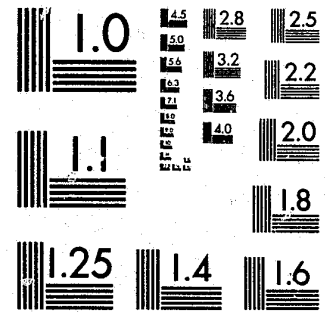


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Incarceration Rates: Blacker Than White

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Incarceration Rates: Blacker Than White

Introduction

For the most part, sociologists and criminologists have attempted to investigate, analyze, understand, and recommend solutions to the problem of crime and other social problems independent of an understanding of the nature and character of the social order, and the political-economic problems or setting which provide the social context out of which crime and other social problems emerge. The political and economic systems of the American Social Order are the means through which the physical and social necessities of life are produced and distributed, and are structured by class and race relations of power, control, and domination. Any behavior that threatens the maintenance of the social order in general, and the capitalist social order in particular is met with certain sanctions defined by and enforced on behalf of the capitalist ruling class. As long as the behavior, defined as criminal, is apparently confined to the neighborhoods of the oppressed and powerless, it is not considered an immediate threat to the moral fabric of the society. However, when it becomes evident that the behavior or activity might spread to the communities of the upper and middle-classes, the ruling class becomes concerned because it is from this group that the future leaders and maintainers of the status quo come. For the upper-and middle-classes the punitive consequences are minimized and the oppressed and powerless continue to experience differential application of law enforcement. Whether

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the criminal act is symbolic or an actual threat to the ruling class, or to the climate for the maintenance of the social order, control to repress such activities are established and enforced.

It is the position of this paper that crime in America is a result of a political and economic set of arrangements that are grounded in the maximum utilization of persons for the purpose of making and increasing profits, wealth, and privilege of a capitalist ruling class who happen to be white. This situation is maintained by other complimenting arrangements that together constitute the nature and character of the American social order.

The American system is established and maintained by its legal, political, economic, educational and socio-cultural arrangements. These arrangements define the nature of the social order, and the policies and practices of these arrangements define its character. For many years, Black organizations struggled against the policies and practices that were established on the consideration of race for the purpose of political and economic domination and control by one racial group over another or other racial groups. There is claim to success in changing racist policies, but racist practices continue. For example, in 1976, The Council of Economic Advisors noted that an estimate of \$13 billion more would have been placed in the hands of blacks had there not been any racial discrimination in employment. Although these practices were established and legitimized initially by laws and reinforced by explicit acts, they have now become autonomous entities propelled by their own

internal dynamics.

We are all aware that there are ordinances, statutes, and laws against racial discrimination, nonetheless, the practice continues. Moreover, these racist practices, which were once supported and maintained by racist policies, adversely impact Blacks in racial and economic terms. The political and economic status of Blacks is determined by the arrangements of the social order and certain institutions are established, including the criminal justice system, to maintain control, dominate and subordinate them. Blacks are not only affected by racial policies and practices that control and dominate them, but economic and political policies and practices have the same affect. These policies and practices that are institutionalized in a racist-capitalist system breed a situation wherein political and economic domination gives rise to racial domination which in turn reinforces political and economic domination. It is within this political, economic and racial context of domination and control within the American social order that a proper or an adequate understanding of the presence of Blacks and the oppressed poor, who make up the population of prisons, can be achieved.

The subjugation, control, and exploitation of Blacks and their community have always been an integral part of the institutional infrastructure of the American social order. Within the context of control, the community has been made the target for administration of policemen and other public service agencies and sub-systems of the criminal justice system.

Labor and Prisons

A systematic and organized attempt to confine Blacks in

prisons came soon after 1863 when Blacks were assured, resulting from the Lincoln gesture, that they were free to leave the plantation under a forced labor system. Capitalism had created the need for free labor to which Blacks were subjected. The enactment of vagrancy laws continued the system of enslavement and forced cheap labor (Swan, 1981). In 1349 England enacted vagrancy laws, and "there is little question that these statutes were designed for one express purpose: to force laborers to accept employment at a low wage in order to insure the landowner an adequate supply of labor at a price he could afford to pay" (Chambliss, 1964). "These laws were a legislative innovation which reflected the socially perceived necessity of providing an abundance of cheap labor to landowners during a period when serfdom was breaking down and when the pool of available labor was depleted" (Chambliss, 1964; Rusche and Kirchheimer, 1939).

Vagrancy statutes adopted in America to control the labor of recently freed slaves provided for the arrest of persons with no apparent means of support. The landowners were assured of cheap labor after the former slaves were arrested, imprisoned, and then hired out to plantation owners.

"The extension of vagrancy laws to criminal behavior did not mean an end to the problem of controlling the labor force. Capitalist production required the existence of a mass of workers who had to work for a wage in order to survive. The creation of a work force under the direction of capitalist entrepreneurs did not occur by a "contract of free choice" between a capitalist and a worker, but was the culmination of a long historical process whereby

the serfs were forcibly expelled from the land, denied their customary rights to work the lord's estate, and separated from any alternative means of survival (Balkan, Berger, and Schmidt, 1980).

The political and economic systems of the American social order operate in such a way to create surplus labor and surplus population whose labor is not required in the regular economy, but needed in the prison system to supply several needs of the state.

Sentencing Disparity in America

Criminological investigations continue to support the racial and class bias of criminal justice in sentencing. It has been found, that "even when the seriousness of the offense is held constant, blacks are more likely than whites to receive a more serious disposition from the courts" (Quinney, 1975; Chiricos, Jackson, and Waldo, 1972; Scarpitti and Slephenson, 1971). Further, juveniles of the working-class were found to be less likely to receive probation and more likely to be institutionalized than juvenile delinquents from middle and upper classes. The same is true for adults. In spite of the offense, working-class, blacks and the poor, are more likely to be sentenced to prison, and receive more severe dispositions than upper and middle class who have a greater degree of political and economic power to evoke when they come in contact with the criminal justice system (Burns, 1971; and Blackburn, 1971).

