

RIPPED APART



How Democrats Can
Fight Polarization to Win

Steven Stoft

Chapter 6

The Crime Bill Myth

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The Crime Bill Myth

We do believe and emphatically support the bill's goal to save our communities, and most importantly, our children.

—39 African-American Religious Leaders

Ricky Ray Rector was a brain-damaged killer who barely knew his own identity, let alone the fate that awaited him. At his last meal, he saved his pecan pie to eat the next morning. Just weeks before the critical New Hampshire primary, Bill Clinton proved his toughness on crime by flying back to Arkansas to oversee that execution.

Michelle Alexander used this pithy anecdote to introduce Bill Clinton in her famous 2010 book, *The New Jim Crow*. She used it again in 2016 to condemn both Clintons in her widely distributed article, “Why Hillary Clinton Doesn’t Deserve the Black Vote.” The radical left has deceived Democrats into believing their party is responsible for mass incarceration. This is a mythology trap, the third and most complex kind of Political Trap.

My hope is that seeing how this particular political mythology trap works and where it came from will free us from its grip and somewhat immunize us against similar deceptions. I also hope that learning that our Democratic leaders are good-hearted and not worse than the Klan (as some portray them) will restore some of the unity we need to fend off Trump.

Back to Ricky Ray Rector. Researching the 1994 crime bill, I’d come across variations of Alexander’s damning anecdote a dozen times, and I just could not understand why Clinton did not pardon a man who had no real concept of what he was doing. It sounded completely heartless (as it was intended to). So I looked up the Ricky Ray Rector story. It only took a minute and changed my understanding of the situation forever. The facts also provide a good example of how the radical-left mythology traps are produced.

In 1981, Rector and friends drove to a dance hall. When one of them couldn't pay the \$3 cover charge, Rector pulled out a .38-caliber pistol and shot the place up, wounding two and killing another. Three days later, he agreed to surrender, but only to the well-liked Officer Robert Martin, whom he had known since childhood. Rector arrived at his mother's house, greeted Officer Martin, waited until the officer turned his back, and shot him dead. Rector then walked out and shot himself in the head, resulting only in a frontal lobotomy, not in his intended suicide.

Rector himself had chosen death but missed and accidentally condemned himself to a life of terrifying hallucinations.

At that time, almost 80% of the country was in favor of the death penalty for murder. I'd guess that for a double murder that included shooting one of the community's best-liked police officers in the back, the percentage would have been closer to 95%, especially in Arkansas. Had Clinton pardoned Rector, Clinton would have had no chance of being elected president. Instead, he would have cemented the Democrats' undeserved reputation for favoring criminals over the general public.

Considering that Michelle Alexander is a highly acclaimed legal scholar and that this is one of her prized anecdotes, Rector's back story is a lot to leave out.

'The New Jim Crow'

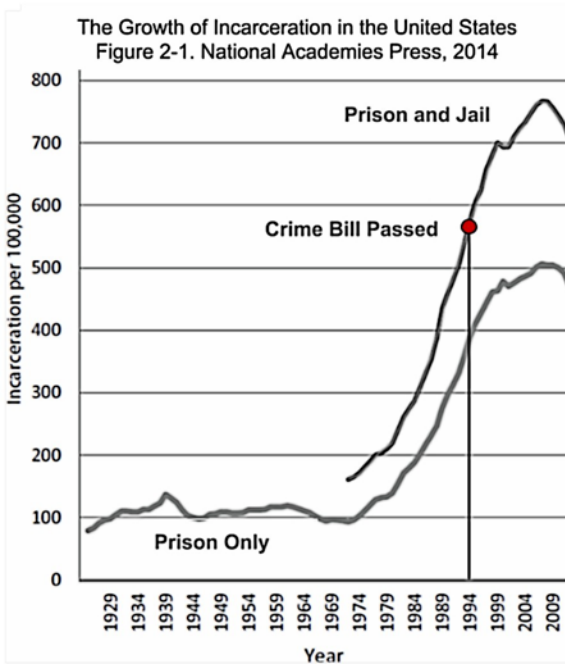
Alexander's book is the best-selling book on the criminal justice system—ever. The paperback version spent at least three years on *The New York Times* paperback bestseller list and was still #3 eight years after the hardback's publication. Her remarkable claim is that the drug laws were designed to produce mass incarceration with the "well-disguised" intent to function "in a manner strikingly similar to Jim Crow," the segregation laws overturned by the civil rights movement.

