

*Annual Review of Criminology*

# The Current Crisis of American Criminal Justice: A Structural Analysis

David Garland

School of Law and Department of Sociology, New York University, New York, NY, USA;  
email: david.garland@nyu.edu

Annu. Rev. Criminol. 2023. 6:43–63

First published as a Review in Advance on  
September 28, 2022

The *Annual Review of Criminology* is online at  
criminol.annualreviews.org

<https://doi.org/10.1146/annurev-criminol-030722-035139>

Copyright © 2023 by the author(s). This work is licensed under a Creative Commons Attribution 4.0 International License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited. See credit lines of images or other third-party material in this article for license information.

ANNUAL  
REVIEWS **CONNECT**

[www.annualreviews.org](http://www.annualreviews.org)

- Download figures
- Navigate cited references
- Keyword search
- Explore related articles
- Share via email or social media

## Keywords

mass incarceration, police killings, criminal violence, social control, political economy, welfare state

## Abstract

This review situates the recent, radical challenges to American criminal justice—calls to end mass incarceration, defund the police, and dismantle systemic racism—within the broader social and economic arrangements that make the US system so distinctive and so problematic. It describes the social structures, institutions, and processes that give rise to America’s extraordinary penal state—as well as to its extraordinarily high rates of homicide and social disorder—and considers what these portend for the prospect of radical change. It does so by locating American crime and punishment in the structural context of America’s (always-already racialized) political economy—a distinctive set of social structures and institutional legacies that render the United States more violent, more disorderly, and more reliant on penal control than any other developed nation. Drawing on a broad range of social science research findings, it argues that this peculiar political economy—a form of capitalism and democratic governance forged on the anvils of slavery and racial segregation and rendered increasingly insecure and exclusionary in the decades following deindustrialization—generates high levels of social disorganization and criminal violence and predisposes state authorities to adopt penal control as the preferred policy response.

## INTRODUCTION

In the summer of 2020, America's national headlines were full of strikingly radical critiques of criminal justice. People all across the United States demanded that authorities should end mass incarceration, defund the police, and dismantle the systemic racism that characterizes American criminal justice. Shocked by the wanton police killing of George Floyd—the latest in a long series—millions of Americans took to the streets to demand change.

For many criminal justice activists, the events of June 2020 promised to mark a turning point: a moment when the injustices they had long been protesting—the harassments and humiliations of stop-and-frisk searches; the militarized policing of peaceful protesters; no-knock warrants; police shootings; the extortionate use of fees and fines; mass incarceration; racialized law enforcement; the New Jim Crow—were at last being acknowledged by the American public. In cities all across the nation, Americans of every race and class marched beneath the Black Lives Matter banner, decrying the murderous practices of the system and declaring the need for radical change (Buchanan et al. 2020).

That radical moment was all the more striking because for most of the prior 50 years, a very different penal politics had prevailed: a law-and-order politics that focused not on the problems of excessive policing and punishment but on exactly the opposite—the perceived need to protect the public against dangerous predators, unsafe city streets, and high rates of violent crime. This was the politics that brought us proactive policing, aggressive prosecution, severe sentencing, mass incarceration, and the world's most extensive system of penal control. And, surprising as it now seems, for much of the recent past it attracted broad bipartisan support and little organized opposition (Flamm 2007; Garland 2001, 2017; Gottschalk 2006; Hinton & Cook 2021; Schoenfeld 2018; Sharkey 2018; Travis & Western 2013).

Despite 2020's media headlines, the raising of consciousness, and the upswelling of radical hope, law-and-order politics has by no means disappeared. Far from it. By early 2021, 35 states were already considering pro-police, anti-demonstrator bills, and in May of that year, the *New York Times* reported that support for Black Lives Matter was lower than it had been before George Floyd's death (Chudy & Jefferson 2021). In November 2021, New York City elected a new mayor, Eric Adams—a former NYPD police officer who roundly defeated a raft of more progressive primary candidates by focusing on rising crime, distancing himself from “defund” and “abolition” slogans, and promising to combine enhanced policing with enhanced racial justice. Municipal elections in Minneapolis—the city where George Floyd was murdered and where “defund” initiatives had made headlines in 2020—also brought disappointment to progressive candidates, a pattern that was repeated across the country as shootings, gun deaths, and violent crime rates ticked up, and crime fears once again became widespread (Armstrong 2021, Bowles 2020, Quinn & Meyers 2022, Thompson 2021). Nevertheless, the politics of policing and punishment have changed, a counter-movement has mobilized, and there is now a much wider acknowledgment—among the public and political elites—that American criminal justice stands in need of fundamental transformation.

This review situates the present moment within the broader social and economic arrangements that make American criminal justice so distinctive and so problematic. It describes the social structures, institutions, and processes that give rise to America's penal state and considers what these portend for the prospect of radical change. It does so by locating American crime and punishment in the structural context of America's (always-already racialized) political economy—a distinctive set of social structures and institutional legacies that render the United States more violent, more disorderly, and more reliant on penal control than any other developed nation (Garland 2020, Hacker et al. 2021, Lowndes et al. 2008). Drawing on a broad range of social science research findings, I argue that this peculiar political economy—a form of capitalism and democratic governance forged on the anvils of slavery and racial segregation and rendered increasingly insecure

and exclusionary in the decades following deindustrialization—generates high levels of social disorganization and criminal violence and predisposes state authorities to adopt penal control as the preferred policy response.

America's exceptional levels of criminal violence and its massive system of penal control are two effects of the same set of structural conditions: deep economic and racial inequality, an inadequate welfare state, and a lack of solidarity in cross-class and interracial social relations. A nation founded on slavery and unrestrained commerce, with a strong business community, a weak labor movement, and an underdeveloped state, modern America developed along a historical path that set it apart from other Western nations (Bensel 1984; Karabel & Laurison 2011; Lipset 1963, 1997). In the middle of the twentieth century, when most developed countries tempered market capitalism by building strong social states and extensive economic and social protections, the United States opted for more minimalist, market-oriented arrangements that left working people more fully exposed to market forces. For much of the nation's history, and particularly since the 1970s, America's corporate and political elites—with the support of a substantial part of the American electorate—have chosen the “free market” over the social state and relied on racial divisions to weaken the labor movement and the potential for popular opposition, thereby empowering and enriching themselves while reinforcing inequality, division, and distrust (Hacker 2006, Prasad 2006). The result is a nation that, despite its enormous wealth, is peculiarly insecure, peculiarly violent, and peculiarly reliant upon harsh penal controls.

Police killing was the breakthrough issue for criminal justice reform in summer 2020, but a movement for radical change had been attracting support for more than a decade before. In 1997, a group of activists organized Critical Resistance (<https://criticalresistance.org/>) to protest prison building and the prison-industrial complex, and an abolitionist conference held the next year attracted more than 3,500 participants (CR10 Publ. Collect. 2008). In 2010, Michelle Alexander's book, *The New Jim Crow: Mass Incarceration in the Age of Color-Blindness*, was published to widespread acclaim, arguing that the War on Drugs, mass incarceration, and the legal disabilities of felons functioned to re-establish the white supremacist racial order that had been disrupted by the civil rights movement. In 2013, following the acquittal of George Zimmerman in the shooting death of Trayvon Martin, the *Black Lives Matter* movement began: first as a social media phenomenon and, later, following the deaths of Eric Garner and Michael Brown, as a focal point for critics of law enforcement and criminal justice (Lebron 2018).<sup>1</sup>

Police interactions with people of color in the United States are frequently arbitrary, humiliating, and brutal. When people resist or protest, these encounters often escalate and end in violence. So Black Americans adapt: They figure out how to survive these encounters, they give their sons “the talk,” and they endure their ill-treatment—although periodically their frustrations spill over into protest and riot (Butler 2017, Hinton 2021). In the past, these ongoing injustices were mostly unobserved except by people living in the affected communities. Mobile phone cameras changed that. Bystander videos and social media brought this experience to a wider White public, with an impact that was dramatic and visceral. Most Americans oppose racism, whatever their unthinking involvements in its reproduction (Horowitz et al. 2019). And in an era of falling homicide rates and safer cities (Sharkey 2018), the public was less attuned to the old law-and-order reflexes. June 2020 thus became a moment when public opinion came to view police violence as a pressing issue while simultaneously raising questions about mass incarceration and the system's overall

---

<sup>1</sup>Racial critiques of the War on Drugs and its racially disparate enforcement and impact appear to have influenced shifts in prosecution policy at the federal level. Research shows that racial disparities in sentencing (Light 2022) and rates of incarceration (Muller & Roehrkasse 2021) have been markedly reduced in recent years (Light 2022).

legitimacy. American policing and punishment, as practiced over the previous 40 years, suddenly became the problem, not the solution.

