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978-0-521-76779-8 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

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## Search and Destroy, Second Edition

### *African-American Males in the Criminal Justice System*

This tightly argued and methodologically sound volume addresses widespread social assumptions associating crime and African-American men. An exploration of the criminal justice system in America today and its impact on young African-American males, this book challenges the linking of crime and race and the conservative anti-welfare, hard-on-crime agenda. Jerome G. Miller has spent a lifetime studying and challenging our criminal justice system. He has worked to make it more progressive and more just. He has watched as it turned into a system of segregation and control for many Americans of color. That is the story told here in condemning, devastating detail.

Dr. Jerome G. Miller holds a Doctorate in Social Work from the Catholic University of America. In 1968, he became Associate Professor of Social Work at Ohio State University. He was subsequently appointed to the cabinet of Massachusetts Republican Governor Frank Sargent in 1969 to head the newly created Massachusetts Department of Youth Services and has also served on the gubernatorial staff of Milton Shapp, former governor of Pennsylvania. In 1977, he cofounded the National Center on Institutions and Alternatives (NCIA), a nonprofit organization to set up alternative plans for youth and adults otherwise institutionalized in reform schools, prisons, mental hospitals, and state institutions for the developmentally disabled. He has been consultant to the U.S. Justice Department, evaluating juvenile and adult institutions in more than thirty states, and has served as a special master for a number of federal judges. He has assisted in developing mitigative studies for individuals on death row in numerous states. He continues to see individuals clinically and is presently finishing a manuscript on the issue of sex offenders in our society and the “moral panic” in which modern industrial societies are caught up. His articles dealing with the topics of this book have appeared in the *Los Angeles Times*, *The New York Times*, and *The Washington Post*.

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# Search and Destroy

Second Edition

## *African-American Males in the Criminal Justice System*

JEROME G. MILLER

*National Center on Institutions and Alternatives*



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## Prologue: From Which Aristocratic Colours Peep

The American “correctional” system is now defined by its grossly disproportionate numbers of black and brown men and boy inmates. More accurately, it has been refashioned to accommodate the feral racial phantasms that have haunted the nation since post–Civil War Reconstruction and been recently exacerbated with the election of an African-American president.

As the darkening of inmate populations intensified, the deep fissures so elegantly exposed by Alexis d’Tocqueville a century and a half earlier reappeared for all to see. The walls of our prisons and jails reverberated with a “goat-song” to racism.<sup>1</sup>

I originally wrote *Search and Destroy* to add my voice to a growing number of sociologists and criminologists then sounding the alarm over the troubling racial patterns showing up in our criminal justice system. I saw the still nascent crisis as portending problems well beyond those of crime and punishment.<sup>2</sup>

Frankly, none of this was news. For the better part of forty years, I had negotiated that labyrinth of dead ends we choose to limn American “corrections” – an excess of euphemisms covering a mélange of public and

The phrase in the title is from d’Tocqueville, Alexis, *Democracy in America* 1831, Part I, Chap 2, “Origin of the Anglo-Americans.”

<sup>1</sup> Ancient Greek: “a goat-song” is a form of art based on human suffering that, paradoxically, offers its audience pleasure.

<sup>2</sup> Despite d’Tocqueville’s generally positive impressions of American democracy, he saw the racial contradictions affecting black and brown persons in American courts and prisons as holding the seeds for the eventual undoing of the American experiment – constituting what the Swedish sociologist Gunnar Myrdahl would later refer to as the premier “American Dilemma.”

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private prisons, detention centers, training schools, reformatories, segregation units, holes, adjustment centers, protective custody units, holding chambers, boot camps, institutes for guidance, hot boxes, and supermax prisons – joined together only in their phenomenal success at warping their charges while nurturing the very behaviors and risky psychoses we had grown accustomed to seeing in their alumni.