The move in California and in several other states to restrict the discretion of judges in sentencing has resulted in

replacing the indeterminate sentencing practice with that of the determinate sentence. This move has been supported by racist conservatives, liberal functionaries, and by a large number of inmates for a variety of reasons, including uncertainty as to release, abusive use by prison officials, equitable sentencing for all, and the anxiety, frustration, bitterness and even violence that were associated with the practice of the indeterminate sentence. However, this reform in sentencing that was designed to regulate the discretion and choice of the sentencing judge where the range of sentences are so narrow that gross disparities are thought to be impossible has not checked the disparity in sentencing, and blacks, now more than ever before, make up a disproportionate number of those who are sentenced and imprisoned. However, investigations of reports on trends in incarceration in the United States since 1880 reveal that the rate of incarceration in federal, state, local and juvenile correctional institutions has steadily increased, and that in the nineteenth as well as twentieth century blacks, members of other oppressed racial groups, non-English speaking persons, and persons born abroad constituted a majority percentage of those incarcerated in the prisons of America. Over the years the rate of foreign born incarceration has declined, but the rate of blacks and Spanish-speaking inmates has steadily increased (Cahalan, 1979). Cahalan has concluded that:

Since 1880, the distribution of offenses as reported in government documents has shifted only slightly toward the "violent" offense categories, primarily because of increases in the percentage of robbery prisoners rather

than increases in the crimes of homicide, rape, or assault. Morals-related offenses have been redefined in some cases, but the overall percentage of the total has changed little. In recent years surveyed, correction has remained focused on economic crimes of individuals poor in resources - in contrast to the great volume of criminal legislation passed during this period (p. 37).

Cahalan further concludes that:

While economic crimes have remained paramount, there has been no relationship between the amount of economic loss incurred and frequency of representation in prison. In 1965, the crimes of embezzlement, forgery, and fraud - the property offenses committed largely by white collar workers - were least represented in correctional institutions, yet they involved an economic loss three times that incurred from robbery, burglary, auto theft, and larceny over \$50, combined. In 1975, robbery, the crime most represented in prisons, involved the least economic loss of any property offense (Wright, p. 28; UCR, pp. 3, 26; Cahalan, p. 38).

We can conclude that convictions of persons for robbery are not related to the actual economic loss, nor to the nature of its danger since robbery is represented in prison much more frequently than assault offenses. Rather, such convictions and ultimate incarcerations of persons for robbery are related to the definition of private property as an operative concept in the American social order, and the characteristics of those

who are charged and processed for crimes of robbery through the criminal justice system.

In a study by Conklin of all reported robberies in Boston in 1964 and 1967, it was found that only 5 percent involved a cut, stab or gunshot wound. The majority (75%) involved no injury at all. Only one homicide in 1964 and two in 1968 were found to be robbery related. Where resistance was minimal and where the robber carried a gun, injuries were less likely to occur (Swan, 1981; Conklin, 1972).

In 1974, FBI reports showed that 62 percent of those arrested for robbery were blacks. Robbery was the primary crime for which blacks were arrested, convicted and incarcerated. (UCR, 1975) "The rise in robbery commitments observed in the prison offense distribution parallels increases in the percentage of the total prison population occupied by blacks." (Cahalan, p. 39).

Prison Population

In 1970, 160,863 persons were reported to be incarcerated in state correctional facilities in America. Between 1970 and 1979, the number had increased to 277,772, an increase of 116,909, a 58 percent jump in nine years.

Blacks have consistently represented between 11 and 12 percent of the American population. While they accounted for about 22.6 million or 11.1 percent of the population in 1973, they accounted for 46.4 percent of the prison population

Table 1

U.S. State Prison Population by Race and Region - 1973

Region	White		Black	
	#	%	#	%
Northeast	10,246	5.7	14,785	8.3
North Central	18,110	10.1	16,701	9.3
South	33,562	18.8	43,933	24.6
West	20,400	11.4	7,669	4.3
TOTAL	82,318	46.0	83,088	46.4

SOURCE: U.S. Department of Justice, Census of Prisoners in State Correctional Facilities, 1973

(178,914). Whites represented 82,318, or 46 percent of the prison population while making up 79 percent of the national population. For both whites and Blacks the numbers and percentages were greatest in the southern region. However, percentage was greater for Blacks with 24 percent, than for whites with 18.8 percent. One can argue that this is the case because a greater number of Blacks live in the southern region than those who live in other regions. However, Blacks are greatly overrepresented among prison populations in every region of the United States, and this has been the case since the 1830's.

By 1979, the prison population had increased to 277,772. Of this number, Blacks made up 132,194, or 47.8 percent, a significant increase over the 1973 figures, and whites represented 44.2 percent, or 122,304. Again the southern region registered the highest number of Blacks (71,417) and white (54,805) incarcerated. Again the numbers for Blacks exceeded

Table 2

U.S. State Prison Population by Race and Region - 1979

Region	#	White %	#	Black %
Northeast	16,054	5.8	21,667	7.8
North Central	30,674	11.1	29,199	10.5
South	54,805	19.8	71,417	25.8
West	20,771	7.5	9,911	3.6
TOTAL	122,304	44.2	132,194	47.8

SOURCE: National Institute of Correction Survey, 1979.

that of whites by 16,612. In 1973 as well as in 1979, the North Central and the Western regions showed fewer Blacks than whites incarcerated. In proportion to the respective populations in these regions however, Blacks were overrepresented in the prison population. In terms of real numbers and percentages the difference does not seem significant, especially when we argue that the whites and blacks that represent the prison population are, for the most part, of the working-class. However, what is interesting about the data is what it reveals when incarceration rates by region and race are computed. Data produced by the Center on Minorities and Criminal Justice show striking differences in incarceration rates when computed per 100,000 civilian population. It is shown that "for the entire United States, (1973) 46.3 per 100,000 whites were found to be in prison, whereas the figure for blacks was 368.0, or about eight times greater (Christianson & DeLais 1980). For 1979, 65.1

Table 3

Incarceration Rates in the United States by Race and Region

	1973			1979		
	Black	White	All Races	Black	White	All Races
Northeast	340.3	23.1	60.5	484.1	36.7	88.7
N. Central	365.3	35.1	64.9	580.4	59.5	108.5
South	367.0	66.6	131.5	558.1	100.5	194.9
West	452.5	65.0	86.1	497.5	61.6	106.5
U.S.	368.0	46.3	88.0	544.1	65.1	131.3

SOURCE: U.S. Bureau of the Census, 1976.
U.S. Department of Justice, 1973.
National Institute of Correction Survey, 1979.

per 100,000 whites were found to be in prison compared to the 544.1 for blacks, over eight times greater. In 1973, the Black incarcerated rate ranged from 340.3 in the Northeast to 452.5 in the West. By 1979, the range was 484.1 in the Northeast to 580.4 in the North Central. The national average was 368.0 in 1973, and 544.1 in 1979 per 100,000 blacks.

