

SECOND EDITION

The Politics of Injustice

Crime
and Punishment
in America

KATHERINE BECKETT
THEODORE SASSON

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The
Politics
of
Injustice

For our newly arrived children,
AnnaRose Beckett-Herbert
and
Asher Grant-Sasson

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Preface

Over the past 35 years, crime has played an increasingly pivotal role in U.S. politics and culture. Many politicians go to great lengths to define themselves as tough on criminals and drug addicts. Journalists cover crime more extensively than any other issue. Television networks launch new “reality-based” shows that glamorize law enforcement and blur the line between entertainment and news. And victims’ rights activists clamor for more aggressive policing and harsher penalties. In this context, lawmakers have adopted a wide range of anticrime policies aimed at “getting tough” on offenders. As a result of these policies, the rate of incarceration in the United States is now the highest in the world, and one out of three young black males is under the supervision of the criminal justice system.

Throughout this period, most criminologists have devoted their attention to investigating the causes of crime and analyzing criminal justice processes. At the margins of the discipline, however, a growing number of scholars have pursued a different line of inquiry, one that focuses on the role of the crime issue in U.S. politics and culture and the way in which the construction (or framing) of the crime issue in these spheres has affected the policy-making process. In spite of widespread interest in these issues, almost none of this new work is discussed in standard sociology, criminology, and criminal justice texts.

The Politics of Injustice is the first book to communicate this new research to nonspecialists and specialists alike. In it, we examine crime as a political and cultural issue, as well as the policies that have resulted in the dramatic expansion of the penal system. In so doing, we draw on a wide range of scholarship, including research on crime, its representation in political discourse and the mass media, public opinion, crime-related activism, and public policy. Our review of these literatures is thorough yet focused on the development of our central argument: The punitive turn in crime policy is not primarily the result of a worsening crime problem or an increasingly fearful and vengeful public. Rather, above all else, the war on crime and drugs is the consequence of

political efforts to shift perceptions of and policy regarding a variety of social problems—including crime, addiction, and poverty—toward harsher, more repressive solutions.

We hope the book will provide readers with a better understanding of the nature of crime and punishment in the United States, as well as the cultural and political contexts in which they occur. We further hope that the new material on activism and reform will inspire convinced readers to join the struggle for a more just and effective approach to crime.

Acknowledgments for the Second Edition

The book reflects our efforts over several years, together and separately, to understand the political and cultural determinants of crime policy. Parts of Chapter 4 appeared in Katherine's *Making Crime Pay* (1997). Parts of Chapter 5 originally appeared in our contribution to *The New War on Drugs*, edited by Eric Jensen and Jurg Gerber (Beckett & Sasson, 1998). Material borrowed from these earlier publications has been revised and updated.

We would like to thank Jerry Westby, Senior Acquisitions Editor at Sage/Pine Forge Press, for encouraging the second edition of the book and shepherding it to completion. We would also like to thank Liann Lech for her expert copyediting and Erik Carleton for research assistance.

We are grateful to the following individuals for reviewing the first and second editions of the manuscript: Gray Cavender, Vincent F. Sacco, Raymond Surette, David Forde, Barbara Belbot, Rebecca Petersen, Roland Chilton, Karen Heimer, Jim Thomas.

Last, but always first and foremost, we want to thank our partners, Steve Herbert and Deborah Grant, for their intellectual and emotional support. This project would not have been possible without it.

—Katherine Beckett

—Theodore Sasson

Criminal Justice Expansion

Sabrina Branch, a 10-year-old Baltimore resident, sounds a lot like other children her age. She likes pizza and Cherry Pepsi slushes, playing basketball, and reading *Goosebumps* mystery books. When she grows up, she would like to be a lawyer or a basketball player. And like a growing number of children, Sabrina's life, described in a recent newspaper article (Kaufman, 1998, p. 10), has been turned upside down by the dramatic growth of the U.S. criminal justice system.¹

Sabrina and her three brothers live with their grandmother. Her father, an Army veteran, has been arrested and jailed several times for selling drugs. After his most recent release, he concealed his criminal record and tried to find work. Unsuccessful, he began using drugs again, then unsuccessfully sought treatment for his drug habit (Baltimore has treatment beds for 15,000 of its estimated 60,000 addicts). Arrested again for selling drugs to support his habit, Vernon Branch was sent to the city jail before being sentenced to prison. Sabrina's mother, also addicted to drugs, has been locked up for petty theft. Sabrina's cousin, Tony, served 7 years for selling drugs and now wears an electronic monitor strapped to his ankle. One of Sabrina's aunts is serving 6 months for assault. Another aunt is nurturing a romantic relationship with a prison inmate.

