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doi: <https://doi.org/10.57709/36980536>

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Three Strikes, then, Two Strikes You're Out:
Effects of Mandatory Sentencing Laws on Incarceration
The Impact in Georgia

by

Mason Iyomeju Iseleye Oruru

Under the Direction of Committee Chair Maurice Hobson, Ph.D.

A Thesis submitted in Partial Fulfillment of the Requirements for the Degree of

Master of Arts

in the College of Arts and Sciences

Georgia State University

2024

ABSTRACT

The nexus of the “War on Drugs” and associated discriminatory sentencing policies like the “Three Strikes” rule and Georgia’s “Two Strikes” sentencing laws have resulted in the disproportionate incarceration of marginalized populations in the United States. This has induced other negative consequences, intended or otherwise (e.g. re-entry barriers of employment, denial of the right to vote, housing affordability, and the breakup of the family unit). The “Two Strikes” rule implemented in Georgia in 1995 contributed to an increase in incarceration. I propose to critically examine Zell Miller’s “Two Strikes” legislation as the culmination of the various crime bills and sentencing laws that enabled a variety of adverse outcomes for disadvantaged communities. I intend to employ a mixed methods approach. A quantitative measure of statistical evidence in disproportionate incarceration and a narration of the lived experiences of ex-offenders. My qualitative method will analyze and interpret the impact of sentencing laws.

INDEX WORDS: two strikes, three strikes, black men, disproportionate, mass incarceration, prison, re-entry, criminal justice, war on drugs, imprisonment, sentencing laws

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2024

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Effects of Mandatory Sentencing Laws on Incarceration
The Impact in Georgia

by

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May 2024

DEDICATION

This thesis dedication is to my beloved late mother Juliana Warmate Oruru, whose spirit I'm sure is filled with pride. Though no longer with us, you've been with me in soul and character through my life's navigation. I would like to thank my lovely friend Oluwatomisin Adekanye. You have been a comforter when things don't seem to be right. You've given me positive feedback and words of encouragement and have shown the support of a true friend. My gratitude also to my daughter Lola. Through your life, I've been able resuscitate a strength of direction and purpose. For all those I'm forgetting to mention who have contributed in any shape or form, I throw my salute. Kudos is the hat I raise, bravo the praise I sing. Lastly, I want to thank Lady Tossinger, as the editor of my book "Afrobeat Got Soul" you've continuously added both constructive criticisms, praise, and suggestions for ways to improve my craft of writing. May the spirit of our ancestors guide every one of us in all our life's pursuits.

ACKNOWLEDGEMENTS

I want to thank my thesis chair, Dr. Maurice Hobson, for being a mentor and taking the time to invest in my academic development. I also want to thank my other committee members, Dr. Volkan Topalli and Dr. Jonathan Ifeanyi Chukw Gayles for their guidance, insight, and willingness to assist me through the process. It has truly been an honor being mentored by such great minds of wisdom. Much appreciation to Dr. Sarita Davis who guided me through my Methods classes including showing me the ropes to successfully embark on this journey. I should not forget Dr. Toivo Asheeke for utilizing the proximity of his office to my desk for reassuring words and affirmation of my work. To my cohort Safiya Miller, I leaned on you for advice many times, and I thank you for your unwavering support.

To Dr. Akinyele Umoja, who taught me more about Yoruba pantheons than I did growing up in my native Nigeria courtesy of my attendance stewardship in his 'Religion of the African World' class. Yes, I'm in consensus with you that "We Will Shoot Back" since if you're Black, stay back, if you're brown stick around, if you're yellow you're mellow, and if you're White, you're alright is still in place. Of course, a nod to the brilliant mind of Dr. Makungu Akinyela. His analytical dissection of the sociogenic disposition of Frantz Fanon divulged the complexity of identity and struggle in me. Thank you for recognizing the substance of my "Fanon Decolonization Framework" essay in your Theories class and encouraging me to submit it for the Terry Kershaw Student Essay Competition administered by the National Council for Black Studies. This resulted in my winning 3rd place in the contest. Lastly, to the entire African Studies Department, I owe a big gratitude for being part of an amazing and professional body of people. Your warm reception of my book "Afrobeat Got Soul" gave me elevation. I will always remember your spirited apparatus for upliftment and reassurance.

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1 CHAPTER ONE

1.1 Introduction/The Problem

Over the past several decades, the United States has experienced a dramatic surge in imprisonment, specifically affecting the Black community more than other communities. Black people are now incarcerated nine times more than non-Hispanic Whites and comprise more than 40% of all inmates. One in eight Black males 25-29 was behind bars in 2004 (Mechoulan, 2007). Black men are about six times more likely than Whites to be sent to prison and are likewise overrepresented among released prisoners (Bureau of Justice Statistics 2004). Some evidence supports that Blacks may also pay a higher penalty for having a criminal record as opposed to Whites (Pager, 2007). Given current trends, one Black male child out of three will go to prison or jail once in his lifetime (Mechoulan, 2007). The purpose of this study is to analyze the disproportional increase in incarceration rates due to predatory sentencing laws and the impact it has on the disparities of the re-entry process for ex-offenders.

Hypothesis: (1) That predatory sentencing laws like the three strikes sentencing, Zell Miller's "Two Strikes" and the "War on Drugs" has negatively impacted marginalized populations in the United States, including the increase in incarceration rates. (2) It has produced adverse consequences in the process of re-entry; among them, denial of employment, health disparities, housing affordability. and effects on families.

Method: A mixed research method imploring quantitative data of statistical evidence with a qualitative analysis and interpretation of how the independent variable (War on Drugs) had a causal effect on the dependent variable (mass incarceration), while both are impacted by sentencing. Individual experiences by way of interviews measuring the disparities in the process of re-entry will facilitate the quantitative approach to this study. This leads to our two research

questions: (1) Did the “War on Drugs” and predatory sentencing laws result in increased incarceration, and how specifically did the ‘Two Strikes You’re out’ law impacted incarceration rates in Georgia? (2) What are the barriers and disparities experienced by ex-offenders upon re-entry back to society.?

1.2 Theoretical Framework

A social justice theoretical framework in tandem with oral history that focuses on narrating unjust policies which stems from the lived experiences of systemic oppression will aid this study. Disproportionally rendered injustice will be scrutinized utilizing a solution-based approach with a reformative lens of prioritizing rehabilitation over incarceration. While there is literature addressing the causal effect of mass incarceration, gaps remain in the study of a concerted effort to find permanent solutions. Those gaps include bridging in the gap of sentencing laws, that create inequality. My research contributes to scholarship about the remedies to combat discriminatory laws hindering gaining employment, denial of the right to vote, health disadvantages, and affordable housing of post incarceration.

1.2.1 Historical Context (Pre-Independence)

A historical trajectory is necessary to bring into context how criminalization and the efforts to combat it has shaped the American justice landscape since independence. From an historical standpoint and perspective, the origins of modern-day policing and the consequent inequality of the criminal justice system in the United States can be traced back to the ‘Slave Patrols’ (Lepore, 2020). Throughout the colonial and antebellum periods, slave patrols, city constables, and state militias functioned as premodern progenitors of domestic police forces across the United States (Dunbar-Ortiz, 2014). The earliest formal slave patrol was created in the Carolinas in the early 1700s with one mission: to establish a system of terror and squash slave uprisings with the

capacity to pursue slave fugitives (Lepore, 2020). This perilous foundation became a precipice from which all other forms of subjugation, incarceration, domination, control, power, authority, and ascendancy will be emulated in America.

1.3 Era of American Slavery

The practice or institution of slavery was not a new phenomenon in the world before the advent of the Trans-Atlantic slave trade. In examining the nature of man, history has attested he is for the most part, entirely the creature of circumstances. Ancient civilizations like the Romans, the Creeks, the Mesopotamians or African and Asian, have been involved in slave practice either of their own subjects, or of from their captors. Steven Mintz gave a comparative analysis of locations of slave populations arriving in the Americas (Mintz, 2012). This informs the destination and locations of slaves in the United States compared to other locations in central and south America.

The passage of time and degree of necessity influenced the nature of man's enslavement to his fellow man. The unsophisticated knowledge of the capital benefit of slave labor made the ancient enslavers to brutalize, jail and kill their subjects as opposed to keeping them alive and using them for profit. This lesson was learned at the advent of the Trans-Atlantic trade. Slavers sometimes tend to capture and torture instead of capture and kill. A case in point was when Kinta Kunte was captured and beaten by slave raiders and part of his foot was amputated (Haley, *"Roots The Saga of an American Family,"* 1976 p205). After the abolition of slavery, the insatiable propensity of the greed to maintain the status quo compelled southern slave holders to use the exception of the 13th Amendment loophole to their advantage. Convict leasing and debt peonage were mostly institutionalized southern initiatives to continue the enslavement of Black people.

1.3.1 Jim Crow/Reconstruction

The emancipation proclamation liberated people of African descent from slavery. On January 31, 1865, Congress passed the 13th Amendment, and it was ratified December 6, 1865. But there was an exception: Section 1 states: “Neither slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.” Following the demise of reconstruction in 1877, policy makers and officials nationwide undermined the extension of formal equality to Black citizens, and instead, new criminal laws and penal systems emerged in the form of Black codes and convict leasing in the state and local levels (Hinton, Cook, 2016). This atrocity was vividly depicted in Douglas A. Blackmon’s acclaimed documentary called “Slavery by Another Name” (2008). In other words, anyone convicted of a crime is not emancipated. Some have categorized convict leasing as being even worse than slavery. Convict leasing became the foundation of the beginning of what would later develop into “The Prison Industrial Complex” (PIC).

Reconstruction was supposed to be a time when some form of restitution and compensation was to have taken place for the formerly enslaved; but unfortunately, this was short-lived. Federal troops were positioned throughout the South to protect newly freed Blacks and keep the peace, but ‘The Compromise of 1877’ which gave Rutherford B. Hayes the presidency in exchange for the end of reconstruction put an end to that. (Woodward C, 1991). It essentially shaped the future of 4 million freedmen. Armies of “free” Black men labored without compensation, were repeatedly bought, and sold, and were forced through beatings and physical torture to do the bidding of White masters for decades after the official abolition of American slavery. Though slavery was now illegal, southern states empowered by the 13th amendment

instituted the Black Codes, which would eventually become the infamous Jim Crow Laws. Black Codes and Jim Crow Laws increased the severity of petty crimes and acts such as loitering and jaywalking resulted in imprisonment (Stern, 2002). Another way that Black people were forced into labor was through a system known as “debt peonage” (Jaynes, 2023). This is a state of indebtedness to landowners or merchant employers which limit the autonomy of producers and provide the owners of capital with cheap labor. Profitability kept the system going up through the 1960s until public sympathy started to grow.

1.3.2 Civil Rights & Black Power Era/Modern Day Incarceration

The sophistication of the penal system by way of law enforcement’s discriminatory policies in ramping up more arrests and convictions leading to mass incarceration was brought to a new level in the 1960s. During the Jim Crow era, as already noted, codes were used as punishable guidelines which saw more Black people convicted of crimes and sent to the dehumanizing labor of convict leasing. During the civil rights/Black power movements, police brutality and the federal government’s counterintelligence program (COINTELPRO) led to more criminalization of Black people in the criminal justice system. COINTELPRO was the Federal Bureau of Investigation (FBI) counterintelligence program of the 1960s and 1970s that targeted a wide range of activists, including the Black freedom movement (Rocca, 2006).

The way law enforcement went after civil rights activists and Black militants was tantamount to state-sanctioned violence of asymmetrical domestic war. Hunting down, arrests and incarceration were the mantra. J. Edgar Hoover was the nefarious Director of the FBI, who gave the sanction for the agency to destabilize civil rights and Black militants and prevent their coordination and effectiveness (O’Reilly, 1989). Further directives included the prevention of a messiah and sabotaging Black nationalist leaders from gaining respectability.

This led to mass arrests, intimidation, and ultimately unjust incarceration. It also led to assassinations and many of the activists driven to exile for decades. Examples of intimidation, framing, arrests, incarceration, and murder include Angela Davis, who was accused of conspiracy to murder and spent a year in jail before being acquitted at trial. Revolutionary Nationalist and Black self-determination activist Robert Franklin Williams and his wife Mabel fled to Cuba in late 1961 to escape the Federal Bureau of Investigation, which sought to arrest him on kidnapping charges related to the violence in Monroe, North Carolina. Assata Shakur, who was a leading member of the Black Panther Party was sentenced to life imprisonment for murder in 1977. This resulted from an incident on May 2, 1973, when Shakur and two Black Liberation Army (BLA) companions were stopped by state troopers for a traffic infraction in New Jersey Turnpike (Scott, 2014). The encounter ended in the deaths of Assata's friend Zayd and state trooper Werner Forester. Two years later, she escaped to Cuba with the help of Black militants posing as visitors (Scott, 2014). Harassment and intimidation of the Black Panther party in Oakland and northern California are on public records.

While the original concept of the Black Panther was started in Alabama, the popular version was formed by Huey P. Newton and Bobby Seal in Oakland, California in 1966. Its primary aim was to protect the Black community from constant police harassment and brutality. But law enforcement and COINTELPRO operations defamed them as a group advocating violence. During 1968-1970, the Detroit police department (DPD) launched a full-scale repression campaign against the Detroit chapter, of the Black Panther Party criminalizing its constitutionally protected activities, beating, and arresting its members in the street, and deliberately escalating violence (Murch, 2010). This culminated in a Police-Panther shootout and siege on October 24, 1970, at the Black Panther Party Headquarters. But perhaps the most

infamous was the murder of Fred Hampton, the up-and-coming charismatic leader of the Chicago chapter of the Black Panther Party. In an early morning raid on December 21, 1969, with a combined force of state and local police agencies, Hampton was killed along with Mark Clark, a fellow Panther in the presence of his pregnant girlfriend:

Elaine Brown was the leader of the National Black Panther Party in 1977 when she came to Chicago to testify. "We wanted Fred to become a national Spokesperson," she told Flint and me "He could say what everyone else did but say it better," (Haas, 2010 p282).

There were more incidences and circumstances to use as examples, however, highlighting these five instances gives the audience an idea of the tenuous relationship between Black communities and the law. Law enforcement, for the most part, be they local, state or the FBI, have tried to insulate themselves from accountability from the hazards of their actions across the Black community. Fast tracking of events today illuminates the evidence that little if any has changed. The integrity to uphold the wheels of judicial prudence, or the moral compass of equity under the law, has not seen the light of day. The same conditions of brutality, intimidation, false arrests, and imprisonment persist.

Richard Nixon's "War on Drugs" Ronald Regan's Neo-liberalism, Bill Clinton's Violent Control and Law Enforcement Act of 1994 - the "Three Strikes" enacted by a handful of states - and Zell Miller's "Two Strike You're Out" policies were contributing factors to the discriminatory mass incarceration and social disenfranchisement of Black Americans over the past fifty years. Ultimately, this has resulted in the disparity and disproportional arrests, sentencing and incarceration of Black Americans. Being convicted of a crime has a devastating effect on the employment prospect and incomes of offenders and their children, thus, the ripple effect on the standard of life in these communities. Poor mental and physical health and lack of

affordable housing are negative variables which have also impacted the prospects of re-entry after incarceration.

The Nixon Administration's "War on Drugs" as an instrument of the criminal justice system had begun as a racially motivated crusade to criminalize Black Americans and the anti-war left. This revelation was made by none other than Nixon's domestic advisor John Ehrlichman in a 1994 interview (Taifa, 2012). The Violent Crime Control and Law Enforcement Act of 1994, commonly call the 'Clinton Crime Bill' but sponsored by then Senator Joe Biden, extended tough-on-crime policies that overtly criminalized Black Americans. From those federal initiatives and historical backdrop, Governor Zell Miller of Georgia mandated that anyone convicted twice for murder, armed robbery, kidnapping, aggravated child molestation, and rape be subjected to the "Two Strikes You're Out" rule in 1994. (Heyer, 2012).

These national and state directives had a profound impact on arrests, the dissemination of sentences and an increase in the population of the incarcerated, particularly the Black male population. This research will use a narrative approach to explicate and analyze the impact of race and criminality due to the "War on Drugs" with Georgia governor Zell Miller's Two Strike mandate (Thompson, 2013). A historical question that orbits the roadmap to mass incarceration is how much credit should be given the calculative trajectory of sentencing laws. Police weaponization, state sanctioned brutalization apparatus, the facilitation of imprisonment as proxy for perpetuating systemic racism against predominantly Black communities, from slavery to the present; exhibit a thread of an organized design.

1.3.3 Summary

This introduction gave an overview of the historical context of policing and the subsequent stages of discriminatory law enforcement practices in the criminal justice system.

From “slave patrols” of pre-independence and the era of slavery, to the post reconstruction Jim Crow period when new criminal laws and penal system emerged in the form of Black codes. The “War on Drugs” put in place in the advent of the civil-rights and Black power movements justified other predatory sentencing laws that manifested into the “Three and Two Strikes” laws. These resulted in mass incarceration. As marginalized populations fight through periods of oppression, new laws were enacted to roll back progress. These predatory laws are reactions of versions we have seen in the past. There were proponents for and against this legislation in which the role of fear played an important role. The problems associated with re-entry also make the process of rehabilitation adversary. Denial of employment, health contributes to lack of affordable housing, and the deprivation of masculine roles contribute to a high rate of recidivism. A statistical evidence of the impact Georgia’s “Two Strikes” law will be shown before, during and after the laws were implemented.

2 CHAPTER TWO – LITERATURE REVIEW

2.1 The Prison Industrial Complex

This literature review will examine the multiple outcomes of discriminatory sentencing resulting in mass incarceration and the impact or ramifications of the Prison Industrial Complex on disadvantaged populations. The rise of mass incarceration following the federal war on crime is buttressed by the pernicious effects of the “War on Drugs.” Zell Miller’s “Two Strikes You’re Out” law in Georgia became a culmination of the collective harm of disproportionate sentencing laws. A deductive top-down method will steer this literature from a broad national observation to narrower specifics of the effects of the “Two Strikes You’re Out” law in Georgia.

The politics and ideology of neo-liberalism fostered an accessorial enshrinement in the advocacy of privatization, which instituted a market blueprint for the expansion of prisons. The Prison Industrial Complex is a system that exploits prison labor for the profit of corporations and governments, not to rehabilitate prisoners back into being productive members of society (Orth, 2020). John Stern asserted the institutionalization of prison systems in the United States begun in the eighteenth century, especially after Jeremy Bentham’s panopticon design which enabled detaining of many prisoners (Stern, 2010). The Prison Industrial Complex is an instrument of the overlapping interest of government and industry which uses surveillance, policing, and imprisonment as solutions to economic, social, and political problems (Schlosser, 1998). Because of the extent to which prison building and operation began to attract large amount of capital – from the construction industry to food and healthcare provision – in a way that recalled the emergence of the military industrial complex, we began to refer to a “*Prison Industrial Complex*” (Davis, 2003 p10).

