

# HEINONLINE

Citation: 15 J.L. Soc'y 41 2013-2014



Content downloaded/printed from  
HeinOnline (<http://heinonline.org>)  
Tue Apr 28 17:35:31 2015

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at <http://heinonline.org/HOL/License>

-- The search text of this PDF is generated from uncorrected OCR text.

-- To obtain permission to use this article beyond the scope of your HeinOnline license, please use:

[https://www.copyright.com/cc/basicSearch.do?  
&operation=go&searchType=0  
&lastSearch=simple&all=on&titleOrStdNo=1538-5876](https://www.copyright.com/cc/basicSearch.do?&operation=go&searchType=0&lastSearch=simple&all=on&titleOrStdNo=1538-5876)

# UNMAKING THE MOTOR CITY IN THE AGE OF MASS INCARCERATION

HEATHER ANN THOMPSON<sup>1</sup>

## *Table of Contents*

I. WHAT HAPPENED TO DETROIT? .....	41
II. WHAT HAPPENED TO DETROIT... THE MORE COMPLICATED STORY .....	43
<i>A. The Criminalization of Urban Space</i> .....	43
<i>B. Why the War on Crime?</i> .....	44
1. <i>A Revolution in Drug Legislation</i> .....	46
2. <i>Sentencing and Parole</i> .....	47
3. <i>The Criminalization of Detroit Schools</i> .....	48
<i>C. Detroit's Urban Crisis</i> .....	49
1. <i>Million Dollar Blocks</i> .....	50
2. <i>Orphaned Children</i> .....	51
3. <i>Unemployment</i> .....	52
<i>D. The Carceral State and Detroit's Economic Fallout</i> .....	53
1. <i>Profits From Prisons</i> .....	54
2. <i>Green Flight</i> .....	56
III. WHY HASN'T DETROIT CHANGED THIS?.....	58
<i>A. Disenfranchisement</i> .....	59
<i>B. Distorting Democracy Via the Census</i> .....	60
IV. CONCLUSION .....	61

## I. WHAT HAPPENED TO DETROIT?

According to legend and lore, Detroit used to be a great place to live. It was a prosperous melting pot and the best of all that America had to offer. That is until the conflict-filled 1960s when young people, specifically young militant activists, became too impatient with the pace of civil rights progress (which, apparently, was going along quite smoothly) and tore up their own city in the Detroit Riot of 1967. This was the story told by journalists such as William Shannon, who titled his

---

1. Heather Ann Thompson is a historian of cities as well as crime and punishment who writes regularly for scholarly as well as popular publications. She also sits on a number of policy boards and is the author of *Whose Detroit: Politics, Labor, and Race in a Modern American City* (Cornell University Press, 2001) and the forthcoming, *Blood in the Water: The Attica Prison Uprising of 1971 and its Legacy* (Pantheon Books).

*New York Times* piece on this dramatic event: "Negro Violence v. the American Dream."<sup>2</sup>

Apparently, after the city burned, it was doomed. After all, who in their right mind would want to live in a city that had just witnessed tanks rolling through the streets, buildings going up in flames, and its citizens ducking sniper fire? How could anyone possibly feel safe in their own hometown once it was necessary for rifle-wielding National Guardsmen to patrol the streets day and night? And, in the minds of more than a few former Detroiters, the fact that a black mayor began running the city shortly after it burned also made it an undesirable place to live. This black mayor, it would seem, hated white folks, especially white suburbanites, and had made it abundantly clear that they were no longer welcome in the City.

This version of Detroit's deterioration is by no means the only one, and indeed, it may well be one of the more extreme. And yet, this core interpretation resonates deeply with countless former Detroiters and has informed more than a few media accounts of this City's eventual collapse. Even those who acknowledge that rioters had much to rebel against in the aftermath of WWII, and thus do not blame the decline of Detroit on irrational black "militancy," nevertheless often believe that the Riot of 1967 and the election of Coleman Young, together, did in this major urban center.

Any close historical look at Detroit over the course of the postwar period makes clear that such an analysis of this City's demise is simplistic at best. The Motor City of the 1950s was far from peaceful and welcoming for almost half of those who lived there, namely the African American half.<sup>3</sup> Indeed, everything from severe discrimination in housing and jobs to egregious and regular acts of police brutality, not illogical impatience or irrational militancy, led to the uprising of 1967 in the first place. Furthermore, serious deindustrialization, beginning in the 1950s, along with pre- as well as post-1973 white flight, severely compromised the city's long-term economic viability by gutting its tax base and eliminating its job-producing businesses.

It turns out that all of us who have sought to understand Detroit's current crisis have nevertheless missed one of its most important origins. Indeed, the abandonment, poverty, and decay that came to plague Detroit by the late 1970s was much worse, much more alarming, and perhaps

---

2. William Shannon, *Negro Violence vs. the American Dream*, N.Y. TIMES, July 27, 1967, at 34.

3. See THOMAS J. SUGRUE, *THE ORIGINS OF THE URBAN CRISIS: RACE AND INEQUALITY IN POSTWAR DETROIT* (1996); HEATHER ANN THOMPSON, *WHOSE DETROIT?: POLITICS, LABOR, AND RACE IN A MODERN AMERICAN CITY* (2001).

even more intractable than explanations such as the riot of 1967, deindustrialization, or even white flight can explain.

## II. WHAT HAPPENED TO DETROIT...THE MORE COMPLICATED STORY

So what does explain all that Detroit came to endure after the hopeful decade of the 1950s? What accounts for today's miles of abandoned homes and this City's catastrophically low high school graduation rates? What reasons might there be for the equally cataclysmic rates of childhood poverty and the devastating unemployment figures?

It turns out that in addition to the white exodus that followed the election of Mayor Young back in 1973, and on top of the devastating deindustrialization that had also been eroding the Motor City since at least the mid-1950s, something else had been happening in Detroit that would, over the long haul, gut this City in ways that no one predicted. In short, white flight was not the only devastating response to the black civil rights activism that erupted in the 1960s. Whites did more than move their persons and businesses from this City in response to black demands for better housing, integrated schools, and better paying jobs. They also clamored for a whole new level of policing of the urban spaces where blacks lived and protested. Indeed, across the nation, and particularly in Detroit, the more vigorously African Americans fought for greater social, economic, and political equality, the more insistent became white demands for greater law and order. By 1965, in the wake of a spate of urban uprisings from Harlem to Philadelphia, the foundation was laid for a whole new, unprecedentedly comprehensive, and richly funded "war on crime" that, in turn, would unmake the Motor City in deeply insidious ways.

