

CRACKED UP SENTENCING: THE
ESTABLISHMENT AND MAINTENANCE OF
DISCREPANCIES IN FEDERAL COCAINE
SENTENCING STRUCTURES IN THE 1980's AND
1990's

By

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Abstract:

During his tenure in office, Ronald Reagan mounted a punitive war against drug use in the United States. This crusade included the vast sentencing discrepancy between powder and crack cocaine, which is the focus of this study. Despite their identical chemical makeup, it took 500 grams of powder cocaine to warrant a minimum five-year sentence and only five grams of crack cocaine to trigger the same sentence. Misconceived notions that crack cocaine was instantly addictive, incited violence among its users, and preyed disproportionately on the young and poor drove politicians to set mandatory minimums for crack cocaine 100 times harsher than powder cocaine. Lawmakers assumed drug criminals contained an innate deviance or criminality, which drove them to their drug use, justifying these harsh penalties and the lack of empathy extended to these so-called criminals. However, an examination of psychological studies on drug use and abuse reveal that emotional deregulation and trauma are common predictors of drug abuse. Interviews with incarcerated women underscore these findings, as many of these women—convicted of non-violent drug crimes—identify their use of drugs as a coping mechanism rather than an exercise in social deviance. Using psychological and sociological studies in conjuncture with testimonies of incarcerated women, this study seeks to combat these notions held by lawmakers to demonstrate the inherent flaws of Reagan’s drug war. Similarly, this study looks to rap lyrics of the 1980 and 1990s as a cultural lens into the communities most negatively affected by the drug war. In tracing the cultural history of these communities, the necessity of this study is revealed as it exposes the human casualties of the drug war. The choice to highlight crack cocaine sentencing rather than examine the war on drugs writ large is done to examine the deliberations and choices of lawmakers in their policy decisions and attempt to locate culpability for the mass incarceration crisis. Doing so reveals that biased police practices more so than the laws they enforce are responsible for the disproportionate number of incarcerated Black Americans; law enforcement officials, however, cannot be held fully responsible as President Reagan, Clinton, and Congress all worked dutifully to ensure that individuals convicted of drug crimes remained in prison for years on end rather than enter into treatment programs.

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CHAPTER I

INTRODUCTION

Kemba Smith was arrested on charges of conspiracy to distribute crack cocaine and sentenced to serve twenty-four years in a federal prison with no chance of parole. At the time of her incarceration she was pregnant with a baby boy whom she gave birth to while in federal custody. When the nurse placed the new born in Smith's arms, she immediately fell in love. As she gazed at her son, trying to memorize every inch of him and enjoy the bliss of the moment, a federal marshal interrupted the joy. Smith recalls,

As my mind flipped through a series of carefully selected memories, a knock at the door interrupted everyone's moment of joy. A tall, stern federal marshal marched into the hospital room and ruined everything. He seemed furious that my family was in the room with me, and immediately began to tell the county officers what they need to do in order to maintain the highest level of security as far as I was concerned.

"What are all of these people doing in here?" he demanded. "She is a federal prisoner and is going away for a long time. There are to be no visitors in here! No phone calls, no flowers, no family, no visitors whatsoever!"

He lifted the flowers my dad bought me and threw them into the trash. He then continued to look around the room, and suck his teeth in disgust.

"Her hands and her legs need to be shackled at all times," he instructed.¹

¹ Kemba Smith, *Poster Child: The Kemba Smith Story*, (Indianapolis: IJB Book Publishing), 2011, 16

Smith was not a crack dealer, nor was she a crack user. In fact, her arrest was not truly about her involvement in the illegal drug market but about apprehending her boyfriend, Peter Hall. Indeed, upon her arrest Smith was not questioned on her own activities but solely about Hall and his acquaintances. However, Hall had prepped Smith for just this occasion. Throughout their abusive relationship, Hall constantly reminded Smith not to say anything to the authorities about himself or his friends, insisting that Smith had done nothing wrong and would not be incarcerated. Tragically, the federal prosecutors had a different view point than Hall. Smith's story is emblematic of so many caught in the snares of the drug war. Like many women incarcerated for drug crimes, they were mere pawns in a larger chase for high profile drug criminals. Despite their nonviolent crime, however, they were treated with the same degradation and lack of empathy as violent criminals.

Today, one in three African American males will go to prison in his lifetime. The statistics for Black women are hardly any better; one in sixteen will be incarcerated in her lifetime.² Alone, these numbers are troubling, but are made even more upsetting when one realizes that African Americans are ten times more likely to go to prison than White Americans.³ This problematic reality has inspired scholars to investigate the origins of this racial discrepancy. To fully understand the modern phenomenon of mass incarceration, it is necessary to understand the United States' fraught legacies of race and racism. Put another way, in investigating the origins of mass incarceration, one cannot

² Bureau of Justice Statistics, "Key Statistic: Incarceration Rates," *www.bjs.gov*

³ *Ibid.*

separate the disproportionate incarceration of Black Americans from America's history of slavery, racism, and oppression.⁴

The oppressive Jim Crow laws that sought to limit the advancement of people of color remained the law of the land until the 1960s. The 1960s and 1970s saw a swell in minority groups demanding equal treatment in the United States and a public fight against Jim Crow. While African American oppression often gets the most publicity, it is important to note that the United States extended oppression amongst all people of color. Indeed, Latino, Native, Asian, and African American groups increased their activism throughout these decades and gained much needed public attention. The common thread of these groups was a desire to dismantle or upset the White power structure in the United States and bring an end to the many injustices these groups had been subjected to. These various movements represented a major problem for the existing system of power and frightened many White citizens, who benefitted from the system of white supremacy throughout United States history.

This anxiety created a desire among middle class White Americans to return to traditional family values. Sensing this want, Richard Nixon chose to capitalize on the chaotic atmosphere and famously called for a return to law and order during his 1968 Presidential campaign. Included in this law and order was an all out war on drugs.⁵ During his five-year tenure as president, Nixon only passed a handful of laws—enhancing penalties for drug crimes, which suggests that Nixon's war on drugs was never

⁴Khalil Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge, MA: Harvard University Press) 2011, 14.

⁵ Nixonland

truly about reducing drug use at all. Indeed, an aide to the Nixon Administration recently came forth and revealed that the war on drugs was actually nothing more than an attempt to incarcerate vocal left wing opposition, including young people who identified with the counter culture, stating, “Nixon...had two enemies: the antiwar left and black people... We knew we couldn’t make it illegal to be either against the war or black, but by getting people to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could... vilify them night after night on the evening news.”⁶ Consequently, historical discussions on the war on drugs must differentiate Nixon’s drug war from his successors. The Nixon drug war had blatantly discriminatory intentions, while his predecessors did not. Moreover, while Nixon first called for a war against drug abuse, it was Ronald Reagan who truly mounted an all out war on drug use in the United States.

The historiography on the war on drugs and mass incarceration is a new but quickly growing field. Historians, such as Elizabeth Hinton and Julie Kohler-Hausman, look to the policies of Lyndon Johnson as preparing the way for the war on drugs. They maintain that his militarization of urban police forces, which coincided with his war on poverty, enabled that massive amounts of arrests that led to the growth of the United States’ prison population.⁷ Michael Fortner examines the preceding decade and the Rockefeller drug laws in the state of New York. Fortner identifies the bi-partisan efforts

⁶ Hilary Hanson, “Nixon Aide Admitted Drug War Was Mean To Target Black People,” [Huffington Post](#), March 22, 2016.

⁷ Elizabeth, Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America*, (Cambridge, MA: Harvard University Press) 2016.; Julilly Kohler-Hausmann, “‘The Attila The Hun Law’: New York’s Rockefeller Drug Laws and the Making of a Punitive State,” *Journal Of Social History* (Fall 2010): 71-95.

made in the drug war and most notably, several Black public figures that fought for harsh penalties.⁸ Many scholars deride Fortner's work by accusing him of blaming Black Americans for creating the mass incarceration crisis themselves. Donna Murch is one of those vocal critics. In her own work examines the racial consequences of crack cocaine sentencing structures and the militarization of the Los Angeles Police Department.⁹

Building on this scholarship concerning the drug war's relationship to the modern mass incarceration crisis, this work examines the racial, social, political, and economic consequences of crack cocaine sentencing structures during the 1980s and 1990s. Focusing on the establishment of these severe penalties at the federal level, this study begins with Ronald Reagan's escalation of the war on drugs early in his presidency. It outlines the processes by which the Reagan Administration cultivated a mindset in the United States that praised tough punishments for drug criminals, the passage of 100/1 crack cocaine ratio, and the Sentencing Commission's attempts to remedy the unduly harsh discrepancies in federal cocaine sentencing. While tracing the establishment of the 100/1 sentencing disparity, it is clear that the implementation of the unduly harsh penalties for crack cocaine were based not on factual data but on racist anecdotal evidence. Misconceived notions that crack cocaine was instantly addictive, incited violence among its users, and preyed disproportionately on the young and poor drove politicians to set mandatory minimums for crack cocaine 100 times harsher than its chemically identical drug, powder cocaine. For example, one *Washington Post* writer

⁸ Michael Fortner, *The Black Silent Majority: The Rockefeller Drug Laws and the Politics of Punishment* (Cambridge, MA: Harvard University Press) 2015.

⁹ Donna Murch, "Crack in Los Angeles: Crisis, Militarization, and Black Response in the Late Twentieth-Century War on Drugs," *Journal of American History* (June 2015): 162- 173.

claimed “The effect of crack is so instantaneous and devastating that a kid can buy his first sample in the morning and be an addict by the afternoon.”¹⁰ However, before the implementation of the 100/1 sentencing disparity, the Reagan Administration first mounted a massive media campaign to earn public support for their drug war. Unfortunately, this drug war was based on a series of misconceptions about drug abuse and did not truly address the problems that drove individuals to drugs. Instead, it sought to criminalize these individuals.

Focusing on the implementation of sentencing structures for just two drugs rather than the war on drugs as a whole allows for the pointed understanding of politicians’ decisions regarding drug policy. In studying emails, memos, and other correspondences, one can identify the justifications made for what quantities trigger a mandatory minimum sentence. This micro approach also enables a study of the discussion concerning mandatory minimums. Such an investigation reveals the different quantities suggested for mandatory minimums, the reasoning behind those choices, and disagreements among politicians on the best course of action. A focused analysis of these discussions exposes the attention to detail of politicians concerning drug laws—or lack thereof—, which in turn unveils the priorities of lawmakers concerning drug abuse. This understanding of the primary concerns of elected officials helps to identify their goals in passing harsh drug legislation. Understanding the goals of politicians influence the understanding of their policies and the effects of their policies. It is through this complicated cause and effect chain that one can assign culpability for the devastating effects of the war on drugs. A dual study at the oppressed communities of this time underscores these observations, as

¹⁰ Bruce Baskett, “Worse Than Heroin” Washington Post, May 28, 1986.

many rap and hip hop artists sought to expose the priorities of politicians and law enforcement officials alike. However, cultural biases led many to turn a deaf ear to these musicians and allowed for a continuation of the oppressive nature of the war on drugs.

This study argues that while Nixon's war on drugs was explicitly designed to be oppressive toward racial minorities and left wing opposition, President Reagan and First Lady Nancy Reagan seem to have truly been trying to eradicate drug use, while simultaneously seeking an avenue to earn political points with the public. However, these efforts cannot be separated from the nation's history of racial oppression, and that legacy of racialized systems of subordination colored the negative effects of Reagan's drug policies. The influence of this historic racism is most clearly revealed through the implementation of the harsh penalties for crack cocaine and the lack of research done before setting mandatory minimum sentences for the drug. The misplaced fear and anxiety generated by the emergence of crack cocaine was not based on empirical evidence but anecdotal evidence that preyed on racialized fears within the American public.¹¹ This historical racism was revealed again in White mainstream America's response to the rising popularity of rap and hip hop music during the 1980s and 1990s that protested the effects of the drug war on racial minorities. Seeking to draw attention to problems in their communities concerning drug use and violence, these artists wrote lyrics that attempted to expose the racism still present in the United States in the way of police practices and the war on drugs. However, politicians and civilians alike refused to

¹¹ Special Report to Congress: Cocaine and Federal Sentencing Policy, United State Sentencing Commission, February 1995, bound, box 8, Deanne Benos, Domestic Policy Council, White House Staff and Office Files, v; Special Report to Congress: Cocaine and Federal Sentencing Policy, United State Sentencing Commission, 1997, folder: Drugs: Crack Cocaine Sentencing [2], Leanne Shimabukuro, Domestic Policy Council, 6.

grant credibility to these musicians and accept their complaints as fact, highlighting the fact that their motivations in passing harsh drug laws were not entirely pure.

This study makes two important historiographical contributions to scholarship on the war on drugs and mass incarceration. First is the inclusion of rap and hip hop lyrics as a window into the African American community's response to the war on drugs. Using these lyrics allows for an understanding of the war on drugs and mass incarceration from the perspective of the oppressed. It also locates agency on the part of a people too often cast simply as victims of white supremacy. Given the lack of Black voices found in the Presidential archives, this inclusion of lyrical matter is necessary to bring the Black narrative into this story. This cultural history also serves as an example of contemporary voices that combatted the notions held by many politicians, in that the war on drugs was failing in its goals to eradicate drug use and instead victimizing large amounts of people of color. It also demonstrates that many failed to take these artists' complaints seriously and act to combat the problems these communities faced, indicating a lack of concern for the trials of poor communities of color. Second is an explanation of how Congress established the 100/1 sentencing discrepancy between powder and crack cocaine. The explanation of the establishment of the 100/1 disparity fills an important gap in the historiography by examining the choices and motivations of politicians in their quest to harshen drug laws in the United States. The Anti-Drug Abuse Acts of 1986 and 1988 set the mandatory minimum sentencing for anyone carrying just five grams of crack cocaine or five hundred grams of powder cocaine at five years in prison despite the identical chemical make-up of the two drugs. The stark difference in drug quantity needed to trigger the same prison sentence was made more ominous by the fact that Black

Americans were convicted of crack charges far more often than White Americans despite the fact that they consumed the drug in higher numbers.¹²

Just as emerging rap and hip hop artists reveal truths about the plight of African American men during the rise of the carceral state, it is important to also examine the experiences of African American women. While similar in many ways, there was a qualitative difference in the experiences of Black men and women during this time. For all the oppression that African American males faced, Black women battled that same racism and hate as well as deep misogyny and sexism. Indeed, gender subordination exacerbated the overwhelming challenges that African American women faced. Speaking of the plight of Black women, Malcolm X stated, “The most disrespected woman in America, is the black woman. The most unprotected person in America is the black woman. The most neglected person in America is the black woman.”¹³ Accordingly, this study includes perspectives from both Black men and women so that there is a fully rounded narrative of those not only caught in the snares of the drug war, but also those who triumphed over it. To understand the experiences of African American women, this study will turn to interviews with incarcerated women.

Bringing together the decisions of federal policy makers with the experiences of African American men and women attempts to produce a comprehensive examination of a particular set of policy initiatives and their effects on individuals of the era. This compilation highlights the ways in which the drug war failed in its aims of bringing drug

¹² United States Department of Health and Human Services, National Institute on Drug Abuse, *National Household Survey on Drug Abuse: 1988 Population Estimates*, Rockville, MD, 1989.

¹³ Malcolm X, “Who Taught You to Hate Yourself?” in *Malcolm X Speaks: Selected Speeches and Statements* (New York City: Grove Press) 1994, 56.

abuse to an end and instead victimized vast amounts of people of color. Reflecting on her experiences in the prison system Kemba Smith writes, “More and more, I was starting to see how the lives of inmates—institutionalized slaves—are devalued.... Again, I was forced to ask, *is this what the federal government calls correctional?*”¹⁴ Smith’s observation encapsulates the central problem scholars are confronting in the study of the carceral state. Why have policies that were established in the hopes of making the nation safer had such negative effects on poor people of color, and why are the accusations made against the criminal justice system so often dismissed.

¹⁴ Smith, *Poster Child: The Kemba Smith Story* 248.

CHAPTER II

AM I VICTIM OF THE THINGS I DID TO MAINTAIN?

The growth of the middle class following World War II and the subsequent migration of White Americans from the inner city to the suburbs created a sobering reality for the inner city, now largely inhabited by minorities. This flight was much more than just the relocation of people; it also resulted in a grand loss in economic opportunity for individuals still living in city centers. Indeed, after this migration many manufacturers and factories decided it was in their best economic interest to follow the wealth and prosperity out of the inner city and into the suburbs. As Sam Staley notes, “many sectors [chose] to move out of the central city altogether.”¹⁵ These low skill jobs that provided a majority of the employment base for the poor urban community began to be replaced by service industry jobs—which offered little in the way of economic advancement—and information processing jobs—which required more education and specified skills than manufacturing jobs. So while there were jobs in the inner cities, they were not prime opportunities for the urban poor, who either lacked the skills for the job or hoped for greater economic opportunity that was simply not available in these options.¹⁶

¹⁵ Sam Staley, *Drug Policy and the Decline of American Cities*, London: Transaction Publishers, 1992, 14.

¹⁶ Ibid. Clarence Lusane, and Dennis Desmond, *Pipe Dream Blues: Racism and the War On Drugs*, Boston, MA: South End Press, 1991; Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of the United States*, New York: Oxford University Press, 1985;

This economic decay of the inner city was inextricably linked to the rise of the informal economy within city centers. Staley defines informal economic activity as, “transactions and exchanges that take place outside of the legal system or legal institutions.”¹⁷ This informal economy was not only limited to drug dealing, it also manifested in a cash for services system. These informal business operated similarly to the larger licit economy, except they were not registered with the government and subsequently did not follow the government’s guidelines. The rise of this informal economy can be best understood as an effort on behalf of these economically depressed communities to cope with their limited economic opportunity.¹⁸ Members of these populations, due to this economic stratification, were often socially isolated from the mainstream society and, by extension, white middle-class mainstream social values. Due to this social isolation and dependence on the informal economy, the inner city turned away from the rule of law, which Staley characterizes as “the arbitrary will of men acting irrespective of the bounds of important social, political, and economic institutions. This activity consists of any action directed primarily by the will and interests of individuals or well-organized interest groups.”¹⁹ The rejection of the rule of law gave way to the acceptance of the rule of man, which is determined “through force rather than through the social evolution of complex orders.”²⁰

The economic decline of the inner cities was a central component to the rise of the drug economy in the inner cities and provided policy makers the justifications needed to mount their drug war. Scholars maintain that drug dealing is most often a choice made out of economic

¹⁷ Staley, *Drug Policy and the Decline of American Cities*, 18

¹⁸ *Ibid*, 20.

¹⁹ *Ibid*, 56.

²⁰ *Ibid*.

necessity.²¹ Indeed, one study found that McDonalds paid its inner city employees an average of one dollar less than its suburban counterparts.²² This reveals that many of the economic opportunities within the legal economy in the inner city offer little to no upward mobility. Subsequently, these individuals turn to the drug market as a way to support themselves. This can be best understood as an effort made by these individuals to escape the cycles of poverty they were born into. Indeed, one study found that more than two-thirds of drug dealers do not use drugs themselves; that same study also found that the illegal narcotics industry was the one of the largest employers of Black youth—if not the largest.²³ While these individuals are attempting to move through the social classes and out of poverty, their actions have an increasingly negative impact on their communities. The clearest example being the violence within these neighborhoods. Scholars maintain that violence is central to the drug market. It is the means by which order and hierarchies are maintained.²⁴ This violence and the breakdown of the rule of law within inner city communities were the rallying cries for policy makers to bring back law and order. However, rather than address the underlying economic issues that created these problems, policy makers sought to address the symptoms—namely drug use and drug dealing.

The turn to rule of man over the rule of law has had deeply entrenched negative impacts on communities of color. Indeed, one study found that 95 percent of inner city minority populations have been exposed to trauma, which was 20 percent higher than the national

²¹ Lusane, and Desmond, *Pipe Dream Blues: Racism and the War On Drugs*, 78; Staley, *Drug Policy and the Decline of American Cities*; Challenges of Crime.

²² Staley, *Drug Policy and the Decline of American Cities*, 180.

²³ Lusane, and Desmond, *Pipe Dream Blues: Racism and the War On Drugs*, 80.

²⁴ *Ibid.*; Staley, *Drug Policy and the Decline of American Cities*, 100.

average.²⁵ While scholars continue to study the role of trauma in an individual's emotional development, there are several studies that identify some of its negative effects. One study found that 96.6 percent of individuals with substance use disorders had experienced at least one traumatic event in their lifetime.²⁶ Scholars attribute this correlation to emotional deregulation—which can be understood as an individual's inability to properly “modulate feelings, behaviors, and psychological responses to events that elicit emotion.”²⁷ This emotional handicap leads individuals to develop unhealthy coping mechanisms, which can often be manifested in drug use. Studies also show that exposure to trauma or abuse during childhood are “uniquely predictive of emotional deregulation beyond the effects of adult retraumatization.”²⁸ Trauma is not limited to violent experiences but can also be defined by verbal or emotional abuse. Moreover, one study found that emotional abuse or a negative family environment “was significantly related to substance abuse use above and beyond the effects of physical and sexual abuse.”²⁹ The rise in violence within inner communities undoubtedly paralleled a growing prevalence of emotional deregulation; based upon the findings of the various studies, it can be inferred that many of the individuals using drugs in these communities did so in an attempt to cope with the trauma they experienced as a result of the decaying inner city.