The percentage increased in the incarceration rates by race and region for 1973 through 1979 are shown in Table 4. It is obvious that the black rate rose by 47.9 percent while the white rate rose by 40.6 percent. The percentage increase for all races was 49.2. The North Central region registered the highest percentage with 58.9 for blacks, 69.5 for whites, and 67.2 for all races.

The West recorded the smallest percentage with 9.9 for blacks, 5.2 for whites and 23.7 for all races. A greater

Table 4
Percentage Increase in Incarceration Rates by
Race and Region, 1973-1979

	Black	White	All Races
Northeast	42.5	58.9	46.6
North Central	58.9	69.5	67.2
South	52.1	50.9	48.2
West	9.9	5.2	23.7
U.S.	47.9	40.6	49.2

percentage increase is shown for whites in North Central and Northeast, and a greater percentage increase is shown for blacks in the South and West.

When the change in disparity is examined between black and white incarceration rates, the North Central region again recorded the greatest increase with 190.7 persons per 100,000. The West recorded the smallest increase in disparity with 48.4. The difference between black and white incarceration rates from 1973 to 1977, increased by 157.3 persons per 100,000. This figure is an indication that the presence of blacks in prisons between 1973 and 1979 increased substantially.

Table 5
Change in Disparity Between Black and White
Incarceration Rates by Region 1973-1979

	1973	1979	Change in Disparity
Northeast	317.2	447.4	130.2
North Central	330.2	520.9	190.7
South	300.4	457.6	157.2
West	387.5	435.9	48.4
U.S.	321.7	479.0	157.3

The North Central region shows the highest increase in the change in disparity with 190.7, followed by the South. When the incarceration rates for blacks and whites are ranked by jurisdiction, the black incarceration rates for 1973 ranged from 825.3 in Iowa, to 39.9 in New Hampshire. For whites the range was from 110.8 in North Carolina to 13.5 in Connecticut. For 1979, the range for blacks was from 1341.8 in the State of Washington to 50.0 in North Dakota. Of the top thirteen

Table 6
Black and White Incarceration Rates Ranked By
Jurisdiction - 1973

	Black	White		Black	White
Iowa	825.3	40.0	New Jersey	365.8	25.4
Oregon	805.8	60.9	Maine	357.1	49.1
Utah	710.3	43.6	Virginia	346.8	54.3
Washington	701.2	65.3	Pennsylvania	342.2	20.9
Arizona	699.2	58.3	Kentucky	339.3	70.6
Nebraska	691.5	40.3	Missouri	339.0	41.1
Minnesota	653.9	28.0	New York	337.7	21.7
Maryland	553.1	42.3	Alaska	314.2	39.7
Wisconsin	543.6	29.2	S. Dakota	307.3	27.0
Colorado	543.6	61.1	Alabama	270.8	59.4
Nevada	525.9	106.9	Montana	250.6	34.8
Oklahoma	505.5	96.4	S. Carolina	250.3	77.7
Texas	505.4	65.1	Louisiana	236.7	40.7
Florida	485.1	69.1	Arkansas	235.5	58.3
Michigan	479.0	42.4	Illinois	226.4	24.7
N. Carolina	474.1	110.8*	W. Virginia	222.7	49.6
Wyoming	467.3	69.3	Tennessee	216.8	50.2
Kansas	458.0	47.1	Delaware	212.1	23.6
Georgia	442.2	88.8	Connecticut	206.4	13.5*
California	421.0	69.3	Idaho	187.8	51.9
New Mexico	414.2	65.3	Mississippi	153.4	52.3
Indiana	399.2	41.2	Vermont	131.4	41.6
Massachusetts	387.9	25.2	N. Dakota	120.3	22.4
Ohio	381.6	35.6	Hawaii	79.2	19.5
Rhode Island	378.9	31.9	New Hampshire	39.9	33.0
District of Columbia	366.9	41.6			

SOURCE: U.S. Department of Justice, Census of Prisoners in State Correctional Facilities, 1973.

Table 7
Black and White Incarceration Rates Ranked By
Jurisdiction - 1979

	Black	White		Black	White
Washington	1,341.8	94.7	Georgia	552.8	141.2
Oregon	1,270.0	118.2	Oklahoma	534.1	92.2
Nevada	1,173.7	191.7*	Wyoming	533.3	92.6
Iowa	1,157.1	60.8	Alaska	526.7	177.7
Arizona	1,112.1	71.2	Colorado	522.5	46.1
Idaho	1,079.9	93.5	Rhode Island	516.0	51.8
S. Dakota	1,000.0	62.1	S. Carolina	508.1	180.3
Utah	987.5	57.0	New York	500.7	35.8
Delaware	985.7	98.8	Massachusetts	476.0	28.4
Wisconsin	949.7	41.8	New Jersey	461.8	29.8
District of Columbia	900.4	103.9	Missouri	460.0	67.5
Michigan	853.7	72.2	Louisiana	457.0	70.8
New Mexico	825.0	52.0	Pennsylvania	419.1	34.3
Texas	752.8	89.7	Indiana	409.6	71.3
Florida	739.0	138.1	California	405.6	42.6
Connecticut	717.4	55.5	Tennessee	403.8	90.5
Nebraska	710.6	36.1	Illinois	369.3	48.7
Ohio	697.6	68.5	Kentucky	354.7	82.4
W. Virginia	697.3	77.2	Montana	333.1	83.9
Minnesota	666.7	40.6	Arkansas	333.1	66.1
Maryland	656.7	53.4	Hawaii	316.7	28.0*
N. Carolina	642.0	158.5	Mississippi	258.6	74.3
Kansas	634.4	67.8	Alabama	254.8	56.8
Virginia	618.5	79.1	New Hampshire	150.0	36.2
Maine	600.0	76.1	N. Dakota	50.0	29.3
Vermont	600.0	80.5			