### *A. The Criminalization of Urban Space*

Just as African Americans were beginning, finally, to gain more political and economic power in cities like Detroit, a new, national war on crime began that would have extraordinary implications for the fate of those cities, as well as the fate of any city that had become overwhelmingly black after WWII. This war on crime resulted in the mass incarceration of black citizens beginning in the 1960s, which, in turn, created a criminal justice system whose size and punitive nature are both historically unprecedented and internationally unparalleled. What built and fueled such a massive criminal justice system was an intensified policing of city spaces—a more aggressive criminalization of urban space that subjected men and women of color to scores of laws

that not only regulated bodies and communities in thoroughly new ways but also subjected violators to unprecedented time behind bars.<sup>4</sup>

By 2008, more than 7 million United States residents, overwhelmingly African American, had become ensnared in this country's criminal justice system, which meant that a full 1 in 9 young black men were imprisoned, a full 1 in 9 African American children were newly impoverished and effectively orphaned by the imprisonment of their parents, and countless neighborhoods in cities like Detroit were in a state of utter collapse.<sup>5</sup> This essay will make clear that as directly and conclusively as decades of deindustrialization and white flight undermined Detroit and compromised its future, so did America's post-1964 War on Crime.

### *B. Why the War on Crime?*

Why was it that urban spaces became more criminalized and the site of so much more policing in the 1960s? To read newspapers at the time, it would appear that rising arrest rates and the eventual rise of incarceration rates were both but a logical response to the fact that crime rates were themselves at a record high.<sup>6</sup>

Despite the fact that the national homicide rate had risen from 5.5 per 100,000 people in 1965 to 7.3 in 1968, the nation's citizenry—be it in the Delta or in Detroit--was not in fact suffering a record-setting crime wave. The murder rate had been far higher in the 1930s—as high as 9.7 per 100,000.<sup>7</sup> Indeed, if one looks at the entire 20<sup>th</sup> century, it is remarkable how much safer the 1960s were compared to previous decades.<sup>8</sup> Not only was a U.S. citizen less likely to be murdered in the early to mid-1960s than they were at other point in the 20<sup>th</sup> century, but their risk of meeting a violent death actually went up *after* the nation began a war on crime.<sup>9</sup>

4. See Heather Ann Thompson, *Why Mass Incarceration Matters: Rethinking Crisis, Decline and Transformation in Postwar American History*, 97 J. AM. HIST. 703 (2010).

5. THE OSBORNE ASSOCIATION, *Children of Incarcerated Parents Fact Sheet*, [http://www.osborneny.org/images/uploads/printMedia/Initiative%20CIP%20Stats\\_Fact%20Sheet.pdf](http://www.osborneny.org/images/uploads/printMedia/Initiative%20CIP%20Stats_Fact%20Sheet.pdf) (last visited Oct. 20, 2014).

6. *Warring on Crime*, N.Y. TIMES, Feb. 16, 1965, at 34; *President Forms Panel To Study Crime Problems: Cites 'Wave Of Violence' -- Katzenbach To Direct An 18-Month Survey*, N.Y. TIMES, July 27, 1965, at 1.

7. BUREAU OF JUSTICE STATISTICS, *Key Facts at a Glance: Homicide Rate Trends*, available at <http://web.archive.org/web/20061024231800/http://www.ojp.usdoj.gov/bjs/glance/tables/hmrrtab.htm> (last visited Oct. 20, 2014).

8. ERICA L. SMITH & ALEXIA COOPER, *HOMICIDE IN THE U.S. KNOWN TO LAW ENFORCEMENT*, 2011, U.S. DEP'T OF JUSTICE 1 (2013).

9. *United States Crime Rates, 1960–2009*, DISASTER CENTER, available at <http://www.disastercenter.com/crime/uscrime.htm> (last visited Oct. 20, 2014).

The same was true when it came to suffering violent crimes generally. Whereas the violent crime rate was 200.2 per 100,000 in 1965, by 1995 it was 684.6.<sup>10</sup>

To many white Detroiters, the mere presence of so many more African Americans in the wake of the Second Great Migration, who were vocal about their need for an equal share of civil resources, was threatening, dangerous, and even criminal.<sup>11</sup> As the editor of the Polish edition of the *Home Gazette* put it, when resisting black efforts to move into his all-white neighborhood in Detroit, Negroes were “an element which breeds crime, immorality, and rowdyism.”<sup>12</sup> White southerners, both ordinary citizens and elected officials, had long equated civil rights unrest with criminality, and when African Americans began fighting for greater equality in the North as much as in the South, this is how northern whites began to interpret their actions as well.<sup>13</sup> Indeed, perhaps surprisingly, northern liberal democrats of the 1960s, like Detroit’s mayor, Jerome Cavanagh, as well as the liberal president of the United States, Lyndon Johnson, were so unnerved by the civil unrest they saw erupting across the North after 1963 that they each were soon clamoring for greater law and order measures.<sup>14</sup> America’s War on Crime did not begin in 1968 with Richard Nixon, as many believe.

President Lyndon Johnson actually launched the War on Crime in 1965 when he passed the Law Enforcement Assistance Act, which, in turn, created the Office of Law Enforcement Assistance (OLEA).<sup>15</sup> Congress followed up by enacting the Law Enforcement Administration (LEAA) in 1968, the stated purpose of which was to “improve and strengthen law enforcement.”<sup>16</sup>

---

10. *Id.*

11. Just before and throughout WWII millions of southern African Americans left southern states for northern cities such as Detroit, Chicago, New York, and others. They came both to escape the rigid Jim Crow laws and racial oppression of the South as well as to find good jobs and better lives in the North. The racial discrimination they found in the North was a terrible blow, but the overwhelming response of new migrants was to insist that they were indeed treated like first class citizens in these northern cities. As a result, the Civil Rights Movement grew and became very active in the North during this period.

12. Thompson, *supra* note 4, at 17.

13. Interview by Southern Oral History Program with Andrew Young, Jan. 31, 1974, available at <http://docsouth.unc.edu/sohp/A-0080/menu.html>.

14. President Lyndon B. Johnson, Annual Message to Congress on the State of the Union, Jan. 17, 1968, available at <http://www.lbjlib.utexas.edu/johnson/archives.hom/speeches.hom/680117.asp>.

15. President Lyndon B. Johnson, Special Message to Congress on Law Enforcement and the Administration of Justice, Mar. 8, 1965, available at <http://www.presidency.ucsb.edu/ws/?pid=26800>.