In a nutshell that's the crime bill myth, and like most myths, it sounds pretty amazing. But is mass incarceration of Blacks and Whites really "strikingly similar to Jim Crow?" Or is it an evil of a very different kind?

The first obvious difference between Jim Crow laws and the crime bill is the attitude of Blacks. None of them favored Jim Crow laws, but when the 1994 crime bill passed, Gallup found that more Blacks (58%) favored it than Whites (49%). Note, too, that two-thirds of the Black Congressional Caucus voted for it. Like the background to the Ricky Ray Rector story, these facts are typically omitted by the myth makers (I've never seen an exception).

Because mass incarceration has nothing to do with segregated lunch counters, schools, buses, or other public places that Jim Crow laws targeted, the only possible “striking similarity” to Jim Crow left is the impact of felony convictions on the right-to-vote. And that’s where Alexander rests her case.

But Jim Crow laws prevented almost all Southern Blacks from voting and cost the South nothing to implement, while the drug wars and mass incarceration keep only a fraction of Black people—those with felony convictions—from voting and about that many Whites as well. It costs the country around \$100 billion per year. This looks nothing like Jim Crow and makes no sense as an effective way to suppress the Black vote.



In short, mass incarceration is in no way parallel to the Jim Crow laws. The very title of her book is a deception. But as the graph above shows, mass incarceration did grow by five times over a 30-year period. So if it wasn’t about Jim Crow, what was going on?

What About Crime?

Could the crime bills have been about crime or drugs and not about suppressing Black votes? That’s a novel idea. Prohibition was a kind of 13-

year drug war that had nothing to do with racism, but it did criminalize having a beer. Overreaction to drugs and crime is nothing new in America.

You might think that a book about why so many people are incarcerated would include statistics on how many people commit crimes. Most such books are full of them. But not *The New Jim Crow*. It's a bit like telling us that Ricky Ray Rector was mentally impaired and not mentioning how that happened.

Alexander notes that "African Americans are incarcerated at grossly disproportionate rates throughout the United States." This is true. As the NAACP reported in 2018, "African Americans are incarcerated at more than five times the rate of Whites." But Alexander does not mention that on average from 1980 to 2008, the homicide rate for Blacks was 7.6 times higher than for Whites.

I'm not saying the crime-rate difference is the whole story. And I'm certainly not saying there isn't racism in the criminal justice system! But covering up the crime rate is actually a way of covering up (unintentionally in Michelle Alexander's case) the main impact of racism—a tragic mix of unemployment, crime, and broken families in the Black community.

A frightening 30-year crime wave also explains a lot about the popularity of tough-on-crime legislation. As that wave crested between 1985 and 1993, the surge in violence by boys ages 14 through 17 was unprecedented. For Whites, the homicide rate more than doubled in just those eight years, and for Blacks, it more than quadrupled.

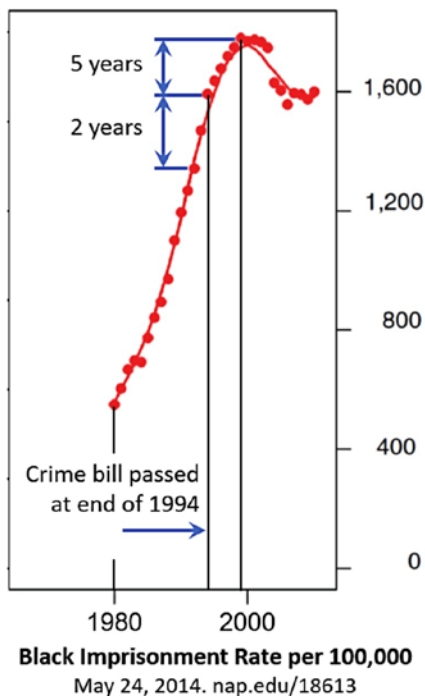
This was associated with the crack cocaine epidemic, which Alexander discusses at length without mentioning the violent crime wave or the use of children by drug cartels. All this was headline news at the time.