To understand the proliferation of prisons and the rise of the Prison Industrial Complex, it is necessary to shed light with some historical perspective. Prior to 1973, prison populations in the United States had been on a decline (Orth, 2020). Mandatory minimum sentences (a mandatory amount of time for a guilty verdict) had been largely abolished. In January 1973, Nelson Rockefeller, then governor of New York, gave an address in which he called for mandatory life sentences for illegal drug dealers (Orth, 2020). This was around the time the “War on Drugs” officially began (Schlosser, 1998). With the statistical illumination of mass incarceration taking off around this same time, it clearly correlates the “War on Drugs” to the explosion of the Prison Industrial Complex.

In furtherance of this trajectory, draconian laws by individuals like Richard Nixon and Nelson Rockefeller led to increased number of prisoners. In turn, more prisons were built. As these prisons continued to expand, they were privatized as overcrowding and rising costs became increasingly problematic for local, state, and federal governments. As an outcome of privatization, the incentive is to keep all the cells full (Schlosser, 1998). In essence, changing policing laws, introducing mandatory minimum sentences, building more prisons, and keeping them full became the impetus of the inception of the Prison Industrial Complex. In June of 1971, President Nixon declared the “War on Drugs,” to classify and regulate the use of drugs and other substances. This policy, as Drug Policy Alliance notes, “increased the size and presence of federal drug control agencies and pushed through measures such as mandatory sentencing and no-knock warrants” (Stern, 2010). The foresighted corruption which it promises is what has perhaps fueled the government to implement these predatory and discriminatory laws. A look at the first utterance of the White House National Drug Control Strategy Goals and Objectives report states:

“The National Drug Policy (ONDCP’s) mission is to reduce drug use consequences. This mission was by the Anti-Drug Abuse Act of 1988, as amended, which requires that the annual strategy include “comprehensive, research-base, goals for reducing abuse.... [and] short-term measurable objectives which the Director [of the National Drug Control Policy determines may be realistically achieved” (Office of the National Drug Control Policy 1996, p3)

These are noble words if they had just stayed that way. Instead, what transpired was an illicit intent which unleashed the full arm of the law unevenly at the expense of targeted populations. We arrived at the Prison Industrial Complex as one of the many consequences. The Prison Industrial Complex today is a multi-billion-dollar industry. It is estimated that the entity generates \$74 billion a year (Mahmood, 2004). That is more than the Gross Domestic Product of some countries.

2.1.1 The Crime Bills

The Anti-Drug Abuse Act of 1986 created huge disparities in sentencing between crack and powder cocaine. Under this bill, a person was sentenced to a five-year minimum sentence for five grams of crack cocaine, but it took 500 grams of powder cocaine to trigger the same sentence. “Because crack is a cheaper alternative to powder cocaine, it is more prominent in low-income neighborhoods” (Ray & Galston, 2023). On the 1994 Crime Bill, crime scholars provide two schools of thought on its historical value to law enforcement (1) the role of the bill, if any, in contributing to mass incarceration, and (2) if the bill in anyway helped decrease the rate of violent crime? One school of thought was the bill probably contributed to expansion of incarceration, but the growth occurred fifteen years before the bill was enacted and has fallen significantly since. The second is that the empirical evidence does not matter. This scholarship proposes that it does not really matter because the preceding legislation such as Nixon’s War on Drugs have done the dirty work, and it would have done the same had it come first. In the

absence of the 1986 anti-drug bill, the effects of 1994 on extended incarceration rates would have been less severe (Ray & Galston, 2023).

Embolden by these sweeping laws on the federal level and the State of Georgia, other states proceeded to enact similar laws of their own. In California, the “Three-Strikes” rule went into effect and amplified the process. In fact, the law imposed a life sentence for almost any crime, no matter how minor, if the defendant had two prior convictions for crimes defined as serious or violent by the California penal code (Stern, 2010). The New York Police Department’s (NYPD) infamous ‘Stop and Frisk Policy was found to be unconstitutional by a federal judge. The controversial policy allowed police officers to stop, interrogate and search New York city citizens on the sole basis of reasonable suspicion (Meares, 2014). Racial profiling, which is a national epidemic against minorities in the United States is one of the gateways which leads to disproportionate arrests (Engel, Calnon & Bernard, 2006). In other words, it led to incarceration and ultimately feeds the Prison Industrial Complex. The historical context in the provisions of the fourth Amendment depicts an abuse of the right of people to be secure in their persons and against unreasonable seizures.

2.2 Criminalization of Blackness

The public association of criminality with Blackness in American society is pervasive, but only referenced in limited amount of research. Criminalization of Blackness leads to racial profiling and to mass incarceration. Europeans have often found vindication or justification for the brutal suppression and dehumanizing atrocities committed against people of African descent ever since both races crossed path in their existence on earth. Pejorative images of Black men as lazy, violent, and disengaged, which were first offered to justify slavery, continue to impact ways in which Black males were represented, understood and in many ways understand themselves

(Johns, 2007). This justification must be manifested in multiple formations to feed the justification.

The diabolical reversal of the victims now portrayed as villains has been a textbook American script of deceit. The product is a highlighted feel-good, guilt-free posture of the oppressors of their crimes. Black criminality, the purported nature or propensity of Black people to commit crime has been the perpetuated notion of the American media for over the past 50 years. As a matter of fact, that has been the stereotypical portrayal specifically of Black men since the birth of a nation. The media's sustained portrayal ever since people of African descent landed in the Americas, has been a plethora of panoramic dehumanization of less than human and less intelligent. There is a perceived nature of the Black man as evil and barbaric, one which needs to be altruized or tamed.

The black sheep is the symbol of rebelliousness and bad luck and is often used as a metaphor for someone who is a betrayer, or a disfavored member of family or group. The color designated for funerals is black, an attempt to double-cross a foe or loved one is blackmail, and the black market is where an economic activity takes place outside government sanctioned channels. All these language-infused biases are embedded in human literature and accepted in all human societies. Mass incarceration, or mass imprisonment, is distinguished by its scope, which is a historical and comparative aberration, and its social concentration, that disproportionately affects an entire social category (Garland, 2001). Young Black men in the United States cities, especially those with little education, are at far greater risk of incarceration than the general population (Shannon et al., 2017). Kelly Welch asserted in his essay "Black Criminal Stereotypes and Racial Profiling" that the stereotyping of criminals has been an enduring and

unfortunate feature of American culture, but it was after the civil rights movement that the linkage between Black people and crime was galvanized.

The prism of the dehumanizing value of Black people in the United States is akin to the Herrenvolk doctrine. Herrenvolk democracy is a crucial concept for understanding the potential racial dimension of democratic belonging and exclusion within a political body, as well as the inequalities of power, rights, and resources that follow (Muller, 2017). The name Herrenvolk is of German origin meaning the master race or Herrenvolk would rule over a hierarchy of subordinate peoples and exploit them with ruthlessness and efficiency (Wallenfelt, 2024).

Black men, due to the criminalization of their Blackness by law enforcement have been viciously targeted. It does matter their circumstance; they seem to be in danger during encounters with police. Empirical evidence of these are too numerous to count. One of four examples is Eric Garner, who was killed by the New York Police Department when he was held with an illegal choke hold while selling single cigarettes at a convenience store. Also in 2014, Michael Brown was killed in Ferguson, Missouri by police and left dead in the street. Moreover, the whole world saw the murder of George Floyd, who was killed by Minneapolis police officer Derek Chauvin after he kneeled on his knee for almost nine minutes on May 25, 2020. This sparked worldwide protests which eventually led to the conviction of Chauvin. Of course, there are countless unreported cases not captured on camera, which is why the accessibility of cell phone cameras has been a welcomed transparent technology. All of these men were unarmed in all these incidences. An assumption which can be made with pervasiveness of Black criminalization in the criminal justice system is that if these men were White; they could not have had the same faith. A historical paradigm of Black criminalization also shows it is not only the police that kill unarmed Black people.

The recent and most publicized is the killing of Trayvon Martin by Mark Zimmerman. Zimmerman believed he had the right to confront Trayvon because he was Black. The significance of Trayvon's killing to race relations in the United States is that it sparked a generation of protests against police brutality and vigilante violence against Black people and gave birth to the hash tag # "Black Lives Matter." It became a movement and it energized people from all racial backgrounds who embraced social justice as a socio-political activism and vehicle for reform. Tragic police shootings of innocent individuals, especially Black men, assumed to be dangerous or criminal happen at an alarming rate. The criminalization of Blackness is not only an American phenomenon but a global one. Black individuals, communities, and populations especially in western societies have had to deal with this stigma since slavery.

During the height of the cocaine epidemic, it is highly believed that the CIA was involved in the importation into Black communities (Hobson, 2017). In his historical analysis of Atlanta titled "*The Legend of the Black Mecca: Politics and Class in the Making of Modern Atlanta*" Historian Maurice Hobson wrote:

"Meanwhile, anger at the government pervaded the streets: even small children called the CIA the Cocaine Importing Agency, instead of the Central Intelligence Agency. A widespread sentiment among poor blacks suggests that the U.S. government was trafficking cocaine into urban black communities as it had in previous decades. These arguments found support in the work of Gary Webb, and American investigative reporter who examined the origins of crack cocaine trade in Los Angeles and connected the street drug to anti-government Contras in Nicaragua who floated the drug in black communities to fund their cause with CIA approval" (p.144).

The crack epidemic brought irretrievable damage to the Black community. In recent times however, the criminalization of Blackness has taken a new paradigm commonly called the "racial hoax." Hoaxes are usually employed to deflect attention from the individual making the accusation, who is really the actual criminal in many of these circumstances (Welch 2007). One of the cases involved Bonnie Sweeten, who claimed that she and her daughter had been

kidnapped by two Black men, but instead, tuned up at Waltz Disney World. Another form of the criminalization of Blackness which has increasingly become more brazen over the years are now what are termed as the “Karen” incidences. The name implies that because these are usually White women who encounter and call authorities on Black people, mostly Black males to harass for purportedly being in places where “they do not belong” simultaneously occupied by the “Karen.” The Karen phenomenon are frequent and take multiple forms of abuse – whether it be demanding to see the manager or insisting that if they do not get their way immediately, there would be repercussions. This history of White woman fragility and the taboo of Black men leans into a history of sordid American race relations. There are male Karens too, but the predominant cases involve White women.

Perhaps the most infamous incident is what is now called “The Central Park birdwatching incident” when a Karen call 911 for harassment charges on a Black man watching birds after he asked her to leash her pet in a controlled-wildlife area. She was later charged with false accusations and fired from her job (P. Kelly 2020). The audacity and privileged mind set to feel entitled to approach an individual minding his or her own business. All these occurrences add up to the criminalization of Blackness and societal and historical victimization of Black people is what encourages racists to feel they can engage in such acts without fearing the repercussions. The good part is there are cameras and cell phones everywhere to give accurate and unbiased footage eliminating the reliance of words.

2.2.1 National Impact of the Rise in Mass Incarceration Due to Sentencing Laws

How have historians explained the rise of the national crime-control program which began at the height of the civil rights movement and progressive social change in the United States? Some interpretation is that federal law enforcement measures were a logical response to

rising crime rates (Hinton, 2016) The weight of that argument should, however, be reciprocal to the results of crime rates and drug use after the installments of the various crime-control programs. Had the measures corresponding positively on the logical response by way of reduction in crime or drug use? Those who argue contrary to the so-called “logical response” assertion are on the right side of data and statistics.

Crime rates and drug use for the most part, have not been impacted by programs which the “War on Drugs” has calculatedly necessitated (Lynch, 2012). Reduction in crime and usage of drugs have not been the outcome of law enforcement polices – it has been mass incarceration and the other vices that have accompanied it (Lynch, 2012). These vices include lack of employment after prison, health disparities, devastation of urban communities, the rise of super-ghettos in cities across the United States and the breakup of families. There is a national impact, but the Black community has been the most impacted. Black males specifically are mostly targeted for infractions and selective prosecutions.

Reactionary politics has been another postulation to the reason for mass incarceration. Many attribute the rise of mass incarceration to a powerful combination of reactionary politics, anecdotes, and emotions. A tide of punitive actions, incited in part by rising crime rates and highly publicized and radicalized anecdotes of unbridled leniency, encourage politicians to demonstrate that they were tough on crime. Even the benefit of believing this does not alleviate the judicious nature of its execution, nor the consequences thereafter. Yet, another school of thought explains the historical expansion of the American carceral state in the 1960s as a federal government’s enduring response to demographic transformations, the victories of civil rights protest, and the treat of large-scale urban disorder. Analysts have argued that these reasoning or measures are largely pretexts of a more underlying, insidious, and calculative agender of

oppression and prejudice dating to the founding of America and the slave patrols (Lepore, 2020). Law enforcement policies in the United State have revealed a pattern of systemic racism (Hughes, 2017). Implementations have specifically targeted Black American communities for possession of drugs leading to imprisonment of a disproportionate number in those communities compared to the European community (Hughes, 2017).

Michele Alexander's book *"The New Jim Crow"* argues the "War on Drugs" is representative of a nationwide epidemic that has specifically singled out Black Americans diminishing their rights as American citizens (Alexander, 2014). The for-profit nature of the American penal system has bred irresistible appetite for greed making the pipeline through the "War on Drugs" for prison to flourish, at the disproportionate expense of Black communities. Acknowledging both the antecedents and precedents of the federal war on crime puts the quadrupling of the prison system between 1980 and 2000 in full historical perspective (Stuntz 2011, *"The Collapse of American Criminal Justice"* p5). Mass incarceration was the outcome of a long history of discrimination that negatively and disproportionately affected a segment of the United States population. Frank Rudy Copper in his essay "We Are Always Imprisoned" (Copper, 2010) in which he echoes Loic Wacquant's (2010) submission that 'mass incarceration' has not addressed an urgency and is too broad based or diluted to the specificity of Black male incarceration.

The preferred term they contend, is "Hyper Incarceration". This, they reiterate, provides a narrower description, and sounds the alarm needed for the urgency of the phenomenon. The need to emphasize "hyper" instead of "mass" is encouraging however, but the damage has been done. Words alone cannot move the needle forward. On a compromise, both hyper and mass can be used interchangeably. There is a hyper and mass incarceration of Black males in the United

States (Copper, 2010), insisted that if we used hyper or not, the “War on Drugs” as the war of men of color have naturalized, and therefor, invisible.

The following illustrations depict the inequality and disparate number of incarcerations by race and sex:

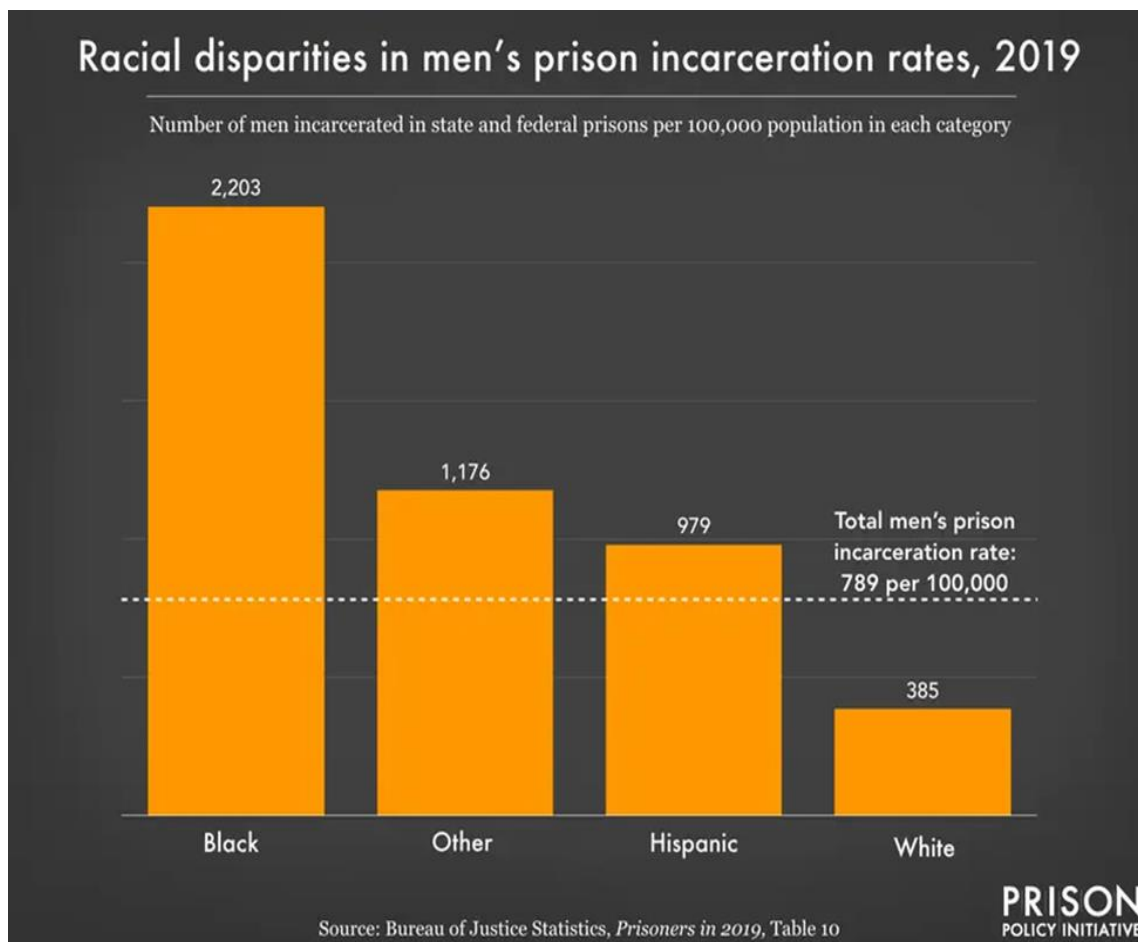


Figure 1. Racial Disparities For Men's Incarceration Rates

While these are government generated statistics, backed with reliable sources, the accuracy of the figures cannot be 100% guaranteed by the researcher. From the above figure, Black males have a “hyper” incarceration rate than any other male group in the United States.