In large part, the war on drugs was an effort to remedy these inner cities problems, but policy makers failed to address the underlying causes of these issues. Early in his presidency, Ronald Reagan declared that he wanted to end drug use in the United States. Despite this

²⁵ Amar Mandavia, Gabriella G. N. Robinson, Bekh Bradley, Kerry J. Ressler, and Abigail Powers, “Exposure to Childhood Abuse and Later Substance Use: Indirect Effects of Emotion Dysregulation and Exposure to Trauma,” *Journal of Traumatic Stress*, (October 2016): 423.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

inability to accomplish this goal, the Reagan Administration praised themselves for the gains they did make. In a 1984 press release the administration highlighted their progress stating, “In the past four years, we have halted the continuing expansion of drug use which occurred during the Seventies. Although drug and alcohol abuse remain at high levels, the trend is down instead of up.”³⁰ This quote highlights an important paradox within Reagan’s war on drugs in that he simultaneously praised his own actions while insisting that the nation was still in a crisis. Such a paradox reveals the disconnect between the Reagan drug war and the real drug problem in the United States. Failing to truly understand the drug problem in the United States handicapped Reagan’s drug war. Rather than address the underlying issues which resulted in the rise of drug use and violence within the inner cities, the Reagan Administration sought to criminalize drug use. Born out of an essential disconnect and misunderstanding, Reagan’s drug war was built upon two central misconceptions. The Reagan Administration did not understand why individuals used drugs or why individuals entered the drug market. These misconceptions formulated the base on which Reagan built his drug war and explain why it failed.

The most significant misunderstanding of the Reagan Administration was their failure to grasp why individuals turned to drugs in the first place. While the administration clearly could identify markers that gauged the likelihood an individual would turn to drugs in his or her lifetime, they did not base their anti-drug strategy around these characteristics. For example, in the introduction to the high-risk youth section of the National Drug Control Strategy, the Reagan Administration noted that, “substance abusing parents; physical, sexual, or psychological abuse; dropping out of school; pregnancy; economic disadvantage; violent or delinquent acts; mental

³⁰ Summary of accomplishments, folder: Drug Abuse Materials-1986, Collection: David L. Chew Staff Secretary, Box 3.

health problems; suicide attempt; and homelessness” were several, but not all, stressors that gauged an individual’s likelihood of using illegal drugs.³¹ However, rather than address the underlying issues that cause drug use—which they identified—the Reagan Administration chose to punish these individuals as if they were extreme moral deviants putting their quest for the next best high over the safety and security of their community. Indeed, the same document listed the guiding principles for preventing drug use among high-risk youth as “zero tolerance for illegal drug use by high risk youth, and the accountability of individuals, families, and communities for preventing and stopping illegal drug use among high risk youth.”³² Rather than offer solutions that address the issues they identified, the Reagan Administration denied any culpability in the creation or maintenance of these issues and pushed responsibility onto the communities themselves.

It is alarming that the Reagan Administration understood the everyday stressors that lead to drug abuse among high-risk youth yet offered little advice to alleviate these problems. The first objective of the strategy was to “promote accountability for behavior among high risk youth.”³³ This accountability was not in reference to school attendance, mental health, or pregnancy—referring back to the list of causes given by the Reagan Administration—but solely concerning drug use. This accountability also came in the form of punishment rather than counseling, after school programs, or community events. The second objective was to “strengthen high risk families.” This goal listed less problematic courses of action, most of which were community-based programs to teach parents how to stop drug use or intervene when it was

³¹ Toward A Drug Free America: The National Drug Strategy 1988, folder: National Drug Strategy Report Richard Porter, NBC Staff (1 of 6) RAC Box 2, Ronald Reagan Library, 14-15

³² Ibid.

³³ Ibid. 15

already present. It also listed one action that included counseling for the parents of convicted juvenile drug users. The final two objectives offer little deviation in action from the latter. They also emphasized punishment-oriented programs and the dissemination of government produced literature on drug abuse.³⁴

An important aspect of Reagan's drug war was the demonization of the average drug user. Indeed, in a draft copy of the 1986 National Initiative on Drug Abuse the second major theme of the initiative read, "drug users are financing our Nation's suicide."³⁵ The bullet points beneath the aforementioned headline stated that drug abuse was "a threat to national security and public safety" and "eroding the quality of education and the personal development of our young people."³⁶ What the Reagan Administration was attempting to do was to place the blame for all the problems the nation was facing on drug users. The crumbling inner cities, declining education, and national security were somehow all directly linked to the average drug user. Of course, there is no explanation in the document as to how this small population managed to cause such destruction. Effectively, the Reagan Administration was just throwing wild accusations at drug users in an effort to find a scapegoat for the country's prevailing problems.

The average drug user does not have the capacity to cause this much destruction. While there is not an easily accessible profile of the average drug user to calculate their impact on society, studies find that marijuana is the most widely used drug and that a majority of recreational drug users are employed.³⁷ This was the critical disconnect in Reagan's drug war.

³⁴ Ibid. 16

³⁵ National Initiative on Drug Abuse Draft July 8, 1986, folder: Drug Abuse Materials-1986, Collection: David L. Chew Staff Secretary, Box 3

³⁶ Ibid.

³⁷ Henry S. Ruth and Kevin R. Reitz, *The Challenge of Crime: Rethinking Our Response*, (Cambridge, MA: Harvard University Press) 2003, 220

The administration propagated an exaggerated understanding of the average drug user and the number of drug users in the United States. They maintained that drug use was a “serious threat” to the nation because drugs robbed the nation “of the creative genius and labors of so many Americans; it siphons resources from productive use into the coffers of international criminals... it threatens [the nation’s] children just as surely as did the most dreaded disease in the past; it tarnishes American prestige worldwide; and it casts a pall over the future of our children.”³⁸ They also seemed to believe that the number of drug users was much higher than it actually was. Indeed, the most frequently used drug was—and remains to this day—alcohol, a completely legal drug.³⁹ Moreover, statistics from the 1988 National Household Survey of Drug Abuse reveal that the number of drug users did not have the capacity to unravel society from the inside out, as the Reagan Administration suggested. The study found that 36.6 percent of the population had used illicit drugs in their lifetime, 14.1 percent used in the past year, and only 7.3 percent used in the past month.⁴⁰ While a substantial amount of people tried a drug during this time, the regular user made up a very small percentage of the population and did not have the capacity for destruction that the Reagan Administration claimed drug users possessed.

This demonization of the drug user was a central pillar of Reagan’s drug war and to the growing incarcerated population. Just as he had to convince the public that drugs were enemy number one before he could wage a grand war against drugs, Reagan also had to convince the American people that it was not just the drug dealers and kingpins that brought harm into society, but also the average drug user. Indeed, in a draft copy of the 1986 National Initiative on

³⁸ National Drug Strategy, folder: Drug Abuse Materials-1986, Collection: David L. Chew Staff Secretary, 3

³⁹ United States Department of Health and Human Services, National Institute on Drug Abuse, *National Household Survey on Drug Abuse:1988 Population Estimates*, Rockville, MD, 1989.

⁴⁰ United States Department of Health and Human Services, National Institute on Drug Abuse, *National Household Survey on Drug Abuse:1988 Population Estimates*, Rockville, MD, 1989.

Drug Abuse, the Reagan Administration stated that there needed to be a “focus on drug user, not as victim, but as [an] irresponsible member of society.”⁴¹ The administration also used loose logic to convince the American public of the insidious effects of drug use. Reagan’s Secretary of Education, William J. Bennett, stated there were only “three ways for a teenager to support a habit, and none of them is legal. There is theft, there is prostitution, and there is dealing drugs to other kids.”⁴² This statement is false, however. Getting a job or saving allowance were two legal and safe options teenagers had to finance their drug use. The Reagan Administration was trying to scare the American people into supporting their efforts. They wanted the public to associate recreational drug use with the worst-case scenario. By masquerading the average drug user as culpable for society’s ills, Reagan opened the doors for Congress to enact mandatory minimums for simple possession, including the minimum of five years in prison for possession of five grams of crack cocaine.

With the drug user stigmatized as the scourge of society, what then becomes of the drug dealer? If the Reagan Administration threw so much condemnation on the drug user, how much more will the drug dealer receive? One clear difference exists in the Reagan approach to dealers and traffickers: the option of treatment. Throughout the 1988 National Drug Strategy—which outlined the federal government’s efforts to combat drugs for the year 1988—there was an emphasis on increasing the availability of treatment for addicted individuals. The Reagan Administration never listed this as an option for drug dealers. Of course, not all dealers use drugs, but the complete exclusion of dealers from the option of treatment signifies that the

⁴¹ National Initiative on Drug Abuse Draft, July 8, 1986, folder: Drug Abuse Materials-1986 Collection: David L. Chew Staff Secretary Box 3

⁴² Testimony of William J. Bennett Secretary of Education, U.S. Department of Education, Before the House Select Committee on Narcotics Abuse and Control, May 20, 1986, folder: National Drug Enforcement Policy Board Box 14, 9.

Reagan Administration believed that either these individuals were too far gone to help or did not deserve the chance or help to turn their lives around.⁴³

The Reagan Administration also fundamentally misunderstood why an individual entered the illegal drug market. They believed that the “potential profit [was] so seductive that the flow of drugs [continued] in spite of the tremendously increased risks traffickers have born.”⁴⁴ Greed brought these individuals into the drug trade, and that choice needed to be punished. However, many individuals that actively participated in the drug trade were not there by choice but out of necessity. For some, they began dealing drugs to support their own drug habit. Others were brought willingly or unwillingly into the drug market by their significant other, forced to act as mules or carriers for the underground operation. Karen Blakney, convicted of converting powder cocaine to crack cocaine, described her descent into the drug market, “I became addicted to cocaine, but didn’t realize it at first and didn’t want to face it. I felt like I was supporting myself. I was out there selling it and nobody was giving it to me. I started seeing people turning tricks for it, but I never went through that stage.”⁴⁵

For a greater number of individuals, the turn to drug dealing was born out of economic necessity. Unable to find a job in the licit economy, they turned to the underground world of the narcotics trade. While many outsiders viewed this decision as a choice designed to earn the most amount of money in the quickest manner, it was at its core often a decision of desperation.⁴⁶ One example of this is an incarcerated woman named Rae Ann. Rae Ann was a single mother of two

⁴³ Toward A Drug Free America: The National Drug Strategy 1988

⁴⁴ Toward A Drug Free America: The National Drug Strategy 1988, 5.

⁴⁵ Johnson, *Inner Lives: Voices of African American Women in Prison*, (New York: New York University Press) 2003, 168

⁴⁶ Phillipe Bourgois, “In Search of Horatio Alger,” in *Crack in America*. Los Angeles, CA: Univeristy of California Press, 1997.

dependent on a monthly welfare check of \$192. Describing her introduction into the drug market she recalled, “When I was introduced to selling drugs, I saw money. I saw a means to get a whole lot of things that I couldn’t have because I couldn’t work. I was a working person. Honestly, I would have preferred to work. I just felt so discouraged.”⁴⁷ Rea Ann was arrested on 2 counts of distribution of heroin for sale of narcotics, earning her two life sentences—which were eventually reduced to just one life sentence— for possessing just three bags of heroin. Remarkably, Rea Ann never actually sold drugs. As she puts it, “I wasn’t the seller. I was the holder.”⁴⁸ Rea Ann was dating a dealer at the time of her arrest and would hold the drugs for him. For example, if they went out to a club to find buyers, Rea Ann would carry the drugs on her person while her boyfriend conducted the deal. Despite this, Rea Ann was still charged for distributing 3 bags of heroin, which she maintains she never sold.⁴⁹

Also contradictory to the opinion held by the Reagan Administration is Phillippe Bourgois’s theory of “the culture of resistance.” Bourgois argues that

rather than a culture of poverty, the violence, crime, and substance abuse of the inner city can be understood as manifestations of a ‘culture of resistance,’ a culture defined by its stance against mainstream, white, racist, and economically exclusive society. This culture of resistance, however, results in greater oppression and self-destruction. More concretely, resisting the outside society’s racism and refusing to accept demeaning, low-wage, entry-level jobs contributes to the sorts of crime, addiction, and intracommunity violence for which crack has become an emblem.⁵⁰

Within this culture of resistance, there was a pride in avoiding the exploitation of the larger white dominated society within which many of these individuals experienced various abuses and discrimination working minimum wage jobs in the legal economy. The choice to join the illegal

⁴⁷Johnson, *Inner Lives: Voices of African American Women in Prison*, 101.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Bourgois, “In Search of Horatio Alger,” in *Crack in America*, 63-64.

market was more than just an economic decision. It offered “a sense of autonomy, self-worth, and an opportunity for extraordinarily rapid, short-term upward mobility that [was] only too obviously unavailable in entry-level jobs in the licit economy.”⁵¹ Activity in this illicit trade offered a sense of pride to individuals in these communities, as they avoided the mainstream economy and becoming modern day Uncle Toms.

This culture of resistance was an effort to find a place within a country that in large part operates against these individuals. Within mainstream society, these individuals had to change their attitudes, speech, and dress while still facing racism and working demeaning jobs. They were not attempting to operate outside of American society or create a separate economy but to gain a higher status in American society. As Bourgois states, “they are, in true American fashion, frantically trying to get their piece of the pie as fast as possible. In fact, they often follow the traditional U.S. model for upward mobility to the letter: aggressively setting themselves up as private entrepreneurs.”⁵²

For a majority of individuals that participate in the drug market, their involvement did not come as an option they chose over several others. They had no other option. For some poor communities, there were simply no other viable economic opportunities. For the addicted, this was likely the only means of income they could maintain due to their addiction. For others, their significant other forced them to enter the market. Whatever brought them into the market, it was never somewhere they truly desired to be, but they were not given the tools to escape the underground market. Tragically, the Reagan Administration failed to grasp these concepts and instead viewed these individuals as heartless menaces to society.

⁵¹ Ibid. 71

⁵² Ibid. 69

In a draft of the 1988 National Drug Strategy, the Reagan Administration recognized that “America’s drug abuse problem and attendant criminal activity are not sustained principally by the supply of drugs, but by the appetite of some Americans for illegal drugs.”⁵³ They did not establish effective programs with the goal to end the stressors that lead individuals to drug addiction. As Bettie Gibson, daughter of two Mississippi sharecroppers, described her descent into drug addiction, “I started getting curious because it looked like they felt so good, and I just had so much pain. I didn’t like myself. I thought I never would reach my potential. At first the heroin seemed good, and then after I started taking it, I knew my life had become a whirlwind. It was going around and around, going nowhere, like a merry-go-round.”⁵⁴ An inundation of anti-drug posters and commercials would not have lessened Gibson’s desire to eliminate her pain. It may have delayed her descent into drug addiction, but what she truly needed was intense counseling and medication for her bipolar disorder.

A large portion of the Reagan Administration’s efforts in the war on drugs were directed at reducing the demand for drugs. They maintained, “Eliminating the demand for drugs is the key to a drug free future.”⁵⁵ The administration hoped that harsh penalties and severe jail time would prevent individuals from trying illegal drugs. Discussing the role of schools in the fight against drugs, Secretary of Education Bennett praised high school principle Joe Clark for expelling three hundred juniors and seniors for “drug and disciplinary violations.”⁵⁶ Bennett hailed Clark’s actions for sending a message and quoted Clark’s explanation of the situation, “I was not about to let three hundred hoodlums jeopardize the education of three thousand

⁵³ Toward A Drug Free America: The National Drug Strategy 1988, 5.

⁵⁴ Johnson, *Inner Lives: Voices of African American Women in Prison*, 136

⁵⁵ Toward A Drug Free America: The National Drug Strategy 1988, 5.

⁵⁶ William J Bennett, Testimony Before the House Select Committee on Narcotics Abuse and Control, 7.

students.”⁵⁷ While efforts like this did temporarily impede the flow of drugs into a school or neighborhood, it did little to actually reduce the demand for drugs in a community.

At best, punishment oriented drug policies acted to contain the drug problem, not reduce or eliminate it. For Clark, the best-case scenario was the chance that he had found all the dealers in his school and that nobody attempted to take their place. However, too often in the drug market low level dealers, like the three hundred that Clark expelled, were the most expendable parts of any drug ring. They were like the mythical creature Hydra, cut off one head and two more take its place. Too often, there was a pool of young people desperately in need of money that were willing and ready to take the place of those caught by the law. Punishment based policy did not change the world that the customer lived in. These individuals were still subject to the same abuses, stressors, and traumas that led them to use drugs in the first place. The only thing that changed for them was the person who sold them the drugs, and if an individual was a hard core addict, like someone addicted to crack cocaine, they were likely deeply entrenched in a community of drug users and dealers, making it easy to find a new dealer.

In his testimony, Bennett praised the work of another high school principal, Bill Rudolph, for implementing tough policies in his school and the community’s response stating, “The drug crackdown at school was accompanied by a crackdown in the community, initiated by parents. The parents agreed on a curfew. They agreed to chaperone all parties, and to prohibit drinking and drugs. They called on another to check up on children’s whereabouts. And at night they waited up to meet their children when they came home.”⁵⁸ At first glance, this strategy seems very effective, and it was in this community. However, this plan unfortunately does not work in

⁵⁷ Ibid.

⁵⁸ William J Bennett, Testimony Before the House Select Committee on Narcotics Abuse and Control, 10

all communities. For example, poor communities dominated by single parent households who have to work more than one job logistically cannot implement this strategy. There was simply not enough time in the day for less advantaged families to practice this kind of surveillance on their children. So while it is a very effective strategy when employed, it simply cannot be replicated in the communities that need it the most.

While there was little information offered about the three hundred “hoodlums” that Clark expelled, it is important to consider how their expulsions impacted their futures.⁵⁹ It was not specified whether these individuals were dealers or users nor what drug Clark caught them with. These teenagers could have been anything from first time pot smokers to meth dealers. All that is known is that these children were caught and immediately removed from the school. Clark did not offer them a chance to redeem themselves or change their behaviors. He simply kicked them out of school, taking away the most important tool to help students change their lives: an education. Despite all the rhetoric concerned about keeping children off drugs and helping them achieve a brighter future, children lose access to those concerns and help the moment they try drugs. For those setting the penalties in this severely anti-drug climate, the innocent potential victim transformed into a “hoodlum” immediately following their first use of any drug. There was no safety net or second chance afforded to these individuals. They had to be held accountable for their actions.

The refusal of government officials to empathize with drug users and dealers was the fatal flaw of the Regan drug war. Their choice to view dealers and users as deviants and criminals undercut their own goals to end drug use in the United States. Growing scholarship on

⁵⁹ William J Bennett, Testimony Before the House Select Committee on Narcotics Abuse and Control, 7.

drug abuse has revealed a strong correlation between stunted emotional growth, trauma, and addiction.⁶⁰ Yet the Reagan drug war did little to combat these stressors; their policies were directed at imprisoning drug law violators rather than giving them resources to change their behaviors. Ultimately, the Reagan Administration fundamentally misunderstood the drug problem in the United States. They saw the crumbling inner city and rise of violence as symptoms of rampant drug use in these communities, when the opposite was true. The subsequent policies sought to fight drug abuse to clean up the streets of the inner city rather than attempting an economic revitalization of these urban centers. This would have decreased the economic need that drove many to the drug market, thereby lowering the violence and traumas in these communities, which would result in fewer experiences that increased an individual's likelihood to turn to drug use.

The Reagan Administration's failure to truly understand the drug problem revealed its political priorities. Despite the large amount of money and resources directed to the drug war, little mental energy was dedicated to solving the problem. This was true for most policy makers focusing on altering the nation's drug laws. Rather than an extended examination of the problem and a subsequent debate on the possible solutions, policymakers jumped to punish drug criminals. These hasty decisions, motivated by extensive media coverage of drug use in the nation, were justified by the belief that these individuals were helping more people than they were hurting. The stigmatization of the drug users and dealers undercut any sympathy that may have been extended to them, and they became a population whose future was unimportant to mainstream society and politicians alike. The public saw drug users and dealers as villains rather

⁶⁰ Mandavia, Robinson, Bradley, Ressler, and Powers, "Exposure to Childhood Abuse and Later Substance Use: Indirect Effects of Emotion Dysregulation and Exposure to Trauma," *Journal of Traumatic Stress*; Cloitre 2009; Dvorak 2014

than victims. It was these attitudes and poor decision making that enabled Smith's— a twenty-four-year-old mother who was not a user or dealer, just a girlfriend of a dealer—conviction of twenty-four years in prison. Despite her distance from her boyfriend Hall's drug operation, because of her romantic relationship with a notorious drug dealer, she was sentenced to spend half of her life in federal prison. Smith was not alone in her victimization by prosecutors. Countless other women have been charged for drug crimes that they had little to no part in.⁶¹ They are sentenced to draconian sentences because policymakers failed to understand what drove these women to get involved in the drug market to begin with. All that concerns prosecutors and policymakers was the fact that they were involved with drugs at all. That simple fact stripped these women of the right to empathy and resulted in their imprisonment.

⁶¹ Johnson, *Inner Lives: Voices of African American Women in Prison*, 100.

CHAPTER III

NEW GENERATIONS BELIEVING THEM FABLES

The prevailing notion that the “vital national interest” of the United States was at risk brought Reagan’s drug war to life.⁶² Using inflammatory language and patriotic rhetoric, the Reagan Administration convinced the American people that drugs were the nation’s most dangerous enemy. Linking the future success of the nation to the end of drug use, the Reagan Administration claimed in their 1988 National Drug Strategy,

Drug use jeopardizes America’s strength at home and abroad; it undermines the achievements of past generations, and threatens our future. Drug dependent Americans can not[sic] be the defenders of freedom in a dangerous world, or the guardians of personal liberty at home; nor can they set the economic, academic, and scientific pace for developed nations. Drug use places at risk the historic character of the American people, our liberties and our prosperity. And most chilling of all, it has already tarnished the legacy we leave to our children. If we do not solve the nation’s drug problem, future Americans will not inherit a land of limitless opportunity or share the vision of a better world that are foundations of our heritage as Americans.