The much-vaunted reforms that surfaced were vain efforts to vest nineteenth-century contrivances in post-modern attire. “New generation” jails and prisons abounded. Cells were contained in “pods”; “SWAT teams” wandered the corridors; “restraint chairs” displayed gagged men as struggling and helpless children; “spit masks” were locked over the heads of troubled youths dressed in paper gowns with hands cuffed behind their backs; “rubber rooms” were outfitted with “fireproof stuffing”; the dungeon-like chambers of sensory deprivation we call “supermax” prisons – designed to “break down” anyone who might be a bother (virtually unrelated to the reason for their original commitment) – were offered as a Hobson’s “alternative” to torture or “rendition.”<sup>3</sup>

Confirmed with “Good Housekeeping” seals of approval from in-house “experts” who duly certified whatever new atrocity might cross the radar screen, these devious goings-on were bolstered by a corps of professionals in good standing with the American Psychological Association and the American Psychiatric Association. It had been, in a very real sense, rehearsal for what we put in place during the later “war on terror.”<sup>4</sup>

<sup>3</sup> An inordinately large percentage of those sent to supermax facilities are less likely to be there for having committed a particularly egregious crime than for having been a management problem in another facility.

<sup>4</sup> In “The Psychologists of Torture,” in *In These Times*, April 2, 2009, Frederick Clarkson reported that medical professionals designed and helped implement Bush administration interrogation practices by devising, directing, and overseeing the torture of prisoners at Guantanamo Bay, Abu Ghraib, and Central Intelligence Agency (CIA) “black” sites. “Physicians for Human Rights detailed beatings, sexual and cultural humiliation, forced nakedness, exposure to extreme temperatures, exploitation of phobias, sleep deprivation, and sensory deprivation as among the tactics used. The Cambridge, Massachusetts-based organization that won a Nobel Peace Prize in 1997 said psychologists ‘led the way’ in legitimizing the use of these tactics. Eventually, Guantanamo Bay became known as a ‘battle lab for new interrogation techniques,’ which were later applied at military prisons in Iraq, Afghanistan, and at CIA detention centers.”

The Senate report also confirmed the intimate involvement of health professionals in designing, supervising, and implementing “enhanced” interrogation programs – being present as “safety officers” during water-boarding and other interrogation sessions. “The monitoring of vital signs and giving instructions to interrogators to start and stop are some of the most severe abuses of the Hippocratic Oath and medical ethics imaginable,”

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Hewing to the quaint pre-Hurricane Katrina belief that once public officials knew the dimensions of a tragedy in the making, they would seek ways to address it, I had reasoned (quite wrongly, as it turned out), “the truth would eventually out.” Of course, nothing of the sort happened. I ignored one of the more obvious realities then taking shape in American culture.

As Pulitzer Prize-winning reporter Chris Hedges put it, “The Truth will no longer set you free,” noting that when social and cultural assumptions break down in contemporary societies, they do so “at the speed of light” when exposed to the demands of “corporate totalitarianism.”

Hedges cited media critic Stuart Ewen’s belief that because “progressives have lost the gift of rhetoric, once a staple of a university education, they naively believe in the Enlightenment ideal that facts alone could move people toward justice. As a result, they remained largely helpless.”<sup>5</sup> In today’s world, *rhetoric* is as important as *fact*. Corporate and government propaganda aimed at swaying emotions rarely uses facts to sell their positions.<sup>6</sup>

The American criminal justice system – and its linchpin, the “correctional” system – is a case in point. In my experience, American correctional institutions and practices had always been something of which to be ashamed. In their post-modern version, however, they were as likely to provide grist for the musings of an Alexandre Dumas as to be subject to the turgid distinctions of a U.S. Justice Department lawyer.

The American prison system, in effect, had raced to the bottom in pursuit of the most fearsome “rogues gallery” it could muster to rationalize whatever brutal handling might yet be in the offing.

The possibilities were virtually limitless – demonstrating the perverse capacity of the human mind to craft punitive measures to the point of inducing organ failure when visited upon those held to be beyond civilized concern, an attitude with which the United States has recently demonstrated more than a little familiarity.

said Nathaniel Raymond, of Physicians for Human Rights. “Strangely, the memos of former senior Bush administration officials use the presence of medical professionals in contravention of their professional ethics as a defense, when it is in fact, itself, a crime.”

<sup>5</sup> Ewen holds that “effective communication requires not simply an understanding of the facts, but how those facts will take place in the public mind. . . . When Gustave Le Bon said it is not the facts in and of themselves which make a point but the way in which the facts take place, the way in which they come to attention.”

<sup>6</sup> Ewen’s books, *Advertising and the Social Roots of the Consumer Culture* and *PR: A Social History of Spin*, chronicled how corporate propaganda deformed American culture and pushed populism to the margins of American society.



