

Cambridge University Press

978-0-521-74381-5 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

Excerpt

[More information](#)

I

The Scope of the Problem

Amid two decades of economic growth and social neglect, the white majority in America presented its inner cities with an expensive gift – a new and improved criminal justice system. It would, the government promised, bring domestic tranquility, with particular relevance to African-Americans. No expense was spared in crafting and delivering it inside the city gates. It proved to be a Trojan horse.

While neoconservative commentators such as Charles Murray argued that welfare had undermined family stability and sabotaged work incentives,¹ the real value of Aid to Families with Dependent Children (AFDC) and food-stamp payments to the poor had steadily declined.² Not so with criminal justice.

¹ A 1993 University of Michigan Institute for Social Research study (Duncan, Greg J., Gustafsson, Björn, Hauser, Richard, Schmauss, Günther, Messinger, Hans, Muffels, Ruud, Nolan, Brian; Ray, Jean-Claude; (1993). "Poverty Dynamics in Eight Countries." *Journal of Population Economics*, Vol. 6, No. 3. August 1993) noted that among those who escaped poverty in the 1980s, the situation was decidedly worse than that of most of the industrialized world. Challenging the idea that welfare is a disincentive to escaping poverty, the researchers found that the chances of escaping poverty in those countries with more generous welfare benefits were much greater than in the United States. For example, when comparing the ability of poor families (those with a median income of less than 50 percent of the country's median income) to escape poverty, there were gross differences among countries. The highest rates of escape from poverty were shown in those countries with relatively liberal welfare benefits: Finland Sweden, France, Luxembourg, and West Germany. The lowest rate of escape from poverty registered was among U.S. blacks.

² Dionne, E. J., *Why Americans Hate Politics*, New York: Simon & Schuster, 1992, p. 96. As Dionne put it, "If Murray's argument were right, the trends he rightly deplores should have reversed themselves. 'When the relative advantage of work over welfare increased sharply.' They did not. In fact, the problems of youth unemployment and family breakdown grew worse in the 1970s and 1980s. That suggests that simply cutting

Cambridge University Press

978-0-521-74381-5 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

Excerpt

[More information](#)

In a society obsessed with single mothers on welfare, more money (\$31 billion) was being spent in 1993 at local, state, and federal levels on a failed drug war (mainly directed at African-American and Latino citizens) than on AFDC, that much vaunted symbol of liberal largesse (\$25 billion).³ Moreover, the politics of crime and welfare came with a decidedly racial cast.

As governmental investment in social and employment programs in the inner city was held stable or reduced, a surfeit of “wars” on crime and drugs were ratcheted up to fill the void. The rationale (and generally accepted view) was that the nation was caught in the throes of an exponential rise in violent crime – largely attributable to the arrival of “crack.” Although reliable studies at the time found this premise highly questionable, it didn’t matter. The country was being whipped into what the sociologists limn a moral panic.

So long as this public perception was carefully cultivated, the criminal justice system grew at an exponential rate: direct federal, state, and local expenditures for police increased 416 percent; for courts, 585 percent; for prosecution and legal services, 1,019 percent; for public defense, 1,255 percent; and for corrections, 990 percent. Federal spending on criminal justice grew 668 percent; county spending increased 711 percent; and state spending surged 848 percent. By 1990, the country was spending \$75 billion a year to catch and lock up offenders.⁴

However, even these figures were grossly understated.⁵ With the passage of “tough” federal crime legislation and the consequent pressure to enact similar measures at the state level, by the mid-1990s, the country was spending in excess of \$200 billion annually on the crime-control industry.

In what fast emerged into a national malady, most of the anticrime initiatives of the 1960s, 1970s, and 1980s came wed to variants on themes of “war” – not against sovereign nations – but against conditions or perceived behaviors – wars on poverty, wars on cancer, wars on drugs,

welfare programs, though appealing from the point of view of conservative ideology, would do nothing to improve matters – and would very likely make things much worse.” The average grant under “Aid to Families with Dependent Children” in 1992 was a painfully low \$370 per month.

