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**The Violence of Inequality:  
Race and Lobbying in the Politics of Crime and Criminal Justice in the United States<sup>1</sup>**

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**Abstract**

There is no shortage of scholarly and other research on the reciprocal relationship that inequality bears to crime, victimisation and contact with the criminal justice system, both in the specific US context and beyond. Often, however, inequality has been studied in conjunction with only one of the three phenomena at issue, despite the intersections that arguably obtain between them—and, indeed, between their respective connections with inequality itself. There are, moreover, forms of inequality that have received far less attention in pertinent research than their prevalence and broader significance would appear to merit. The purpose of this chapter is dual: first, to identify ways in which inequality's linkages to crime, victimisation and criminal justice may relate to one another; and second, to highlight the need for a greater focus than has been placed heretofore on the role of institutionalised inequality of access to the political process, particularly as this works to bias criminal justice policy-making towards the preferences of financially motivated state lobbying groups at the expense of disadvantaged racial minorities. In so doing, the chapter singles out for analysis the US case and, more specifically, engages with key extant explanations of the staggering rise in the use of imprisonment in the country since the 1970s.

**Keywords**

Race and Crime, Victimisation and Criminal Justice; Public Opinion; Segmented Representation; Lobbying; United States

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It is by now a truism to argue that criminal activity, criminal victimisation and criminal justice outcomes are unequally distributed across society, and that these unequal distributions both reflect and reproduce deep-seated inequalities of a socio-economic nature. To take the most obvious example, there is no shortage of criminological and other research showing that economically deprived groups are disproportionately likely to be involved in violent street crime, to be victims of such crime, and to be in contact with or under the supervision of the criminal justice system, although there is no consensus as to the precise reasons behind these widely recognised trends. Over recent years, a growing body of research has also emerged on the ways in which participation in crime, experience of victimisation and criminal justice exposure each serve to perpetuate and, indeed, widen economic and/or other adversities that typically characterise the populations concerned –from poverty and geographical segregation to family disruption and community disorganisation– and which are themselves markers of inequality (see, e.g., Petersilia, 2003; Western, 2006, 2015; De Giorgi, 2006; Manza and Uggen, 2006; Wacquant, 2009; Jennings *et al.*, 2012; Wakefield and Wildeman, 2014; Lacey and Soskice, 2015; McKay *et al.*, 2019).

It should come as no surprise that much of this research has been focused on developments in the United States over the last fifty years or so. On one hand, various different forms of socio-economic inequality have undergone an explosive rise in the country during this timeframe, while, on the other hand, the American state has dramatically expanded its use of tough criminal justice measures, with underprivileged swathes of the population, and even more so poor African Americans, being particularly affected in this regard. Rates of common crime and victimisation have also stood at high levels by international comparison and, at least according to police-recorded data, have grown significantly. African Americans living in poverty have been over-represented both among perpetrators and among victims, although their involvement in criminal offending is hardly sufficient to explain their disproportionate presence at the various different stages of the criminal justice process, from arrest through to incarceration (see further Hagan and Peterson, 1995; Tonry, 1995, 2011; Wacquant, 2009).

This body of scholarship has greatly advanced our understanding of the reciprocal relationship that inequality bears to crime, victimisation and contact with the criminal justice system, both in the specific US context and beyond. Often, however, inequality has been studied in conjunction with only one of the three phenomena at issue, despite the intersections that arguably obtain between them—and, indeed, between their respective connections with inequality itself. There are, moreover, forms of inequality that have received far less attention

in pertinent research than their prevalence and broader significance would appear to merit. Our purpose in this chapter is to identify ways in which inequality's linkages to crime, victimisation and criminal justice exposure may relate to one another, while at the same time highlighting the need for a greater focus than has been placed heretofore on the role of institutionalised inequality of access to the political process, particularly as this works to bias criminal justice policy-making towards the preferences held and promoted by state lobbying groups with strong financial incentives. In so doing, we single out for analysis the US case and, more specifically, engage with key extant explanations of the staggering rise in the use of imprisonment in the country since the 1970s.

### ***Crime, Criminal Justice Reform and Racial Inequality***

In 1973, following fifty years of overall stability, the use of imprisonment in the US set out on a course of long-sustained and rapid rise. Over the next four decades or so, the country's imprisonment rate more than quadrupled, reaching levels far above those found anywhere else in the world (see further Travis *et al.*, 2014). Notwithstanding considerable state-by-state variation in terms of per capita rates of imprisonment, both the very sharpness of the aggregate rise in the use of imprisonment and, even more so, the similarity in the rate of growth custodial punishment has undergone in each US state, effectively indicate a single and uniform, countrywide process (Zimring, 2010; 2018; see also Grumbach, 2018).

Much ink has been spilt, and will doubtless continue to be spilt, about what prompted this turning point in American punishment. An accumulating throng of commentators note that the emergence of the prison boom in the US was facilitated by legislative reforms dating back to the mid- and late 1960s, which gave local, state and federal authorities substantially increased capacity for arrest, prosecution and incarceration. For many, the most significant legislative impetus to the explosive growth of imprisonment was given between the late 1970s and mid-1990s, when a series of policing and, even more so, sentencing reforms were introduced –in particular, 'stop-and-frisk', 'three-strikes', 'truth-in-sentencing' and life-without-parole laws– to further increase the likelihood of arrest and imprisonment after arrest, raise the length of custodial sentences, and extend the actual time served behind bars (see further Harcourt, 2001; Simon, 2007; Travis *et al.*, 2014; Hinton, 2016; Lynch, 2016; Tonry, 2016). But why was such legislation adopted in the first place?

A substantial body of scholarship has invoked large increases in police-recorded crime rates that the US experienced from the 1960s until the early 1990s to account for the emergence of harsh criminal justice reforms and, ultimately, the rapid rise in the use of

imprisonment in the country. Leaving aside issues surrounding reliance on police-recorded crime data (on which more presently), this line of argument has been critiqued, first, for downplaying the fluctuations that crime rates underwent while imprisonment rates were rising steadily (Zimring and Hawkins, 1991; Tonry, 1998); and second, for missing or otherwise undermining the fact that the most drastic criminal justice reforms –for example, the first ‘three-strikes’ law– were adopted long after crime rates had begun to drop (Tonry, 1999). From an international comparative perspective, moreover, if with reference to self-reported victimisation data, it has been pointed out that other countries which saw their crime rates undergo comparably sharp increases over the same period did not escalate their use of imprisonment by anything like the same order (Tonry, 1998).

Before drawing conclusions, however, it is necessary to disaggregate crime and single out drug and violent offences more specifically. It was, after all, these types of offences that were targeted by the criminal justice reforms and especially the stiffer sentencing laws passed between the late 1970s and mid-1990s. Relatedly, it was the increased use of custodial punishment in response to drug offences that lay behind much of the rapid upward trajectory of prison rates in the 1980s, and the serving of long sentences for violent crimes that lay behind much of the rise of imprisonment in the 1990s and 2000s (Travis *et al.*, 2014: 68-69). As soon as one focuses one’s attention specifically on these types of crime, various manifestations of inequality are evidently relevant.

To begin with, the major growth in drug arrests and convictions during the 1980s arose mainly from an increase in the arrest and conviction rates specifically among young African Americans. This increase, however, is not ascribable to changing levels of drug abuse or dealing as such (Travis *et al.*, 2014: 50). Rather, as Tonry (2011: 4) has argued, it reflected political strategizing on crime, coloured by the Republican ‘Southern Strategy’ of the 1960s, whereby African American people were essentially ‘locked up to attract white votes’ (see further Beckett and Godoy, 2008; Gottschalk, 2006; Weaver, 2007; Wacquant, 2009). In particular, drug policy came to be focused on the control and punishment of the use and trade in those intoxicants whose prevalence was greater in disadvantaged minority communities, thus further boosting the disproportionate policing, arrest and imprisonment rates experienced by poor young African Americans (Blumstein, 1993; see also Loury, 2008; Gottschalk, this volume).