16. Jay N. Varon, *A Reexamination of the Law Enforcement Assistance Administration*, 27 STAN. L. REV. 1303 (1975).

On the heels of the northern urban uprisings of 1964, and well before crime rates began to climb across the country, Johnson's Law Enforcement Assistance Act gave law enforcement agencies across the country unprecedented power, while simultaneously allowing for changes in policy and law that would lead to mass incarceration in the last decades of the 20<sup>th</sup> century.<sup>17</sup> Thanks to this act and the bureaucracy of the OLEA, states across the country not only received new funding to hire more law enforcement officers and purchase better equipment with which to more aggressively police urban space, but also received monies to train the myriad of correctional officers that would be needed to monitor the prison, probation, and parole systems that would expand in the wake of that more aggressive policing.<sup>18</sup>

Notably, the way that states and cities accessed OLEA funding was to demonstrate need. That is to say, to show that they had a crime problem. To meet this requirement, cities like Detroit manipulated data on the ground. While high crime rates might net city officials more federal dollars, it also handed them a major public relations problem. Detroit Mayor, Jerome Cavanagh, was as deeply interested in maintaining the image that his city was safe as he was in getting more money for the city police. When the Detroit Police Department posted higher crime figures, he was not at all shy to say publicly that "new methods of counting crime" had played an important role in "distorting the size of the increase."<sup>19</sup>

### *1. A Revolution in Drug Legislation*

Launching a national War on Crime in 1965 and providing unprecedented funding for law enforcement both set the stage for an era in which urban space would be criminalized in new ways. Without question, inner cities were most criminalized with regard to drug use and drug sales. Indeed, almost overnight, the War on Crime and the War on Drugs became synonymous in the City of Detroit. While the War on

---

17. Franklin E. Zimring, *The Scale of Imprisonment in the United States: Twentieth Century Patterns and Twenty-First Century Prospects*, 100 J. CRIM. L. AND CRIMINOLOGY 1225, 1228 (2010).

18. Thompson, *supra* note 4.

19. *Detroit's Mayor Assails Critic: Goes on Television to Defend His Record on Crime*, N.Y. TIMES, May 18, 1967, at 33. For more on the manipulation of crime in the 1960s, see Heather Ann Thompson, *Rethinking the Politics of White Flight in the Postwar City: Detroit, 1945–1980*, 25 J. URBAN HIST., 163 (1999); see also GEBHARD LONG ET AL., DETROIT POLICE DEPARTMENT—A RESEARCH REPORT ON PREVIOUS STUDIES; CRIMINAL STATISTICS; AND POLICE TECHNOLOGY, PRODUCTIVITY, AND COMPETENCE (1970).

Drugs officially began in the state of New York when the governor passed his “Rockefeller Drug Laws,” which gave newly harsh penalties for drug possession and sales in the wake of the civil rights uprising at Attica, Michigan was a quick follower with its draconian “650-lifer Law,” which gave anyone caught with over 650 grams of cocaine, disproportionately likely to be a Detroit resident, an automatic life sentence.<sup>20</sup>

Criminalizing drugs had a staggering impact on young African Americans in the city. Whereas there had been 3,746 drug arrests in the City in 1980, a mere eight years later there were 9,618.<sup>21</sup> Notably, a full sixty-eight percent of men and more than eighty-one percent of women arrested in 1988 were drug users; the costs of treating this public health issue as a criminal matter were high indeed.<sup>22</sup> In the 1988-1989 fiscal year, the Narcotics Division of the Detroit Police Department needed a budget of 11.7 million dollars to operate, which was an eighty-three percent increase over what it needed a mere four years earlier.<sup>23</sup>

## 2. Sentencing and Parole

As much as changes to drug laws negatively impacted Detroit’s residents after the mid-1960s, Detroiters also disproportionately suffered from the overhaul of state and federal sentencing guidelines for drug convictions. Thanks to these laws, by 2009, nationally, there were more adults serving life sentences than at any other time in American history, and numerous states had also passed laws making it possible to sentence a minor to life without the possibility of parole.<sup>24</sup>

Arguably, Michigan’s mandatory minimum sentencing guidelines were some of the most draconian. Not only did Michigan have the “650-lifer law,” but it soon had the second highest number of adult residents serving a life-without-parole (LWOP) sentence, and the second highest number of children serving an LWOP—more than 360 by 2011.<sup>25</sup>

---

20. Madison Gray, *A Brief History of New York’s Rockefeller Drug Laws*, TIME, Apr. 2, 2009.

21. GENERAL GOVERNMENT DIVISION, U. S. GEN. ACCOUNTING OFFICE, THE WAR ON DRUGS: ARRESTS BURDENING LOCAL CRIMINAL JUSTICE SYSTEMS 6 (1991).

22. *Id.* at 59.

23. *Id.* at 60.

24. ASHLEY NELLIS & RYAN S. KING, NO EXIT: THE EXPANDING USE OF LIFE SENTENCES IN AMERICA 2-17 (2009), available at [http://www.sentencingproject.org/doc/publications/publications/inc\\_NoExitSept2009.pdf](http://www.sentencingproject.org/doc/publications/publications/inc_NoExitSept2009.pdf).

25. Alison Frankel & Katie Haas, *Seeking a Second Chance: Children Sentenced to Life Without Parole Seek Justice Before International Tribunal*, ACLU (Sept. 9, 2012, 12:47 PM), <http://www.aclu.org/blog/criminal-law-reform-human-rights/seeking-second-chance-children-sentenced-life-without-parole>.

Indeed, even for the non-life sentences, serving time in Michigan grew ever-lengthier over the course of the later twentieth century, with this state eventually having the longest length of stay in the nation because of key changes to the parole board as well as to sentencing guidelines.<sup>26</sup> In 1992, the parole board changed from being comprised of civil servants to appointees, which made those determining parole eligibility beholden to specific politicians—most of whom were deeply invested in not appearing to coddle criminals. Then, in 1998, the Michigan Legislature passed new Truth-in-Sentencing guidelines, which meant that prisoners would now have to serve 100% of their excessively long sentences, without any chance of parole.<sup>27</sup> The result of both changes was that the parole approval rate decreased by twenty percent in the state, and Michigan prisons grew even more crowded.<sup>28</sup>

By 2009, Michigan prisoners were serving nearly 17 months more than the national average.<sup>29</sup> Between 1981-2005, the average length of time served increased by over fifty percent, and, by 2009, prisoners in Michigan were serving sentences seventy-nine percent longer than they were serving for the same crimes in 1990—just shy of an additional two years.<sup>30</sup>

### 3. *The Criminalization of Detroit Schools*

Detroiters were not just subject to greater police scrutiny in the streets; they also endured much more intense policing in city schools. Notably, with the exception of Los Angeles, which began policing its educational institutions in the 1940s, American schools did not have a regular police presence until after the mid-1960s, and when they chose to

---

26. Michael B. Sauter, et al., *States with the Longest Prison Terms*, 24/7 WALL ST. (June 13, 2012, 6:25 AM), <http://247wallst.com/special-report/2012/06/13/states-with-the-longest-prison-terms/3/>.

27. CITIZENS RESEARCH COUNCIL OF MICH., *GROWTH IN MICHIGAN'S CORRECTIONS SYSTEM: HISTORICAL AND COMPARATIVE PERSPECTIVES* (2008), available at <http://www.crcmich.org/PUBLICAT/2000s/2008/rpt350.pdf>.

28. *Id.*

29. Laura Sager, *Michigan Prison Costs Far Exceed Benchmarks; That Should Change*, BRIDGE (June 14, 2012), <http://bridgemi.com/2012/06/guest-column-michigan-prison-costs-far-exceed-benchmarks-that-should-change/>.

