

Crime: Includes terrorism and white-collar crime. I'm sorry to say that I don't know how to solve this one, but keeping police officers and judges honest is the best place I can think of to start. How to do *that* is worthy of its own question.

CHAPTER ONE

Crime and Punishment in America

By ELLIOTT CURRIE
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Assessing the Prison Experiment

Just as violent crime has become part of the accepted backdrop of life in the United States, so too has the growth of the system we've established to contain it. A huge and constantly expanding penal system seems to us like a normal and inevitable feature of modern life. But what we have witnessed in the past quarter century is nothing less than a revolution in our justice system--a transformation unprecedented in our own history, or in that of any other industrial democracy.

I

In 1971 there were fewer than 200,000 inmates in our state and federal prisons. By the end of 1996 we were approaching 1.2 million. The prison population, in short, has nearly sextupled in the course of twenty-five years. Adding in local jails brings the total to nearly 1.7 million. To put the figure of 1.7 million into

perspective, consider that it is roughly equal to the population of Houston Texas, the fourth-largest city in the nation, and more than twice that of San Francisco. Our overall national population has grown, too, of course, but the prison population has grown much faster: as a proportion of the American population, the number behind bars has more than quadrupled. During the entire period from the end of World War II to the early 1970s, the nation's prison incarceration rate--the number of inmates in state and federal prisons per 100,000 population--fluctuated in a narrow band between a low of 93 (in 1972) and a high of 119 (in 1961). By 1996 it had reached 427 per 100,000.

Bear in mind that these figures are averages for the country as a whole. In many states, the transformation has been even more startling. The increase in the number of prisoners in the state of Texas from 1991 to 1996 alone--about 80,000--is far larger than the total prison population of France or the United Kingdom, and roughly equal to the total prison population of Germany, a nation of over 80 million people (Texas has about 18 million). Within a few years, if current rates of increase continue, Texas's prison population (as well as California's) should surpass that of the entire country at the start of the 1970s. In California, nearly one in six state employees works in the prison system.

The effect of this explosion on some communities is by now well known, thanks to the work of the Washington-based Sentencing Project, the Center on Juvenile and Criminal Justice in San Francisco, and others. By the mid-1990s roughly one in three young black men were under the "supervision" of the criminal-justice system--that is, in a jail or prison, on probation or parole, or under pretrial release. The figure was two out of five in California, and over half in the city of Baltimore, Maryland. In California today, four times as many black men are "enrolled" in state prison as are enrolled in public colleges and universities. Nationally, there are twice as many black men

in state and federal prison today as there were men of all races twenty years ago. More than anything else, it is the war on drugs that has caused this dramatic increase: between 1985 and 1995, the number of black state prison inmates sentenced for drug offenses rose by more than 700 percent. Less discussed, but even more startling, is the enormous increase in the number of Hispanic prisoners, which has more than quintupled since 1980 alone.

Equally dramatic changes have taken place for women. In 1970 there were slightly more than 5,600 women in state and federal prisons across the United States. By 1996 there were nearly 75,000--a thirteenfold increase. For most of the period after World War II, the female incarceration rate hovered at around 8 per 100,000; it did not reach double digits until 1977. Today it is 51 per 100,000. Women's incarceration rates in Texas, Oklahoma, and the District of Columbia now surpass the overall rates for both sexes that prevailed nationally in the late 1960s and early 1970s. At current rates of increase, there will be more women in America's prisons in the year 2010 than there were inmates of both sexes in 1970. When we combine the effects of race and gender, the nature of these shifts in the prison population is even clearer. The prison incarceration rate for black women today exceeds that for white men as recently as 1980.

These extraordinary increases do not simply reflect a rising crime rate that has strained the capacity of a besieged justice system. Crime did rise during this period, as we'll see; but the main reason for the stunning growth in prison populations was that the courts and legislatures did indeed get "tougher" on offenders. The National Research Council calculated in 1993 that the average prison time served per violent crime in the United States roughly tripled between 1975 and 1989 (and it has increased even further since)--mainly because offenders were more likely to be imprisoned at all once convicted, partly

because many of them stayed behind bars longer once sentenced.

II

Seen in the context of a single country; even these extraordinary figures on the "boom" in imprisonment lose meaning. But when we place the American experience in international perspective its uniqueness becomes clear. The simplest way to do this is to compare different countries incarceration rates--the number of people behind bars as a proportion of the population. In 1995, the most recent year we can use for comparative purposes, the overall incarceration rate for the United States was 600 per 100,000 population, including local jails (but not juvenile institutions). Around the world, the only country with a higher rate was Russia, at 690 per 100,000. Several other countries of the former Soviet bloc also had high rates--270 per 100,000 in Estonia, for example, and 200 in Romania--as did, among others, Singapore (229) and South Africa (368). But most industrial democracies clustered far below us, at around 55 to 120 per 100,000, with a few--notably Japan, at 36--lower still. Spain and the United Kingdom, our closest "competitors" among the major nations of western Europe, imprison their citizens at a rate roughly one-sixth of ours; Holland and Scandinavia, about one-tenth.