This patriotic rallying cry convinced a majority of United States citizens to support the cause. And why would they not have? Millions suffer the deadly consequences of drug abuse each year. It is a threat to Americans everywhere.

⁶² Toward A Drug Free America: The National Drug Strategy 1988, folder: National Drug Strategy Report Richard Porter, NBC Staff (1 of 6) RAC Box 2, Ronald Reagan Library, 1

Despite Reagan's public promises, his efforts resulted less in ending drug abuse as and more in removing drug dealers, users, and suppliers from the streets and putting them in the prison.⁶³

At the heart of the Reagan Administration's war on drugs was its publicity campaign, and it was massively successful. The Reagan Administration wanted to change the liberal views of drug use that grew during the 1960s and 1970s. It succeeded in this goal by employing celebrities, teachers, parents, Public Service Announcements, magazines, newspapers, television, and radio programs. This multi media overload was the key to changing public opinion. The anti-drug campaign was necessary for the success of the drug war because the administration needed public support for its righteous cause. Before he could punish drugs as the United States' greatest enemy, Reagan had to first convince the people that drugs were the greatest domestic threat to the nation. In a way, the Reagan Administration took a topic that was relatively unimportant to the American public, made it the most important issue of the day, and introduced conservative politicians to an avenue through which they could score easy political points with the Moral Majority. The same trajectory can be outlined for the media coverage of crack cocaine. Until 1985, news outlets said little about the menace of crack cocaine in the news. However, following the death of college basketball star Len Bias, there was a media firestorm over crack that frightened the American public into accepting the harshest punishment ever given to a single drug.

This extensive publicity campaign against drug abuse began as a backlash against the drug culture of the 1960s and 1970s. Indeed, a draft of the 1988 National Drug Strategy mentioned,

⁶³ Ruth and Reitz, *The Challenge of Crime: Rethinking Our Response*, 200.

Throughout the 1970s, federal, state, and local anti-drug efforts were constrained by a national attitude toward drugs of benign neglect. Drug use was seen as a passing phase among youth, and some dangerously mistaken people even claimed that drug use was beneficial—that it could expand consciousness, spur creativity and increase mental capacity. Health and law enforcement agencies struggled against the popular notion that drugs were not a significant problem in the U.S.⁶⁴

The administration also noted proposed legislation between 1972 and 1981 that sought to decriminalize marijuana as proof of the unacceptable drug culture of the preceding decades and boasted that there were no national politicians proposing such a bill in 1988.⁶⁵ There certainly was an about face in public opinion concerning drug use in the United States from the late 1970s to the 1980s. This change was necessary for the success of Reagan’s drug war and the implementation of the 100/1 crack cocaine disparity. So why the significant shift in public opinion on drugs’ relative threat to the nation? The answer is in Reagan’s anti-drug publicity campaign.

The publicity campaign was a constant in the changing efforts of Reagan’s National Drug Strategy. For each year, the Reagan Administration developed a National Drug Strategy to build off the previous year. Generally, these strategies were similar to each other, always containing the same six goals, ending with “increase public awareness and prevention.”⁶⁶ For the Administration, this goal took precedent. They claimed, “The most effective weapon we have against illegal drugs is widespread public intolerance of illegal drugs and users.”⁶⁷

The Reagan Administration’s strategy and publicity campaign emphasized personal responsibility and accountability. The 1984 National Drug Strategy stated, “Described simply,

⁶⁴ Ibid.

⁶⁵ Talking Paper: Drug Abuse Policy Goals Draft, July 31, 1986 folder: Background Working Papers- August 1986 Presidential drug briefing (2); Richard Williams collection, box 30, Ronald Reagan Library

⁶⁶ National Initiative on Drug Abuse Draft July 8, 1986, folder: Drug Abuse Materials-1986, Collection: David L. Chew Staff Secretary, Ronald Reagan Library, 27

⁶⁷ Ibid

real success is achieved when those people most affected by drug and alcohol abuse are directly involved in solving their own problems.”⁶⁸ While this seems like a good plan of action, it failed to recognize the problems in the communities that were most heavily affected by drug and alcohol abuse. For many of these communities, the families were stuck in cyclical drug and alcohol abuse, which was not easy to break. Many of these families battled structural inequality, poverty, and often racism. The pain of such experiences led many to seek relief in drug use. For these individuals, they did not see another reality. One example of this is an incarcerated woman named Cynthia, charged with the crime of murder. Cynthia had an extremely tumultuous childhood filled with divorced parents, domestic violence, and sexual abuse. Looking back on her childhood, Cynthia lamented that she “was considered a problem child.... I guess I had anger and I guess I was a kid crying out for help but didn’t realize it.”⁶⁹ Cynthia dreamed of going to college and becoming a pediatrician, however she could not find a friend or family member that would take her to a college interview. She believed this was because nobody in her circle cared about her education or their own, and the hope for a college degree subsequently slipped through her fingers. To cope with her own pain and disappointment, Cynthia began drinking at sixteen. Recalling her turn to alcohol, Cynthia states, “I was depressed, but I didn’t understand that it was depression. Being [in prison,] I look back over my life and I realize the pattern.”⁷⁰ Due to her socio-economic status and her home environment, Cynthia was not exposed to healthy coping techniques until her incarceration.

⁶⁸ The 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking, 1984, folder: 1984 Strategy Implementation- Drug Abuse Policy, OA 19050, Ronald Reagan Library, 2.

⁶⁹ Johnson, *Inner Lives: Voices of African American Women in Prison*, 66

⁷⁰ Ibid.

These individuals often also lacked the knowledge or resources to avoid the cycle of substance abuse. Donna, a Texas native and currently incarcerated woman who, battled intense racism throughout her childhood, noted one instance when she was beat up by a group of white kids. Being raised in what she deemed a “square” family, Donna was pressured to finish high school and attend college, which she did. During her junior year, though, she met a man who derailed her future. Unknowingly Donna began dating a pimp; after figuring this out, she insisted on becoming one of his girls too. This began a ten year long relationship filled with abuse and prostitution; Donna reflected on it,

The way I saw it, I was his woman and I couldn't leave. That's your man, your pimp, and you stayed with him. That was the code, the ethic that you lived by.... The only way to leave him [was] to pay, to run away, or to get another pimp.... I thought that the violence was part of being a whore.... I used to cry. I was hurt, but I loved him so much. It had gotten so deep that I didn't really know how pain felt anymore, because I had lost it. I had medicated my pain. My drug use started when I was about twenty-one years old. I started smoking weed, and I would drink. When he would hurt me and do things to me, I would go and drink. I also started taking pills. Then, I would go to work.⁷¹

Both Donna and Cynthia were victims of abuse that struggled to cope with their pain. In fact, Cynthia, who was raped consistently by an uncle from the age of four until she was sixteen, never spoke of the abuse until she was in her forties and found a program about sexual abuse while in prison.⁷² Both women describe their drug and alcohol use as efforts to self-medicate their pain, and their subsequent incarcerations were consequences of their inability to properly cope with their respective abuses. Access to therapy, counseling, or mental health professionals could have significantly transformed their

⁷¹ Ibid 110

⁷² Ibid 67

lives, but their home environments and communities prevented them from accessing these vital services.⁷³

Within this publicity campaign, the Reagan Administration sought to change the acceptable language concerning drug use. The 1984 National Drug Strategy listed the discouragement of the “use of terms which foster misconceptions and hinder understanding of the nature of drug problems. These terms include ‘recreation use’ of drugs, ‘responsible use’ of drugs and alcohol, ‘substance abuse,’ ‘decriminalization,’ ‘getting high,’ and defining drugs as ‘hard’ and ‘soft.’”⁷⁴ While the Reagan Administration was not censoring the average citizen’s discussion of drug use, they were setting guidelines for the publicized discussion of the nation’s drug problem, and, essentially, controlling the conversation. Reagan’s immense popularity and the mandate that came with it provided enough pressure to force celebrities and public officials to follow his message. It was not necessary for Reagan to enforce an official censor on the discussion of drug use—which would be extremely problematic—because a simple discouragement from him carried enough weight because of his immense popularity. The administration used this to their full advantage and successfully swung public opinion in their favor, though how far that swing truly reached seems to have been shorter than the administration led Americans to believe.

In their quest to eliminate drug use, the Reagan Administration sought to highlight the dangers of drug use as a means of preventing the emergence of new users. Largely, this was why they sought to control the drug conversation. Indeed, the 1984 National Drug Strategy stated,

⁷³ Ibid.

⁷⁴ The 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking , 4.

“Ultimately, the demand for illegal drugs will be stopped only when Americans recognize the personal dangers and societal harms which result from the use of illegal drugs and take action.”⁷⁵

This was one manifestation of the Reagan Administration’s misconception as to why individuals turned to drugs.

One way this was achieved was through partnerships with broadcasting companies. For example, NBC ran ads, PSAs, news stories, and special television events in support of the drug war. NBC went as far as to partner with the National Institute on Drug Abuse to develop a month-long campaign to fight drug abuse entitled, “Just Say No: Don’t Be A Dope.” Nearly all of the material for the campaign was provided by Nancy Reagan’s “Just Say No” campaign, including promotional materials, a PSA, and a five-part miniseries.⁷⁶ Also provided in the packet to NBC was a list of discussion questions for viewers. One of the questions read, “Do you think there is a direct relationship between drugs and crime? Would you support laws which call for (a) stiffening penalties for providing drugs to minors, (b) lengthening sentences for all kinds of drug trafficking, and (c) outlawing the manufacture and sale of drug paraphernalia?”⁷⁷ While this question may have been included to simply stimulate discussion, it seems more likely that it was an attempt on behalf of the Reagan Administration to subtly gain support for its harsh drug penalties. This discussion question is emblematic of what the Reagan Administration attempted in its media campaign. It attempted to not only gain support for their own legislative agenda but also to convince the American public that drug use was a criminal act. The administration succeeded, not by telling the American public that drug users are inherent criminals but by ushering the reader to make the connection between drug use and crime themselves.

⁷⁵ The 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking , 28.

⁷⁶ Folder: NBC Addresses Substance Abuse, Collection: Carlton Turner Files, Box 44, Ronald Reagan Library.

⁷⁷ Ibid, 20.

NBC also agreed to run a thirty-minute special broadcast about the consequences of marijuana and cocaine in which doctors and treatment specialists discussed the dangers of the two drugs. The broadcast was a series of the most extreme stories of cocaine related death and addiction. A former stockbroker told about how cocaine took him from being a director in his company to a divorced father living alone. The narrator told a chilling story about a nineteen year old girl who died of an overdose after snorting cocaine one night. The broadcast went on in this fashion, intent on convincing people of the harms of cocaine. It then shifted its focus to marijuana, which interestingly enough they had little data with which to scare individuals into not using. There were no horror stories of marijuana leading people to do harder drugs. In fact, the only deterrent the special gave to individuals to keep them away from the drug was that “it does something to you.”⁷⁸ One of the doctors interviewed for the special stated,

It’s a common delusion that marijuana is a drug that doesn’t do anything to you. A drug that doesn’t do anything to you, nobody uses. People use marijuana precisely because it does something to you... I think the only people who can say that marijuana doesn’t affect their work, don’t have much of a job or don’t give much of a damn how well they perform it. Every marijuana smoker I’ve ever known will sit up ramrod straight and look very disturbed when I ask him if it’s okay then if the neurosurgeon who is gonna work on him should have a couple of joints before he goes into the O.R. Immediately, the most tolerant smoker becomes bigoted as heck. ‘No way, Doc. We don’t want none of that.’⁷⁹

At almost every media junction, the Reagan Administration managed to include its anti-drug campaign, which allowed for its success. The administration inundated the public with anti-drug messages, and the public responded in kind. This was perhaps the most important tool that the Regan Administration deployed in the war on drugs. It was imperative to have the American public on his side in the drug war.

⁷⁸ Pleasure Drugs, the Great American High, Folder: [National Broadcasting Company] NBC White Paper: “Pleasure Drugs, the Great American High” Collection: Carlton Turner, Box 44, Ronald Reagan Library 13.

⁷⁹ Ibid

Much of this publicity campaign involved not just the deglamorization of drugs but also the defamation of the drug user. In 1986 President Reagan stated,

We mean to reach out to the drug user; and we mean to prevent others from becoming users. Our goal is not to throw users in jail, but to free them from drugs. We will offer a helping hand; but we will also pressure the user at school and the workplace to straighten up, to get clean. We will refuse to let drug users blame their behavior on others; we will insist they take responsibility for their own actions. And finally, first and foremost, we will get the message to the potential user that drug use will no longer be tolerated; that they must learn to 'just say no.'⁸⁰

Reagan presented the average drug user as an individual that is incapable of taking responsibility for his or her own actions because of an exaggerated selfishness. This imagined drug user was solely concerned for him or herself, an image that politicians frequently presented in this tough on crime era.

This vilification of the average drug user acted as one of the most important aspects of Reagan's publicity campaign. In almost every piece the Reagan Administration propagated, there was a significant effort to heap shame and disappointment onto the drug user. In an essay about cocaine circulated by the administration, the author chided cocaine users for choosing the "chemical high" over the "natural high," stating that those who chose the chemical high "have not learned to exult in all that love and life and play and prayer have to offer."⁸¹ The author went on to state,

The natural high is always more certain in its effect, less risk laden in its pursuit and more productive in its result. And the natural high has it all over the chemical high in one other respect as well. The high from coke or smoke or dope or drink is self-limiting. With every drug effect there comes the point where the more you

⁸⁰Ronald Reagan, Presidential Remarks, August 4, 1986, folder: Drug Abuse Policy August 1986, collection: Ralph C. Bledsoe Files Domestic Policy Council Box 22, Ronald Reagan Library, 3.

⁸¹ John McVernon, "Mirror, Mirror Off the Wall, I am the Fairest of Them All," January 6, 1984, folder: Cocaine Reference Material, 1987-1988, OA 19050, Ronald Reagan Library, 11-a.

take, the less you feel. With natural highs one can always go deeper and deeper into the experience without exhaustion and without boredom.⁸²

Such a description of drug users created the image that the drug user was somehow stunted, unable to engage fully with the majesties of the natural world. This image also insinuated that the drug user was lazy, that they chose the high that took less effort. Rather than praying or exercising, they chose the easy path to a good feeling through drugs.

This essay reveals that the image of drug users that the Reagan Administration produced was demeaning and problematic. The author went on to discuss cocaine treatment, stating that “The cocaine user has to do more than to stop taking coke. The pattern of self-centeredness, unconcern and infantile craving will assert itself again through the drug or some other unsatisfying, anti-social drama unless new values are established.”⁸³ Here, it is clear that the author understood the drug user or addict to be an individual of corrupt character. It was not the drug that changed the individual, but an immorality within the drug user that he or she was responsible for controlling. To call drug abuse a “pattern of self-centeredness, unconcern, and infantile craving,” exposes how little the author understood addiction.⁸⁴ This misconception about what drives an addict underwrote all the actions of the Reagan Administration against drug use and shaped the punishment for drug crimes.

The same antipathy is prevalent in the author’s comments on cocaine users’ priorities. In response to cocaine users that claimed coke was better than sex, the author contended,

Though one might be inclined to judge that when people say that their drug is better than sex, it does not necessarily mean that the drug is all that good. What makes it seem so good may be a problem with the other half of that equation. One

⁸² Ibid

⁸³ John McVernon, “Mirror, Mirror Off the Wall, I am the Fairest of Them All,” 12.

⁸⁴ Ibid.

could question whether a society that tends to reduce sexual intimacy to rubbing two bodies together, much the same as Boy Scouts rub twigs together to kindle flame, may have so diminished the sexual experience that a drug high could be preferred.... The comforting hope and the logic of planning for the future have been truncated by the menace of a self-inflicted end of history by way of nuclear war. We don't know where we came from and we have no idea of where we are going. The culture is in vertigo, and cocaine sustains the excitement.⁸⁵

It is important to consider the author's notion that the nation was losing control of itself. This was consistent with the ideals that the Reagan Administration propagated. Indeed, in a September 1986 address to the nation, First Lady Nancy Regan described how drugs shook "the foundations of all that we know and all that we believe in."⁸⁶ These statements were designed to generate fear within the American public and drive them to take action against drug use. In the essay, the author manages to jump from the nation's perverse understanding of sex to nuclear war without an explanation, but it remained a document that the Reagan Administration kept for some reason. This serves to show how disillusioned the Reagan Administration was with the drug problem in the United States. Either they truly believed what they were saying, or they were deeply misinformed on the issue. Either way, both explanations undermine the work that the Reagan Administration was doing.

The Reagan Administration successfully painted America's drug issues as moral issues rather than mental or physical health issues in their campaign against drug use. The administration maintained, "An important change is the elimination of moral confusion previous[ly] associated with drug abuse. There is broad consensus across the United States that drug abuse is clearly wrong and individuals who take drugs or promote drug taking by others are

⁸⁵ John McVernon, "Mirror, Mirror Off the Wall, I am the Fairest of Them All," 6

⁸⁶ Ronald Reagan, Address to the Nation on the Campaign Against Drug Abuse, September 14, 1986, folder: Drug Abuse Policy August 1986, collection: Ralph C. Bledsoe Files Domestic Policy Council.

responsible for their actions.”⁸⁷ While many would agree today—and certainly agreed during Reagan’s Presidency—that drug use is a moral offense, the labeling of simple drug use as an immoral activity seems to be a misnomer. For many, a moral distinction comes when one’s actions have negative consequences for others or when they violate a set of religious morals.

Another key component to the Reagan anti-drug campaign was the implementation of compulsory drug education in all public and private schools. The 1984 National Drug Strategy stipulated “for drug abuse education to be integrated into the public and private school programs, with emphasis on the destructive effects of drug use, including alcohol, on excellence in education, health and overall well-being.”⁸⁸ While informing school-aged children about the dangers of drug use is important in creating well-informed citizens, it also brought about deeply ingrained disdain for individuals that used drugs and propagated unfair stereotypes onto drug users. For example, the Just Say No campaign distributed posters to schools that read, “There are two kinds of heads. The ones that wind up excelling in school. And the ones that smoke pot and do drugs. Which head you turn out to be is up to you. You can resist an offer of drugs. Just say no. You’d be surprised how well it works.”⁸⁹ The Reagan Administration was arguing that academic achievement and drug use were mutually exclusive behaviors. One could not be a successful student if he or she chose to use drugs.

As early as 1984, the Reagan Administration began praising itself for the successful change in attitude of the nation towards drugs. The 1984 National Drug Strategy held that “Individuals have begun to take responsibility for educating themselves about drug abuse and

⁸⁷ The 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking, 3.

⁸⁸ The 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking, 3.

⁸⁹ Anti-Drug Abuse Poster, folder: NBC Addresses Substance Abuse, collection: Turner Carlton Files Box 44, Ronald Reagan Library.

how to counter it. Individuals, groups, and business are willing to make a commitment toward a drug free future. Parents are willing and eager to get involved in improving the quality of life for themselves and their children.”⁹⁰ While some may argue that the Reagan Administration was simply trying to bolster its own reputation by praising its own efforts, such self promotion was not all that necessary for the Reagan Administration. The American people, as evidenced in his landslide victories in 1980 and 1984, unprecedentedly supported Reagan. This statement is evidence of the success of his media campaign. In four years, Reagan was able to change the national opinion on drug use and abuse to one that favored harsh punishments and the elimination of drug use.

With the public’s attention focused on drug use, the rise of crack cocaine gave the media a topic to obsess over. The media’s fascination with crack began when comedian Richard Pryor sustained severe burns on his face and nearly died from an explosion resulting from freebasing cocaine—a method of smoking cocaine that gives a high similar to that of crack. In 1980, there was little knowledge of freebasing.⁹¹ Many viewed it as an extreme measure. Lu Parker, a writer for the *Chicago Metro News*, described freebasing as an “experiment” outside of “the normal drug scene.”⁹² Though individuals did not call it crack explicitly, Pryor’s accident was the first notice of the smoke-able form of cocaine in the mainstream media. While Pryor’s accident drew attention to new forms of drug use, it would be another five years before the media obsession with crack would take hold. A few years after Pryor’s accident, the death of basketball superstar Len Bias sparked panic over crack. The Boston Celtics drafted Bias in 1986 in the first

⁹⁰ The 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking, 3.

⁹¹ Freebasing is purifying cocaine by treating its powdered hydrochloride form with an alkaloid solution such as ammonia and then using a heated solvent to separate out the precipitate. It is then smoked, or the fumes are inhaled by burning it.

⁹² Lu Palmer, “Lessons To Be Learned From Richard Pryor’s Accident.” *Chicago Metro News*, June 21, 1980.

round of the NBA draft. Bias, however, never played a minute in the NBA as he died of cocaine-related heart problems shortly after the draft. Bias's death sent reporters into a whirlwind. The death of a young man with so much ahead of him terrified the American people. Bias's death brought the drug issue to the forefront of the American conscious, which the Reagan Administration had been working to do. People who had been previously untouched by drugs in the United States now felt like victims of the drug problem. Bias's former coach, Charles "Lefty" Driesell, spoke out after Bias's death stating, "These are not recreational drugs. They're killers."⁹³ Nathaniel Clay, a writer for the *Chicago Metro News*, wrote that the nation should mount "a concerted attack on drug abuse."⁹⁴ Though Bias's toxicology report did not distinguish whether the cocaine in his system was powder or crack, his death inspired the media to wage their own war on America's youngest drug, crack cocaine.