jurisdictions (1973), very few are located in the South. This information reveals that the highest rate of black incarceration takes place in jurisdictions which have fewer blacks among their populations compared to jurisdictions with greater numbers of blacks in their populations. The same thing is true for the figures in 1979, very few of the top jurisdictions with the highest incarceration rates are located in the South. The white incarcerated rates for 1979 ranged from 191.7 for Nevada to 28.0 for Hawaii. Only two of the jurisdictions in 1973

(Hawaii 79.2, and New Hampshire 39.9) registered lower incarceration rates for blacks than the highest for whites (North Carolina 110.8). This means that the highest rate for whites was lower than the rates for blacks in 49 jurisdictions. It is evident that blacks are not overrepresented in one or two jurisdictions in the United States prison population, but that this situation is the case for all jurisdictions. Moreover, this problem of overrepresentation is evident in jurisdictions where there are relatively fewer blacks among the general population.

For both 1973 and 1979, all regions show striking differences between black and white incarceration rates. The disparity in 1973 ranged from a low in the South of 300.4 persons per 100,000 population to the West with 387.5. In 1979 the disparity ranged from a high of 520.9 for the North Central region to a low of 435.9 persons per 100,000 population in the West.

Table 8
Differences Between Black and White
Incarceration Rates by Region, 1973 and 1979

	1973	1979
Northeast	317.2	447.4
North Central	330.2	520.9
South	300.4	457.6
West	387.5	435.9
U.S.	321.7	479.0

Throughout the years from 1973 to 1979, there is evidence that prisons of every jurisdiction and region showed significant differences in the extent and rate at which blacks are imprisoned when compared to whites.

Table 9
Ratio of Black to White Incarceration
Rates of Region, 1973, 1979

	1973	1979
Northeast	14.7	13.2
North Central	10.4	9.8
South	5.5	5.8
West	7.0	8.1
U.S.	7.9	8.4

In Tables 10 and 11 the ratio of black to white incarceration rates by regions for 1973 and 1979 are presented. In the Northeast the black rate is 14.7 times higher than the white incarceration rate. In the South the black rate is only 5.5 times higher. In 1979, the rate for the Northeast is 13.2 times greater for blacks, and the South is 5.8 times greater for blacks than for whites. While the black incarceration rate was 7.9 times higher than the white incarceration rate in 1973, it was 8.4 times higher in 1979.

A more detailed examination and analysis of the data would reveal that variations in regions and jurisdictions relative to the differences between black and white incarceration rates are consistent and in a majority of cases substantial. When the jurisdictions were ranked by the ratio of black to

white incarceration rates for 1973 and 1979 (Tables 10 & 11) the black imprisonment rate for Minnesota was 23.4 times higher than the white rate and only 1.2 times higher in New Hampshire (1973). For 1979, Wisconsin imprisonment rate for blacks was 22.7 times higher than the white rate, and for North Dakota it was 1.7 times greater. In the majority of jurisdictions for 1973 and 1979, the black incarcerated rates were much

Table 10
Jurisdictions Ranked by the Ratio of Black to
White Incarceration Rates, 1973

Minnesota	23.4	Texas	7.8
Iowa	20.6	Maine	7.3
Wisconsin	18.6	Montana	7.2
Nebraska	17.2	Florida	7.0
Pennsylvania	16.4	Wyoming	6.7
Utah	16.3	Virginia	6.4
New York	15.6	New Mexico	6.3
Massachusetts	15.4	California	6.1
Connecticut	15.3	Louisiana	5.8
New Jersey	14.4	North Dakota	5.4
Oregon	13.2	Oklahoma	5.2
Maryland	13.1	Georgia	5.0
Arizona	12.0	Nevada	4.9
Rhode Island	11.9	Kentucky	4.8
South Dakota	11.4	Alabama	4.6
Michigan	11.3	West Virginia	4.5
Washington	10.7	Tennessee	4.3
Ohio	10.7	North Carolina	4.3
Kansas	9.7	Hawaii	4.1
Indiana	9.7	Arkansas	4.0
Illinois	9.2	Idaho	3.6
Delaware	9.0	South Carolina	3.2
Colorado	8.9	Vermont	3.2
Dist. of Columbia	8.8	Mississippi	2.9
Missouri	8.2	New Hampshire	1.2
Alaska	7.9		

Table 11
Jurisdictions Ranked by the Ratio of Black
to White Incarceration Rates, 1979

Wisconsin	22.7	District of Columbia	8.7
Nebraska	19.7	Texas	8.4
Iowa	19.0	Maine	7.9
Utah	17.3	Virginia	7.8
Massachusetts	16.8	Illinois	7.6
Minnesota	16.4	Vermont	7.5
South Dakota	16.1	Missouri	6.8
New Mexico	15.9	Louisiana	6.5
Arizona	15.6	Nevada	6.1
New Jersey	15.5	Oklahoma	5.8
Washington	14.2	Wyoming	5.8
New York	14.0	Indiana	5.7
Connecticut	12.9	Florida	5.4
Maryland	12.3	Arkansas	5.0
Pennsylvania	12.2	Alabama	4.5
Michigan	11.8	Tennessee	4.5
Idaho	11.6	Kentucky	4.3
Colorado	11.3	New Hampshire	4.1
Hawaii	11.3	North Carolina	4.1
Oregon	10.7	Montana	4.0
Ohio	10.2	Georgia	3.9
Delaware	10.0	Mississippi	3.5
Rhode Island	10.0	Alaska	3.0
California	9.5	South Carolina	2.8
Kansas	9.4	North Dakota	1.7
West Virginia	9.0		

higher than that for whites.

