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The Politicization of Crime and Its Implications

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ABSTRACT: The relationship between law enforcement and the public has recently come under scrutiny after a number of high-profile deaths of African-Americans at the hands of police officers. The ensuing public outcry has given way to a wide-ranging debate about the origins of such tension and why it has continued to manifest with such vigor despite apparent progress. This research attempts to uncover the underpinnings of this tension through a historical review of the development of the law enforcement institution and the narrative of crime in society. Specifically, this research investigates the role of federalization and politicization on crime and its impact on the relationship between law enforcement and the public. My findings suggest that the politicization of crime has created a false narrative that distorts the racial and class composition of crime, unnecessarily favors use of force and confrontational contact with the public, and compromises the integrity of crime statistics and their collection. This false narrative undermines the core objective of law enforcement — public safety — and negatively impacts its institutional goals and mindset, the implications of which reach beyond the police to society at large and the policies that define criminality and shape crime control.

KEYWORDS: police; law enforcement; politicization; politics; public policy; federalization; police power; crime; crime narrative; penal; police institution

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INTRODUCTION

The public outcry that followed the 2014 shooting death of Michael Brown, a young African-American man, by a police officer in Ferguson, Missouri brought to the forefront the issue of police violence and excessive use of force, particularly against African-Americans. But the issue is not a new one. A similar incident took place in 1991 when a number of Los Angeles Police Department officers beat Rodney King¹ following a traffic stop. Though nearly a quarter of a century has passed between the two incidents, it appears as if little has fundamentally changed. Racism and racial tension in law enforcement and society has been addressed by a large body of research; however, the politicization of crime and its role in racializing crime, as well as the impact of federalization on crime control, has been less thoroughly scrutinized.

Owing to Scheingold (1984) and Reardon (1974), the concept of the politicization of crime has become more prevalent in scholarly research. In this paper, the politicization of crime is defined as the use of the crime issue as a political tool or construct to further policy and political agendas. As research by Murakawa (2005) and Lynch (2008) indicates, racialization of crime is a consequence of politicization rather than the inverse. Hence, we must look more closely at the politicization of crime control, particularly in the years leading up to and following the Civil Rights era of the 1960s, to understand the link between politics and crime. Federalization presents another angle of politicization. The ever-expanding role of the federal government in the process of crime control has had a profound effect on how law enforcement conducts itself and the types of crimes given the most attention.

This paper uses archival research to identify the historical link between the federalization and politicization of crime and its impact on the institution of law enforcement. It is not the intention of this research to be a commentary on racialization, but because race plays an integral role in the operationalization and exercise of crime control in the United States, inevitably it must be included. The public's understanding of crime in society has evolved over time, and with the advent of social media and sharing platforms, the public has become more aware of crime beyond its political characterization. Despite this growing awareness, there remain disparities in the public's perception of crime versus actual crime rates, which are also evident in the institution of law enforcement.

This paper proceeds in three parts. First, I overview the State's² police power to better understand the role and development of the institution of law enforcement. Manning (1999) and Cummings (1979) provide useful background on the evolution of police power in this aspect, while Reiner (2010) explicates the confluence of politics and law enforcement. Secondly, I scrutinize the federal shift in crime control, particularly with respect to its impact on the law enforcement institution and how crime has been quantified and variously controlled. The extensive research of Beckett and Sasson (2003), Schiengold (1984), and Simon (2009) document the evolution of crime's politicization, as well as how the politics of crime has impacted other aspects of society. Simon (2009) and Surette (2006) provide further support for the influence of politicization on the crime narrative and the public perception of crime. Thirdly, I analyze the crime narrative itself, taking into account the influences addressed in the previous two sections. This narrative is an important component of the racialization of crime and how the public sees criminals, the agents of crime control, and the process of remediation. Findings by Lynch (2008) provide some of the most compelling evidence of the evolution of the crime narrative from a political point of view. This research will then elucidate further the larger social effects of the politics of crime.

THE COERCIVE POWER OF THE STATE

Criminal law is the set of the codified rules and norms of society that dictate the parameters of order, defining what is normal and what is deviant and more broadly constituting who is accepted and who is ostracized. When individuals deviate from the publicly and socially-accepted conception of order and normalcy they become criminals, having broken one or more of those codified rules and norms. Society's perception of rules and norms are not static and change over time and space (Richerson, Mulder, and Vila 2001). What is considered deviant at a certain point in history may shift at a later time, and what may be labelled as normal in a particular region may be considered deviant in another. Therefore, laws also change in response to these societal shifts because order and peace as the objectives of the state are only made possible by rejecting those presumed to be deviants based on the current perception. This dialectical construction of the relationship between law and criminality is fundamental to understanding the changes that occur in societal acceptance or rejection of certain behavior and the agents that promote and enforce it.

Though, in principle, the public defines what is socially accepted or rejected, the ability to define deviance belongs to the state and is a powerful exclusionary political device (Michalowski 2000). Therefore, norms are often the product of politics and specific interests (Reiner 2010). When it is expedient for the state to create new classifications of deviance, or even abolish old ones, the public is enlisted to adopt such new distinctions. This process empowers the state to codify the newly recognized norms and enforce them (Reiman 1984). Because of the enormous power contained in the social construction of crime, the potential for abuse is considerable.