So American criminal justice is currently the subject of intense critical scrutiny and debate. But there were decades during which the American people were willing to tolerate aggressive policing and harsh punishment and paid little attention to the social and racial harms associated with these policies. Faced with high rates of criminal violence, most middle-class Americans cared more about public safety than about the social costs of harsh policing and punishment (Enns 2016). That the groups caught up in the carceral state—people in lower economic classes, a majority of them Black or Latino—were held in low regard by majority White sentiment and viewed as responsible for the disorders that plagued America’s cities no doubt enabled such indifference (Gilens 1999). So did the fact that most of those incarcerated had been rendered politically and economically expendable by the nation’s neoliberal policies (Western & Beckett 1999). Now that these excesses and injustices have been brought to light, how should we understand them?

### AMERICAN EXCEPTIONALISM

America is the world’s leading incarceration nation, deploying penal controls more extensively and more intensively than anywhere else on the planet. And American police are responsible for more civilian deaths than any other police force in the developed world (Widra & Herring 2022, Zimring 2017). These facts will strike some readers as especially puzzling given that the United States is an affluent, liberal democracy that prides itself on being the “land of the free.” Does it not seem paradoxical that the world’s wealthiest nation, with its famous commitment to liberty and its powerful antipathy to big government, relies so heavily upon harsh policing and a massive carceral state? Perhaps. But the paradox soon dissolves if one puts aside the mythology of the American Dream and focuses instead on the facts of American history and social structure.

It is true, of course, that the United States is a rich country: In 2021, it had one of the highest per capita GDPs in the world and the world’s highest per capita wealth (Ewing 2020). But America is also a strikingly unequal country—one of the most economically and racially unequal in the developed world—in which economic insecurity and poverty bite deeper and extend further than in any other developed nation. Today, the richest 0.1% of Americans take in almost 200 times as much as the bottom 90% combined; company CEOs earn 200 times as much as their firm’s average production worker; the average wealth of White households is 7 times greater than that of Black households; and young Black men are 15 times more likely to die of violence than their White counterparts. The very poorest Americans—the truly disadvantaged—live in conditions that resemble those in the developing world, whereas America’s middle classes experience more economic insecurity and stress than equivalent groups elsewhere (Currie 2020).<sup>2</sup>

Americans pride themselves on living in a freedom-loving democracy; indeed, that glorious self-conception has defined the US nation since its founding. And historically America was undoubtedly a leader in expanding the franchise and subjecting government to democratic controls (Foner 1999). But for most of America’s history, large sections of the American people have been neither free, nor equal, nor enfranchised. Black people in particular have experienced America not as a land of freedom but as a site of enslavement and oppression—a land of state-supported segregation and discrimination where even today they remain far from equal or fully enfranchised.

---

<sup>2</sup>The comparison group used here is the standard one: other developed Western nations. But if we shift that focus and include places like Brazil, the United States comparisons look very different (homicide rates are within the South American range, not an outlier as with Western Europe; imprisonment rates are twice the Brazilian level, not six times as high).

The historical experience of Native Americans, immigrants, and people of color more generally has likewise been marked by discrimination, exclusion, and violence.

America's storied commitment to freedom is better understood as a deep embrace of market freedom, restricted government, and limited democracy rather than as democratic freedom for all.<sup>3</sup> And although the prospect of commercial opportunity, political participation, and freedom from state oppression was genuinely liberating for immigrants escaping the oppressive hierarchies of nineteenth-century Europe—giving the American Dream a kernel of truth—in more recent times America's political economy has worked to the benefit of capital, corporations, and property-owners rather than working people. Social mobility in the United States today falls well behind that of many European nations, although Americans' perceptions have not adjusted to this fact (Econ. Data Team 2018).

Of course, popular movements for civil rights, racial equality, and full democracy have been potent countercurrents throughout the nation's history, achieving progressive victories such as Reconstruction, the New Deal, Great Society legislation, civil rights advances, and the LGBTQ breakthroughs of recent decades. But America's social democratic protections were never as extensive as those of other Western nations, and the full multiracial democracy promised in the mid-1960s by the Civil Rights and Voting Rights Acts has been tragically undermined in the decades since (Pestritto 2021, Pierson & Skocpol 2007).

America's antipathy toward government and fear of state repression is another presumption that ought not to be overstated. It is true that America has a relatively weak state and an underdeveloped public sector, with comparatively limited social provision. But the American state's powerful repressive apparatus has frequently been deployed to advance dominant group interests, whether on the frontier with Native Americans, in maintaining slavery and Jim Crow, or in efforts to crush labor union organizing and social protest (Karabel 2021, Park 2018). Today's massive penal state may be at odds with America's liberal self-conception but is hardly the first illiberal episode in the nation's history (King 1999).

America's penal excess is thus by no means anomalous. It is a social trait with deep roots in the nation's economic and social structures. My aim here is to explain how America's distinctive penal state has been shaped by America's racialized political economy and by the effects these economic and political structures have on patterns of social behavior and penal control. I argue that the United States is more violent and more reliant on penal controls than are other affluent nations because these other societies have more socially constrained markets and more comprehensive welfare states—arrangements that better integrate citizens and provide greater levels of security and solidarity. The structural arrangements present in these other developed nations ensure that the socioeconomic milieu of the lower classes there are generally less disorganized and less dangerous than is the case in the United States. These same structural arrangements enable other nations to temper penal responses; limit the appeal of repressive policies; and provide more positive means for controlling deviance and disorder.

America's distinctive institutional arrangements lie at the root of US exceptionalism in crime and punishment, and they explain the upsurge of criminal violence and penal control in the decades after deindustrialization. But, this being the case, these same American institutions present a powerful obstacle to change. Any radical movement that seeks to dismantle America's penal state—or even to bring US penalty more into line with Western norms of policing and punishment—will have to come to terms with these structural constraints and find ways to overcome them. How

---

<sup>3</sup>Levitsky & Ziblatt (2018) argue that America's democracy ceased to function effectively once Blacks were enfranchised in the 1960s.

these structural obstacles might be overcome is the subject for a different article, but let me offer some preliminary remarks here.

The political and economic structures that make up America's political economy exert a great deal of power and shaping influence, and they are shored up by powerful social actors and interests (Hacker et al. 2021). But they are by no means inevitable or impervious to change. They have been transformed in the past, and they can be transformed again. Moreover, there are multiple intermediating processes and patterns of action linking the structures of America's racialized political economy with the day-to-day realities of crime and crime control (Garland 2020; Sampson & Wilson 1995, 2018). These intermediate processes provide opportunities for policy interventions that can moderate patterns of violence and restrain the exercise of penal power—a fact that is borne out by the historical record of real reforms in crime control, policing, and punishment.<sup>4</sup> All this means that a structural explanation of the contemporary crisis is neither a counsel of despair nor a recipe for inaction. However, one obvious implication of that analysis is that any social movement aiming to address the conditions that currently make American society so very violent and so very punitive will need to align the cause of criminal justice reform with the larger movements for racial and economic justice—and that the success of the former will largely be dependent on the advances of the latter.

## AMERICA'S PENAL STATE

America imposes more punishment than any other society—a fact that is remarkable enough in itself—but it is important to realize that it also punishes in a manner that is quite distinctive. The leading characteristic of American criminal justice is the imposition of penal control—a fundamental imperative embodied in sentencing law and underpinning the whole culture of law enforcement. This stress on penal control, as well as the extent of its deployment, sets America apart from other nations, particularly Western Europe, where fines, community penalties, and welfare measures (rehabilitation, re-entry support, etc.) are much more important (Garland 2017, Sharkey & Glazer 2021).

The concern to maximize penal control also shapes America's proactive style of policing—with its stop-and-frisk harassment of minority youth; its militarized warrior style; and its extraordinarily high rates of civilian killings (Stoughton 2015). It shapes aggressive prosecution policies such as routine overcharging, the speedy extraction of guilty pleas, and the insistence on lengthy prison sentences (Bazelon 2019, Sklansky 2018). And it shapes America's system of mass incarceration, mass supervision (probation and parole), and the dense tangle of collateral consequences that ensnares millions of former felons (Garland 2017).

This emphatic stress on penal control has its origins in the class and race relations that shape the treatment of America's lower classes. But it also, and importantly, stems from real deficiencies of socialization, social integration, and informal social control that generate so much violence and disorder and give credence to racialized perceptions of the crime problem. These social control deficits result from a political economy that generates widespread insecurity while providing little support to poor communities and households. America's massive deployment of penal control is, in effect, an attempt to compensate for the failures of mainstream mechanisms of social integration (Garland 2020).

In the minds of legal actors, the fundamental principles and purposes of criminal justice are much the same in the United States as they are in other Western nations. Criminals are

---

<sup>4</sup>See, for example, Austin et al. (2013) on New York City's success in reducing its jail population; Zimring (2012) on New York City's crime drop; and Schiraldi (2020) on reductions in US juvenile detention rates. On the success of the New York Police Department in reducing police shootings, see Dienst & Paredes (2019).

condemned, violence is feared, and familiar considerations of deterrence, public safety, and retribution shape criminal justice. But the level of police violence, the severity of criminal sentencing, and the rate of incarceration in the United States are altogether different, as are all the other indicators of penal severity (Garland 2020).