Such is the magnitude of these differences that they often override one of the most powerful and universal influences on both crime and punishment--gender. Throughout the world, women make up a relatively small proportion of the prison population--less than 7 percent in the United States--and accordingly have far lower incarceration rates than men. But the incarceration rate for women in some American states is greater than the overall rate in most western European countries; the state of Oklahoma, at this writing, imprisons its female population at a rate higher than that for women and men in England or France.

The trends in the use of imprisonment over time also differ strikingly between the United States and most other advanced societies. We've seen that the American incarceration rate roughly quadrupled--that is, rose by about 300 percent--from the early 1970s to the mid-1990s. Between 1968 and 1987, the imprisonment rate rose by 45 percent in England and Wales, 34 percent in France, and 16 percent in the Netherlands; it fell in Western Germany by about 4 percent and in Sweden by a remarkable 26 percent (rates of imprisonment have gone up significantly in England and the Netherlands in the 1990s, but not enough to match the escalation in the United States).

These comparative incarceration rates, not surprisingly, are often taken as evidence that the United States is a more punitive country than other industrial democracies. But some people argue that this kind of comparison is intrinsically misleading. Comparing different countries' use of imprisonment, in this view, is meaningless unless we also take into account the underlying crime rate. If the United States has more crime--or more serious crime--than other countries, then of course we'll have more imprisonment, other things being equal. This is an important point, if it is not taken too far. Unfortunately, it often is. There is a tendency among some commentators to want to downplay America's unusual prominence when it comes to crime and punishment, despite what the figures would seem to show. Some even want to have it both ways--arguing, almost in one breath, that the United States does not have an unusually severe crime problem and that it is not noticeably more punitive than other industrial countries. Obviously, however, that can't be true; our high incarceration rate relative to those of other countries must mean either that we have more (or worse) crime to begin with or that we are more severe with the criminals we have, or some combination of both. It cannot come from nowhere.

In fact, the best evidence shows that America's "exceptionalism" is indeed a combination of both factors. As

we'll see in detail later, crime is worse in the United States--especially major crimes of violence, but also some less serious offenses, including drug crimes. And though comparing sentencing practices across different countries is a very tricky enterprise, the best research suggests that we are tougher on many kinds of offenders than other industrial countries for which we have comparable data. In fact, sentences in the United States tend to be longer for all but the most serious offenses, notably homicide--a crime for which social or cultural differences are least likely to affect sentencing policy. Every country puts away murderers, usually for a long time. Hence we would not expect large differences among countries in the way murderers are sentenced (though it is curious that those who argue that the United States isn't especially punitive generally fail to mention that we are the only industrial democracy that still makes significant use of the death penalty for homicide). But there is likely to be more variation in the way countries treat property and drug crimes--as well as robbery, which is usually classified as a violent crime, and here the United States stands out, often dramatically.

The differences appear whether we look at the likelihood of being sent to prison at all for given offenses (what criminologists sometimes call the "propensity to incarcerate") or the length of time offenders will spend behind bars once incarcerated (the severity of the sentences). On the first count, research suggests that compared, for example, with England and Wales, the United States is about equally likely to put someone behind bars for murder but considerably more likely to do so for burglary. That was true even back in the mid-1980s, when, according to an analysis by David Farrington of Cambridge University and Patrick Langan of the U.S. Bureau of Justice Statistics, the likelihood of someone found guilty of burglary going behind bars was 40 percent in England and Wales but 74 percent in the United States. The difference is even greater now, after many years of tougher treatment of property offenders in the U.S. Robbery presents a somewhat

more complex picture. In the mid-1980s, the United States was about as likely to imprison convicted robbers as England but considerably more likely to do so than West Germany. And these figures overstate the similarities between the United States and other countries because they focus on a handful of countries that are among the tougher European nations: Sweden, Switzerland, Norway, and Holland, among others, use prison far more sparingly than Great Britain. (In 1987, for example, the Swedes imprisoned their population per violent crime at less than one-fourth the English rate.)