Writers warned not only about the physical dangers of crack, but also the dangers crack posed to society as a whole. The media reported inaccurate statistics on crack use in the United States and engaged in exaggerated reporting to scare the American people. This widespread publicity was a natural extension of the media campaign that the Reagan Administration had been conducting since his inauguration. More media outlets than ever began reporting specifically about crack cocaine as the drug that would destroy the United States if it was not stopped. Few individuals addressed the problem with rationale and logistics. The result was a public outcry against crack and demand for the passage of harsh drug legislation at the state and federal level. *The New York Times* declared that "the crack epidemic [threatened] the legitimacy

⁹³ John Leo, Jenny Abdo, Brian Doyle, "How Cocaine Killed Leonard Bias." *Time*, July 7, 1986.

⁹⁴ Nathaniel Clay, "The epidemic of drug abuse must be challenged." *Chicago Metro News*, July 19, 1986.

of government and the fragile fabric of civilized life.”⁹⁵ The fear surrounding crack stemmed from its alleged cheapness, availability, popularity amongst youth, and addictiveness. *Time* reported that crack was “priced so that almost anyone [could] afford it,”⁹⁶ and Wayne McCarthy, homicide commander for Dade County, Florida, declared, “there is no such thing as a recreational crack cocaine user. They are all terribly addicted.”⁹⁷ Media outlets ran large numbers of articles filled with claims such as these, highlighting crack’s potential to harm people and society.

Following the example of the Reagan Administration, the media often used exaggerated rhetoric with the goal of scaring the American people when reporting about crack. Writers often exaggerated the prevalence of crack use and the danger crack presented to the nation. Clay described crack in Harlem as having “wiped out a sizeable segment of the younger generation there,” and “ordinary police means” as “wholly insufficient” to combat the terror in Harlem.⁹⁸ Clay’s assertion that traditional police tactics could not stop the spread of crack supports the work of scholars that note the African American community’s support for the war on drugs and the militarization of the police force. Baskett called the spread of crack a “deadly plague” and referred to New York as a “candy store for crack.”⁹⁹ *The New York Times* declared that crack was “more than just another passing crisis.” Crack posed “a much greater threat than other drugs,” and reached “out to destroy the quality of life, and life itself, at all levels of American

⁹⁵ “Some War; Meanwhile, Crack Undermines America,” *The New York Times*, September 24, 1989. 4.24.

⁹⁶ Lamar, Jabov V. Jr, Michael Riley, Raji Samaghabadi, “‘Crack’ A cheap and deadly cocaine is a fast-spreading menace.” *Time*, June 21, 1986.

⁹⁷ Larry Martz, Mark Miller, “A Tide of Drug Killing,” *Newsweek*, 44.

⁹⁸ *Ibid.*, “Lets declare all-out war on drug dealers,” August 23, 1986.

⁹⁹ Bruce Baskett, “Worse Than Heroin,” *Courier Mail*, May 28, 1986.

society.”¹⁰⁰ Declarations such as these created fear among the American people, as they came to believe that crack had the power to destroy their lives and families.

Journalists were not alone in their sensational claims about crack, as many public figures made exaggerated statements when referring to drug dealers and users. Hubert Williams, former President of the Police Foundation in Washington, D.C., called drug users ““bums”” and ““scourges.”” Williams spoke about the dangers that drug users presented to society, ““They afflict the economy through absenteeism, shoddy workmanship and drug affected decision-making. They endanger the nation’s roads and highways and spread disease through infected needles.”” Finally, speaking of the fate of drug users, Williams declared, ““Drug abusers should be stigmatized for the damage they cause themselves and the terrible costs they impose on the rest of us.””¹⁰¹ Such statements, especially coming from law enforcement officials, altered the way citizens and elected officials saw drug users. Sympathy was no longer an option for the addicted; to the majority of Americans, addicts were now selfish, harmful, and infantile. Other public figures, such as the Reagans, perpetuated falsehoods of the prevalence and destructive nature of crack in the nation. In an address to the nation in September 1986, President Reagan described the emergence of crack as ““an uncontrolled fire.”” Individuals made claims such as these in an attempt to instill fear into the audience, and in that effort, they were successful despite the fact that the use of crack never reached the epidemic proportions that the media and the Reagans suggested.

¹⁰⁰ “Crack; A Disaster of Historic Dimension, Still Growing,” The New York Times, May 28, 1989, 4.14.

¹⁰¹ Tony Brown’s Journal. “Crackbusters: Can the Drug Epidemic be Stopped?” Chicago Metro News, Novemebr 29, 1986.

Another tactic used by the press and public figures was the demonization of drug dealers and the victimization of drug users. Talking about new anti-crack laws in Illinois, Richard M. Daley, a Cook County State's Attorney who, like his father before him, would go on to serve as mayor of Chicago, spoke of drug dealers selling crack to "their victims."¹⁰² Daley's attitude suggested that the drug user played no part in his or her descent into drug use, but that the dealer forced individuals into drug usage. Removing guilt from the user was dangerous. The shift in guilt led prosecutors to punish the dealers in criminal trials over drug related injuries. After the death of Len Bias, Arthur Marshall, the state attorney for Prince Georges County, "vowed to develop a manslaughter case if the dealer who sold the fatal cocaine [was] identified."¹⁰³ Marshall's vow ignored the fact that Bias ingested the drugs of his own accord. Declarations such as Marshall's shaped the public view of drug dealers; they were predators.

Part of the media's sensational reporting was bringing unnecessary attention to the physical appearance of crack dealers in an effort to scare the public. Writers often described the clothing, accessories, or vehicle of dealers to create a paradox in the mind of the readers. Peter McKillop, a writer for Newsweek, described a dealer, named "Eare," as "a big-shouldered Trinidadian wearing gold chains and a diamond-studded bracelet with his name engraved on it."¹⁰⁴ McKillop did not point out the attire in an effort to familiarize the reader with Eare; on the contrary, McKillop identified the extravagance of dealer's outfit because it was improbable that a man of Eare's background legally could earn the wages to afford such attire. Steven Havel, a Los Angeles police detective, described young people in the crack trade as "living a 'Miami Vice' fantasy—heavy gold chains, \$200 sweat suits, 500SEC Mercedes, and \$160 Porsche sunglasses."

¹⁰² "Legislature passes anti-Crack laws." Chicago Metro News, December 20, 1986.

¹⁰³ "How Cocaine Killed Leonard Bias" Time: 128, no. 1:52.

¹⁰⁴ Peter McKillop, "An Inferno of Craving, Dealing and Despair," Newsweek, June 16, 1986, 18.

This was an attempt to expose to the impossibility that young teenagers in the ghetto could have acquired these expensive items through any legal means. The same article—aptly entitled “Kids and Cocaine”—went on to describe a “young pusher... [driving] a \$14,000 Toyota pickup and [wearing] a beeper to keep in touch with his supplier.”¹⁰⁵ Descriptions such as these highlighted the amount of money earned by crack dealers and further enhanced the panic surrounding crack.

Reporters often spoke of the crack trade as a lucrative business. *Newsweek* described crack dealing as “creating enormous profits for drug traffickers.”¹⁰⁶ Because there were no statistics on the monthly income of drug dealers, reporters often relied on the drug dealers to discern their income. One easily could over or under estimate that amount. For instance, McKillop, reporting on crack dealers in Times Square, stated that “Eare” claimed to earn \$12,000 a week.¹⁰⁷ George Hackett and Michael Lerner, writers for *Newsweek*, lamented, “the money from crack dealing is so good that some law-enforcement officials are switching sides.”¹⁰⁸

At the root of the panic, people were worried about their children. A woman wrote a letter to Dr. Charles W. Faulkner, a columnist for the *Chicago Metro News*, expressing her fear that her children would get into drugs and asking for guidance. Faulkner commended the woman for taking action and urged other parents to teach their children about the dangers of drugs as early as seven years old.¹⁰⁹ Kevin McEneaney, the Director of Clinical Services at Phoenix

¹⁰⁵ Tom Morganthau, Mark Miller, “Kids and Cocaine,” *Newsweek*, March 17, 1986, 58.

¹⁰⁶ “The Drug Crisis: Crack and Crime,” *Newsweek*, June 16, 1986, 3.

¹⁰⁷ Peter McKillop. “An Inferno of Craving, Dealing, and Despair.” *Newsweek*, June 16, 1986. National Affairs. 18.

¹⁰⁸ George Hackett, Michael A. Lerner, “L.A. Law: Gangs and Crack,” *Newsweek*, April 27, 1987, 35.

¹⁰⁹ Charles W. Faulkner, “Educate Your Children About Drugs,” *Chicago Metro News*, September, 6 1986.

House, concluded that “the most vulnerable population [to crack was] adolescents.”¹¹⁰ Herman Keith, a Democrat from Yonkers, New York, declared, “If we don’t stop crack now, it will destroy our young people.”¹¹¹ Reports such as these only increased the panic over crack. Journalists created the idea that all teenagers were at a severe risk of developing a crack addiction. This fear grew out of crack’s cheap street price; just twenty-five dollars could buy two rocks of crack cocaine.¹¹² Coupled with reports that it was instantly addictive produced a genuine fear among American parents. With reports of crack’s widespread availability, parents worried that one bad decision would end with their children horribly addicted.

Writers were not the only members of the African-American community speaking out against crack and drug use; rap artists began writing songs warning about the dangers of crack. Rapper General Kane wrote “Crack Killed Applejack,” which quickly became very popular across the nation. *Chicago Metro News* reported that “Crack Killed Applejack” was “the most frequently requested recording on inner-city radio stations.”¹¹³ General Kane’s anti-crack message suggested that a majority of African-Americans and inner-city residents were fearful of the crack epidemic and did not participate in the crack trade. This idea contradicts the popular image that ghettos were havens for crack addicts; inner city residents were just as fearful of crack as those in any other portion of the nation. Grandmaster Flash and Melle Mel also produced a popular track “White Lines” that contained an anti-crack and cocaine message. “White Lines” reached the Billboard hot R&B/Hip Hop Tracks chart in 1983, before the obsession with crack epidemic reached its full height. It is important to note that these artists were spreading anti-drug

¹¹⁰ Jane Gross. “A New, Purified Form of Cocaine Causes Alarm as Abuse Increases.” *The New York Times*, November 29, 1985, A1.

¹¹¹ Tessa Melvin, “Hearing Called to Explore Use of ‘Crack’ by Teen-agers.” *New York Times*, April, 27 1986, 11.1

¹¹² Bruce Baskett, “Worse Than Heroin”

¹¹³ General Kane’s chilling rap message has radio public clamoring. *Chicago Metro News*, September 27, 1986.

messages, combating all the stereotypes thrown upon rap and hip-hop music that they glorified drug use and a violent lifestyle.

With the African-American community already in opposition, one factor that created alarm with white Americans was the spread of crack to the suburbs. Andrew Malcolm, a writer for the *New York Times*, told the stories of several addicts from the middle class: a banker, homemaker, and assembly-line worker. Malcom stressed crack's ability to cross class lines. Lee Chase, a recovering addict interviewed by Malcom, stated, "There's more crack than ever now. . . . But these middle-class types have got jobs and savings and checking accounts. So it takes longer to burn through their lives."¹¹⁴ Harold E. Adams, Commissioner of the Nassau County Department of Drug and Alcohol Abuse, stated, "There is also another additional population using crack: the older professional, family, respectable middle-class person. We're seeing doctors, lawyers, engineers and Wall Street people who are addicted."¹¹⁵ Stories such as these made the crack epidemic more relatable for a large portion of Americans. Coverage of middle-class and suburban crack use drove home the fear of crack's propensity to ruin lives, especially lives of people that have been viewed as beyond the reach of drug addiction.

Media coverage of the crack epidemic did not slow after 1986 and the passage of the Anti-Drug Abuse Act of 1986. If anything, crack reporting became more dramatic in 1988, furthering the widespread hysteria. Michel Marriott, a journalist for the *New York Times*, reported that despite all the legal action taken against crack, "the presence of crack [was] more pervasive, more violent and more insidious in its effect on New Yorkers, particularly the poor"

¹¹⁴ "Crack, Bane of Inner City, is Now Gripping Suburbs" *The New York Times*

¹¹⁵ Shelly Feuer Domash, "Use of the Drug 'Crack' Growing on L.I.," *The New York Times*, June 8, 1986, 11L1.5

than three years earlier.¹¹⁶ *Newsweek* referred to the United States as “the Crack Nation... an America craving nothing but the synthetic euphoria of a terrible and addicting drug.”¹¹⁷ These reports were simply not true. In 1988, only 7.3 percent of the United States population had used crack cocaine in the past month.¹¹⁸ This was not representative of a nation consumed by crack cocaine. Also, it’s worth noting that the only thing synthetic about crack cocaine was the addition of baking soda. All other components of the drug were naturally occurring.

The media frenzy over crack brought the drug war onto the main stage of American politics. Surveys found that a majority of Americans thought that drug use was the number one problem facing the nation.¹¹⁹ Despite the unprecedented amount of attention given to a single drug, the media’s crack frenzy was dependent upon the publicity work of the Reagan Administration in the earlier parts of the decade. The two forces, the media and the Reagan Administration, depended on each other for the circulation of their message and support for their cause. The Reagan Administration’s war on drugs depended on media outrage over drug use to win the support of proposed legislation. Likewise, reporters depended upon the Reagan Administration’s anti-drug campaign for the American public to buy into their message. The unprecedented public attention to drugs in the 1980s brought about a series of new laws, which included harsh punishments for drug crimes. This frenzy created a new outlet in which politicians began fighting each other to see who could be the toughest on crime and drugs.

¹¹⁶ Michel Marriott, “After 3 Years, Crack Plague in New York Only Gets Worse,” *New York Times*, February 20, 1989, A1.

¹¹⁷ *Newsweek*

¹¹⁸ United States Department of Health and Human Services, National Institute on Drug Abuse, *National Household Survey on Drug Abuse: 1988 Population Estimates*, Rockville, MD, 1989.

¹¹⁹ National Drug Strategy

CHAPTER IV

THEY GOT A WAR ON DRUGS SO THE POLICE CAN BOTHER ME

With the media storm concerning drug use, particularly crack cocaine, federal politicians jumped on the opportunity to gain support through the swift passage of harsh drug laws. Crack was at the center of this new wave of proposed legislation. The varying penalties were erratic and the quantities needed to trigger a mandatory sentence were seemingly random choices. Despite his early work to combat drug use in the nation, President Reagan's own suggested punishments were often dwarfed by the proposals of Congress. Within this legislative frenzy, the 100/1 crack cocaine disparity was established. Its path through the federal legislature included no mentions of racial bias or clear discriminatory intent on behalf of Congress or President Reagan. Indeed, biased police practices solidified the racial component of the 100/1 disparity. Police action guaranteed that more African Americans were subject to discrepant federal cocaine laws and created the association of Black Americans with crack cocaine.

The Fall of 1986 saw the introduction of dozens of anti-drug bills designed to enhance the penalties for drug possession and dealing. Included in this wave of legislation was a bill titled “Emergency Crack Control Act of 1986.”¹²⁰ Interestingly enough, this specific bill did not establish mandatory minimums regarding crack cocaine but stated an individual caught with at least five grams of “cocaine freebase, such person shall be sentenced to a term of imprisonment of not more than 20 years or a fine not more than \$250,000, or both.”¹²¹ Despite its lenience in punishment when compared to other bills, the Emergency Crack Control Act of 1986 still overinflated the drug problem in the United States stating that “drug abuse among young Americans [was] a national crisis.”¹²² This claim is a stark contradiction to the claims of President Reagan who, in September of that same year, stated, “The number of individuals who are using illegal drugs has stabilized in most categories and decreased in several, most notably in the high school.”¹²³ These contradictory claims made just weeks apart reveal that the grandiose claims of elected officials about the corrosive effect of drugs on the United States were done in an effort to generate fear among the American public.

Inconsistencies in proposed drug punishments—notably for crack cocaine—suggest that elected officials practiced fearmongering in order to achieve their political ends. Two other proposed bills offered two new sentencing structures for crack cocaine—revealing the lack of knowledge of crack cocaine and drug problem as a whole. The Comprehensive Narcotics Control Act of 1986 proposed a mandatory minimum sentence of five years of imprisonment without

¹²⁰ *Emergency Crack Control Act of 1986*, S.2715 99th Cong., 2nd sess., folder: Drug Abuse Prevention- August 1986 collection: Ralph C. Bledsoe Files Domestic Policy Council ,Ronald Reagan Library.

¹²¹ *Ibid.* 2

¹²² *Ibid.* 11

¹²³ The White House Office of the Press Secretary, *President Reagan’s Commitment to the National Crusade Against Drugs: Current Accomplishments in the Administration’s Campaign Against Drugs*, folder: Drug Abuse Policy- September 1986, collection: Ralph C. Bledsoe Files Domestic Policy Council ,Ronald Reagan Library, 3.

parole for the possession of five grams of crack and 500 grams of cocaine.¹²⁴ This sentencing structure would go on to be incorporated into the cumulative Anti-Drug Abuse Act of 1986. President Reagan made his own proposal for changes in drug laws to Congress in The Drug-Free America Act of 1986. Strikingly, President Reagan set a higher amount of crack cocaine to trigger a mandatory sentence. In his plan, 25 grams of crack or 500 grams of cocaine was required to trigger a mandatory five year prison sentence without parole.¹²⁵

The fact that Reagan's proposal was one of the most moderate sentencing structures reveals three important dimensions of the drug war. First, the Reagan Administration's media campaign against drug abuse was massively successful, not just with the average citizen but also with lawmakers. Second, concerning drug penalties, the Reagan Administration was not the most punitive force in the United States during the 1980s. Third, the Reagan Administration alone cannot be held responsible for the consequences of the drug war. The United States Congress is equally culpable as Congressional members introduced more punitive legislation and a higher number of anti-drug bills.¹²⁶

While the Reagan Administration certainly spearheaded the crusade against drug use, there was substantial Congressional support for the Reagan drug war. Indeed, Republican Georgia Congressman Newt Gingrich outlined a proposed war on cocaine and heroin. In it, Gingrich proposed

¹²⁴ *Comprehensive Narcotics Control Act of 1986*, S. 2798 99th Cong., 2nd sess., folder: Drug Abuse Prevention- August 1986 collection: Ralph C. Bledsoe Files Domestic Policy Council, Ronald Reagan Library, 32-33.

¹²⁵ Ronald Reagan, *The Drug-Free America Act of 1986: A Proposal to Congress From the President of the United States*, folder: Drug Abuse Prevention- August 1986 collection: Ralph C. Bledsoe Files Domestic Policy Council, Ronald Reagan Library, 95-97.

¹²⁶ ¹²⁶ *Emergency Crack Control Act of 1986; Comprehensive Narcotics Control Act of 1986; The Drug-Free America Act of 1986: A Proposal to Congress From the President of the United States.*

Dramatically rais[ing] the penalty for use of cocaine and heroin. Possibly set a 10% gross assets fine for first use, 20% for second use, 30% for third use. The host of a party with multiple use of cocaine and heroin should automatically be fined 30% on first offense. The goal is to set a fine so steep that movie stars, rock stars, athletes, and professionals in the community (doctors, dentists, architects, etc.) simple could not afford to play with cocaine. The goal is to dry up the market by frightening away anyone with money.¹²⁷

Gingrich's lack of empathy for drug users and call for harsh penalties was consistent with that of the Reagan Administration and much of Congress. It is important to note the widespread support for the harshness of the drug war. The Reagan Administration was not acting alone or against much opposition in their crusade against drug use. Gingrich's failure to understand the true causes of drug use and addiction also parallel with the Reagan Administration. They both did not understand that the threat of penalty would not curtail an addicts withdrawal symptoms or their insatiable desire to use. Many addicts use to the point of financial ruin before encountering the law, rendering these financial penalties irrelevant. With or without the fines, these individuals would remain in the situations that drove them to drug use, and if they were searching for peace in drugs, they were unlikely to give up that search because the punishment got more severe. Individuals caught in the snares of drug abuse do not consider the legal penalties when they use; they are simply trying to feel better.

Gingrich's proposal contained some suggestions that exceeded the harshness of the proposals of the Reagan Administration. Gingrich's plan included close monitoring of the judicial branch to ensure that drug dealers were punished to the full extent of the law. He suggested, "Mandatory sentences as prescribed in Duncan Hunter's H.R.1946 should be imposed and judges should be reviewed to determine if anyone is routinely letting off convicted users or

¹²⁷ Newt Gingrich, A Proposal for an Effective War on Cocaine and Heroin, July 2p, 1986, folder: Drug Abuse Policy-July 1986 (8), box: 21, collection: Ralph C. Bledsoe Files Domestic Policy Council, Ronald Reagan Library, 5.

dealers.”¹²⁸ While the Reagan Administration did advocate for unnecessarily harsh penalties for drug violations, none of their suggestions for the drug war attempted to violate the separation of powers between the branches of government. Gingrich’s proposal would have stripped the Judicial Branch’s ability to empathize with individuals in drug cases. Mandatory minimums strip judges’ ability to tailor an individual’s punishment not only to their specific offense but also to allow a judge to consider the forces driving an individual’s involvement with drugs.