Emblematic in this regard was the ‘100-to-1’ rule introduced by the 1986 and 1988 Anti-Drug Abuse Acts, which punished a sale of crack cocaine as severely as a sale one hundred times its size of powder cocaine, based on a characterisation of the former’s relative

harmfulness that was both unsubstantiated and inaccurate (as elaborated, for example, in the 2007 amicus brief of the American Civil Liberties Union in *Kimbrough v. United States*). While cocaine powder was predominantly used by whites, crack was at that juncture a relatively cheap new form of cocaine whose emergence and primary market among African American youth in deprived inner-city areas was accompanied by their users' growing socio-economic marginalisation from broader society (Tonry, 1995: 103). Although, in other words, there was a real increase in the use of crack cocaine within disadvantaged African American neighbourhoods, the rise of imprisonment related to this specific form of drug use was driven primarily by political opportunism, with a racialised agenda being constructed around drug crime in order to derive partisan benefit (see further Alexander, 2010).

The makers of such policy often rhetorically presented it as an indirect effort to tackle violent crime; a presentation that some subsequent scholarship has effectively taken at face value, even while acknowledging the racially disproportionate effects that were so generated or, indeed, reproduced (see, e.g., Stuntz, 2011). This brings us to violent crime itself. Police-recorded data appear to lend a considerable degree of credence to the idea that the harshening of sentences for violent offences –and for 'proxy' drug offences, for that matter– was a reaction to rising rates of violent crime (but see also Zimring and Hawkins, 1991; Tonry, 1998, 1999). The validity of police-recorded crime data, however, has been questioned widely.

At least until the mid-1960s, police-recorded crime data as transmitted to the FBI and published in its Uniform Crime Reports (UCR) were actually gross undercounts as a result of low reporting rates by victims and incomplete recording by the police at the time. National arrest figures, for example, were still cobbled together from reports of police departments representing less than half of the total US population (Ruth and Reitz, 2003; see also Mauer, 1999). What this crucially implies is that, excepting homicide (for which the UCR does provide fairly reliable data), a significant portion of the subsequent boom in the police-recorded rate of violent crime is bound to have been due, not to a real increase in the prevalence of violent crime per se, but to the growing likelihood among victims to report crimes to the police and a greater effort on the part of local police agencies to record each report submitted to them and supply the FBI with crime data.

It is known, for example, that improvements in the record-keeping systems of large police departments, such as NYPD, as of the mid-1960s onwards produced leaps in UCR rates (Ruth and Reitz, 2003). More generally, as Weaver (2017) has demonstrated, the rise observed in UCR rates from the mid-1960s to the mid-1980s is closely tracked by the steady

increase (and overall doubling) in the number of local police agencies submitting crime data to the FBI over the same timeframe. Indeed, policy changes that occurred in the second half of the mid-1960s meant that local police departments now additionally had ‘an incentive to *inflate* their crime rates because funding was contingent on need’ (ibid.: 246, original emphasis; see also Kamisar, 1972; Blumstein, 2000; O’Brien, 1996, 2003).

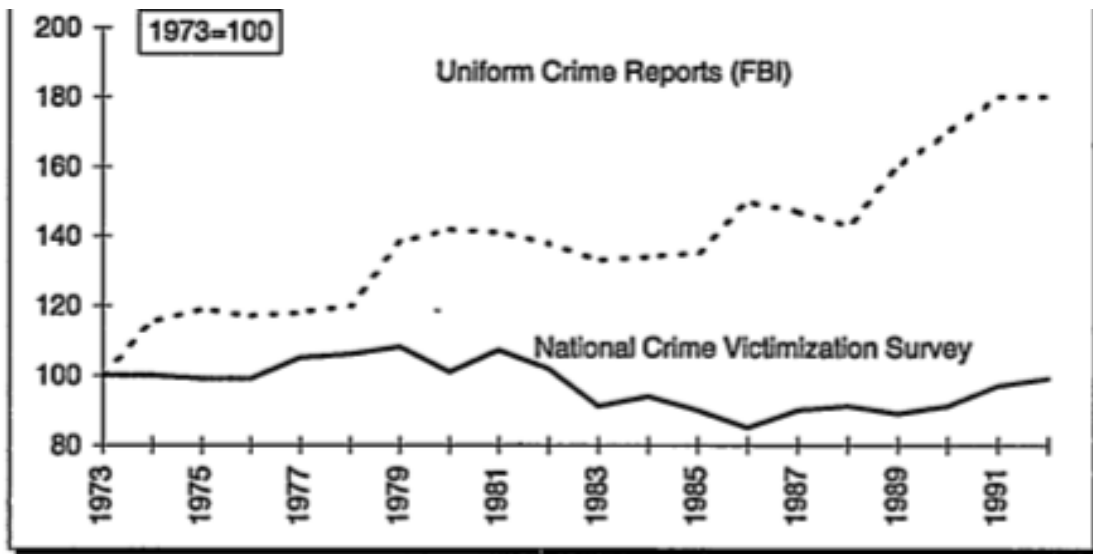
Two key methodological suggestions have been made in view of these and related concerns. First, that the UCR is not treated as a crime measure, and is rather re-characterised as a product of police activity. And second, that self-report victimisation data, and particularly those produced by the National Crime Victimization Survey (NCVS), are at least used alongside UCR measurements.<sup>2</sup> Albeit not without limitations of its own (regarding, for instance, response reliability), the NCVS is much less vulnerable to the influence of discretion and, as such, also constitutes ‘an essential crosscheck on questionable UCR numbers’ (Ruth and Reitz, 2003: 44). Thus, as illustrated in Figure 1, there is a dramatic divergence in the violent crime trends indicated by UCR and NCVS data, respectively, with the latter showing only a modest increase from the late 1970s until 1981, and a steady decline thereafter until the early 1990s (see also Beale, 1997; Lauritsen *et al.*, 2016). This being the case, the trajectory of violent criminal victimisation cannot be argued to bear a relationship to that of incarceration.

What if, however, the category of ‘violent crime’ is disaggregated into its various –and arguably heterogeneous– constituent components? The case of homicide is of particular importance here. This is because it is specifically rates of homicide rather than any other form of crime, violent or otherwise, which distinguish the US crime experience from that of most other advanced economies of the West (Zimring and Hawkins, 1997). Blumstein *et al.* (2000) nevertheless demonstrate that US homicide rates displayed a ‘generally flat trend’ between 1970 and 1991 before undergoing a steady decline thereafter (see Figure 2), while Tonry (2001) points out that other Western nations experienced similar trends in their homicide rates during the same period even if from lower starting points. Whether taken singly or together, these findings imply that homicide trends cannot account for the exceptionally stark ascent of incarceration in the US.

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<sup>2</sup> The NCVS began in 1973, at which point it was called the National Crime Survey.