Most of Sabrina's relatives have been incarcerated in the penal complex right down the street from her apartment. The complex—known as “Eager Street University” to distinguish it from Johns Hopkins University a mile away—includes the city jail, two new high-security prisons, and the state penitentiary that houses death row.

These institutions reach into the lives of Sabrina's schoolmates as well. Seven of the 15 students gathered in Sabrina's math class one afternoon had fathers who have been in prison. One boy's father died in prison. A girl said she regularly visits the local jail with her older sister to visit her boyfriend. Likewise, almost half of the players on a local youth basketball team have a relative in prison, and several have served time themselves.

One hot afternoon, a 20-year-old shoots baskets on an outdoor court. He is wearing long pants so no one will see the monitoring device strapped to his ankle. An 11-year-old tossing lay-ups is wearing a t-shirt from Courtside Bail Bonds featuring a silhouette of a man behind bars.

Upstairs in a meeting room, Harold Richard, 14, sits with some friends and calmly ticks off the people he knows who have served time. "My father," he begins in a soft monotone. "My mother. Both my uncles. My cousin." Around the table, other boys chime in—one has an uncle just imprisoned for theft; another visited his mother in prison last week.

Derrick Ross, 15, is waiting for his favorite uncle to be released in 2 weeks. His father and several cousins have also served time. Still, he declares, "I'm never going to prison." His twin brother, Eric, interrupts him: "Never say never."

On a trip to the courthouse with her grandmother to straighten out administrative issues relating to her guardianship, Sabrina witnesses a group of women prisoners being led away. "I saw all these women," she later told the reporter. "They were walking through the hallway with shackles. It made me think, is that going to be my mother? Or my aunt? It could be any one of my relatives. Who will be next?"

Sabrina's concern is well-founded. In Baltimore and nearby Washington, DC, more than half of all African American men between the ages of 18 and 35 are under the supervision of the justice system. The State of Maryland recently assigned probation officers to Baltimore schools, in which as many as 4 out of 10 students have served time. Sadly, Baltimore and Washington, DC, are not unique but are the leading edge of a national trend. Between 1980 and 2001, the number of people incarcerated grew by more than 300%, from half a million to just over 2 million. The proportion of the population imprisoned has also grown rapidly, as Exhibit 1.1 shows, and more than 4.6 million people are now on parole or probation. By 2001, 6.5 million people—more than 3% of the adult population—were under some form of correctional supervision (Bureau of Justice Statistics, 2001).

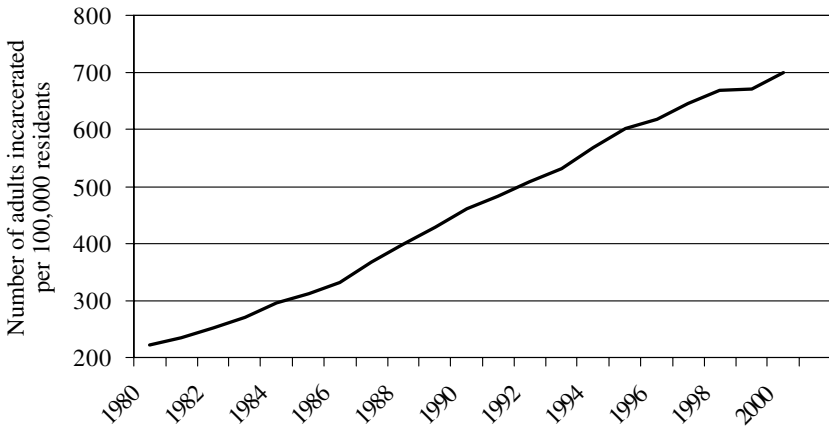


Exhibit 1.1 U.S. Incarceration Rate

SOURCE: Bureau of Justice Statistics (1995), Table 1.5; Bureau of Justice Statistics (2001), Table 1; Maguire and Pastore (1995), Table 6.21.