³ Murphy, Patrick, “Keeping Score: The Frailties of the Federal Drug Budget,” Rand Drug Policy Research Center: Issue Paper, January 1994, p. 5.

⁴ U.S. Department of Justice, Bureau of Justice Statistics, *Justice Expenditure and Employment, 1990*, Bulletin NCLJ-135777, Washington, D.C., August 1992, p. 1.

⁵ For example, a “Jail Expo” sponsored by the American Jail Association in the spring of 1994 announced that county and local jails alone represented a \$58 billion “market” to prospective vendors and builders.

Cambridge University Press

978-0-521-74381-5 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

Excerpt

[More information](#)*The Scope of the Problem*

3

and on violent crime – culminating as an apotheosis in the history of shams – the war on terror – still some 30 years hence.⁶

All Our Young Enemies

What had been quietly happening to young African-American men and boys in our criminal justice system was a particularly noteworthy story in the 1980s and 1990s. However, it was thrust before the public in 1992. The televised brutal beating of a black man (Rodney King) during a traffic stop followed by the acquittal by an all-white jury of policemen involved spilled into the streets with general rioting in various parts of Los Angeles (L.A.).

As city prosecutors ran background checks on the first 1,000 arrestees charged with misdemeanors (most having to do with curfew violations), they discovered that 6 out of 10 had criminal records and nearly a third were on probation or parole. From this important bit of information, L.A. officials quickly drew the kind of flawed conclusion that had shaped justice policy in the inner city for most of the previous decade – and continues to provide the rationale for a series of “wars” on crime now, another decade and a half later. “This was not an instantaneous ‘good guy rage’ kind of thing,” said deputy city attorney John Wilson. “This was a ‘bad guy’ taking advantage of a situation out of control.”⁷ Wilson’s statement proved to be misinformed.

Indeed, a study of the Los Angeles County Adult Detention Center completed a year earlier revealed that one-third of all the black men between ages 20 and 29 living in Los Angeles County had been jailed at least once in that same year.⁸ At this point, good guy versus bad guy

⁶ The “War on Terrorism” was, in a sense, the logical next step in this trend of garnering support for a cause through marketing. A cynic might suggest that declaring “victory” in such wars is another marketing challenge – it is questionable whether one can successfully convey a conclusion that is not obviously or necessarily the outcome expected from a wide range of observers. The final analysis in such wars becomes a matter of who says so and whether they exercise sufficient power to ensure their declaration can be made to stick – again, essentially another challenge in marketing rather than an outcome dictated by the facts.

⁷ Lieberman, Paul, “40% of Riot Suspects Found to Have Criminal Records,” *Los Angeles Times*, Tuesday, May 19, 1992, p. B4. A later *L.A. Times* survey of 700 people convicted of riot-related felonies (more than 90 percent of “looting”) found that 60 percent had been arrested previously (*Los Angeles Times*, Sunday May 2, 1993, p. A34).

⁸ Austin, James and Donald Irie, “Los Angeles County Sheriff’s Department Jail Population Analysis and Policy Simulations: Briefing Report,” National Council on Crime and Delinquency, August 21, 1992.

Cambridge University Press

978-0-521-74381-5 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

Excerpt

[More information](#)

comparisons begin to falter. Basically, this straightforward and largely ignored study revealed that something approaching the majority of young black males living in L.A. could expect to spend time in one or another of the county's jails, detention centers, camps, or prisons as they negotiated the years between adolescence and age 30. Virtually all would acquire a criminal record during this process and a not insignificant percentage would spend a significant amount of time in one or another correctional facility. Again, though largely ignored by law enforcement and the press, similar patterns were showing up in other large cities.