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How did this come to be? The distinguished American sociologist William Chambliss was among the first to recognize the reason. He saw it not so much attributable to any demonstrable surge in violent crime, but rather as being the result of a deliberately planned and artificially created phenomenon.

He asked, “How did we reach this point? . . . And how did we come to arrest and incarcerate such an incredibly disproportionate number of young men from minority groups? Quite simply, this state of affairs came about because political, law enforcement, and mass media interests coalesced . . . to create a ‘moral panic’ about crime . . . derived not from public opinion but from the manipulation of public opinion.”<sup>7</sup>

As I penned this prologue, Irving Kristol, occasionally labeled the godfather of American neoconservatism, died. In a remembrance, *Weekly Standard* columnist Jonah Goldberg inadvertently put his finger on how the American criminal justice system came to enter the current period of full-throated neglect.

He recalled the late William F. Buckley’s view that Kristol owed his influence over American conservatism to having introduced sociology into its lexicon. Until then, conservatism had been largely Aristotelian (questioning whether a government initiative violated the Constitution or some immutable moral law). As Goldberg put it, “Kristol’s ‘neos’ were less abstract – asking instead, ‘Will it work?’”<sup>8</sup>

In quest of the “practical,” Kristol recruited what Goldberg termed “a cadre of America’s finest social scientists” – including James Q. Wilson, Seymour Martin Lipset, Charles Murray, Thomas Sowell, and Stephan and Abigail Thernstrom, all of whom had *action*, not *theory* in mind. Goldberg saw no irony in his observation that their findings “usually confirmed that the Aristotelians were right all along.”<sup>9</sup>

As this core of activists explored the dicey relationships of race to crime, their numbers were expanded to include then-Princeton political science professor John Dilulio, Harvard psychologist Richard Herrnstein, and social welfare expert at the Manhattan Institute George Kelling. Whether this stable of cosseted “hired hands” represented “America’s finest social scientists” remained a matter of conjecture.

<sup>7</sup> Chambliss, William, “Moral Panics and Racial Oppression,” in Hawkins, Darney (ed.), *Ethnicity, Race and Crime*, New York: SUNY Press, 1993.

<sup>8</sup> Goldberg, Jonah, *Los Angeles Times*, Opinion page, September 29, 2009.

<sup>9</sup> *Ibid.*

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A tangle of like-minded ideologues freely commingling university research with ideological screeds delivered before carefully chosen audiences and potential funders, they bestowed new meaning on the heretofore traditional standard of “peer review.”

Typically, their work surfaced in attenuated form in one or another of the “house organs” of a score of marketing outlets we had come, for some inexplicable reason, to call think tanks. It would develop that any major contributions to research were less likely to be found in compelling argument than in remarkable political successes at marketing.

Catchphrases were valued less for their persuasive content than their potential to generate high television ratings. Press releases masqueraded as research. Catered press conferences and awards dinners replaced reading. Slogans substituted for thought.

It all was in sharp contrast to the role criminologists, sociologists, social psychologists, or anthropologists had traditionally taken in crafting the nation’s approaches to crime.

In my experience, politicians had never been much interested in best practice when it came to crime. Occasionally, an academic might get a hand into legislative sausage-making by placing a disconcerting fact or two before a committee, state commissioner, or federal official with the hope that it might give them pause.

George Herbert Mead offered a reason why: “The attitude of hostility toward the law-breaker,” he wrote, “has the unique advantage of uniting all members of the community in the emotional solidarity of aggression. While the most admirable of humanitarian efforts are sure to run counter to the individual interests of very many in the community, or fail to touch the interest and imagination of the multitude and to leave the community divided or indifferent, *the cry of thief or murderer is attuned to profound complexes, lying below the surface of competing individual efforts, and citizens* who have [been] separated by divergent interests stand together against the common enemy” (emphasis added).<sup>10</sup>

Mead ruefully concluded, “There is nothing in the history of human society . . . which encourages us to look to the primal impulse of neighborliness for such cohesive power. The love of one’s neighbor cannot be made into a common consuming passion.”<sup>11</sup>

<sup>10</sup> Mead, George H., in his essay, “The Nature of the Past,” originally published in 1929, reprinted in Rack, Andrew J. (ed.), *Selected Writings: George Herbert Mead*. Chicago and London: University of Chicago Press, 1981, p. 591.