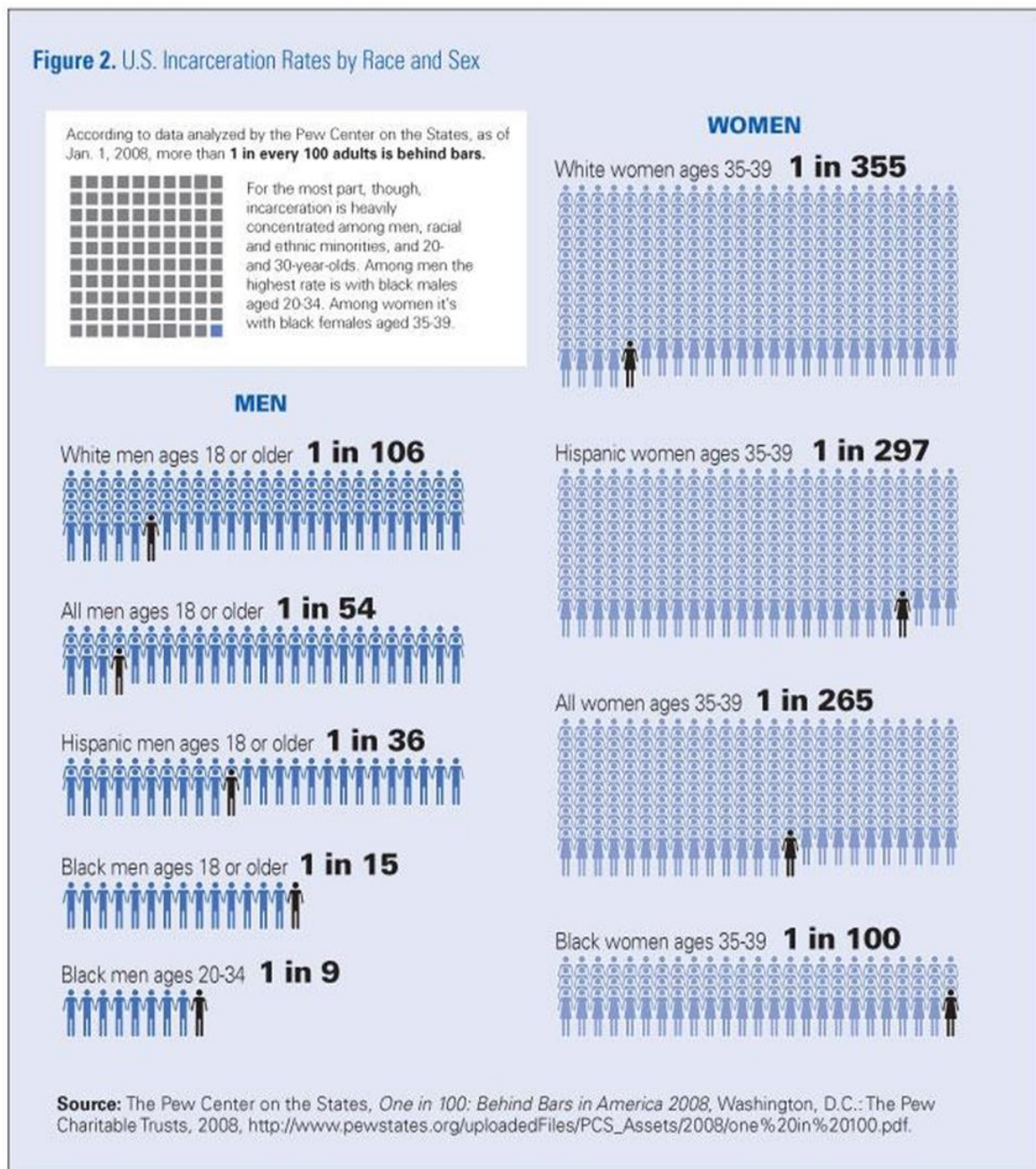


Figure 2 Racial Disparities in Prison Incarceration Rates by Race and Sex 2008

While these are government generated statistics, backed with reliable sources, the accuracy of the figures cannot be 100% guaranteed by the researcher. The total disparities in total prison incarceration rates for all races. Again, an illustration where the disparities widen is for Black Americans.

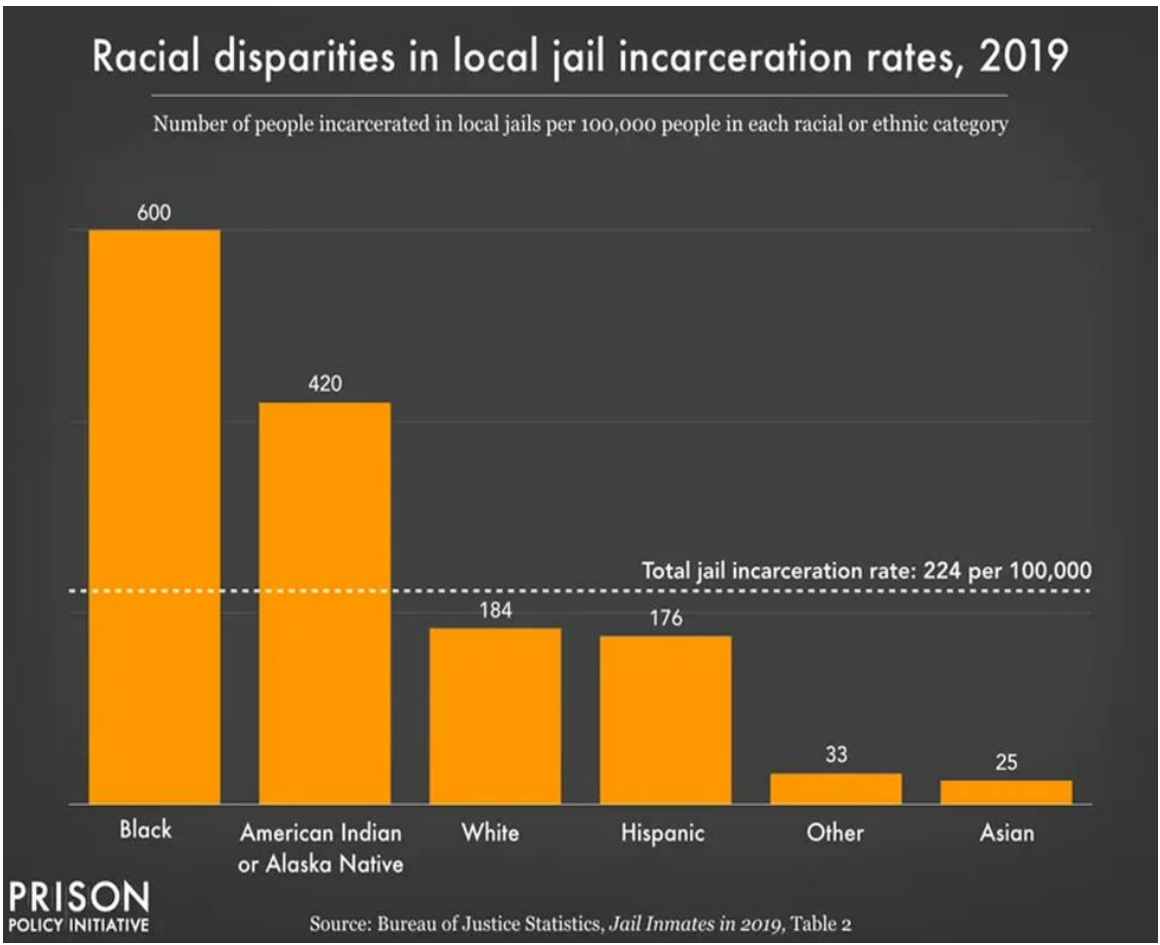


Figure 3. Racial Disparities in Local Jail Incarceration Rates, 2019

While these are government generated statistics, backed with reliable sources, the accuracy of the figures cannot be 100% guaranteed by the researcher. A repetitive pattern of disparities, according to race; this time in jails.

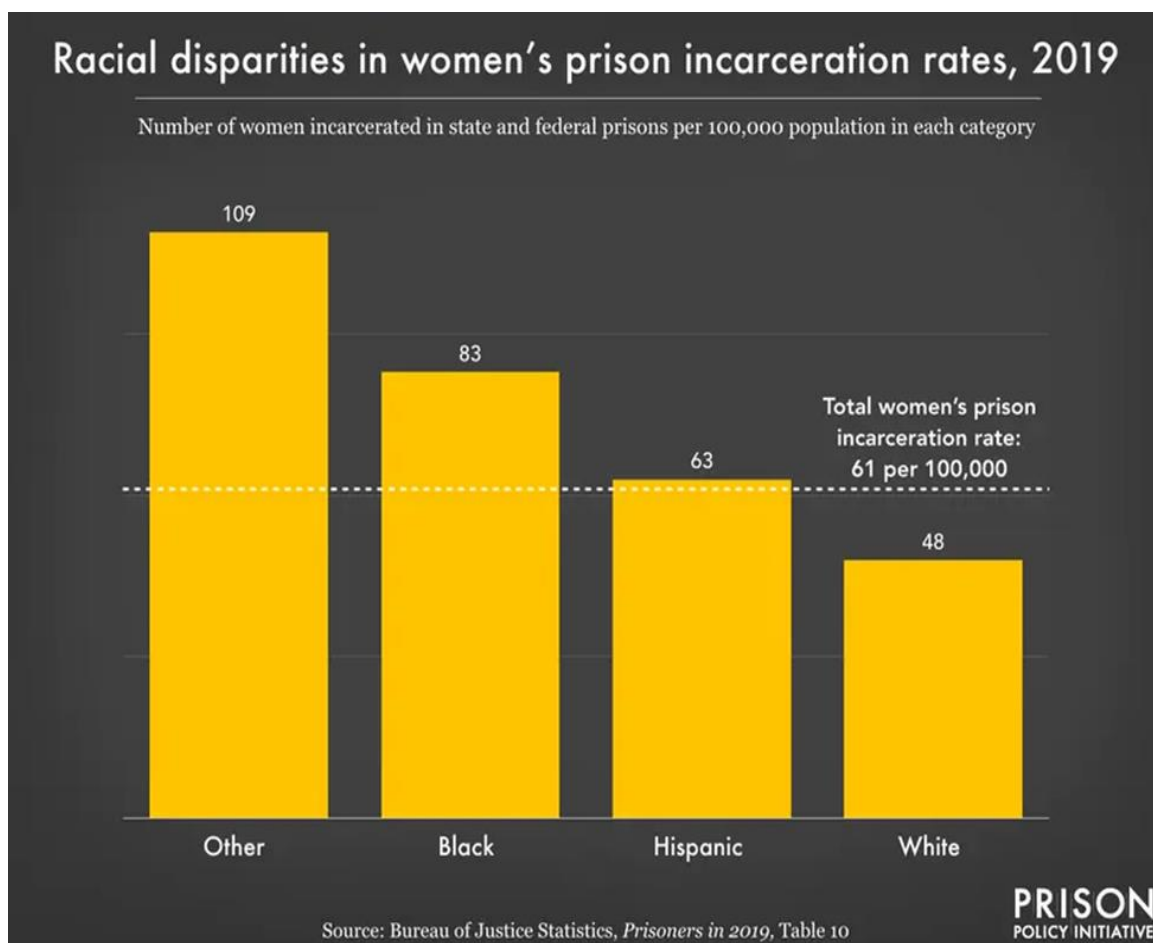


Figure 4. Racial Disparities in Women's Prison Incarceration Rates, 2019

While these are government generated statistics, backed with reliable sources, the accuracy of the figures cannot be 100% guaranteed by the researcher. The data indicates incarceration rates for black women is higher than for Hispanic and whites.

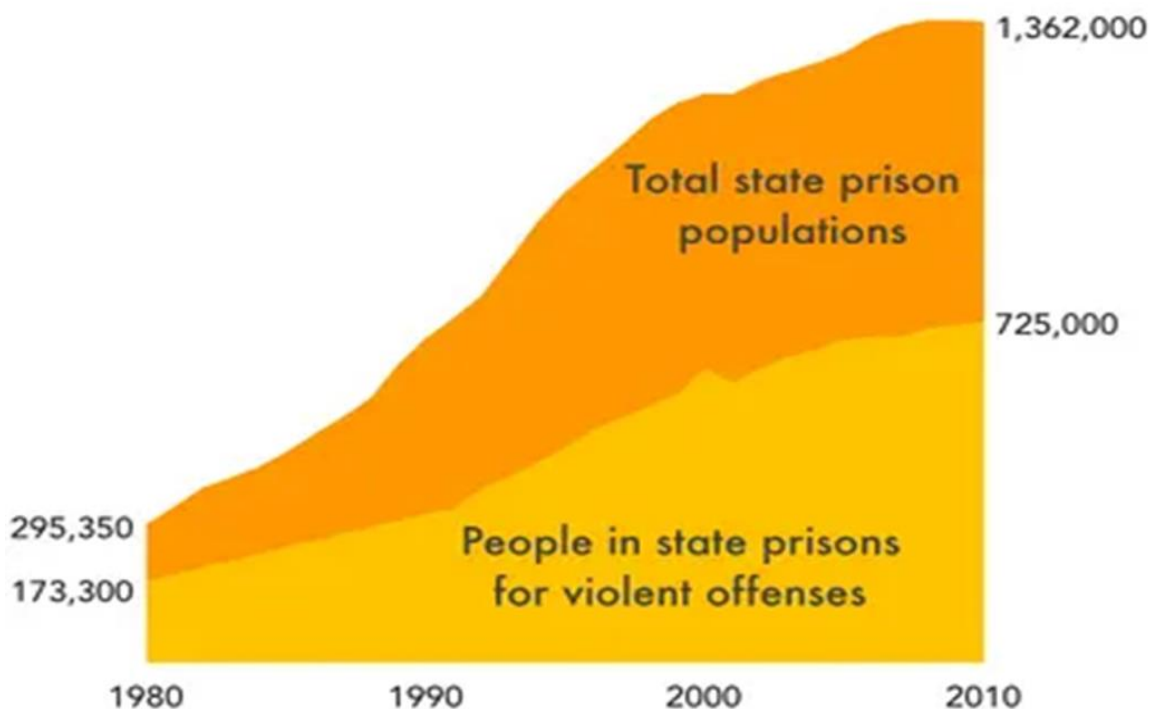
The most recent data from the Bureau of Justice Statistics indicated that 38% of the prison population are Black males (Sabol et al., 2009). Approximately 25% of the Black adult population in the U.S. has a felony criminal record (Wheelock, 2005). Black males are disproportionately represented in the ranks of probation and parole compared to their total percentage of the U.S. population (Glaze & Bonczar, 2009). The likelihood that Black men will serve time in prison during their lifetime is approximately 30% compared to 16% for Hispanic men and 5% for White men (Bonczar & Beck, 1997; Pettit & Western, 2004; Wheelock, 2005).

The prevalence of incarceration of young Black males is having profound effects on local communities and essentially altering their life course projections to include the likelihood of spending some time in prison at some point in their lives (Bonczar & Beck, 1997; Pettit & Western, 2004; Travis, 2005).

In poor urban neighborhoods, serving time in prison is becoming a normal life expectation and no longer the exception, but a disturbing norm among the early adulthood life experiences of young Black men (Pattillo, Weiman & Western, 2004; Pettit & Western, 2004 “*Imprisoning America: The Social Effects of Mass Incarceration*” p.7). The more we are informed of this data, the more urgent it calls for reform. Perception also breeds the normalization of prison life. Experience is one of the ways which manifests perceptions. Some of the sources of these perceptions are personal encounters, observations of discriminatory acts against people they know, media reports, police stories, documentary films, and accounts from other social media platforms. Another way of measuring perception is by-polls. The perceived legitimacy of the criminal justice system may be racialized (Bobo and Thompson 2006; Tyler 2003). In the United States, perception of the criminal injustice system appears to differ markedly by race, ethnicity, and social class (e.g., Hagan and Albonetti 1982; Shedd and Payne 2005). It suggests trust is lacking in the system entrusted to administer justice and maintain order in a civil society.

The state and national corrections policies in the 1990’s focused more on punishment rather than rehabilitation (Travis, 2005) expressed this sentiment in “*But they all Come Back: Facing the Challenges of Prisoner Reentry*” p64. As noted, a disproportionate number of individuals incarcerated and returning to the system each year are black men (Glaze & Bronczar, 2009; Travis 2009).

Long sentences for violence account for over half of all state prison growth from 1980 to 2010



Source: Bureau of Justice Statistics, *Prisoners* series, 1994-2012 showing state jurisdictional populations with sentences over 1 year. Estimates for those held for violent offenses are imputed for 1981-84, 1986-89, and 1994.

Figure 5. State Jurisdictional Population with Sentences Over 1 Year

While these are government generated statistics, backed with reliable sources, the accuracy of the figures cannot be 100% guaranteed by the researcher.

Currently, the incarceration of Black males is seven times that of White males (Mauer, 1991). This statistic is alarming considering that the Black American population in the United States collectively is only 13/6%. This trend does not bode well for what the consequences for future generations would be. I have thus far given a generalized synopsis of the impact of mass

incarceration. Specifics of the impact, especially as it pertains to Black communities, will be outlined later in this literature review.

2.2.2 Re-entry into Society

The Bureau of Justice Statistics reports that approximately 735, 000 ex-offenders return home to their communities annually (Sabol, West, & Cooper, 2009). The number of ex-offenders returning home to their communities today represents over a 300% increase in the number of ex-offenders returning home to their communities in the 1990s (Lynch & Sabol, 2001). Although there have been many studies on the casual reasons for incarcerations and their consequences, not much has focused primarily on the effects of re-entry. The road and pattern in the reviews show a very troubling and disturbing trend of negative implications for ex-offenders as they navigate into society. Data formulates the allusion that prisoners are not afforded enough support when exiting prison.

While many imprisoned individuals return to their communities, the outlook remains bleak for often unattainable employment (Bushway & Apel, 2012; Stafford, 2006) personal relationships and social networks are criminogenic or fragile for a time in prison (Berg & Huebner, 2011; Travis & Waul, 2003), and unaddressed substance use and mental disorder (Binswanger et. al., 2012); (Mallik-Kane & Visser, 2008). Those who reenter are also more likely to be without family support and post-secondary education, and experience basic needs' insecurities (e.g., food and shelter; Middlemass 2017; Petersilia, 2003). Reentering Black males must deal with the historical impact of race and racism, which continues to weigh on present-day issues of re-entry (e.g., Jim Crow, "War on Drugs," the criminal code Balko, 2013). The "War on Drugs," criminal codes, and Jim Crow are both from an observed perspective backed by

statistics, products of the racial stigma of the capitalist industrial complex from which the Prison Industrial Complex largely benefits.

Prisoner re-entry is an important policy issue which disproportionately impacts Black males throughout the United States. Re-entry is the process of returning to society after a prison or jail sentence (Travis, 2005). Although re-entry is an issue which impacts individuals across race and ethnic groups, research has found that re-entry is difficult for Black males particularly (Frazier 2014). Petersilia (2003) argued that race is the “elephant sitting in the room” for re-entry. Black males are overrepresented in state and federal prisons throughout the United States. While Petersilia argues that race is the “elephant sitting in the room,” its active arm, racism, is the actual culprit.