Why these stark differences? The fundamental explanation is that criminal justice authorities in other affluent countries do not operate against such a harsh background of social dislocation, impoverishment, and gun violence. Nor do they routinely view offenders as dangerous enemies from whom the public must be protected at all costs—which has become, in effect, the default American presumption, especially if the offender is poor, is Black, or has a prior record.

Outside the United States, fewer people are shot by police; fewer are sent to custody; sentence lengths are shorter; more offenders are sanctioned by fines, suspended sentences, or community-based penalties; and incarceration rates are a small fraction of those that characterize America. Open, minimum-security prisons are more common; home leaves and family visits more routine; education and training programs better developed; and prison officers better trained (Subramanian & Shames 2013, Tonry 2007, Whitman 2003). Provision for released prisoners is also strikingly different. New York's public radio station ran a story in November 2020 about the early release of hundreds of inmates from New Jersey prisons—an emergency release due to the spread of COVID in congregate settings. It described how the released prisoners (many of them long-termers who had served decades inside, many of whom were physically and mentally impaired) were left on the street with no social services, no government ID, no housing, and no health care (Katz & Yi 2020, Yi & Katz 2020). These levels of deprivation and abandonment simply do not occur in the welfare states of other affluent nations, most of which provide dedicated social services that mitigate the harms experienced by those released from custody. When inmates leave prison in Norway—to invoke a strikingly contrastive example—the Norwegian government guarantees that they will receive offers of employment, education, suitable housing, medical services, addiction treatment, and debt counseling (Nor. Minist. Justice Public Secur. 2017).

There is no reason to idealize criminal justice in Europe or Scandinavia. The police and prisons of any nation are coercive institutions, directed primarily at the poor, and deploying state power in difficult, hard-to-regulate circumstances. In every nation, the police and prisons operate in ways that invite criticism and legal challenge. And even the best-developed systems of social welfare sometimes allow individuals and families to fall through the cracks, creating instances of destitution and suffering. But these things are relative, and when rates are compared rather than outlier cases or individual anecdotes, the overall contrast between America and these other nations could hardly be more striking.

The source of these contrasts—and of America's criminal justice crisis—are, I believe, the distinctive structures of America's racialized political economy and their recent historical development. But before elaborating further, let me describe how my explanation relates to some more familiar ones.

America's harsh punishment is in some part responsive to America's extraordinary rates of criminal violence, which are far in excess of any comparable nation (Grinshteyn & Hemenway 2016).<sup>5</sup> And that violence is undoubtedly related to the widespread availability of firearms and handguns in the United States. So are guns to blame for America's penal excess? Guns increase the lethality of assaults and are a major contributor to America's homicide rate as well as to its suicide and accidental death rates (Gramlich 2022). But if we were to exclude firearm homicides from the total,

---

<sup>5</sup>As Clegg & Usmani (2021) note, America's incarceration rate looks less of an international outlier if one calculates incarceration in relation to violent crime.

America's homicide rate would still be higher than those of comparable nations, which indicates that America has a violence problem distinct from its gun problem. And there are other nations—Canada, Norway, and Switzerland, for example—that also have widespread gun ownership without exhibiting high homicide rates (World Popul. Rev. 2022). Guns are clearly a contributing cause, but they do not themselves explain America's extraordinary rates of violence.

What about race? Is America more violent and more punitive because of its long-standing racial divisions? Is racism the fundamental cause of America's penal state (Alexander 2010, Hinton 2017, Murakawa 2014, Weaver 2007)? All the empirical evidence suggests that race is absolutely central to the US criminal legal system. Social and economic circumstances elevate the crime rates of those living in poor Black communities. Criminal justice officials assume Blacks—who are always-already demonized and criminalized—are more likely to be criminals and proceed to process and punish them accordingly (Muhammad 2019, O'Flaherty & Sethi 2019). The resulting vicious circle reinforces the original racist assumptions and worsens the social conditions that subject poor people of color to social disorder and elevated crime rates.

America's penal state operates in a miasma of anti-Black racism. But we should regard racism as an aggravating, compounding factor rather than the fundamental cause of America's penal state. Like the high rates of criminal involvement of poor Black males, the racially disparate practices of law enforcement have an economic underpinning rather than a racial one. For the most part, it is the regime of private property that the police seek to uphold, rather than the regime of white supremacy. But, precisely because America's property distribution is so heavily shaped by race, the end result is the same. Racial animus remains a feature of the American landscape and structural racism is pervasive. But race is not the exclusive, or even the primary, cause of America's chronic social disorders and its massive penal state.

The fundamental cause of these phenomena is, I claim, America's peculiar political economy—without which there would be much less violence and much less resort to penal control. If the American people were to create a social democratic welfare state there would, in time, be less violence and social disorder and less reliance upon policing and punishment to deal with it. Black and brown people might still be disadvantaged and subject to discrimination, but they would not experience mass incarceration or frequent police killings, nor would they be exposed to such dangerous, disorganized living conditions. The legacies of slavery and the persistence of racist attitudes cause American criminal justice to be racially skewed and unjust (Sentencing Proj. 2018, Tonry 2011). They do not, in themselves, necessitate harsh policing and mass incarceration.

The penal state is disproportionately focused on racial and ethnic minorities, but it also houses a massive population of White offenders. If every person of color were to be released from custody and correctional supervision, America's penal system would still be larger—absolutely and relative to population—than that of any other nation. There are, moreover, several other nations where racial disparities in criminal justice are more marked than in the United States and where racial minorities are more disproportionately liable to be incarcerated—indicating that racism alone does not generate mass incarceration or high levels of police violence (Jericho 2020, Ramesh 2010). We might bear in mind as well that during the post-1960s decades when criminal justice was becoming more intensive and extensive, racial attitudes in the United States were actually improving on most measures (IGPA 2021). America's penal state is certainly shot through with racism and racial disparity, but its exceptional nature is not fully explained by race.

What about neoliberalism? Since the 1980s, neoliberal ideas have influenced economic and social policy, contributing to reductions in welfare state spending, deregulation of markets and finance, reduced taxation levels, and increased inequality (Harcourt 2012, Rodgers 2018, Wacquant 2009). But neoliberal principles do not press us toward a massive penal state—if anything the opposite is the case inasmuch as neoliberals are committed to small-state solutions and minimal



public spending. The neoliberal policies of the past four decades exacerbated underlying features of America's market economy—features that were already becoming more toxic in the aftermath of deindustrialization and the federal government's abandonment of urban policy (Hacker 2008, Prasad 2006). US punishment has probably always been more extreme than elsewhere, at least in the Southern states, but between 1975 and 2008 the penal state underwent a massive expansion. This historic build-up was a complex process with many enabling and contributing causes, but the precipitating cause was the sharp and sustained rise in violence and disorder (Campbell & Schoenfeld 2013, Garland 2001). A neoliberal policy regime is the context in which America's penal state emerged. Like racism, it serves to aggravate the effects of America's political economy; it does not function by itself to produce the current malaise.

## AMERICA'S POLITICAL ECONOMY

My claim is that the structures of America's political economy shape the distinctive patterns of crime and punishment that the American nation exhibits. This is a structural claim, not a comparative one. But my argument finds support in the fact that comparative research consistently shows that nations with structural arrangements approximating those found in the US tend to have more violence, more social disorder, and more penal control than do nations with more social democratic economic and social arrangements.

There are two well-established sets of comparative research findings upon which I rely. First, there is a whole body of research showing that penal institutions and welfare institutions are tightly coupled and mutually reinforcing (Beckett & Western 2001; Downes 2012; Garland 1985, 2016a, 2020; Sutton 2004). Compared to the United States—where a powerful business class, a weak labor movement, and the divisive effects of racism inhibited the development of social democracy—most developed nations have more inclusive, less precarious labor markets and more universalistic welfare states (Archer 2007). These other, more social democratic nations punish offenders less and punish more humanely, not because they are more civilized or have no tendency toward racism and vengefulness but because they have economic arrangements, welfare states, and forms of political association that are more solidaristic and inclusive, reducing criminal violence and the need for penal control.

The second comparative research finding upon which I rely shows that nations with higher levels of equality have lower levels of violence and fewer social problems than more unequal nations (Fajnzylber et al. 2002, Wilkinson & Pickett 2010). Compared to other developed nations, the United States has very high levels of inequality—it is, in fact, one of the developed world's most unequal nations, both economically and racially (Baldwin 2009, Förster & Vleminckx 2004, Karabel & Laurison 2011). And when we look at the comparative data, we find that Americans in general, and Black Americans in particular, are exposed to much higher levels of criminal violence than are the peoples of other affluent nations (Currie 2020).