<sup>11</sup> *Ibid.*, pp. 359–62.

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Recognizing the enormous potentials inherent in shilling quick fixes for crime control to those whose impulses might be attuned to “profound complexes, lying below the surface,” the newly minted “neo” sociologists served up a smorgasbord of user-friendly rationales for wars on crime – indeed, for “wars” of all kinds.<sup>12</sup>

The packaging was greatly more important than the content. When it came to crime, it was nowhere more effective than when race was amalgamated with crime and genetics. It served as a clarion call to an assemblage of cheerleaders who felt, in their “gut,” the “profound complexes that lay just below the surface.”

It fell to Charles Murray to lay out the template in his proposal to the Manhattan Institute for what would be a highly successful book on welfare, *Losing Ground*. A consummate showman, Murray was accurately described by journalist Eric Alterman as having “an uncanny ability to offer what appeared to be a reasonable and scholarly-sounding voice to opinions and arguments that had hitherto been considered beyond the pale of respectability.”

Murray asked his potential funders and advance men, “How can a publisher sell it?” He then answered his own question, “Because a huge number of well-meaning whites fear that they are closet racists and this book tells them they are not. It’s going to make them feel better about things they already think but do not know how to say.”<sup>13</sup>

<sup>12</sup> Down the hall from the pundits on crime, one could find the architects of the “preventive” war in Iraq, having taken refuge in this or that think tank until the wind blew over relative to whatever part they might have had in conceiving and cheering on wars in Iraq – largely based on false information and manufactured evidence.

<sup>13</sup> As the Institute for Public Accuracy noted, “Murray’s denunciation of social programs for the poor – catapulted him to media stardom in 1984.” More than a dozen years later, the *Philadelphia Inquirer* (10/13/97) recalled that Murray’s book, *Losing Ground*, “provided much of the intellectual groundwork for welfare ‘reform.’” As Murray wrote in the book’s preface, the decision by Manhattan Institute officials to subsidize the book project was crucial: “Without them, the book would not have been written.” Murray became a national figure only after joining the Manhattan Institute as a Bradley Fellow. In 1982, the think tank “offered the then-unknown Murray a position as a senior research fellow and the Institute’s full financial backing to complete *Losing Ground*,” authors Jean Stefancic and Richard Delgado recount in *No Mercy: How Conservative Think Tanks and Foundations Changed America’s Social Agenda*. “The Institute raised \$125,000 to promote Murray’s book and pay him a \$135,000 stipend, most coming from Scaife [Foundation], which gave \$75,000, and Olin, \$25,000. Upon publication, it sent 700 free copies to academics, journalists, and public officials worldwide, sponsored seminars on the book, and funded a nationwide speaking tour for Murray that was made possible by a \$15,000 grant from the Liberty Fund.”

The largesse from right-wing funders yielded big results. By early 1985, Murray’s book had become a widely touted brief against spending tax dollars on low-income people. “This year’s budget-cutters’ bible seems to be *Losing Ground*,” noted a *New York*

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In a sentence, Murray summarized what would henceforth distinguish most of the social output underwritten by American neoconservative think tanks. The research would be attuned to those who felt, “in their gut,” that certain others were marked with the sign of Cain but were ashamed to admit it.

It was a tectonic moment in the history of American sociology. Success was held to a new standard. It demanded skill in seizing politically advantageous moments and making them “work” while concealing whatever unintended consequences and serious ethical questions might be in store.

Social scientists were beckoned to hew to the principles likely to be held by their venture capitalist funders<sup>14</sup> – what Lewis Lapham limned “a small sewing circle of rich philanthropists.”<sup>15</sup>

*Times* editorial (2/3/85). Among movers and shakers in the federal executive branch, the newspaper lamented, *Losing Ground* had quickly become holy writ: “In agency after agency, officials cite the Murray book as a philosophical base” for proposals to slash social expenditures.

Media outlets marveled at the sudden importance of Charles Murray’s work. *Losing Ground* “has been the subject of dozens of major editorials, columns, and reviews in publications such as *The New York Times*, *Newsweek*, the *Dallas Morning News*, and *The New Republic* – even the *Sunday Times* of London,” wrote Chuck Lane in *The New Republic* (3/25/85). The book’s success “is a case study in how conservative intellectuals have come to dominate the policy debates of recent years.” That domination, Lane concluded, was being enhanced by the think tank behind *Losing Ground*. “The Manhattan Institute’s canny innovation is to rely as little as possible on chance – and as much as possible on marketing. Of course, money helps, too.”