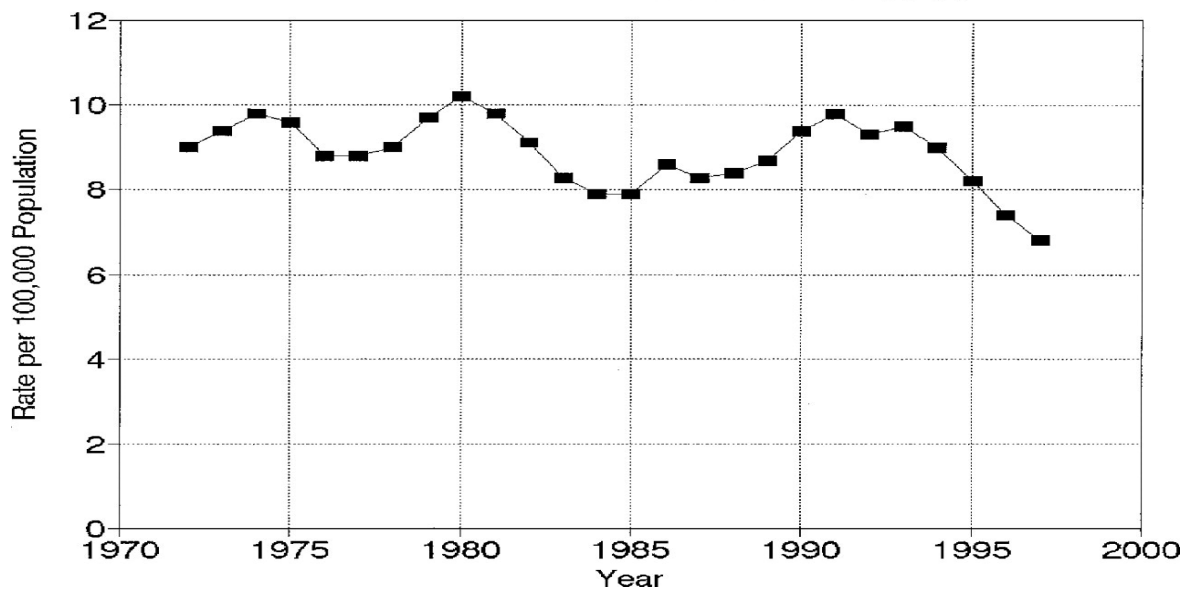
**Figure 1: Divergent Measurements of Violent Crime**



Note: Figures were scaled to 100 in 1973 and have been adjusted to take into account population increases.

Source: Donziger (1996), cited in Beale (1997: 34)

**Figure 2: UCR Homicide Rates per 100,000 population, 1972-1997**



Source: Blumstein *et al.* (2000: 507)

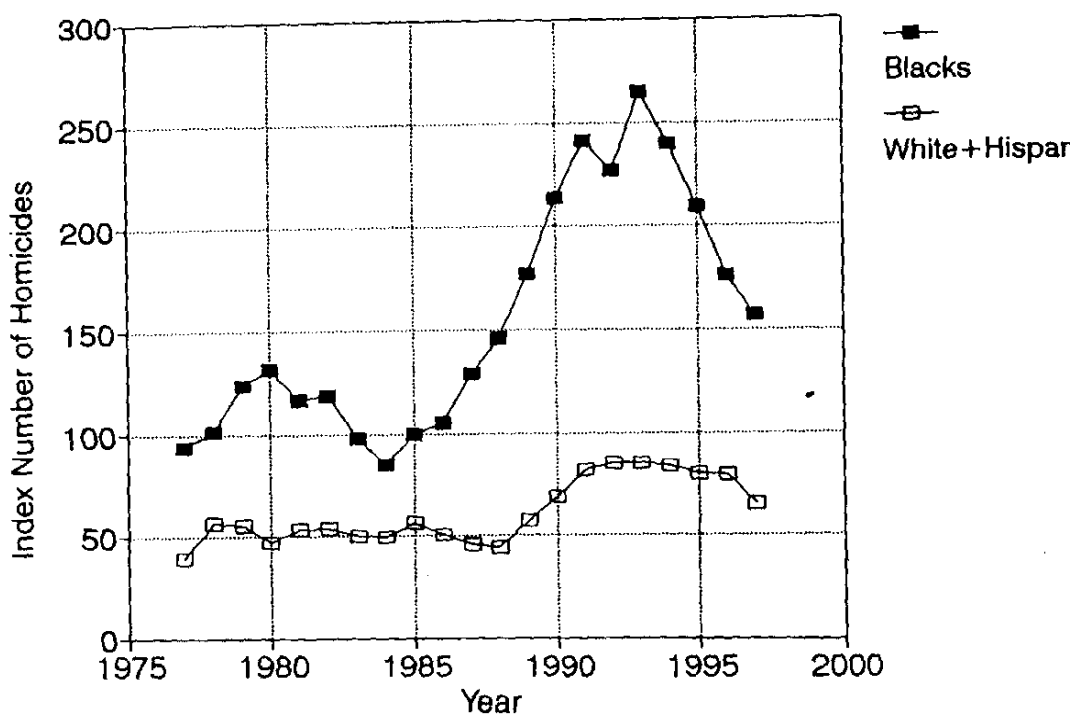


A closer look at homicide, however, reveals a dramatic change in the demographic make-up of perpetrators between the mid-1980s and mid-1990s. In particular, as shown by Blumstein *et al.* (2000), homicides came increasingly to be perpetrated by young African American males with guns; indeed, handgun homicides by young African American men tripled between 1984 and 1993 (see Figure 3; also, Baumer *et al.*, 2018). This development was reflective of increased gun ownership among young African American men and, at the same time, a violent shift in the way in which they engaged in conflict, itself related to the rise of the crack cocaine market (Blumstein, 2000; Blumstein and Cork, 1996; Cork, 1999). What, therefore, underpinned the introduction of more punitive sentences that drove up imprisonment over this period was not a rise in homicide as such; it was rather, at least in good part, the fact that young African American men constituted a growing proportion of those responsible for lethal violence, and arguably also the opportunities that this increased representation appeared to open up for sitting parties to achieve gains among white voters, even though young African American men were themselves the foremost victims of handgun homicide at the time (see, e.g., Blumstein *et al.*, 2000).<sup>3</sup>

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<sup>3</sup> Their higher risk of victimisation stemmed not from race, but –as with all adolescents across the US, regardless of race or ethnicity– from various sources that are proxies of social and economic disadvantage (Tonry, 2011: 30-31; see also Beckett and Sasson, 2004).

**Figure 3: Handgun Homicides by Youth (ages 18-24)**



**Source: Blumstein (2000: 33)**

The very way in which more guns found their way into the hands of juveniles and young African American males in particular is richly indicative of the opportunistic and racially skewed approach that elites in office took towards crime and crime control during this timeframe. The early 1980s had seen the introduction to the American gun market of relatively inexpensive and easily concealable handguns with sub-machine firepower produced by a Miami-based firm. By the early 1990s, these guns became the assault weapon most frequently seized by law enforcement agencies in large US cities (McClurg *et al.*, 2002). Although the manufacturer's marketing strategy was notorious for appearing to appeal to those with criminal intent, such as by advertising that the handguns in question had 'excellent resistance to fingerprints' and could be fitted with a silencer, several state legislatures responded only by repeatedly banning a named version of the gun, thereby allowing the manufacturer easily to side-step prohibitions by re-issuing its product with a different name (Vinzant, 2015; Pitre, 1996). During this time, moreover, in excess of a dozen major gun manufacturers in the country were channelling gun sales to over-saturated and loosely regulated states, from where they would be distributed via unregulated sales networks to customers in more regulated states. Yet while it was known that weapons used

in crime were being acquired far more frequently from licit market seepage than from theft, state legislatures interceded within strictly limited parameters at best (Vinzant, 2015; see, more generally, Braga *et al.*, 2012).

The inadequacy of the legislative reaction to the gun industry's practices in those years can only be explained by reference to the strength of the relationship between the largely white pro-gun lobby and Republican politicians, particularly at the federal level.<sup>4</sup> This relationship was bolstered in the wake of the 1968 Gun Control Act, itself introduced by Lyndon Johnson's Democratic administration in an effort to put a halt to the rise of armed militancy among African Americans (Johnson, 2013). So much so that, in 1980, the National Rifle Association (NRA) gave its first-ever presidential endorsement to Republican nominee and known champion of gun ownership Ronald Reagan, while in 1983 Reagan himself (by now a President and edging towards seeking re-election) agreed to give an address at the NRA's annual convention (Jacobs, 2002; see also Waldman, 2014).