Especially for property crime, then, the United States sweeps considerably more offenders who come before the courts into jail or prison. Once behind bars, moreover, Americans tend to stay longer, which is the second reason our imprisoned population is so large. Farrington and Langan also found that average sentences imposed in the U.S. in the mid-1980s were far harsher than in England--roughly three times as long for robbery and burglary, twice as long for rape, and half again as long for homicide, leading them to conclude that "the belief that America is more punitive than England in its treatment of offenders is correct." To be sure, the sentence initially imposed by a court is rarely what an offender actually serves behind bars, since in most countries there are a variety of ways offenders can be released before the official sentence is up, through some form of parole or "good time" (which some countries call "remission"). But Farrington and Langan found similar disparities in actual time served: Americans convicted of robbery spent about twice as long behind bars as their British counterparts, and those convicted of burglary and assault well over twice as long. Even murderers averaged about 7 percent longer in custody in the United States, though homicide is one offense where the British stood out as relatively tough. (In Sweden, life sentences for homicide are rare, and as of the late 1980s most murderers were released after eight years.) Similarly, the criminologist James Lynch, of American University, while rejecting the contention that the

United States is particularly punitive, nevertheless provides useful figures showing that when it comes to crimes other than murder, it is. As of the early to mid-1980s, for example, American robbers were likely to serve about forty-five months behind bars, versus twenty-seven in England and twenty-four in Australia. The disparities are similar for burglary and even greater for theft: American burglars averaged twice as much time in custody as Canadian burglars; American thieves, 3 1/2 times their Canadian counterparts.

A similar pattern holds for drug offenders, the fastest-growing segment of the American prison population since the mid-1980s. In 1990 British drug offenders were half as likely to go to jail or prison as Americans, and when they did go they were likely to stay for shorter periods (and they were far less likely to be sentenced to the extraordinary long terms that have become emblematic of the American drug war). According to Lynch, the proportion of American drug offenders sentenced to over ten years was more than triple that in England and Wales.

As Lynch points out, untangling the precise implications of these figures is not easy. The unusually long sentences for some crimes in the United States could mean that the crimes Americans commit within a given category are typically more serious--that our robberies may, for example, more often involve aggravating conditions, like the use of a gun. But that doesn't explain our unusual harshness toward offenses that by definition are not very serious and do not involve guns, like larceny. Another explanation might be that Americans are more likely to have prior offenses, making them candidates for harsher penalties. But in fact the opposite seems to be true, at least for England; British offenders are more likely than Americans to have prior offenses, or, put another way, America appears to be more inclined than England to imprison first-time offenders. Again, most of these comparisons considerably understate the international differences, since they are mainly based on figures that are by now well behind the times; Lynch's

American figures, for example, are from 1983. After nearly a decade and a half of relentlessly stiffening sentences--a trend unmatched in most other countries, some of which have actually gone in the other direction--our comparative severity has increased substantially.

An interesting study done under the auspices of the International Bar Association and analyzed by the British criminologist Ken Pease sheds more light on international differences in the propensity to punish. One of the reasons it is difficult to pin down cross-national differences in sentencing is that countries often classify crimes differently, so that what counts as a "robbery" in one country may be called something else in another. This study got around the problem by describing specific offenses and then asking judges and other criminal justice practitioners to predict the sentence the offenders would receive in their own jurisdictions. The results confirmed that there are enormous differences in national attitudes toward punishment. At the low end of the scale are nations like Norway, which remain fairly reluctant to impose any prison time, especially for less serious offenses; at the high end, there is the state of Texas, which on Pease's scale of punitiveness ranked between the United Arab Emirates and Nigeria.

No matter how we approach the question, then, the United States does turn out to be relatively punitive in its treatment of offenders, and very much so for less serious crimes. Yet in an important sense, this way of looking at the issue of "punitiveness" sidesteps the deeper implications of the huge international differences in incarceration. For it is arguably the incarceration rate itself, not the rate per offense, that tells us the most important things about a nation's approach to crime and punishment. An incarceration rate that is many times higher than that of comparable countries is a signal that something is very wrong. Either the country is punishing offenders with a severity far in excess of what is considered normal in otherwise

similar societies, or it is breeding a far higher level of serious crime, or both. In the case of the U.S., it is indeed both. As we've seen, the evidence suggests that we are more punitive when it comes to property and drug crimes, but not as far from the norm in punishing violent crimes. We have an unusually high incarceration rate, then, partly because of our relatively punitive approach to nonviolent offenses, and partly because of our high level of serious violent crime. On both counts, the fact that we imprison our population at a rate six to ten times higher than that of other advanced societies means that we rely far more on our penal system to maintain social order--to enforce the rules of our common social life--than other industrial nations do. In a very real sense, we have been engaged in an experiment, testing the degree to which a modern industrial society can maintain public order through the threat of punishment. That is the more profound meaning of the charge that America is an unusually punitive country. We now need to ask how well the experiment has worked.

III

The prison has become a looming presence in our society to an extent unparalleled in our history--or that of any other industrial democracy. Short of major wars, mass incarceration has been the most thoroughly implemented government social program of our time. And as with other government programs, it is reasonable to ask what we have gotten in return.