The above framework of law also grants the state its police power—that is, its legitimate power to enforce the law and maintain order. Maintaining order is primarily a peacekeeping mandate, with enforcing law on the coercive end of the spectrum (Cummings 1965; Manning 1999). It is clear from our previous discussion on normalcy and deviance, as it relates to the construction of crime, that deviance is the exception: the anomaly that invokes coercive power to control it. Order therefore only entails the police’s peacekeeping role, arguably the central role for any domestic law enforcement entity (Cummings 1965).

Though police power extends to coercive force, such force is presumably limited to serving a specific, restricted purpose: to protect the collective from the deviance of a few. The legitimacy of this force stops when the transgression has ceased or where its power to sanction has been exhausted (Simon 2009). This is to say nothing of the degree of force used or the degree of transgression that would elicit it. The use of force is also constructed, dependent on the context and the individual towards whom the force is directed. The specifics regarding reasonable use of force are beyond the scope of this paper; however, the narratives of crime and criminality, and law enforcement’s mandate and organizational identity, all exert significant power over how, when, and on whom force is used and to what degree (See Beckett and Sasson 2003; Ghandnoosh 2014; Lynch 2008; Murakawa 2005). In 1851, Justice Lemuel Shaw of the Massachusetts State Supreme Court, writing for the majority in the landmark case *Commonwealth v. Alegro*, ushered a new term into the legal lexicon: “police power.” Shaw defines this term as “the power vested in the legislature by the constitution, to make, ordain, and establish all manner of wholesome and reasonable laws, statutes and ordinance, either with penalties or without, not repugnant to the constitution,

as they shall judge to be for the good and welfare of the commonwealth, and of the subjects of the same” (Horwitz 1995). Later, in *Jacobson v. Massachusetts* (1905), U.S. Supreme Court Justice John Harlan would define the limits of police power, clarifying that such a power “must always yield in case of conflict with the exercise by the General Government of any power it possesses under the Constitution, or with any right which that instrument gives or secures” (Horwitz 1995).

Given the objective of the state to promote the welfare of its citizens and expect their cooperation and contribution, law enforcement, generally, has been mandated to carry out that power (Bucerius and Tonry 2014). Thus, the police represent the coercive power of the state. As part of the executive branch (within each level of government), the police are inextricably linked to the state as a political entity as much as a social, geographic, and ethno-cultural one. This linkage is an important component of the identity of law enforcement. The political will of the democratic state, in theory, serves public interest, and even when that theory is loosely followed, maintaining order and promoting citizen welfare are essential to the security and power of the state (Bucerius and Tonry 2014). Therefore, the state enacts laws for the aforementioned purposes, using its police power to enforce them.

Given the considerable potential for abuse due to the latitude of police power, the language extending it has sought to subordinate and narrowly define it. In both early definitions provided by the courts, police power was legitimated insofar as its use was “wholesome and reasonable” and for “the good and welfare” of the public. Further, police power was constrained where it contravened constitutional principles or their legitimate interpretation (Freund 1976). Ernst Freund’s seminal work, “The Police Power,” maintains that the court must “not accept as conclusive” the legislative perspective of the parameters of power, “but inquire in every case whether there is a legitimate exercise of police power” (p. 334). Freund also clarifies the strong link between the making of the law and its execution, suggesting that one is not to be entirely trusted to hold the other accountable. As we will see in the next section, the courts have played a corrective role on many occasions where the legislative interpretation and/or expansion of police power overstepped its constitutional limitations and encroached on the public’s rights.

The police, historically, operate in a local context as well, since crime and other social issues are contextually

related to the communities in which they occur. Different environments, resources, and populations require different responses to highly individualized issues. Furthermore, the process of federalization (discussed further in the following section) is as much a political undertaking as it is a legislative one — the public must be in support of such efforts for its success. After all, the American federalist system grants great latitude to individual states in governing their own affairs with a central government of limited powers (Nolan et al. 2018).

It would be naïve to neglect mentioning the cronyism and local politics that characterized many police agencies pre-1960 (Bayley and Nixon 2010). City and county government officials and local politicians used the police to redress political or personal grievances extrajudicially; favoritism, corruption, and procedural negligence were often regular features of law enforcement. The abuse of local police power within this context contrasts with federal anti-crime initiatives. In any case, efforts to professionalize police were responsive to this conflict of interest between serving a limited group of powerful individuals and serving public interest.

The professionalization shift resulted in more organized and systematic law enforcement, distanced (if only by a few degrees) from local political machinations and characterized by greater procedural consistency (Bayley and Nixon 2010). However, the conditions, motivations, and political forces that propelled professionalization also impacted its efficacy as a service organization (Gest 2001; Maguire 2003). The federalized nature of the professional shift led to a more efficient instrument of state power defined by control and enforcement. Though professionalization should have pushed the police institution towards an increasingly integrated role, it instead became further distanced from its peacekeeping nature and more entrenched as a protector and advocate of state interests (Kraska and Cubellis 1997).

Given professional accreditation bodies such as the American Medical Association (AMA) for doctors and the American Bar Association (ABA) for lawyers, centralization could have been accomplished through a professional accreditation body for law enforcement, like the International Association of Chiefs of Police (IACP). Such a body could provide disciplinary, professional oversight and standards rather than a political framework. The government would have systems for evaluation, control, and licensure not unlike those of law and medicine. However, the federal political system provides

much of the support, funding, and strategic leadership for law enforcement at local levels, thus shifting agency away from police organizations. This phenomenon increasingly subordinates these organizations to federalized police operations, i.e., the ‘War on Crime’ or the ‘War on Drugs’. The deployment of such national initiatives with respect to law enforcement can be especially dangerous or problematic for a country as diverse and environmentally variant as the United States³.