Following Reagan's re-election to the White House in 1984, and in advance of the passage of the 1986 Firearm Owners' Protection ('McClure-Volmer') Act, contributions to members of Congress from both pro-gun and pro-gun control groups took off, but with the NRA outspending its nearest lobby group opponent (Handgun Control) by 6:1. Contributions from the NRA had a substantial impact on the Act's passing, more than doubling the probability of a vote in favour of the legislation that undid many provisions of the 1968 Gun Control Act, and which failed effectively to regulate handguns (Langbein and Lotwis, 1990). It was not until 1993, the peak year for handgun homicides and handgun production alike, that a major piece of gun control legislation –the Handgun Control and Violence Prevention ('Brady') Act– would be successfully passed under Bill Clinton's Democratic administration. Yet this Act contained major loopholes and also spurred a spike in sales prior to passing (see further Squires, 2014).

Taking into account the negligent approach successive Republican administrations knowingly took towards handgun control at a time when the problem of handgun homicide persisted, their promotion and maintenance of harsh sentencing reforms regarding violent crime might appear paradoxical in that they escalated punishment for crimes they were insufficiently committed to preventing. The paradox fades, however, when one considers the predominance of poor young African American males among both victims and perpetrators

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<sup>4</sup> While Republican state legislatures tended to be more lax on gun control than their Democratic counterparts up to the late 1990s (Grumbach, 2018), partisan polarisation was far starker within Congress (Bruce and Wilcox, 1998).

of handgun homicide, their marginality having made negligence and harsher punishment alike easier options for sitting politicians to pursue. To explain why such options were pursued at all, however, one needs to grasp their electoral functionality. While gun control laxity allowed for courting the support of an influential industry, intensified carceral control over African American communities appealed to deeply embedded racial resentments among swathes of the White majority, not unlike the drug crackdown that was already under way at the time.

It would be wrong, as we shall see later, to examine the electoral politics of criminal justice policy solely with reference to the majority of voters. For now, however, let us turn our attention to the debate surrounding the way in which politicians have engaged with the general public's attitudes towards criminal justice and the role the latter have played in the exorbitant rise of incarceration in the US.

### ***Politics, Public Punitiveness and Race***

Two viewpoints have dominated scholarship on the role of public opinion in the emergence of increasingly harsh criminal justice policies that fuelled the escalation in the use of imprisonment in the US between the 1970s and late 2000s. Although both viewpoints consider support for tougher criminal justice policies to have risen significantly during the period in question, they diverge from one another when it comes to identifying, first, what prompted public opinion to shift in the way they claim it did; and second, relatedly, the political effects that were thus produced. Critical engagement with these viewpoints should be part and parcel of any effort to pinpoint the nature and ascertain the relative weight of the causes behind the rise of strict criminal justice policies that both reflected and reproduced deeply entrenched racial and socio-economic inequalities during the period in question. Below we take up just this task, our findings leading us to conclude that the role the public played (and, more generally, plays) in criminal justice policy-making needs to be considered in the context of institutionalised inequality of access to the political process.

Following in the footsteps of political science literature that deals with the interplay between public opinion and political power in fields other than crime and criminal justice policy (e.g., Jacobs and Shapiro, 2000), the first viewpoint may be summarily termed 'elite manipulation'. The elite manipulation viewpoint suggests that, in promoting stricter criminal justice policies, incumbent administrations of the era feigned adaptation to a growth in public punitiveness that they had largely inflamed themselves, rather than a growth in public punitiveness that was reflective of actual trends in criminal activity and

victimisation. This, it is suggested further, was a strategy meant to distract public attention away from politically inconvenient issues and convey a self-serving ‘tough-on-crime’ image, in order ultimately to promote narrow interests, such as securing the electoral support necessary to stay in power (see, e.g., Miller, 1996; Beckett, 1997; Quinney, 2002).

The second dominant viewpoint may be termed ‘democratic responsiveness’, once again in line with political science research on the relationship between public opinion and political leadership in domains other than crime and criminal justice. Here, politicians in office are thought to have acted in a democratically responsive manner insofar as knowledge of growing public support for harsher criminal justice measures led them to adjust their policy-making accordingly. The claim is not that sitting politicians followed an increasingly punitive public out of blind adherence to the democratic ideal of responsiveness; it is rather that they were propelled to do so by the fear of electoral repercussions if they ignored popular preferences. The democratic responsiveness viewpoint is most starkly expressed in political scientist Peter Enns’ recent book *Incarceration Nation: How the United States Became the Most Punitive Democracy in the World*. ‘[I]f the public had not become more punitive’, he writes, ‘millions of incarcerated individuals would not have been locked up’ (Enns, 2016: 120, original emphasis). Indeed, Enns goes so far as to conclude that growing public punitiveness was practically the sole driver behind the US imprisonment boom. In his own words, ‘[i]f the public had not become so punitive, there is no reason to expect that the United States would have become the world’s most aggressive prisoner’ (ibid.: 156).

But why would Americans have become so punitive in the first instance, if not as a result of political manipulation? Enns is far from alone in pointing to what he describes as significant increases in crime rates, although he adds, based on analysis of long-term quantitative data, that these increases were also reflected in an analogous rise in news coverage of crime, which, in its turn, led to a rise in punitive attitudes. Key to Enns’ argument is that the news media tend to cover crime in distortive ways, from paying disproportionate attention to violent crime, which heightens anxiety; to focusing on the nature and individual protagonists of given criminal acts rather than addressing their social causes; to exaggerating the representation of non-whites among perpetrators. More exposure to such frames, he contends, corresponds with more punitive attitudes (ibid.: 85-87).<sup>5</sup>

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<sup>5</sup> The elite manipulation viewpoint does not treat media misrepresentations of crime as irrelevant to the rise of public punitiveness, but their role in this regard is typically thought to have been secondary to the influence of political rhetoric and often also connected to political interests as such.

The way Enns –but, equally, research supportive of the elite manipulation viewpoint– seeks empirically to substantiate the specific claim of a rise in punitive attitudes we shall address later on. For our immediate purposes, it is important to point out that he relies on UCR data to chart the trajectory of crime (whence his postulation that crime rates underwent a significant rise), and also that he explores news coverage by reference to the annual number of newspaper articles mentioning the word ‘crime’ (which, among other problems, automatically precludes consideration of how crime and related matters were actually framed and with what precise effects).<sup>6</sup> Generally speaking, moreover, there is good reason to avoid presuming that public punitiveness increases with the risk of criminal victimisation or with crime reporting by the mass media—even scaremongering reporting at that.

To illustrate the point, let us resume here our discussion of the (real) rise in the prevalence of handgun homicide by young African American males between the mid-1980s and mid-1990s. Enns’ line of argument would suggest a concomitant increase in pertinent media reporting, including a good amount of exaggerated and racially biased messages about the problem, which in its turn should have worked to fuel punitive attitudes at the time, especially among the more affluent and predominantly white voting public. All else being equal, it makes sense to think that the growth in handgun homicide by young African American men could not have resulted in greater punitiveness among whites without at least an appreciable increase in media coverage about it. For such homicides typically took place within the geographical confines of deprived inner-city areas that were increasingly segregated from more affluent districts, hence also poor young African American men themselves were the main victims by far (see, e.g., Skogan, 2006; Beckett and Sasson, 2004; also, Blumstein *et al.*, 2000).