<sup>14</sup> Recently, a former George Bush speechwriter, columnist for the *National Review*, and American Enterprise Institute “scholar” was suddenly dismissed for having the temerity to criticize what he saw as a potentially disastrous melding of the Republican Party with the so-called Tea Party movement and Rupert Murdoch’s Fox News. As Christopher Buckley remarked, “It is not for the likes of me – non-intellectual, and post-partisan – to tell AEI how to handle its resident scholars. But the teapot having been heated, let me now drop in my leaves and say that it strikes me that AEI has not burnished its reputation as a center of right-intellectual thought. . . . Another conservative banishee to hear the sound of accumulating oyster shells clacking around his feet was Bruce Bartlett. A comment of his goes, I think, to the heart of the whole mess. ‘I have always,’ he said, ‘hoped that my experience was unique. But now I see that I was just the first to suffer from a closing of the conservative mind’ (emphasis mine). As Dan Quayle once put it so well, ‘What a terrible thing to have lost one’s mind. Or not to have a mind at all. How true that is.’ Indeed, how sad.” (Christopher Buckley, “The Frum Flap,” *The Daily Beast*, March 27, 2010.)

<sup>15</sup> Including, as Lapham put it, “Richard Mellon Scaife in Pittsburgh, Lynde and Harry Bradley in Milwaukee, John Olin in New York City, the Smith Richardson family in North Carolina, Joseph Coors in Denver, David and Charles Koch in Wichita, who entertained visions of an America restored to the safety of its mythological past – small towns like those seen in prints by Currier and Ives, cheerful factory workers whistling while they worked, politicians as wise as Abraham Lincoln and as brave as Teddy Roosevelt, benevolent millionaires presenting Christmas turkeys to deserving elevator operators, the sins of the flesh deported to Mexico or France. Suspicious of any fact

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With massive financial resources at their disposal, the neos set about establishing the parameters of the debate on African-American males vis-à-vis crime, having claimed it as their turf early on.<sup>16</sup> They boldly connected the dots in a manner that would tell conservatives and liberals alike that their gut feelings had been right all along. Now, they could utter them aloud.

Those who knew better seemed unconcerned with the contrivances being put in place to marginalize legitimate objections – much of it from African-American academics who recognized the ill-omened precedents inherent in 200 years' experience of conflating crime, particularly violent crime, with race.

Upon its publication in 1997, the distinguished critic and writer Nicholas Lemann discussed *Search and Destroy* in the *New York Review of Books*. He limned it “a wail of outrage.” As indeed, it was.

I mention this not to mount a tardy apology, but because Lemann was prescient (however inadvertently) in charting the course the nation would subsequently take in addressing the thorny issues surrounding African-American males, violence, and crime.

Lemann's review reflected the fact that he had previously written a widely praised book on African-American males.<sup>17</sup> His comments were unusually sophisticated – citing a pantheon of sociologists, cultural anthropologists, social psychologists, and criminologists, most associated with the University of Chicago of the early to mid-twentieth century, out of which much of American criminology emerged.

However, after rendering his obligatory abeyance, Lemann saddled these early pioneers with the burden of having spawned a discipline – criminology – that was not only largely irrelevant today, but may have actually contributed to higher crime rates – particularly violent crime – with its preoccupation with putative social causes and correlates.

that they hadn't known before the age of six, the wealthy saviors of the Republic also possessed large reserves of paranoia, and if the world was going rapidly to rot (as any fool could plainly see) the fault was to be found in everything and anything tainted with a stamp of liberal origin – the news media and the universities, income taxes, Warren Beatty, transfer payments to the undeserving poor, restraints of trade, Jane Fonda, low interest rates, civil liberties for unappreciative minorities, movies made in Poland, public schools.”

<sup>16</sup> Murray, in *Losing Ground* (1983), and Wilson, along with Herrstein, in *Crime and Human Nature* (1985).

<sup>17</sup> Lemann, Nicholas, *The Promised Land: The Great Black Migration and How It Changed America*, New York: Random House, 1992.