The L.A. city attorney seemed oblivious to the fact that had he stopped 1,000 individual African-American young men at random, whether rioting or simply going about their law-abiding daily business, about 600 would have had "criminal records." What he might have considered, however, was the kind of record it was. The L.A. deputy public defender cited the case of one of his clients, a 50-year-old man arrested during the riots. His criminal record consisted of a single drunk-driving arrest some 20 years earlier. However, it was, in fact, a criminal record.

The social disaster taking shape in L.A. had been brewing a long time. Nearly a quarter century earlier, in a 1967 article published in *The Annals of the American Academy of Political and Social Science*, the socioeconometrician Alfred Blumstein predicted that if then-current patterns continued, the chances of a black male city resident's being arrested at some time in his lifetime for a nontraffic offense was approaching 90 percent – and more than half of them would be charged with a felony.⁹

Blumstein's dire predictions didn't appear in the national press until nine months later, when he repeated them before an unlikely forum – the International Platform Association. A reporter happened to be covering

⁹ Blumstein, Alfred, "Systems Analysis and the Criminal Justice System," *The Annals of the American Academy of Political and Social Science*, Vol. 374, November 1967, p. 99. As Blumstein put it, "... one can approximate the probability of an American boy's being arrested. The Uniform Crime Reports reports 4,431,000 male arrests in its 1965 sample population, or an equivalent of 6,420,000 for the total United States; one-eighth of these, or about 800,000 would have been new arrestees. One can assume, for simplicity, that all first arrests occurred at a specific age, say, sixteen. Since there were about 1,710,000 sixteen-year-old boys in the United States in 1965, their arrest probability is thus calculated to be about 47 per cent, or conservatively, at least 40 per cent. More detailed calculations, correcting for race and residence (city, suburban, and rural), show that a city male's chances of being arrested for a nontraffic offense some time in his life are about 60 per cent, about 50 per cent for a United States male in general, and that they may be as high as 90 per cent for a Negro city male."

Cambridge University Press

978-0-521-74381-5 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

Excerpt

[More information](#)*The Scope of the Problem*

5

this public speaking event, and as a result, a brief, largely unnoticed or ignored Associated Press article appeared in *The New York Times*.¹⁰

At about the same time, in their classic 1970 “cohort analysis” of Philadelphia boys who had been born in 1945, University of Pennsylvania criminologists Marvin Wolfgang, Robert Figlio, and Thorsten Sellin noted that 52 percent of the nonwhite boys and 29 percent of the white boys had been arrested by age 18.¹¹

In a later study (1981), Alfred Blumstein and Elizabeth Graddy examined 1968 through 1972 arrest statistics from the country’s 56 largest cities.¹² Looking only at felony arrests, they found that one of every four males living in a large city could expect to be arrested for a felony at some point in his life. When broken down by race, however, they found that a nonwhite male was three and a half times more likely to have a felony arrest than a white male. Whereas 14 percent of white males would be arrested for a felony, 51 percent of nonwhite males could anticipate a felony arrest at some time during their lives.¹³

Misdemeanors (making up the largest share of the bookings into jails) weren’t included in Blumstein and Graddy’s calculations. Had they been, the percentage of nonwhite males arrested and jailed at least briefly would have fulfilled Blumstein’s original “90 percent” prediction.

In 1987, Robert Tillman, a criminologist working in the California Attorney General’s office, found a similar pattern among nonwhite males statewide, not over a lifetime but in the short 12-year span between ages 18 and 30. Drawing upon a 1974 “cohort” of 18-year-old males of all races, Tillman traced their arrest records between 1974 and 1986, when they turned 30. At least one out of three had been arrested. When he broke the percentages down by race, however, he discovered that two-thirds of the nonwhite adult males could expect to be arrested and jailed

¹⁰ *The New York Times*, July 28, 1968.

¹¹ Wolfgang, Marvin, Robert Figlio, and Thomas Sellin, *Delinquency in a Birth Cohort*, Chicago: University of Chicago Press, 1972.