What these research findings suggest, when considered in the aggregate, is that the United States is a comparative outlier—in policing and punishment, criminal violence, and social problems more generally—because of its unequal economy and its weak welfare state. America has what comparative scholars term a liberal market economy and a market-oriented welfare state. Indeed, it is the extreme version of this institutional type, located at the far end of a continuum, that places coordinated, social democratic political economies at the opposite pole (Hacker et al. 2021). Compared to other developed nations, America's political economy exposes communities, families, and individuals to greater market-generated risks—economic insecurity, unemployment, poverty, inadequate housing, inadequate healthcare, food insecurity, and so on. And its welfare state provides them with fewer social protections—such as social insurance, income support, public

goods, and social rights. This risk exposure and its ill effects are greatly magnified in segregated communities where poor African Americans live in conditions of concentrated disadvantage.

Historians disagree about the long-term causes of this political economy but the standard account would include some combination of the following: the legacy of slavery and segregation; the power of big business and its co-optation of the local state; the ethnic, religious, and class divisions generated by successive waves of immigration; the weakness of the American labor movement and the powerful repression it experienced at the hands of employers aided by private police forces and federal troops; and the difficulty of enacting wide-ranging social policy measures in a complex federal polity with multiple veto points that function to block legislation (Archer 2007, Foner 1984).

America's political economy was modified in the 1930s and again in the 1960s by the social programs and regulations of the New Deal and the Great Society, which together created America's version of the welfare state. But the protections these programs provided were less generous and less universal than those of comparable nations. They were also racially skewed, with Black workers largely excluded from benefits in the early years (Katznelson 2006, Lieberman 1998). Moreover, this phase of US history was a brief one. From the mid-1970s onward, just as deindustrialization was impacting millions of workers, America's engagement with social democracy gave way to the renewed free-market fundamentalism that we have come to call neoliberalism. The result has been labor union decline, wage stagnation, increased inequality, and deep poverty for those at the bottom of the class and race hierarchy.

In the decades after 1980, the Democratic Party de-emphasized the struggle for economic justice, focused increasingly on "identity politics," and came to embrace a version of neoliberalism. So even as diversity improved and racism diminished, there was a deterioration in the situation of working people in general and poor Blacks in particular. In these decades, America's inner cities suffered the effects of deindustrialization, a large-scale disinvestment by business, the movement of middle-class families to the suburbs, and declining support from federal and state governments. The unsurprising result of this "policy of abandonment" (Sharkey 2018) was an upsurge in social problems and a rise in violent crime rates, which soared upward from the mid-1960s to the early 1990s. These conditions—and a conservative reaction that viewed them as the effect of moral failure and fecklessness—formed the background to law-and-order politics and the rise of mass incarceration (Bennett et al. 1996, US Dep. Justice 1992, Wilson 1975).

Comparative social policy scholars have demonstrated that contrasting welfare state regimes give rise to quite different social outcomes, with liberal, market-oriented regimes exhibiting higher levels of social problems and disorders (Alesino & Glaeser 2006). In keeping with this general pattern, the United States, on most measures, exhibits some of the worst social disorders in the developed world. Compared to other affluent nations, the United States experiences higher-than-average levels of virtually every social problem: child poverty, poverty while in work, single parent, teenage birth rates, infant mortality, mental illness, high school noncompletion, drug addiction, and drug-related deaths (Baldwin 2009, Garfinkel et al. 2010, Karabel & Laurison 2011, Kristoff 2017, Rainwater & Smeeding 2004, Reid 2009, Smeeding 2006, Wilkinson & Pickett 2010, Woessmann 2015). And of course, with respect to interpersonal violence—the most relevant of these social disorders for the present work—the United States is not just at the high end of the distribution, it is an outlier when compared to other developed nations (Currie 2020, Grinshteyn & Hemenway 2016, Miller 2015).

The US homicide rate fell sharply and steadily from its modern peak in 1994 before rising again in 2020 and 2021. But even at its lowest level—of 5 homicides per 100,000 population—it was still 3 times as high as Canada's and 5 times as high as the Western European average. Homicide rates are strikingly elevated among Blacks and to a lesser extent Latinos, but White Americans are also

killed (and kill each other) at a higher rate than the populations of other Western nations (Currie 2020).

The rise in violent crime (especially armed robbery and homicide) that began in the mid-1960s and continued until the early 1990s prompted widespread public alarm and media attention, eventually leading to concerted political action at every level of government. The aggressive policing and harsh punishment that now characterize the US system were, in their original design, so many attempts to contain this surge of lethal violence and enhance public safety (Enns 2016, Forman 2017, Garland 2001, Miller 2015). Any adequate explanation of America's penal state has therefore to provide an explanation of these high levels of violence and disorder. And that explanation must be grounded in the distinctive form of capitalism that characterizes the United States and the distinctive political institutions within which it is embedded.

America's distinctive political economy generates levels of violence and disorder that are highly unusual in the developed world. Families, schools, and employers in underserved communities are hindered in their efforts to carry out the vital work of socializing young people, controlling and integrating individuals, and maintaining social order—giving rise to individuals with poor impulse control and communities with weak social controls (Krivo et al. 2009, Morenoff et al. 2001, Sampson 1987, Sampson et al. 1997, Sampson & Wilson 1995). A chronic absence of legitimate opportunities drives young men and women into property offending and the illegal economies of vice, drugs, and organized crime. Gangs and violent subcultures form around these activities. Violence becomes an instrumental tool, a source of status, and a means of survival. The result is unsafe public spaces, social disorder, and chronic social problems—including high rates of crime and violence. These, in turn, draw aggressive policing and harsh penal control into poor communities, resulting in mass incarceration with all its negative effects.

## **CONTINUING SUPPORT FOR POLICING AND PUNISHMENT**

The events of June 2020 shifted the radical critique of American criminal justice from the activist margins to the mainstream media, raising expectations of thoroughgoing reform. But, as more recent events remind us, any sign of increasing crime can prompt a swing back to law-and-order policies, which have never lacked for supporters. Indeed, for every American supporting the idea of prison abolition or defunding the police, there are likely many more who assume that prison works and who are inveterate supporters of law enforcement (Kim & Wilson 2020, Lopez 2016, Parker & Hurst 2021). For these sections of the public, harsh policing, prosecution, and punishment have worked to reduce crime; the police do a difficult job that deserves our support; and critics of the system's supposed racism are anti-police and pro-criminal.

Many Americans, perhaps a majority, also reject the kind of perspective on crime and disorder I have been presenting here (Gabbidon & Boisvert 2012). They regard offending conduct as an individual moral choice and view any reference to structural conditions, economic inequality, or racial injustice as irrelevant and inappropriate. In this view, criminal conduct has nothing to do with larger social forces and everything to do with antisocial attitudes, “ghetto” culture, and lax moral standards that deform individual character and prompt the choice to commit crime. “Wicked people do wicked things” (Wilson 1975) and any talk of economic disadvantage or systemic racism is simply a misguided effort to excuse criminal conduct, coddle criminals, and ignore victims. That root-cause structural explanations are mostly favored by liberal elites (who are much less exposed to crime's depredations) only adds to popular prejudice (Unnever et al. 2008).

What are we to make of these counterclaims? The impact on crime rates of aggressive policing and sentencing policies is a complicated issue. Liberal and leftist commentators sometimes insist that America's massive extension of the penal state has had zero impact on crime rates or

public safety—that mass incarceration is all social costs and no social benefits. But this is more an ideological assertion than a balanced reading of the evidence. Suffice it to say that, like most common-sense assumptions, the claim that proactive policing and mass incarceration have been a crime-control success has elements of truth and ought not to be summarily dismissed (Natl. Res. Council. Rep. 2014; Zimring 2006, 2012). More plausibly, aggressive penal control, combined with the retrofitting of crime prevention and the development of preventive community action, has helped lower crime rates—but in ways that have imposed serious harms on communities of color. The real issue is not whether aggressive penal controls work but rather what are the social and human costs of such policies. And which groups will suffer them?<sup>6</sup>

One of the most common justifications offered to explain away the racial disparities in the present system is the refrain that penal control is not in fact racist but instead simply tracks differential rates of crime involvement. Conservative defenders of the status quo insist that Blacks are more subject to policing and punishment not because of bias but because they commit more crimes (Barr 1992, Latzer 2017, Mac Donald 2016). People of color form the majority of prison inmates because they commit, it is said, the majority of serious crimes. A similar justification is offered with respect to racially disparate police killings. Indeed, one police officer told reporters that Black civilians “probably ought to be shot more” given their high rates of criminal conduct.<sup>7</sup> And conservatives reply to the criticism that the police are more active in communities of color by insisting that these are the neighborhoods where the authorities receive most crime complaints. Similarly, prosecutors and courts put so many Black men behind bars, they insist, because the authorities are striving to make Black communities safe—and have succeeded in doing so, to the resounding benefit of “the law-abiding members” of communities of color (Mac Donald 2016).