Let me be clear: there is legitimate dispute about the effects of imprisonment on crime, and people of goodwill can and do argue about the precise impact of the incarceration boom of the past twenty-five years. But the legitimate dispute takes place within very narrow boundaries, and the available evidence cannot be comforting to those who put great hopes on the prison experiment. Nor do we have reason to expect better results in the future; indeed, if anything, just the opposite.

Here, in a nutshell, is where we stand after more than two decades of the prison boom. The good news is that reported violent crime has declined in the country as a whole since about 1992--quite sharply in some cities--suggesting that, at least in most places, the worst of the epidemic of violence that rocked the country in the late 1980s and early 1990s has passed. But the bad news is extensive and troubling. First, most of the recent decline represents a leveling off from unprecedented rises in the preceding several years--and therefore a longer time frame reveals no significant decline at all. Second, even that return to the norm has been disturbingly uneven, disproportionately accounted for by the experience of a few large cities, notably New York. Third, even in those cities violent crime often remains higher, and rarely more than fractionally lower, than it was before our massive investment in incarceration began. Fourth, violence has risen dramatically over the past twenty-five years in many other cities, despite the prison boom and despite several other developments that should have reduced violence. Fifth, the overall figures on trends in violent crime conceal a tragic explosion of violence among the young and poor, which has yet to return to the already intolerably high levels of the mid-1980s. Finally, there is nothing in these patterns to reassure us that an epidemic of violence won't erupt again.

Let's consider this picture in greater detail. Nationally, violent crime rates peaked in 1991. Since then, through 1996, the number of homicides fell by about 22 percent. But that decline followed a rise of 32 percent from 1984--its recent low--through 1991, one of the fastest increases in lethal violence in recent history. Reported robberies have also fallen about 22 percent since 1991, but that followed a 42 percent rise from 1984 to the 1991 peak. Reported rapes have fallen less sharply, by about 12 percent, following a rapid 27 percent rise from 1984 to 1991. To be sure, the recent improvements are welcome; in the real world, the cold numbers translate into lives saved and tragedies averted. But though where we are

today is certainly better than where we were a few years ago, it is not a good place to be. To borrow the language of public health, we suffered a particularly virulent epidemic of violence from the mid-1980s through the early 1990s. The numbers tell us that the worst of that epidemic has apparently passed. But violent crime remains endemic in our society at shockingly high levels. It is crucial to keep these trends in historical perspective. When it comes to crime, as with many other social problems, our collective memory is short. We were said to be "winning the war on crime" once before in recent years, in the early 1980s, when the level of murder and robbery also dropped sharply--and just before we suffered one of the fastest rises in criminal violence in our national history.

Though the recent declines in violent crime have occurred in many cities across the country, moreover, a handful of cities account for a considerable proportion of the overall trend. There were about 137,000 fewer robberies in the United States in 1996 than in 1992; New York City alone contributed 41,000 of that total, or about 30 percent, and if we look back further in time, the picture appears considerably grimmer. An examination of homicide rates over the past quarter century in the hardest-hit American cities is a particularly sobering exercise. Again, there is some good news. Boston's homicide rate, for example, fell by about 3 percent between 1970 and 1995; San Francisco's, by about 13 percent. (New York--where the most notable recent declines in homicide have taken place--actually suffered an overall slight rise over this longer period, though it has fallen further since.) But there is also a great deal of bad news. Murder was up about 70 percent in Los Angeles, over 80 percent in Phoenix, over 90 percent in Oakland and Memphis. It more than doubled in Washington, Birmingham, Richmond, and Jackson, Mississippi. In Milwaukee and Rochester (N.Y.), homicide rates exploded by more than 200 percent in these years; in Minneapolis, by over 300 percent. In New Orleans, the homicide rate rose by a stunning 329 percent.

Let's pause on that last figure for a moment. Louisiana was always a tough state, and by 1995 it led every state in the nation, except Texas, in its incarceration rate--which was five times higher in the mid-1990s than it was in the early 1970s. But the unfortunate citizens of New Orleans, its largest city, were more than four times as likely to die by violence at the end of the period than at the beginning (it is perhaps no wonder that in the early 1990s, according to news reports, at least one New Orleans neighborhood held voodoo ceremonies imploring the spirits to do something about crime, since clearly no one else was).

Moreover, those explosive rises in homicide, in the face of even more rapid increases in incarceration, took place despite improvements in the medical response to injury that should--other things being equal--have lowered death rates from violence (by 1995 most major cities had advanced trauma units capable of providing state-of-the-art care to victims of serious assaults), and despite the often-cited decline in the proportion of youth in the population that should also--other things being equal--have dampened them.