30. PUBLIC SAFETY PERFORMANCE PROJECT, PEW CENTER FOR THE STATES REPORT: *TIME SERVED: THE HIGH COST, LOW RETURN OF LONGER PRISON TERMS* (2012), available at <http://www.pewstates.org/research/state-fact-sheets/time-served-in-michigan-85899396356>.

bring security staff in, it was in reaction to a higher number of protests and more social disruption rather than a rise in crime *per se*.<sup>31</sup>

Baltimore did not have a law enforcement presence in its schools until 1967; Atlanta and Detroit did not until 1969, after institutions such as Northern High School experienced a spate of black power protests and blacks tried to integrate all-white schools such as Osborn.<sup>32</sup> Eventually, thanks to more money available from the Justice and Delinquency Prevention Act of 1974, the Detroit city school system, like other city school systems, was regularly and heavily policed. As a result, the number of juveniles landing in local and state correctional facilities rose dramatically.<sup>33</sup> By 2009, only thirty-eight percent of Detroit's young people were graduating from high school<sup>34</sup> and this was in no small part because so many of them had been pulled out of the system—either suspended or permanently expelled—because of so-called “zero tolerance” policing policies.<sup>35</sup> Contrary to popular belief, the majority of kids who lost substantial learning time because their school spaces had been so intensely criminalized had not committed an act of violence. In 2009 alone, 21,298 youths aged 7-17 were arrested in Michigan.<sup>36</sup> Notably, only four-point-three (4.3) percent of those were for an aggravated assault.<sup>37</sup>

### C. Detroit's Urban Crisis

For Detroit, the rise of a massive carceral state in the later postwar period had devastating short and long-term consequences. Clearly, white flight and deindustrialization also played a role and help to explain why certain neighborhoods came to suffer after the mid-1970s. To date, however, we have wholly under-appreciated the extent to which

---

31. Heather Ann Thompson, *Criminalizing Kids: The Overlooked Reason for Failing Schools*, 58 *DISSENT* 23 (2011).

32. Thompson, *supra* note 4, at 97.

33. CITIZENS RESEARCH COUNCIL OF MICH., *supra* note 27.

34. R.L. Donovan, *The 5 Worst Cities for Urban Youth*, ABC NEWS, SCOOP/DAILY (Nov. 14, 2009), <http://abcnews.go.com/Politics/Politics/worst-cities-urban-youth/story?id=9083935&page=2#.UZpFBcrHb58>.

35. Gus Burns, *Youths March Against Detroit Schools' Suspension Policies; Call it a 'School to Prison Pipeline'*, MLIVE (Mar. 23, 2013, 3:38 PM), [http://www.mlive.com/news/detroit/index.ssf/2013/03/detroit\\_youths\\_protest\\_strict.html](http://www.mlive.com/news/detroit/index.ssf/2013/03/detroit_youths_protest_strict.html).

36. MICHIGAN DEPARTMENT OF HUMAN SERVICES CHILD WELFARE FUNDING AND JUVENILE PROGRAMS AND THE MICHIGAN COMMITTEE ON JUVENILE JUSTICE, MICHIGAN'S STATEWIDE JUVENILE ARREST ANALYSIS REPORT: VOLUME ONE 3 (2012), available at <http://michigancommitteeonjuvenilejustice.com/site-files/files/Documents/2012JuvenileArrestAnalysisReportVol1.pdf>.

37. *Id.* at 16.

escalating incarceration rates did as well. As criminologist Todd Clear has stressed:

The individual-level effects of incarceration on those who go to prison ripple outward. Imprisonment is also an intervention into the lives of people who may never go there themselves...[it] affects children of the people who are locked up and their families; it affects community infrastructure—the relations among people in communities and the capacity of a community to be a good place to live, work, and raise children—and it affects how safe a community is to live in.<sup>38</sup>

Indeed, as the postwar period wore on, the city of Detroit was increasingly trapped in a vicious cycle of incarceration and civic distress that only intensified and deepened each decade of the later twentieth and early twenty-first centuries.<sup>39</sup>

### *1. Million Dollar Blocks*

As one might imagine, the post-1960s and its ever escalating criminalization of urban space, and its resulting higher and higher levels of incarceration, tore at the social fabric of cities across America and particularly tore at majority black cities such as Detroit. By removing record numbers of people from their neighborhoods for record periods of time, mass incarceration caused neighborhoods in the Motor City literally to collapse. This phenomenon had become so much a feature of, and problem for, urban America by the close of the twentieth century that social geographers have given such spaces a name—million dollar blocks.<sup>40</sup>

In the year 2000, eighty percent of all the prisoners released to Wayne County, Michigan returned to the City of Detroit and, of those, “41 percent returned to eight [devastated] zip codes—all of which are in Detroit.”<sup>41</sup> On the City’s East Side, incarceration was particularly

---

38. Todd R. Clear, *The Effects of High Imprisonment Rates on Communities*, 37 CRIME & JUSTICE 97, 98-99 (2008).

39. Thompson, *supra* note 4, at 716.

40. Diane Orson and NPR Staff, ‘Million Dollar Blocks’ Map Incarceration’s Costs, NPR (Oct. 12, 2012, 6:13 PM), <http://www.npr.org/2012/10/02/162149431/million-dollar-blocks-map-incarcerations-costs>.

41. AMY L. SOLOMAN, GILLIAN L. THOMSON, AND SINEAD KEEGAN, URBAN INSTITUTE JUSTICE POLICY CENTER REPORT: PRISONER REENTRY IN MICHIGAN 34 (Oct. 2004), [http://www.urban.org/UploadedPDF/411172\\_Prisoner\\_Reentry\\_MI.pdf](http://www.urban.org/UploadedPDF/411172_Prisoner_Reentry_MI.pdf).

concentrated and particularly deleterious. One in twenty-two adults in that area was eventually under some form of correctional control and, when one looks at the block-by-block blow of imprisonment, the impact is even more marked. In a neighborhood called Brewer Park, also on the East Side, a full one in sixteen adults is under some form of correctional control.<sup>42</sup>

## 2. Orphaned Children

Not only did mass incarceration erode Detroit's once-thriving neighborhoods, but it also made it virtually impossible for scores of parents to care materially or emotionally for the children that they had to leave behind while locked away in one of Michigan's penal institutions, often overwhelmingly far away from the City where their kids lived. According to the Pew Foundation and the Osborne Society, by 2010, more than 2.7 million children in the United States had a parent in prison and approximately 10 million had a parent who had been incarcerated at some point in their childhood.<sup>43</sup> This experience fell disproportionately on children of color, with one in nine African American kids experiencing this trauma compared to one in fifty-seven white kids.<sup>44</sup> As bad as it was to lose a parent to incarceration, the vast majority of these children also witnessed the often violent arrest of their parent,<sup>45</sup> and an overwhelming number never got to see their parent once imprisoned because the money to do so was not available—either the funds to travel or to call.<sup>46</sup> By orphaning so many Detroit children, mass incarceration had an additionally devastating impact on this City at the same Detroit suffered the fallout from deindustrialization and white flight.