The researcher recalls visiting a state penitentiary which was housing the uncle of a companion of mine. Details of this later in the review. It is what I can describe as the “city of Black men.” The primary purpose of re-entry services is to help ex-offenders achieve positive change after release and promote public safety by reducing recidivism. In addition, they offer support and evidence-based interventions for offenders who re-enter the community. They also function as live call centers in facilitating employment facilities and assistance in providing housing availability to offenders. Literature has shown the function of re-entry facilities is different in some states than in others, depending largely on commitment and effort. Through a process called “record clearance” ex-offenders can have certain minor offences removed from their records, or designated as expunged (Adams., Chen, E, & Chapman, 2016). It is a bold start towards criminal reform when discussing re-entry.

Black males who return to society after incarceration, do so with limited social capital, education, and employment skills to assist them throughout the re-entry process (Jackson, 1997).

Re-entry does not impact formerly incarcerated persons similarly. Research by (Pager, 2003), found that employers are not likely to hire formerly incarcerated persons, especially minorities. Thus, formerly incarcerated males who are Black, often find it difficult not to return to prison after release. Depression and health challenges also continue to impact the process of re-entry; it is an important variable for a successful re-entry. A depressing statistic in one of the articles is that Black men are diagnosed with more illnesses and have higher mortality rates than any other racial group in the United States (Underwood et. al., 2009). This burden places undue hardships to them and their family members. The stress is compounded if they have gone through the criminal justice system of our ex-offenders.

Not much literature has been done specifically on how incarceration and post incarceration have done to the families of these men. Apart from being individuals, these men have families that are dependent on them. While conditions during incarceration impact adversely on their physical and mental health, not being with their families has a detrimental effect on them, for those in re-entry programs, after incarceration. It is also a very significant piece in the journey of maneuvering back into society. Their incarceration has agonized other men, women, and children in their lives as well as institutions and an extended community which they were taken away from. Some of them were aiding their families through the lifestyle that got them into prison which impacted those family members from the outside. Starting all over again for these Black men especially with the burden of race as fact of possibilities for a job is quite daunting. Lastly, is the question of conceptualization of masculinity in the prison experience. The role of the provider and the dignity of manhood has been stripped during the prison experience. The construct of masculinity in American penitentiaries and the aftermath of post incarceration will be detailed later in this review.

2.2.3 Health Disparities

Besides the probe of the racial component on the chances of employment after incarceration, the study also investigated health disparities. In that study, there was a hopeful consensus. The researchers assert that fortunately, the negative impact of health disparities coupled with problems relating to prisoner reintegration can be mitigated by increased collaboration and coordination between academic institutions, correctional agencies (“institutional anchors”), and community health providers (“community anchors”) during and after their incarceration. (Armstrong et, al.,2016; Drain & Herman 2017; Ferguson; et. al., 2016).

Looking ahead to the possibilities of improvement, the literature emphasized that as the number of offenders who return to the community continues to grow, a model for successful prisoner re-entry is critical to address the barriers they face in reintegrating into a changing society. This study explored the key ingredients to offender reintegration among formerly incarcerated individuals. Specifically, the study was framed by the research question, “What are the support ingredients associated with successful prisoner reintegration?” Family engagement is one of those ingredients. As will be analyzed later, Bobbitt & Nelson’s (2004), theorization of the hypothesis that family engagement can produce better outcomes at re-entry is rooted not in blind hope, but in lessons from other fields. Such combinations of support like the Positive Impact of Family Involvement, Project Greenlight, the Greenlight Reintegration Program are live lines to improving health disparities to ex-offenders as they reenter back into society. The therapeutic sessions they offer are said to produce positive results by researchers involved in the paradigm of re-entry.

2.2.4 Employment

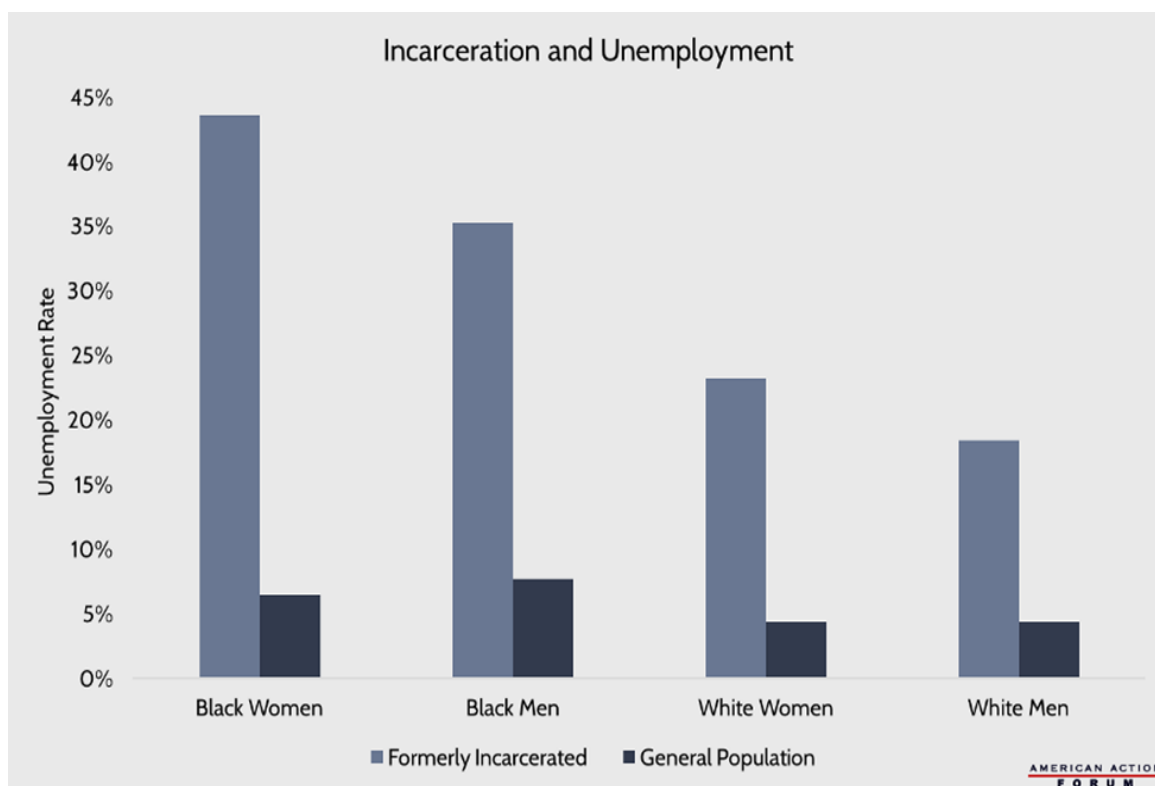


Figure 6. Incarceration and Unemployment

While these are government generated statistics, backed with reliable sources, the accuracy of the figures cannot be 100% guaranteed by the researcher.

A particular study to determine whether race is impacted on the ability of ex-offenders to secure gainful employment was called “Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records.” In that research, Daveh Pager, Bruce Western, and Naomi Sugie, studied the effects of race and a prison record on employment using a large-scale practical experiment piloted in New York City. This field study used a matching field of testers, some camouflaged as ex-offender to apply for real entry-level jobs; to determine the likelihood or chances of employment for testers, using race as the variable. The experiment revealed that Whites who were ex-inmates fared better than their Black counterparts on chances of employment after incarceration.

Furthermore, it is noted that in cases where employers are confronted with stereotypes of applicants, they may be more likely to make negative attributions about the individual based on race, without probing deeper into the specific characteristics of the applicant question. This places a lack of employment opportunities as a major factor in the syndrome and effects of incarceration. The authors asserted that during prison life, little is known about prison and jail policies regarding HIV testing and treatment. For instance, it is noted that in 2004, eighteen states, (down from five in 2000) had policies for testing inmates in custody, and three states (the same as in 2000) tested prisoners upon release (Flanagan, 2004).

This goes to show it will consequently have a negative effect on their health status as they navigate back into society. There is a consensus that this will also influence those they encounter. It needs to be clear that the researcher is not wholeheartedly endorsing this stigmatization of individuals regardless of their circumstances. The relevance being that such stigmatization leads to discriminatory practices. The findings of the researchers about employers' attitudes and prejudice about race as a factor in employment, reinforced my decision to include race as a variable for determining the prospects of the outcome of employment upon re-entry. Racial bias and racism in American society are always a factor when it comes to members of Black communities. The affordability of housing is also tied in with the ability to secure employment. Lack of employment will definitely have an adverse effect on the ability to afford housing. Other prejudicial barriers will still come into play but with unemployment, there is no fighting chance for ex-offenders to successfully re-enter society.

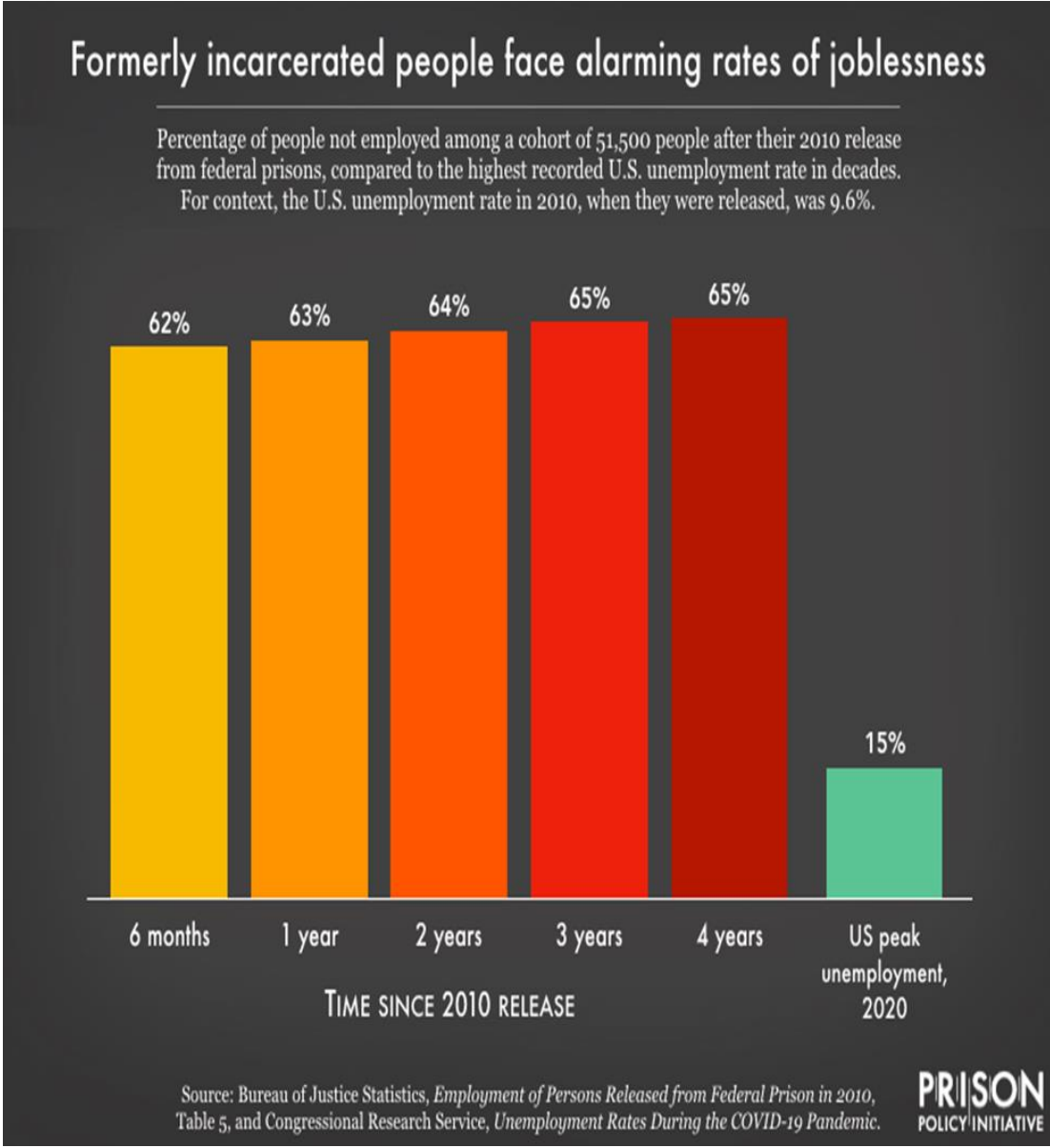


Figure 7. Jobless Rate of the Formerly Incarcerated, 2020
While these are government generated statistics, backed with reliable sources, the accuracy of the figures cannot be 100% guaranteed by the researcher.

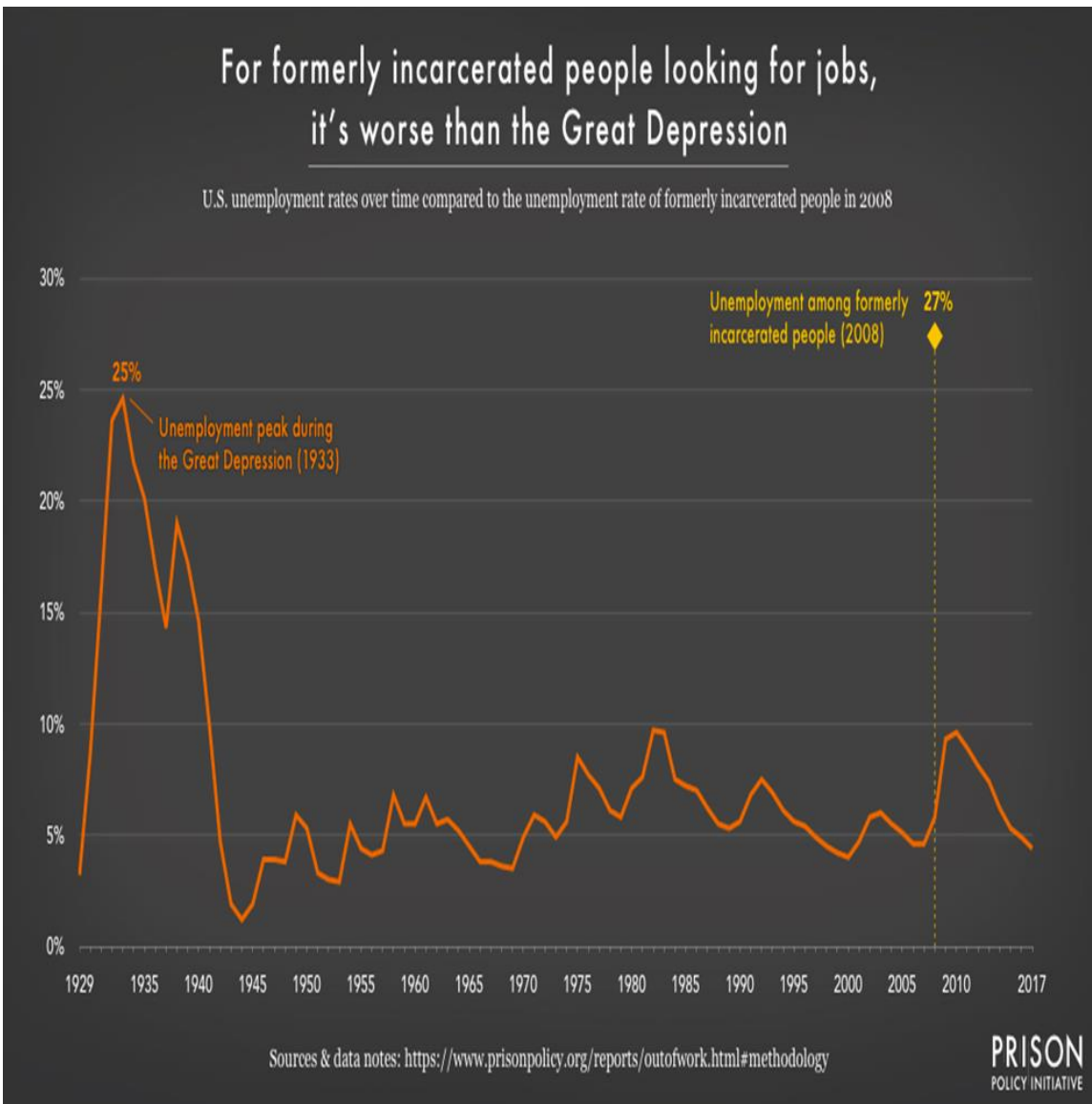


Figure 8. Graph of Formerly Incarcerated Today Compared to the Great Depression, 2019

While these are government generated statistics, backed with reliable sources, the accuracy of the figures cannot be 100% guaranteed by the researcher.

2.2.5 Family Support

Family support is a crucial aspect of getting back into society. Seventy-one percent of the former prisoners in a new Urban Institute study cited family support as important in helping them avoid going back to prison (Davis, 2021). The author examined theoretical and methodological distinct factors helping the rehabilitation of “returning citizens” – as they preferred to be called, in their re-entry process. The conclusion was that family support appears to relate to prosocial re-entry outcomes not because of emotional or interactional bonds, but because families provide for the basic needs of returning individuals (Davis, 2021). Given the established empirical support for the influence which family plays during the reintegration process, it is imperative for researchers to not just inquire if family support is essential but also appraise why family support makes a difference during re-entry.

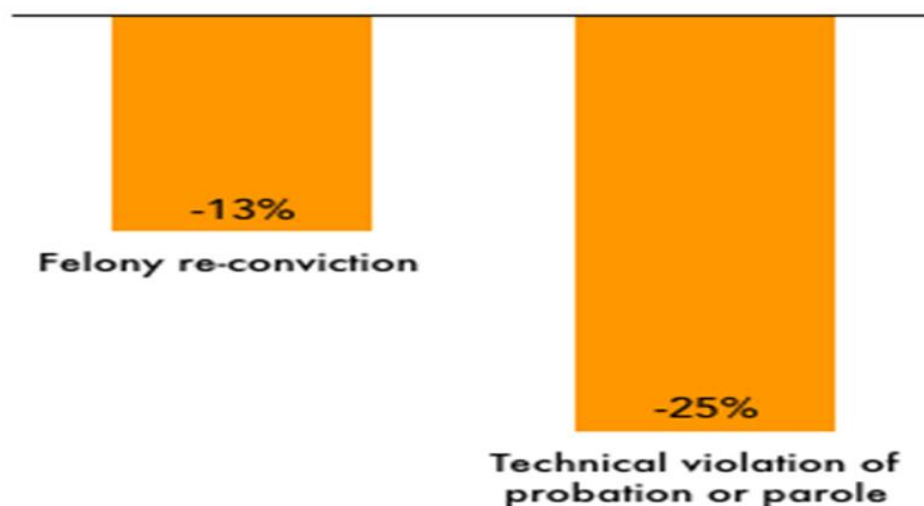
Released prisoners rely heavily on their families for support in navigating virtually every aspect of the re-entry experience from assistance with housing and employment to financial support and overall encouragement (Bobbitt & Nelson, 2004). The dependability of this support becomes fundamental in bridging the gaps between anticipated and actual levels of family support. While there have been few pursuits to understand the role of family relationships and support on re-entry success or failure, it is equitable to hypothesize that family members have an impact on released prisoners as they meet challenges associated with their return to society (Nasser & Visher, 2006). It is pertinent to note parole agencies around the country are further muddled in some sort of re-entry facilitation between prisoners and their families. These programs are particularly helpful for prisoners who have consistent visits by family members during incarceration (Folk, et, al., 2019). In other words, as incarceration separates individuals

from their families and communities, those who maintain contact with their families during interaction tend to function more adaptively post-release into society.