¹² Blumstein, Alfred and Elizabeth Graddy, “Prevalence and Recidivism in Index Arrests: A Feedback Model,” *Law and Society Review*, Vol. 16, No. 2, 1981–82, pp. 265–90. (The cities surveyed were Birmingham, Phoenix, Tucson, Oakland, Long Beach, Los Angeles, Sacramento, San Diego, San Francisco, San Jose, Denver, Washington, D.C., Miami, Jacksonville, Tampa, Atlanta, Chicago, Indianapolis, Wichita, Louisville, New Orleans, Baltimore, Albuquerque, Buffalo, Rochester, New York, Charlotte, Cincinnati, Cleveland, Columbus, Toledo, Oklahoma City, Tulsa, Portland, Philadelphia, Pittsburgh, Memphis, Dallas, Houston, San Antonio, El Paso, Ft. Worth, Austin, Norfolk, Seattle, Milwaukee, and Honolulu.)

¹³ *Ibid.* pp. 279–80.

Cambridge University Press

978-0-521-74381-5 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

Excerpt

[More information](#)

before completing their 29th year (41 percent for a felony).¹⁴ Tillman did not include juvenile arrests or later arrests (after age 30). Had he done so, the lifetime risk of arrest would have surpassed 85 percent.

Moreover, Tillman's cohort of 18-year-olds was drawn from across the whole state of California, including both rural and urban youth, not exclusively city populations. Had he confined his sample only to inner-city minority youth, the percentage arrested before completing their 29th year would have approached 80 percent.

A 1990 RAND Corporation study on the economics of the drug trade in the District of Columbia revealed a similar trend – with fully one-third of all the African-American males between the ages 18 and 21 living in the District of Columbia being arrested and charged with a criminal offense. Moreover, the fraction of one-third for black males aged 19 did not “decline noticeably over the age range of 20 to 29, as other studies of crime rates in the general population ha(d) suggested.”¹⁵

Again, the RAND researchers did not include juvenile arrests. Had they done so, about half of the District of Columbia's young men would have been found to have been arrested and jailed or detained before reaching legal adulthood.¹⁶

In 1990, the Washington, D.C. – based “Sentencing Project” released a survey revealing that on an average day in the United States, one of every four African-American men ages 20 to 29 was either in prison or jail, or on probation or parole.¹⁷ The study caused a brief flurry in the media, but the next logical question went unasked by the press. If one in four young African-American males was under correctional supervision on any one day, what percentage had been, or would be drawn into the justice system before age 30, or 40, or 50?

In 1992, the National Center on Institutions and Alternatives (NCIA) conducted another survey of young African-American males in Washington, D.C.'s justice system and found that on one day, 4 of every 10 African-American males (ages 18 to 35) residing in the District of

¹⁴ Tillman, Robert, “The Size of the ‘Criminal Population’: The Prevalence and Incidence of Adult Arrests,” *Criminology*, Vol. 25, No. 3, Fall 1987.

¹⁵ Reuter, Peter; MacCoun, Robert; Murphy, Patrick; et al., *Money from Crime: A Study of the Economics of Drug Dealing in Washington, D.C.*, June 1990.

¹⁶ Blumstein, A. and E. Graddy, op. cit. (Blumstein had discovered that a disproportionate percentage of arrests occurring in the lifetime of African-American males occur in the juvenile years [before age 18]).

¹⁷ Mauer, Mark, *Young Black Men and the Criminal Justice System: A Growing National Problem*, Washington, D.C.: The Sentencing Project, 1990.

Cambridge University Press

978-0-521-74381-5 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

Excerpt

[More information](#)*The Scope of the Problem*

7

Columbia were either in jail or prison, on probation/parole, out on bond, or being sought on arrest warrants. This one-day count suggested that approximately three of every four young black male residents of the city would be arrested and jailed before reaching age 35. Again, the lifetime risk hovered somewhere between 80 percent and 90 percent.¹⁸

A few months later, NCIA replicated the study in Baltimore, Maryland – finding that of the 60,715 African-American males aged 18 to 35 then living in that city, 34,025 (56 percent) fell under the onus of criminal justice (that is, in prison, jail, on probation/parole, out on bail, or being sought on an outstanding arrest warrant).