The disparity between black and white incarceration rates reveal a gap that is widening. This increase in disparity is revealed for at least forty-seven jurisdictions. There is no doubt that blacks are overrepresented among the United States prison population. Moreover, blacks are experiencing a higher rate of incarceration than whites not only in the Southern region, but also in regions where their numbers are fewer than whites in the general population. When the situation is examined

for black males, it seems more oppressive. About 48.5 percent of the U.S. population is male, but based on the latest available data (1978) approximately 96 percent of the prison population is male. Black males represent 5.4 percent of the U.S. population, but account for 45.7 percent of the prison population.

There are a number of arguments and various explanations that attempt to clarify this issue of overrepresentation and disproportionality. The explanations range from overrepresentation in criminal behavior and arrest, to racial discrimination in the criminal justice system. Only when we have appropriate and grounded explanations can we fully understand the high incarceration rates of blacks, its impact on the black community and its people, and what must be done to change the entire situation.

Explanatory Positions

Perception of Blacks and the Definition of Blackness

There are debates today regarding the nature and extent of arrest data relative to the amount and extent of crime, and the degree to which various racial and ethnic groups are involved in criminal activity. On the one hand, there are those who have been resistant to the idea that arrest data are indicative of proportionate involvement in crime, especially with respect to offenders' demographic characteristics such as sex, race, and class. A significant number of scholars have attributed large proportions of such demographic differentials in arrest rates to discriminatory and racist law enforcement rather than to real differences in involvement in criminal activities (Chapman, 1968; Chambliss, 1969; Quinney, 1970; Chambliss and Seidman, 1971; Cloward and Ohlin, 1960; Wolfgang and Ferracuti, 1967; Curtis, 1974).

On the other hand, there are a few scholars, and increasing, who question the notion that discrimination and racism explain arrest data. Hindelang (1978) for example, has used victimization surveys in an attempt to avoid many of the biases possible in official records and self-reports. According to the National Crime Panel data, whereas 11% of the American

population are black 39% of rape victims in the survey reported their assailant to be black. The percentage of rapist, however, according to police figures is 48% black. This shows that the official statistics tend to exaggerate the proportion of rapes committed by blacks. The conclusion can be drawn that the rape rate for blacks is several times higher than that for white men. All of this is based on the assumption that the truth is being reported, and that the methodological approaches are sound, valid, and reliable. Hindelang also provides data which show that 62% of robbery, 30% of aggravated assault and 29% of simple assault victims report that their assailant was black. The question is not whether blacks are more involved in criminal activity than whites in terms of numbers and percentage. If the data is not limited to street crimes, or survival crimes, and include white-collar, organized and governmental crimes; and crimes resulting from racism, sexism, oppression, and exploitation, the number and percentage are greater for whites than blacks. The question is: How are blacks perceived in terms of criminal activity in America relative to whites, and how has this image been promoted by the focus of data on street crimes, and contacts with law enforcement and the courts?

It is not in itself debatable that statistics tend to show a disproportionately higher incidence of crime among Blacks in America. Ample statistical and empirical support is compiled to justify the anti-Black and racist position that "if one is born black, somehow he is born with certain criminal tendencies." In a review of some of the theories dealing with black crime, Greshaw (1959) observed that the rates can be predicted to be higher irregardless of age or specific types of crimes. He asserts that: "Authorities may disagree on arrest-convictions ratios, or on the interpretation of various indices, but the fact remains that convictions and incarcerations are higher for the Black population." Social scientists critical of statistical records of police departments, courts and prisons argue that it

is the inadequacy of available criminal statistics that creates the problem. The attacks up the validity of criminal statistics have been consistent since the 1940's. Johnson (1941) pointed out that "racial discrimination in law enforcement exaggerates the official record of black crime by artificially inflating black rates of arrest and conviction." More recently, another argument has developed. Our perception of the nature and extent of crime and the criminal is shaped by the Uniform Crime Reports published annually by the Federal Bureau of Investigation. However, the report is limited in that it provides statistics on only seven criminal offenses and fails to present an accurate picture of the extent of real crime. The crimes that are reported are those that are committed primarily by the oppressed and poor, or those for which these persons are arrested. The reports exclude statistics on organized crime, which yields billions of dollars in profit each year. White-collar crimes, committed by business and professional people in the course of their occupations, are also usually not included. This means that certain groups, because of their class position, are not counted in the official picture. The implications of these selective statistics are discussed by Hartjen:

The middle-class executive, for example, is not likely to commit burglary. He doesn't need to. But price fixing is within his realm of possibility. Laws restricting this kind of conduct exist--true. They are, however, loosely formulated and

seldom enforced--not only because it is difficult to do so. The frequency of this conduct may actually be much higher than that of burglary or other forms of conduct typical of the powerless classes. But it is rarely noticed or counted. One can wonder why. Indeed, one can only imagine what patterns would appear in crime rates were the powerless able to determine what is to be recorded. But they would no longer be powerless (Hartjen 1975).

The picture thus presented is distorted; by deffecting attention away from organized and white-collar crime, it focuses our attention on personal crimes of violence.

George Napper argues:

By omitting categories of crime that are overwhelmingly dominated by white participants and singling out categories disproportionately shared by blacks, we have an official picture that does three things: (1) it makes it difficult to keep images of black people from coming to one's mind when the issue of crime is raised; (2) makes blackness synonymous with criminality by definition; and (3) sets the stage for a quality of response to crime that is based on a division of people into two classes, the good and the bad. This unrealistic image has the effect of reinforcing the myth that only evil, bad, and crazy people commit crimes (Napper 1977).

Benjamin Quarles observed:

When we pick up a social science book, we look in the index under "Negro": it will read, "see Slavery"; "see crime"; "see juvenile delinquency": perhaps "see Commission on Civil Disorders": perhaps see anything except the Negro. So when we try to get a perceptive on the Negro, we get a distorted perspective (1967).