The importance of family as a central mechanism which provides strong bonds for cases where children are involved cannot be overemphasized. This brings a complicated dilemma in an ostensibly cumulative and complex process. Many children whose parents are involved with the carceral system experience behavioral challenges, delinquency, social isolation, and decreased success. (Western, & Smith, 2019). This brings an added pressure for the released parent to cope, rely on family support and arrive at solutions post re-entry. This is where agencies can help fill the gap and help provide incentives to facilitate the process. These agencies, as already noted, are spurred by federal funding directed at re-entry, as more and more jurisdictions are experimenting with family-focused programming for adults leaving prison (Bobbitt & Nelson, 2004). For instance, fathers post release are forced to renegotiate their parenting roles based on their ability to provide financial support. (Geller, 2012). Researchers studying the impact of strong family ties have overwhelmingly concluded of enormous benefit to a successful re-entry.

People in state prisons who received visitors were less likely to return to prison after release

Recidivism measures of people released from Minnesota state prisons between 2003 and 2007 who received visitors during their incarceration, compared to those who did not



Created by the Prison Policy Initiative; data from the Minnesota Department of Corrections, "The effects of prison visitation on offender recidivism," Nov. 2011.

Figure 9. Effects of Prison Visitation on Offender Recidivism, 2011

2.2.6 Conceptualization of Masculinity in the Panel System

The appropriation of Black masculinity in America society has been one of many negative stereotypes, often contradictory, from the historical prism of slavery to the hyper-sexed images of contemporary rape (Manning, 2014). A self-indicting portrayal by Black people have assisted these appropriations. Prison is a place with an accumulation of men who espouse toughness and aggression (Mears, Stewart, Sienick, & Simons, 2013). In Prison, those who do not conform to these ideals are punished and forced to renegotiate their thoughts on how to be a real man (Messerschmidt, 2019). Outside of the penal system, every society has its ingrained

belief on the representation of masculinity. From a world culture perspective, masculinity is the social expectation of being a man (Gray, 2022).

Gender roles are clearly distinct: Men are supposed to be assertive, tough, and focused in martial success; women are supposed to be more modest, tender, and concerned with the quality of life (Fielding, 2023). However, varying dynamics in different societies determine how these expectations are emphasized. In the expansive context of the construct of masculinity in American society, before focusing on the penal system, the institution of chattel slavery, and the media have played a significant role in shaping and reinforcing ideas about masculine conformity.

During chattel slavery, slaveholders engaged in “psychological terrorism” in their choice of clothes for Black man. Keri Leigh Merritt noted that not allowing Black boys to wear pants was a customary practice in the South (Merritt, 2016). One of the slave owners’ more innovatively cruel strategies concerning the way they sought to completely emasculate enslaved boys and men – by denying them the right to wear pants. By forcing young Black American boys to wear dress-like shirts, the owners of flesh feminize and humiliate enslaved males daily (Merritt, 2016). This enlightenment is revealing as society has not questioned the origins of “wearing the pants” and the significant historical context seemingly associated with it.

In the media, the duality in the portrayal of Black men, one, a brute, sexual, masculine savage and the other, a weak, buffoon-like comic character in movies like “Birth of a Nation” in the early part of the twentieth century, underscores a duplicate deceit (Birth of a Nation, 1915). The argument does not ultimately fall in the efficaciousness of the stereotypes, but what Black people themselves unconsciously internalize from these images as their reality. A rational

functionality is the need to conform to these perceived biases which I presume even gives the victim some form of satisfaction.

The construct of masculinity in American penitentiaries constitute a “hegemonic masculinity” that embodies total domination in the rules of everyday prison life (Evans & Wallace, 2007). As discussed, the disproportional incarceration of Black males fueled by the “War on Drugs” and predatory crime bills have landed an abundance of Black men in the penal system. This heightens the propensity of an exaggerated masculine culture where survival of the fittest becomes a litmus test of the navigation of prison life. Prison contain a culture that has multiple masculinities including harmful or exacerbated masculinities (Reeser, 2015). In addition, it is recognized that there is a prison code, influenced by an exaggerated masculine culture, that structures behavior during incarceration (Irwin & Gressey, 2013).

A personal observation of the extent to which this exaggerated behavior is structured was on my visit to Greensville Correction Center in Jarratt, Virginia. The visiting spaces were far away from the cells, but you could hear yelling of profanity about masculinity, which were laced with a braggadocio of sexual prowess even towards members of the same sex. The confinement and the absence of a different sex gives this desire an elevation. There is an equal concern with displaying toughness and concealing weakness in prison. This delicate balance must be maintained in all facets of prison life.

The literature reveals that variability exist between incarcerated men in their perception of masculinity or what it means to be a man in prison. Stephanie J. Morse and Kevin A. Wright (2019) from “Imprisoned Men: Masculinity Variability and Implications for Correctional Programming” gave a comparative analysis of the characteristics of a real man on the outside versus the character straits of men in prison. They postulated that self-reliance, loyalty,

emotional balance, courage, assertiveness, and confidence are what is expected of real men. The purpose which give these men the ingredients to express and display these traits are exemplified by work and family.

Prison on the other hand, has a limited or non-existent of work, family, and recreational life and incarcerated men must display their masculinity in other ways, which often, is aggressive (Morse & Wright, 2019). The question which must be ascertained is – do all men, in prison, subscribe to the expectation of “hegemonic masculinity”? Researchers have found the answer to be no. Not all men, inside, or outside, subscribe to the expectation of a hegemonic masculinity which idealizes a uniform set of exaggerated masculine behaviors across all settings (Cornwell & Messerschmidt, 2005) A holistic approach to masculinity have been advocated by psychologist in the field of ‘Consulting Psychology’ in something they call “positive masculinity” (Norman, 2023). There is also the acknowledgement that perceptions and definitions of masculinity change over time (Mankowski & Smith, 2016).

In furtherance of their work in prison masculinity, Stephanie Morse and Keven Wright examined the perception of masculinity and its consequences among incarcerated men in a prison in the state of Arizona. They were guided by three broad research questions. First, what does it mean to be a man? Second, does the prison experience alter this conceptualization? Third, does this conceptualization affect participation in correctional programming? Hegemonic masculinity is the presiding notion of masculinity, or what it means to be a man in each context (Connell & Messerschmidt, 2005; Karp, 2010).

A sentiment that hegemonic masculinity is fluid and can change as social context of such exhibition change were expressed by Morse and Wright, (2005). They also observed that certain characteristics have remained consistent across time and space. What has remained consistent is

valuing power, control, competition, and emotional suppression Evans & Wallace, (2008). So, what it means to be a man in and out of prison is to be successful in the endeavors of life which includes wealth and power regardless of the constraints of getting there, in other words, despite the negative aspects of hegemonic masculinity.

Does prison experience alter this conceptualization? The appearance of weakness in prison is more detrimental to survival than in the outside world. Power, aggression, and violence are valued and enhance the exaggerated masculine identity: However, displays of weakness can quickly undermine that ideal, making the concealment of vulnerability and weakness an integral part of hegemonic masculinity (Karp, 2016; Spencer, Fegley, Harpalani, & Seaton, 2004). Does this conceptualization affect participation in correctional programming? This can be answered by examining the multiple perceptions of what it means to be a real man in prison.

The use of violence is the ultimate display of a harmful masculinity in prison and takes the form of fights with other prisoners, assaults on correctional officers, and sexual assault (Kupers, 2005; Michalski, 2015). What this means is that violence is tolerated, normalized, and valued in prison. So, the conceptualization of masculinity corresponds with correctional programming which values or bolsters hegemonic masculinity. Researchers have expressed observing alternate masculinity in prison which bodes well for the assertion of multiple perceptions. Connell & Messerschmidt (2005) theorized that a dominant hegemonic masculinity can only exist if there are alternative masculinities for comparison.

There are bound to be men in prison, who are not bound or bought by violence or aggressive behavior. They may see prison as a place of redemption and all they want to do is atone for their mistakes and let the time pass by without getting into any altercations or disciplinary incidents. They may have exhibited soft tendencies on the outside and want to keep

it that way on the inside; regardless of the temptation to display or put up an aggressive front.

Sim (1994, p112) wrote:

“Pursuing education, classes, attaining an immediate knowledge of prison rules, becoming a ‘jailhouse lawyer’ and categorically refusing to engage in violent or coercive behavior are all examples of strategies developed by prisoners which do not necessarily derive from the culture of masculinity inside.”

Not all prisoners are violent. For these prisoners, masculinity is seen as a prison tool to build up a respected reputation while incarcerated. For instance, they exhibit it for survival, but do not adhere to it. In a couple of the interviews conducted by the researchers, an approach was used allowing for the men to shed light on the meanings they assign to masculinity and programming, and it allows the researchers to learn these dynamics through their perspectives. Nandi (2002) examined prisoners’ definition of masculinity and what it means to be a man. She posed this question to determine whether other dynamics of prison effect masculinity. “Are there specific characteristics of the prison environment that have encouraged you to evaluate your sense of masculinity?” She stated time was a key to the construction of their beliefs. Joseph, who was one of the interviewees, said “Most prisoners’ lives come into focus through the process of introspection” meaning the length of time to reflect and second guess on their past resulting in their hoping for the best. Another interviewee Toney, a 30year-old Florida death-row prisoner said:

“Prison is not a bad place if you use the opportunity to reflect and find yourself. Many never take time on the street to sit and reflect. There is nothing like steel and concrete to slow you down and give you that time.” (p12)

There is solace in prison according to these prisoners. Probing more, Nandi asked the question in another way: Other than age, what are the differences between boys and men? Jevon aged 23 and imprisoned seven years stated: “A real man is one who finds strength in the salt of

his tears, and he sedulously battles through any unfortunate circumstance.” (p96). Timothy, 36 and imprisoned 13 years stated: “A true man is an honorable man. He is respectful to his parents, family, and neighbors. He stands by his word. He is the maintainer, educator, and protector of his family and he values the rights and property of others” (p96). Nnadi surmised that most of her 37 participants including the ones selected seem to distinguish boyhood from manhood in conceptual terms and not necessarily as what males do. Sun, is a 25-year-old participant confined to a medium-security prison for almost four years breaks it even further:

“A man is more responsible than reactive, knowing the difference between the two and always seeking, if not for peace with how to influence the environment without being out of his character. A man deals with respect as a general principle.... he knows how to love without losing himself, but also how to love without holding back” (p96).

Focusing on the emotions surrounding regrets, and unmasking of hyper masculinity, Morse and Wright devised a line of questioning in what they called “The context-specific nature of impact of masculinity on programing.” They interviewed a class of incarcerated men – Martin, Lawrence, and Jeremy through ‘The Impact of Crime on Victims Class (ICVC)’ sessions. For his testimony, Martin narrated how stories of victimization encouraged prisoners to experience emotional vulnerability and empathy when placed face to face with victims. Lawrence talked about how the program was indirectly related to masculinity and being a man. He emphasized that the class was a self-reflection and a lesson of taking responsibility:

“ICVC is the most effective because...real victims come in and speak with us and you have to see it face to face. When I say man’s number one duty is [responsibility], it forces that personal responsibility where you get punched in the mouth with the reality of what you’ve done in the past and you must see it and you look at yourself” (p14).

What these prisoners have expressed is that the weight of guilt can suppress the “act” of masculinity. For his part, Jeremy talked about how ICVC allowed participants to talk about their

past and reflect on instances in which they victimized others, as well as instances in which they were victims themselves. The unmasking of hypermasculinity process, though gradual, is taking place.

Re-entry as we have outlined previously is an aspect of the aftermath of incarceration. The construction of masculinity during re-entry is another dimension of the social and psychological effects of the barriers and impediments placed on the ability of the formally incarcerated to adjust back into society. Lack of jobs, the denial of the right to vote, and housing opportunities are just some of the impediments that challenge the masculine need to survive and provide for a former prisoner. It is quite daunting navigating these pieces without the tools encouraging you to succeed in the societal masculine role. Researchers have observed that identity implications on the lives of formerly incarcerated Black males are under-examined. Social identity theory was proposed by (Tajfel and Turner, 1986) in which they suggest that individuals experience collective identity based on their membership in a group. In this case, the incarcerated will form a special bond of identity that would be uniquely theirs which they do not share with another group. He stressed that there are gaps which research can contribute to in the scholarship of converging race, class, gender, and citizenship to the problems posed with navigating the masculine aspect of the survival of the formerly incarcerated.

How are social scientists defining masculinity? Micheal Kaufman (2001), an interdisciplinary psychologist, examined the common factoid that masculinity, a social construct, is determined by biology. He contends that masculinities are tenuous and fragile ideologies which exist primarily as exhibitions of violence, suppression of human needs and expressions, and common misconceptions that sex and gender are the same. Some offenders have displayed

emotional tendencies away from hypermasculinity furthering complicating the spectrum of gender norms.

2.2.7 Recidivism

In one aspect of recidivism, a study titled “An Experimental Evaluation of a Comprehensive Employment-Oriented Prisoner Re-entry Program, Phillip J. Cook, Songman Kang, Anthony A. Braga, Jens Ludwig and Mallory E. O’Brien reiterate that the standard economic theory of crime (Cook, 1980) assumes that potential criminals chose whether to engage in criminal activities. This they assert is based on the rewards of such activity compared with the potential cost. The perceived cost associated with the arrest and punishment will generally be greater for someone who has relatively valid options. Given this prognosis, the high recidivism rate of released prisoners is understandable, since their licit options tend to be meager at best. As a group, they have poor employment prospects due to a lack of education or work experience and serious criminal records, quite possibly compounded by drug abuse and other disabilities (Travis et.al.2014). Given this analysis, it is plausible to suppose interventions that are effective in improving employment opportunities will reduce the allure of crime for some of the released prisoners and thus reduce the recidivism rate (Cook,1980). But to date, the evidence on this matter are mixed at best. In this research, participants expressed their feelings about the impact of re-entry; from this, analytical tool can be used to further push for changes and legislation to improve the conditions of re-entry.

Re-entry interventions can be correctional-based, community-based, or both (Berghuis, 2018). These groups can vary in terms of complexity: Some are unimodal meaning they target one aspect of re-entry (e.g., substance use), whereas others are multimodal meaning they target several aspects of re-entry - employment, housing, social support, and substance abuse

(Berghuis, 2018). Although they can take numerous forms, re-entry programs should focus on the transition from prison to the community to maximize reintegration (Bouffard & Bergeron, 2007). Ideally, these programs would also make these transitions a gradual one (Petersilia, 2003). To this, many re-entry programs have several phases; first, within the walls of the prison, then into the community, and finally, integration where independence is encouraged (Day, Ward, & Shirley, 2011, Taxman, Young & Bryne, 2004). Re-entry programs tend to be short because the risk of recidivism is highest during the first year after release (Langan & Levin 2002). Many scholars have argued that one of the greatest weaknesses in re-entry literature is the lack of theory (Maloney, Bazemore & Hudson, 2001; Maruna, Immarigeon & LeBel, 2004).

Most recent interventions have a “rather bizarre assumption that supervision and some guidance can stare the offender straight” (Maloney et. al., 2011). Moreover, most recent interventions use a deficit-based approach in which programs aim to correct the deficit offenders have in order to be successful (Schlager, 2018). Indeed, most re-entry interventions focus on human and social capital via helping with employment, and housing, increasing social support and lowering dependency on drugs and alcohol. Although much of the literature and studies on developed interventions do not clearly state a theory of change, many implicit theories can be found. The researcher further states that several criminological theories can be used to explain why improvements in these areas can reduce the likelihood of recidivism.

For example, it is noted that employment has been seen as a resilience factor because it has economic and cognitive benefits; it keeps people from perpetrating crimes (Kethineni & Falcone, 2007). Considering social support, the bond theory argues that strong bonds to family and friends will restrain people from becoming involved in criminal activities (Colvin, Cullen, & Vander Ven, 2002). However, by focusing on the shortcomings of the offenders, the strengths,

capabilities, and agency to engage in the re-entry process have been ignored. Re-entry is a process and not a finite event. Therefore Schlager (2003) argues for a new narrative in re-entry, namely, a strength-based approach. This approach will focus on the strength of offenders and engage them in the process of re-entry. In this approach, three key principles for successful offender re-entry are highlighted: officer-offender relationship, empowerment of offenders to change, and corporation from the community (Schlager, 2003). From a social justice standpoint, the benevolence, or fruitful collaboration of the police, corrections, or other law enforcement agencies have not materialized as strong points in rehabilitation.

2.2.8 Cost of Criminal Justice/Benefit Analysis/Mandatory Minimums

The cost and benefit analysis (CBA) of crime bills and sentencing laws for measuring the justification of present incarceration rates has been debated by criminal justice reformers and strategists. In some cases, it is estimated that cost outweighs what society gets from the criminal justice system. The economic cost of the criminal justice system has placed a tremendous burden on the United States economy to the tune of \$1.2trillion (Hayes, 2020). The total operating and capital costs of the nation's state and federal prisons totaled just over \$19billion in 1988 (U.S. Bureau of Justice Statistics, 1990). It costs \$52, 000 per bed to construct new prison facilities in the United States. Policy philanthropists and others interested in what works in reforming criminal justice policy and practice are concerned traditionally with whether new approaches have better outcomes than business as usual (Roman, 2020).

Correctional budgets have sky-rocketed in recent years. Spending on corrections has been increasing at a greater rate than spending for any state-funded service including education (United States Bureau of Statistics, 1990e; Petersilia, 1987). It is difficult to detect any overall relationship between incarceration trend rates and violent crime rates or show incarceration is a

cost-effective means of reducing crime (Steffensmeier, 1993). Enforcement that makes the life of violent offenders riskier and prospects of incarceration greater may accomplish a worthwhile goal such as punishment or expression of moral outrage (Steffensmeier, 1993). But increasingly, states are not convinced of this viability. This is why lawmakers across the nation and the political spectrum have been embarking on reforming their sentencing laws in an exertion to curtail crime and create a more cost-effective proposition to incarceration. Analysis surrounding cost/benefit of the Prison Industrial Complex have erupted among researchers seeking to unearth authentic figures of the viability of incarceration. Drawing on this academic literature, policy makers at all levels of government have begun using cost/benefit analysis to address a wide range of justice issues (Gifford, 2019). That is why it is apropos for scholars of criminal justice to get behind this research in order to embark at lasting and permanent solutions.