THE FEDERALIZATION OF CRIME CONTROL

The American political, social, and economic landscape was in transition following the end of World War II and the economic boom that produced an expanding middle class. Racial and cultural tensions rose significantly as a result of demographic changes brought on by black veterans returning from the war and resettling in new demographic patterns, as well as a rapidly growing suburban America (Murakawa 2008). Americans turned their attention to domestic areas of concern and issues of social justice and political transformation. The U.S. Supreme Court, reflecting changing public sentiment, was at the forefront with a series of decisions that tore down decades of precedent, including the separate but equal⁴ doctrine, the end of de jure segregation⁵, and the expansion of due process rights for criminal suspects⁶.

As Simon (2009) indicates, it was in the beginning of the sixties that the civil rights movement increased in strength and scope. As a result, lawmakers and politicians sought to change the narrative of crime to take on the protest movements and civil rights advocates who had also become increasingly politically active.

For Southern lawmakers in particular, this narrative meant generalizing crime as categorically related to particular ‘deviant’ groups (African Americans) rather than a consequence of individual behavior (Lynch 2008; Simon 2009).

This approach took on national prominence during the Johnson administration when the anti-Vietnam War movement, which drove major political demonstrations, transformed crime from an individual or group behavioral problem to a matter of patriotism and national security, both highly political distinctions (Beckett and Sasson 2004). Anti-war demonstrators, elements of the political order contended, were a threat to the public order through their disruptive action, compromising national security through their defiance of the State

and threatening others' peace and security for their own interests (Rising 2010). By addressing public grievances against the government through crime, political dissent could be better managed. Dissenters were dismissed as criminals, deviants, and subversives (Churchill and Wall 1990). This shift in the narrative of crime and the profile of the 'criminal' was instrumental in influencing the management of criminal behavior.

Framing crime as a national security concern changed the type of power that could be brought to bear on the problem. Up until this point, crime remained relatively confined to state and local authority. Federal interest in manipulating the crime narrative, framed by J. Edgar Hoover's FBI, lacked the means or the structure to systematically implement centralized enforcement (Gest 2003). That circumstance changed with the passing of the Omnibus Criminal Control and Safe Streets Act (OCCA), signed by President Johnson in 1968 (Simon 2009). This expansive legislation included a number of civil rights-oriented provisions, chief among them the creation of the first criminal justice database for law enforcement (LEAA), which collated data for criminal justice research focused on social aspects of crime (Bucerius and Tonry 2014).

The OCCA shifted aspects of crime control to the federal government, providing increasingly centralized organization and structure (Simon 2009). This centralization was accomplished mainly through millions of dollars in block grants to law enforcement, giving the federal government increased influence on police activities within states and even local jurisdictions (Simon 2009). Thereafter, the OCCA continued to expand, and numerous other federal laws, of equal or greater consequence, followed (Beckett 1997).

When considered within the historical context of the civil rights movement and the social justice revolution of the 1960's and 1970's, the significance of centralization becomes clearer still. American society was undergoing profound changes, confronting issues of segregation, diversity, and individual rights. The public became increasingly exposed to episodes of police violence and the racial dichotomy of tensions, mainly between white perpetrators and black victims (Surette 2006). Activists demanded the political system address clear injustices and take a more active role in redressing the grievances of the victims (mostly African Americans). The public and the courts arrived at conclusions which were often at odds with the entrenched political interests of the federal

and legislative branches (Kamisar 2000).

Certain political groups found it crucial to control where the public located the problem and what individual or institution they found responsible. Compiling Gallup opinion polling data from 1965 to 1980, Scheingold (1984) demonstrates that when presented with open-ended surveys about the most important issue facing the country, Americans consistently ranked issues other than crime as most pressing. With the exception of 1968-9, and '73, the percentage of Americans ranking crime as a critical issue was below 10 percentage points (See Appendix, Table 1).

This fact indicates that, despite an increasing crime rate, the public was still relatively undaunted by this phenomenon or its consequences significantly. However, when asked using a different survey employing forced choice questions⁷, participants consistently ranked crime as the highest priority issue for the same survey years compared to other topics (See Appendix, Table 2). Scheingold (1984) suggests that this statistical contrast indicates that crime in public perception is "latent rather than active," pointing to a "powerful current of suggestibility" (43-4). These findings are consistent with Beckett and Sasson (2007) who demonstrate that public perception and fear of crime is "top-down" (120), initiated by political agitation and media coverage. By comparison, respondents to open-ended surveys for the same time period listed issues relating to civil rights, the Vietnam War, and nuclear arms as more significant (Scheingold 1984).