Empirical evidence, however, paints a more complicated –and, indeed, different– picture. Thus, although a huge increase did occur in the presence of crime stories in the news, handgun homicides perpetrated by young African American males were significantly underreported by the media. This was due to the very mundanity of ‘black-on-

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<sup>6</sup> Enns’ examination of news coverage of crime merely by reference to the annual number of newspaper articles mentioning the word ‘crime’ also obfuscates the source of the information utilised, with or without attribution, to address crime and associated issues in the articles in question. Most crucially, it serves to obscure the degree to which politicians and the police feed the news media with data and views about crime and crime-related policy matters. It is therefore plausible that what in Enns’ own terms counts as evidence of a positive relationship between the amount of crime news and the level of public punitiveness actually concerns the combined influence exerted on the public’s punitive sentiment by perceptions induced by the news media, politicians and the police (among other actors).

black' homicide in the eyes of mainstream white society, which has generally also appeared to lack curiosity about cases of homicide involving an African American perpetrator where the victim is also African American; a phenomenon connected to the perceived absence of 'worthy' victimhood status (see, e.g., Gruenewald *et al.*, 2009; Sorenson *et al.*, 1998; Squires, 2014).<sup>7</sup> It is true, on the other hand, that the public regularly encountered disproportionately high media coverage of those comparatively rare cases of homicide which had occurred in more privileged areas and involved white victims, at the same time that the media also diffused alarmist police-recorded crime data depicting year-on-year increases to crime rates (see further Gruenewald *et al.*, 2009).

But even if one were to assume that this led or otherwise contributed to an undue rise in fear of crime among whites –and there is some evidence to suggest that fear of crime among whites did undergo noticeable increase during the period at issue (see, e.g., Wright *et al.*, 2012: 151-154)–, it would not automatically follow that their support for stricter criminal justice measures also rose at the time. For example, disaggregated analyses of over-time trends in public support for the death penalty for persons convicted of murder (itself one of the most commonly used indicators of public punitiveness) demonstrate that levels of support among whites effectively remained stagnant between 1985 and 1995, if still notably higher than the respective levels of support among African Americans (see, e.g., Hanley, 2008; Barkan and Cohn, 2010; Dotson and Scott Carter, 2012; Shirley and Gelman, 2015).<sup>8</sup>

To this extent, while the disproportionate media attention to 'black-on-white' handgun homicides may well have combined with the increased and alarmist media coverage of crime in general to bring about a rise in fear of crime among whites, a growth in white support for tougher criminal justice policies did not inevitably ensue. One might venture to trace here a direct link between crime and punitiveness, insofar as both the risk of homicide victimisation for whites and their level of punitiveness remained essentially stable during the years at issue. But this correlation, if the term is to be used at all, does not

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<sup>7</sup> Prior to the 1970s, even the criminal justice system had been uninterested in 'black-on-black' crimes (Tonry, 2011).

<sup>8</sup> After 1995, moreover, white support for the death penalty declined, as, indeed, it did among African Americans (see, e.g., Shirley and Gelman, 2015). This precludes the possibility of a lagged punitive reaction to the distortive media coverage of crime in general and handgun homicide in particular over prior years. Substantively speaking, support for the death penalty for persons convicted of murder is an apt indicator for present purposes, given that our analysis focuses on whether and, if so, how public opinion may have been affected by trends specifically in homicide.

necessarily hold for African Americans: although their own risk of homicide victimisation increased significantly in real terms, there is evidence to suggest that their levels of support for the death penalty actually decreased (see, e.g., Shirley and Gelman, 2015).<sup>9</sup>

Albeit based on a single indicator of punitiveness and focused on a relatively short, decade-long period of time, these observations cohere with a substantial and broader body of research showing that whether attitudes towards criminal justice soften, harden or remain unchanged is not axiomatically linked to trends in (self-reported) personal experience of crime nor to trends in fear of criminal victimisation (see, e.g., van Kesteren *et al.*, 2000; Maruna and King, 2009; Johnson, 2010). But the fact that punitive attitudes do not inherently bear a positive relationship to the actual risk and fear of criminal victimisation does not contradict the essence of the democratic responsiveness thesis. If, as Enns and others suggest, punitive attitudes did undergo a long-term rise among Americans during the three or so decades that harsh criminal justice reforms were introduced in the US, then it is plausible that sitting politicians aligned their criminal justice policies with the public's preferences regardless of whether the latter were 'justified' as such. Of course, if the alleged rise in punitive attitudes was not 'justified', it is equally plausible, as the elite manipulation perspective claims, that politicians in office first aroused or inflamed punitiveness among the American public before seeking to create appearances of policy responsiveness to it.

To solve the emerging riddle, it is necessary, on one hand, to consider further whether public punitiveness actually underwent a rise during the period in question, and, on the other hand, to break into what Druckman and Jacobs (2015: 125) refer to as the 'black box of

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<sup>9</sup> Nor, of course, does such a correlation sit well with Enns' ultimate argument that the introduction of harsher criminal justice policies came about as a response to a *rise* in public punitiveness. Even if one were able to show that support for punitive measures grew among African Americans, it would still be difficult to argue that the preferences held by African Americans could have driven or even substantially influenced penal policy at the time. Although, as we shall see shortly, it is legitimate to posit that specific segments of the population exert disproportionate influence over policy-making in the US, African Americans have long remained politically marginalised, even after the civil rights era of the 1960s (see further King, 2007; King and Smith, 2005). Indeed, as Price (2015) argues, support, or lack thereof, for punitive policies among African Americans at least partly depends, in and of itself, on perceptions of what such policies imply as to one's personal and in-group status in the broader political order of the country. In missing the fact or undermining the significance of political inequality, one risks placing undue blame for unjust or otherwise flawed policy decisions onto the shoulders of constituencies whose views are of little to no import in the policy-making process—and who, owing in good part to their political marginalisation, may well be more likely to suffer from the policy decisions at issue. Critiques in this vein have been levelled against the argument developed almost in tandem by Michael Javen Fortner (2015) and James Forman Jr. (2017) that the punitive shifts in criminal justice policy which led to mass incarceration were ideologically embraced and actively promoted by many among African American communities, although doubts have also been raised as to whether this kind of support was actually as prevalent or uncomplicated in itself (see further Murch, 2015; Parry, 2015; Weaver, 2017; Hutchinson, 2018).



political calculations’; that is, to gain first-hand appreciation of the precise forms and underlying motivations of political engagement with pertinent public opinion at the time. To this end, below we engage further and in greater depth with Enns’ own empirical work; specifically, his ambitious attempt in *Incarceration Nation* to substantiate the democratic responsiveness thesis by combining an analysis of long-term quantitative data on public opinion about crime and criminal justice with a qualitative study of archives that contain insider insights into the decisions made by politicians when addressing such matters, including, crucially, their use of relevant polling research.

To start with, Enns’ finding that punitiveness has risen among US citizens should be treated with caution.<sup>10</sup> This is because, as Wozniak (2017) explains, the overwhelming majority of survey questions Enns employs to produce a composite longitudinal measure of ‘public punitiveness’ actually serve to overstate it. That is to say, in relying almost exclusively on responses to questions regarding support for the death penalty and on people’s assessment of whether courts sentence sufficiently harshly, Enns leaves out of his analysis responses to more nuanced questions that provide additional information about crime, and such information is known to be closely linked to the expression of significantly less punitive views. Similarly, Enns pays very little attention to responses to questions asking people to choose between tough punishment and more ‘progressive’, rehabilitative policies, thereby obscuring not only the openness segments of the public may exhibit towards less punitive responses to crime, but also the tendency among Americans concurrently to express both punitive and ‘progressive’ attitudes.

If one only looks at the punitive side of public opinion, then one may well observe an upward trajectory in public support for tougher criminal justice policies roughly from the mid-1960s to the mid-1990s. In and of itself, however, invocation of such a shift in public punitiveness leaves the question open as to whether political elites of the era toughened up their criminal justice policies in alignment with trends in public opinion, or, instead, simulated responsiveness to public opinion after previously having bent it to their own self-serving policy preferences.<sup>11</sup> On the other hand, as Wozniak argues, a more comprehensive

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<sup>10</sup> Admittedly, the second author of this chapter has not previously exercised such caution (Cheliotis, 2013).