Several states have repealed or reformed their mandatory minimum sentencing in the past two decades while maintaining public safety (State Reforms to Mandatory Minimum Sentencing Law, October 30, 2020). An impressive statistic is that the state's prison population has declined to degrees not witnessed since the 1990s, and the state has used the savings to reinvest into crime-reduction and victim support programs (Toohey, et al 2019). Louisiana repealed most of its mandatory minimums in 2017. The state saved \$12 million in the first six months alone (Justice Policy I statute, 2006). Mandatory minimum sentences were struck down as unconstitutional in Pennsylvania in 2015. Crime rates have continued to decline since this ruling, including during the six years (2012-2018) that the state's prison population declined (Pennsylvania Department of Corrections, 2022).

Opponents of mandatory minimums say it has failed to create consistency or uniformity in sentencing despite the assertion that it was what the law was supposed to do, and the cost

effectiveness has been questioned. In 2020, Michigan legislature repealed all mandatory drug sentences, and the state's crime rate dropped 27% in the decade following the reform (ALEC, 2016). How, who and when to charge are solely in the discretionary possessions of prosecutors. Mandatory minimums, which create sentencing disparities, are imposed at different rates from jurisdiction to jurisdiction by prosecutors. When it comes to the enforcement of mandatory minimum laws, sentencing discretion are transferred from judges to prosecutors. Something called "trial penalty" in mandatory minimums, is created when prosecutors file charges which carry mandatory prison terms by those who exercise their right to trial. Mandatory minimums also create unwarranted racial disparities in sentencing. A study of federal sentencing patterns show that Black people are more likely than their White counterparts to be charged and convicted of offences which carry mandatory sentences (Rehavi & Starr, 2014). Holding other factors constant, researchers found that federal prosecutors are 65% more likely to charge Black defendants with offences which carry mandatory minimums (Rehavi & Starr, 2014).

Another opposing view of mandatory minimums is that the law is not necessary to ensure sufficient punishment. They contend conversely, that it actually makes society less safe since it creates excessive, unjust, and uneven results. This does not mean that people will not be punished if mandatory laws were eliminated – it means indiscriminate imprisonment by the courts will be curtailed. Courts are positioned to still send people to prison even if prison is unnecessary to keep the public safe or to keep people in prison past the instant at which they pose a danger to others. Courts are denied, by mandatory minimum sentences, the ability to use more cost-effective substitutes to incarceration, like drug or mental health programs. The public is less safe when resources are wasted on the wrong people which could have been used for the prevention of crime.

The calculation costs of the criminal Justice System are measured in terms of the direct costs (budget outlays) as well as indirect costs (social and economic consequences) of the punishments imposed, arresting, and imprisoning the wrong person, unnecessary injuries and fatalities sustained during arrest and imprisonment (Hayes, 2020). In contrast, the benefits are harder to calculate. A well-functioning Criminal Justice System may exhibit low or falling crime rates, low recidivism rates, and the ability to move on with one's life after a person's sentence has been served or debt paid, as well as the ability of victims to be compensated for the wrongs committed against them (Hayes, 2020). But the value of these attributes is subjective and well differ from individual to individual based on personal evaluation of safety, life, and property.

A recent comprehensive study has estimated costs at a much higher price of \$2.7 trillion for a single year of 2017 (Vanderbilt Research News, 2021). This was from a study by Professor Mark Cohen along with research team leader Ted R. Miller of the Pacific Institute for research and evaluation. The study found that more than 120 million crimes were committed in the U.S. in 2017 alone. In considering policy implications of these estimates, the research team advocates for a more comprehensive definition of the "cost" of crime to incorporate cost to the individual victim and the cost to society at large (Vanderbilt Research News, 2021). Another reason for the escalating statistics of crime is that researchers are now adding non-traditional crimes such as identity theft and fraud, impaired driving crashes, child maltreatment and a host of others not previously included in crime collection data.



Figure 10. Government Expenditure for the Criminal Justice System, 2016

While these are government generated statistics, backed with reliable sources, the accuracy of the figures cannot be 100% guaranteed by the researcher.

Table 1. Itemized Cost of the Criminal Justice Function of Government

Product or Service	Cost
	(\$Millions)
Police protection	153,009
Drug trafficking	151,256
Malicious cyber activity	116,649
Medical care for victims	110,339
Corrections	95,045
Federal agencies	74,931

Security systems	54,856
State and local judicial and legal services	51,891
Prenatal exposure to cocaine and heroin	38,663
Security guards and patrol services	30,629
Punishment cost to family and community	30,075
Federal drug control programs	21,883
Safety lighting	14,089
Small arms and small arms ammunition	10,741
Locks, safes, vaults, and locksmiths	10,528
Driving under the influence costs to driver	9,186
Recovery from vandalism or graffiti	6,721
Protective fences	3,529
Investigation services	3,138
Armored-car services	2,542
Replacements due to arson and other crimes	1,239
Cybercrime and identity theft insurance	1,219
Mothers against Drunk Driving	38
Nonlethal personal defense products	17
Total	992,213

Finally, the need to discuss inequalities and put means toward programs that have potential to have more impact than mandatory minimums should be of paramount importance to

correctional agencies. This is in view of the statistical evidence that they have not been adequate in the reduction of crime and have invariably not been cost effective. It is therefore imperative for legislators to minister a fair and just system of due process, protect the rights of the innocent, and provide those protections equally to all people. Apart from the overall personal crime cost of \$2.6 trillion in 2017, direct costs to victims and taxpayers totaled \$620 billion – about \$1,900 for every person in the United States (Vanderbilt Research News, 2021). That figure represents 3.2 percent of U.S. gross domestic product and exceeding the \$590 billion spent on the military or the \$450 billion spent on social welfare programs in 2017. The exorbitant costs of the criminal justice system impact other societal functions such as considerable reductions in economic growth as well as having adverse health outcomes for both the incarcerated and their families. Researchers have concluded that the high rate of recidivism indicates that imprisonment does not deter future crime nor rehabilitate offenders.

2.2.9 The Role of Fear & Race in Sentencing

Fear is an operational factor in sentencing legislation and a manipulative tool which politicians have used to justify discriminatory policies in the criminal justice system. The fear of what? The fear of crime and the fear of race? What about the actions which are purely racist but in the guise of fear and crime. This would plainly be what I will term the “Criminalization of Blackness” which are actions taken purely based on race and White superiority complex regardless of any mitigating circumstances. Hillary Clinton, in a 1993 speech pushing the crime bill warned of ‘predators on our streets’ who were ‘beyond the pale’ and said they must be cordoned off from the rest of society because the justice system did not know how to rehabilitate them (Reuters, 2020). In what category could a sentiment like that be placed and rationalized? The fear of race or crime? This position by-then First Lady Clinton which was initially wrongly

attributed to Biden is not totally irrational because they were in line with the broad political consensus to tackling crime at the time. The question would be how much of the rhetoric was out of racially motivated fear and how much was a justifiable reaction to verified statistics? The minority threat hypothesis argues that members of the majority group - in this case Whites – perceive size and increase in the Black population as threatening and in turn take action to reduce this perceived threat (Wang and Todak, 2016). This symbolic threat perspective has given prospectus to racial prejudice, stereotypes, and punitive attitudes in the American landscape to minority populations.

In American society, public opinion and stereotypical portrayal of Black people is linked to a legacy of racism and covers the historical role of race in the development and operation of the criminal justice system. Has there been a historical basis for White fear of Black crime which would prompt the advocacy of predatory sentencing? Or is it a case of Whites or Blacks being simply afraid of crime no matter who commits it? Because some people in the White community have argued that race does not factor in their fear of crime (Skogan, 1995). Survey studies confirm that residential proximity to Black people has prompted Whites to seek movement to the suburbs. Are these Whites simply afraid of crime or afraid of Black people or simply racist? The fear-provoking effects of proximity and prejudice are independent, and in fact, Whites currently living closer to Black people register lower levels of prejudice than those who live further away. This is due to their ability to use housing markets to distance themselves from minority neighborhoods (Skogan, 1994).

Take the issue of school busing which has been a hot button in the United States for over half a century. Along with street mugging, sexual assault, carjacking and more, it is a major racial fear of Whites. In this instance, the argument is that White fear is deliberately constructed

by those who are in a position to profit from its divisiveness. Skogan also noted that despite the political salient of White fear, Black people are more fearful of crime due in large measure to the concentration around them of factors that make everyone more fearful (Skogan, 1995). The so-called “Black on Black” crime has emerged as a societal punctuation of Black criminality. It is a phenomenon which both Black and White crime fighting advocacy groups are using to intensify the fear of Black crime.

2.2.10 Orientations for Support and Against Crime laws

There are layers of both proponents of tough crime laws and those against such laws be they White or Black. There are those for and against tough crime laws who are justice orientated and those for and against tough crime laws who are racial orientated. Justice orientated tough crime supporters want harsher punishment while the justice orientated who do not support tough crime bills want the system to have leniency. On the other hand, racial orientated proponents of crime bill just want more Black people in prison and racial orientated opponents of crime laws want Black people treated equally. These laws have also been supported by Black people which in that case will not account as being racially motivated. For instance, the National Association for the Advancement of Colored People (NAACP) and the Congressional Black Caucus were in favor of the crime bills. They wanted punitive deterrence against crime and see a justification for harsh laws regardless of who commits it or who is sentenced. A justice orientation thus sees punishment for crime committed as a justification for tough crime laws.

Proponents say it dissuades offenders from committing crimes. Is that a proven reality? What are the statistical evidence to substantiate that? Other proponents insists communities are improved as a result of tough crime laws. But studies have contradicted this assertion. Opponents on the other hand, decry that mandatory minimums are unjustified for non-violent

felonies. People who have committed non-violent felonies (and sometimes misdemeanors) have been given mandatory life sentences (Siegler, 2021). Opponents say petty crime should never result in life imprisonment when there are better options such as therapy. Researchers say these inflexible, harsh sentences exacerbate crime and racial disparities alike. Another argument against crime bills is it assumes rehabilitation will not work. A major push back is that prison costs have gone up fueling the continued expansion of the Prison Industrial Complex. The more people are prosecuted, the higher the costs for the state court system.

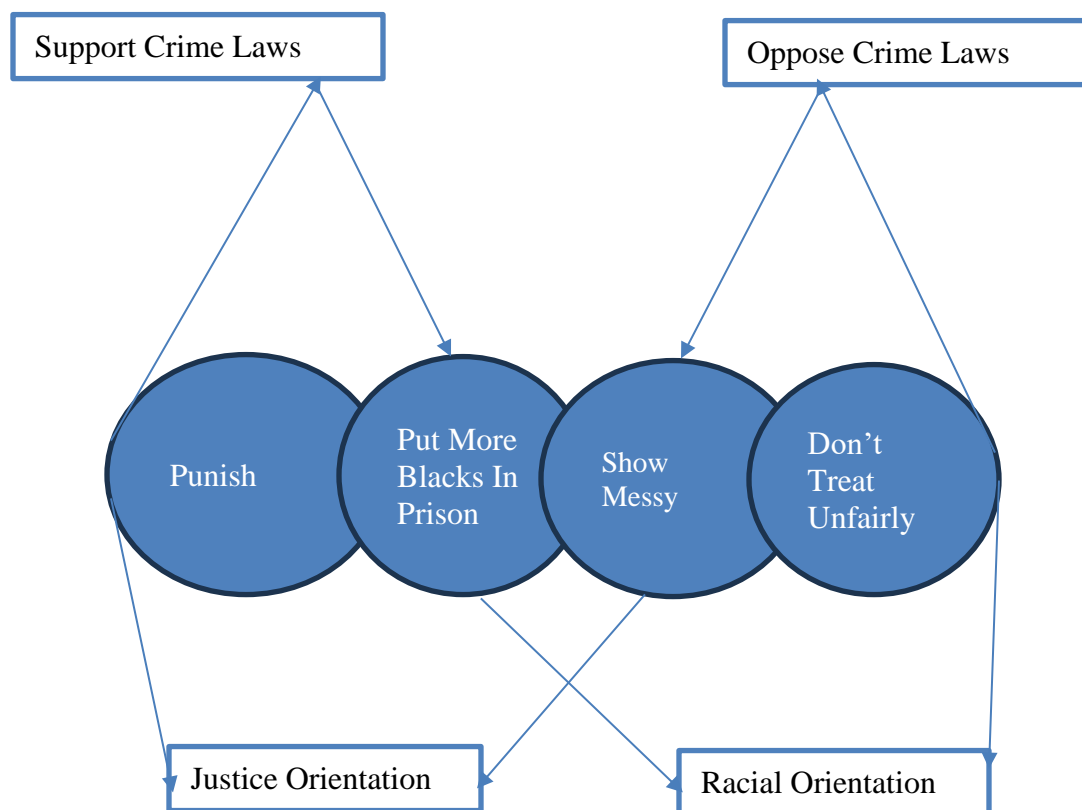


Figure 11. Crime Laws Orientation

2.2.11 Politicized Incidences for Tough On Crime

Publicized national incidents have heightened the case for tough on crime legislations. The get-tough on crime movement appears to have grown out of highly publicized heinous crime combined with the public's fear of being victimized (Skolnick, 1994). Despite apparent bipartisan support for get-tough legislation, predatory crime laws have ignited controversy among both liberal and conservative policymakers (Pertman & Franklin, 1994). Common concerns include what effects these policies will have on the population of correctional institutions, whether nonviolent crimes should be included in the legislation and what cost these policies will generate for correctional systems already overburdened with substantial

administrative operational expenditures (Benekos & Merlo, 1994; Gorwin, 1994; Gross; 1994; Pertman & Franklin,1994). Regardless of these concerns however, sentencing policies have been extensively proposed and implemented throughout the United States (Turner, Sundt, Applegate & Cullen, 1995). The politics of paranoia no doubt played a crucial and pivotal role in the successful implementation of these laws.

In a campaign year, Willie Horton became the poster child for Republicans and reminded Democrats that being soft on crime was politically a death sentence. During the 1988 presidential campaign, Reagan's Vice-President and former CIA director George H.W. Bush vied against Massachusetts governor Micheal Dukakis. Wille Horton of Massachusetts was a convicted murderer who was serving a life sentence for stabbing a person to death during a robbery. He was given a weekend pass to leave prison on his own recognizance under a prison policy instituted in Massachusetts. He was to report back on Monday. During his excursion from prison, he kidnapped a Maryland couple. He stabbed the man and repeatedly sexually his girlfriend (Studenski 1998). Presenting Dukakis as soft on crime aided George Bush's success in winning the presidency. Years later, James Jordan, father of National Basketball Association star Micheal Jordan is one of many individual high-profile incidents that sparked considerable outrage (White 2002). Other headliners emphasizing the need for "law and order" was the killing of Polly Klass – the 12-year-old girl who was kidnapped from her home in suburban Petaluma, California. The media also played a role in not only reporting these stories but creating an air of sensationalism to drive ratings while at the same time engaging in their obligatory duty of disseminating information (White, 2002).

Criminal behavior alone has not been the impetus for the tough on crime movement by politicians; this is because statistically, the rhetoric has persisted despite in times where there has

been a reduction in crime (White, 2002). The Bureau of Justice Statistics (1994) reported that from 1976 to 1991, the rate (per 100,000) of victimizations had decreased significantly for crime of violence (3,260 to 3,130) and significantly decreased for property crime such as burglary (8,890 to 5,310). It is noteworthy the appeal of these laws can be attributed to the catchy baseball – “America’s pastime” phrase “Three Strikes You’re Out” which was slickly used to incentivize the public. While identical habitual offender laws has a corresponding intent to that of the crusade of mass incarceration, the context of such policies have never been placed or equated to a sporting dogma in a twist of ironic jest. As policy watch dogs debate the merits of crime laws, ‘Three Strikes You’re Out’ has become the vague label for legislators and the public as individuals search for the panacea to solve the problem. Therefore, the intersection of the phenomenon, the media’s exposure of atypical cases within the system and the trendy slogan have created a context within which ‘Three Strikes and You’re Out’ became politically correct (White, 2002).

3 CHAPTER THREE

3.1 Georgia/Zell Miller - Two-Strikes You're Out

Zell Miller was born in a small mountain town of Young Harris, Georgia and the site of Young Harris College, a Methodist institution, where both his mother and father taught (Grant, 2005). When he was 17, his father, a dean at Young Harris College and a one-term state senator, died unexpectedly. This life-changing event led his mother, Birdie, to raise him and his 6-year-old sister alone (Grant, 2005). This had a symbolic and profound influence on young Miller's rugged independence. Miller enlisted in the U.S. Marine Corps in 1953 after he dropped out of Emory University citing, he felt out of place at Emory (Grant, 2005). His mother served 25 plus years on the city council, and he learned politics negotiation at the kitchen table (Morris, 2018). The independence he learned from his mother and the discipline he learned at the marines are attributes Miller would later acknowledge as contributing factors to his success.

In 1956, he enrolled at the University of Georgia where he earned both a bachelor's and a master's degree in history. His political journey was more complex than just being a democrat. Miller was of the Andrew Johnson, George Wallace, Orval Faubus, Lester Maddox, Herman Talmadge Democratic party who turned into the Dixiecrats, Southern Strategists and Reagan Democrats. The combination of his rigid and disciplined upbringing and his ideological landscape are rooted suggestions of why he would endorse tough-on-crime policies. In 1964 and 1966, he unsuccessfully sought the Democratic nomination for the United States House of Representatives. He endorsed segregation in both races (Foskett, 2018.) It is imperative to explore if there could have been a personal motivation for the two-strike rule that would be removed from politics. He espoused education and the advocacy of the H.O.P.E. program

(Helping Outstanding Pupils Educationally) scholarships stand out as a lasting monumental achievement for both Zell Miller and Georgia (Foskett, 2018).

Zell Miller's 'Two Strikes You're Out' SB 441 rule was passed in 1995. Before that, also in Georgia, the SB 440, known as the Juvenile Justice Reform Act of 1994 was passed. This gave rise to the proclaimed Seven Deadly Sins crime in Georgia: murder, rape, armed robbery with a firearm, aggravated child molestation, aggravated sodomy, aggravated sexual battery and voluntary manslaughter (Heyer, 2012). The deadly sins made the two strikes a narrower enforcement than the three strikes. Despite the fact that this law became effective January 1, 1995, any felony committed before that date in Georgia or any other jurisdiction, which met the Georgia definition of "serious violent felony," counted as one of the strikes."