These developments have disproportionately affected young African Americans and Latinos (see Exhibit 1.2). In 2001, 10% of all African American males between the ages of 25 and 29 were incarcerated in a state or federal prison, and the lifetime likelihood of such incarceration for any given African American male was 28% (Bureau of Justice Statistics, 2002b). The number of Latino prisoners has more than quintupled since 1980; the lifetime likelihood of incarceration for Latino men is now 16% (Bureau of Justice Statistics, 1998b; Currie, 1998, p. 14).²

These developments have also disproportionately affected women and juveniles. In 1980, 12,000 women were incarcerated in state or federal prisons (i.e., excluding the jail population), comprising 3.9% of the total population. Today, more than 94,000 women are behind prison bars, comprising 6.7% of the total inmate population (Chesney-Lind, 2002). Thus, over the past two decades, female prison incarceration actually grew at a faster rate than male incarceration.³ Over the same period, the number of juveniles transferred for prosecution from juvenile to adult court increased from a yearly average of around 10,000 in the 1970s and 1980s to roughly 200,000 annually during the 1990s. Today, roughly 110,000 juveniles are living in locked residential facilities in the United States (Sentencing Project, n.d.-a).

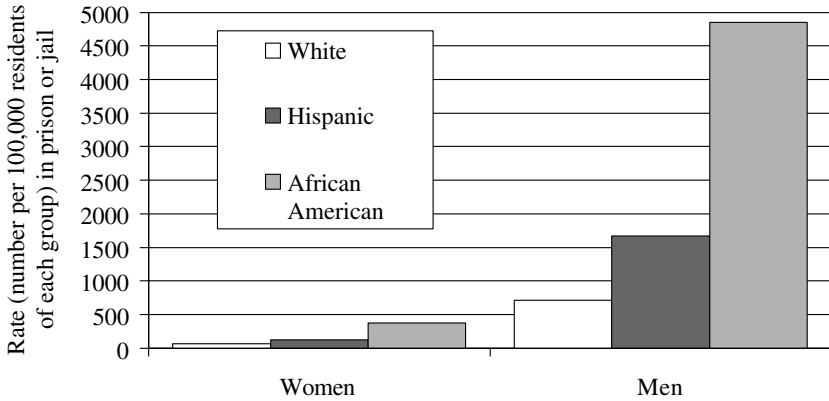


Exhibit 1.2 Incarceration Rate by Race and Sex, 2001

SOURCE: Bureau of Justice Statistics (2002a), Table 1.5.

Apprehending, processing, and warehousing this many people is quite expensive. Annual expenditures on law enforcement, for example, have increased from \$15 billion to \$65 billion over the past two decades (Maguire & Pastore, 2002). It costs approximately \$30,000 to house a prisoner for a year—even with cuts in prison programs—so spending on correctional institutions has grown even more dramatically. Between 1980 and 2000, the cost of the nation’s prisons increased from just under \$7 billion annually to nearly \$50 billion. As shown in Exhibit 1.3, the United States now spends nearly \$150 billion annually fighting crime and drugs (Donziger, 1996; Maguire & Pastore, 2002).

Explaining the Expansion of the Penal System

The expansion of the criminal justice system is a consequence of two decades of “get-tough” policy making. New policies include those targeted at violent and repeat offenders, such as the death penalty and three-strikes laws. They also include new mandatory sentences and policing strategies that target nonviolent property and public order offenders, especially drug users.

Much of the growth of the prison and jail populations is a result of policies and practices that target these nonviolent offenders. Indeed, the U.S. now arrests and incarcerates a much larger proportion of those accused of property, public order, or drug offenses than do other industrialized countries, and it does so for significantly longer periods of time.

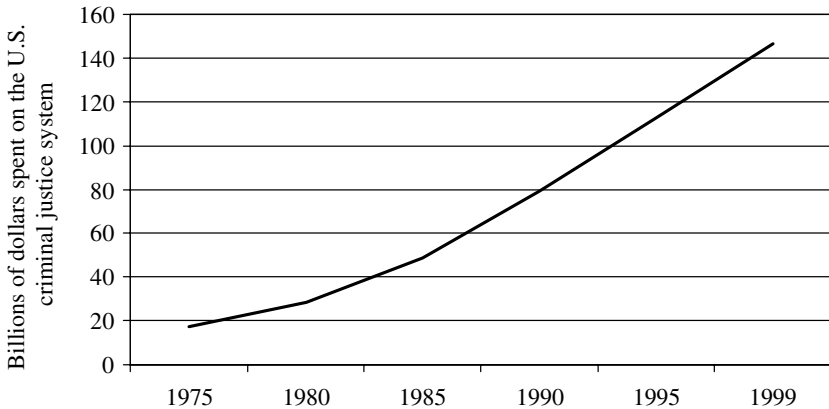


Exhibit 1.3 U.S. Criminal Justice Expenditures

SOURCE: Maguire and Pastore (1980), Table 1.2; *Justice Expenditure and Employment Extracts 1992-1999* (Table 1).