<sup>11</sup> In his own long-term quantitative analysis of public attitudes towards punishment, for example, Ramirez (2013) attributes what he describes as the rise in punitive sentiment between the early 1970s and up until the mid-1990s to the political construction of crime as a grave threat. Ironically, in gauging public punitiveness itself, Ramirez relies on a composite measure that is very similar in its bias to that of Enns’ in that it, too, predominantly comprises responses to survey questions that effectively work to exaggerate support for punitive measures.

examination of public attitudes towards criminal justice might indicate that support for ‘progressive’ policies moved in tandem with, or perhaps even exceeded, support for tough measures. In such a case, it would not be unreasonable to conclude that ‘politicians ignored progressive sentiment and chose to translate only punitive impulses into public policy’; indeed, that ‘politicians *exploited* punitive public opinion to pass penal [and cognate] policies that they knew would disproportionately affect disadvantaged groups in society and cause more harm than actual crime reduction’ (ibid.: 604, original emphasis).

Ultimately, as mentioned earlier, reliable conclusions as to how political elites treated public opinion –i.e., whether they sought to follow or manipulate public attitudes towards criminal justice– require that one achieve an inside-the-black-box vantage point of analysis. Although Enns tries to do just that through archival research into how key political figures engaged with pertinent public opinion polls in the mid- to late 1960s, he does not furnish evidence in support of the democratic responsiveness thesis. In fact, as is indicated even by research Enns himself invokes, the motivation behind political engagement with opinion polls on issues of crime and criminal justice at the time was usually to manipulate the public, rather than to follow it.

For one, the public opinion data which, according to Enns’ archival research, led political elites into promoting the expanded use of incarceration do not address specific criminal justice policy views at all. They instead almost exclusively address levels of concern about crime (i.e., the degree of importance citizens attribute to crime as a problem), an indicator which, as Enns himself admits elsewhere (Enns, 2016: 21), is neither reflective of the public’s criminal justice policy preferences nor correlated with trends in imprisonment. As a matter of fact, systematic analyses of Gallup polling data –the primary pool of information upon which politicians have historically relied when assessing the relative importance of crime and other issues for the citizenry– show the level of public concern about crime during the period in question to have remained consistently low and far outranked by other issues such as the Vietnam War or problems of an economic nature (see further Cheliotis, 2020; Loo and Grimes, 2004; Chambliss, 1994). Ironically, Enns’ own archival research also suggests as much.<sup>12</sup>

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<sup>12</sup> Early on in his quantitative analysis of long-term trends, and despite employing what are actually highly inflated measurements (in that they combine concern about crime with concern about a broad range of incongruous issues, including, among others, family values, childcare, family breakdown, consequences of divorce, pregnancy, moral decline and religious decline), Enns himself reports that ‘concern for crime appears to drop substantially between 1968 and 1983, which is precisely when the prison boom began’ (Enns, 2016: 20). Indeed, the massive disjuncture Enns finds between trends in

Given crime's stubbornly low public salience at the time, it is no surprise that Enns' archival analysis does not show political elites to have focused their attention on public attitudes towards criminal justice. Due to a range of practical restrictions on the scope of issues they can actually address, combined with their ever-present fear of appearing out of touch with society, politicians are prone to tracking the public's policy views specifically on issues of higher, not lower, public salience. This is not to say that politicians never accord significance to issues that do not occupy centre stage in citizens' minds. Such occasions, however, usually amount to attempts at manipulating public opinion to one's own advantage, as when a politician singles out and prioritises a low-salience issue that might allow for distracting attention away from inconvenient affairs and projecting a favourable self-image (see further Druckman and Jacobs, 2015; also, Heith, 2004; Jacobs and Shapiro, 2000).

Furthermore, Enns conceptually confounds criminal justice policy adjustment to public opinion with mere discursive shifts politicians may initiate in line with public views about crime and related matters, while at the same time situating his assessment of such (i.e., rhetorical) responsiveness nearly entirely in the particularly narrow context of electoral campaigning. This obviously precludes him from testing, let alone substantiating, the claim that '[p]ublic opinion matters' when it comes to criminal justice policy itself (Enns, 2016: 49). In any case, Enns falls short of providing reliable evidence in support even of the rhetorical variant of political responsiveness to public opinion.

Briefly citing Michael Flamm's (2005) historical work, for example, Enns presents Barry Goldwater's rhetorical emphasis on law and order during his 1964 presidential campaign as an instance of adjustment to public opinion, insofar as it was a 'calculated political tactic' in response to polls discussed in a confidential memo of the Goldwater campaign, which showed Goldwater's Democratic opponent –Lyndon Johnson– to be 'vulnerable in only one area: law and order' (Enns, 2016: 58). Before anything else, however, this does not appear to be an occasion of political responsiveness, but rather one of

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public concern about crime, on one hand, and the use of imprisonment, on the other, is even starker when one gauges public concern about crime with reference to valid data. Enns' archival research looks at very few and isolated polls of relevance (notwithstanding Enns' own repeated calls for measuring over-time changes in public opinion, not opinions at single points in time), yet it appears to corroborate that public concern about crime was low during the period in question. In discussing Barry Goldwater's presidential campaign in 1964, for example, Enns makes reference only to one poll that sought to identify the nature and hierarchy of citizens' concerns. In that poll, crime was just the 'twelfth most likely mentioned issue', with a mere 3 in 100 respondents having used one of the multiple responses available to them to name crime as 'the most important problem'. This hardly evinces what Enns describes as a 'reasonably high level of public concern about crime' (Enns, 2016: 58).

manipulation, whereby a politician tracks public opinion (here an opponent's approval ratings) in order to craft their public rhetoric in a way that may influence the electorate and win them votes. Whatever element of responsiveness to public opinion one might identify in this case, it would still seem subservient to the intent to change public opinion with the ultimate aim of promoting short-term and personal political interests.<sup>13</sup>

Indeed, Flamm's research clearly suggests that what Goldwater really followed in terms of the main tone and substance of his public statements and speeches was strategic advice that he seek to construct a crisis about crime and violence as part of an effort to 'persuade a broad cross-section of the American public' to vote for him, at a time when he 'lagged in the polls and was vulnerable to Democratic charges that he opposed Social Security and favoured a nuclear confrontation with the Soviet Union' (Flamm, 2005: 40-41). The very memo Enns cites from Flamm's research as evidence that 'Goldwater may have strategically followed the public' (Enns, 2016: 58) actually noted that just as 'Kennedy had turned a virtual non-issue, the alleged missile gap, into the decisive issue of the 1960 campaign by hammering away at it constantly', so too Goldwater should 'do the same with law and order regardless of whether the strategy yielded immediate results' (Flamm, 2005: 42).<sup>14</sup> Although Enns does cite Goldwater's electoral disaster as proof that the electorate was not influenced by the latter's 'law-and-order' rhetoric, he nevertheless refrains from acknowledging that Goldwater actively engaged in an effort to mould public opinion according to his personal agenda. A failed attempt at manipulation is thereby treated as a non-attempt, before being mis-described as a case of responsiveness.<sup>15</sup>

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<sup>13</sup> On the importance of intent in distinguishing between political responsiveness to, and manipulation of, public opinion, see further Jacobs and Shapiro (2000). Druckman and Jacobs (2015) also refer to the nature of intent as the key criterion for differentiating between elite persuasion or influence that is self-serving and efforts at education and civic learning.

<sup>14</sup> Law and order was, indeed, a 'non-issue' in 1964. As mentioned earlier, the only pertinent poll Enns himself discusses in relation to Goldwater's campaign found crime to rank as low as twelfth in terms of its relative prevalence as a response to the 'most-important-problem' question, being named by just 3 per cent of participants.

<sup>15</sup> That Enns looks at Goldwater, and indeed pays 'special attention' to him (Enns, 2016: 49), despite the latter not having managed to get elected to the White House is inherently unhelpful in terms of lending concrete empirical credence to the argument that '[p]ublic opinion matters' when it comes to penal *policy* (ibid.). The other politicians whose engagement with public opinion Enns examines are Lyndon Johnson and Richard Nixon, both of them also in the distinctive context of electoral campaigning (in the case of Johnson extending the scope of analysis ever so slightly to include, on one hand, the brief period between his ascent to the presidency after Kennedy's death and his official nomination as the Democratic candidate for the 1964 elections, and, on the other hand, the first couple of months of his newly elected presidency in early 1965). There is no space here to discuss Enns' treatment of these two cases, only to mention that several of the methodological problems with his account of Goldwater also manifest themselves in his discussion of Johnson and Nixon.