How should critics of America’s penal state respond to these conservative counterclaims? In my view, any serious analysis must begin by acknowledging that racial differences in crime involvement are indeed real with respect to certain offenses, most notably homicide and armed robbery. Unlike the War on Drugs, the enforcement of which was notoriously biased against people of color, or patterns of stop-and-frisk that are also highly discriminatory, arrests and convictions for armed robbery and homicide broadly correspond with what we know about patterns of criminal conduct (Clegg & Usmani 2019, Krivo et al. 2009, Tonry 2011). Which is to say, Blacks are much more likely to be the perpetrators of gun violence than are Whites (Currie 2020). Conservatives seize upon this fact and repeat it at every opportunity. Liberals and progressives avoid discussing it for fear of appearing racist.

Progressives intent on transforming criminal justice need to acknowledge the facts of differential criminal involvement. But they also need to explain how this fact pattern emerged and identify the structural causes that produce and reproduce it. High rates of violent crime in poor Black communities are neither natural nor inevitable. Nor are they the outcome of racially specific moral failures or cultural differences that somehow make young Black males more violent. As a whole body of social science research shows, these high rates of violence result from segregation, economic exclusion, high school noncompletion, long-term poverty, family breakdown, and the absence of social services (Sampson & Wilson 2018, Western 2018). Wherever these social conditions are experienced by lower-class White communities, the crime outcomes are the same (Currie 2020). And, of course, these problems are exacerbated by overpolicing, mass incarceration, and the collateral consequences of conviction rather than reduced by them.

---

<sup>6</sup>A related question is whether there are nonpenal forms of crime control—such as situational crime prevention (Clarke 1992)—that might provide an effective alternative.

<sup>7</sup>The comments were made by a Tulsa police commander (see Li 2020).

These structural conditions give rise to social disorganization, family dysfunction, long-term detachment from the labor market, and failures of socialization and integration—as well as to “street” cultural adaptations (and survival skills) that are, in the longer term, self-destructive (Anderson 1999). These are problems and processes that liberals have shied away from because discussing them can appear to blame the victims and reinforce stereotypes. But being silent about this subject seems unwise and unnecessary. The processes that should concern us have nothing to do with the intrinsic characteristics of any racial group, nor with bad moral choices and a lack of individual responsibility. They are population-level phenomena—neighborhood effects that shape the life-chances and the conduct of everyone exposed to them (Sampson & Wilson 1995, 2018). Whatever judgments we might make about the character, choices, or criminal blameworthiness of individual persons—and a structural approach is not an absolute determinism, nor does it obviate the moral necessity of holding adults accountable for their actions—the important question at issue here concerns America’s elevated rates of violence. These rates are collective phenomena that result from the difficulties of establishing a healthy social order in places that are deeply disadvantaged and radically underserved.

When these social and economic conditions give rise to social problems—drug use, prostitution, teenage gangs, illegal economies, and violent crime—the standard American response is to label this as a task for penal control and assign the police and prisons to deal with it. What American authorities fail to do is develop social policy responses designed to support families; end segregation and impoverishment; provide better housing and better schools; and move young people into secure, stable employment. Instead, violence and disorganization are treated as if these were attributes of a group of individuals rather than outcomes of the circumstances in which these groups are obliged to live.

## **POLITICAL ECONOMY AND THE PENAL STATE**

America’s political economy has implications for crime and violence that researchers have extensively documented. But these institutional structures also have implications for crime control that are less often discussed (Garland 2020). So let me say a few words about the law enforcement effects of America’s political economy—about how the penal state is affected by its embeddedness in these larger structures and how the conduct of police and courts is shaped by the poverty and disorganization that characterize many inner-city neighborhoods.

Compared to other developed nations, America has fewer police per capita and more serious crime (Clegg & Usmani). American police departments are local government institutions—there are more than 18,000 of them—and there is huge variation between the largest forces such as the NYPD, which has 36,000 officers, 19,000 civilian employees, and an annual budget of more than \$5 billion and the average force, which has fewer than 60 sworn officers (Walker & Katz 2018). Police departments are mostly funded by local taxes and are frequently required to raise revenue—from traffic fines or fees levied on offenders—to supplement their budgets (US Dep. Justice Civ. Rights Div. 2015). The federal government also subsidizes local policing, providing funds to promote professionalization, improve statistical record keeping, and incentivize local adherence to federal policy initiatives such as the War on Drugs. Much of that money has been diverted to purchase military-grade equipment (Stoughton 2015, Walker & Katz 2018).

American law enforcement frequently operates in dangerous, disorganized, gun-laden environments, more like Brazilian favelas than British housing schemes or French banlieues. American police recruits are not provided with anything like the extensive training received by their equivalents in nations such as Germany or the Netherlands. And the training they do get teaches them to draw their weapons at the first sign of trouble and always to be prepared to use lethal force.

The police are especially prone to behave in this potentially lethal aggressive-defensive manner in poor, high-crime neighborhoods and in encounters involving young Black men whom they regard as potential assailants. Such dangers are vastly overestimated and heavily shaped by racial stereotyping, but they are not altogether imagined. American police kill many more civilians than do the police of other affluent societies. But American police officers are also killed and injured at much higher rates. And the likelihood of a suspect—even a motorist in a routine traffic stop—being armed and dangerous is much greater than in comparable nations, making the risk of death or serious injury a palpable feature of US policing (Kirkpatrick et al. 2021, Zimring 2017).<sup>8</sup>

From the police perspective, and in the view of their supporters, police officers are hard-working men and women doing a vital, hazardous job—protecting the public from dangerous offenders, with few resources other than their authority backed up by the use of force. And the majority of Americans support them in this, which is why police brutality and police killings—which have repeatedly prompted riots in Black communities—have generally been ignored by middle-class Whites (Hinton 2021). It is also why the courts have been loath to subject police conduct to close scrutiny and why grand juries so rarely indict police officers even in the wake of well-attested violence.

The socially disorganized character of America's poorest neighborhoods influences other aspects of criminal justice decision-making as well. When prosecutors and judges know that many offenders have no stable homes, jobs, or income support and tend to lead chaotic lives, it is hardly surprising that these authorities choose to detain many defendants in jail prior to trial and to sentence them to prison after conviction. Sentencers in other nations can impose fines or community sentences in the great majority of cases because offenders there are less prone to violence and put the public less at risk if they reoffend. And they can rely on the availability of free public services to treat mental illnesses and addictions and provide housing and income support. American sentencers operate against a very different social backdrop.

The disorganized social milieus in which so many American offenders live form the crucial background to this whole problem. Fearful images of dangerous neighborhoods contribute to the demonization and othering of offenders because many Americans recoil in horror from the violence that often marks the lives of the very poor. Faced with this situation, American policy-makers resort to aggressive policing, prosecution, and penal control. But the irony is that by doing so, they exacerbate rather than ameliorate the underlying problems. Only when the social and economic problems of these communities are addressed—and the structural sources of crime and violence diminished—is American criminal justice likely to become less exceptional and less prone to crisis.

## **SOLIDARITY AND SOCIAL CONTROL**

America's decades-long practice of segregating millions of people in harsh penal confinement raises a question that is as much moral as it is sociological: How could mass incarceration have been tolerated for so long by the American public and the American political establishment, particularly after 1990 when its racially disparate impacts were already well understood?

There are, no doubt, several causes, including aversive racism, fear of crime, and the “behind the scenes” nature of incarceration. But the basic, “but-for” cause is, I suggest, the limitations

---

<sup>8</sup>Police-civilian interactions in the United States are often made more fraught by the fact that so many justice-involved individuals have unpaid fees and fines and outstanding warrants. Their efforts to evade police attention frequently lead to an escalating use of force. Police are acutely conscious that unarmed civilians can become armed assailants if they somehow seize an officer's weapon.

of fellow-feeling, trust, and solidarity that characterize American social relations. Americans scapegoat so many of their fellow citizens, label them felons, treat them harshly, and exclude them from society because they view them not as fellows but as dangerous others. America's penal state—and the massive material and symbolic othering that it imposes—is predicated on a deep lack of solidarity. In the United States today, levels of public trust—and especially cross-class and cross-racial solidarity—are very low compared to other nations (Lappi-Seppala 2008, 2017). Given its size and heterogeneity, as well as its legacies of slavery and segregation, one might think that the promotion of social solidarity would be a vital goal for public policy at every level. But the opposite is more nearly the case. Far from building inclusive institutions, American policy has fostered an intensely competitive market economy that has not been moderated by the kinds of institutions and routine practices that other nations use to reduce inequality and build nationwide solidarities (Archer 2007, Garland 2016b, Kenworthy 2015, Wright & Rodgers 2011).