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“Today,” he wrote, “the liberal view that crime best be reduced by bettering the lot of the poor, and that many criminals can be reformed by supportive parole officers and social workers, has virtually no acceptance<sup>18</sup>. . . . No Democratic politician would publicly express the view that greater social opportunity and rehabilitation reduces crime.”

Lemann hailed the country’s practical turn to the Right – citing a familiar roster of neoconservative experts who had staked out the criminological scene in the prerequisite stark black–white, either–or terms the times demanded.

Then, somewhat inexplicably, he chose to focus on the premise that had lain at the core of neoconservative thought on race and crime all along. Snatched from a Pandora’s box of “southern strategies,” it was a bric-a-brac reminder of harsher measures yet in store for African-American men and boys – albeit with a delay that vexed those who longed for the blessed closure it proffered.

“It is difficult,” Lemann mused, “to estimate the effect of the idea that what (James Q.) Wilson and (Richard) Herrnstein call constitutional factors in people cause crime, because no politician or policymaker would dare voice it directly.”

Hailing them for having breached the silence, Lemann was particularly taken with the fact that Wilson was “frequently consulted, and cited by Republican politicians, including Mayor Rudolph Giuliani of New York City” (with whom he presumably shared his views on genes, race, and crime “directly”).

The neos had clearly tapped whatever “profound complexes” had theretofore lain silent among liberals, neoliberals, and conservatives alike.

In 1995, New York’s former Democratic Mayor Ed Koch had written a glowing review of Herrnstein and Wilson’s *Crime and Human Nature* for the Heritage Foundation’s journal, *Policy Review*, titled, “The Mugger and His Genes.”<sup>19</sup>

Richard Cohen, a generally liberal columnist for *The Washington Post*, had felt similar abdominal rumblings four years earlier. As he wrote in 1991, “Giuliani is a true Wilsonian – not as in Woodrow, but as in James

<sup>18</sup> A day that never existed, but if it had, had been pretty much replaced with what some now refer to as attack probation. In the case of social workers, I can think of no better appellation than that once applied to family child-protective service units by psychiatrist Salvador Minuchin as having become family dismemberment services.

<sup>19</sup> Koch, Ed, “The Mugger and His Genes,” *Policy Review* Vol. 35, Winter, 1995, pp. 87–89.

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Jerome G. Miller

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Q., a social scientist at UCLA. Years ago, James Q. Wilson identified a phenomenon we all feel in our gut.”<sup>20</sup>

By focusing the debate on putative genetic links between race and crime, Lemann hit upon the very reason nothing productive would occur in the near future. While he had prematurely outed those who harbored similar stirrings in their guts, he had also recognized the potential inherent in the phenomenon.

Conflating race with crime (cf. violent crime) has always been a white man’s “demon rum” – holding out the false promise of freeing him from the troubling racial contradictions that lay at the heart of our democracy. It had the faux mystical quality of promising a “scientific” solution to citizens weighed down in racial ambiguity.

However, rather than forge ahead – a risky road at best – the nation chose to leave its despicable correctional system frozen in place to serve as a continuing “morality play” meant to justify what so many white citizens felt in their collective gut. “See how they act!” would be the mantra used to simultaneously stereotype, frighten, and allure.

It was a stratagem used with limited success in retrieving some of the political losses attendant to the Katrina fiasco. Rumors were circulated on Web sites and on cable television testifying to alleged incidents of jaw-dropping human disregard among black victims waiting in the football dome to which they’d been beckoned to find shelter and rest.<sup>21</sup> It was a pale attempt to redefine the disaster in a way that justified inaction.

It probably didn’t help when the president’s mother relieved herself of her views on the situation at a “back-up” dome in Houston.<sup>22</sup> Nevertheless, at some gut level, she was sharing “complexities” that lay below the surface in many Americans.

<sup>20</sup> As the liberal columnist for *The Washington Post*, Richard Cohen wrote, “If a neighborhood seems unsafe, it is unsafe. If petty crimes go unpunished, if vandalism and graffiti go unchecked, not only will criminals perceive a breakdown in authority, so will law-abiding residents.” Op/Ed, *Washington Post*, July 7, 1994, p. A19.

<sup>21</sup> Rumors that were subsequently proven false. Indeed, as I write this, other rumors concerning police violence during the Katrina disaster largely overlooked by the media were being confirmed in indictments against police for murdering a number of African Americans making their way to the Superdome. Coincidentally, among those patrolling the streets of New Orleans during Katrina were employees of the “Blackwater” firm later to become well-known for alleged inappropriate violence on civilians in Iraq.