The Anti-Drug Abuse Act of 1986 was the culmination of dozens of bills proposed by Senators and Congressmen to toughen drug penalties and increase law enforcement’s ability to arrest and prosecute drug criminals. One of the most notorious aspects of this bill was the creation of the 100/1 crack and powder cocaine sentencing disparity. While it took 500 grams of cocaine to trigger a minimum sentence of five years in prison, only five grams of crack cocaine was needed to trigger the same sentence. This disparity was a response to the public panic concerning crack, which was fueled by the media craze over the emergence of crack. Though not discriminatory in its language or creation, in the years to follow minorities and the poor would disproportionately suffer at the hands of this disparity, prompting outrage and reconsideration. In the immediate aftermath the passage of the bill, however, Congress sought to enhance the punishment for drug criminals of all sorts. These plans eventually culminated in the implementation of the Anti-Drug Abuse Act of 1988.

In his signing remarks for the Anti-Drug Abuse Act of 1986, President Reagan once again offered a sentiment that was more empathetic than his policies. In it he states, “We must be intolerant of drugs not because we want to punish drug users, but because we care about them

¹²⁸ Ibid

and want to help them. This legislation is not intended as a means of filling our jails with drug users. What we must do as a society is identify those who use drugs, reach out to them, help them quit, and give them the support they need to live right.”¹²⁹ However, neither the bill he signed into law that day nor its sister legislation that will be signed two years later provided individuals caught in the snares of drug abuse the help they truly needed.

Take for example, Donna, an African American woman whose drug use and criminal lifestyle has created a pattern of incarceration in her life, which she desperately wants to break. Discussing the origins of her drug use Donna recalled her abusive boyfriend, “It had gotten so deep that I didn’t really know how pain felt anymore, because I had lost it. I had medicated my pain. My drug use started when I was about twenty-one years old. I started smoking weed, and I would drink. When he would hurt me and do things to me, I would go and drink. I also started taking pills.”¹³⁰ Throughout her multiple criminal litigations, Donna did not go before a judge. She accepted the plea bargains offered to her because she did not have the finances to hire her own lawyer and did not want to risk getting a harsher penalty from the judge. However, going before a judge could have given Donna the outlet to expose her abuser, receive help getting out of that relationship and potentially start her on a path of healing that ended with a turn away from drug use. Instead, Donnas’ life was characterized by abuse, drug use, prostitution, and incarceration.

¹²⁹ Ronald Reagan, Presidential Remarks: Signing Ceremony For Drug Bill, October 27, 1986, folder: Drug Abuse Policy- October 1986 (3), Box 26, collection: Ralph C. Bledsoe Files Domestic Policy Council, Ronald Reagan Library.

¹³⁰ Paula Johnson, *Inner Lives: Voices of African American Women in Prison*, New York University Press: New York, 2003, 111.

In the midst of her cycle of drugs and incarceration, two things changed for Donna that helped her begin to straighten out her life: she converted to Islam and received a new counselor. Speaking of these two events' impact, Donna recalled,

I also got a new counselor. This guy was really good. He talked to me and he told me that I had a lot of anger issues that I needed to set free. He told me that I didn't have to keep using drugs and killing myself. He said that I could be a gift to society, to my people, to myself, and to my daughter and my family. But, first, I had to learn to love myself.... Even after I converted to Islam in 1981, my real power was not strong enough when it came to drugs. When I have a crisis now, these sisters—the Joyces—tell me when I'm doing wrong. I have this guilt, this shame about me. In Islam, if you do wrong, you walk in shame for four months. I've done this a couple of times. But each time I go, I get back into this drug thing, or the money situation. I was too proud to ask my friends or family to help me with rent, or a car note, so I went where I knew the fast money was. I will have to use the tools that they taught me in counseling to cope with these things or I will keep doing the same things and keep getting the same results. I'm getting a little stronger; I'm getting a little better. I have times when I want to give up, but I just try to pick myself up and try not to use drugs. I want to do things differently.¹³¹

Donna's life is an example of the futility of punishment oriented drug policy. In Donna's home community, incarceration was so frequent that one was not "considered a real street player if you didn't go to prison."¹³² Prison was almost a rite of passage in the eyes of Donna's community, invalidating the fear that the Reagan Administration and Congress hope to instill through harsh punishments. The ineffectiveness of harsh penalties is again highlighted by Donna's fight to get off drugs. She notes that it wasn't until her counselor gave her the tools to battle her addiction that she felt she could truly conquer it. While Donna was imprisoned again in 2003 on drug charges, she maintains her resolve to continue fighting against her urges to use drugs.

A year and six months after the passage of the Anti-Drug Abuse Act of 1986, federal officials began discussing a new comprehensive anti-drug bill. Despite a clear reduction in drug

¹³¹ Ibid, 113-114.

¹³² Ibid, 112.

use, and the first ever reduction in cocaine use, members of Congress still maintained that the nation's drug problem was a "dire emergency."¹³³ While the Anti-Drug Abuse Act of 1986 establish harsh prison sentences for drug criminals, politicians next looked to handicapping drug offenders after their stint in prison by limiting the kinds and amounts of government aide these individuals could receive after drug law violations. Despite earlier statements claims to want to help the user and not to jail them, this new legislation represented a change in attitude toward "intolerance and individual responsibility."¹³⁴

The new round of proposed bipartisan legislation concerning drug use added new depth to the harshness of drug penalties in the United States. The Gekas Amendment proposed "the death penalty for those who commit murder in the course of a drug felony and to establish constitutional procedure for the imposition thereof."¹³⁵ The Rangel Amendment—proposed by New York Democrat Charles Rangel—sought to establish "mandatory life imprisonment for those who commit murder in the course of a drug penalty."¹³⁶ Predictably enough, in their review of the proposed amendments, the Reagan Administration maintained that they preferred the Gekas Amendment to the Rangel Amendment as it offered harsher penalties for the same criteria. Further walking back their claims to want to help rehabilitate drug users, the Reagan Administration supported the Davis Amendment which deleted "provisions that [required] the National Institute of Corrections to establish and operate a national training center for training of Federal, State, and local prison officials in drug rehabilitation programs. These programs

¹³³ Dennis DeConcini, Alfonse D'Amato, Pete V. Domenici, Letter to the President, folder: Drugs (10), collection: Ralph C. Bledsoe Files Domestic Policy Council, Ronald Reagan Library, 2.

¹³⁴ Anti Drug Abuse Act of 1988 fact sheet

¹³⁵ House Drug Bill Talking Points: Gekas Amendment, 1988, folder: Congressional Drug Prevention- 1988 (8), OA16981, collection: Ralph C. Bledsoe Files Domestic Policy Council, Ronald Reagan Library.

¹³⁶ Ibid., Rangel Amendment.

[served] criminals convicted of drug related crimes or who have developed drug dependencies.”¹³⁷

Once again, the Reagan Administration’s actions did not match up with their rhetoric. While they spoke of wanting to rehabilitate the user and bring them back into mainstream society, they did not support proposals that sought to do so. The Davis Amendment would eliminate the most useful tool in helping convicted drug criminals begin a new life within the law. On top of this, the Reagan Administration also refused to support legislation that appropriated over \$2.5 billion for treatment and rehabilitation centers for the States.¹³⁸ While the Reagan Administration did approve increases in funding for mental health and rehabilitation centers, those budgetary increases in no way compared to the increases made in law enforcement and prison budgets. In fact, the 1988 bill included amendments that significantly increased the reward for law enforcement officials who arrested major drug traffickers and earmarked seized funds for the federal prison budget.¹³⁹ Despite the clear conflict of interest between the arrests of criminals, the seizures that coincide with those arrests, the increase to officers’ pocket books, and the federal prison budget, the American public offered widespread support for the tough new legislation.

Throughout the Reagan Administration’s crusade against drug use, there was a massive increase in drug law enforcement spending. From 1981 to 1987, federal spending for drug law

¹³⁷ Ibid., Davis Amendment; as an African American drug warrior from Harlem, Rangel is included among the cohort historian Michael Javen Fortner calls the “black silent majority.” See Fortner, *Black Silent Majority*

¹³⁸ Capsule Summary of Major Provisions of Congressman Clay Shaw’s Draft Omnibus Drug Legislation, April 16, 1988, folder: Drugs (9), box: 3, collection: Ralph C. Bledsoe Files Domestic Policy Council, Ronald Reagan Library

¹³⁹ Capsule Summary of Major Provisions of Republican Draft Drug Bill Idea List, April 16, 1988, folder: Drugs (9), box: 3, collection: Ralph C. Bledsoe Files Domestic Policy Council, Ronald Reagan Library.

enforcement virtually tripled from \$700 million to \$2.1 billion.¹⁴⁰ This increase was a natural extension of the drug war, as it emphasized drug use as a criminal offense. Tragically, the increase in law enforcement budgets was not paralleled with a comparable increase in funding for treatment and rehabilitation centers. While there were increases in grants to state and local governments, they paled in comparison to the massive increases to law enforcement budgets. This comes as a stark contrast to Reagan’s promise that the goal of his administration was “not to throw users in jail, but to free them from drugs. [And] offer a helping hand.”¹⁴¹

A look at the Reagan Administration’s strategy for treatment of drug users reveals a larger disconnect between the administration and the best way to achieve their goal of a drug free America. For their new treatment plan, the Reagan Administration sought to expand resources to intervene “during the early stages of drug use, i.e., before severe drug problems and habits begin to develop.”¹⁴² While this makes sense in the Reagan Administration’s mentality, it did not address the real drug problem in the United States. These individuals were not fully addicted or financially drained. As the Reagan Administration noted, these individuals were “more likely to have other financial resources including private insurance, personal finances, and employee assistance programs than members of the endemic group [hardcore addicts].”¹⁴³ They also noted that individuals in the epidemic group—early stage drug users—were “more likely to return to full occupational potential following intervention,” and that “resources necessary to treat the

¹⁴⁰ Report of the Working Group on Drug Abuse Policy to the Domestic Policy Council, September 11, 1986, folder: Domestic Policy Council Meeting: Drug Abuse Policy, Ronald Reagan Library, 2.

¹⁴¹ Ibid, 4.

¹⁴² Ibid, 18.

¹⁴³ Ibid

epidemic population [were] considerably less than those required to treat the endemic group of severely addicted individuals.”¹⁴⁴

Not only was this plan not addressing the real drug problem in the United States, it was also not the most economical use of federal funds directed at drug treatment. That the most severely addicted were not the focus of Reagan’s treatment plan reveals just how flawed the Reagan drug war truly was. The problems that the drug war sought to resolve—drug related petty crimes, negligent parents, lack of productivity, and more—grew from the behaviors of the seriously addicted, not moderate or light users. While the logic of the Reagan Administration’s choice to focus on the epidemic group can be followed, these individuals were not yet a danger to themselves or their communities in respect to their drug use, and the members of the endemic group certainly did present dangers to themselves and their community. Subsequently, it is clear that the endemic group needed treatment exponentially more than those in the epidemic group did, to protect the individual and their community. Moreover, as the Reagan Administration noted, individuals within the epidemic group retained more financial resources than those in the endemic group and consequently a better means to finance treatment on their own.¹⁴⁵ While treatment for the epidemic group was cheaper than that for the endemic group, the funds used to fund treatment for light or moderate users could have been diverted to the treatment of heavy drug users, who have fewer resources to fund their own treatment. Such a plan would have addressed the real drug problem in the United States rather than just the drug problem in suburbia.

¹⁴⁴ Ibid

¹⁴⁵ Report of the Working Group on Drug Abuse Policy to the Domestic Policy Council, September 11, 1986, folder: Domestic Policy Council Meeting: Drug Abuse Policy, Ronald Reagan Library, 2.

The federal government also exposed its own hypocritical nature in the 1986 report of the working group on drug abuse policy. In it the Reagan Administration concedes that “drug abuse treatment is primarily a state and community responsibility.”¹⁴⁶ While the federal government did offer support in the way of funding and block grants for treatment and rehabilitation centers, these investments were nowhere near the amount divvied out to state and local law enforcement agencies. Though one could argue that this was simply a result of the separation of powers outlined in the Constitution, it seems more accurate—given the Reagan Administration’s pattern of differing rhetoric and action—that the federal government was more concerned with punishing addicts rather than helping them conquer their addiction.¹⁴⁷ It is also worth noting the economic implications of the federal government’s actions concerning drug use and abuse. It is not fair to state that the Reagan Administration consciously decided that mild drug users deserved aide from the federal government because they often belonged to a higher economic class than the hard core addicted. However, the Administration did offer more resources to the individuals in better economic standing and left those entrapped in cycles of poverty addiction to the care of state and local officials.

In addition to impacting policing patterns and expanding the prison industrial complex, these portions of the Anti-Drug Abuse Act of 1988 mandated significant changes to crack sentencing and post prison penalties for drug criminals. Following the signing of this bill into law, crack cocaine became the only drug whose first time possession charge came with a mandatory prison sentence. Though it contained no racially biased language, policing practices made this sentencing structure unduly harsh to the African American community. In addition to

¹⁴⁶ Report of the Working Group on Drug Abuse Policy to the Domestic Policy Council, 20.

¹⁴⁷ House Drug Bill Talking Points: Gekas Amendment, 1988, folder: Congressional Drug Prevention- 1988 (8), OA16981, collection: Ralph C. Bledsoe Files Domestic Policy Council, Ronald Reagan Library.

the stiffer penalties for drug possession and dealing, separate stipulations in the bill revoked federal benefits to individuals convicted of drug possession or dealing. This included access to grants, contracts, loans, licenses, and public housing.¹⁴⁸ The post prison punishments forced onto drug criminals is the key to the new system of control, which Michelle Alexander deems “the new Jim Crow.”¹⁴⁹ These legal discriminations stunt the progress a former convict can make. Already subject to job discrimination due to their criminal record, these new revocations of federal benefits make it nearly impossible for formerly incarcerated individuals to make a living inside the law, increasing their likelihood of returning to the illegal practices that first brought them to prison.

As evident in their vocal support for harsh drug penalties, the Reagan Administration sought to bring the full weight of the law down on those who used or dealt illegal drugs. In the 1984 National Drug Strategy they stated, “Judges, probation officers and parole boards should give full recognition to the seriousness of drug offenses. Judges should provide for strict sentencing, to include just punishment for first time offenders in drug trafficking cases.”¹⁵⁰ This demonstrates that the Reagan commitment to toughness was already cemented in 1984. It is also an example of the Reagan Administration’s glorification of harsh penalties. This praise exposes how calloused the Reagan Administration, and the American public, were to the plight of addicts. As already discussed, there was little empathy extended to these individuals. While this kind of emotional detachment seems common between those who break the law and those who make and enforce it, it is not conducive for trying to solve the nation’s drug problem. Emotional

¹⁴⁸ “H.R. 5210 — 100th Congress: Anti-Drug Abuse Act of 1988.” www.GovTrack.us. 1988. March 12, 2017

¹⁴⁹ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, New York: The New Press, 2010.

¹⁵⁰ The 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking, 1984, folder: 1984 Strategy Implementation- Drug Abuse Policy, OA 19050, Ronald Reagan Library.

connectivity and support are much more likely to turn a potential or current user from drugs and strict punishments. However, this was the vital misunderstanding of not just the Reagan Administration but policymakers at all levels of government and tragically became the mantra of those enforcing the law.

The racial implications of the legislation passed by Congress and signed by President Reagan were not in the legislation themselves but in the practices of the police. Once again there was a great disconnect between the rhetoric of Reagan's drug war and the implementation of it. Despite the race-neutral language of the new drug laws, law enforcement officials began arresting racial minorities—most notably African Americans—at significantly higher rates than White Americans, despite the fact that White Americans consumed illegal drugs in larger numbers. The 1988 National Household Survey on Drug Abuse found that 37 percent (totaling 58,041) of White Americans had used illicit drugs in their lifetime. While 32.3 percent (totaling 4,823) of Hispanic Americans and 35.9 percent (totaling 7,999) of Black Americans had used illicit drugs in their lifetime.¹⁵¹ These biased policing practices grew out of centuries long held notions that Black Americans were more naturally inclined to commit crime. While law enforcement officials cited higher crime rates in minority neighborhoods as justification for their heavier police presence, a majority of these crimes were drug related crimes. This raises the question: Is there really more drug trafficking in these neighborhoods or is it a matter of over policing? A look into the differences between markets in the inner city and suburbs gives insight into this question.

The key difference in the markets in the inner city and the suburbs was location. While suburban drug transactions were frequently conducted indoors, inner city drug deals were

¹⁵¹ United States Department of Health and Human Services. National Institute on Drug Abuse. *National Household Survey on Drug Abuse: 1988 Population Estimates*. Rockville, MD. 1989.

conducted in outdoor public spaces.¹⁵² The public nature of the inner city markets made these individuals exponentially easier to apprehend than dealers in suburbia, especially when one considers legal practices such as stop and frisk where the New York City police had the authority to stop anyone on the street and frisk them if the officer suspected the individual possessed drugs. Given the fact that many urban dealers returned to the same public location to conduct business, it was very easy for officers to track down dealers and arrest them in the act of selling drugs. By contrast, suburban dealers were much more protected from the prying eyes of the police.¹⁵³ Their neighborhood offers them a level of protection. Speaking of the privilege inherent in suburban neighborhoods, scholars Jeffrey Reiman and Paul Leighton write,

The factors more likely to keep one out of trouble with the law and out of prison, such as suburban living room instead of a tenement alley to gamble in... are the kinds of things that money can buy regardless of one's race, creed, or national origin.... Drug arrests are most easily made in "disorganized inner city" areas, where drug sales are more likely to take place and out-of-doors, and dealers are more willing to sell to strangers.¹⁵⁴

The ease with which inner city dealers could be arrested as compared to suburban dealers constitutes a large part of why African Americans were arrested more frequently on crack cocaine charges than White Americans. Moreover, suburban police departments often do not have Special Weapons and Tactic (SWAT) and other paramilitary subsidiaries, specialized vice departments, and are largely more informal in their interactions with the private citizens of the

¹⁵² Special Report to Congress: Cocaine and Federal Sentencing Policy, United State Sentencing Commission, February 1995, bound, box 8, Deanne Benos, Domestic Policy Council, White House Staff and Office Files, William J. Clinton Library.

¹⁵³ Ibid.

¹⁵⁴ Jeffery Reinman and Paul Leighton, *The Rich Get Richer and the Poor Get Prison: Ideology, Class, and Criminal Justice*, (Routledge Press: London) 2017, 200.

area. Inner city neighborhoods generally have more militarized police and overall can be described as “occupied space.”¹⁵⁵

One way biased policing manifested was through discrimination based on physical appearance. William Bennett, Secretary of Education, praised one school for their identification of drug dealing students in his testimony before the House Select Committee on Narcotics Abuse and Control stating, “Recently, narcotics officers arrested several Washington students for selling drugs to their classmates. The students were identified by their expensive clothing and the electronic pagers they carried to ensure that classes did not interfere with sales.”¹⁵⁶ While the race of these students was not identified, a measure of profiling is inferred from Bennett’s statement. Though not clearly stipulated, it is obvious that the student’s expensive clothing and pagers signaled to the officers that they were engaged in some sort of illegal activity. It is unfair to state that it was obviously race that signaled to the officers that these individuals were dealing drugs, but something about the appearance of these children told the officers that these students could not afford those items legally.

Police also developed tactics that sought to arrest drug criminals through targeted efforts and excessive stops. One of the most common ways officers find drugs and make arrests is by pulling drivers over and asking to search the vehicle. Despite their lack of a warrant, nervous about saying no to the police, citizens often allow the officer to conduct a search even if the individual has drugs in the car. Indeed, a 2004 study found that 98 percent of task force searches

¹⁵⁵ Ibid.

¹⁵⁶ Testimony of William J. Bennett Secretary of Education, U.S. Department of Education, Before the House Select Committee on Narcotics Abuse and Control, May 20, 1986, folder: National Drug Enforcement Policy Board Box 14, Ronald Reagan Library, 11.

were conducted on the legal basis of verbal consent at the time of the stop.¹⁵⁷ In addition to geographic and clothing discrimination, officers were more likely to pull over minority individuals rather than White ones. One 1992 study found that Florida state troopers pulled over and searched African and Hispanic Americans 80 percent of the time in Volusia County, despite the fact that they only made up 5 percent of the driving population.¹⁵⁸ A 2001 ACLU investigation found that Black Americans in Oakland, California were twice as likely to be stopped by police and three times as likely to be searched.¹⁵⁹ Building off of targeted enforcement, officers also often conducted large amounts of traffic stops with the sole intention of finding drugs. One California police officer described it this way, “It’s sheer numbers.... You’ve got to kiss a lot of frogs before you find a prince.”¹⁶⁰

Because of these biased police practices, crack cocaine use and dealing became associated largely with African Americans. Despite Household Surveys that found that 52 percent of those who reported crack use in the past year were white, the 1995 Sentencing Commission found that 88.3 percent of federal crack cocaine convictions were African American.¹⁶¹ The important thing to note here is that police action dictated the beliefs about African Americans and crack cocaine. Because they were so highly prosecuted for crack related crimes, the American public began to see crack cocaine as a uniquely black drug. This misconception in addition to the media hysteria in the mid 1980s kept crack penalties unnecessarily harsh despite claims of racial bias. The anecdotal claims about crack’s

¹⁵⁷ Michelle, Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, 200.

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*

¹⁶¹ Special Report to Congress: Cocaine and Federal Sentencing Policy, United State Sentencing Commission, xi.

addictiveness and ability to incite violence stopped elected officials from attempting to remedy the broken system.