Beckett and Sasson (2007) and Scheingold (1984) look more closely at another indicator of public crime perception: fear of walking alone at night. With the exception of a significant increase between 1972 and 1975, response trends in both data analyses show that rates have remained notably stable over time, declining in the past decade. This trend sharply contrasts with crime policy initiatives, which have steadily grown in number (Beckett and Sasson 2007). Scheingold (1984) also shows that elevated negative responses to "fear of walking alone at night" surveys are better understood by breaking down the data to show the categories of respondents most expressive of that sentiment, specifically women and minorities in urban areas. In each case, the existing "current of suggestibility" creates an opportunity to direct public opinion independent of actual crime numbers. Despite increased public awareness, recent polling demonstrates this divergence, where the public assumes

that crime rates are rising despite statistical evidence to the contrary (see Figure 1). This particular dataset is instrumental to understanding the categories of crime that impact public perception strongest, and therefore, are the most politically expedient.

The disparities in public concern over crime and the political focus on crime were also reflected in civil rights era court decisions. The Warren Court, named after Chief Justice Earl Warren, ushered in what is commonly referred to as the “due process revolution,” starting in 1961 with the Court’s landmark decision to disallow evidence obtained through illegal search and seizure in *Mapp v. Ohio* (Kamisar 2000). The Court’s other landmark decisions in *Miranda v. Arizona*, *Gideon v. Wainwright*, *Terry v. Ohio*, and *Beck v. Ohio*, among others, reinforced defendants’ constitutional rights and created better defined and enforced rules of criminal procedure (Pye 1968). These decisions also limited the near impunity law enforcement had grown accustomed to of violating defendants’ rights (Pye 1968). The impact and significance of the due process decisions by the court cannot be overstated; to this day, they incite conservative condemnation on the undermining of law and justice (Rising 2010).

Of course, these decisions were responsive to the social and civil rights revolutions, noted above, that at once demanded and facilitated such decisions. Quoting McCloskey, Pye (1968) notes, “The Warren Court’s espousal of civil rights was less a matter of deliberate choice than of a predictable response to the wave of

history,” adding, “It may be forcefully argued that the increased concern of the Supreme Court in matters of criminal justice was almost inevitable” (256). The Warren Court’s most notable decisions had not overturned precedent either, as some had suggested — many were, in fact, broader reiterations of decisions made years prior — however, they provided sharp rebukes of violations of individual rights by law enforcement within the broader context of the rights revolution (Pye 1968). To some political interests at the time, that was a particularly acrimonious confluence.

Concurrently, the national crime rate was rising significantly. Over the decade, the national crime rate more than doubled from nearly 3.4 million incidents in 1960 to 7.4 million in 1970 (Uniform Crime Reports, United States). A wealth of scholarship indicates that the incredible social, economic, and foreign policy upheaval of the time, including the Vietnam and Cold Wars, the civil unrest resulting from public dissent, and the recent assassination of a very popular president (President John F. Kennedy), were at the root of this surge in criminal activity (See Ciment 2015; National Research Council 2014; Rising 2010). There is also some credence to the theory, put forth by Eterno (2007), that law enforcement lacked adequate coping strategies to efficiently implement the new legal requirements. Those deficiencies also may have contributed to some degree of attrition within the police force, impacting the crime rate. However, conservative lawmakers were quick to associate this trend with the “handcuffing of the police” by the liberal Warren Court, and the “coddling of criminals” (Rising 2010).

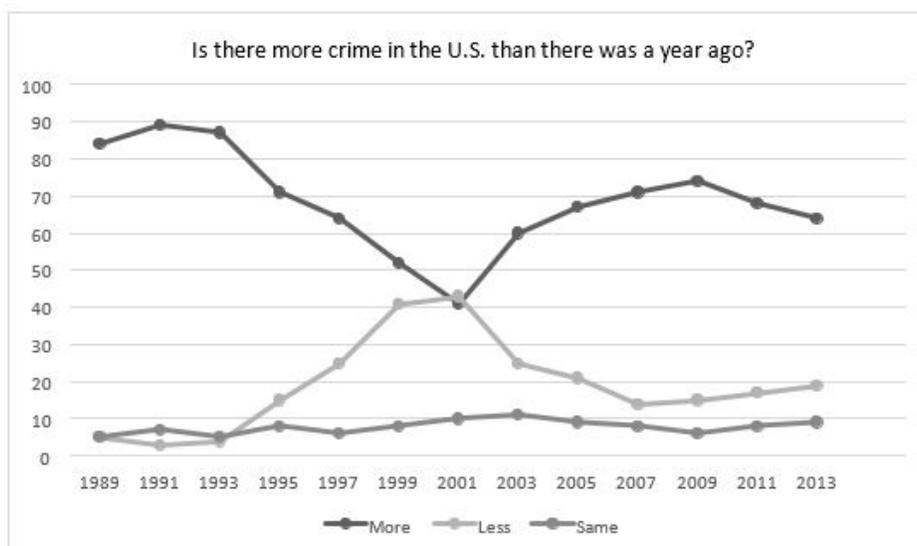


Figure 1. Source: Gallup Crime Perception Survey (Jones and Saad 2014)

These lawmakers stoked racial resentment to associate criminality and disorder with the civil rights movement, smearing “liberal” policies that supposedly condoned it. Never before were the mechanisms of the justice system, or academics and public figures so politically assailed and subjected to calls for reform and/or expulsion for their stances on crime (National Research Council 2014).