But other things were not equal, and instead we had both fewer young people and far more youth violence. Indeed, the epidemic of violence that began in the mid-1980s was concentrated among the young, who were both its main instigators and its main victims. Violence among the young has, at this writing, fallen off from its early-1990s peak; but outside of a handful of cities--Boston is a notable example--it remains higher than it was before the sharp recent rises, which brought many cities the worst levels of youth violence in their history. Juvenile arrests for violent crimes fell by 4 percent during 1995, but that followed a 64 percent rise in the previous seven years.

As with incarceration, it is only when we look overseas that we can grasp the full meaning of the trends in youth violence in

America. In 1987, the homicide death rate among American men aged fifteen to twenty-four, according to the World Health Organization (WHO), was 22 per 100,000. By 1994 it had risen by two-thirds--to 37 per 100,000. To put those quite abstract numbers into some perspective, consider that the comparable rate for British youth in 1994 was 1.0 per 100,000. By the mid-1990s, in other words, a young American male was 37 times as likely to die by deliberate violence as his English counterpart--and 12 times as likely as a Canadian youth, 20 times as likely as a Swede, 26 times as likely as a young Frenchman, and over 60 times as likely as a Japanese.

It's well known that young men of color have been the worst victims of this crisis; the homicide death rate for young black men more than doubled from 1985 to 1993, to 167 per 100,000 (it was 46 in 1960). But lest it be thought that America's grisly dominance in youth homicide is entirely a matter of race, bear in mind that the homicide death rate for non-Hispanic white youth in the early 1990s was roughly 6 times that for French youth--of all races combined--and 20 times that for Japanese youth.

Some of the most chilling numbers on the magnitude of this crisis--and its concentration among the young and poor--come from a study of injuries in inner-city Philadelphia by Donald Schwartz and his colleagues at the University of Pennsylvania medical school. Over the course of four years, 1987 through 1990, fully 40 percent of young black men from these neighborhoods suffered a violent assault serious enough to send them to a hospital emergency room.

Although the numbers on youth violence have improved somewhat since the early 1990s, they would have to improve enormously to bring American levels of youth violence even close to those of other industrial societies. And some of the reasons for the improvement provide small comfort. To some extent, the epidemic of violence among such a concentrated

segment of the youth and young adult population was probably self-limiting. Put bluntly, part of the reason for the falling off of violence from its recent peak may be that a significant number of those at highest risk of being either perpetrators or victims have been removed from the picture--through death, disease, or disability.

Recall that the homicide death rate among black men aged fifteen to twenty-four reached 167 per 100,000 in 1993 (in New York City, it reached 247 per 100,000). At the same time, the death rate from HIV infection among black men aged twenty-five to thirty-four reached 117 per 100,000, and it hit 200 per 100,000 for those thirty-five to forty-four, almost tripling since 1987 alone. The numbers mount still higher if we add in drug-related deaths and serious illnesses. Overall, young black men aged fifteen to twenty-four were 66 percent more likely to die in 1993 than in 1985--a stunning reversal of decades of general improvement in life expectancy. And these general figures, grim as they are, understate the depth of the disaster that struck black men in particular in the hardest-hit urban areas. In the Philadelphia study; an astonishing 94 percent of inner-city men in their twenties had been to an emergency room at least once for a serious injury during a four-year period. And a study of HIV prevalence among black men in their thirties in central Harlem, conducted by Ann Brunswick and her colleagues at Columbia University's School of Public Health, turned up a rate of infection of almost 14 percent--nearly one in seven.

If we concentrate on the young people who are most likely to commit violent crime, this pattern--what we might euphemistically call the attrition of the at-risk population--appears even more starkly. In a study of youthful offenders released from the California Youth Authority in the early 1980s, Pamela Lattimore and her colleagues at the National Institute of Justice discovered that almost 6 percent had died by the early 1990s--most before the age of thirty. (To put the 6

percent figure in perspective, note that it is roughly thirteen times the death rate for black men aged twenty-five to thirty-four in the general population.) Almost half of the deaths were due to homicide; accidents, suicide, drugs, HIV and "legal intervention"--being killed by the authorities--accounted for most of the rest. The proportions were even higher for black youths living in Los Angeles. "In public health terms," the researchers write, "the morbidity among these young subjects ... is astonishing."

We usually miss the full dimensions of the combined effects of incarceration, HIV infection, violence, accidents, and substance abuse on this population because we typically add up the costs of each of these ills on separate ledgers. When we put them together on the same ledger, what we see is nothing less than a social and demographic catastrophe--and one that, tragically, may help explain the recent decline in violent crime in the most affected communities.

IV

This, then, is the state of violence in America's inner cities--after more than two decades of the most intensive investment in the incarceration of criminals, violent and otherwise, that anyone, anywhere, has ever seen.