This concern with the minimal harms to the privileged classes in the United States over the injustices enacted over the poor and minorities is also reflected in overall attitude of not just the Reagan Administration but also members of Congress. Congressman Charles Rangel (D-NY) stated before Congress, “Let’s face it, we are in deep trouble with drugs. No longer is the narcotics issue a matter of junkies lounging in the ghetto streets.”¹⁶² Here Rangel was not trivializing the impact of drugs in the ghetto, but expressing his concern about the prevalence of drug use throughout the United States. The Reagan Administration reflected this sentiment in the 1984 National Drug Strategy stating, “While improved mechanisms exist for the treatment of the hard-core drug users, the large number of experimental drug users necessitates that we develop and implement new strategies to halt this epidemic.”¹⁶³ Once again, the logic of the federal government is baffling. Rather than focus on the individuals causing actual harm to society through their addictions, the Reagan Administration chose to focus on the casual user who maintains control over their life when the true need was with those whose lives were spiraling out of control.

Many of the Reagan strategies listed the top priority of federal law enforcement agencies as individuals of high rank within national and international cartels. In the 1988 National Strategy Against Drug Use stated, “The leadership of drug organizations, often insulated against the actual drug operation but growing rich off the profits, must be targeted and attacked.

¹⁶² Charles Rangel, Combating Drug Abuse and Trafficking: Some New Directions, folder: Congressman Charles Rangel (6), collection: Carlton Turner files, box: 71, Ronald Reagan Library, 3.

¹⁶³ The 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking, 17

Frequently, sophisticated financial investigations are the only avenue to attack these criminals.”¹⁶⁴ However, a majority of the individuals brought into the criminal justice system for drug related crimes were low level individuals. For example, the Regan Administration boasted in 1984 that the number of average monthly drug related convictions had risen to 921, but only 252 of those convictions were top-level organizers or financiers.¹⁶⁵ Once again, it is clear that the federal government under President Reagan was not addressing the real problem in regards to drug abuse. What the Reagan Administration failed to understand was that their efforts were not actually stopping the flow of drugs throughout the country but merely changing the hands that the drugs flowed through. Arresting fifteen drug dealers in Compton did not mean that the drugs that those fifteen individuals customarily dealt were now gone, it just meant that someone else was selling them, whether it be a new dealer or one that was fortunate enough to not get caught.

With the close of the Reagan era, pressures to remain tough on drugs and crime did not lessen. Indeed, President George H.W. Bush continued Reagan’s push against drug use and harsh penalties for criminals. However, 1990’s saw a shift in public opinion concerning the harsh penalties for crack cocaine. The *New York Times* ran a series of articles outlining the racial implications of the 100/1 sentencing disparity. In response, President Clinton signed legislation directing the United States Sentencing Commission—a body created to ensure equality in sentencing structures—to investigate federal cocaine sentencing structures and report their findings. Despite the progressive approach to drug law by some, a majority of Americans, including those in the Congress, opposed the weakening of drug laws. It is in this changing

¹⁶⁴ Toward A Drug Free America: The National Drug Strategy 1988, folder: National Drug Strategy Report Richard Porter, NBC Staff (1 of 6) RAC Box 2, Ronald Reagan Library, 9.

¹⁶⁵ The 1984 National Strategy for Prevention of Drug Abuse and Drug Trafficking, 8.

environment with liberals calling for softer penalties and conservatives reaffirming the touch on crime mantra that President Clinton attempted to reform the 100/1 disparity.

CHAPTER V

THE COST OF DOING BUSINESS

Too often in a discussion of drug crimes, people see only in black and white—not only in a racial sense, but also in the metaphorical sense. They see those who abide by the law and those who do not. Often times, a full investigation into a criminal’s background is not conducted, because the only thing that matters to most is the fact that they broke the law, not what drove them to break it. In this unforgiving system, individuals like Kemba Smith fall between the cracks. Arrested for conspiracy to distribute crack cocaine in 1994, the court sentenced Smith to twenty-four years in prison with no chance of parole. Smith was only twenty-four years old at the time of her sentencing, a student at Hampton University, and a mother to a four-month-old baby boy. None of this could change the court’s decision though. From a legal standpoint, justice had been served; Smith broke the law and now faced the consequences.¹⁶⁶

¹⁶⁶Clemency Petition, NAACP Legal Defense and Educational Fund, May 1996, folder: Kemba Smith, box 1, Series: WHORM files, Bruce Lindsey, White House Staff and Office Files, WJCL.

However, drug abuse and non-violent drug crimes are rarely this black and white. Drug abuse and drug crimes often are not representative of some inherent character flaw; they often are born out of abuse and structural inequality. Policy makers are largely unconcerned with what drives an individual to drugs. They want to be understood as tough on crime and to be tough on crime, a politician must forget the human cost of their legislation and instead view them as hardened criminals undeserving of a second chance. To punish individuals convicted of non-violent drug crimes as criminals rather than victims of abuse and systemic oppression is a further act of violence against them. Smith was such a victim.

While for many individuals caught in the criminal justice system abuse starts at a young age, this was not the case for Smith. Her early life was not without hardship but was largely representative of the ideal family life. Smith lived in a white-dominated suburb of Richmond, Virginia with both parents. She was the ideal child: well-behaved, good student, and involved with many school and community activities such as Girl Scouts, Brownies, Students Against Drunk Driving, Future Homemakers of America, and the foreign language club. Smith's early life offered no indication that she would face twenty-four years in prison at the age of twenty-four. Things changed for Smith in college when she began dating a man named Peter Hall. Hall, unknown to Smith, ran a large scale drug operation in Virginia. By 1994, Hall was put on the U.S. Marshals' most wanted list. Hall also physically abused Smith and eventually forced her to participate in his drug operation.¹⁶⁷ After months of fleeing the police, authorities tracked down Smith and Hall and arrested them. The court levied crack cocaine related charges against Hall and Smith, which is why Smith's sentence was so long. Crack is one of the most harshly punished drugs in the U.S. criminal justice system.

¹⁶⁷ Ibid.

Instituted by Ronald Reagan, the Anti-Drug Abuse Act of 1986 established severe federal sentence structures for crack cocaine. Crack became the only drug with a possession charge that included a mandatory prison sentence. Possession or dealing of as little as five grams of crack cocaine triggered a minimum of five years in prison. Crack's sister drug, powder cocaine did not carry such a harsh sentence. In fact, it took one hundred times the amount of cocaine to trigger the same prison term.¹⁶⁸ This 100/1 disparity proved problematic because of its racial implications. President Reagan and Congress did not seek to establish a racially biased sentencing structure, but due to law enforcement practices and systemic inequality, African Americans suffered more frequently from this sentencing structure than any other race. Despite the fact that white Americans consumed crack in higher numbers than any other race, crack quickly became viewed as a uniquely black drug; one that preyed not only on African Americans but also brought violence and pain into their communities.¹⁶⁹

Scholars studying the war on drugs often take a broad approach. They analyze the war on drugs as a whole rather than addressing a single drug within a president's tenure in office. This macro approach allows for a more comprehensive understanding of the ways in which the war on drugs has incarcerated minorities disproportionately. This chapter, by contrast, takes a micro look at crack legislation during the Clinton Administration. This approach offers more insight into the actions of lawmakers. It enables the close analysis of policymakers' choices and if they could have taken a different direction. A macro approach to the war on drugs often suggests inevitability, while a micro approach identifies the specific choices politicians made concerning

¹⁶⁸ Levine, Harry G., and Craig Reinerman. *Crack in America*. Los Angeles, CA: University of California Press, 1997.

¹⁶⁹ United States Department of Health and Human Services, National Institute on Drug Abuse, *National Household Survey on Drug Abuse: 1994 Population Estimates*, Rockville, MD, 1995.

drug legislation. A tight focus reveals specific notions that drove policy decisions rather than just examining the effects of the legislation.¹⁷⁰

Discussing notions of black criminality in the Progressive Era, historian Khalil Muhammad writes, “African American criminality became one of the most widely accepted bases for justifying prejudicial thinking, discriminatory treatment, and/or acceptance of racial violence as an instrument of public safety.”¹⁷¹ Indeed, Muhammed’s claim can be applied to the topic of crack cocaine. African American criminality became one of the most widely accepted bases for justifying the stark differences in sentencing for crack and cocaine and acceptance of the unnecessarily lengthy prison terms for African Americans as an instrument of public safety. During the Clinton Administration, this reasoning and the notion of black criminality came under scrutiny, as did the racial injustice of the 100/1 sentencing discrepancy. Elected officials, appointed commission members, politicians, and journalists identified the problems with federal cocaine sentencing structures. These individuals presented their concerns to Congress and President Clinton and proposed remedies to the situation. Despite the rational evidence presented to them, Congress and President Clinton opted for harsh penalties. They made this decision for political expediency in the era of “tough on crime” politics. Indeed, individuals within the Clinton Administration understood that the most sound policy decision concerning federal cocaine sentencing structures was not the policy they chose. Instead, they opted for the tougher legislation that would have fewer political costs. Exaggerated fears surrounding crack cocaine that played off long standing notions of black criminality justified this decision.

¹⁷⁰ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010); Elizabeth Hinton. *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America*. (Cambridge, MA: Harvard University Press, 2016); Michael Fortner, *The Black Silent Majority: The Rockefeller Drug Laws and the Politics of Punishment* (Cambridge, MA: Harvard University Press, 2015).

¹⁷¹ Kahlil Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge, MA: Harvard University Press, 2011): 4.

Essential for a discussion of the 100/1 disparity is critical understanding of the two drugs' capacity for destruction. In 1995, the U.S. Sentencing Commission examined the 100/1 disparity and the two drugs in depth. They found that “cocaine in any form—paste, powder, freebase, or crack— [produced] the same physiological and psychotropic effects.”¹⁷² This made sense, as the two drugs are chemically identical and psychologically addictive. There was nothing within the drug itself that made it any different from powder cocaine. The route of administration created different effects for crack users than some cocaine users. As the Sentencing Commission found, “the route of administration determines the intensity and duration of these effects. For a given quantity of cocaine, smoking crack cocaine and injecting powder cocaine produces the most intense physiological and psychotropic effects.”¹⁷³ However, smoking crack was easier and more pleasant than injecting cocaine, and based on these facts, the Sentencing Commission determined that smoking crack appeared more tempting to the first time or frequent user than injecting cocaine. It begs repeating though that crack and cocaine were capable of causing the same amount of harm; it was what the user chose to do with the cocaine that determined its danger level, while crack was always in its most dangerous form.¹⁷⁴

Despite the identical chemical makeup of the two drugs, crack's supposed unique ability to ruin not just the lives of individuals but entire communities scared a majority of Americans. Of chief concern to many was the belief that crack was instantly addictive; many worried that just one experience with crack would send anyone spiraling into an addiction. The stereotypes surrounding “crack heads,” as crack addicts became known, formed the basis of the rest of the fears surrounding the drug. Americans saw crack users as drug-crazed individuals concerned

¹⁷² Special Report to Congress: Cocaine and Federal Sentencing Policy, United State Sentencing Commission, February 1995, bound, box 8, Deanne Benos, Domestic Policy Council, White House Staff and Office Files, v.

¹⁷³ Ibid. vi

¹⁷⁴ Ibid.

only with their next high, and people believed that crack retained a unique ability to inspire violence, either within the drug market or within users themselves. In their minds, crack was unraveling the social fabric of America's inner cities. Crack babies and crack-addicted mothers were the rule rather than the exception, in the minds of many. Apart from its addictiveness, the most common fears vocalized about crack was its impact on the poor and young. Concerns that America's youth would turn to crack before other drugs and that the poor would only further enable their poverty grew out of the cheap price of crack. Taken together, these fears formed the basis of logic behind the stringent policies on crack.¹⁷⁵ These fears remained in the minds of many as President Clinton attempted to reform federal cocaine sentencing.

In 1994, The Omnibus Violent Crime Control and Law Enforcement Act directed the U.S. Sentencing Commission to examine the federal penalty structures regarding all forms of cocaine and provide recommendations for the modification of these structures. The next year, the Commission reported their findings and recommended an equalization of penalties for crack and cocaine at the federal level. The Commission also established a set of guidelines that would allow for the harsher punishment of crack or cocaine when a case involved any of the social fears surrounding cocaine such as but not limited: to the involvement of youth, violence, guns, parental neglect, or prior criminal records.¹⁷⁶ The recommendation was highly contested amongst the members of the Commission, with a four -three vote approving the measure. Without an act of Congress to reject its recommendations, the Commission's guideline system would become law after 180 days.¹⁷⁷

¹⁷⁵ Ibid.

¹⁷⁶ Ibid, 199.

¹⁷⁷ Statement Before the Subcommittee on Crime Committee on the Judiciary U.S. House of Representative, Jo An Harris, June 29, 1995, folder: Drugs: Crack Cocaine Sentencing [2], Leanne Shimabukuro, Domestic Policy Council, 4.

During their investigation, the Sentencing Commission came to conclusions that combatted some of the assumptions about crack. The Commission noted in their introductory remarks that “despite the unprecedented level of public attention focused on crack cocaine, a substantial gap continues to exist between the anecdotal experiences that often prompt a call for action and empirical knowledge upon which to base sound policy... policy makers must draw conclusions cautiously.”¹⁷⁸ While the Commission found more violence within the crack trade than in the cocaine trade, they attributed the violence to the new nature of the market rather than having to relate to crack itself. With the accusation that crack turns its users violent, the Commission found no evidence that crack or powder cocaine “excite or agitate users to commit criminal acts and that the stereotype of a drug-crazed addict committing heinous crimes is not true for either type of cocaine.”¹⁷⁹ In contrast, the research revealed that alcohol was most likely to turn individuals to commit domestic violence. The Commission also found little evidence to suggest that crack users are more likely than powder cocaine users to commit crimes to support their drug habit.¹⁸⁰

One of the most notable concerns about crack was the rise of crack babies and neglectful mothers too concerned with getting high to take proper care of their babies. The Sentencing Commission found no evidence to support the notion that the rate of babies born addicted to crack was on the rise or ever very high. They noted that no studies had been done on the issue and a lack of empirical evidence to support these claims; in fact, “much of the evidence... [came] from news magazine reports as opposed to medical and scholarly journals.”¹⁸¹ Many drug

¹²Special Report to Congress: Cocaine and Federal Sentencing Policy, United State Sentencing Commission, February 1995, v.

¹⁷⁹ Ibid, ix.

¹⁸⁰ Ibid.

¹⁸¹ Ibid, 190.

tests also did not differentiate between crack and cocaine, making it impossible to determine if one substance was more harmful to babies and mothers than the other. However, the Sentencing Commission was able to outline the potential risks posed to babies exposed to crack cocaine in utero and the dangers of drug addicted parenting.

A major concern for the Sentencing Commission itself was the racial bias surrounding the 100/1 disparity. In their review of the creation of the crack and cocaine sentencing structures, the Commission found no evidence of discriminatory intent on the part of Congress in setting the different punishments for the two drugs. They also found that courts levied out sentences equally regardless of race for both drugs. However, the Commission did note that a comparison of the two drugs revealed the 100/1 ratio “to be an unduly high ratio, [and] the vast majority of those persons most affected by such an exaggerated ratio are racial minorities. Thus, sentences appear to be harsher and more severe for racial minorities than others as a result of this law, and hence the perception of unfairness, inconsistency, and a lack of evenhandedness.”¹⁸² While the Commission could not condemn the established 100/1 ratio as inherently biased, they could and did point out the clear problems with it. Despite the lack of evidence, the Commission’s chairman stated that their theory “was a law, no matter how well-intentioned it was, if it’s causing such discrepant results, then the law has to be changed and a new method has to be installed.”¹⁸³

The Clinton Administration and a substantial portion of Congress opposed the Commission’s recommendations. H.R. 2259—the bill that rejected the Sentencing Commission’s 1995 recommendations—maintained that the current sentencing structure was favorable to the Commission’s suggestion on the basis that it was more punitive. Congress held that the

¹⁸² Ibid. 192

¹⁸³ “Crack and Punishment: Is Race the Issue?” *New York Times* Oct 28, 1995.

Commission's sentencing range "would fall below the statutory mandatory minimum sentences for [crack penalties,] thus resulting in greatly reduced sentences for crack cocaine trafficking offenses than is currently the case."¹⁸⁴ In a statement by the President, he affirmed his support for Congressional rejection of the guideline system: "I am not going to let anyone who peddles drugs get the idea that the cost of doing business is going down."¹⁸⁵ While both parties opposed the proposed guideline system, they both agreed that the current 100/1 ratio was too great and warranted some reconsideration. Both parties also acknowledged the "concern about racial bias arising from the current penalty structure," but reaffirmed that justice was dilled out equally among federal prosecutors and there was no racial intent behind the legislation that created the disparity.¹⁸⁶ For supporters of the legislation, these facts alleviated the racial concerns surrounding the 100/1 disparity, buying into the adage that these people broke the law and should accept the consequences.

However, there were detractors from the Congressional majority who made their opinion abundantly clear in their dissenting views. In their opening paragraph, the dissenting members of Congress called the current 100/1 sentencing scheme, "blatantly discriminatory federal laws."¹⁸⁷ The dissent not only condemned the discriminatory laws, but also the individuals who enforce them, highlighting that "federal agents have focused their resources in minority communities, where [the] crack trade is believed to be the most prevalent and violent."¹⁸⁸ Resulting from this targeted enforcement the dissent noted that, "not a single white has been convicted of a crack

¹⁸⁴ Disapproval of Certain Sentencing Guideline Amendments, H. Res. .2259, 104th Cong., 1st sess., folder: H.R. 2259 crack/cocaine, Steve Richetti, Legislative Affairs, WJCL, 2.

¹⁸⁵ Statement, William Clinton, October 30 1995, folder: H.R. 2259 crack/cocaine, Steve Richetti, Legislative Affairs, WJCL 1.

¹⁸⁶ Statement Before the Subcommittee on Crime Committee on the Judiciary U.S. House of Representative, Jo An Harris, 9.

¹⁸⁷ Disapproval of Certain Sentencing Guideline Amendments, H. Res. .2259, 104th, 16

¹⁸⁸ *Ibid.*, 19.

cocaine offense in federal courts serving Los Angeles and its six surrounding counties since Congress enacted its mandatory sentences for crack dealers in 1986.”¹⁸⁹ These individuals forced the racial issue back into the conversation. They demonstrated to the supporters of the bill that there were real racial consequences of the current sentencing structure. However, the majority remained unmoved by the clear racial imbalance of justice.

During the House subcommittee on crime’s hearings over the proposed changes to the sentencing structure, Jo Ann Harris, Assistant Attorney General, gave an official statement on behalf of the Department of Justice and the Clinton Administration. Harris condemned the Commission’s equalization of crack and powder cocaine because it did not properly address the negative impact crack had on communities across the nation. The prospective change in prison time for crack offenders served as a major point for Harris’s argument. She reiterated the common equation put out by the Clinton Administration, which compared crack sentences under the mandatory minimums with the new guideline systems as a fear-mongering tactic. Harris chose to compare penalties for distributing fifty grams of crack, which under the standing mandatory minimums triggered a ten-year sentence that had the potential to be reduced to four to ten months of imprisonment or probation with home detention in the new guidelines system. Rather than acknowledge the potential the new guidelines had to reduce the burden of crowded prisons or the damage done to individuals in prison, Harris declared that this new sentencing structure sent a message to crack dealers “to expand their operations in response to a windfall reduction in the cost of doing business.”¹⁹⁰

¹⁸⁹ Ibid.

¹⁹⁰ Statement Before the Subcommittee on Crime Committee on the Judiciary U.S. House of Representative, Jo An Harris , 4-6.

This was not the first time someone within the Clinton Administration used the phrase “the cost of doing business” in regards to drug dealers, and the sentiment attached to this phrase warrants some analysis. Looking first at President Clinton’s usage, he stated that he did not want drug dealers to get the idea that the cost of doing business was going down.¹⁹¹ Here, the concern was to keep people away from drugs and the drug trade through harsh punishments. Clinton’s remarks suggested nothing about the nature of people involved in the crack market. Harris’s statement however, reveals a sentiment about those involved with crack. Harris asserted that in lieu of harsh punishments, the crack problem would only get worse because the individuals involved with the crack trade would make the crack problem worse with their newfound freedom. The picture that Harris projected was one of an evil drug dealer whose only purpose in life was to sling crack; there was no course for redemption. She did not see the possibility of someone turning away from the crack trade and starting a life within the law. Harris’s perception of crack dealers was a racist exaggeration of a heartless thug only concerned with getting paid.

In her statement, Harris referred to many of the anecdotal fears surrounding crack to justify different punishments for crack and powder cocaine and the rejection of the Commission’s proposal. Harris preyed on longstanding racialized fear surrounding crack and U.S. paternalistic instincts throughout her statement. She claimed that crack had become “readily available to a large segment of our population, including our most vulnerable—the poor and the young.”¹⁹² This statement was flawed on more than one account. First, Harris claimed crack was available to a “large segment of our population.”¹⁹³ While crack technically was available to anyone wanting to purchase, the 1994 National Household Survey of Drug Abuse (NHSDA)

¹⁹¹ Statement, William Clinton.

¹⁹² Statement Before the Subcommittee on Crime Committee on the Judiciary U.S. House of Representative, Jo An Harris, 2.

¹⁹³ Ibid.

found that only 1.3 million people used crack cocaine in the last year, and only four million reported using crack cocaine in their lifetime.¹⁹⁴ There is also no evidence to support Harris's claim that the poor are uniquely burdened by crack, as neither the NHSDA or the Sentencing Commission investigated class in relation to crack usage. However, there was a correlation between education and crack usage. The NHSDA found that individuals without a high school diploma reported the most crack usage within the past year.¹⁹⁵ While many link a lack of education to class, the connection is not solid enough to justify the mobilization of Congress's paternalistic nature to maintain the 100/1 ratio that disproportionately incarcerates African Americans at an alarming rate. Harris's charge that the young were disproportionately affected by crack was misleading as well. While crack usage in the past year was highest among individuals twenty-six to thirty-four, it was a meager 1.3 percent of that population.¹⁹⁶

Many of the claims made by Harris were distortions of the evidence used by the Sentencing Commission. The Commission was careful to avoid any declaratory statements regarding the differences between crack and cocaine. For example, when discussing which form of cocaine was more addictive, the Commission stated that "the form of cocaine can be an adequate proxy for addictiveness when the cocaine is in crack form, but an inadequate proxy when the cocaine is in powder form."¹⁹⁷ While both crack and powder cocaine retain the same capacity for addiction, the Commission found that smoking crack cocaine was the preferred method to injecting cocaine and determined that usage trends could allow for a higher penalty for

¹⁹⁴ United States Department of Health and Human Services, National Institute on Drug Abuse, *National Household Survey on Drug Abuse:1994 Population Estimates*.

