fight, and twenty-three countries now worked with the United States in drug eradication programs,

⁴⁶ *McCleskey v. Kemp* Supreme Court majority opinion, Page 481 U. S. 316

⁴⁷ *ibid.*

⁴⁸ Alexander 11, 113.

⁴⁹ 5-18-1988, "Remarks by the President at U.S. Coast Guard Commencement."

up from just two foreign nations in 1981.⁵⁰ The demise of the LEAA increased the funding for the FBI more than fourfold (from eighty-six million dollars in 1981 to 181 million in 1991), generously expanded the Drug Enforcement Agency (from a budget of eighty six million to more than a hundred million), enlarged antidrug allocation for the Department of Defense (from thirty-three million to more than a hundred million) and increased the United States Bureau of Prisons by thirty percent.⁵¹ Internationally, Reagan's anti-drug crusade had only stimulated international trade and production, as cocaine imports increased by fifty percent between 1982 and 1984. When sixty-three tons of cocaine came into the United States in 1984, the price of the drug reduced drastically, bringing the availability and affordability of heroin down with it.⁵²

By 1988, crack was a profound and devastating expression of what had changed from the earlier period covered by this dissertation. In urban landscapes undergoing deindustrialization, deteriorated and abandoned buildings made ideal spaces for crack dealers, who set up twenty-four hour centers for consumption, sales, and distribution. The problem was concentrated in housing projects especially, where, a decade prior, Carter

⁵⁰ 4-19-1988 "Presidential Remarks: Tribute to Law Enforcement Officers Who Lost Their Lives in the Fight Against Drugs," RRL, Addington Files, Drugs (9) OA 16788.

⁵¹ Between 1980 and 1984 alone, the FBI's antidrug allocation increased more than tenfold, from eight million dollars in 1980 to ninety-five million in 1984. Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary American Politics* (New York: Oxford University Press, 1999), 3, citing Executive Office of the President, Budget of the U.S. Government (1990), citing U.S. Office of the National Drug Control Policy, National Drug Control Strategy (1992); Marc Mauer and Meda Chesney-Lind, "Introduction," in Mauer and Chesney-Lind, *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* (New York: New Press, 2003), 6.

⁵² See James Mills, *The Underground Empire: When Crime and Governments Embrace*, (New York: Dell Publishing Company, 1986); Faye V. Harrison, "Drug Trafficking in World Capitalism: A Perspective on Jamaican Posses in the U.S.," *Social Justice*, Vol. 16, No. 4 (Winter 1989), 115-131.

had launched his integrated approach to urban and crime policy.⁵³ One resident of New York's Winbrook complex described living conditions in the housing project where drug sales flourished: "At night, when people are trying to rest, hallways are being used for smoking crack, stairwells are being slept in, elevators are being mutilated with people using them for personal bathrooms... There are brand new doors that have been put on that have been taken off."⁵⁴ Officials estimated that 97,000 young people under the age of sixteen used crack heavily in New York state, the majority of whom lived in subsidized housing.⁵⁵

The Anti-Drug Abuse Act of 1988 required that public housing projects remain drug-free, and included provisions to terminate the lease of public housing tenants who abused narcotics. Under the terms of the policy, any tenant who engaged in illegal activity in the vicinity of a public housing site could be evicted, and any person convicted of a drug offense would be permanently eliminated from all federal benefits. If the previous attempts to increase patrol and surveillance authority in low-income urban areas—first through the "defensible space" initiatives during the Nixon and Ford administrations, then through Carter's Urban Anti-Crime Program—the 1988 legislation intensified the criminalization of racially marginalized communities.

To meet the lofty "zero tolerance" goals of Reagan's drug war, urban law enforcement agencies resorted to extreme measures to achieve results, as high arrest levels guaranteed additional federal funds. Local police officers worked with federal

⁵³ 6-15-1988, "Just Saying No is Not Enough: HUD's Inadequate Response to the Drug Crisis in Public Housing," 100th Congress, 2d Session, House of Representatives, report 100-702.

⁵⁴ 6-15-1988, "Just Saying No is Not Enough."