Looking beyond Enns' (and Flamm's) own research, other historical accounts suggest there is no shortage of major political figures from the mid-1960s onwards who have tried to lure the American public into lending what we may term 'confirmatory' support to predetermined shifts towards harsher criminal justice policy so as eventually to serve narrow interests (see, e.g., Epstein, 1977; Baum, 1996; Hinton, 2016; Musto and Korsmeyer, 2002). A key feature often found in such manipulation efforts is that politicians have sought to exploit the so-called 'race card' (on which see further Mendelberg, 2008), describing the intended targets of tougher criminal justice policies by using subtly coded references to minority populations (e.g., 'violent *inner city* criminals') that are likely to appeal to racial resentments held by many white Americans while keeping appearances of adherence to the 'norm of equality', which whites so often openly purport to espouse (see further Hurwitz and Peffley, 2005).

As the aforementioned case of Goldwater's 1964 presidential campaign also indicates, however, attempted manipulation should not be confused with successful manipulation. If, in other words, the democratic responsiveness viewpoint is susceptible to undermining how often and the degree to which political elites may have been invested in trying to change public attitudes towards criminal justice so as to serve their own objectives, the elite manipulation viewpoint may be liable to exaggerating the frequency and extensiveness of manipulative politicians' success in having manufactured public support for tougher criminal justice policies that suited narrow agendas. The conditions under which elite manipulation may have been more or less effective is an important question in its own right (see further Cheliotis, 2013). The most crucial question for present purposes, however, is what explains politicians' persistence in pursuing the harshening of criminal justice policy, and on various fronts at that, regardless of whether public opinion moved much, if at all, in this direction, and when crime itself continued to attract low levels of concern among the electorate. Pertinent literature suggests that lobbying by select interest groups has been an important factor in this regard. It is, therefore, to interest group politics and the underlying structures of political inequality that we now turn.

### ***Segmented Representation: The 'War on Drugs' and the Case of Police Lobbying***

Political science research on the US case has thus far supplied ample evidence that government policy is disproportionately influenced by specific segments of the population; a

phenomenon that has come to be known in scholarly parlance as ‘segmented representation’. In this case, sitting politicians seek to tailor their policy decisions to the preferences of subgroups they target for electoral reasons while, in so doing, neglecting and even turning against other, less strategic sections of the voting public. Segmented representation is arguably too narrow in scope to cohere with the ideals of democratic politics, not to mention that it is compatible with –and, indeed, necessitates– efforts to manipulate ‘centrist’ public opinion. As Druckman and Jacobs (2015) explain, the practice of segmented representation by no means implies that politicians can afford completely to ignore the ‘median voter’ in dealing with the electoral pressures that attend a national constituency. Yet appealing to the ‘median voter’ tends in this context to be an exercise in manipulation, whereby politicians employ talk and convey personal images that polling research has helped them identify as electorally attractive to the group of interest. In this manner, politicians seek to render their policy proposals symbolically resonant with ‘centrist’ opinion, while still keeping them substantively attuned to the preferences of distinct segments of the electorate (see also Jacobs and Shapiro, 2000).

To be sure, certain institutional features of the American political system have long contributed to segmented representation. For instance, the presence of multiple veto points in the House of Representatives and the Senate has allowed defenders of the status quo to prevent policy changes favoured by large majorities of Americans. To take another example, the separation of powers, combined with staggered elections and varying electorates, has allowed for the emergence of divided government (whereby one party controls the presidency while the other controls the House and/or the Senate) which, in its turn, has made it possible for political stalemate to occur, if the parties that control different institutions refuse to compromise with each other in relation to given policy initiatives (see further Page and Gilens, 2017: 150-177).

From roughly the 1970s onwards, however, segmented representation is known to have been rising in the US. This has been due to an array of shifts in political dynamics and institutional developments. Two of those are worth mentioning here. First, there has been a significant increase in the degree of ideological polarisation between Democrats and Republicans, which has also meant that gridlock has become more common under conditions of divided government, at a time when the latter’s prevalence has escalated as such. And second, there have been important changes in the organisation and balance of power within political parties, not least the elevation of party activists and single-issue pressure groups in the process of selecting and promoting congressional and presidential

candidates. This kind of intra-political structure inclines politicians towards aligning their policy plans with the preferences held by activists and other valued allies, rather than attending to broad public opinion (see further Jacobs and Shapiro, 2002: 59-63; Druckman and Jacobs, 2015: 10-12; also Jacobs and Shapiro, 2000; Parker and Parker, 2018). The political significance attached to these sections of the public has grown to such an extent that, since the mid-1970s, the White House has even developed an institutionalised structure to maintain regular contact with them (Loomis, 2009).

Unsurprisingly, a significant body of research on segmented representation has drawn attention to the role of affluent actors in shaping policy agendas, notably through financial contributions to parties and electoral campaigns, but also through well-funded lobbying during policy debates and carefully orchestrated efforts to modify the views of ordinary citizens, pundits and policy-makers themselves. The growing pressure on electorally motivated politicians to fund media advertising and political consultants has made them especially amenable to the influence of financially powerful individuals and groups when designing and promoting policy (Jacobs and Shapiro, 2002: 61-62; Page and Gilens, 2017: 118-129). As a corollary of this, whether or not Democrats and Republicans compromise with each other about a given policy matter has actually come to depend in good part on whether or not the preferences held by their respective wealthy donors overlap (Page and Gilens, 2017: 158-159).

Indeed, the rise in wealth inequalities in the US since the 1970s has reached a juncture at which policy-making in the country has been recognised as substantially determined by economic elites and organised groups representing business interests, while mass-based interest groups and average citizens have, as Gilens and Page (2014) conclude in a widely cited study on the matter, little or no independent influence. In light of this, the relationship between public opinion, powerful interest groups and political elites needs to be understood as operating within a context whose structural features serve to sustain and multiply stark political, social and economic inequalities (see further Ferguson, 1995; Gilens, 2012; Mayer, 2016; Skocpol and Hertel-Fernandez, 2016; Page *et al.*, 2019; Page and Gilens, 2017).

Segmented representation is nevertheless a relatively under-researched dimension of the politics of incarceration in the US. This is especially ironic when one considers that the rapid rise in the use of imprisonment in the country over recent decades has coincided with the rise and increasing institutionalisation of segmented representation in American politics. To date, pertinent scholarly research has tended to highlight how punitive shifts in criminal justice policy were supported or otherwise facilitated by conservative groups like the NRA,

for-profit prison firms, or the victims' rights movement (see, e.g., Gottschalk, 2006; Dubber, 2002).<sup>16</sup> The significance of this body of scholarship notwithstanding, it is crucial that closer consideration also be paid to the role played in this regard by state lobbying groups with strong financial incentives; groups whose level of growth in recent times is, in fact, known to have far outstripped the respective level of growth in non-state advocacy and private interest organisations (Gray *et al.*, 2012).

Here we wish to spotlight – and, in so doing, help provoke further research attention to – the role of criminal justice actors and law enforcement in particular. There is evidence to suggest that criminal justice agencies and related unions have long played a crucial role in propelling law-and-order policies, notably harsh sentencing reforms, which have underpinned the expansion of imprisonment in the US. Police, prosecutors, judges and prison officials have been expert contributors to legislative hearings on issues of crime and crime control, but their professional capital has allowed them to shape relevant political agendas in various other ways, too: through endorsement of candidates for political office, through political campaign contributions, and through their privileged access to news media to shape public debate (see further Dripps, 1993; Miller, 2010; Page, 2011).