Conservative and white segregationist anger against the Court, stemming from its anti-segregation, anti-discrimination, and socially reformist decisions well before 1961, found a new focal point for admonition: crime and law enforcement (Rising 2010). This particular event signaled an important shift in public policy initiatives, from civil rights to criminal justice. Nowhere was the shift more evident than in the 1964 presidential election, when Republican senator Barry Goldwater challenged President Johnson’s “Great Society” initiatives with a “law and order” platform that promised to “not support or invite any American to seek redress... through lawlessness, violence, and hurt of his fellow man or damage of his property” (Beckett and Sasson 2007, 50). Goldwater, as the National Research Council report finds, used “explicit and implicit race-based denunciations of the civil rights movement” to gain white votes (2014, 108). Though crime was indeed rising at a significant rate, the statistical incongruities between the public’s concerns related to crime and its perception, noted by Schiengold (1984), are indicative of the capacity to manipulate public response.

In a clear demonstration of the public’s lack of “outrage” towards the crime issue, Goldwater lost his bid spectacularly to Johnson, but crime had now become front and center in the political arena. Conservative lawmakers, having lost both houses of Congress, were eager to stoke this trend (Beckett and Sasson, 2007). Ted Gest (2001), who conducted interviews with over 100 officials and congressmen for his book *Crime and Politics*, quotes then-DOJ crime research chief Gerald Caplan: “It was understood that the effect of Senator Goldwater’s lopsided defeat was not to bury crime as an issue, but merely to transfer the official responsibility to the democratic administration” (6).

Soon thereafter, President Johnson declared a “war on crime”, creating the Office of Law Enforcement Assistance (OLEA), appointing a national crime commission, and pushing through Congress the Law Enforcement Assistance Act (LEAA), all of which radically federalized the administration of criminal

justice and opened an ever-increasing war chest of federal funds to state and local law enforcement (Beckett and Sasson 2007; Simon 2009; Lee 2007). Despite the pressure, Johnson attempted to take a social science and research-based approach to the examination and remediation of the crime problem, creating federal databases to track law enforcement action and crime incidence and apportioning funding to rehabilitation programs and other social development (Lee 2007).

The President’s Crime Commission conducted research, surveys, and interviews, involving thousands of participants and experts, in an attempt to produce a bipartisan and comprehensive report (Gest 2001). The commission’s contribution to the development of research, professionalization, and public understanding of the criminal justice process cannot be understated, with over 200 recommendations in the final report. However, this huge undertaking proved too big for its own good. The commission’s work was plagued with political infighting and came into conflict with other parts of the federal system, most notably J. Edgar Hoover’s FBI (Gest 2001). As a result, the most important parts of the report went largely unnoticed.

The migration of the crime issue across party lines would have a lasting effect on the politics of criminal justice policy across administrations, hindering or altogether muting voices that questioned “get tough” policies (Lee 2007). The passage of the OCCA in 1968, meant to be the legislative product of the Commission report, was a radical reversal from the Great Society underpinnings of previous crime related initiatives, directly undermining some of the Supreme Court’s most significant due process decisions (Kamisar 2000). Now, the ‘war on crime’ fronted all sorts of political finagling, from suppression of public dissent to de jure discrimination and segregation to score settling with the judiciary (Rising 2010).

The crime narrative’s success in redirecting the civil rights campaign and transferring greater control to the state over its subjects, in a particularly punitive sense, led to its eventual evolution (Lerman and Weaver 2010). Despite the unprecedented expansion of the federal role in law enforcement regulation, the scope of federal control was still limited, particularly in relation to street crime. The main thrust of federal control remained through funding, where the allocation of funds would be contingent on state and local cooperation in addition to implementation of federally recommended or provided standards. This barrier to further federal expansion in

the area of law enforcement led to the next great shift in the political construction of crime: the war on drugs. Unlike violent crimes such as murder, rape, and robbery, drug offenses fell under federal jurisdiction, providing much greater latitude to the federal government in crime control (Simon 2009). Shortly after the election of President Richard Nixon, the shift in drug control policy as a focal point of the war on crime began to take shape.

By increasing the political visibility of crime and linking it with drug abuse, President Nixon increased the drug enforcement budget more than ten-fold, from \$65 million to \$719 million, and the LEAA budget by over 500%, from \$65 million to over \$500 million (Beckett and Sasson 2007). These staggering expansions of the government's law enforcement resources were only possible through the powerful political drive of the crime narrative, which tapped into the public's underlying concern about issues of personal security (Scheingold 1984). President Nixon may have been more vocal and unabashed in brandishing crime and punishment; however, his successors would continue to use this narrative to similar effect in the decades to follow.

THE NARRATIVE OF CRIME

Eminent in the conversation on crime policy changes and implementation is the greater narrative of crime within society — its agents and actors. As with most publicly accepted narratives, the narrative of crime foregrounds all other events related to crime; it shapes and influences the way the public responds to it, the government deals with it, and society acclimates to it. We already discussed public receptivity and reactivity to matters that concern personal security, emphasizing the high rate of suggestibility in such topics. Through the deployment of powerful, persuasive narratives such as patriotism, national identity, personal security, and chaos, political and media-based rhetoric reshaped the narrative of crime for political expedience. Just as the President uses carefully chosen words to reinforce particular policy objectives, his words help construct the societal narrative surrounding crime. Lynch (2008) chronicles a fundamental shift in this narrative coinciding, naturally, with the shift in policy starting in the early 1960's and again in the 1980s, with the advent of the "war on drugs." This shift in the definition and image of the "typical criminal" was also highly racialized, reflecting the political upheaval of the time. Lynch's research provides the clearest evidence of the interlocking of public policy and the shift in narrative.