Miller leaned into fear. His scorn and intolerance, especially for juvenile offenders, was abundantly evident (Judd, 2019). Teens as young as 13 did not escape the rough of the law. They are turned over to the adult criminal justice system after turning 17 serving juvenile time. Zell Miller stuck a stick in the ground and there is no going back to see that offenders were brought to book for crimes against society (Judd, 2019). It ensured that one in every 13 adults were under some kind of correctional supervision in the State of Georgia in 2009. That is compared to one in every 31 adults elsewhere in the United States (White, 2002). Policy changes have expanded the range of juveniles who are transferred to adult courts. For many years, violence prevention strategies were based largely on theoretical assumptions about "what works" in the absence of objective, scientific evidence (White, 2002). Indeed, so many ill-conceived strategies were found to be ineffective, many delinquent prevention critics popularized the cynical view that "nothing works." Such a pessimistic view is no longer tenable (White, 2002).

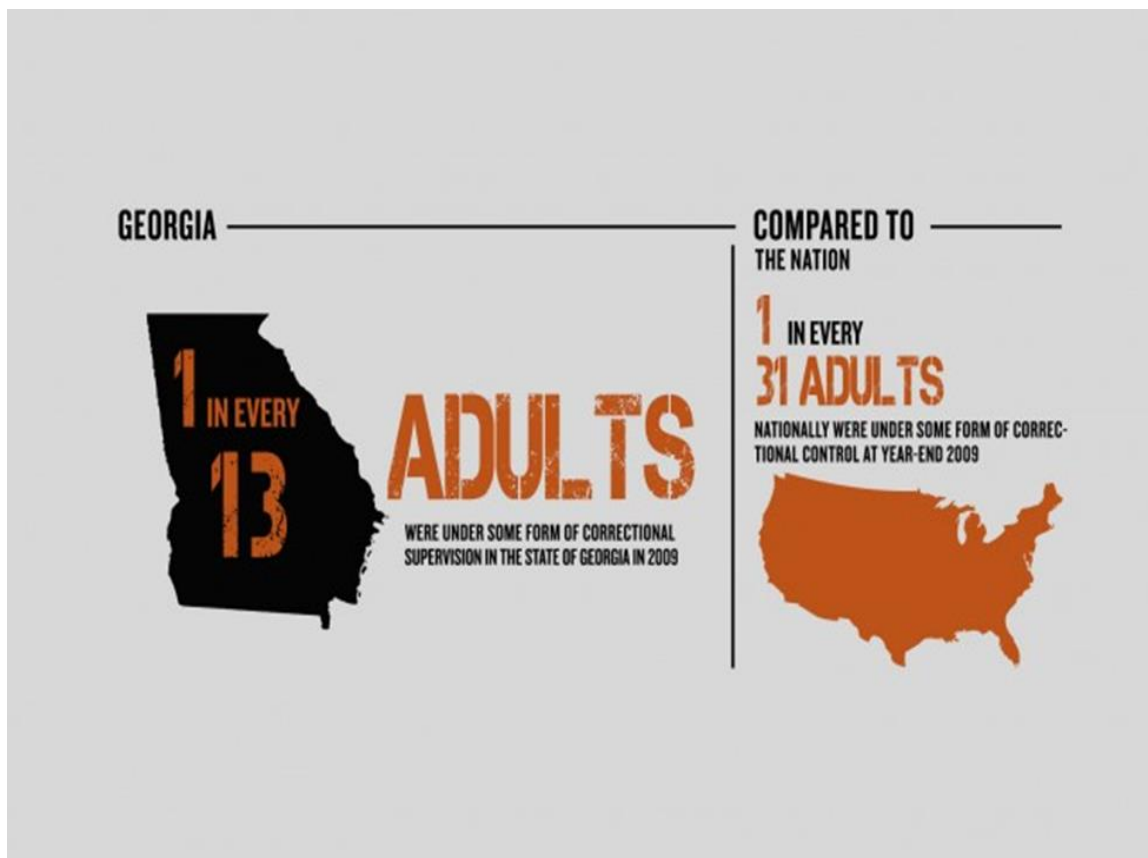


Figure 12. The State of Georgia Prison Population Compared to Nation, 2016

The mandatory minimums of 1995, which the “Two Strikes” law is also known as states: Any person convicted of two of the two Deadly Sins must be sentenced to life without the possibility of parole (The law also states that people, including youth, convicted of any of the Seven Deadly Sins serve a minimum of 10 years for the first offense (Heyer, 2013). If any person’s sentence for committing one of the Seven Deadly Sins is longer than 10 years, they are not eligible for parole and must serve their entire sentence. Predating SB 440 and SB 441 was Georgia’s “Three Strikes” law: If a person is convicted of three felonies and then convicted of a fourth felony, that person must be sentenced to and serve the maximum sentence for that fourth crime and is not eligible for parole (Heyer, 2012).

The Eighth Amendment prohibits the federal government from inflicting cruel and unusual punishments (Dayan, 2007). In *Robinson v. California*, the Supreme Court of the United States held that this proposition applied to the states through the Due Process Clause of the Fourteenth amendment. The exact meaning of the Cruel and Unusual Punishment Clause, although vague, has been interpreted by the Supreme Court to contain a narrow proportionality requirement regarding noncapital punishment (Heyer, 2012). In examining that the punishment must be proportional to the offence argument, an analogy can be derived from the earliest examples limiting the type of punishment inflicted for a particular wrong comes from the Book of Exodus, which directs that the punishment for a particular wrong be retributive only- “eye for eye, tooth for tooth” (Exodus 21-24). A mandatory life sentence for a non-violent crime does not seem to constitute punishment justifying the crime, but rather a cruel and unusual punishment (Heyer, 2012).

In terms of the number of crimes, Georgia’s Two Strikes law is the harshest version of a three strikes law to emerge out of the 1990s because it only takes two strikes, rather than three, to strike out (Heyer, 2012) Simply put, room for error is practically slim. At the end of 2007, one in seventy adults in Georgia was behind bars (Heyer, 2012). By January 2010, the number of individuals in Georgia’s state prisons increased to 53,562. (Heyer, 2012). Further, in 2008, Georgia spent \$1.1billion administering its entire correctional system (Mai and Subramanian, 2015). Ironically, the two strikes did not necessary increase the number of incarcerations. The three strikes rule had already accomplished that job. The two strikes just had a stabilizing effect, and the prison population remained the same; meaning it is already overcrowded (Heyer, 2012). Overcrowding of course leads to other proximity problems, like infections, diseases, and tensions.

A comparative synopsis of the Three and Two Strikes rules of California and Georgia respectively revealed that in Georgia, a person convicted of two serious violent felonies is sentenced to prison for life without parole; yet in California, that same person would have only two strikes, and at least in theory, have one more chance to avoid life in prison (Heyer, 2012). The reason why it is viewed according to Heyer, as such is that Georgia's version of the Three Strikes law, although not casting as wide a net as California's has been described as the most extreme. The comparative analysis by Heyer gives a revealing insight into the difference between the two laws. Despite these labels, the scope is exceptionally narrow, applying only to seven specific offences which the Georgia legislature has deemed serious and violent. Georgia's rendition of a three strikes law avoids the two harsher effects that resulted under California's Three Strikes law. Accordingly, Georgia's version is more deserving of judicial deference.

Judges will sentence all offenders who have been convicted of a serious violent felony and subsequently commit a second serious violent felony under Georgia's Two Strikes law (Heyer, 2012). Georgia sends a clear message to criminals about serious violent felonies, while California, by punishing felonies that are serious and violent under the Three Strikes law, send more muddled message (Heyer, 2012). Only those seven felonies which have been deemed serious and violent amount to a strike in Georgia. This is also true for the second triggering offence. In contrast to California's Three Strikes law, in which any third felony can trigger its application, in Georgia, a violent felony can trigger the statute's application for only the second offense. Overall, even though Georgia's Two Strikes law is the strictest in the nation, the law is severely limited in its scope (Heyer, 2012). Therefore, there's an argument that in terms of a law being more rationally related to the goals of incarcerating violent criminals and deterring future crime, Georgia's law is more reasonable than California's. The researcher has lived in Georgia

since 1985 with only about seven years away to North Carolina and Virginia on job assignment and will have not just scholarly intake, but from an observer standpoint also.

3.2 Impact and Incarceration Trends of the Law in Georgia

What are the direct impact of the Two Strikes You're Out law in Georgia? We have already analyzed some of the precipitations of the law. One of the direct impacts is the increase in the incarcerated population. An adequate assessment of correctional systems in general and prison overcrowding in particular, must address not simply the size but also the rate of growth of the population under correctional supervision (White, 2002). Another impact is the increase in incarcerated rate created billions and expansion of the Prison Industrial Complex (Galinato & Rohla, 2020). The restriction of probation resulted in fewer releases. Few bargains were possible. An overwhelmed state prison probation system led to the growth of correctional institutions (Light, 1999). A review at the trajectory before the passage of the law, and after the passage illustrate a constant increase on the burden of the entire criminal justice system.

A statistical breakdown of the incarceration impact of the 'Two Strikes You are Out' law by race shows that Black people were adversely and disproportionately affected more than Whites. One notable observation is the War on Drugs, wars on crime, and the Three Strikes laws have already resulted in expansion of incarceration. The Two Strikes laws before, and after just kept the pace. There was a slight decrease after, but the numbers are insignificant, and the percentages are still high as will be substantiated in the table.

Table 2. Georgia Prison Inmates by Race: Admission to Prison 1993-1998

Jan. 1st-	Total Admissions	White	%	Black	%	Other	%
Dec. 31st							

1993	17,126	5,490	32	11,596	68	40	0
1994	17,059	5,643	33	11,379	67	37	0
1995	15,951	5,179	32	10,736	67	36	0
1996	17,084	5,794	34	11,204	66	86	1
1997	17,254	5,791	34	11,397	66	71	0
1998	17,117	5,916	35	11,108	65	93	1

Source: Georgia Department of Corrections, 1999. Admission to Prison by Race

The table illustrates the sentencing disparity between Black and White populations before, during and after the period of 1993-1998 and Black people constituting a high proportion of the prison population. Black people, while only 11% of the adult population, comprise 46% of state prisoners, 30% of federal prisoners and 42% of all prisoners. An analysis of the incarceration trends or figures in Georgia indicate a sharper increase rate for women.

Table 3. Georgia Prison Inmates by Gender: Admission to Prison, 1993-1998

Jan. 1st	Total Admissions	Male	Percentages	Female	Percentages
Dec. 31st					
1993	17,126	15,479	90	1,647	10
1994	17,059	15,779	92	1,280	8
1995	15,591	14,449	91	1,502	9
1996	17,084	15,276	89	1,808	11
1997	17,253	15,559	90	1,659	10
1998	17,117	15,251	89	1,866	11

Source: Georgia Department of Corrections, 1999

As observed, there were more female inmates admitted after the mandatory minimums were enacted. A query remains to be explained why the rates were rising more quickly for women. A possibility theorized by researchers is that deteriorating economic conditions are now driving women to the brink quicker than men; as the primary caretakers of children, women may be driven to participate in more “crimes” of survival to avoid poverty. Revision in crime laws and practices such as mandatory minimum sentencing are commonly referred to as a main factor in rising imprisonment rates for women (Rocawich, 1987). This is a national trend and not only situational to Georgia.

Another impactful demographic to be considered when analyzing the incarceration rate in the state of Georgia is age. This is valuable to the research because the researcher also looks at how age impacts the re-entry process. The age group which is most impacted by these sentencing laws is the 20-29 age group. The table below illustrates the complete picture of the prison admission by age between 1993-1998 in Georgia, before, during and after the mandatory laws.

Table 4. Georgia Inmates by Age: Admission to Prison, 1993-1998

Jan. 1st – Total	0-19	%	20-29	%	30-39	%	40-49	%	50-59	%	60 &	%	
Dec. 31st	Admis.											up	
1993	17,126	1,230	7	7,446	43	5,991	35	1,913	11	408	2	138	1
1994	17,059	1,384	8	7,091	42	8,010	35	2,008	12	450	3	116	1
1995	15,951	1,373	9	6,447	40	5,667	36	1,946	12	381	2	137	1
1996	17,064	1,578	9	6,589	39	6,055	35	2,305	13	434	3	123	1

1997	17,254	1,423	8	6,449	37	6,196	35	2,549	15	519	3	118	1
1998	17,117	1,336	8	6,624	39	5,934	35	2,615	15	505	3	103	1

Source: Georgia Department of Corrections, 1999

The overall picture of mandatory sentencing or the “Two Strikes You’re Out” law in Georgia paints a negative picture of incarceration rates. While the number of United States prisoners increased between 1997 and 1998 by 4%, the number of inmates increased in Georgia by 7.6% (Bureau of Justice Statistics, 1999). Legislators continue to examine the elimination of the possibility of parole. Recent trends in mandatory sentencing with no possibility of parole threaten a new round of prison construction unless the state strongly considers a reinvestment in alternative punishment for lesser offenders (Lamb, 2015). What can lawmakers say are the positives of the law? Lawmakers spend much more time concentrating on the positives of the law than are willing to analysis the cons. They point to arguments like repeat offenders are restricted, communities are safer, and it provides justice for victims. Evidential statistics of quantitative records does not equate this as an overwhelming success in the glaring presence of the negative. To ignore punishing non-violent offenders severely, assume rehabilitation does not work or to pay indifference to prison cost is disingenuous. Predatory laws being a deterrent to crime have long been debunked in the face of rising crime rates.

Policy makers often claim that implementing the Three-Strikes law is good for democracy. The researcher is more concerned about its effectiveness than if it has been good for democracy. Reports have shown that it has not been effective in deterring crime (National Institute of Justice, 2016). Deterrence presumes that people will: 1) probe the relevant mandatory penalty 2) investigate the criminal code (National Institute of Justice, 2016). In reality, individuals are not apprised of mandatory penalties when they commit a crime. Therefore,

increasing the penalty or severity of a punishment is ineffective at deterring people from engaging in criminal activity (National Institute of Justice, 2016). Some positives cited by legislators are that it leads to a decrease in serious crime, and it protects society for a longer period. But opponents pose a counter argument contradicting this assertion. There are statistical evidence crime rates have actually gone down in states that have abandoned mandatory minimum and opted for reformist policies. This will be discussed in the discussions.

The cost/benefit of the prison system is measured in terms of the amount spent on corrections and the value society gets in terms of public safety. The Georgia prison system mushroomed by 117% between 1989 and 1999, up from 17, 312 inmates to 73,373 inmates (Ray, 2000). If statistics point to an ineffectiveness in crime reduction, then, it is safe to assume the cost has not been correlative to the good the laws were intended to achieve. Furthermore, once the public has invested the requisite capital to erect, the courts will continue to fill the beds nonetheless of the need for reformation and cost. The expenditure that will be apportioned to the elevated cost of corrections will not be able to be utilized for other crime deterrence measures. Other components of the system such as juvenile justice, early intervention or diversion program's effectiveness will be jeopardized. This is because these programs will receive only limited support as result of the prioritization of the expansion of prisons.

In the final phase of this research on the impact of grim sentencing laws, I met a young Georgia State University sophomore history student. Upon reading a factuality portion on Zell Miller from my thesis, commented she only knew Miller as the giver of H.O.P.E. scholarships. His benevolence she knew, rather than the harsh arm of his method of justice. Miller's "Zig-Zag" duplicity on ideologies cemented his legacy as a maverick in Georgia politics.

4 CHAPTER FOUR

4.1 Constructs

This narrative research study seeks to:

1. Examine the impact of the War on Drugs and other discriminatory crime bills which resulted in mass incarceration.
2. Describe and understand through interviews the lived experiences of ex-offenders due to predatory incarceration.

To which I measure the following constructs:

1. What is the impact of sentencing laws on incarceration and crime rates?
2. What is the lived experience curve of the re-entry progress for employment, health disparities and housing of ex-offenders' post incarceration?

4.2 Methodology

Sample/Setting

3 participants were selected using a purposive sample by utilizing information resources from Georgia State University faculty, interdisciplinary endeavors that bring researchers and students across the college and university space. Participants were approached through partnerships with re-entry homes and organizations like The Sheppard Inn, Halfway Houses, Programs for Paroles and Felons, Felon Rights, and Save Heaven Transitional. To meet the full criteria for the proposed study, potential participants must be Black males purposively between 21-65 years old and re-entry period must be between 2-20 years. Themes obtained from archival

testimony, books and newspaper articles of the pros and cons of sentencing laws to determine the benefits or lack thereof of predatory laws.

Procedure/Design

Participants were sent mail solicitations in accordance with the programs and agencies. They were given an introductory letter informing them of the purpose of the interview. The Certificate to purchase anything of their choice. With consent, interviews were recorded, and recurring themes noted and analyzed. A social justice framework was used to appropriate the themes uncovered from the interview.