In 2000, police arrested more than 2 million individuals for such “consensual” or “victimless” crimes as curfew violations, prostitution, gambling, drug possession, vagrancy, and public drunkenness (see Maguire & Pastore, 2002, Table 4.1). Fewer than one in five of all arrests in that year involved people accused of the more serious “index” crimes (for an explanation of index crimes, see Chapter 2). And as Exhibit 1.4 shows, only about one quarter of these more serious index crimes involved violence.

As a result, our prisons and jails house many people whose most serious violation is the possession or sale of illicit drugs. In state prisons in 2001, 21% of inmates were serving time for a nonviolent drug offense, up from 9% in 1985. In the smaller federal system, 57% of inmates are serving time on drug charges (Bureau of Justice Statistics, 2002b). Most of those imprisoned for drug offenses are convicted of possession—rather than distribution—of drugs (Tonry, 1995).

How did we get to this point? How did get-tough policies come to be defined as the best solution to our crime and drug problems? Many popular and academic explanations of this pattern identify high or rising rates of crime and the popular outrage crime engenders as the key explanatory factor. As we will show, one difficulty with these explanations is that the most reliable data indicate that U.S. crime rates have been stable or in decline since the mid-1970s, and that they are

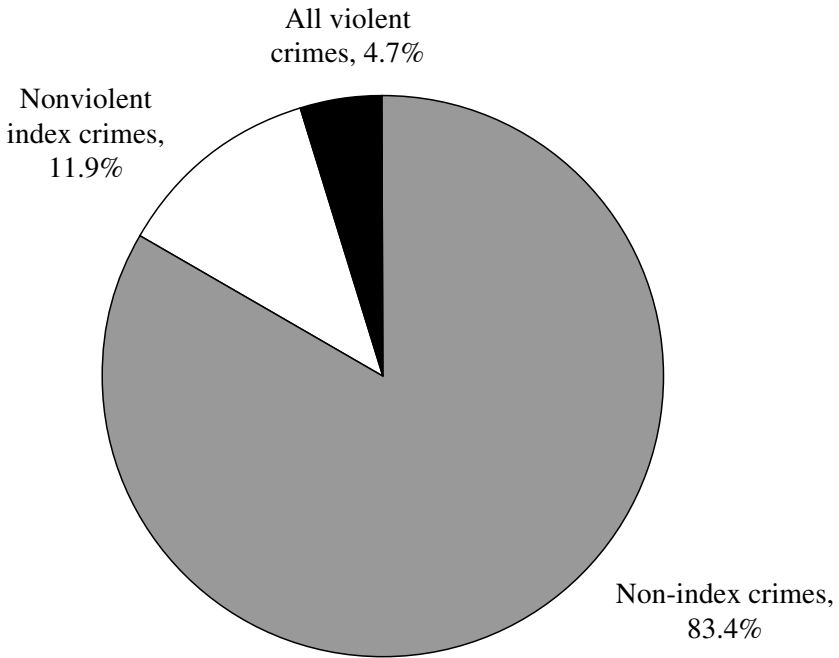


Exhibit 1.4 Arrests by Offense Type, 2000

SOURCE: Federal Bureau of Investigation (FBI) (2001).

comparable to those of other countries that incarcerate far fewer of their inhabitants. Another problem with these explanations is that expressions of popular outrage about crime are more closely related to shifts in the quantity and tone of crime-related media and political discourse about crime than to the volume of crime in society.

Our explanation for the punitive policies associated with the wars on crime and drugs therefore highlights the leading role of politicians and the mass media in transforming public discourse around a range of social problems, especially crime, drugs, and welfare. We argue that prominent politicians declared war on crime and drugs as part of a broader political and economic strategy aimed at rolling back the reforms of the 1960s. Their efforts in these areas were successful, in part, because of the media's receptivity to the tough-on-crime rhetoric and eagerness to amplify its core messages.

The capacity of politicians and media to shape popular policies, however, is not unlimited. Although not the driving force behind the new