In large, complex societies, solidarity is not a spontaneous or naturally occurring characteristic—at least not outside of families and small groups. Solidarity has a practical, relational characteristic that has to be built and sustained by repeated interactions and involvements over time. It has to be realized by institutions that embody shared membership, fellow-feeling, mutual interests, mutual respect, and a parity of esteem. And it has to be reproduced by nationwide practices of risk-pooling and mutual aid that constitute people as individual members of ongoing collective projects and routinely remind us of our shared fate. Welfare state institutions and public goods, when they are universalistic and egalitarian, go some way to supplying these vital social bonds, as well as supplying the resources and supports needed to allow families to flourish. They provide individuals with security and a sense of citizenship; they form interests in common; they build mutual trust; and they promote the public interest—in contrast to meritocracy and competitive markets (the hallmarks of American life), which do precisely the opposite (Marquand 2004, Sandel 2020). By repeatedly choosing the free market, deregulation, and tax cuts over the social state, America's corporate and political elites have enriched themselves while simultaneously reinforcing insecurity, inequality, resentment, and distrust. The result is a nation that has embraced mass incarceration and aggressive policing for decades, caring more about their supposed crime-control benefits than the devastating costs they imposed on millions of fellow Americans.

If solidarity is lacking, so too are positive, nonpenal, social controls. Welfare states are systems of redistribution that reduce inequality; systems of social insurance that reduce insecurity; and providers of public goods that reduce social exclusion. They are practical arrangements that promote social solidarity, improve social order, and reduce the social dislocations that give rise to crime and violence (Garland 2016b). But beyond these effects on the health and well-being of civil society, welfare states also have definite effects on state power and the effectiveness of government. Wherever comprehensive welfare states exist, we see large-scale extensions of state capacity and extensive infrastructures of positive state power. Developed welfare states provide multiple, front-end forms of social prevention—measures that enhance social control, reduce social dislocation, and work to minimize interpersonal violence. And when deviance or disorder does occur, there are extensive social services, agencies, and caseworkers ready to deal with them in a nonpenal manner.

The social infrastructure of the American state is, by comparison, less extensive and less well-resourced. It is also much more localized, and much more reliant on private provision, which limits its capacity for coordinated action. So when American policy-makers are faced with problems of violence or disorder, they have fewer options at their disposal and those they do have are mostly repressive. The default response—which has defined the American public safety landscape over the past 40 years—is to turn to the police, the prison, and the broad imposition of harsh penal control.

## CONCLUSION

The current crisis of American criminal justice is a deeply rooted one that will not be easily or quickly resolved. These roots are embedded in the deep structures of the nation's political economy—in its stored-up legacies of economic and racial inequality and in the present-day processes that reproduce them. There are of course many mediating processes between the macro structures of political economy and the street-level encounters of criminal offending and law enforcement (Sampson & Wilson 1995, 2018). And much can be done to modify these processes, reform front-line institutions, and limit the injustices perpetrated in local communities and individual cases. But the gravitational force exerted by structural arrangements is ineluctable. And until these arrangements are altered, America's crisis will continue, together with the widespread daily injustices to which this system gives rise.

No nation has ever reduced inequalities or built a comprehensive welfare state to reduce crime and punishment, although these are predictable long-term consequences of such developments. If we are ever to see radical, nationwide criminal justice reform, it would likely be on the coattails of a movement for economic justice, not in its vanguard.<sup>9</sup> And the social agents liable to bring about these changes will primarily be organized working people and their economic and political representatives: a revitalized labor movement; a radicalized Democratic party; and an electorate broadly supportive of universalistic welfare provision. Fundamental criminal justice reform of a radical and sustainable kind—reform that would align the United States with the other affluent nations and resolve its ongoing crisis—is unlikely to be achieved outside of a larger progressive movement to make America's political economy more egalitarian and its welfare state more comprehensive. That is a sobering message, but it is one that has definite implications for criminal justice activism.

It suggests the importance of building bridges, forging coalitions, and identifying issues that connect criminal justice reform with social democratic reform. It suggests that a broadly class-based movement for economic justice is more likely to succeed in improving crime and punishment than a narrower racial coalition (Forman 2014). It points to the need to develop inclusive, inspirational language that expresses common interests and avoids undercutting solidarities and commonalities. So, for example, reformers might insist that the American crime problem is fundamentally a “jobs and welfare” problem and might argue in favor of social controls that flow through the mainstream social institutions rather than penal control in segregated institutions; that racism infuses criminal justice because racism and inequality are embedded in political economy; that criminal justice should be viewed not as the primary system of crime control but as an after-the-fact intervention that should be judged by its fairness and its humanity; and, above all, that responsibility for violence be attributed not just to individuals who offend but more broadly to the political processes and interests that reproduce America's distinctive political economy and the patterns of crime and punishment to which it gives rise.

## DISCLOSURE STATEMENT

The author is not aware of any affiliations, memberships, funding, or financial holdings that might be perceived as affecting the objectivity of this review.

---

<sup>9</sup>In publicly funded carceral institutions—from nineteenth-century workhouses to contemporary prisons—considerations of less eligibility ensure that the conditions experienced by inmates are no better than those of the working poor. America's prisons are not liable to see serious improvement until conditions of life on the outside also improve.



## ACKNOWLEDGMENTS

The author is grateful to Rob Sampson for advice in the development of this review. He would also like to acknowledge the support of the Filomen D'Agostino and Max E. Greenberg Research Fund of NYU School of Law.

## LITERATURE CITED

- Alesino E, Glaeser A. 2006. *Fighting Poverty in the US and Europe: A World of Difference*. New York: Oxford Univ. Press
- Alexander M. 2010. *The New Jim Crow: Mass Incarceration in the Age of Color-Blindness*. New York: New Press
- Anderson E. 1999. *Code of the Street: Decency, Violence and the Moral Life of the Inner City*. New York: Norton
- Archer R. 2007. *Why Is There No Labor Party in the United States?* Princeton, NJ: Princeton Univ. Press
- Armstrong NL. 2021. Black voters in Minneapolis wanted better policing, not posturing by progressives. *New York Times*, Nov. 9. <https://www.nytimes.com/2021/11/09/opinion/minneapolis-police-defund.html>
- Austin J, Jacobson M, Chettiar I. 2013. *How New York City reduced mass incarceration: a model for change?* Rep., Brennan Cent. Justice, New York. [https://www.brennancenter.org/sites/default/files/publications/How\\_NYC\\_Reduced\\_Mass\\_Incarceration.pdf](https://www.brennancenter.org/sites/default/files/publications/How_NYC_Reduced_Mass_Incarceration.pdf)
- Baldwin P. 2009. *The Narcissism of Minor Differences: How America and Europe Are Similar*. New York: Oxford Univ. Press
- Barr A-GW. 1992. *The case for more incarceration*. Rep., Off. Atty. Gen., Washington, DC
- Bazelon E. 2019. *Charged: The New Movement to Transform American Prosecution and End Mass Incarceration*. New York: Random House
- Beckett K, Western B. 2001. Governing social marginality: welfare, incarceration, and the transformation of state policy. *Punishm. Soc.* 3(1):43–55
- Bennett W, DiUilio J, Walters J. 1996. *Body Count: Moral Poverty and How to Win America's War Against Crime and Drugs*. New York: Simon and Schuster
- Bensel RF. 1984. *Sectionalism and American Political Development, 1880–1980*. Madison, WI: Univ. Wis. Press
- Bowles N. 2020. Abolish the police? Those who survived the chaos in Seattle aren't so sure. *New York Times*, Aug. 7 (updated Jan. 6, 2021). <https://www.nytimes.com/2020/08/07/us/defund-police-seattle-protests.html>
- Buchanan L, Bui Q, Patel J. 2020. Black Lives Matter may be the biggest movement in US history. *New York Times*, July 3. <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>
- Butler P. 2017. *Chokehold: Policing Black Men*. New York: New Press
- Campbell M, Schoenfeld H. 2013. The transformation of America's penal order: a historicized political sociology of punishment. *Am. J. Sociol.* 118(5):1375–423
- Chudy J, Jefferson H. 2021. Support for Black Lives Matter surged last year: Did it last? *New York Times*, May 22. <https://www.nytimes.com/2021/05/22/opinion/blm-movement-protests-support.html>
- Clarke R. 1992. *Situational Crime Prevention: Successful Case Studies*. Albany, NY: Harrow and Heston
- Clegg J, Usmani A. 2019. The economic origins of mass incarceration. *Catalyst* 3:9–53
- Clegg J, Usmani A. 2021. *What explains mass incarceration*. Paper presented at the Radcliffe Accelerator on Mass Incarceration, Cambridge, MA, April
- CR10 Publ. Collect. 2008. *Abolition Now! 10 Years of Strategy and Struggle Against the Prison-Industrial Complex*. Chico, CA: AK Press
- Currie E. 2020. *A Peculiar Indifference: The Neglected Toll of Violence on Black America*. New York: Metropolitan Books
- Dienst J, Paredes D. 2019. I-Team: NYPD shootings dramatically decrease over decades, data shows. NBC New York, Feb. 28. <https://www.nbcnewyork.com/news/local/nypd-police-involved-shootings-decrease-dramatically-nyc/19351/>
- Downes D. 2012. Political economy, welfare and punishment in comparative perspective. In *Resisting Punitiveness in Europe*, ed. S Snacken, E Dumortier, pp. 23–34. Abingdon, UK: Routledge