⁵⁵ *ibid.*

officials during the summer of 1986 to seize the cars of drug buyers.⁵⁶ The following year in Cleveland, the police department encouraged undercover drug dealing officers to operate in black communities. One informant testified before a federal grand jury that he made more than half a million dollars in drug sales and returned all of the money to the Cleveland police department, which funneled the cash into a larger sting operation.⁵⁷ The department's designation of black neighborhoods in the city for undercover crack dealers prompted the NAACP and civil liberties organizations to call for an investigation. Funded with federal and state drug control grants, these operations were key to sustaining and creating criminal networks to feed the expanding prison system.

Continuing the law enforcement practices of STRESS and other tactical squads in the 1970s, the most radical decoy practices in the 1980s emerged in Southeast Florida, where Bush's interdiction system battled traffickers. After two sergeants and a small group of Miami police officers began selling drugs undercover in the spring of 1986, the officers took over crack houses and established themselves as dealers in the city's black and Latino neighborhoods.⁵⁸ As a means to curtail open drug markets like the public housing provision, Miami's crack sting operations recalled the controversial tactical police units and fencing decoys launched during the Nixon and Ford era. In Fort Lauderdale, police recorded the license plates of cars entering communities under

⁵⁶ *ibid.*

⁵⁷ Sharon Jefferson, "NAACP Calls for Investigation," *Call and Post*, 22 Jan 1987, 1A.

⁵⁸ Peter Kerr, "Police Use New Tactic to Deter Drug Buyer," *New York Times*, 21 Feb 1987, 5.

surveillance and promptly mailed letters to the owners notifying them that their vehicle was present in a drug zone.⁵⁹

The Sherriff's Office in Broward and Polk counties took these practices further by manufacturing and distributing their own crack supply. On the seventh floor of the county courthouse, the Broward Sherriff's Office used 2.2 pounds of powdered cocaine obtained via seizure to produce twenty thousand dollars worth of street-value crack.⁶⁰ Within two months, the department made some 2,300 arrests by dealing its own drug.⁶¹ In Polk County, the Sherriff's Office manufactured eleven ounces of crack to compensate for the insufficient supply it obtained during seizures and arrest sweeps. Responding to charges of entrapment, Polk County spokesman Con Dougherty concluded, "These are people who went out on the streets to buy crack. They're addicts."⁶² A number of cases had been dismissed due to the possession of bogus crack, and law enforcement theory held that if police departments themselves made the drug, district attorneys could better prosecute users.

Rhetorically, the Reagan administration fought its domestic social war to "crack down on the drug users—from the kid on the street to the beautiful people in Beverly Hills," as Bush promised in Connecticut early in his presidential bid. But the terms of the

⁵⁹ Ibid.

⁶⁰ "A Sherriff's Office makes own crack," *Chicago Tribune*, 20 Apr 1989, 29; Jeffrey Schmalz, "New Twist on Crack in Florida," *New York Times*, 19 Apr 1989, A12.

⁶¹ "A Sherriff's Offices makes own crack."

⁶² *ibid*; Schmalz, "New Twist on Crack in Florida."

1988 Act concentrated resources on the former “high risk” user.⁶³ Given the reported extent of adolescent drug abuse, the Office of Juvenile Delinquency Prevention (one of the remaining vestiges of the national law enforcement program during the Nixon and Ford years) worked so that the federal government would “specifically designate ‘high risk youth’ as a primary target group” in its Anti-Drug Abuse Act.⁶⁴ Reagan’s cabinet-level drug committee also shared the Department of Justice’s priority, seeking to foster “the commitment of resources targeted at high-risk youth (defined as children from low-income households, runaways, drop-outs, products of dysfunctional families, and juveniles in the criminal justice system) through joint public-private job opportunities and educational assistance programs.”⁶⁵

Reagan comfortably signed the 1988 Act ten days after his vice president achieved electoral victory knowing that the direction of federal law enforcement programs would continue to unfold as White House officials had wished. For the Reagan administration and Congress, the drug trade and drug traffickers placed America “under siege,” and the president believed the legislation gave law enforcement officials “just the weapons they need to fight an effective war.”⁶⁶

⁶³ 3-24-1988, “Proposed Remarks for Vice President George Bush, Hartford Country Bar Association, Hartford CT,” RRL, Counterterrorism and Narcotics, NNBIS, Folder 1, Box 92258.