These observations suggest that there has been a national intent to create a negative image of blacks, and to make the correlation of crime and race so strong that a racial stigma is attached to criminality (Feagin, 1982:298-304). Given this situation and the powerless, oppressed, and exploited position of blacks, it is conceivable that the prison population will continue to comprise,

primarily, the oppressed and poor, especially browns, black, reds and yellows. A permanent identifiable group by race and class has been required to promote the racial stigma associated with criminality in America. This group has come to make up the labor force of the prison population who work primarily for the state, and according to Chief Justice Warren Burger, "making automobile-license plates - jobs that benefit states but do little to help convicts get work upon their release" (1981).

Police and Blacks: A Parasitical Relationship

Another explanatory position includes the posture of policing in America and the perceptions of the police of the poor and oppressed.

Persons who are arrested, tried, and convicted for threatening the State and its existing order are sent to a penal institution to serve a sentence. Therefore, the possibility of a criminal sentence for every citizen who violates the criminal law of the State does exist. However, we know that everyone who violates the criminal law does not end up in prison serving a sentence. A primary purpose of the sentence is to warn the general public that any threat to the existing order of the State by violating its laws will lead to punishment and deprivation in one form or another. In other words, the State has established a system to retaliate against those who fail to conform to its established order. Consequently, in punishing violators of this order, the State attempts to preserve its rules of order.

The prison system is only one part of the subsystems that make up the criminal justice system; and it is the last one at that. This system operates as an agent of social control

for the State. The other sub-systems that feed persons into the prison system are the police system, the attorney system and the court system. These sub-systems work together to punish those who challenge or threaten the established order.

A careful examination of the subsystems of the criminal justice system will reveal that their relationships are parasitical, they all depend on each other for their function, and they all feed upon the police power to arrest to put into operation their sub-systems. Within the context and process of this parasitical relationship, is the reason for the high and disproportionate numbers of black people who find themselves in penal institutions.

Blacks and their communities are and under the present oppressive and racist circumstances, will remain police targets. Whether or not they are actively seeking change, blacks in America, because of their history of oppression, racism, and exploitation, and what blackness has come to mean, especially within the criminal justice system, are viewed as people seeking to change those arrangements of the power structure which have held them in bondage, or people seeking and using "illegitimate means" to achieve political and economic ends. The job of the police, on the other hand, is to maintain law and order. As a law and order group, they are to keep things the way they are. Therefore, any change or attempt at change is threatening to them because it gives the appearance that they are not performing their duties. Many blacks have had to serve sentences for violations, that were associated with an initial violation, created by the police even after the initial charge(s) was dropped. The added

advantage of the police is the ambiguity of many laws that allow for a variety of interpretations favorable to the legitimation of arrest. In the event that their initial definitions of the behavior or non-behavior are inadequate, the police have the option of alternative definitions and interpretations. Because the black community lacks, or has not organized, the political and economic influence and power necessary to effectively deal with police abuse of power, police are more likely to arrest black than whites. Consequently, black people are more exposed to the misuse of police power and discretion than white people. The poor and working-class whites are just as likely to be victims of the misuse of police power, but less so than poor and working-class black whose blackness and what it has come to mean within the context of the arrangements of the American social order adds another dimension to the problems of blacks.

Because it is impossible to enforce every law which exist, or in many cases it is undesirable to do so, the legal arrangements have allowed for the operation of police discretion. If the police were to enforce the laws equally, not only would this necessitate a much larger police force, but every citizen would come into contact for violation for one reason or the other; and there would exist a need for a greater number of prosecuting attorneys and judges to speed up the process of adjudication, resulting in additional court and correctional resources. The exercise of police discretion does not allow this to occur. Nonetheless, the courts are filled with defendants who are prosecuted as a result of the selective

identification by the police of politically oppressed, economically exploited, and racially powerless people who find themselves in a disadvantaged position in terms of adequate legal defense. The number and kind of defendants who pass through the courts are the direct function of the discretion of the police to arrest certain apparently powerless persons for processing through the criminal justice system not primarily because of their offenses but because of the political nature and operation of police discretion relative to the race and class position of those with whom they come in contact. The police behavior in America is right wing. They are the right arm of those in power. Moreover, just as social workers need poverty, and medical doctors need ill health in order to be legitimate and functional, so also police need violations. In the event that violations are not forthcoming, they create them by finding people and their communities most vulnerable to police misuse of power and discretion. In this sense, the police need the exploited and oppressed races and classes, especially those of the black community whose definition has historically been distorted and negatively associated with criminality and deviance. This group have no political and economic power to invoke upon contact with the police and the other subsystems of the criminal justice system. Because the possibility of reprisals are low in the communities of the poor and oppressed, the probability that the police can make their charges stick against this group is very high. The end result is that given the powerless socio-economic and political positions of these defendants, they are

vulnerable to plea bargaining at the hands of public defenders and other defense attorneys who are too busy or unwilling, for a variety of reasons (mainly political interests), to adequately research cases to provide adequate and effective defense for their clients.

It has been revealed (LaFave, 1965) that of all the criminal suspects, 90 percent plead guilty to a lesser charge. Therefore, they do not stand trial. This means that a good number of poor people are forced to plea bargain which is a functional scheme in the system to keep penal institutions operating. What is wrong with this bureaucratic model of plea bargaining is that it is based on the assumption of guilt. It forces the defendant to compromise the assumption of innocence, especially if the defendant is in fact innocent and could be so shown beyond the shadow of any reasonable doubt. Although judges routinely question defendants to determine whether or not they were promised any consideration in return for their guilty pleas, no matter how vigorous the denial on the part of the accused, the judge knows the truth: that the pleas are the result of deals between the lawyers on both sides within the context of the powerlessness of the defendants. Judges usually close their eyes to the obvious and permit the process to go on because they feel that they must clear up the backlog of cases awaiting trial. Many judges tend to accept prosecutors recommendations and associate covertly, and perhaps unconsciously with the prosecution in criminal cases. This is because they see themselves as defenders of the state, and accountable to the state and not to the accused. Once the judges see themselves

as allies of the prosecutor, it is easy for them to reject the adversary model and accept the bureaucratic model. They lose their mediator role and become an opponent of the defendant. The judicial process conforms to a bureaucratic system rather than to an adversary system. If blacks cannot be guaranteed justice in an adversary system, it is foolish to believe that they can receive justice in a bureaucratic system. So the police, the attorney system and the courts work together to provide the state with a cheap labor force. This labor is used to produce a significant number of goods and services for the state.