Impact of the 1994 Crime Bill

A story in the radical-left magazine, *The Nation*, claims the 1994 bill "inaugurated" the "era of mass incarceration." Others just say it caused a spike in it. Let's take a look.

Obviously, the bill was decades too late to have "inaugurated" the era of mass incarceration. *The Nation* just lied about that. It did not cause a spike in incarceration either. But the real question is not about grand totals, it's about what happened to Blacks. In particular, did the 1994 bill target Blacks? The next graph shows the Black imprisonment rate.

From Figure 2-1, Chapter 2 of
 “The Growth of Incarceration in the US,”
 National Academies Press



This graph shows that the state and federal imprisonment rate for Blacks was increasing most rapidly just *before* the 1994 crime bill and that this increase slowed immediately and stopped after five years. Meanwhile, the White incarceration rate continued its upward trend for at least another fifteen years, adding well more than 50% to its 1994 level. And the Black incarceration rate continued down during this same period. The raw data can't prove much, but it cuts strongly against the view that the 1994 crime bill was biased against Blacks.

Note that I am not saying the 1994 crime bill was all positive. Much of it was designed to get the Republican votes needed to pass it. And I've always been opposed to incarceration except when needed for public safety.

What Did Blacks Say About It?

The Nation, in an article obviously influenced by Alexander, tells us, “Representative Ron Dellums, co-founder of the Congressional Black Caucus, voted against it.” Like Alexander and the rest of the radical left, *The Nation* just happened to leave out that another 23 members of the Black Caucus, including its chairman, voted for the bill. Only 11 voted against it. This is easy to find out—much easier than the point about Dellums.

Right after saying Dellums voted against the bill, *The Nation* tells us: “So did 34 Senators,” as if those Senators had been liberal Democrats who agreed with Ron Dellums. In fact, every one of them was a Republican except for one Alabama Senator who became a Republican three weeks later.

So why did the Black Caucus favor the crime bill? The best answer to this question may be a letter sent to the White House by 39 African-American religious leaders from around the country.

STATEMENT BY AFRICAN-AMERICAN RELIGIOUS LEADERS

We believe there is no more important responsibility of society than to raise its children to become upstanding adults. ... All of society—including government—must pitch in. That is why we support the President's crime bill. While we do not agree with every provision in the crime bill,

- We do believe and emphatically support the bill's goal to save our communities, and most importantly, our children.
- We believe and support the \$8 billion in the bill to fund prevention programs such as grants for recreation, employment, and anti-gang and comprehensive programs to steer our young people away from crime.
- We believe in drug treatment to help get federal and state inmates out of the cycle of dependency.
- We believe in programs to fight violence against women.
- We believe in banning assault weapons and preventing these deadly devices from falling into the hands of criminals and drug dealers.
- We believe in putting 100,000 well-trained police officers on the streets of our most violence-plagued communities and urban areas.
- We believe that 9-year-olds like James Darby of New Orleans, who was killed by a stray bullet only days after writing a plea to President Clinton to stop the violence, must have the opportunity to live and learn and grow in safe, decent communities.

For all these reasons, we support the crime bill and we urge others to join us in this crusade.

Although this letter has been widely reported and is easily available, I have never found it reported by the radical-left myth makers.

Another endorsement that is suppressed came near the end of the negotiations over the bill. In July, 10 Black mayors wrote to Black Caucus Chairman Kweisi Mfume saying, “We cannot afford to lose the opportu-

nities this bill provides to the people of our cities." The signatories included the mayors of Detroit, Cleveland, Atlanta, and Denver.

Shortly before the bill was passed, the homicide *victimization rate* for Black males 14 and older was more than eight times higher than it was for White males in the same age range. This is why Black communities were so anxious to have more policing. They were not being foolish and they were not falling for an evil Democratic plot. They were facing a vastly worse crime problem than was the White population.

Republicans: The Most Important Factor

A key fallacy of the crime bill myth is that the Democrats got exactly what they wanted. It's true that Joe Biden was the author, and that he worked on it for years. But no, he did not have a free hand. There were Republicans in Congress, a factor the radical left overlooks entirely.