---

42. THE PEW CHARITABLE TRUSTS, ONE IN 31: THE LONG REACH OF AMERICAN CORRECTIONS (Mar. 2009), available at [http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2009/PSPP\\_1in31\\_report\\_FINAL\\_WEB\\_3-26-09.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2009/PSPP_1in31_report_FINAL_WEB_3-26-09.pdf).

43. *Children of Incarcerated Parents Fact Sheet*, THE OSBORNE ASSOCIATION (last accessed June 1, 2014), [http://www.osborneny.org/images/uploads/printMedia/Initiative%20CIP%20Stats\\_Fact%20Sheet.pdf](http://www.osborneny.org/images/uploads/printMedia/Initiative%20CIP%20Stats_Fact%20Sheet.pdf).

44. *Id.*

45. See JOYCE A. ARDITTI, INCARCERATION AND THE FAMILY: PSYCHOLOGICAL AND SOCIAL EFFECTS OF IMPRISONMENT ON CHILDREN, PARENTS, AND CAREGIVERS (2012); Susan D. Phillips & Jian Zhao, *The Relationship Between Witnessing Arrests and Elevated Symptoms of Posttraumatic Stress: Findings from a National Study of Children Involved in the Child Welfare System*, 32 CHILDREN AND YOUTH SERVS. REV. 1246 (Oct. 2010).

46. ARDITTI, *supra* note 45, at 31.

### 3. Unemployment

Even when Detroiters get out of prison and return to their communities, their formerly incarcerated status still negatively impacts their children, as well as the City in which they live. When men and women return to Detroit from upstate penal facilities, the first thing they need is a job, already extremely difficult. The unemployment rate in May of 2006, before the 2008 economic crisis, was already staggering at a full twelve-point-one (12.1) percent.<sup>47</sup> By July of 2009, that rate had more than doubled to twenty-seven-point-eight (27.8) percent.<sup>48</sup>

For the formerly incarcerated, getting a job was made even more difficult. Not only did employers routinely require them to reveal whether they had a criminal record, but employers also made clear that they were unlikely to hire anyone who had been convicted of a crime.<sup>49</sup> As a study conducted by the Pew Charitable Trust indicates, “[b]efore being incarcerated, two-thirds of male inmates were employed and more than half were the primary source of financial support for their children,” but “[a]fter release, former male inmates work nine fewer weeks annually and take home 40 percent less in annual earnings.”<sup>50</sup> By 2009, between fifty and seventy percent of people on parole in Michigan were unemployed.<sup>51</sup> Tragically, according to Detroit City Council President Charles Pugh, “[a] lot of times, folks who come out [of jail] and get roadblock after roadblock and door closed, they give up and some of them re-commit crimes because they feel that’s their only option.”<sup>52</sup>

Notably, the welfare system in this new carceral moment in American history failed to mitigate much of the post-incarceration poverty following significant reform in 1996.<sup>53</sup> Although states could opt

47. *Detroit, Michigan Unemployment*, HOMEFACTS, <http://www.homefacts.com/unemployment/Michigan/Wayne-County/Detroit.html> (last visited Oct. 20, 2014).

48. *Id.*

49. DEVAH PAGER, MARKED: RACE, CRIME, AND FINDING WORK IN AN ERA OF MASS INCARCERATION 4-5 (2009).

50. Bruce Western & Becky Pettit, *Pew Quantifies the Collateral Costs of Incarceration on the Economic Mobility of Former Inmates, Their Families, and Their Children*, THE PEW CHARITABLE TRUSTS (Sep. 28, 2010), available at [https://www.prisonlegalnews.org/media/publications/western\\_and\\_pettit\\_incarcerations\\_effect\\_on\\_economic\\_mobility\\_2010.pdf](https://www.prisonlegalnews.org/media/publications/western_and_pettit_incarcerations_effect_on_economic_mobility_2010.pdf).

51. *Justice Reinvestment in Michigan: Analyses of Crime, Community Corrections, and Sentencing Policies*, JUSTICE CENTER 6 (Jan. 15, 2009), available at <http://pa.ingham.org/Portals/PA/crime%20study.pdf>.

52. *Study Shows Ex-offenders Have Greatly Reduced Employment Rates*, PRISON LEGAL NEWS (Oct. 3, 2013), <https://www.prisonlegalnews.org/news/2011/dec/15/study-shows-ex-offenders-have-greatly-reduced-employment-rates/>.

53. RUKAIYAH ADAMS, DAVID ONEK, AND ALISSA RIKER, DOUBLE JEOPARDY: AN ASSESSMENT OF THE FELONY DRUG PROVISION OF THE WELFARE REFORM ACT 2 (1998).

out, “section 115 of the federal welfare legislation placed a lifetime ban on TANF and Food Stamp benefits for convicted drug felons.”<sup>54</sup> Michigan’s modified provisions were less draconian, but nevertheless blocked key swaths of the State’s incarcerated population from receiving aid, including anyone who had been convicted of more than one drug felony.<sup>55</sup> Anyone who violated his or her parole or probation was also made ineligible from receiving aid for a full decade.<sup>56</sup> One could easily violate parole in Michigan by failing to complete a judge’s requests, ranging from completing a high school education to paying restitution, court costs, and supervision fees or “finding and keeping employment.”<sup>57</sup> Needless to say, countless parolees in Detroit lost aid when they needed it most.

#### *D. The Carceral State and Detroit’s Economic Fallout*

Perhaps an even more insidious way that the nation’s turn to a punitive War on Crime eroded the economic health of cities relates to the growth of prisons.<sup>58</sup> Thanks to the intensified criminalization of urban space in the 1970s and 1980s, today, Michigan’s prison population has increased by five-hundred-and-thirty-eight (538) percent.<sup>59</sup> Back in the early 1970s, there were only 7,834 Michiganders behind bars.<sup>60</sup> By 2011 there were 42,940, and the Michigan Department of Corrections (“MDOC”) was supervising many more.<sup>61</sup> Indeed, by 2003, MDOC was already in charge of a full 117,700 individuals via not only its 42 prisons and 11 prison camps, but also in its “half-way” houses, electronic tethering, and other agencies (both private and public) that it hired to

---

54. *Id.*

55. Department of Human Services, *Temporary Assistance for Needy Families State Plan, January 1, 2012-December 31, 2013*, STATE OF MICHIGAN 12 (Nov. 9, 2011), available at [http://www.michigan.gov/documents/dhs/TANF\\_StatePlan\\_2012\\_368298\\_7.pdf](http://www.michigan.gov/documents/dhs/TANF_StatePlan_2012_368298_7.pdf).

56. *Id.*

57. MICHIGAN DEPT. OF CORRECTIONS, *Probation Supervision*, [http://www.michigan.gov/corrections/0,4551,7-119-1435\\_1463---,00.html](http://www.michigan.gov/corrections/0,4551,7-119-1435_1463---,00.html) (last visited Oct. 20, 2014).