Convict Labor and the Prison Business

The final explanatory position which explains the presence of the poor, oppressed and exploited classes and races in the prison, has to do with the class and racial position of the convicted in relation to the business of prisons.

We have argued and shown above that the racial and class bias in sentencing, as in other stages in the criminal justice process is supported by criminological investigations, and that discretion exercised by the police in arrest and that in sentencing goes along with awareness of the offender's characteristics, not the offense. Sentencing statistics indicate that blacks, other third-world people, and the poor and oppressed are more likely to be arrested, sentenced and committed to prison longer than whites for the same offenses (Zimring, Eigen and O'Malley, 1976; Hagan, 1974, Gaylin, 1974, and Thornberry, 1973).

It is estimated that approximately 1.3 million prisoners are processed through the American Correctional System on an average day. Three-fourths of these are between the ages of 25 and 34 (Orland, 1975: 55). These persons are viewed as the dangerous class, and the prison sentence, which isolates these persons whose acts threaten dominant social relations, is the attempt of the state to preserve law and order.

When we examine the development of prisons and their relationship to the larger political-economic structures of society, we see them as institutions of control whose most important functions have been retribution, and revenge by denying inmates basic human rights. From a political-economic perspective Rusche and Kirchheimer analyzed the situation in this manner:

Every system of production tends to discover punishment which corresponds to its productive relationships. It is thus necessary to investigate the origin and fate of penal systems, the use or avoidance of specific punishments, and the intensity of penal practices as they are determined by social forces, above all by economic and then fiscal forces (1939: 5).

It is also argued that "as the marginal surplus population increases, there is less need for labor, and punishment becomes more retributive. When there is a labor shortage, punishment takes the form of correction by using convict labor in a socially useful manner" (Balkan, Berger, and Schmidt, p. 121).

Brenner (1976) and Jankovic (1977: 21,27), have conducted studies which support the essential position of Rusche and Kerchheimer. In advanced capitalist societies, they argue, punishment is more severe at times of labor surpluses. There

is:

a direct positive and statistically significant relationship between the extent of unemployment and imprisonment, regardless of the volume of crime. Thus, forms and severity of punishment are determined not by forms and magnitude of crime, but rather by the conditions of the larger political economy. The call for harsher punishment in the 1970's can be understood in the context of that period's high unemployment rate, inflation, and economic stagnation.

Prisoners are the surplus population that is not needed in the larger society for capitalist production, but become a part of the capitalist production of the prison system in satisfying certain production needs of the state.

Erik Wright notes that:

Forty-one percent of the general labor force fall into white-collar employment categories (clerical and sales, managers and owners, and professional and technical workers), compared to only 14 percent of the prison population. At the other extreme, 43 percent of the prisoners are manual or service workers, compared to only 17 percent of the total labor force. The same pattern is found for education: 53 percent of the prisoners have an elementary school education or less, compared to only 34 percent of the general population are high school graduates compared to only 18 percent of the prison population (1973: 26).

Wright further notes that one in every 20 black men between the ages of 25 and 34 is either in jail or prison on any day compared to one of every 163 white men in the same age group.

Even though there has recently been some question relative to the cost of operating prisons, Burkhart (1973:283) has discovered that less than 4 cents of every tax dollar are spent directly on the inmate. However, the effective utilization of cheap convict labor has historically complimented the

capitalist mode of production in prisons to extract profits. The capital outlay by the states to establish prisons took into consideration their profitability. The managers were expected to operate an economically productive prison program utilizing the factories industries, and farms. Beaumont and Tocqueville agreed in their observation that to "make the labor of the convicts as productive as possible was quite correct in that country where the price of labor was high and where there was no danger that the establishment of prison manufactories would injure the free workers." (Rusche and Kirchheimer, 1939: 111; Balkin, Berger & Schmidt, 1980). So prison production has historically played a significant role in the states' economic resources.

In the late nineteenth century, prison profits were very competitive with private enterprises, to the extent that they threatened the continued production of private enterprises that were producing similar commodities. Effective management by prison officials increased the efficiency of prison production and challenged factories in the free market (Miller, 1974: 102). Efforts to control this challenge came both from management and labor who argued that convict labor was responsible for the unemployment of "free" workers in the private economy. Legislation resulted which limited the number of prisoners who could be employed, regulating the production of commodities and the sales to other state agencies. Prisons continued to be productive profit-making institutions with the limits of the respective state, and the private economy was not severely hindered in its profit-making

activities. Most prisons, nonetheless, have been self-supportive and profit-making for the state because of the effective use of the labor of inmates. According to Mitford (1974: 210-215), the most profitable line of business in America is the Federal Prison Industries. In 1970, its profits on sales were 17 percent compared to 4.5 percent for private industries. Between 1935, the year of the inception of the Federal Prison Industries, Inc., and 1972, 82 million dollars have been donated to the U.S. Treasury. The FPI is a government corporation that coordinates all federal prison business. The labor of inmates is essential to the profitability of the prison business. Inmate workers are paid from 19¢ to 47¢ per hour in the federal industries and much less, about 6¢ to 25¢, in state prison industries. During the 70's and early 80's the Federal Prison Industries produced canned goods, dairy products, clothing, license plates, furniture, electric cable, printing ink, and military items (Knox, 1975: 32; Mitford 1974: 211). The Arizona State Prison superintendent confessed, referring to the prison business: "This is a big industry we have here. We sell to the State institutions and to the children's colony and university. Yes, this is a big business.....(Burkhart 1973: 286). Further, the state prison of Arizona did all of the legislative reports, printing of documents for the state, picked and processed the cotton, and made state garments with the cloth, did all repairs and upkeep of prison facilities, had their own prison drafting and construction crews, build prison residents on the grounds, and construct large apartment housing projects for correctional officers and personnel. Again

convict labor is significant in the profitability of prison business. At the Arizona State Prison only about 107 of the over 1,300 inmates are paid 20¢ per hour for their labor. The rest that work, do so for time off their sentence which has come to be a great incentive to produce. Even though the Slave Emancipation Act of 1865 abolished slavery and involuntary servitude, this gesture does not seem to apply to convicted inmates, and officials often rationalize their use of inmates labor as treatment without evidence to substantiate its treatment value. If it means gaining freedom from prison, inmates would cooperate with the prison business system to do so (Mintz 1976: 44). It has been found that one of the reasons that recidivism is so high is that parole status is revoked more often during and immediately prior to those months when the prison business system needs labor (Swan, 1975).