- Econ. Data Team. 2018. Americans overestimate social mobility in their own country. *The Economist*, Feb. 14. <https://www.economist.com/graphic-detail/2018/02/14/americans-overestimate-social-mobility-in-their-country>
- Enns P. 2016. *Incarceration Nation: How the United States Became the Most Punitive Democracy in the World*. Cambridge, UK: Cambridge Univ. Press
- Ewing J. 2020. United States is the richest country in the world, and it has the biggest wealth gap. *New York Times*. Sept. 23. <https://www.nytimes.com/2020/09/23/business/united-states-is-the-richest-country-in-the-world-and-it-has-the-biggest-wealth-gap.html>
- Fajnzylber P, Lederman D, Loayza N. 2002. Inequality and violent crime. *J. Law Econ.* 45(1):1–39
- Flamm M. 2007. *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s*. New York: Columbia Univ. Press
- Foner E. 1984. Why is there no socialism in the United States? *J. Hist. Workshop* 17(1):57–80
- Foner E. 1999. *The Story of American Freedom*. New York: Norton
- Forman J. 2014. Racial critiques of mass incarceration: beyond the New Jim Crow. *NYU Law Rev.* 87:101–46
- Forman J. 2017. *Locking Up Our Own: Crime and Punishment in Black America*. New York: FSG
- Förster MF, Vleminckx K. 2004. International comparisons of income inequality and poverty: findings from the Luxembourg study. *Socio-Econ. Rev.* 2:191–212
- Gabbidon S, Boisvert D. 2012. Public opinion on crime causation. *J. Crim. Justice* 40(1):50–59
- Garfinkel I, Rainwater L, Smeeding T. 2010. *Wealth and Welfare States: Is America a Laggard or Leader?* New York: Oxford Univ. Press
- Garland D. 1985. *Punishment and Welfare: A History of Penal Strategies*. New Orleans: Quid Pro Books
- Garland D. 2001. *The Culture of Control: Crime and Social Order in Contemporary Society*. Chicago: Univ. Chic. Press
- Garland D. 2016a. Punishment and welfare: social problems and social structure. In *Oxford Handbook of Criminology*, ed. A Liebling, S Maruna, L McAra, pp. 77–97. Oxford, UK: Oxford Univ. Press
- Garland D. 2016b. *The Welfare State: A Very Short Introduction*. Oxford, UK: Oxford Univ. Press
- Garland D. 2017. Penal power in America: forms, functions and foundations. *J. Br. Acad.* 5:1–35
- Garland D. 2020. Penal controls and social controls: toward a theory of American penal exceptionalism. *Punishm. Soc.* 22(3):321–52
- Gilens M. 1999. *Why Americans Hate Welfare: Race, Media, and the Politics of Antipoverty Policy*. Chicago: Univ. Chic. Press
- Gottschalk M. 2006. *The Prison and the Gallows: The Politics of Mass Incarceration in America*. Cambridge, UK: Cambridge Univ. Press
- Gramlich J. 2022. What the data says about gun deaths in the US. *Pew Research Center*, Feb. 3. <https://www.pewresearch.org/fact-tank/2022/02/03/what-the-data-says-about-gun-deaths-in-the-u-s/>
- Grinshteyn E, Hemenway D. 2016. Violent death rates: the US compared to other high-income OECD countries, 2010. *Am. J. Med.* 129(3):P266–73
- Hacker J. 2006. *The Divided Welfare State: The Battle Over Public and Private Social Benefits in the United States*. Cambridge, UK: Cambridge Univ. Press
- Hacker J. 2008. *The Great Risk Shift: The New Economic Insecurity*. New York: Oxford Univ. Press
- Hacker J, Hertel-Fernandez A, Pierson P, Thelen K, eds. 2021. *The American Political Economy: Politics, Markets, and Power*. Cambridge, UK: Cambridge Univ. Press
- Harcourt B. 2012. *The Illusion of Free Markets*. Cambridge, MA: Harvard Univ. Press
- Hinton E. 2017. *From the War on Poverty to the War on Crime*. Cambridge, MA: Harvard Univ. Press
- Hinton E. 2021. *America on Fire: The Untold History of Police Violence and Black Rebellion Since the 1960s*. New York: Norton
- Hinton E, Cook D. 2021. The mass criminalization of black Americans: a historical overview. *Annu. Rev. Criminol.* 4:261–86
- Horowitz JM, Brown A, Cox K. 2019. Race in America 2019. *Pew Research Center*, April 9. <https://www.pewresearch.org/social-trends/2019/04/09/race-in-america-2019/>
- IGPA (Inst. Gov. Public Aff.). 2021. *Tracking trends in racial attitudes*. Rep., IGPA, Urbana, IL. <https://igpa.uillinois.edu/racial-attitudes/>

- Jericho M. 2020. No, Australia is not the US: Our shocking racial injustice is all our own. *The Guardian*, June 6. <https://www.theguardian.com/business/grogonomics/2020/jun/07/no-australia-is-not-the-us-our-shocking-racial-injustice-is-all-our-own>
- Karabel J. 2021. Let's honor the true spirit of Labor Day. *New York Times*, Sept. 5. <https://www.nytimes.com/2021/09/05/opinion/labor-day-us-history.html>
- Karabel J, Laurison D. 2011. *Outlier nation? American exceptionalism and the quality of life in the United States*. Work. Pap. 112-11, Inst. Res. Labor Employ., Univ. Calif., Berkeley. <https://www.irl.berkeley.edu/files/2011/Outlier-Nation.pdf>
- Katz M, Yi J. 2020. NJ gave 2,200 prisoners freedom, but not what they needed to restart their lives. *Gothamist*, Nov. 14. <https://gothamist.com/news/nj-gave-2200-prisoners-freedom-not-what-they-needed-restart-their-lives>
- Katznelson I. 2006. *When Affirmative Action Was White*. New York: Norton
- Kenworthy L. 2015. *Social Democratic America*. New York: Oxford Univ. Press
- Kim J, Wilson M. 2020. "Blue Lives Matter" and "Defund the Police" clash in the streets. *New York Times*, July 22. <https://www.nytimes.com/2020/07/22/nyregion/ny-back-the-blue-lives-matter-rallies.html>
- King D. 1999. *In the Name of Liberalism: Illiberal Social Policy in the US*. New York: Oxford Univ. Press
- Kirkpatrick D, Eder S, Barker K, Tate J. 2021. Why many police traffic stops turn deadly. *New York Times*, Nov. 20. <https://www.nytimes.com/2021/10/31/us/police-traffic-stops-killings.html>
- Kristoff N. 2017. How to win a war on drugs. *New York Times*, Sept. 22. <https://www.nytimes.com/2017/09/22/opinion/sunday/portugal-drug-decriminalization.html>
- Krivo L, Peterson R, Kuhl D. 2009. Segregation, racial structure, and neighborhood violent crime. *Am. J. Sociol.* 114:1765–802
- Lappi-Seppala T. 2008. Trust, welfare, and political culture: explaining differences in national penal policies. *Crime Justice* 31(1):313–87
- Lappi-Seppala T. 2017. American exceptionalism in comparative perspective. In *American Exceptionalism in Crime and Punishment*, ed. K Reitz, pp. 195–271. New York: Oxford Univ. Press
- Latzer B. 2017. *The Rise and Fall of Violent Crime in America*. New York: Encounter Books
- Lebron C. 2018. *The Making of Black Lives Matter: A Brief History of an Idea*. New York: Oxford Univ. Press
- Levitsky S, Ziblatt D. 2018. *How Democracies Die*. New York: Viking
- Li DK. 2020. African Americans "probably ought to be" shot more by police, a top Tulsa officer said. *NBC News*, June 11. <https://www.nbcnews.com/news/us-news/african-americans-probably-ought-be-shot-more-police-top-tulsa-n1229981>
- Lieberman R. 1998. *Shifting the Color Line: Race and the American Welfare State*. Cambridge, MA: Harvard Univ. Press
- Light M. 2022. The declining significance of race in criminal sentencing: evidence from US federal courts. *Soc. Forces* 100(3):1110–41
- Lipset SM. 1963. *The First New Nation: The United States in Historical and Comparative Perspective*. New York: Basic Books
- Lipset SM. 1997. *American Exceptionalism: A Double-Edged Sword*. New York: Norton
- Lopez G. 2016. Want to end mass incarceration? This poll should worry you. *Vox*, Sept. 7. <https://www.vox.com/2016/9/7/12814504/mass-incarceration-poll>
- Lowndes JE, Novkov J, Warren DT, eds. 2008. *Race and American Political Development*. Abingdon, UK: Routledge
- Mac Donald H. 2016. *The War on Cops*. New York: Encounter Books
- Marquand D. 2004. *Decline of the Public: The Hollowing Out of Citizenship*. London: Wiley
- Miller L. 2015. What's violence got to do with it? Inequality, punishment and state failure in American politics. *Punishm. Soc.* 17(2):184–210
- Morenoff J, Sampson R, Raudenbush S. 2001. Neighborhood inequality, collective efficacy and the spatial dynamics of urban violence. *Criminology* 39:517–60
- Muhammad KG. 2019. *The Condemnation of Blackness*. Cambridge, MA: Harvard Univ. Press
- Muller C, Roehrkasse A. 2021. Racial and class inequality in US incarceration in the early twenty-first century. *Soc. Forces* 2021:soab141. <https://doi.org/10.1093/sf/soab141>