⁶⁴ 5-24-1988, “Legislative Initiative: High Risk Youth Committee,” RRL, Williams Legislative Initiative 1988 1303 [3] OA 16690.

⁶⁵ 6-23-1988, “Issue Paper for Discussion at the National Drug Policy Board,” RRL, Counterterrorism and Narcotics Files, Policy Board Minutes (1) Richard Porter NSC Staff, Box 92258.

⁶⁶ 2-19-1988, “Statement of the Honorable Charles B. Rangel, Chairman- Select Committee on Narcotics Abuse and Control,” Press Conference on the 1989 Drug Budget and International Drug Policy, RRL, Williams, Drug Abuse Budgets 1981-1987 (12) OA 19358; 11-18-1988, “Remarks by the President at Signing Ceremony for the Anti-Drug Abuse Act of 1988.”

During his presidential campaign, which had placed a critique of prison furlough programs and the image of black convicts front-and center, Bush looked towards innovative new ways to expand the nation's carceral institutions while cutting the cost of imprisonment. Worried about the severe problem of prison overcrowding, Bush endorsed lease-purchase arrangements, whereby private firms built correctional facilities and leased them back to the federal government in the long term. "This approach would enable us to bring new institutions into operation much more quickly and would allow the government involved to spread out its acquisition costs over 20 or 30 years," Bush hoped.⁶⁷ To house new offenders entering correctional institutions without further straining state resources, the Anti-Drug Abuse Act proposed using civil property seized in forfeitures to fund prison construction.⁶⁸ By the time Bush took office, the national crime control program had become fully self-perpetuating.

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Although youth gangs first emerged as a national issue when the federal government established its major juvenile delinquency programs in the mid-1970s, by the late 1980s they had reached epic proportions. In Los Angeles, where gang warfare was responsible for a reported two deaths a day on average, South Central "could be the set for some B-picture about the world after a nuclear apocalypse—a nightmare landscape inhabited by marauding thugs and hard-nosed cops, a world in which innocence is hostage to violence and bystanders too often wind up as victims," as *Newsweek* magazine

⁶⁷ George Bush, "National Law Enforcement: A Personal Perspective."

⁶⁸ 8-10-1988, "Legislative Referral Memorandum," Executive Office of the President, RRL, MacDonald Files II Legislation—Anti Drug Abuse Act of 1988 [4 of 7] Box 4.

began its major expose on “The Drug Gangs” in March 1988.⁶⁹ Crack had transformed “some of the country’s toughest street gangs into ghetto-based drug-trafficking organizations” that resorted to a new form of “urban guerrilla warfare,” and not the type exhibited by riot participants in the 1960s.⁷⁰ Even though the five thousand members who belonged to the Jamaican Posse gang accounted for sixty percent of the crack supply in the United States by some estimates, the media chose to focus on black American gangs in their coverage of the trade.⁷¹ With a reported forty to fifty thousand members, the Crips and the Bloods helped make Los Angeles the “street gang capital of the world.” The days of Molotov cocktails and “Saturday Night Specials” were of a different era; gang members now carried Uzis, Mac-10 machine guns, and semi-automatic rifles.⁷²

Los Angeles Police Chief Daryl Gates established the LAPD’s Community Resources Against Street Hoodlums (CRASH) in the late 1970s to fight the rising problem of gang violence in South and East Los Angeles. In practice, however, the CRASH units exacerbated community warfare. Just as the FBI’s COINTELPRO program exploited ideological rifts among black radicals in the late 1960s and early 1970s, CRASH teams provoked disputes between rival gangs. The officers encouraged Crip sets to walk on the street openly armed so members could be easily arrested.⁷³ They used

⁶⁹ Federal Bureau of Investigation, “Crips and Bloods: Drug Gang,” Freedom of Information Act Document, “The Drug Gangs,” *Newsweek*, 28 Mar 1988, 20-27.

⁷⁰ *ibid.*

⁷¹ Bernard Headley, “War Ina ‘Babylon’: Dynamics of the Jamaican Informal Drug Economy,” *Social Justice* 15, 3-4: 61-86, 67; Harrison.