Indeed, what is most striking about these numbers is that they show not only that our national prison experiment had far less impact than its promoters expected but even less than its critics did. As far back as the 1970s, many criminologists argued that we could never incarcerate our way out of the crime problem--that imprisonment, however justified in individual cases, was inherently limited as an overall strategy of controlling crime. But they never suggested that massive increases in imprisonment would have no effect whatsoever on the crime

rate. Most of them believed, in particular, that there was indeed such a thing as an "incapacitation" effect.

Criminologists have long distinguished several ways in which putting people in prison might reduce the crime rate. One is "deterrence"--meaning that people who are sent to prison may be less inclined to commit crimes when they get out because they don't want to go back and/or that potential offenders generally will be inhibited by the threat of being put behind bars. Another is "rehabilitation": if we provide schooling, job training, drug treatment, or other services in prison, offenders may be better able to avoid returning to crime when released. Then there is the simplest mechanism, "incapacitation," which means that as long as offenders are behind bars they cannot commit crimes--at least, not against people on the outside (though they can still commit them against one another and against prison personnel). When the conservative columnist Ben Wattenberg told readers of the Wall Street Journal that prisons were effective in controlling crime because "a thug in prison can't shoot your sister," he was making a simple (and, as we'll see, sadly simplistic) statement of the fundamental principle of incapacitation.

Though most criminologists would probably agree that imprisonment has some deterrent effect, its magnitude has proved very difficult to pin down. It seems clear that the deterrent effect of marginal increases in imprisonment is neither as large nor as predictable as many people reflexively believe. But incapacitation is a somewhat different story. Most criminologists, of various ideological persuasions, have granted the existence of a significant incapacitation effect, assuming that if enough offenders went to prison there would, other things being equal, be a drop in at least some crimes--especially so-called high-rate offenses, such as robbery and burglary. But most experts also believed that the effect would be disturbingly small relative to the investment. At best, as David Farrington and Patrick Langan put it cautiously in the

early 1990s, "the existing evidence suggests that incapacitative effects are modest but not negligible."

During the 1970s and 1980s, a number of studies attempted to calculate the potential incapacitation effect of large increases in imprisonment. The results were not encouraging a typical estimate was that doubling the prison population might reduce serious reported crimes by 10 percent--somewhat more in the case of burglaries and robberies, less for homicides and rapes. And what is startlingly clear today is that if anything the research erred on the optimistic side. The incarceration rate has risen much more than anyone imagined. But there has been no overall decrease in serious criminal violence, and there have been sharp increases in many places--including many of the places that incarcerated the most or increased their rates of imprisonment the fastest. The national incarceration rate doubled between 1985 and 1995 alone, and every major reported violent crime increased--driven upward by the horrifying surge in youth violence, which turned our cities into killing fields for the young and poor just when more and more of the young and poor were already behind bars.

A simple numerical exercise illustrates the gap between the fairly bleak predictions of the experts and the even bleaker historical reality. In the 1970s and 1980s some criminologists calculated that doubling the prison population might reduce reported robberies by about 15 to 18 percent (more recent estimates are essentially the same). Suppose we apply that prediction to the real-world changes over the past twenty years--a period in which we actually quadrupled the prison population. Had we in fact achieved an 18 percent decline in the reported robbery rate every time we doubled the 1976 prison population, the nation's robbery rate would have fallen from about 199 per 100,000 in 1976 to about 110 per 100,000 in 1995. Instead it rose to 221 per 100,000, or about twice what the research on incapacitation had predicted.

But why did we see so little impact from the extraordinary increases in imprisonment? We do not know all of the reasons, but some of them seem clear. To begin with, as criminologists have noted for many years, incapacitation has several inherent limitations as a crime-control strategy. One is that imprisoning offenders cannot, by definition, prevent the crimes that got them convicted in the first place. (This is one reason why the remark that "a thug in prison can't shoot your sister" is so shortsighted; obviously, the "thug" had to shoot someone's sister--or otherwise do harm--in order to get into prison in the first place.) For some offenses, especially murder, that first serious crime may be the only one that an offender is likely to commit. Hence the incapacitation effect in such cases is essentially zero. Another well-documented limitation of incapacitation is the "replacement effect"--putting a drug dealer or gang leader in prison may simply open up a position for someone else in an ongoing enterprise. The replacement effect is especially strong for drug offenses, but is also important in the case of much juvenile crime, which often takes place in groups. Putting one member of a gang of young muggers behind bars may have little impact, if any, on the gang's overall rate of crime.

More broadly, the fact that the offenders caught and imprisoned represent only a fraction of a much larger "pool" of offenders, most of whom are not caught, greatly limits incapacitation's effect on crime rates. In addition, our failure to match the increasing rates of imprisonment with corresponding increases in programs to reintegrate offenders into productive life means that we are steadily producing ever-larger armies of ex-offenders whose chances of success in the legitimate world have been diminished by their prison experience. We are "incapacitating" them in the traditional sense of the word--reducing their capacity to function normally--with altogether predictable results.