Lynch (2008) describes three distinct typifications of "the typical penal subject:" an 1) old penal subject, a 2) transitional penal subject, and a 3) new penal subject (Lynch 2008, 90-4).

Accompanying these individual characterizations is a characterization of the system needed to accomplish the goals of rehabilitation, containment, or eradication of the "penal subject" in question. The "old penal subject," pre-dating the 1960s, was characterized as "a reformable being," someone "who needed to be known and understood," using Garland's term "penal-welfarism" to describe the systemic ideology approaching the criminal subject (Lynch 2008, 90). These presumptions about the role of the criminal and the state served to develop the institutions of the latter not as a permanent destination where individuals are cast away, but an interventional stage that only in extremely rare cases would dispose of its subjects. Lynch (2008) describes this relationship:

Thus, the criminal/penal subject merely deviated on one or more scales from an idealized norm, rather than belonging in a quantitatively different category of being. And since the penal subject's offending behavior or deviant acts fell within a continuum of human behavior, this conception of the penal subject held the potential for productive change and was generally viewed as worthy of state efforts to impel that change (90-1).

Key to this conception is that crime was fundamentally a treatment problem that required a level of expertise within the system, an expectation of reformation and conditional improvement, and a need to address conditions external to the "criminal" (Lynch 2008). What proceeded that understanding was a sea change in the conception and representation of the criminal or "the penal subject." Lynch (2008) notes the competing theories emerging regarding crime and the state's role in intervention borne out of the rehabilitative policies and assumptions of the Johnson administration and his Crime Commission. She also highlights the ultimate success of the largely political narrative that distinguished the criminal from the average individual. Citing an earlier study by Beckett, Lynch (2008) references the use of "law and order" rhetoric to shift the public conceptualization of crime and criminals: "This political tactic, then, helped shape a new construction of the penal subject as one who... was a much more significant threat to the nation's well-being than previously conceived" (92).

Even more essential was the racial shift that occurred in the portrayal of the penal subject, which Lynch (2008) documents closely through her research into correctional advertising and communication over a fifty-year period. This racial shift occurred over two phases, in the transitional period of the 1960s and 70s first: “a more violent... more irrational, and less redeemable African American convict” that joined the former (inevitably male) “weak but redeemable white inmate,” and later: “a wholly irredeemable ‘other,’ primarily identified as African American, who is best incarcerated to protect society” (93).

Comparatively, the first subject, the white inmate, fit the treatment model: smaller than his handlers, perhaps “sickly,” being led, and the second subject, the darker-skinned inmate, fit the threat model, “a bulky, muscled figure” with a “surly or menacing facial expression,” attempting to break loose (Lynch 2008, 93). This shift reflects the emerging political narrative of crime as an essential threat that needed to be eradicated, crushed, or suppressed, but never treated or studied. The racially framed “irredeemability” allows also for the delegitimization of the concerns and complaints of these individuals and elevates their magnitude of threat.

The transitional period did not last very long, as the latter image of the criminal became standardized and shifted, perhaps further, towards an even less relatable or redeemable ‘other’. Therefore, the new penal subject was an evolved version of his transitional counterpart: “The imagined prototypical offender in popular, political, and even justice policy circles tended to be the scariest (although statistically rarest) type of criminal, who need not be understood or corrected but who must at any cost be contained and disempowered” (Lynch 2008, 94).

This new conceptualization of ‘the criminal’ was thus more simplistic and less complex, placing greater (if not all) onus on the individual and therefore an inherent defect in their being. Though correctional institutions still retained their distinction as being ‘correctional,’ they acted more like clearing houses and containment centers than places where one might actually expect ‘corrective’ measures. Eventually, this characterization of the criminal evolved further, drifting far from its health and social beginnings to the “super predator” of the 1990s (National Research Council 2014). In the interim, the penal system was expanding rapidly, cementing its role as a repository for “undesirables” that had no other means of redress. The common narrative on crime allowed

criminals to grow more and more distant from ‘normal’ members of society and therefore easily discounted and shunned as having “chosen” a path of self-destruction, rather than being potential victims of a system that fails to create opportunities for recovery. Other categories of individuals, such as immigrants and religious or ethnic minorities, who on occasion would find themselves the subject of political vilification, would face similarly punitive treatment (Lynch 2008).

On an organizational level, the political conversation on crime that undergirded the shift in the portrayal of the common criminal was fueled by Southern policymakers threatened by the prospect of integration and the end of Jim Crow during the civil rights era. Stoking white fears of integration, local governments in the South published erroneous “crime reports” and laid blame on social programs for harboring and even nurturing criminality (Lerman and Weaver 2010). The narrative of crime emerging from that political climate consistently and pointedly spoke of crime and justice in racial terms. As Murakawa (2005) observes: “southern Democrats opposed civil rights legislation in criminological terms, arguing that forced racemixing breeds crime, that civil rights legislation rewards black lawbreaking, and that blacks are responsible for street crime” (81).