⁷² *ibid.*

⁷³ Stanley Tookie Williams, *Blue Rage, Black Redemption* (New York: Touchstone Books, 1997) 134.

incarceration as a threat to reap information in exchange for law enforcement favors.⁷⁴ And they resorted to driving members to enemy neighborhoods and yelling “Crip” to create an opportunity for a street battle.⁷⁵ The relationship between the paramilitary urban gangs and the paramilitary police force was mutually reinforcing: the War on Drugs and post-industrial violence justified and sustained the expansion of the nation’s penal and juridical institutions.

Two years after the anti-drug abuse Act of 1986 gave local departments broad new authority to fight the War on Drugs, the elite CRASH force had perfected the art of mass arrests. The series of police sweeps the force conducted reached their height in the spring of 1988, when one thousand officers swept through South Central in a caravan of patrol cars on a Friday night and made another round of sweeps the next day. More than fourteen hundred predominately black residents faced arrests for traffic citations, parking fines, curfew violations, outstanding warrants, “gang-related behaviors,” and drunk driving. In order to avoid further straining the county jails, the officers booked suspects in mobile units across the street from Memorial Coliseum. The police classified more than half of the suspects as gang members but filed charges against only thirty-two of the residents. The sweep merely established and extended criminal justice records for the other 1,421 detainees.⁷⁶ Law enforcement authorities claimed that Operation Hammer had substantially reduced the gang problem, and mass arrests on random weekends persisted in South Central and spread to San Fernando Valley, although subsequent

⁷⁴ Yusuf Jah and Sister Shah’Keyah, *Uprising: Crips and Bloods Tell the Story of America’s Youth in the Crossfire* (New York: Touchstone Books, 1997),29.

⁷⁵Colton Simpson, Author Interview by Telephone 11/27/05.

⁷⁶ From “Youth Gang Programs and Strategies,” Office of Juvenile Justice and Delinquency Prevention Summary, August 2000. https://www.ncjrs.gov/html/ojjdp/summary_2000_8/suppression.html

sweeps involved a smaller force of one to two hundred officers.⁷⁷ The last major episode in Operation Hammer occurred one August weekend in 1989, when the CRASH force arrested 352 suspects in South Central after a fifty-six year old woman was injured during a drive-by shooting.⁷⁸

While Lieutenant Bruce Hagerty and other officers involved in Operation Hammer believed their actions helped “to return to streets to the citizens,” black residents and mainstream civil rights organizations spoke out against the devastating impact of the paramilitary sweeps.⁷⁹ Community members recognized that the program promoted racist law enforcement practices by encouraging officers to act on the assumption that all black men in low-income neighborhoods in Los Angeles fit the “gang profile.” Because most of the residents who were rounded up, assaulted, and arrested during the Operation never served prison or jail time, the program seemed to have little point other than meeting arrest quotas and making future convictions more likely by establishing criminal records.⁸⁰ “Those youngsters know you can’t put them all in jail,” Charles Norman, the director of Los Angeles’s Community Youth Gang Services remarked of the sweeps, “And when they go in the jail, they come back a little meaner and a lot tougher, and the

⁷⁷ The favorable statistics were directly tied to the increased gang reporting that resulted from the sweeps. By 1989, after a handful of weekend sweeps swooped up thousands more young Angeles, Community Gang Services estimated that 70,000 young men and women were gang members in Los Angeles, up from 30,000 in 1980. Nieson Himmel, “L.A. Gang Killings Put at 236—Up 15% From ’87,” *Los Angeles Times*, 16 Dec 1988, C1; Robert Welkos, “700 Seized in Gang Sweep; 2 More Die in Shootings,” *Los Angeles Times*, 19 Sep 1988, 21.

⁷⁸ Ron Dungee, “Weekend Gang Sweep Results in 352 Arrests,” *Los Angeles Times*, 24 Aug 1989, A1.

⁷⁹ “Around the Nation,” *The Washington Post*, 21 Aug 1989, A4.

⁸⁰ “Pilot Project to Stem the Violence Set in East L.A.,” *Los Angeles Sentinel*, 20 Jul 2000, A1.

problem just gets worse.”⁸¹ Regardless of whether programs like Operation Hammer effectively contained the problem of violence in segregated urban communities—an issue that only spread in the decade after gangs and drugs emerged as major national issues—mass arrests ensured that young residents in targeted communities would be in constant contact with crime control institutions.