<sup>22</sup> As the president’s mother told the Public Broadcasting Service, “So many of the people in the arena here, you know, were underprivileged anyway, so this is working very well.” “Thanks Mom! Barbara Bush on Katrina’s Victims,” *The Guardian*, London, September 7, 2005.



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However, it was different for African-American males who could be linked to crime. As they filled the prisons, media outlets competed with one another in crafting twentieth-century television shows to rival nineteenth-century entertainments with similar goals.

The British criminologist D. L. Howard described “the punitive English prison practices of the late 19th century” as fitting hand in glove with the neo-Darwinist views of the popular Italian criminologist Cesare Lombroso in identifying genetically formed criminals.

Howard saw the brutal DuCane system of managing British prisons as *directing*, rather than *following* public opinion. “Men and women went into prison as people. They came out as Lombrosian animals, shorn and cropped, hollow-cheeked, and frequently, as a result of dietary deficiencies and lack of sunlight, seriously ill with tuberculosis. They came out mentally numb and some of them insane; they became the creatures, ugly and brutish in appearance, stupid and resentful in behavior, unemployable and emotionally unstable, which the Victorian middle classes came to visualize whenever they thought of prisoners.” Rather than portray inmates “as the commonplace, rather weak people the majority of them really were,” DuCane’s machine produced Lombroso’s inbred criminal types.

In words that carry resonance today, Howard noted, “The theories of Lombroso and others on criminal types, and the Victorian stereotypes of the criminal were identical. Prison produced the criminal type, scientific theory identified him even to the pallor of his skin, and the public recognized him: The whole system was logical, watertight, and socially functional.”<sup>23</sup>

He added that the change of prison conditions proceeded at a rapid enough rate “to satisfy the pressures of reformers, while continuing to produce the stereotyped ‘old lag’, the ‘abnormal’, the ‘psychologically motivated’, the ‘inner-directed’ delinquent whose maladjustment is ‘deep-seated’ and ‘intransigent to treatment’ and who, in his turn, becomes the scapegoat needed by society and the data required by the culture.”<sup>24</sup>

It was all airtight and self-generating – embodying a theory of correctional management first advanced in the United States by neo pundit John Dilulio in a *Wall Street Journal* op-ed in 1994. The editors chose

<sup>23</sup> Chapman, Dennis, *Sociology and the Stereotype of the Criminal*, London: Tavistock Publications, 1968, p. 237.

<sup>24</sup> *Ibid.*, p. 16.



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to limn the piece, “Let ’em Rot.”<sup>25</sup> It was similar in tone to other neo-conservative themes focused primarily on African-American citizens – for example, welfare and single-parent homes.

Just as the Victorian middle classes were afforded tours of English prisons and workhouses where they could observe men chained together in silent lockstep, or perhaps leer at gaunt youths trudging an endless stairway, hands cuffed to a treadmill<sup>26</sup> – so the American electronic media were flooded with “reality-based” visuals of prison inmates, executions, and interviews where the inmates could perform.<sup>27</sup>

For the Victorian middle class, it was all calibrated to embody then-emerging Darwinist imperatives that suggested the genetic sources of criminal behavior while ratifying the British meritocracy. Americans could sit on the couch and watch incredibly damaged individuals perform according to the intentions of their keepers.

Here’s how a popular American television series, *Lockup*, was recently described on the Arts & Entertainment Web site: “At St. Louis County Jail, some of the inmates are on edge, and only one thing’s for sure: Somebody’s going to cross the line. Here, small-time offenders sleep next to career felons and collide with each other in open areas during the day. Tensions could erupt at any moment, but for each unit of 67 inmates, there’s just one corrections officer – armed with nothing but a panic button and pepper spray – to keep all hell from breaking loose.”<sup>28</sup>

A substantial majority of the nation now seems irretrievably won over to the “appropriateness” of variations on pain – from excruciating to occasionally fatal torture (predictably, limned enhanced interrogation) – having seen it “work” week after week in a fictionalized Fox TV spy drama.<sup>29</sup>

<sup>25</sup> Despite Dilulio’s subsequent objections to the title given his piece by the *Journal*’s editors, it accurately reflected the tenor of his piece.