Linking crime with race and shifting the conversation from social equality and development to criminal justice and ‘law and order’ resulted in a dilution of the civil rights argument, making it possible for the criminal-as-enemy image to take hold. “The language of lawbreaking relied on and promoted a social vision of individual failure rooted in moral depravity” (Lerman and Weaver 2010, 55). This emerging narrative played on public fears over personal safety, becoming a force of its own that was politically unwise to confront. Thus, more liberal political forces who supported integration and social reforms became subsumed by the greater criminal justice narrative. The political power of these socially constructed narratives of crime is clarified by Boushey (2016), who suggests that criminal justice policies are congruent with “target population” typification, pressuring state and local governments to “respond” to the crime issue with increasingly punitive “law and order” policies (210-12).

Another powerful means of developing the common narrative of crime and shaping public consciousness is the media. Both through journalism (news) and popular culture (such as film), the crime narrative has been created and dramatized for optimal affect. The media has

helped propel this new image of the criminal, described as menacing, rogue, irredeemable, and most importantly “other” — dark skinned and racially, ethnically, or religiously different. Violent crime, being the most prone to sensationalism, has firmly occupied the airwaves, with the perpetrator nearly always African-American (Beckett and Sasson 2004). In fact, in addition to getting a larger share of coverage, Beckett and Sasson (2004) found African-Americans were “depicted differently” than white defendants, often as perpetrators of violent crime, pictured “in the physical custody of police” and not named, using instead terms such as “suspect” or “perpetrator” (79). By contrast, the victims of violent crime often are represented as white and female in direct contradiction to every statistical trend on violent crime in the United States, the overwhelming majority of whose victims are black and male (Beckett and Sasson 2004).

A more recent study conducted in 2014 for “The Sentencing Project,” indicates that these racially distorted depictions persist despite increased awareness of their fallacy and consequences (Ghandnoosh 2014). Surveys cited in the study show that white respondents overestimated minority criminality by 20 to 30 percent and were more likely to view blacks and Latinos as “more prone to violence” (Ghandnoosh 2014, 13). The rhetorical power of these portrayals and terminology cannot and should not be underestimated. White fear of black crime is an essential political construct borne out of the throes of the segregationist American South and cultivated by the media. The “atypical” reporting and representation of the perpetrators and victims of crime is “not a product of how representative or novel a crime is,” Ghandnoosh (2014) suggests, “but rather how well it can be ‘scripted using stereotypes grounded in White racism and White fear of Black crime’” (Lundman quoted in Ghandnoosh 2014, 23). This discursive, stereotypical loop self-substantiates by presenting and subsequently reinforcing a particular narrative of crime. Beckett and Sasson (2004) observe that the same narrative is extended into popular culture in movies, TV dramas, and reality-based programming, further cementing the latter. The result is not only a distorted representation of violence, but a lack of recognition of the disparate minority experiences with the justice system compared to whites (see Figure 2).

Similar to the statistical trends of public opinion regarding crime, Beckett and Sasson (2004) demonstrate an incongruence between coverage of crime and actual crime incidence rates. For example, over a period of five years starting in 1990 when crime rates, particularly

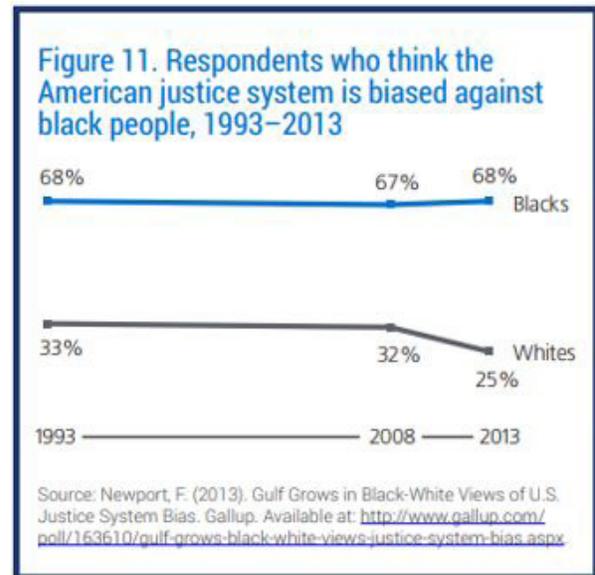


Figure 2. Source: Ghandnoosh (2014)

homicides and violent crime, had fallen by over ten percentage points, “television and newspaper coverage of crime increased by more than 400%... [and] network news coverage of murder... increased by 336%” (Beckett and Sasson 2004). Scholarship abound about the “manufacturing” (Surette 2006) of crime “waves” and crime “surges” (See Himmelstein 2014; Kappeler and Potter 2014; Miller, Potter, and Kappeler 2006). Instead of being rooted in reality, there is a divergence between crime incidence and its reporting, thereby creating the presumption of a crisis in the absence of it.

Beckett and Sasson (2004) go further: beyond being a conduit for transmission of the crime narrative, “Under some circumstances, media personnel may also play a direct-role in the policy making process” (87). They cite early research by criminologist Mark Fishman who chronicled one such “crime wave” of purported violence against the elderly, even though no specific increases in crime against the elderly had actually occurred. Nevertheless, the media campaign at the time resulted in “the creation of new law enforcement squads and tactics, the reallocation of public and police resources, and the introduction of legislation aimed at protecting the elderly” (Beckett and Sasson 2004, 87). It is no surprise that the public is receptive to such sensational stories of crime — the anomalous and rare event — and this insidious power is deserving of more scholarly attention.