¹⁹⁵ Ibid

¹⁹⁶ Ibid

¹⁹⁷ The addictiveness of cocaine, in any form, is born from the route of administration. The intensity and duration of the physiological and psychotropic effects of the drug determine its addictiveness. Smoking crack cocaine and injecting powder cocaine produce the same intensity and duration, making them equally addictive. They are also the most addictive forms of cocaine; Special Report to Congress: Cocaine and Federal Sentencing Policy, United State Sentencing Commission, 1995, 181-182.

crack cocaine, though they urged the creation of a precise formula to calculate the greater dangers of crack cocaine. The Commission never stated that one base drug was inherently more addictive nor did it explicitly advocate for a higher penalty for crack over powder cocaine.¹⁹⁸ Harris, however, took the Commission's findings and compared the Commission's information on crack to snorting cocaine, which offers a completely different comparison than smoking and injecting. After presenting her analysis, Harris declared that "crack is more psychologically addictive than cocaine powder," which the Commission's report clearly found false.¹⁹⁹ Ultimately, both houses of Congress voted to approve the bill, and it was sent to the President's desk.

In the days following the Congressional vote, prisoners in five different federal penitentiaries expressed their discontent with the decision via "disturbances," as the *New York Times* declared them.²⁰⁰ In Memphis, prisoners started a fire at the Federal Correctional Institute. At the Greenville, Illinois Federal Correction Institute, inmates took control of most of the housing unit after refusing to return to their cells. Guards then barricaded themselves in an area that was not easy for prisoners to reach. 150 inmates got involved in a fight in the dining hall in Allenwood, Pennsylvania during which time a female guard was burned by hot liquid being thrown in her face.²⁰¹ Despite the seemingly clear cause and effect relationship between the uprisings and the denial of the Commission's recommendations due to their chronology, prison officials denied any link between the two. A spokeswoman for the chairman of the Judiciary's Committee's subcommittee on crime stated, "It may suit some people's agenda to attribute the

¹⁹⁸ Ibid.

¹⁹⁹ Statement Before the Subcommittee on Crime Committee on the Judiciary U.S. House of Representative, Jo An Harris, 3-4; Ibid.

²⁰⁰ "Wave of Prison Uprisings Provokes Debate on Crack." *New York Times* Oct. 24, 1995.

²⁰¹ "Feds Order Lockdown After Series of Prison Riots," *CNN* Oct. 21, 1995.

riots to the vote, but we have no indications that that is true.”²⁰² This statement was painfully misguided. What else would have garnered enough emotion to provoke incarcerated individuals in five different penitentiaries in five different states to rebel at the same time? It is not particularly easy to organize an interstate protest from a prison cell, and as one prisoner rights advocate noted, inmates around the country were watching the debate around crack unfold. Juanita Hodges, president of the prisoner advocate group Seekers of Justice, Equality and Truth, stated, “All during the Congressional debate, I was receiving telephone calls from brothers in prison who were watching developments. The violence was because of Congress’s vote.”²⁰³

After passage through Congress, President Clinton signed the legislation into law, officially rejecting the Commission’s proposal and ordering the Commission to reevaluate the sentencing structure and submit a new proposal. In an official statement, Clinton stated that he was committed to the message that “drugs are illegal, drugs are dangerous, drugs may cost you your life—and the penalties for dealing drugs are severe,” and famously declared that he was “not going to let anyone who peddles drugs get the idea that the cost of doing business is going down.”²⁰⁴ A concern for appearing “tough on crime” motivated this decision. It was necessary for Clinton to project a tough image; his opponents would use any semblance of softness in regards to crime against him. It was an easy strategy for politicians to use to gain favor with the public.

The violent response to the Congressional vote serves as a reminder of the human casualties of the war on drugs and the 100/1 disparity. Smith was not the only victim of the 100/1 sentencing ratio by any means. However, Karen Blakney’s story has a less cookie cutter

²⁰² “Wave of Prison Uprisings Provokes Debate on Crack” 2.

²⁰³ Ibid.

²⁰⁴ Statement, William Clinton, October 30 1995.

beginning than Smith's. Blakney was a drug addict with a record of petty crimes that was incorporated into a crack deal by a pair of drug dealers. Blakney was not originally involved with the deal. After the two dealers sold a large quantity of powder cocaine to an undercover DEA agent, the officer "demanded crack to enhance the potential sentence."²⁰⁵ The pair then brought in Blakney to cook the powder. The agent paid Blakney \$100 in government funds for the service, after which time the three individuals were arrested and brought to court under the jurisdiction of Judge Luis Oberdorfer.²⁰⁶

Judge Oberdorfer saw Blakney's tragedy as it really was. The federal sentencing structure mandated that Blakney be imprisoned for a minimum of ten years while her sentence would have been lowered to three years had she been involved with powder cocaine rather than crack. Judge Oberdorfer saw no reason to imprison Blakney, a mother of seven, to ten years in prison, calling that punishment "cruel and unusual and in violation of the Eighth Amendment," and instead sentenced Blakney to a three-year prison term.²⁰⁷ Blakney served her full three-year sentence with commendations from her warden while her case appeal was pending. Nineteen months after her release, the Court of Appeals ordered Blakney—at the time drug free, employed, and pregnant with an eighth child—to serve the seven years left on her crack sentence. Judge Oberdorfer did all he could within the court system to stop Blakney from having to return to prison for seven more years.

The Court struck down Judge Oberdorfer's pleas and requested Oberdorfer remove himself from the case. Seeing no other viable options, Oberdorfer turned to President Clinton, requesting clemency for Blakney. Oberdorfer suggested that President Clinton write an

²⁰⁵ Letter, Luis Oberdorfer, 1998 folder: 24955155, Leanne Shimabukuro, Domestic Policy Council, 1

²⁰⁶ *Ibid.*

²⁰⁷ *Ibid.*

Executive Order “grounded on the President’s power to ‘Reprieve and Pardon’ to commute the sentences of certain non-violent drug law violators.”²⁰⁸ Judge Oberdorfer condemned the prevailing 100/1 ratio calling it “arguably the most fragrant practice of racial discrimination by the federal government since President Truman integrated the Armed Forces 50 years ago.”²⁰⁹ Pleading with President Clinton to grant clemency to Blakney, Oberdorfer highlighted the cruel nature of sending her to prison for another seven years stating that “returning Blakney to prison for another 7 years would be, for me, too much like enforcing the pre-Civil War Fugitive Slave Laws.”²¹⁰ President Clinton did not step in on Blakney’s behalf, but she did not have to serve the extra seven years. Because of her change of lifestyle, another court decided to put Blakney on probation for five years.²¹¹

With individuals like Smith and Blakney in mind, the Sentencing Commission released a second report with recommended changes to the 100/1 ratio in 1997. Under the direction of Congress and the President, the Commission re-examined the two drugs and their respective impact on society. However, in their report to Congress, the Commission retained that “the guidelines approach allows for the more refined and individualized sentencing that Congress envisioned under the Sentencing Reform Act as well as the most efficient and effective use of scarce federal prison resources.”²¹² Despite this conviction, the Commission conducted new research and submitted new recommendations to Congress. The Commission recommended changing the quantities that trigger a mandatory five year sentence for both drugs. They recommended reducing the current 500 gram trigger for powder cocaine to a level between 125

²⁰⁸ Ibid.

²⁰⁹ Ibid 2.

²¹⁰ Ibid.

²¹¹ Paula Johnson, *Inner Lives: Voices of African American Women In Prison*, 169-171.

²¹² Special Report to Congress: Cocaine and Federal Sentencing Policy, United State Sentencing Commission, 1997, folder: Drugs: Crack Cocaine Sentencing [2], Leanne Shimabukuro, Domestic Policy Council, 6.

and 375 grams; for crack cocaine, they recommended raising the current five gram trigger to a level between twenty-five and seventy-five grams.²¹³

With the new recommendations from the Sentencing Commission, the Clinton Administration mobilized to garner support for the change they now felt comfortable supporting. In an email in a discussion about the Administration's stance on the new recommendations, one staffer suggested continuing to "bob and weave—we overcame the worst of this once before. The upcoming Sent Comm [sic] report will cause a bit of a fuss but it will blow over quick."²¹⁴ However, an urge from the Attorney General to "address and take action on this issue" quickly followed the initial suggestion.²¹⁵ Despite the fact that the Clinton Administration attempted to garner support for the new proposal, the email reveals the politics involved with the Administration's handling of the crack cocaine disparity. They turned away from the most sound policy—as will be discussed next—and chose the option that would earn the most political points.²¹⁶ The willingness and readiness of the Administration to abandon amending the current sentencing structure is also apparent in this email. The staffer minimized the importance of remedying the disparity and the concrete impact that change would have. It affirms the notion that the Clinton Administration was minimally concerned with the disparity or its racial implications; in their minds, it would "blow over quick."²¹⁷

A June 12, 1997 draft proposal from Attorney General Janet Reno and Director of the Office of National Drug Control Policy, Barry McCaffrey problematizes the Clinton

²¹³ Special Report to Congress: Cocaine and Federal Sentencing Policy: 1997, 2.

²¹⁴ Email, Youth Violence Bill Markup and Crack, April 24, 1997, Rahm Emmanuel, folder: Drugs: Crack Cocaine Sentencing [2], Leanne Shimabukuro, Domestic Policy Council

²¹⁵ Ibid.

²¹⁶ Email, Re: Joint Recommendation on Crack/Powder Cocaine Sentencing Disparity, Janet Reno and Barry McCaffrey, folder: Drugs: Crack Cocaine Sentencing [2], Leanne Shimabukuro, Domestic Policy Council.

²¹⁷ Email, Youth Violence Bill Markup and Crack, April 24, 1997, Rahm Emmanuel.

Administration's support of the Sentencing Commission's new recommendations. In their draft proposal, Reno and McCaffrey proposed "parity for crack powder cocaine at 100 grams" and the repealing of "the disparity for simple possession of crack."²¹⁸ This draft did not become the official policy of the Clinton Administration, Reno, or McCaffrey, but it reveals that the Clinton Administration knew—at least in 1997, there is no evidence at the moment revealing that the Administration had this knowledge in 1995—that the most sound crack policy was equalization of the crack and powder cocaine punishments. Reno and McCaffrey stated that "the sole notable distinction between [crack and cocaine], namely the systemic violence associated with multiple and anonymous drug sales of crack markets, [was] already taken into account by existing U.S. Sentencing Commission guidelines."²¹⁹ Put another way, Clinton's Attorney General and Director of the Office of National Drug Control Policy maintained—behind closed doors—in 1997 that the Sentencing Commission has already proposed the best crack policy in 1995.

In their recommendation, McCaffrey and Reno restated many of the conclusions that the Sentencing Commission came to in 1995. Like the Commission's report, the draft proposal noted the similarities between crack and cocaine—specifically the dangers associated with injecting cocaine. Reno and McCaffrey also noted the public nature of the crack market which exposes individuals more readily to law enforcement. The draft also substantiated the Commission's findings about the crime and violence associated with the crack market, noting that the relationship between crack and violence was "put forward as one of the major justifications for a disparity in sentencing for crack offenses." They noted that most crime and violence associated

²¹⁸ Email, Re: Joint Recommendation on Crack/Powder Cocaine Sentencing Disparity, Janet Reno and Barry McCaffrey, 1.

²¹⁹ *Ibid.*

with crack was systemic crime, not born from the drug itself.²²⁰ Moreover, they noted that “psychopharmacologically driven crime may be least important in explaining the association between crime and crack and powder cocaine.”²²¹

Interestingly, while the draft proposal recounted many of the same points as the Sentencing Commission, it did not address the concern that African Americans were disproportionately punished under federal law. In fact, the draft only references race explicitly once and the “inner city” once more. While it is difficult to argue from a void, it is important to note this draft was unconcerned with the racial disparity of crack cocaine sentences. The Clinton Administration was fully aware of the racial disparity between crack and cocaine. In numerous preceding and following documents, the Administration provided talking points, answers to media questions, and concerns about the disparity. Media attention to this bias was one of the major forces driving the Clinton Administration to act, but they did not list it as a reason to equalize crack and cocaine. The only notes about race in this proposal state that whites used both crack and powder cocaine in larger numbers than blacks and that “the greater use of cocaine continues to be outside inner cities.”²²²

This draft problematizes the Clinton Administration’s entire handling of the crack and powder cocaine disparity, especially when one returns to the 1995 Sentencing Commission with this information in mind. Without action by Congress and/or the President, the Commission’s 1995 recommendations would have become the law. The President signed legislation, however, stopping the recommendations from becoming law two days before they would have anyway.²²³

²²⁰ Email, Re: Joint Recommendation on Crack/Powder Cocaine Sentencing Disparity, Janet Reno and Barry McCaffrey, D1

²²¹ Ibid. D3

²²² Ibid. 1

²²³ Statement, William Clinton, October 30 1995.

While there is no evidence to support the claim that anyone within the Clinton Administration believed that equalization was the best policy in 1995, the Sentencing Commission provided the Administration with all the information that led Reno and McCaffrey to their 1997 beliefs in equal punishments for the two drugs. The only change that came in those two years were the emergence of more studies supporting the Sentencing Commission's claims and a rise of media outrage against the unjust 100/1 ratio. Though an argument that Clinton rejected the Commission's recommendations for political expediency may be based more on conjecture than actual evidence, it is indisputable that the Clinton Administration was given unbiased and sound evidence justifying a base equalization of crack and cocaine. Equalization of crack and cocaine would have become law if the Administration did nothing. Instead Clinton opted for action and a minimum of two more years of an unjust sentencing scheme.

This proposal also undermines much of the paternalistic nature of the Clinton Administration's crack strategy. Harris, in her statement before the subcommittee on crime, declared that crack was "taking its toll on [the] country, and particularly on our most vulnerable communities."²²⁴ The "most vulnerable communities" refers here to the young and poor. The 1997 draft combats the notion that young people became victims to crack addiction in large numbers, stating that "popularity of both crack and cocaine powder [was] down, particularly among young users who disdain crack as a 'ghetto drug' or find its use unmanageable."²²⁵ Along with Harris, other members of the Clinton Administration frequently cited crack use among young people as a justification for the sentencing disparity. The Sentencing Commission called this fear mongering into question in 1995 who found that at every age level, cocaine was used

²²⁴ Statement Before the Subcommittee on Crime Committee on the Judiciary U.S. House of Representative, Jo An Harris, 2.

²²⁵ Email, Re: Joint Recommendation on Crack/Powder Cocaine Sentencing Disparity, Janet Reno and Barry McCaffrey, a1

more frequently than crack.²²⁶ It should also be noted that while crack use among young people was never as frequent as politicians claimed, young people were frequently involved in the crack market.²²⁷ However, this does not change the fact that the Clinton Administration perpetuated the fear of crack use among America's youth to push forth their crack strategies.

It is also necessary to examine the Congress that the Clinton Administration faced, which certainly shaped their policy decisions. Beginning in 1995, Republicans controlled both houses of Congress. These Republicans clung to the tough on crime narrative much tighter than the Clinton Administration. This certainly deterred the Clinton Administration from passing any legislation that seemed soft on crime in any way. This was especially true for crack cocaine. As crack had become racialized in the minds of many Americans, it was necessary for many members of the GOP to keep the penalties for crack cocaine unnecessarily tough. Because of the nature of this Congress, Reno and McCaffrey's draft proposal would never have passed both houses. This does not negate the problems that the draft raised, as it still proves that individuals within the Clinton Administration—two leaders in criminal justice and drug policy—believed equalization to be the best strategy.

Leading Republican Senators, Spencer Abraham, Orrin Hatch, and Trent Lott staunchly opposed any reduction in punishment for crack. These men proposed raising the penalties for powder cocaine to combat the disparity between crack and cocaine sentencing. They also denied any racial component to the 100/1 discrepancy. Despite “the appearance of unequal justice,” the belief in such a racial injustice was based on incorrect reasoning, the Senators contended in a

²²⁶ Special Report to Congress: Cocaine and Federal Sentencing Policy, United State Sentencing Commission, 1995, 187.

²²⁷ Ibid.

letter to the President.²²⁸ This denunciation of any racial bias in federal crack sentencing is made more ominous by the Senators' declaration that "now is not the time to lower sentences for drug dealers."²²⁹ Alone the statement may not seem dangerous or ominous in any way, but one must only think to Martin Luther King's *Letter from a Birmingham Jail* in which he chided those individuals telling him to wait and stated "wait has almost always meant never."²³⁰ King also noted the unwillingness of those who benefit from oppression to give up those privileges.

Many may admonish this choice stating that it is unfair to compare the battles of Dr. King with crack dealers and crack addicts. Yet, the drug itself has grown to be seen as a uniquely Black drug despite the fact that White Americans consumed it in much larger numbers. Those convicted of crack charges at the federal level were overwhelmingly African American, and they were sent to prison for an extensive amount of time. After their prison term, these individuals were subject to job, housing, welfare, loan, and educational discrimination; often this discrimination left them in poverty. They could not break out of poverty because they could not get a job or decent housing due to their felony status. These individuals did not face the same violent mobs that Dr. King faced, but they still faced widespread discrimination, entrapment in a cycle of poverty, and police brutality. As author Michelle Alexander argues, these individuals faced the same system of oppression that Dr. King fought; it simply modified itself to fit within the new legal standards. It continued to segregate African Americans into low quality neighborhoods and kept them poor and disenfranchised, but the lynch mobs were gone.²³¹

²²⁸ Letter, Spencer Abraham, Orrin Hatch, and Trent Lott, January 29, 1998, *Drugs: Crack Cocaine Sentencing* [2], Leanne Shimabukuro, Domestic Policy Council. 1

²²⁹ Ibid.

²³⁰ Martin Luther King Jr., "Letter from a Birmingham Jail" in *Dissent in America: 400 Years That Shaped a Nation*, Ralph Young, (New York: Pearson):2008.

²³¹ Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press, 2010.

While a majority of Congress opposed a lowering of penalties for any form of cocaine, there was knowledge of the unjust nature of the sentencing structure and some public support for altering it. The *New York Times* was one of the most vocal publications in their support for the changing of the sentencing structures. In November of 1995, the *Times* called the disparity “unjust” and chided Congress as being “demagogic.”²³² They also noted that even if Congress did not understand the racial consequences of the disparity, it was now clearly aware and unmoved. In an earlier article over the prison uprising following Congress’s vote, the *Times* quoted Scott Wallace, head of the National Legal Aid and Defender Association after he lamented, “Part of what amazes a lot of us is that Congress and the President [rejected] the recommendation of a body that was set up precisely to remove politics and snap judgments from the sentencing process so there isn’t discrimination.”²³³

Facing pressure from the right to keep drug penalties harsh, district court judges pushed the opposite pressure onto the Clinton Administration. Over the years, the law required these individuals to hand out crack sentences that were much too harsh for the crime at hand and argued that the disparity between crack and cocaine should be remedied by raising the amount of crack cocaine required to trigger a mandatory minimum sentence. These judges claimed that the current sentencing structure resulted in unjust sentences that did “not serve society’s interest” and only caused pain for the defendant and his or her family.²³⁴ In their argument, the judges noted the lack of difference between the average crack and powder cocaine defendant. Over their years of service, they found that these people were “generally impoverished individuals with limited education whose involvement with crack rather than powder cocaine [was] more a result

²³² “Cocaine Sentencing, Still Unjust,” *New York Times*, Nov. 5 1995

²³³ “Wave of Prison Uprisings Provokes Debate on Crack,” *New York Times*, Oct. 24, 1995.

²³⁴ Letter from judges, 1-2.

of the demand in their neighborhood than a conscious choice to sell one type of drug rather than the other.”²³⁵ In the face of so much rhetoric demonizing crack users and dealers, these district court judges spoke out to humanize individuals involved with crack cocaine. Though these judges did not address the racial inequality of the 100/1 ratio, they did condemn the ratio as inherently unjust, regardless of its racial implications.

It is clear that the Clinton Administration struggled with how to deal with the crack and powder cocaine disparity. They recognized a miscarriage of justice that needed to be remedied, but to fix the situation risked Clinton’s political standing. If he came out and seemed even the slightest bit soft on drugs, his opponent would use it against him, likely with great success. In this way, the war on drugs mirrored the decades long battle against communism—nobody could afford to sound lenient. The battle then became for the Administration a struggle between political needs and doing the right thing. While previously they may have ignored sound arguments for the equalization of crack and cocaine, it cannot be stated that anyone within the Administration believed parity to be the best solution until 1997. After the second Sentencing Commission report, the Clinton Administration attempted to gain support for a change the sentencing structures without success. This can be largely attributed to the Republican-controlled Congress that profited immensely from tough on crime rhetoric. In the last weeks of his time in office, Clinton extended clemency to Smith, after spending six years in prison. Smith went on to become an author, advocate, and activist, seeking to educate people on the nation’s punitive drug policies.