Passing any high-profile law through the U.S. Congress was almost as contentious in 1994 as it is today. With crime as the nation's #1 concern, there was bound to be a crime bill. It's worth noting that most Republicans did everything they could to block the Democrats' bill. Had they succeeded, there would have been a truly punitive Republican crime bill passed after the Republicans took back both houses of Congress in 1994.

Given the sentiment in the country, Clinton's strategy for passing the Biden bill was to talk tough on crime and give away what mattered least to win the Republican votes that were essential for passage. The Republicans had discovered technicalities that required 60 Senators to secure the bill's passage, and there were only 55 reliable Democrats.

The Democrats had to win over five semi-liberal Republicans. They won over six. In reality, it was Republicans, not Joe Biden, who put the limit on how liberal the bill could be.

So What *Did* Cause Mass Incarceration?

Michelle Alexander's views have become so pervasive that many readers may be surprised at the suggestion that the war on drugs was not intended primarily to suppress African Americans, nor is it the main reason for mass incarceration. Let me turn to an unbiased source with impeccable credentials: David Cole, the ultra-progressive National Legal Director of the American Civil Liberties Union.

As Cole explains, "In her widely read 2010 book, *The New Jim Crow*, Michelle Alexander argued that the war on drugs, pursued for the pur-

pose of subordinating African Americans, is primarily responsible for mass incarceration. These views have become conventional wisdom in liberal circles.”

Then he asks, “What if they are wrong?”

Cole answers this sacrilegious question by reviewing two heavily researched books published in 2017. The first is *Locked In: The True Causes of Mass Incarceration and How to Achieve Real Reform*, by John Pfaff. Pfaff points out that although there is discrimination against Blacks regarding imprisonment for drug offenses, drug offenses are not a large part of the incarceration problem. “The racial disparities in prison populations would barely budge if all the people serving time [only] for drug crimes were immediately released,” he wrote.

Pfaff then explains the increase in the prison population from 1994 to 2008 as mainly due to the actions of district attorneys. There are 3,000 district attorneys in the country, and they decide who to charge and what to charge them with. This is not controlled by laws on sentencing or by money for prisons or police. Instead, DAs respond to public pressure. This leads to Pfaff’s central conclusions:

The ‘New Jim Crow’ hypothesis, for example, claims that crime control was used as a way to roll back the gains won by the civil rights movement. ... [However,] as a general rule, public punitiveness has tracked crime, and prison growth, in turn, has tracked punitive attitudes.

The second book Cole reviews is even more surprising. The Pulitzer Prize-winning *Locking Up Our Own: Crime and Punishment in Black America* was written by James Forman Jr., a professor at Yale Law School and the son of a prominent civil rights leader. He knows firsthand what he’s talking about, as he served as a public defender in Washington, D.C., for six years, including during the passage of the 1994 crime bill. As Cole tells us in the *New York Review of Books* (June 22, 2017):

Forman’s moving, nuanced, and candid account ... shows that some of the most ardent proponents of tough-on-crime policies in the era that brought us mass incarceration were Black politicians and community leaders who supported these policies, not to subordinate African-Americans, but to protect them from the all-too-real scourges of crime and violence in many inner-city communities.

Conclusion

In the 1990s, increased crime was real, and the public demanded action. The big question was whether a crime bill would be one sponsored by Democrats or by Republicans. Just before losing their leverage in Congress, the Democrats passed the most progressive bill they could, considering their need for five Republican votes in the Senate. All Democratic Senators, even the most progressive approved this, as did a huge majority of House Democrats.

Since then the radical left has developed a myth that they use to attack the Democratic Party. This mythology trap is based on the massive suppression of relevant facts, including most crime statistics, information concerning Black support for the 1994 bill, and recognition of Republican limits on what could be passed.

- Democrats passed the most progressive crime bill they were able to. The only alternative was to let the Republicans do it.
- The 20-year rise of the Black incarceration rate slowed immediately and stopped five years after the bill's passage, while the white rate continued to increase for at least 20 years.
- Most Blacks favored passage of the 1994 crime bill, including two-thirds of the very-progressive Black Congressional Caucus.