58. Thompson, *supra* note 4, at 714.

59. *Testimony of Brad Williams, Director, Governmental Relations for the Senate Judiciary Committee* (Mar. 2, 2010), available at [http://www.senate.michigan.gov/committees/files/2010-SCT-JUD\\_-03-02-1-03.PDF](http://www.senate.michigan.gov/committees/files/2010-SCT-JUD_-03-02-1-03.PDF).

60. CITIZENS RESEARCH COUNCIL OF MICH., *supra* note 27, at 2.

61. E. Ann Carson & William J. Sabol, *Prisoners in 2011*, U.S. DEPT. OF JUSTICE 3 (Dec. 2011), available at <http://bjs.gov/content/pub/pdf/p111.pdf>.

house offenders.<sup>62</sup> These high prison populations made it increasingly profitable for companies to move jobs out of the inner city because it greatly incentivized building prisons over factories and actually shifted federal and state dollars from cities like Detroit, ravaged by incarceration, to sparsely populated towns that held large prisons, like Ionia.

Indeed, just as Americans have overlooked key connections between the dramatic post-1960s rise in the American prison population and the crisis that subsequently befell inner cities like Detroit, so have we been slow to recognize the ways in which mass incarceration had serious economic fallout as well.

### *1. Profits From Prisons*

Just as the federal government and numerous state legislatures were interested in overhauling criminal laws after the 1960s so that they might strengthen law enforcement's hand, so were they also interested in ridding the books of laws that regulated inmate labor in the United States in order to strengthen the economic position of both government and business. At the federal level, this meant passing a series of new laws in 1979 that dramatically weakened the restrictions that had been in place on the sale of prison-made goods and the use of prison labor since the New Deal.<sup>63</sup> Business efforts to make convict labor easier to access soon paid off across the country. In the last five years of the twentieth century alone, private companies in thirty-six states were given carte blanche to replace free world workers with inmates.<sup>64</sup> This had large implications for Detroit.<sup>65</sup>

In 1980, Michigan's Correctional Industries Act was amended to broaden the places where prisons could sell products made within their walls and also made it much easier and more attractive for public

---

62. Lawrence W. Reed & John R. LaPlante, *Lock in Savings with Prison Privatization*, MACKINAC CENTER FOR PUB. POL'Y (Feb. 11, 2003), available at <http://www.mackinac.org/5022>.

63. U.S. DEPT. OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE, PRISON INDUSTRY PROGRAM ENHANCEMENT CERTIFICATION PROGRAM 3 (Mar. 2003), available at <https://www.ncjrs.gov/pdffiles1/bja/203483.pdf>.

64. Robert G. Atkinson, *Prison Labor: It's More Than Breaking Rocks*, PROGRESSIVE POLICY INST. 1 (May 2002), available at [http://www.dlc.org/documents/prison\\_labor\\_502.pdf](http://www.dlc.org/documents/prison_labor_502.pdf).

65. See Heather Ann Thompson, *Rethinking Working-Class Struggle through the Lens of the Carceral State: Toward a Labor History of Inmates and Guards*, 8 LABOR: STUDIES IN WORKING CLASS HISTORY OF THE AMERICAS 15 (2011).

agencies across the State to buy products and services from prisons.<sup>66</sup> Eventually, the Michigan State Industries (MSI)--the division of the Michigan Department of Corrections that oversees prison labor--began making everything from farm equipment to steam engines, boilers, barrels, copper wire, cigars, tombstones, shoes, and laundry products.<sup>67</sup> It was soon operating a textile mill that could compete with operations south of the Mason-Dixon line. By 2000, MSI was running 29 factories in 18 prisons,<sup>68</sup> and, as it reported proudly, its self-sufficiency and employment of more prisoners helped to save "the state the cost of civilian wages, salaries and other costs which were paid out of the Department's budget in the past."<sup>69</sup> Meanwhile, of course, factory doors around the City of Detroit were shutting. Whether they were small shops that made school trophies or larger companies that made desks and dentures, the work was no longer there for those who needed it desperately. As one community leader in Detroit noted woefully, "[f]or the first time, I'm seeing guys make a conscious decision they'll be better off in prison than in the community, homeless and hungry."<sup>70</sup>

Detroiters lost jobs not just because companies moved their work and consumers moved their purchasing dollars into Michigan's prisons, but also because the State was investing more money in building prisons than in building or incentivizing factories in the free world that would, in turn, employ free world workers.<sup>71</sup> Between 1985 and 1992, Michigan built 23 prisons.<sup>72</sup> By 1998, there were forty-one correctional institutions and fifteen prison camps in the state.<sup>73</sup> In the three-year period from 1985 to 1988 alone, the state opened nine new facilities.<sup>74</sup> Thereafter,

66. MICHIGAN STATE INDUSTRIES, *History of Michigan Prison Industries*, <http://www.michigan.gov/msi/0,4642,7-174-23878-65447--,00.html> (last visited Oct. 20, 2014).

67. *Id.*

68. Stephen P. Dresch & Micheal D. LaFaive, *Michigan State Industries Needs Competitive Contracting*, MACKINAC CENTER FOR PUB. POL'Y (Jul. 15, 2002), available at <http://www.mackinac.org/4476>.

69. MICHIGAN STATE INDUSTRIES, *supra* note 66; see generally *PIECP Partnerships*, MICH. DEPT. OF CORRECTIONS, [http://www.michigan.gov/msi/0,4642,7-174-59000\\_59003-271940--,00.html](http://www.michigan.gov/msi/0,4642,7-174-59000_59003-271940--,00.html) (last visited Oct. 20, 2014).

70. *Motor City's Woes Extend Beyond Auto Industry*, NBCNEWS.COM (Dec. 20, 2008, 6:56 PM), [http://www.nbcnews.com/id/28327490/ns/business-stocks\\_and\\_economy/t/motor-citys-woes-extend-beyond-auto-industry/#.UanCP5xN8pk](http://www.nbcnews.com/id/28327490/ns/business-stocks_and_economy/t/motor-citys-woes-extend-beyond-auto-industry/#.UanCP5xN8pk).

71. CITIZENS RESEARCH COUNCIL OF MICH., *supra* note 27, at 14.

72. *Prison Expansion in Michigan: A Brief History*, CITIZENS ALLIANCE ON PRISONS & PUB. SPENDING 2 (Mar. 5, 2013), available at <http://www.capps-mi.org/wp-content/uploads/2013/03/5.-Prison-expansion-in-Michigan-history.pdf>.

73. CITIZENS RESEARCH COUNCIL OF MICH., *supra* note 27, at 14.

74. *Corrections*, MICHIGAN IN BRIEF (April. 1, 1998), available at <http://www.michiganinbrief.org/edition06/text/issues/issue-16.htm>.