Although support for Operation Hammer waned in the face of critique and controversy, the Los Angeles police department quickly devised an approach based less on paramilitary practices and more on “defensible space.” Although Operation Hammer was the most profound expression of the use of paramilitary police force in the name of gang prevention, in places like Miami, Phoenix, Washington, and Chicago beginning in the late 1980s and early 1990s, barricades, sawhorses, and concrete barriers emerged in black “high crime” neighborhoods in an attempt to monitor the everyday lives of residents.

The Los Angeles Police Department initiated the most substantial defensible space program in 1990, called “Operation Cul de Sac.” The city hoped to limit gang members from selling drugs by putting up permanent barricades to create an “artificial community.” The resulting carceral environment blocked off streets from non-residents and provided officers the means to easily occupy a neighborhood should circumstances require additional security. The department erected barricades in a dozen neighborhoods, the largest of which stood across the street from Jefferson High School in South Central’s

⁸¹ Himmel, “L.A. Gang Killings.”

apex.⁸² Federal officials participated in the early development of the cutting-edge program. William Bennett, Reagan's former Secretary of Education and President Bush's Director of the Office of Drug Control Policy, visited the site of the largest Cul de Sac operation to oversee its development and to meet with the principal of Jefferson High School.⁸³

The Cul de Sac measure enhanced the ability of law enforcement to monitor potential criminals. A black youth living in the barricaded area stated: "This just allows the police to do whatever they want here. We have to answer their questions and submit to the harassment whether or not we are in a gang. It is all legal."⁸⁴ The heightened presence of patrol meant that officers could tell residents relaxing on their porches to go inside their homes. The barricades meant that residents were more likely to get pulled over and arrested in a pretext stop, and they prevented emergency vehicles from entering the area in the event of a serious injury. The general level of surveillance "defensible space" fostered in this form meant that if residents planned a gathering, they ran the risk of having it broken up by the police.

In claiming that Operation Cul de Sac had brought drive-bys down by eighty-six percent, the police department and the federal government moved to make permanent barriers in communities where the drug transactions proliferated.⁸⁵ No matter that the program cost the LAPD thirty thousand dollars a month in overtime, and that many

⁸² Scott Armstrong, "Sawhorses Enlisted in Drug War," *Christian Science Monitor*, 15 Jun 1990, 8; "What is Operation Cul de Sac? Will It Help?," *Los Angeles Sentinel*, 20 Jun 1991, A1.

⁸³ *ibid.*

⁸⁴ Quoted in Maurice Miller, "Drug Enforcement Barricades Not Accepted By All Residents," *Los Angeles Sentinel*, 1 Mar, 1990, A1.

⁸⁵ Armstrong, "Sawhorses Enlisted."

police in neighboring communities complained that increased surveillance in South Central merely redirected the drug trade to places like Long Beach. And while the black press closely followed the Operation and harshly critiqued it in editorials and exposes (the *Los Angeles Sentinel* observed, the measure “automatically associates all teen-age youth in the barricaded zone with [criminal] activity”) many residents supported the police department in its stated effort to ensure public safety.⁸⁶

It was in this punitive milieu that Los Angeles faced the largest incident of urban civil disorder in the twentieth century, when low-income residents burned, cleaned out businesses, and attacked civilians in April 1992. Imagine if public institutions responded to the request for jobs and improved schools, housing, and recreational facilities twenty local gang leaders demanded when they met with the Los Angeles County Board of Supervisors back in 1974—just after Congress passed the Juvenile Justice and Delinquency Prevention Act.⁸⁷ Thereafter, the majority of federal grants for low-income youth focused on juvenile detention facilities, security hardware, and social programs staffed by police officers rather than the vocational and educational opportunities the gang leaders wanted. The federal government’s resistance to these types of socio-economic solutions from the Watts riot in 1965 through the Los Angeles uprising in 1992 informs the question of the purpose the national crime control program and the mass incarceration it spawned might have served to the political and economic institutions at the foundation of the United States.

⁸⁶ Maurice Miller, “Drug Enforcement Barricades Not Accepted By All Residents,” *Los Angeles Sentinel*, 1 Mar, 1990, A1.