If we are adequately to account for the explosive increase in the use of imprisonment during the crucial decade of the 1980s, the most 'proximate' cause of which was the rapid rise in the caseload of prisoners convicted of drug charges, then we cannot afford to ignore the efforts successfully undertaken at the time by entrepreneurially-minded law enforcement bureaucrats to push for the intensification of the long-running US 'war on drugs' in such a way as to fuel drug arrests. In particular, although the American public was little excited about drug crime (Travis *et al.*, 2014; Benson *et al.*, 1995) and drug use was declining as

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<sup>16</sup> Students of the US imprisonment boom have thus far paid little systematic attention to political representation of segments of the general population, beyond special interest groups. One reason for this may be the perception that different sections of the general population tend to change their attitudes in the same broad direction and roughly in tandem – a phenomenon known in political science scholarship as 'parallel publics' –, which might lead one to assume that all constituencies are effectively represented even when politicians choose to privilege only one or only a few of them. On this basis, for example, Enns (2016: 44) argues that 'regardless of whose preferences political actors consider, they would get the same messages about whether the criminal justice system should become more or less punitive'. Leaving aside that this mode of political representation can hardly qualify as 'democratic', it also makes little sense to speak of coincidental political responsiveness to different groups whose respective aggregate views on a particular issue or policy happen to have undergone similar change at around the same time, without taking into account the remaining divergences of opinion both between and within the groups in question. At least as concerns attitudes towards punishment, moreover, the very claim of "parallel" opinion change' across disparate groups (ibid.) is questionable, contradicted as it is by evidence of various divergent trends found in some of the most reliable over-time scholarly analyses of the matter (see, e.g., Barkan and Cohn, 2009; Shirley and Gelman, 2015).



such (Tonry, 1995), local, state and federal law enforcement bodies pushed for the introduction of the 1984 Comprehensive Crime Control Act, lobbying key political actors while providing them, as well as the mass media and other interest groups, with convenient information that mis-associated drugs with an array of criminal offences.

The 1984 Act –and this speaks volumes about the financial motivation behind police lobbying for the Act– triggered a major transformation in law enforcement priorities and resources by allowing local and state-level forces a share of the proceeds of assets seized during drug arrests, previously a prerogative of federal law enforcement alone. In opening the door to a major new source of discretionary funding that allowed forces to embark on spending sprees on anything from vehicles and equipment to animals and banqueting, this was a move that incentivised the police to make drug-related crime the focus of their attention, even –ironically– at the expense of tackling other types of crime (see further Parenti, 1999; Rasmussen and Benson, 1994; Benson *et al.*, 1995; Benson and Rasmussen, 1996; Chambliss, 1994; Levy, 1996; Blumenson and Nilsen, 1998).

As Beckett (1997: 93-101) notes, the Anti-Drug Abuse Acts of 1986 and 1988 expanded federal assets forfeiture provisions even further, while also underwriting the escalating costs of non-federal prison construction. By 1990, and under encouragement from the Republican administration of George H. W. Bush, whose re-election campaign was subsequently endorsed by the Fraternal Order of Police, no less than 49 states and the District of Columbia had introduced statutes that allowed for the forfeiture of assets believed to be linked to illegal drug activity. That same year, over 90 per cent of the police and sheriff's departments serving a population of at least 50,000 received money or goods from a drug asset forfeiture programme. More generally, asset forfeiture receipts underwent a rapid increase from the mid-1980s onwards; between 1985 and 1990, for instance, they rose by 1,589 per cent, from \$27.2 million to \$459.6 million (see further Jensen and Gerber, 1996: 424).

All this is not to imply that politicians are purely reactive to the pressures of interest groups, nor indeed that distinctions between interest groups and politicians can always or easily be made. The point is that satisfying select interest groups presents itself as an attractive option for electorally motivated politicians both in terms of securing financial backing and votes from within those groups themselves, and in terms of attracting further voter support among the broader public as a result of group endorsement. In addition, while politicians are at least equally as likely to be steered by their inner prejudices as interest

groups and the public at large, they also have to evaluate and navigate an environment of competing and multi-scalar risks to the maintenance of their position in office.

### ***Conclusion***

This chapter has sought to achieve two main goals. The first is to demonstrate that the ways in which inequality relates to crime, victimisation and criminal justice may also bear important connections to one another. Racial inequality in the United States is especially revealing in this regard. During the 1980s, the increased concentration of urban poverty in African American inner-city neighbourhoods made abuse of crack cocaine and involvement in associated criminal violence more likely among their denizens. Persisting residential segregation, meanwhile, meant that members of those very same communities were faced with a significantly greater risk of violent victimisation as the crack cocaine market advanced in their midst. As if this were not enough, it was ostensibly with a view to protecting disadvantaged African Americans from drug abuse and drug-related crimes that their neighbourhoods also became the primary target of the so-called ‘war on drugs’. As a result of this, urban African Americans were exposed to rising rates of arrest, prosecution, conviction and imprisonment that were ‘grossly out of proportion to their numbers in the general population or among drug users’ (Tonry, 1995: 105), and which ultimately, by way of a feedback loop, intensified their marginalisation from American society (Western, 2006; Clear, 2009; Wacquant, 2009; Sampson and Loeffler, 2010; Feld, 2017). To argue that the ‘war on drugs’ thus had counterproductive effects would be to miss or otherwise greatly undermine the forces that underpinned it in the first instance. Rather than assuming that the motivation behind the drug ‘war’ was to protect African Americans themselves, in which case the war’s racially disparate effects could legitimately be viewed as counterproductive, we should appreciate that political objectives actually shaped pertinent policy-making at the time; in particular, we should recognise, as Tonry (1995: 123) aptly puts it, ‘the use of disadvantaged black Americans as a means to the achievement of politicians’ electoral ends’.<sup>17</sup>

There is already a significant amount of archival and other evidence according to which a good number of electorally motivated politicians from the mid-1960s onwards have tried to exploit racial resentment and stereotypes so as to stir up public anxiety about

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<sup>17</sup> We agree with Gottschalk (this volume) that there have been several ‘wars on drugs’ waged in US history, and that their target populations have varied over time, with poor whites in rural areas having become the primary targets of the latest such ‘wars’.

crime and elicit support for predetermined punitive shifts in criminal justice policy that were bound to impinge disproportionately on poor African American urban communities. That the multifaceted toughening of criminal justice policy took place irrespective of whether public opinion was brought into alignment with it, and even while crime continued to attract low levels of concern among the citizenry, only serves to emphasise the need for investigating the underlying political configurations and dynamics in greater scope and depth.

This brings us to the second main goal this chapter has been meant to accomplish; that is, to draw attention to the role of inequality of access to the political process and, in this context, of state lobby groups with strong financial incentives in the reproduction of disparities in and through the criminal justice system. Our analysis focuses on how law enforcement lobbyists during the 1980s exploited, on one hand, the institutional openness of the policy-making process to powerful interest groups, and, on the other hand, the desire of politicians and political parties to secure campaign contributions and broaden their electoral support, in order to push for the escalation of the then ongoing ‘war on drugs’ in a way that would further widen the disproportionate representation of poor urban African Americans in the various stages of the criminal justice process while at the same time deriving significant material benefits for local police departments and individual officers directly at the expense of poor urban African American communities themselves. Albeit understudied to date, especially with regard to lobbying activities undertaken by state groups, the relative impact of financially motivated lobbying on sitting politicians’ decisions regarding criminal justice matters presents itself as a fruitful line of future inquiry. Indeed, as indicated by our discussion of NRA’s successful lobbying efforts in favour of relaxed handgun controls in the 1980s, it is possible to extend the scope of analysis to include in-depth consideration of how and the degree to which political inequality and lobbying by influential actors have contributed to racial and other disparities in crime and victimisation as well.

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