Predictably, police and prosecutors attributed these daunting numbers to random violence arising out of the so-called war on drugs. The question as to which side instigated the violence remained – and still remains – trapped in the “chicken or egg” dilemma.

The drug war, from its inception, was concentrated virtually exclusively in the black community. It served as a kind of “show and tell” for the white community. Yet, a detailed look at arrests in Baltimore during this period revealed that fewer than 1 in 10 had to do with any violent crime. The bulk of young black men had been arrested for nonviolent felonies and misdemeanors often associated with drugs.

The racial disparities were most obvious when drug arrests were isolated. African-American males of all ages were being arrested for drug offenses at six times the rate of whites. More than 90 percent of arrests of African-American males were for possession. As for violence attributed to the drug war, there had been more murders in Baltimore 20 years earlier, in 1971 (323), long before the drug wars ramped up, than in 1991, the year of this survey (304).

Similar findings emerged from a 1993 study by the California State Assembly’s “Commission on the Status of African American Males.” It revealed that one-sixth (104,000) of California’s 625,000 black men 16 and older were arrested *each year*, “creating police records and hindering later job prospects.” Although 64 percent of the drug arrests of whites and 81 percent of the arrests of Latinos ultimately were not sustainable, 92 percent of the black men were released for lack of evidence.¹⁹

¹⁸ *Hobbling a Generation: African American Males in the District of Columbia’s Criminal Justice System*, Windsor Mills, Maryland: National Center on Institutions and Alternatives, March 1992.

¹⁹ Nazario, Sonia, “Odds Grim for Black Men in California,” *The Washington Post*, Dec. 12, 1993, p. A9.

Cambridge University Press

978-0-521-74381-5 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

Excerpt

[More information](#)

Meanwhile, black men, who made up only 3 percent of California's male population, accounted for 40 percent of those sent into state prisons.

The Limits of "Them" versus "Us" Paradigms

In the end, the data challenged what Robert Tillman had called the "two (false) assumptions" underlying most popular discussions of crime:

1. The world is made up of two types of people: those who commit crimes and those who do not; and,
2. Criminals form a very small portion of the total population.

Tillman wryly noted that if being arrested and possessing a criminal record were the prime criteria for being classified a member of the so-called criminal population, "the number of criminals in our midst is much larger than we recognize." He concluded, "The fact that such large numbers of young men are being arrested is related less to criminal behavior than to 'social-structural' conditions, that is, political, economic, and social institutions that adversely affect large numbers of young adult males, particularly those within certain strata of society."

Unfortunately, Tillman's egalitarianism regarding "criminals" was anathema to both the ideologically driven mavens of the Right and the ostensibly more liberal legalists of the Left.

Concomitantly, academic sociologists and criminologists, who had hitherto been trusted to provide accurate empirical data and historical narrative concerning crime, were now portrayed by the mavens of the Right as impractical when dealing with crime, if not, indeed, part of the problem. Increasingly, they found themselves relegated to the very edges of the public policy debates on crime. The "stars" on Capitol Hill and in state legislatures came primarily from ideologically driven "think tanks" or congressionally invited individuals representing their political views – the early harbingers of what, in ensuing years, would become an ideologically driven Justice Department from top to bottom.

In the political fog that followed, the issue of a grossly disproportionate number of African-Americans being drawn into the criminal justice system was largely ignored (with the exception of a few members of the black caucus) by state and federal policymakers and lawmakers alike.

Sociologist Chambliss continued to ask the salient question aloud:

How did we arrive in the late 20th century to a world in which the United States incarcerates more of its population than any country in the world: including South Africa? And how did we come to arrest and incarcerate such an incredibly disproportionate number of young men from minority groups?