Michigan authorized the construction of an additional eleven adult facilities and three prison camps.<sup>75</sup> Without question, the cost to build so many new facilities shifted Michigan's budget priorities considerably after the 1960s. Indeed, after 1971, prison expenditures grew from two percent of the state general fund budget to twenty-three percent.<sup>76</sup>

Although the rise in Michigan's incarceration rate cost Detroiters jobs, private corporations benefitted enormously. Increasingly, private companies sought to profit from Michigan's prison-building boom by offering to build and run correctional facilities. The Wackenhut Corporation opened the Michigan Youth Correctional Facility in 1999 and then built the Bellamy Creek facility at a cost of \$447 million.<sup>77</sup> Not only did private prison companies profit from getting the contracts to build prisons, but the largest of them, the GEO Group, sought and won recognition as a so-called "Real Estate Investment Trust."<sup>78</sup> Since it "derives at least 95 percent of its gross income from real estate-related sources," GEO Group was required to pay zero dollars in federal and state corporate taxes.<sup>79</sup>

## 2. *Green Flight*

The fact that private companies could profit off of prison population growth mattered. In short, private companies therefore had a direct interest in how justice policy was made in the State of Michigan. The more punitive the policy, the more prison beds would need to be built and, of course, more Detroiters would be arrested to fill those prison beds. Notably, private prison companies such as the GEO Group, as well as Corrections Corporation of America, are active members of the lobbying organization, American Legislative Exchange Council (ALEC), which has been instrumental in promoting bills that increasingly criminalize urban residents of cities such as Detroit.<sup>80</sup> Some of these

---

75. *Id.*

76. *Prison System Reform and Cost Savings Opportunities*, THE CENTER FOR MICHIGAN (Nov. 29, 2010), [http://corrections.crcmich.org/SNYDER\\_TRANSITION\\_MEMO\\_FINAL\\_11\\_29\\_10.pdf](http://corrections.crcmich.org/SNYDER_TRANSITION_MEMO_FINAL_11_29_10.pdf).

77. *Prison Expansion in Michigan: A Brief History*, *supra* note 72.

78. Christopher Petrella, *The Legacy of Chattel Slavery: Private Prisons Blur the Line Between Real People and Real Estate With New IRS Property Gambit*, TRUTHOUT (Feb. 4, 2013, 12:00 AM), <http://truth-out.org/news/item/14255-the-legacy-of-chattel-slavery-private-prisons-blur-the-line-between-real-people-and-real-estate-with-new-irs-property-gambit>.

79. *Id.*

80. THE CENTER FOR MEDIA AND DEMOCRACY, *How Are ALEC Corporations Interfering With Our Criminal Justice System*, available at <http://alecexposed.org/w>

policy initiatives include bills intended to increase time for drug offenses, to treat juveniles as adults, to make it a felony to steal from certain retail establishments regardless of the value of the stolen items, to add penalties to thieves who use the emergency exit of a retail facility when departing the store, and to erect barriers to various community-based correctional programs that might decrease the numbers of offenders sent to prison.<sup>81</sup>

Building more prisons in Michigan's Upper Peninsula not only took jobs and future factories from Detroit and incentivized the further criminalization of city spaces, it also altered who in the State would be able to feed their families and who would not. In short, as factory work in the City of Detroit disappeared, jobs for corrections officers in Michigan's hinterlands increased dramatically. By 2013, Michigan had hired more than 12,000 corrections officers and countless other employees to service the state's myriad of penal facilities in ways ranging from food and janitorial services to bookkeeping and grounds keeping.<sup>82</sup> Today, one out of every three State employees works for Michigan's correctional system.<sup>83</sup>

Detroiters paid another much more insidious price for the nation's embrace of mass incarceration other than losing jobs and workplaces to other areas of Michigan. Since the census counts prisoners where they are incarcerated rather than where they are from<sup>84</sup>, incarceration shrank the number of people that Detroit could count as residents for census purposes. As a result, the Motor City lost countless other resources that it would have received from the state to cities and counties that house a prison. In 1970, Detroit's population measured 1,514,063,<sup>85</sup> but by 2010,

---

/images/e/e5/ALEC\_on\_Guns%2C\_Crime%2C\_and\_Prisons.pdf (last visited Oct. 20, 2014).

81. *Id.*

82. BUREAU OF LABOR STATISTICS, MAY 2013 STATE OCCUPATIONAL EMPLOYMENT AND WAGE ESTIMATES: MICHIGAN, [http://www.bls.gov/oes/current/oes\\_mi.htm](http://www.bls.gov/oes/current/oes_mi.htm) (last visited Oct. 20, 2014).

83. ELIZABETH ALEXANDER, AM. CIVIL LIBERTIES UNION, MICHIGAN BREAKS THE POLITICAL LOGJAM: A NEW MODEL FOR REDUCING PRISON POPULATIONS (Nov. 2009), *available at* [https://www.prisonlegalnews.org/media/publications/aclu\\_national\\_prison\\_project\\_michigan\\_prison\\_population\\_reduction\\_report\\_2009.pdf](https://www.prisonlegalnews.org/media/publications/aclu_national_prison_project_michigan_prison_population_reduction_report_2009.pdf).

84. Nancy Scola, *Making Prisoners Count*, THE AM. PROSPECT (Oct. 22, 2012), <http://prospect.org/article/making-prisoners-count>.

85. *Demographic Index and Trends Report*, DETROIT REC. DEPT. (Jun. 10, 2005), *available at* <http://www.detroitmi.gov/Portals/0/docs/recreation/pdf/PDF%20files/Demographic%20Report/Demographic%20Report.pdf>.

it had shrunk to 713,777.<sup>86</sup> Although many have attributed this dramatic loss of people to white flight and deindustrialization, too few have understood that high rates of incarceration also contributed to this marked decline. Such population loss mattered a great deal to City residents left behind considering that in the last census year alone, 10,000 incarcerated Wayne County residents (overwhelmingly from Detroit) were counted in other counties.<sup>87</sup> As importantly, each of those persons not counted in the Detroit census would have brought approximately \$10,000 to the City in the next ten years “for schools, roads, hospitals and social service programs like Medicaid.”<sup>88</sup>

Ultimately, Detroit suffered much economic fallout from a now almost five-decades long War on Crime, and if we really are to understand the dire fate of this City, we must understand the hidden as well as visible costs of the dramatic punitive turn we took as a nation in the wake of the Civil Rights Sixties. This turn eventually left cities like Detroit in utter shambles with entire neighborhoods abandoned, jobs gone, and scores of children orphaned and living in historic levels of poverty, their hopes at escaping through education thwarted by schools that now more resemble prisons than institutions of learning.

### III. WHY HASN'T DETROIT CHANGED THIS?

This, of course, leads us to a crucial question. If this is all so bad, then why haven't poor Detroiters been able to undo this system that is clearly so devastating to them? Indeed a real question arises as to why a carceral state that is so costly and so clearly discriminatory is not simply voted out. Why do state legislators keep funding prisons? Why don't politicians feel the need to speak out on behalf of those who suffer so much from such a bloated criminal justice system—one that maintains its size despite such low rates of crime?