Law enforcement itself is hardly immune to the popular

narrative of crime. Officers and agents are, after all, members of society exposed to the same narratives and the same information as anyone else in the public. Though their specialization may afford them access to sources of information not readily (if at all) available to the public, this information is not part of the average officer's repertoire, and even then requires analysis and interpretation to produce meaningful conclusions (Maguire and Uchida 2000). Some effort is put into re-aligning faulty assumptions in the training process (Eterno 2007). This is particularly true of larger law enforcement agencies with police academies and substantial funding, a category to which a vast majority of law enforcement agencies do not belong; however, the fundamental assumptions about crime and criminality remain the same.

Incorporating this crime narrative into law enforcement has significant consequences, not only on individual perceptions, but in enacting these latent assumptions in society. Increased scrutiny by law enforcement of specific target populations inevitably leads to reduced scrutiny of other areas and populations (Michalowski 2000). In those areas of high scrutiny and contact with law enforcement, there is a much higher likelihood of uncovering incidence, and the converse is also true. Those who experience low contact with law enforcement are not represented in criminal populations by virtue of that decreased scrutiny. This trend is not necessarily a result of a lower rate of criminality overall, therefore perpetuating the common narrative of certain populations being more readily disposed to violence than others (Reiman 1984). In essence, the crime narrative has become a self-fulfilling prophecy of national proportions.

CONCLUSION

Unfortunately, the skewed narrative and continued ambiguity around crime, its origins, and effective ways of deterring it serves political purposes. Matters of personal security carry the greatest potential for impact on individuals, touching on the innate desire for self-preservation. Politicizing crime allows politicians and policy makers to tap into this powerful driver for short-term political gain. We continue to see that phenomenon today with school shootings and the gun control debate (Lloyd 2016), the opioid crisis and the ongoing drug war (Rodriguez 2018), and varied manifestations of the War on Terror (Mancino 2016). Meanwhile, the true factors of crime in society, and potential solutions, are given little attention. Worse still, the mechanisms, institutions, and

agencies taxed with protecting the public, ensuring safety, and repelling deviance do so with a distorted mandate. The law enforcement apparatus continues to operate under an outdated narrative of the actors and agents of crime and criminality, unnecessarily racializing police activities and creating a dichotomy of confrontation. The federalization of law enforcement subsumed its professionalization, negatively influencing the localized strategy and responsiveness needed to effectively police and serve communities, while reducing the positive effect of professionalization. It has also facilitated the politicization of crime and given outside power to politics and politicians over crime control.

So long as politics remains the central animating force in crime control, truly effective mechanisms for law enforcement and a fair and just system will remain elusive. However, there are signs of a positive shift. Growing public awareness and a reformist wave in political and institutional rhetoric suggests that a more effective and equal system of crime control may yet be possible. Uggen and Larson (2017) state that "the public is making halting but steady progress toward becoming smarter, rather than tougher, on crime." Recognizing the inherent fallacies of the crime narrative and the politicized shaping of law enforcement, which this research has attempted to do, is a step in the right direction. Further research in this area and on the means and mechanisms of reform and reevaluation is needed to discover viable solutions.

NOTES

1. Rodney King, a 25-year old African-American, was stopped by police following an alleged car chase. While attempting to apprehend him, Los Angeles Police Department (LAPD) officers were videotaped by a local resident brutally beating King, as their colleagues looked on. The case led to the scrutiny of the LAPD as a department for systemic abuse and misconduct. For additional details, see Mydans (1991).
2. For the purposes of this paper, "the state" is defined as polity, an organized political entity (such as the American state) rather than the geographical state, i.e. the state of Tennessee.
3. For more on this particular aspect, including a discussion on statistical integrity when estimating national crime trends, see Mosher, Methe and Hart (2011).
4. See *Brown v. Board* (1958).
5. See *Brown v. Board* (1958), and to a lesser extent *Heart of Atlanta Motel v. United States* (1964).
6. See *Mapp v. Ohio* (1961), *Gideon v. Wainwright* (1963), and *Miranda v. Arizona* (1966).

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APPENDIX

Table 1: Percentage (and rank order) of those responding "crime" of crime combined with such related matters as "lawlessness", "law enforcement", "juvenile delinquency", and "immorality."

1968	1969	1970	1971	1972	1973	1974
29 (2)	17 (2)	5 (5)	7 (4)	10 (3)	17 (2)	4 (3)
1975	1976	1977	1978	1979	1980	
5 (5)	8 (3)	15 (4)	3 (5)	8 (2)	2 (8)	

Source: *Scheingold (1984)*

Table 2: Political salience of crime: Forced-Choice Questions

	1973	1974	1975	1976	1977	1978	1980
Halting the rising crime rate	64	67	65	65	65	64	69
Dealing with drug addiction	65	60	55	58	55	55	59
Improving / protecting nation's health	61	64	62	60	56	55	55
Improving / protecting the environment	61	62	53	55	47	52	48
Improving nation's education system	49	50	49	50	48	52	53
Solving the problems of big cities	48	50	47	42	40	39	40
Improving the conditions of blacks	32	31	27	27	25	24	24
Welfare	20	22	23	13	12	13	13
The military, armament and defense	11	17	17	24	24	27	56
Space exploration	7	8	7	9	10	8	18
Foreign aid	4	3	5	3	3	4	5

Source: *Scheingold (1984)*