Table 5. Participants Interview Themes and Codes

Themes/Codes	Participants
<p>Theme – Re-entry</p> <p>Code/Value</p> <p>Mental/Physical Health</p>	<p>P1: “Good entry homes take giving psychological services seriously that would be supported with therapy to help heal the trauma that has been endured while the person is incarcerated. It is also supposed to help them financially, socially, and educationally.</p> <hr/> <p>P2: “Mental health issues were common with the formally incarcerated. I used to be very angry at my predicament and after prison, I had to be placed in an anger-management class.</p> <hr/> <p>P3: “I had a serious health issue with back pain because of prison. I did not get treatment for a while because of a lack of insurance but fortunately, my brother was able to add me.</p>

<p>Theme – Re-entry</p> <p>Code/Value</p> <p>Re-entry Programs</p>	<p>P1: “The re-entry process is one in which there’s supposed to be a hands-off from the correctional system to social service agencies and perhaps government agencies that would assist formally incarcerated men and women to make the transition from prison to freedom.</p> <hr/> <p>P1: “Some re-entry places do not do a good job of this. They just want to do the minimum and just get funding.</p> <hr/> <p>P2: “I was skeptical about the benefits of the re-entry programs. How can they help when we can’t get employed, we can’t even vote? I was there for a long while going through the motions and trying to stay positive. Eventually, through their help, I was able to get a low-paying job as a Janitor.”</p> <hr/> <p>P3: “I did not get into a returnee program; I went to live with my brother and his wife. But it was a struggle because I felt ashamed in front of his wife. Even though my brother tried to make me comfortable, I kept having nightmares about prison life.</p> <hr/> <p>P1:” While I was incarcerated, I took my associate degree, and I was actually in Atlanta in 1994 working on a bachelor’s degree in communications. Then Congress in its infinite wisdom decided to remove all Pell Grants from Federal prisons. I was blessed to have been incarcerated with Dr. Mutulu Shakur and he contacted Dr. Umoja who became our Liaison with Georgia State University. In State and Federal prisons, courses are all but gone.” This was a negative experience, but it prepared me to take advantage of re-entry programs after prison. This is not the case for everybody.”</p>
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<p>Theme - Employment</p> <p>Code/Value</p> <p>Social Services</p>	<p>P1: “Even with social service support by re-entry homes, it is very difficult to find employment. There’s a serious stigma attached to incarceration.”</p> <hr/> <p>P1: “Therefore, this leads to discrimination against the incarcerated person returning to society, and it’s often hard for some not to fall into the temptation of falling back to crime.”</p> <hr/> <p>P2: “Qualification doesn’t amount to much if you have all these societal barriers placed on you. Not everybody is qualified out of prison. And of course, even if you are, your chance of getting hired is slim to none.”</p> <hr/> <p>P2: “Education programs in prison don’t help many. I know of someone who got nursing resources in prison but could not find a job after he left prison. Maybe he has since I lost contact, but for a very long time that I was still in contact with him, he didn’t.</p> <hr/> <p>P3: “It’s hard. We are not given a chance to find employment. I think it’s harder if you’re Black. I know so because a white fellow inmate of mine got a job within one month after he got out of prison.”</p> <hr/> <p>P3: “I got a job at a car wash, but I was let go after only 4 months. The manager said it was a layoff. I think they decided they don’t want someone who has been to prison working there.”</p> <hr/> <p>P1:” The concept of redemption and second chance is giving lip service. Many employers don’t want liability. They don’t want to be seen as endangering the workplace. They simply don’t want their H.R. department to extend employment to fully incarcerated people. But COVID forced some employers to hire because of the shortages.”</p>
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<p>Theme - Race</p> <p>Code/Value</p> <p>Family Support</p>	<p>P1: “I’ve enjoyed my freedom. It’s been a serious struggle, but I had the support of my family.</p> <hr/> <p>P1: “I’ve four daughters and a son with many grandchildren and great-grandchildren. But I really worked extremely hard to stay connected with my family to raise my children. I don’t know what I would’ve done without them.”</p> <hr/> <p>P2: “Hard to make the transition without the support of family.</p> <hr/> <p>P3: “If not for my brother, I don’t know what I could’ve done or where I’ll be now. Maybe back to prison.”</p>
<p>Theme - Race</p> <p>Code/Value</p> <p>Lessons</p>	<p>P1: “Prison has taught me a very valuable lesson. At the time I did my crime robbing banks, I felt justified because of what American racism has contributed to the plight of Black people.”</p> <hr/> <p>P1: “I’ve paid for my crime. Today, I feel blessed to be in the position that I’m in. After 16 years of incarceration, and 13 years of freedom. I run one of the largest non-profit organizations in the country here in Philadelphia. We feed 14-15,000 people and 400 families each month. We also do conflict resolution in family disputes.”</p> <hr/> <p>P2:” My four years in prison brought structure to my life. In prison, you must watch your surroundings. This has conditioned me to be more aware of things and take opportunities where I see them. I wasn’t</p>

	<p>criminally minded; I was just with the wrong crowd and immature.”</p> <hr/> <p>P2: “There are a lot of lessons you must learn in life. In prison, I saw racism firsthand as it is on the outside. White guys were given better work details while we were given the harder and dirtier work. I don’t want to hold on to bitterness. I’m humble, I’m a customer service rep now and I’ve adjusted well after prison.</p> <hr/> <p>P3: “I regret what I did that got me in prison. It’s still very difficult because I still cannot find a steady job. I’m living with my brother; I cannot afford a place of my own. I wonder how long he’s going to continue supporting me. They should make things easier for us to get back on our feet.”</p>
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4.3 Oral History Interview Guide

1. How were you welcomed back into your neighborhood after release?
2. What kind of support from authorities and caregivers did you have in your efforts to seek help and adjust back to society? Describe the support that was available to you?
3. What is your age and how long have you been out of prison?
4. Did you participate in any education programs while in prison? If so, in what ways has it helped your rehabilitation?
5. It is acknowledged that four of the biggest challenges ex-offenders face upon re-entry are not knowing where to begin, family strain, finding employment, and mental issues. Which of these problems are dealing with, if any, and how are you coping with them?
6. What is your opinion of mandatory minimum crime laws which have adversely affected disadvantaged populations and contributed to mass incarceration?
7. What is your relationship with your family members now?
8. Describe what led you to prison? What do you think your experience in prison has taught you the most?
9. What is your opinion of the prison institution and what it does to the prisoner’s psychological or mental capacity?

10. Did race play a role in the situation that got you in prison, and is it also playing a role now in your efforts to stay grounded out of prison?
11. Many companies or places of employment deny ex-offenders the opportunity of gainful employment. What are the changes or solutions the government needs to do to combat this injustice?
12. What was your journey before prison, and how do you look back and reflect on your decisions?
13. What outreach and community help programs are you enrolled in right now and what are the benefits it's affording you?
14. What do you want society to understand about your crime, your conviction, and your incarceration?
15. Are you optimistic about not falling victim to recidivism – meaning going back to prison? Explain?

Sub Questions

1. What are the questions and remarks people make to you in the community on your re-entry?
2. Authorities have placed a lot of value on education while in prison. What are the teaching methods of the teachers?
3. To what degree do you think race has played a role in your problems of re-entry?
4. The United States has the largest prison population in the world. What are your comments on this distinction?
5. Words matter, what are the preferable names to call someone who has been in and out of prison? Why is the human impact for the usage of proper and improper names?
6. Describe the support available to you during re-entry?
7. What does re-entry feel like for a former inmate?
8. How do you see your future?
9. Why did you choose that answer?
10. How have you been? What's been going well for you?

4.3.1 First Cycle coding

From the above table, before the questions, experiences were used as value coding to break down and analyze the interviews effectively. After the researcher conducted the first interview, there was enough time before the second to be prepared to evaluate preconceived notions of the problems of re-entry and not have them interfere with the lived experiences articulated in the first interview and the subsequent ones.

This provided a comprehensive platform which guided the research methodologically for the second cycle. From the data, emerged major codes that captured a set of values attributed to

re-entry experiences emerging from the categories of questions. These experiences and beliefs held by the participants include stigma/rehabilitation, mental/physical health, re-entry programs, social service, family support, and lessons.

4.3.2 *Second Cycle Coding (Analytic)*

Analysis from the second cycle coding demonstrated that employment was a major symptom of the determinant factors which impact re-entry outcomes. Participant 1 expressed that recidivism is prevalent in the first three years of re-entry. Statistical figures already provided in this study give it a collaboration. The participant mentioned that when talking about rehabilitation. Support from family is crucial and adds to the success stories of re-entry. Regret is an integral part of lessons learned. Participant 1 said prison taught him a valuable lesson. An atonement for past atrocities provides a healing avenue to move on to a better tomorrow. Race of course is the variable which is constant and must be content with as a factor. All participants acknowledge that race played a part in the predicament they found themselves in which the cards of an unjust society has played them. The condemnation of the war on drugs and predatory sentencing targeting the Black community was unanimous.

Major Themes (3)

Re-entry

Employment

Race

Major Codes (6)

stigma/rehabilitation

mental/physical health

re-entry programs

social services

family support

lessons

P - Participants

4.3.3 Synthesis

The theoretical framework of justice was operationalized to address the objective of the study and the research question. The participants' responses informed the reconceptualization of the study's research questions. (1) Did the War on Drugs and predatory sentencing laws result in increased incarceration? and (2) What are the barriers and disparities experienced by ex-offenders upon re-entry back into society?

The findings conveyed the participants' thoughts and interpretation of the re-entry process in their lived experiences. The rehabilitation process or lack thereof was a very compelling discussion. The cycle of the impact of re-entry extracted from the interview dialogue answers the overarching questions of the impact of re-entry. The disparities of mental and physical health, employment, and housing outcomes. Their disposition about the War on Drugs and unjust sentencing laws is echoed as a recurring theme in the interviews.

The compelling stigma/rehabilitation utterances of the participants informed the premise of the first question of how the participants view or perceive their treatment upon return to society. Criminalization in the United States was expressed as being more punitive than positive. There's stigmatization against returnees, especially by the nature of the crime they committed.

The word rehabilitation is not even an appropriate word to use. You cannot really be rehabilitated into a society you have lived in all your life.

The mental and physical health or state of returnees are huge problems in the re-entry process. From their lived experiences, a lot of the halfway or re-entry homes are not effective and are sometimes ill-equipped to handle the constraints of these disparities. With the lack of insurance coupled with the inadequate availability of other support mechanisms like employment and financial assistance, formally incarcerated persons have an uphill battle. The psychological trauma from years of incarceration impacts the ability to adjust back into society. The research also informed us that there are good and bad programs. Some just want to get funded and do minimal transformation.

Re-entry programs are basically designed to help returning citizens successfully re-enter society following their incarceration in an effort to reduce recidivism, improve public safety, and save money. It is also intended to provide intensive workforce developmental training, substance abuse therapy, and educational and vocational resources. These are all noble endeavors on paper, the actual rate of success on the ground is what matters. Some are more effective than others. Testimonials from the participants revealed that some re-entry homes do not have the best of intentions. Maybe that is why the rate of recidivism is still high among the criminally impacted. In the study of 30 states, the Bureau of Justice Statistics found that 67% of offenders were rearrested within three years of their release and 77% within five years of their release (Harrison and Beck, 2005). But some re-entry homes have done well. Two of my participants have been the recipients of such and have had a successful re-entry.

In this synthesis, the researcher tries to distinguish re-entry homes and social service in the value assessment. The homes, or re-entry homes constitute the body, while the social services

are what are supposed to be provided to returnees. In the social service value, the participants expressed some misgivings of services. Although the intended services of re-entry homes consist of many, employment seems to be the most urgent and important for returnees. From their lived experiences, there is not an emanation of many good stories to tell. Even prison programs which can be labelled or advertised as “head start” for returnees after prison, are not guarantors of a success story. One participant expressed that they knew of someone who took nursing courses in prison but could not secure a job upon release. With high stigmatization, societal disapproval and employers’ reluctance, returnees have little or no chance of obtaining jobs, let alone good paying ones. Race remains a variable to this equation.

A particular study discussed in the literature review to determine whether race is impacted on the ability of ex-offenders to secure gainful employment was called “Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records.” I informed the participants of the findings of that research. Using my discussions from the interview guide as a mirror to gauge the magnitude of their apprehension of the stark reality they already knew, was not only compelling but revealing. I could discern how the gravity of the denial of employment due to race and status in what I call “Crime after Punishment” invokes a disdain for societal institutional injustice on the countenance of the subjects.

Looking at the convoluted hypocrisy of it all, the EEOC (Equal Employment Opportunity Commission) has federal guidelines regulating conduct in the hiring process. Under Title VII of the Civil Rights Act of 1964, there is what is called “Consideration of Arrest and Conviction Records in Employment Decisions.” This guideline is designed to protect applicants, or even current employees, from unlawful and discriminatory actions by employers. The two aspects of the guidelines most pertinent to our scrutiny is “Disparate Treatment and Business Necessity”

and “Business Necessity.” Disparate treatment occurs when an employer treats criminal history information differently for different applicants or employees based on their race or national origin. Business necessity occurs when an employer denies a job that does not correlate with what an applicant is convicted for. An element of frustration is these guidelines were not enforced in as much as they were voiced, proposed, or legislated. The indifference here bordering on benign neglect is despite being a sound propositional federal guideline, or lawful premise; it becomes a toothless contradiction in lieu of punitive action when violated.

Another dilemma is that most ex-offenders are not aware of these guidelines to even take advantage of its actuality. A statement from the E.E.O. C’s website reads: “An employer’s use of an individual’s criminal history in making employment decisions may, in some instances, violate the prohibitions against employment discrimination under Title VII of the civil rights act of 1964 as amended.” Mandatory adherence to an educational program to teach inmates about their rights after prison can be instituted in both federal and state prisons. This will give them the necessary tools to fight unscrupulous employers who continue to violate the rights of citizens. This notwithstanding, there is the question of employers not willing to bear the brunt of liability as expounded by Participant 1. It is interesting though that COVID was able to offset the apprehension of employers.

A value which is also paramount to a successful return after prison is family support. Participants in unison expressed a profound necessity for this to be present in coping with all the accessories associated with the impact of re-entry. The stress of incarceration, and the aftermath in vices like depression, physical health, drug dependency, alcohol abuse, lack of affordable housing and employment take their toll. The fabric of a good family encouragement can go a long way in alleviating a lot of pain and anger. It can be brother, sister, uncle, father, mother

auntie, son, or daughter – they all play equal parts to ensure that their loved ones return to normal and successful lives after incarceration.

What are the lessons learned? This is a redemptive process which requires the healing of a soul, the cleansing of a spirit and closure of the mind. Does it take years to realize the impact of a crime? Is there a justification for it by the perpetrator at the time of committal? Participant 1 said he felt he was justified because of racism in American society. Robbing banks to him seems to connote retaliation. A poetic justification for centuries of racial discrimination, oppression, prejudice, and humiliation. Participant 1 in other words is confronting the process by which systems and policies, actions and attitudes create inequitable opportunities and outcomes for people grounded in race. From a social justice theoretical framework, institutional racism would be the miscreant factoring in the lived experience of the participants.

Participants generally have learned from the experience. They expressed being immature and not fully grasping the consequences of their actions in the heat of the moment. There are laws governing societal behavior and violators will face the book. The stride which participant 1 has made, having met Dr. Umoja and Dr. Shakur and now in charge of a reputable re-entry facility in Philadelphia speaks volumes of the lessons learned and the blessing that he's relishing. Recidivism will not be in their vocabulary. His words when asked about the future: "The future is so bright that I need shades." Since this research involves the decimation of Oral History, a Federal Institutional Review Board (IRB) approval will not be required with regards to the interview participants as human subjects. Oral history is excluded as long as it falls under the category of "scholarly and journalistic activities which collect and use information about specific individuals themselves." This research falls within that framework.

5 CHAPTER FIVE

5.1 Validation Strategies

Due to identity concerns by participants, only audio recording was agreed upon. This is understandable because of the status of participants. This resulted in minimal impact on the integrity of the interviews due to the inability of the researcher to have a visual observance of participants, which may include the observers' personal and subjective responses of answer. The third participant was interviewed one-on-one.

5.2 Significance of Research

This research sort the need for reform in sentencing laws in the United States. Prisons are overcrowded and offenders are not being rehabilitated. While there is widespread evidence that there is no link between crime rates and imprisonment, lawmakers continue to push for more punishment. Alternatives to incarceration like probation, fines, community service and restitution payments must be forcefully championed. Gaps remain in the literature addressing Georgia's Two-Strikes You're Out rule. This study might be helpful in the field of criminal justice with respect to whether Georgia's Mandatory Minimum Sentencing Laws are reaching their goal of reducing violent crime. Gaps also persist in the unjust practice of denying employment to ex-offenders which have gravely produced negative effects in their re-entry process. Their well-being, health and housing opportunities are in jeopardy as a result. Existing paradigms have not produced optimum re-entry outcomes. An across-the-board approach to put an end to this tyrannical disposition must be initiated by legislators. "Ban the Box" is an initiative for employers to stop asking about convictions, but it has only been implemented in a few states. This research is significant in that it intends to bring continuous awareness of the "Ban the Box" initiative and for it to be implemented nationwide across the United States.

5.2.1 Discussion

The findings of this research reaffirmed the hypothesis of whether the War on Drugs or other predatory sentencing laws lead to an increase in incarceration in the United States. The particular impact of the “Two Strikes Rule” in Georgia was found to have increased incarceration in that state answering our first research question. More importantly, in line with the premise and assumption of the study, Black people, more than Whites, were adversely represented due to these laws in the penal system. Researchers have pointed out the unintended consequences of the law. The first observation is that three strikes flattened the penalty gradient with regards to rigidity. This prompted offenders to commit more violent crimes. Also, amidst the three strike eligible offenders, the propensity to commit violent crimes increased. In other words, the law fell short of its intended purpose as a deterrent to crime. As a historical project, this research looked at the long arm of mandatory laws in the United States and specifically the state of Georgia. It will be prudent to situate the historical facts in the past tense, however, these predatory laws are still in place and have an exacerbating impact on Black communities. It is therefore urged that present and future researchers on this topic use present tense to describe their study and findings until the laws are repealed or eliminated.

5.2.2 Limitations

Limitations in the study includes the limited sample size of interview participants. This limited the scope of the study to fully assess the impact of the disparities of re-entry and the lived experiences of past offenders as you would have from a larger sample. Additionally, it is also limited by age and the stipulated time period after release from prison. The implications for a further research design and methodology calls for a larger sample, the desideratum to accelerate the availability and utilization of alternative sanctions for non-violent offenders, and the

necessity to prohibit different sentencing laws due to race. The cost of implementation of crime laws is also related to convincingness due to the fact that incarceration is an expensive correctional option.

5.2.3 Conclusion

The American criminal justice system has a trajectory of disproportional law enforcement of marginalized populations. There is a historical context from the slave patrol of pre-independence to the slave codes of Jim Crow, to the brutality of the F.B.I. counter surveillance; and killings of the civil rights and Black power leaders of the 1960s & 1970s. The War on Drugs and other predatory sentencing laws resulted in unrepresented mass incarnations and the adverse effects of re-entry post incarceration. There are pros and cons of the effectiveness or benefits of sentencing laws. A component of fear is said to be attributed to tough on crime policies. Proponents contend it reduces crime but conclusively validated evidence through research is debated. Opponents however draw an otherwise conclusion. They contend it does not deter violent offenders, and in fact could lead to more crime and clogging up of the courts. One thing the researcher found is that the cost & benefits of sentencing laws are often not measurable by dollars when equated by loss of property and lives of victims.

There are gaps in addressing merits of crime bills like the ‘Two-Strikes’ rule. Not enough analysis has been done of its overall effectiveness; or otherwise, non-effectiveness. An advocacy of alternatives to prison is gaining momentum in ideas like drug treatment, community service for those convicted of lower crime, victim restitution and new sentencing guidelines that are proportional to the crime committed. Mandatory minimums make sense and could be deterrents only if all crimes were pre-meditated. A random offender does not care about the severity of a sentence. The advocacy of prison reform and incarceration is needed for the overhaul and

elimination of disparaging sentencing structures which are beset with injustices evidenced from the lived experiences and accounts in this research. Some states have begun in the right direction of reform repealing mandatory minimums, and as a consequence; there is currently a reduction in the United States prison population. But more needs to be done. Using social justice as a theoretical framework, a solution-based best practice approach with a reformative lens of prioritizing rehabilitation over incarceration, should be a feature in the contours of the American Justice System. Legislators should in good faith and non-partisan orientation make adherence to institute this feature permanently.

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