<sup>26</sup> University of Houston’s Web site, “*Engines of Ingenuity*,” “Treadmills came into English jails following a 1779 prison reform act. That act said that prisoners should be given ‘... labor of the hardest and most servile kind in which drudgery is chiefly required and where the work is little liable to be spoiled by ignorance, neglect, or obstinacy.’”

<sup>27</sup> A more recent example is one in which selected inmates displayed their eyes – in which they had tattooed the white of the eye dark blue.

<sup>28</sup> Arts & Entertainment network Web site, March 1, 2010.

<sup>29</sup> *The Nation*, January 15, 2000, p. 24: “Torture on TV: 24 is back on Fox TV. The hit show... features at least one big torture scene in every episode – the kind of torture the Bush White House says is necessary to protect us from you-know-who. The show is much more successful than the White House at making the case for torture. Its ratings have gone steadily up over the last five years, while Bush’s ratings have gone steadily down. Sunday night’s two-hour premiere again argued not just that torture is necessary

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Meanwhile, those who elicited this circus and wheedled the nation into its current racial dilemma now sit firmly in the “catbird seat,” whence they prattle on in that state of “lucid inebriation” once associated with absinthe addicts. As a consequence, the country is now set on a path bound to realize its most dire predictions, having set the prerequisites in place.

The modern American criminal justice system now stands as an homage in concrete and steel to the Dred Scott decision<sup>30</sup> – quietly disenfranchising ever larger percentages of black males while assuring a continuing national ethic steeped in paranoia, neglect, and “watchful” waiting for whatever next explosion might confirm the ever-present gut test demanding more and longer imprisonment. It’s an abiding threat that embodies what southern white men have (with good reason) feared since Nat Turner’s slave rebellion.

The demons that always haunted captive–captor dyads were loosed with renewed vengeance. “Corrections,” perpetually in a state of near-atrophy, hardened further. Policies and practices, in the past more likely to betray the lassitude of a warden or imperiousness of a probation/parole officer, now regularly spill out from the darker recesses of troubled minds, revealing obsessions that are quite something other than normal.

One could be forgiven for misconstruing many contemporary correctional practices as having been the issue of a sadomasochist’s wet dream. Loosely grounded in self-hatred, trance, myth, and fearsome fantasies, the system has become quite loony – presided over by loonier overseers.

It is to our shame that a small band of primarily neoconservative “crime experts” have successfully contrived to establish an array of measures sufficient to the task of devaluing enough African-American men and boys for the nation to reach what British criminologist Andrew Rutherford has termed the eliminative ideal – not extermination, but an attempt to

but also that it works. And it’s also really exciting to watch. The show as usual made the ‘ticking time bomb’ case for torture: we need to torture a suspect, or else thousands, or millions, will die in the next hour.”

<sup>30</sup> *The American Prospect*, March 11, 2010: “Sen. Dick Durbin announced that he and Sen. Jeff Sessions had reached a ‘compromise’ in the Senate gym over Durbin’s bill, which would have eliminated the 100 to 1 sentencing disparity for crack vs. powder cocaine. The compromise was that Durbin would accept Sessions’ amendment to change the disparity from 100 to 1 to 20. . . . Instead of eliminating the crack/powder disparity, which practically everyone in the committee acknowledged disproportionately affects black Americans, the senators opted to make the law one-fifth as racist as it used to be. The senators on the committee spent the rest of the markup complimenting each other on all they had achieved with their bipartisanship.”

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solve problems by getting rid of troublesome or disagreeable people with methods that are made lawful and widely supported.<sup>31</sup>

Britain once led the way in this endeavor – eliminating the possibility of recurrent petty crime by physically transporting thousands of men, women, and children, first to America and then to Australia. Today, the method is exile via long-term imprisonment.

A familiar albatross has reappeared on the American horizon – stoking fears that the Civil War couldn't expunge and reminding citizens of an abiding disposition to compulsively toy with "solutions" that smack of another kind of "finality" – not as formal policy, but through the mundane practice of ensuring that our glut of life-consuming contraptions will devour ever larger chunks of the perpetual aliens in our midst – piece by piece, man by man, boy by boy, before they return the favor.

<sup>31</sup> Rutherford, A., "Criminal Policy and the Eliminative Ideal," *Social Policy and Administration*, 1997, pp. 116–35.