⁸⁷ Ray Zeman “20 Youth Gang Heads Say They Want Jobs” *Los Angeles Times* 28 Dec 1974 pg. A1

Today more than one in a hundred Americans are currently in prison or jail, an outcome of the development of the federal policies examined in this dissertation.⁸⁸ During the War on Poverty, black Americans comprised roughly one-third of the prison population. The Wars on Crime and Drugs inflated their numbers to over half of those incarcerated in the American prison system, which expanded fivefold from 1965 to 1988.⁸⁹ In total, two-thirds of these inmates today are African American and Latino.⁹⁰ The first twenty years of federal investment in law enforcement cultivated a particular type of social control, one that seems to signal that the targeted arrest of nonwhite Americans and the subsequent creation of new industries to support that systemic process are among the central characteristics of domestic policy in the late twentieth century.

⁸⁸This is according to a Pew Center on the States Research Report. See “One in 100: Behind Bars in America in 2008.” Pew Center on the States and the Public Safety Performance Project, 2008.

⁸⁹Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary American Politics* (New York: Oxford University Press, 1999), 3; David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago: University of Chicago Press, 2002), 14; see also Michael Tonry, *Malign Neglect: Race, Crime and Punishment in America* (New York: Oxford University Press, 1996).

⁹⁰Garland 14.

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Martin Anderson Files
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Christina L. Bach Files
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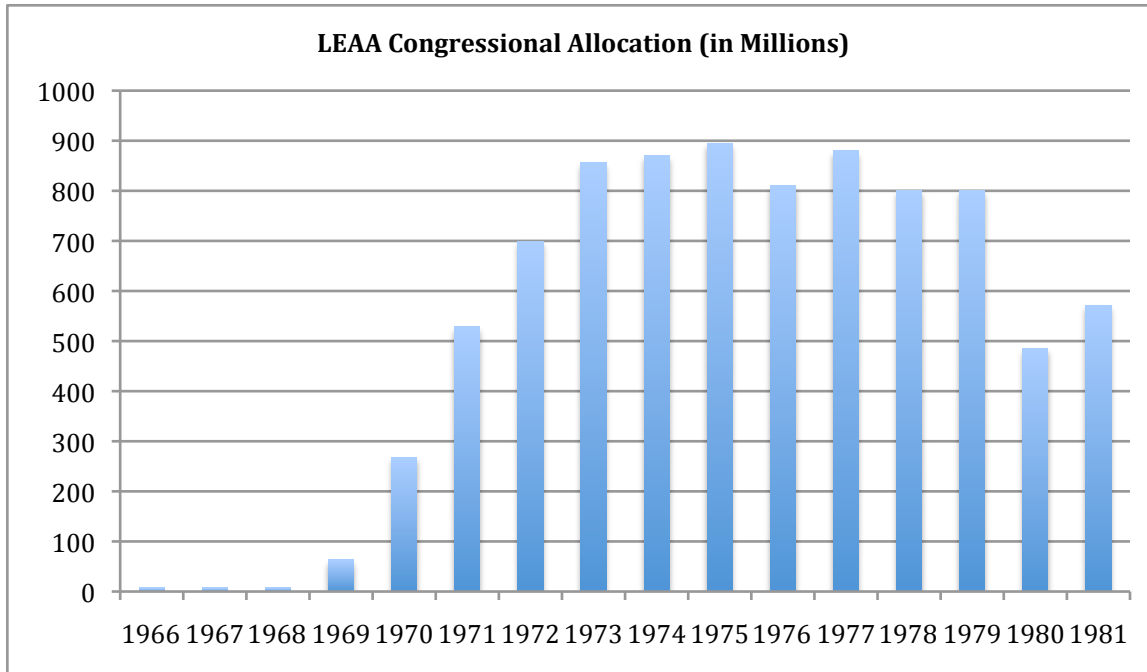
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APPENDIX

Budget for the Law Enforcement Assistance Administration

1966-1981



Source: "Crime, LEAA, The Law Enforcement Assistance Administration." Issue Brief number IB77024, Library of Congress Research Service, 29 Nov 1979; U.S. Congress, Senate. Subcommittee on State, Justice, Commerce, and the Judiciary. "Appropriations FY 81, Part 2." Hearings, 96th Congress, 2nd Session, 1980.