The answer to this question, most ironically, is located in the very fact that the carceral state has become so large. In short, the very process of creating the nation's largest and most powerful law and order state *itself* made it structurally impossible for those most victimized by that same carceral state to dismantle it. Indeed, in ways specific and quantifiable, the mass incarceration of the later 20th century would eventually weaken the voting power of Americans of color in the United

---

86. Kane Farabaugh, *Detroit Population Drops Dramatically in Latest Census*, VOICE OF AMERICA (Mar. 22, 2011, 8:00 PM) <http://www.voanews.com/content/detroit-population-drops-dramatically-in-latest-census-118535489/163525.html>.

87. *Id.*

88. *Id.*

States while simultaneously strengthening the voting power of whites and, thus, it gave a degree of political power to American whites that they had not enjoyed so disproportionately since before the Civil War.

### *A. Disenfranchisement*

The most direct and obvious mechanism by which African American voting power was weakened by mass incarceration was legislation, some that dated to the 19th century and some passed after 1970, that barred Americans convicted of a crime from exercising their right to vote. The most significant legal decision leading to the unprecedented disfranchisement of current and former inmates was handed down by the U.S. Supreme Court in 1974 in the landmark case, *Richardson v. Ramirez*.<sup>89</sup> Indeed, in the wake of the decision, states across the country set about passing laws that disproportionately disfranchised African Americans voters. Any Detroiters convicted and sentenced for a crime who was in a correctional facility was barred from voting, and it made no difference if they were incarcerated for a federal or a state offense nor if they had been convicted and sentenced in another state. In fact, even if one is confined for a misdemeanor infraction in Michigan, one loses the right to vote.<sup>90</sup> In addition, Detroiters “under house arrest, on a tether, or in a work release program” were similarly barred from the polls.<sup>91</sup>

By the year 2000, 1.8 million African Americans had been barred from the polls because of disfranchisement laws and, notably, their votes were not counted in that year’s hotly contested presidential election. In the 2004 presidential election, ten states had African American disenfranchisement rates above fifteen percent, and that fact clearly figured into the outcome of that presidential contest as well.<sup>92</sup> By 2006, 48 out of 50 states had passed disfranchisement laws and, with more than 47 million Americans (1/4 of the adult population) having criminal records by that year, the possibility of shrinking or modifying or even

---

89. *Richardson v. Ramirez*, 418 U.S. 24 (1974).

90. *Felon Voting Pros and Cons*, PROCON.ORG., <http://felonvoting.procon.org/view.resource.php?resourceID=286#misdemeanor> (last visited Oct. 20, 2014).

91. *City Clerk*, BATTLECREEKMI.GOV, [http://www.battlecreekmi.gov/City\\_Government/Departments/City\\_Clerk.htm](http://www.battlecreekmi.gov/City_Government/Departments/City_Clerk.htm) (last visited Oct. 20, 2014). “Confinement is defined by Michigan Department of Prisons for the purpose of voting as incarcerated in jail or prison, under house arrest, on a tether or serving in a work release program.”

92. *Felon Disfranchisement by State*, FAIRVOTE2020.ORG (Mar. 11, 2008), <http://www.fairvote2020.org/2008/03/felon-disenfranchisement-by-state.html>.

reconsidering the War on Crime via the democratic process was seriously undermined.<sup>93</sup>

### *B. Distorting Democracy Via the Census*

It is also important to note that the poorest, most devastated areas of Detroit are unable to force a rethinking of the War on Crime, and its ugly byproduct of mass incarceration, via the political process for another reason that is also structurally tied to the growth of such a large carceral state. The way that the U.S. Census calculates population also rendered them politically impotent. Again, the U.S. Census allows counties that house prisons to count inmates as residents for the purposes of census population. We have already seen how this practice has cost the city of Detroit needed resources, but, just as important, it has also robbed it of needed representation in the political arena. Indeed, even though prisoners housed in counties well away from the Motor City that uses their bodies to pad their districts, these incarcerated men and women cannot themselves vote. In a method that resonates in deeply disturbing ways with the era of slavery, when one African American body translated into 3/5 of a white person for the purposes of political representation, today one inmate from Detroit gives one resident of a prison county extra political power as well.

So, how did this actually play out? Via record rates of incarceration, as Wayne County, and overwhelmingly Detroit, was losing its residents for the purposes of defining and populating political districts, prison-holding counties such as Chippewa, Ionia, and Jackson Counties each gained more than 4,000 residents for these same purposes. According to the Prison Policy Initiative, "In Chippewa and Luce Counties, 12 to 13% of the county's population is not a resident or there by choice: They are incarcerated in a state prison."<sup>94</sup>

In fact, according to vital research conducted by the Prison Policy Initiative, four state senate districts in Michigan drawn after the 2000 Census (districts 17, 19, 33, and 37) met federal minimum population requirements only because they claim prisoners as constituents. As its research analysts point out, senate districts are supposed to contain about 261,528 residents, but the 17th and 33rd districts alone each are

---

93. REPORT: VOTING WITH A CRIMINAL RECORD, AM. CIVIL LIBERTIES UNION (Oct. 1, 2008), available at <http://www.aclu.org/racial-justice-voting-rights/voting-criminal-record-executive-summary>.

94. Peter Wagner, *How Census Bureau Counts Prisoners Undercounts Michigan's Cities*, PRISON POL'Y INITIATIVE (Apr. 5, 2004), available at <http://www.prisonersofthecensus.org/news/2004/04/05/michigan/>.

comprised of more than 7,000 prisoners rather than “real” residents of these areas of the state. Likewise, five house districts drawn after the 2000 Census (districts 65, 70, 92, 107, and 110) also meet their minimum population requirements only because they claim prisoners as constituents.<sup>95</sup>

#### IV. CONCLUSION

If we really want to understand Detroit—what happened to this place where the American Dream used to be a reality for so many, and where so many important battles for civil rights and greater racial justice were fought and won—we need to think much harder than we have about the massive War on Crime that this nation launched with such zeal beginning in 1965. In short, this very war undid the crucial strides that Detroit had made when it finally desegregated its schools, its police department, and its places of work. Indeed, countless victories of the tumultuous civil rights era were ultimately undone by the rise of a massive carceral state and the realities of mass incarceration.

If the nation is serious about revitalizing cities like Detroit, it must stop blaming the process of suburbanization and the realities of deindustrialization alone for its current state. It must begin a new process—that of dismantling the world’s largest and most punitive carceral state, because Detroit suffers most today from its size and continued growth. If we are serious about building a stronger future for all Americans, not just those who live in the city of Detroit, then we must stop this War on Crime that has already defeated and marginalized so many of the poorest, blackest and brownest amongst our citizenry before every city in America is what Detroit is today—ravaged and scarred.

---

95. *Prison Based Gerrymandering in Michigan*, PRISON POL’Y INITIATIVE (Feb. 15, 2013), available at <http://www.prisonersofthecensus.org/factsheets/mi/MI-prisongerrymandering.pdf>.