But there is an even more profound reason for the limited impact of the vast increases in imprisonment: they coincided with a sharp deterioration in the social conditions of the people and communities most at risk of violent crime.

Thus, while we were busily jamming our prisons to the rafters with young, poor men, we were simultaneously generating the fastest rise in income inequality in recent history. We were tolerating the descent of several million Americans, most of them children, into poverty--a kind of poverty that, as study after study showed, became both deeper and more difficult to escape as time went on. An American child under eighteen was half again as likely to be poor in 1994 as twenty years earlier, and more and more poor children were spending a long stretch of their childhood, or all of it, below the poverty line. The poor, moreover, became increasingly isolated, spatially and economically, during these years--trapped in ever more impoverished and often chaotic neighborhoods, without the support of kin or friends, and surrounded by others in the same circumstances. At the same time, successive administrations cut many of the public supports--from income benefits to child protective services--that could have cushioned the impact of worsening economic deprivation and community fragmentation. And they also removed some of the rungs on our already wobbly ladders out of poverty: federal spending on jobs and job training for low-income people dropped by half during the 1980s. Meanwhile, between 1980 and 1993, federal spending on "correctional activities" rose, in current dollars, by 521 percent.

The results of these policies have been documented over and over again: communities without stable jobs, without preventive health care, without school guidance counselors or recreation facilities, with staggeringly inadequate mental health and child welfare services. Meanwhile, other less quantifiable changes in American civic culture magnified the effects of these more tangible shifts in material life. Just as the most vulnerable

communities were being depleted of both legitimate opportunities and social supports, they were also being bombarded by a particularly virulent ethic of consumption and instant gratification--one that was not confined to the inner cities but swept the country as a whole, from Wall Street to Watts. Although the spread of that ethos is not as easy to measure as, say, the rising numbers of children in poverty; scholars looking closely at the culture of drugs and violence in American cities in the 1980s and 1990s have been able to document it convincingly. The criminologist Jeffrey Fagan and his colleagues, for example, have described the emergence of what they call a "hypermateralist" culture in some urban neighborhoods, a culture fueled by the massive growth of consumer advertising and marketing and celebrated on television, on movie screens, and in popular music.

All of these changes were enormously exacerbated by the twin scourges of crack and guns--and indeed the waning of the crack epidemic almost certainly helps explain the recent declines in violent crime in many cities, just as its rise helps explain the increases in violence in the preceding several years. Exactly how much crack contributed to those sharp rises is difficult to pinpoint precisely and varies from city to city--in New York, for example, we know that crack had a rapid and massive impact on violent crime rates in the 1980s, more than it did in many other cities. It is beyond question, however, that the drug epidemic played an important role in boosting levels of violence nationwide. But the rise of violence in the late 1980s cannot be blamed on crack and guns in isolation--as if these plagues were unconnected to the social context that brought them into being. The crack and gun explosions didn't come from nowhere; they were generated by the same declining opportunities, the same withering of agencies of socialization and support, and the same shattering of hope and community that led to other kinds of violence as well.

We will examine the connections between violence and social deterioration more closely in chapter 4. For now, it is sufficient to note that the social policies we were pursuing were ones that any student of Criminology 101 could have predicted would increase violent crime. And that helps explain why the prison experiment has had less impact than even its critics anticipated. We were, in effect, using the prisons to contain a growing social crisis concentrated in the bottom quarter of our population. The prisons became, in a very real sense, a substitute for the more constructive social policies we were avoiding. A growing prison system was what we had instead of an antipoverty policy, instead of an employment policy, instead of a comprehensive drug-treatment or mental health policy. Or, to put it even more starkly, the prison became our employment policy, our drug policy, our mental health policy, in the vacuum left by the absence of more constructive efforts.

This is not just a metaphor. The role of the prison as a default "solution" to many American social problems is apparent when we juxtapose some common statistics that are rarely viewed in combination. We've seen, for example, that by the end of 1996 there were almost 1.7 million inmates--mostly poor and male--confined in American jails and prisons. Officially, those inmates are not counted as part of the country's labor force, and accordingly they are also not counted as unemployed. If they were, our official jobless rate would be much higher, and our much-vaunted record of controlling unemployment, as compared with other countries, would look considerably less impressive. Thus, in 1996 there was an average of about 3.9 million men officially unemployed in the United States, and about 1.1 million in state or federal prison. Adding the imprisoned to the officially unemployed would boost the male unemployment rate in that year by more than a fourth, from 5.4 to 6.9 percent. And that national average obscures the social implications of the huge increases in incarceration in some states. In Texas, there were about 120,000 men in prison in 1995, and 300,000 officially unemployed. Adding the

imprisoned to the jobless count raises the state's male unemployment rate by well over a third, from 5.6 to 7.8 percent. If we conduct the same exercise for black men, the figures are even more thought-provoking. In 1995, there were 762,000 black men officially counted as unemployed, and another 511,000 in state or federal prison. Combining these numbers raises the jobless rate for black men by two-thirds, from just under 11 to almost 18 percent.