Cambridge University Press

978-0-521-74381-5 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

Excerpt

[More information](#)

The Scope of the Problem

9

Sadly, two decades later, the same question was still being asked – and remained largely unanswered. Here’s how the conservative scholar, Glenn Lourie, posed the dilemmas in 2008:

How did it come to this? One (argument) is that the massive increase in incarceration reflects the success of a rational public policy: faced with a compelling social problem, we responded by imprisoning people and succeeded in lowering crime rates. This argument is not entirely misguided. Increased incarceration does appear to have reduced crime somewhat. But by how much? Estimates of the share of the 1990s’ reduction in violent crime that could be attributed to the prison boom ranged from five percent to 25 percent. Whatever the number, we long ago entered the zone of diminishing returns. Neoconservative John Dilulio who coined the term “super-predator” in the early 1990s, was by the end of that decade declaring in *The Wall Street Journal* that “Two Million Prisoners Are Enough.” But there was no political movement for getting America out of the mass-incarceration business. The throttle was stuck.

A more convincing argument is that imprisonment rates have continued to rise while crime rates have fallen because we have become progressively more punitive: not because crime has continued to explode, not because we made a smart policy choice, but because we have made a collective decision to increase the rate of punishment.

The list of familiar rationalizations for the “wars,” along with the incarceration of so many young African-American men and boys, proved to be just that – rationalizations.

The policies and practices that followed were either shaky to the point of disbelief, had minimal impact on crime, or were blatantly fraudulent. The list is familiar – from selective incapacitation to deterrence to the mother of all lies – the so-called broken window theory that ended in incarcerating minor offenders in previously unknown numbers.

It’s now clear all this hullabaloo had little to do with rising violent crime. Indeed, a credible case can be made that we “came to this” through a highly successful campaign of deliberate misrepresentation designed to push the nation into what sociologists have called a moral panic. It resulted in an exponential growth in a crime-control industry that has come to resemble the military in its strategies, tactics, and near-romantic hold on the public’s imagination.

One was reminded of Colin Powell’s aside that armies are designed to kill people and break things. That has been precisely the legacy of our various “wars” on drugs, violent crime, and “uncivil” behavior – all demanding one wild charge after another up an unending series of virtual San Juan Hills.

Cambridge University Press

978-0-521-74381-5 - Search and Destroy: African-American Males in the Criminal Justice System, Second Edition

Jerome G. Miller

Excerpt

[More information](#)

In the process, the country has grown progressively less able to free itself from self-destructive “solutions” that have undermined our democracy at virtually every level while seeding neighborhoods with thousands of Stasi-like informers, instigating and feeding violent crime in the streets and ensuring a state of “moral panic” born of false premises and ill-borne rumors. The only constant in this admixture of faux patriotism and genuine racism is that it inexorably fell upon the black community.

The nation’s tough on crime legacy is there for all to see – in the alienation, paranoia, family breakdown, fatherless children, and random violence – as ever-greater numbers of inmates return home or to the streets confirmed in the criminal roles crafted for them as they emerge from hothouses designed in every respect to nurture the very psychopathy the war’s commanders pretended to address.

The rationale left to ponder is measured in the rotting detritus of an era of sloganeering by politicians, false claims trumpeted by faux experts, dishonest research churned out by ideologically driven think tanks, and policy papers published by kept house organs.

The “claims makers” have had an extremely successful run. Their dreams have been finally realized in the inner city as fit for the resigned rhetoric of Spanish citizens during the waning days of the Franco regime as “a country occupied by itself.” More than two million American citizens are in prison or jail on any given day – about 90 percent of African-American men and boys now have to realistically expect (and plan to mitigate) a preordained stay in this or that jail or prison. It goes with being black in America.

The saddest commentary on this state of affairs – not unlike other contemporary “wars” conceived in deceit and waged under false premises – is that it leaves a democracy maimed. From some wounds, it’s becoming well nigh impossible for some communities to fully recover.