- Murakawa N. 2014. *The First Civil Right: How Liberals Built Prison America*. New York: Oxford Univ. Press
- Natl. Res. Counc. 2014. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Washington, DC: Natl. Acad. Press
- Nor. Minist. Justice Public Secur. 2017. *Reduced recidivism to crime*. Rep., Nor. Minist. Justice Public Secur., Oslo. [https://www.regjeringen.no/contentassets/3f8ac79225654863ad3f9b0e082bf9f0/strategy\\_reduced-recidivism-to-crime.pdf](https://www.regjeringen.no/contentassets/3f8ac79225654863ad3f9b0e082bf9f0/strategy_reduced-recidivism-to-crime.pdf)
- O’Flaherty B, Sethi R. 2019. *Shadows of Doubt: Stereotyping, Crime and the Pursuit of Justice*. Cambridge, MA: Harvard Univ. Press
- Park K-S. 2018. Self-deportation nation. *Harv. Law Rev.* 132:1878–941
- Parker K, Hurst K. 2021. Growing share of Americans say they want more spending on police in their area. *Pew Research Center*, Oct. 26. <https://www.pewresearch.org/fact-tank/2021/10/26/growing-share-of-americans-say-they-want-more-spending-on-police-in-their-area/>
- Pestritto RJ. 2021. *America Transformed: The Rise And Legacy of American Progressivism*. New York: Encounter Books
- Pierson P, Skocpol T. 2007. *The Transformation of American Politics*. Princeton, NJ: Princeton Univ. Press
- Prasad M. 2006. *The Politics of Free Markets: The Rise of Neoliberal Economic Policies in Britain, France, Germany, and the United States*. Chicago: Univ. Chic. Press
- Quinn J, Meyers H. 2022. These policies were supposed to help black people. They’re backfiring. *New York Times*, Feb. 15. <https://www.nytimes.com/2022/02/15/opinion/nyc-black-victims-crime.html>
- Rainwater L, Smeeding T. 2004. *Poor Kids in a Rich Country: America’s Children in a Comparative Perspective*. New York: Russell Sage Found.
- Ramesh R. 2010. More black people jailed in England and Wales proportionately than in US. *The Guardian*, Oct. 11. <https://www.theguardian.com/society/2010/oct/11/black-prison-population-increase-england>
- Reid TR. 2009. *The Healing of America: A Global Quest for Better, Cheaper, and Fairer Health Care*. New York: Penguin Press
- Rodgers D. 2018. The uses and abuses of neoliberalism. *Dissent* 65(1):78–87
- Sampson R. 1987. Urban black violence: the effects of male joblessness and family disruption. *Am. J. Sociol.* 93(2):348–83
- Sampson R, Raudenbush S, Earls F. 1997. Neighborhoods and violent crime: a multilevel study of collective efficacy. *Science* 277:918–24
- Sampson R, Wilson WJ. 1995. Toward a theory of race, crime and urban inequality. In *Crime and Inequality*, ed. J Hagan, R Peterson, pp. 37–54. Stanford: Stanf. Univ. Press
- Sampson R, Wilson W. 2018. Reassessing “Toward a Theory of Race, Crime and Urban Inequality.” *Du Bois Rev.* 15(1):13–34
- Sandel M. 2020. *Tyranny of Merit: What’s Become of the Common Good?* New York: Farrar Straus Giroux
- Schiraldi V. 2020. *Can we eliminate the youth prison? (And what should we replace it with?)*. Rep., Square One Proj., New York. <https://squareonejustice.org/wp-content/uploads/2020/08/CJLJ8431-Square-One-Youth-Prisons-Paper-200828-2-WEB.pdf>
- Schoenfeld H. 2018. *Building the Prison State: Race and the Politics of Mass Incarceration*. Chicago: Univ. Chic. Press
- Sentencing Proj. 2018. *Report to the United Nations on racial disparities in the US criminal justice system*. Rep., Sentencing Proj., Washington, DC. <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>
- Sharkey P. 2018. *Uneasy Peace: The Great Crime Decline, the Renewal of City Life, and the Next War on Violence*. New York: Norton
- Sharkey P, Glazer E. 2021. *Social fabric: a new model for public safety and vital neighborhoods*. Rep., Square One Proj., New York. <https://squareonejustice.org/wp-content/uploads/2021/04/CJLJ8743-Social-Fabric-Square-One-WEB-report-210406.pdf>
- Sklansky D. 2018. The problems with prosecutors. *Annu. Rev. Criminol.* 1:451–69
- Smeeding T. 2006. Poor people in rich nations. *J. Econ. Perspect.* 20(1):69–90
- Stoughton S. 2015. Law enforcement’s warrior problem. *Harv. Law Rev. Forum* 128:225–34

- Subramanian R, Shames A. 2013. *Sentencing and Prison Practice in Germany and the Netherlands*. New York: VERA Inst.
- Sutton J. 2004. The political economy of imprisonment in affluent western democracies. *Am. Sociol. Rev.* 69:170–89
- Thompson D. 2021. Why America’s great crime decline is over. *Atlantic*, March 24. <https://www.theatlantic.com/ideas/archive/2021/03/is-americas-great-crime-decline-over/618381/>
- Tonry M, ed. 2007. *Crime and Justice: A Review of Research*, Vol. 36: *Crime, Punishment, and Politics in Comparative Perspective*. Chicago: Univ. Chicago Press
- Tonry M. 2011. *Punishing Race: A Continuing American Dilemma*. New York: Oxford Univ. Press
- Travis J, Western B. 2013. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Washington, DC: Natl. Acad. Press
- US Dep. Justice. 1992. *The case for more incarceration*. Rep. NCJ 139583, Off. Atty. Gen., Washington, DC. <https://www.ojp.gov/pdffiles1/Digitization/139583NCJRS.pdf>
- US Dep. Justice Civ. Rights Div. 2015. *The Ferguson Report: Department of Justice Investigation of the Ferguson Police Department*. New York: New Press
- Unnever J, Cullen F, Jones J. 2008. Public support for attacking the “root causes” of crime. *Sociol. Focus* 41(1):1–33
- Wacquant L. 2009. *Punishing the Poor: The Neoliberal Government of Social Insecurity*. Durham, NC: Duke Univ. Press
- Walker S, Katz C. 2018. *The Police in America: An Introduction*. New York: McGraw Hill
- Weaver V. 2007. Frontlash: race and the development of punitive crime policy. *Stud. Am. Political Dev.* 21:230–65
- Western B. 2018. *Homeward: Life in the Year After Prison*. New York: Russell Sage Found.
- Western B, Beckett K. 1999. How unregulated is the US labor market? The prison as a labor market institution. *Am. J. Sociol.* 104(4):1030–60
- Whitman JQ. 2003. *Harsh Justice: Criminal Justice and the Widening Divide between America and Europe*. New York: Oxford Univ. Press
- Widra E, Herring T. 2022. States of incarceration: the global context 2021. *Prison Policy Initiative*. <https://www.prisonpolicy.org/global/2021.html>
- Wilkinson R, Pickett K. 2010. *The Spirit Level: Why Greater Equality Makes Societies Stronger*. London: Bloomsbury
- Wilson JQ. 1975. *Thinking About Crime*. New York: Basic Books. Rev. ed.
- Woessmann L. 2015. An international look at the single-parent family. *Educ. Next* 15(2). <https://www.educationnext.org/international-look-single-parent-family/>
- World Popul. Rev. 2022. *Gun ownership by country 2022*. Rep., World Popul. Rev. <https://worldpopulationreview.com/country-rankings/gun-ownership-by-country>
- Wright EO, Rodgers J. 2011. *American Society: How It Really Works*. New York: Norton
- Yi K, Katz M. 2020. 2,200 NJ prisoners were released early. Very few got promised help. *WNYC News*, Nov. 11. <https://www.wnyc.org/story/2200-nj-prisoners-were-released-early-very-few-got-promised-help/>
- Zimring F. 2006. *The Great American Crime Decline*. New York: Oxford Univ. Press
- Zimring F. 2012. *The City that Became Safe: New York’s Lessons for Urban Crime and its Control*. New York: Oxford Univ. Press
- Zimring F. 2017. *When Police Kill*. Cambridge, MA: Harvard Univ. Press