In Texas the prison system is more oppressive than most systems, and agricultural and industrial labor is central to the inmates presence. Inmates are required to work to defray the cost to the state for their confinement. The prison system has twenty-one industries that produced over \$8.5 million in outside sales realizing \$900,000 in profits in 1976. There is no question that the Texas prison system is slavery in modern times, but it is argued by the officials that what others define as cruel and humiliating conditions to which inmates are subject within the prison work program are necessary to teach inmates discipline and respect for authority so that they might develop good work habits in a productive situation. If upon their return to similar

working conditions outside the prison, the inmates do not prove successful, it is expected that they will return (Krajick, 1978: 14).

There are various penalties meted out to those who do not work. Some inmates are sent to solitary confinement for several weeks; others are beaten; sent to the "hole" for months; forced to stand in the hallway of their cellblock for long periods of time; denied food and not allowed to sleep. Not working as hard as officials think one should gets mild punishment, and those who work get two days good time credit for every day worked. From these examples of how prisoners use convict labor, it is evident that the labor is directly related to the profitability of prison factories and industries. Prisoners labor is managed and controlled for the express purpose of production and profit. Again, the incarcerated is the lumpenproletariat who are disciplined, organized and exploited by the prison system which uses the labor of prisoners to produce and create profits on behalf of the state. There has been little success in changing this relationship and the way in which prisoners are easily exploited (Knox, 1975: 32; Mintz, 1976), even though there has been talk about legislative and legal action which tend to foster meanwhile chances.

Conclusion

Blacks and other racially and economically exploited and oppressed groups are the prime targets of the criminal justice system to legitimize and validate itself and its process. This is the case primarily because of the definition

of race and class in the American social order, and the operation of that definition in the political economy which renders these racially and economically exploited groups politically and economically powerless when they come in contact with the police and the courts. Moreover, these groups that have come to be viewed as the criminals of the American society, and are processed in disproportionate numbers are the exploited laborers of the prison business which produce large profits for the state. This situation will continue as long as the larger society and its arrangements remain racist in policies and practices, and oppressive in economic and political terms. The prison sentence and incarceration are economic benefits to the state because they create a labor force for the prison industries and factories that realize large sums of profits for the state.

Policy Implications and Change

In the last seven years we have witnessed a growing concern to restrict the discretion of the courts in imposing sentences. No such development is seen to do the same with regards to the police who are the first contacts with the citizens. Programs have been established to improve the relationships between the police and the community, but they have not proved beneficial in eliminating the oppressive and parasitical relationships. Policies that would affect the high rate of plea-bargaining that directly impacts blacks, the poor, and the oppressed who are arrested and have no political and economic power to invoke upon contact with the police and the attorney systems have not been

seriously addressed.

Social policy and change have been directed at inmates and the internal structure of prisons rather than on the relationship between prisons and the political-economic context of the larger society. It is only as this relationship is examined and change, blacks and other poor persons will increasingly become the permanent occupants of the prison system. Consequently, the exploitation of the oppressed within the criminal justice system might come only as the nature and character of the social, political and economic arrangements of the American social order change. In the absence of restructuring of the racist-capitalist order black and other poor, oppressed and exploited individuals will continue to be overrepresented in criminal statistics based on their racial and class position in the society for the purpose of maintaining prison industries and factories, and generating profits. This situation is facilitated by the parasitical relationship between these individuals and the police who seek legitimation.

It is clear that jobs are designed to maintain the institutions which could not function without inmate labor. Within this context, prisons perform a service for the American capitalist-colonial system by excluding and eliminating particular classes and races who are defined as dangerous and threatening to the system (Spitzer, 1975).

Foucault argues that:

Prison is the physical elimination of people who come out of it, who die of it sometimes directly, and almost always indirectly insofar as they can no longer find a trade, don't have

anything to live on, cannot reconstitute a family any more, etc., and finally, passing from one prison to another or from one crime to another end up by actually being physically eliminated (1974: 158).

Because most efforts to bring about change in the arrangements of the American social order have failed, we have come to accept the position that political and economic changes are impossible, and that racism, oppression, and exploitation are simply inevitable features of a capitalist-colonial system. This position has led many progressive activists to seek meanwhile changes, such as control of police and court discretion in arrest and sentencing; training of inmates for designated and valued places in the society upon release; providing education as a fundamental basis for a better life, and increase pay for convict labor that can be used to support the inmates families. While these measures are important and significant in the day-to-day activities of those usually caught up in the system, they will not change the power relations within the political economy of America that feed on the powerless position of the oppressed and exploited that are processed through the criminal justice system ending up in the prisons to be further exploited for purposes of capital production and large profits.

The criminal justice system, especially the police and the court, is a Bureaucratic arm of the state apparatus and reflects the relations between the rulers and the

ruled, the dominant and the dominated, the exploited and the exploiter, and the oppressed and the oppressor. This relationship must be changed if the oppressive, exploitative and racist presence and use of blacks in the prisons are to be changed.

Note: The source for tables 4,5,7,8,9,10 and 11 is The Black Incarceration Rate in the United States: A Nationwide Problem by Scott Christianson and Richard Dehais, Training Program in Criminal Justice Education, Graduate School of Criminal Justice, State University of New York at Albany, Albany, N.Y., 1980.

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