Consider also the growing role of the jails and prisons as a de facto alternative to a functioning system of mental health care. In California, an estimated 8 to 20 percent of state prison inmates and 7 to 15 percent of jail inmates are seriously mentally ill. Research shows, moreover, that the vast majority of the mentally ill who go behind bars are not being treated by the mental health system at the time of their arrest; for many, the criminal justice system is likely to be the first place they receive serious attention or even medication. The number of seriously mentally ill inmates in the jails and prisons may be twice that in state mental hospitals on any given day. In the San Diego County jail, 14 percent of male and 25 percent of female inmates were on psychiatric medication in the mid-1990s: The Los Angeles County jail system, where over 3,000 of the more than 20,000 inmates were receiving psychiatric services, is now said to be the largest mental institution in the United States--and also, according to some accounts, the largest homeless shelter.

Prison, then, has increasingly become America's social agency of first resort for coping with the deepening problems of a society in perennial crisis. And it is important to understand that, to some extent, the process has been self-perpetuating. Growing social disintegration has produced more violent crime; in turn, the fear of crime (often whipped up by careless and self-serving political rhetoric) has led the public and the legislatures to call for "tough" responses; the diversion of resources to the correctional system has aggravated the

deterioration of troubled communities and narrowed the economic prospects for low-income people, who have maintained high levels of crime despite huge increases in incarceration; the persistence of violent crime paradoxically leads to calls for more of the same. And so the cycle continues.

The process has gone farther in some states than in others, but the consequences of these increasingly skewed patterns of public spending are starkly evident in many of them. Consider the state of Louisiana, one of the poorest in America, which saw one of the fastest rises in incarceration during the 1970s and 1980s and today maintains a rate of imprisonment exceeded only by Texas and the District of Columbia--615 per 100,000 in 1996, excluding local jails. Louisiana also boasts the highest homicide rate in the fifty states. As it was achieving this distinction, the state was simultaneously starving its public schools. Here is what a 1995 report from the U.S. General Accounting Office had to say about schooling in New Orleans, the biggest city in Louisiana and one of the most violent places in the United States

New Orleans' schools are rotting away.... New Orleans students attend schools suffering from hundreds of millions of dollars worth of uncorrected water and termite damage. Fire code violations are so numerous that school officials told us, "We don't count them--we weigh them." [In one elementary school] termites even ate the books on the library shelves as well as the shelves themselves.

These realities may help explain why 85 percent of Louisiana's fourth-graders, according to a recent national survey, read below their grade level. The GAO report goes on to describe schools in Alabama where defective plumbing caused raw sewage to back up onto the lawn, and high schools in Chicago where floors were broken and buckling so badly that students couldn't walk through some parts of the schools at all and

where exit doors have been chained shut for years to prevent students from falling on broken stairs.

The money spent on prisons in the 1980s and 1990s, then, was money taken from the parts of the public sector that educate, train, socialize, treat, nurture, and house the population-- particularly the children of the poor. This trade-off surely helps explain one of the most distinctive characteristics of the pattern of violent crime in recent years its changing age distribution. We've seen that the explosion of violence in the late 1980s was concentrated among the young. At the same time, violent crime by older adults was stable and in some places declining. And that pattern is precisely what was predicted by many critics of our growing reliance on an "incapacitative" strategy of crime control. Since incapacitation is a reactive rather than preventive strategy, one that cannot have any effect until violent criminals have been caught, it tends to "work," to the extent that it works at all, at relatively later stages of an offender's "career." If we do enough of it, we will surely reduce, to some degree, the amount of crime committed by older offenders. But we will have done nothing to prevent the early crimes committed by younger offenders. And to the extent that the resources poured into incarcerating older offenders are diverted from efforts to prevent younger people from embarking on criminal careers in the first place, a strategy based on incapacitation may even contribute to rising youth violence. Taken to the extreme, in other words, such an approach forces us into a self-defeating trade-off, as the gains from incarcerating older offenders (who may be nearing the end of their "careers" in crime in any case) are offset by the losses from the failure to mount preventive efforts for children or for high-risk youths (just when their rate of offending is highest).

By the early 1990s, these skewed priorities had brought us what was arguably the worst of all possible worlds when it came to crime and punishment. We had attained a level of violent crime that, in some places, was the highest in this

century and that threatened to destroy the social fabric of many American communities. At the same time, we had created a bloated penal system whose uncontrolled growth had helped deprive our most vulnerable communities of urgently needed social investment. It seemed painfully clear to most who studied these problems that the experiment was not working.

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