Unfortunately, for many people caught in the wires of the war on drugs, there was little empathy extended to them. Political expediency, fear mongering, and anecdotal evidence, rather

²³⁵ Ibid.

than hard data, drove drug policy. This is especially true with crack cocaine. From its inception, fear drove politicians to enact harsh policies for crack cocaine offenses even sometimes in the face of logic and facts. The Sentencing Commission echoed this in their 1995 report, “despite the unprecedented level of public attention focused on crack cocaine, a substantial gap continues to exist between the anecdotal experiences that often prompt a call for action and empirical knowledge upon which to base sound policy... policy makers must draw conclusions cautiously.”²³⁶ This warning did little to drive policy makers to draft and pass well-informed and rational sentencing schemes for crack cocaine. The consequences of harsh drug penalties are human lives. Rather than receive the treatment they need, addicts are thrown into prison and likely into a cycle of drug addiction, poverty, and more prison time.

²³⁶ Special Report to Congress: Cocaine and Federal Sentencing Policy, United State Sentencing Commission, 1995.

CHAPTER VI

NEVER IGNORANT GETTING GOALS ACCOMPLISHED

While a discussion of policy decisions is necessary in the history of the war on drugs, it is also important to find Black voices that are not represented in traditional archival material. Using lyrics from rap and hip hop artists allows for an understanding of the war on drugs and mass incarceration from the point of view of the oppressed. It also gives agency to a people too often cast simply as victims of white supremacy. Given the lack of Black voices found in presidential archives, this inclusion of lyrical matter is necessary to bring the Black narrative into this story. Too often, people discredit the work of rap or hip hop artists as romanticizing the gangster lifestyle or as playing the black card. While some artists do glorify their violent lifestyle and the concurrent drug and alcohol use, much of these lyrics are just reflections of the artist's reality or an exercise in expressing their pride in their heritage. It is important to recognize rap and hip hop as artistic outlets of the African American community and as windows into their experiences. These artists created music that reflected their reality. Their home communities were filled with drugs and violence, and so their music was too. The explicit lyrical content shocked suburban America as young White children began listening to artists such as N.W.A, Ice Cube,

Killer Mike, and Public Enemy. To some degree, the backlash these artists faced was a manifestation of White fear of black pride and power—that aforementioned historical racism once again rearing its ugly head.

Within the rise of rap and hip hop into the mainstream, another important innovation must be noted. The men of what has been called the Hip Hop Generation represent deviations from the traditional racist life trajectory expected by white society. Just as Khalil Muhammad noted the mark of criminality in the progressive era, that mark remains with African American men today and is often wrongly justified by the disproportionate numbers of incarcerated African Americans.²³⁷ While scholars have begun to investigate the origins of mass incarceration, little work has been done to investigate the experiences of African Americans in the wake of harsh drug legislation and mass incarceration in communities ripped apart by the drug war. Many artists of the Hip Hop Generation, including Ice Cube, Killer Mike, Tupac, Dr. Dre, and Public Enemy, chose career paths within the law after seeing the discrepant number of people of color in the criminal justice system. They turned away from the stereotypical drug slinging gang lifestyle in favor of musical outlets and used their spotlight to shed light on the issues facing their home communities, with particular emphasis on violence, prison, and police misconduct. This qualification must be made tentatively, though, as a number of these individuals remained enmeshed in lifestyles filled with drug use and violence, most notably Tupac and Dr. Dre. Ice Cube and Killer Mike, by contrast, not only disregarded this lifestyle in favor of music but actively condemned it. Indeed, in his song “Hood Mentality,” Ice Cube states,

²³⁷ Muhammad, Khalil. *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America*.

Fuck school nigga, I'ma be a dope dealer
I'ma be a killa, yep a urban guerrilla
I'ma stack scrilla, yeah buy me a villa
Sell a 5-0 to my auntie Priscilla
I don't give a fuck that she look like "Thriller"
Hit that shit one more time and fuck around and kill her
Cause I got the heart of a Pittsburgh Steeler
Black nigga draped in gold, with a nine milla
Love money, love jail, love that penitentiary mail
Love the way these niggaz smell, keep comin' back, can't you tell?
Love to see my mama cry, love to see my babies struggle
Love to see my woman juggle nuts 'cause she got to hustle
I don't give a fuck how my life go....
Gunnin' niggaz down 'cause they don't got the right clothes
Hit the wrong person 'cause we shoot just like hoes
First I was blood thirsty, Mr.-Mr. Controversy
Now I wanna beg for mercy, should have took my ass to Berkeley
If you don't wanna shake that hood mentality
How the fuck we supposed to change our reality?²³⁸

“Hood Mentality” is a scathing denouncement of the gangster mentality that encourages young Black men to make their living outside the law and encourages these men to pursue education and work within the law to change their lives. He is promoting a life path that many drug warriors also supported, emphasizing personal responsibility. Ice Cube’s choice to separate himself from traditional stereotypes of urban life makes him an important role model for young Black men in the inner cities and an important social figure with his rebuking of the hood mentality.

In several different songs, Tupac also condemned the gangster culture that he was a product of. This was perhaps most clear in his song ‘Changes.’ In the song, Tupac interacts with a friend, in which he chides him for his involvement in the drug trade,

You gotta operate the easy way.
“I made a G today” But you made it in a sleazy way.
Sellin’ crack to the kid. “I gotta get paid,”

²³⁸ Ice Cube, Hood Mentality

Well hey, that's the way it is.
Tupac went on to describe his own criminal activities, "I ain't never did a crime I ain't have to do."²³⁹ His lyrics worked on a variety of levels to combat traditional stereotypes, like the one implicit in Harris's comments. First, he condemned the gangster lifestyle as the "easy way" and challenged his peers to forgo that lifestyle as it usually led to serious prison time. He also combated the notion that an individual's involvement in crime represented a character flaw and instead asserted that it was often born out of desperation. Tupac stands as a human challenge to Harris's perceptions; although Tupac did come from the inner city and engaged in the gangster lifestyle, he turned away from that way of life and sought a career within the law.

In addition to deriding the criminal lifestyle, both these artists, along with others, offered a window into the turbulent nature of the inner city neighborhoods that they grew up in. Highlighting the violence in his home community, Tupac wrote, "Cause they never talk peace in tha black community/All we know is violence, do tha job in silence/Walk tha city streets like a rat pack of tyrants/Too many brothers daily heading for tha big penn/Niggas commin' out worse off than when they went in."²⁴⁰ In just a few lines, Tupac was able to address a multitude of issues including violence, prison, and the negative effects of incarceration in the inner city. Ice Cube also highlights these issues in "The Nigga Trap,"

Some people may say well, you overdramatized it
No we're not - it's not a drama workshop, it is a reality
Things like that do take place in prisons
The murders, the suicides, as well as the rapes....
The ghetto is a nigga trap, take the cheese
Soon as you do it here come the police
Invented and designed fo' us to fail
Where you gon' end up, dead or in jail....
You only got two places

²³⁹ Tupac, "Changes", *Greatest Hits*, Death Row Records, 1998.

²⁴⁰ Tupac, Trapped

State of California, got two faces
Motherfuckin devils, get straight racist
When they get you in them lonely dark places
Concrete slave ships, never move
Where niggaz like us get used like a mule
Don't let 'em catch you, arrest you
Strip and undress you, throw you in a cesspool
You wanna know the crime of the century
A ghetto elementary, a mental penitentiary
Black man, you never been friend of me
Boy you kin to me, why we enemies?
The ghe-tto is a trap²⁴¹

Ice Cube's mention of the poor schools—calling them the crime of the century—in these neighborhoods is an important insight. Underfunded inner city schools were a direct legacy of Jim Crow and White flight to the suburbs and was an inherent disadvantage to inner city students when compared to the schooling their suburban counterparts received. For many, education is the key to escaping poverty and without it, there is little room for upward economic mobility. Tupac also explored the economic dynamics of the ghetto in “Hellrazor” writing, “I’m startin’ to think all the rich in the world is safe/ While the po’ babies restin’ in the early graves.”²⁴² Interwoven into both men’s reflections on their communities was prison, but in different manners. Tupac acknowledged the prevalence with which his community saw Black men serving time, and Ice Cube describes the horrors one experienced while in prison. He is imploring people to listen to him and former convicts when they speak about their experiences. His exposure of the traumas experienced in prison reminds one of Smith’s concern, “Is this what the federal government calls correctional?”²⁴³

The prevalence of violence in rap and hip hop music is a reflection of their reality, not a glorification. It must be understood as a traumatizing force that deregulates the ways in which

²⁴¹ Ice Cube, *The Nigga Trap*

²⁴² Tupac, *Hellrazor*

²⁴³ Smith, *Poster Child: The Kemba Smith Story*, 148

one processes emotions and in turn relates to the world. These emotional disturbances increased the likelihood an individual will turn to drug use as a coping mechanism, which then raises the chances one will be brought into the criminal justice system. Moreover, members of these communities often feel they have no support from law enforcement, as they found themselves routinely victimized by police. This is just one example of how systemic racism was inherent in inner cities in the 1980s and 1990s. In “Tales From the Darkside,” Ice Cube reflects on the relationship between violence and the police,

Peace - don't make me laugh!
All I hear is motherfuckers rappin sucotash
Livin large, tellin me to get out the gang
I'm a nigga, gotta live by the trigger
How the fuck do you figure?
that I can say peace and the gunshots will cease?!
Every cop killer goes ignored
They just send another nigga to the morgue
A point scored- they could give a fuck about us
They rather catch us with guns and white powder
If I was old, they'd probably be a friend of me
Since I'm young, they consider me the enemy
They kill ten of me to get the job correct

To serve, protect, and break a niggas neck....
Its a shame, that niggas die young
But to the light side it don't matter none
It'll be a drive by homicide
But to me its just another tale from the darkside... ²⁴⁴

Also enraged by police misconduct in “Trapped,” Tupac contented, “They got me trapped/ Can barely walk tha city streets/ Without a cop harrassing me, searching me/ Then asking my identity/ Hands up, throw me up against tha wall/ Didn't do a thing at all/ I'm tellen you one day these suckers gotta fall/ Cuffed up throw me on tha concrete/ Coppers try to kill me.”²⁴⁵

²⁴⁴ Ice Cube “Tales From the Darkside”

²⁴⁵ Trapped, Tupac

Understanding poor urban distrust of the police is pivotal for a holistic understanding of the war on drugs and the mass incarceration crisis. For many in these urban centers, the police were oppressors that frequently locked friends and family members away for non-violent crimes. This was perhaps the greatest disconnect between inner city Black Americans and middle class White Americans: trust of the police. White middle class Americans understood the police as a protective force, and for many White Americans, accusations of police misconduct sounded like excuses for deviant behavior rather than legitimate grievances. For inner city minorities, the police were victimizers; the rap group Public Enemy spoke of police misconduct, “Police supposed to keep the peace/ But I can’t truss’ em/ So I keep my piece/ Loaded and cocked.”²⁴⁶ These artists lodged claims against police, the criminal justice system, and the war on drugs that would not be taken seriously by middle class White Americans until 2014. They were using their celebrity to attempt to bring issues facing the inner city into the mainstream conversation.

There was a multitude of rap and hip hop artists during the 1980s and 1990s that spoke out against police misconduct—only a small percentage is represented here—which suggests that young Black men were repeatedly faced racial discrimination within the criminal justice system. Accusations of racist behavior frequented many of Ice Cube’s songs. In “AmeriKKKa’s Most Wanted,” he takes aim at the integrity of law enforcement, “I got hassled and gaffled in the back seat/I think back when I was robbin my own kind/The police didn’t pay it no mind/But when I start robbin the white folks/Now I’m in the pen wit the soap-on-a-rope/I said it before and I’ll still

²⁴⁶ Public Enemy, “Hazy Shade of a Criminal,” *Hazy Shade of a Criminal*, Universal Music Publishing Group

taught it/ Every motherfucker with a colour is most wanted.”²⁴⁷ Ice Cube levies more accusations in “Color Blind,” but this time against multiple individuals within the criminal justice system,

I'm fresh outta county on bail
And no sooner do I get out, seems like I'm right back in jail
For some gang related activity
Cuz everyday, different fools try to get with me
For no more than a color, or territory
Can't rehabilitate 'em, that's the sheriff's story
So what's left, the judge goes deaf
When you try to tell your side
And you ain't blue eyed
Boy you better duck cuz the book is comin'
And just hand your car keys over to your woman
Because it aint no sunshine where you headed
And the shit'll drive you crazy if you let it
But now, I got time to think
Because they hit me with everything but the kitchen sink²⁴⁸

In these two selections, Ice Cube levies two substantial and important accusations against the criminal justice system. The first being the police’s lack of attention and resources dedicated to the murder of Black Americans, and the second being the criminal justice system’s lack of interest in the background of Black defendants. These accusation serve as further proof of the biased nature of the criminal justice system. African Americans frequently faced poor education, violence, drugs, targeted law enforcement, and contempt in the court room, and many of these problems were a part of their home communities—meaning they faced these issues on a daily or weekly basis. These insights give voice to a community whose voice is difficult to find in traditional archives but provide a fully rounded understanding of the war on drugs and mass incarceration, which is why it is necessary to look to these lyrics. An understanding of these

²⁴⁷ Ice Cube, “AmeriKKKa’s Most Wanted,” *AmeriKKKa’s Most Wanted*, Priority Records, 1990.

²⁴⁸ Ice Cube, “Color Blind,” *Death Certificate*, Priority Records, 1991.

institutions based on the papers of elected officials misses the human lives most effected by harsh drug policies, and without them it is difficult to understand the failure of the drug war.

Backlash against discriminatory police practices can be found in the lyrical matter of many rap and hip hop artists. The most obvious being N.W.A's infamous song 'Fuck the Police' in which Ice Cube chides the Los Angeles Police Department saying,

Fuck the police coming straight from the underground
A young nigga got it bad cause I'm brown
And not the other color so police think
They have the authority to kill a minority
Fuck that shit, cause I ain't the one
For a punk motherfucker with a badge and a gun
To be beating on, and thrown in jail
We can go toe to toe in the middle of a cell
Fucking with me cause I'm a teenager
With a little bit of gold and a pager
Searching my car, looking for the product
Thinking every nigga is selling narcotics
You'd rather see, me in the pen
Than me and Lorenzo rolling in a Benz-o²⁴⁹

While many disregard rap music because of the frequent inclusion of sexuality, drugs, and violence, Bennett's testimony—in which he states that officers identified drug dealers by their pagers—validates the content of one of the most controversial groups of the 1980s. Though Bennett said nothing of the race of the individuals, he still noted that their pagers and expensive clothing—which Ice Cube highlights as the problem—were used to identify the dealers. This admission by Bennett exposes the disregard of gangster—or frequently also called reality rap—as racist projections onto these artists. The refusal of the American public to take these unabashedly black men at their word about their experiences in Compton reflects the United States' long history of racism. Rather than accept these claims as the norm and attempt some

²⁴⁹ Ice Cube, Eazy-E, MC Ren, "Fuck The Police," *Straight Outta Compton*, Ruthless Records, 1988.

form of reform, the FBI and the Detroit police department attempted to censor the content of the song. Law enforcement officials were more concerned with how the song affected their own lives rather than the hardships that communities like Compton faced every day.

Much of the backlash that N.W.A faced for this controversial song grew out of the song's frankness concerning violence against the police. Many chided the song for its glorification of not just violence but the thug or gangster lifestyle that centered on violence. However, these individuals did not take into consideration the historic plight of the African American.²⁵⁰ Indeed, since the first African slaves were brought into this country, the police have operated in opposition to their existence, which has been characterized most notably by violence. In this context, the violent response of African Americans is better understood and even more so when one remembers Martin Luther King Jr.'s "Letter From a Birmingham Jail." In it King states,

Oppressed people cannot remain oppressed forever. The urge for freedom will eventually come. This is what happened to the American Negro. Something has reminded him of his birthright of freedom; something without has reminded him that he can gain it.... The Negro has many pent up resentments and latent frustrations. He has to get them out. So let him march sometime; let him have his prayer pilgrimages to the city hall; understand why he must have sit-ins and freedom rides. If his repressed emotions do not come out in these nonviolent ways, they will come out in ominous expressions of violence. This is not a threat; it is a fact of history.²⁵¹

While promoting violence against the police is not praiseworthy or desirable in a civilized society, taken in the context of the plight of African Americans this call to violence seems to be a manifestation of King's premonition. Certainly, the rise of black power and the Black Panther Party in the 1970s was one manifestation of this turn to violence, and this song is an addition to

²⁵⁰ Dimitri A. Bogazianos, *5 Grams: Crack Cocaine, Rap Music, and the War on Drugs*. (New York: New York University Press) 2012.; Adam Krims, *Rap Music and the Poetics of Identity: New Perspectives in Music History and Criticism*, (Cambridge University Press: Cambridge) 2000

²⁵¹ Martin Luther King Jr., "Letter from a Birmingham Jail" in *Dissent in America: 400 Years That Shaped a Nation*, Ralph Young, (New York: Pearson):2008, 349.

that resistance. Despite the gains that were made during the Civil Rights era, African Americans continued to suffer from police brutality and racial profiling in the 1980s and 1990s. This song and the violence within its lyrical matter are the “ominous expressions of violence” that Dr. King warned about if the African American did not receive the respect from white society that they fought, bleed, and died for.²⁵² While white civilian violence against African Americans no longer went unpunished, the police continued to perpetrate unequal violence and racial profiling against African Americans. Rather than the promotion of violence for the sake of being controversial, ‘Fuck the Police’ must be understood as a backlash against the centuries of violence and oppression forced onto African Americans. This understanding reshapes the song from an unnecessary ballad of anger to a lyrical form of protest.

The adapted understanding of ‘Fuck the Police’ is important in understanding Black resistance in the post civil rights era. Too often, Black grievances were and are pushed aside as unappreciative complaints from “thugs” that need to change the way they live after the successes of the Civil Rights movements. This was largely in response to the culture of resistance discussed in a previous chapter and the newfound pride in Black culture.²⁵³ These individuals were no longer presenting themselves in a manner acceptable to the mainstream culture, like Dr. King. These individuals fully embraced their urban identities and refused to alter them to cater to White society. Groups like N.W.A and Public Enemy must be understood as manifestations of pride in the urban Black identity. They were not thugs promoting a gangster lifestyle but artists reflecting their neighborhoods and interactions with the police and White America. These artists were bold and daring in their resistance and deserve to be recognized for their part in the

²⁵² Ibid

²⁵³ Adam Krimms, *Rap Music and the Poetics of Identity: New Perspectives in Music History and Criticism*, 157.

centuries long fight for Black liberation in this nation that has operated against them since before it was an independent country.²⁵⁴

Ice Cube repeated the notion that rap and Black Americans by extension were to blame for their own and others' problems by writing,

I do gangsta Rap
They want to blame the world problems on Gangsta Rap
It's our fault,
Cause motherfuckers are dying in Iraq
It's our fault,
Cause motherfuckers is starving in Africa
It's Gangsta Raps fault,
That people are poor
Can't get enough to fucking eat or live their life
(That's bullshit)
That's rap musics fault.
It's rap musics fault,
We got all these god damn laws, and restrictions and shit we can't do
(That's bullshit)
They blame it all on us
I'm blamin' them motherfuckers for Gangsta Rap
Because if they didn't create these kind of conditions
I wouldn't have shit to rap about
You know what I mean! [sic]²⁵⁵

Though he was not writing in reference to any specific individual or institution, he made the same argument made in this study: drug use, music, or pride in black culture are coping mechanisms. The ambiguous “they” that represent the powers that be believe that these coping mechanisms are the problem when in reality they are attempted solutions. J.R. Reynolds, writing for *Billboard*, maintained that “obscenities uttered by bad-boy rap acts led to a national backlash among concerned parents and politicians, who submitted censorship legislation. Feeling the pressure, many mainstream music retailers refused to carry releases with lyrics-warning

²⁵⁴ Adam Krimms, *Rap Music and the Poetics of Identity: New Perspectives in Music History and Criticism*, 150.

²⁵⁵ Ice Cube, “Thank God,” *Raw Footage*, Lench Mob Records, 2008.

stickers.”²⁵⁶ Another reporter described rap music as being filled with “violent and misogynic imagery [that] has gone far beyond being rebellious and informing the world about inner-city life,” and argued that rap music promoted “the idea that it [was] alright to kill, rape, and abuse drugs.”²⁵⁷ While many will chide the choice to compare rap music and drug abuse as coping mechanisms, it is what they are. They are more than just ways to liven up a party and were both deeply misunderstood by mainstream America and the government.²⁵⁸

It is important to examine these lyrics because they are a response to the mainstream criticism of rap music. Certainly some of the accusations that Ice Cube satirically levies against himself were hyperbolic. Nobody was accusing rap of causing starvation in Africa. What’s more is that many of these accusations were not necessarily directly aimed at just rap music, but in a larger sense, the lifestyle that many believed rap music to encourage: drug use, violence, sexual deviancy, and gang membership. Ice Cube is taking these accusations and redirecting them, stating that rap music and the lifestyle associated with it were responses to the condition of his neighborhood, which he had no part in creating. He was just born into it, and whoever was to blame about the dilapidated condition of Compton was also to blame for the music and lifestyles that came out of deteriorating neighborhoods like Compton.

An examination of rap lyrics of the 1980s and 1990s as a window into the experiences of inner city Black youth reveal a troubled reality. These individuals faced police harassment, gang violence, drug use, poor education, loss of jobs, and an unstable community environment. These realities increased the likelihood that residents of these neighborhoods would be arrested and/or

²⁵⁶ Billboard

²⁵⁷ Backlash is brewing over ‘Gangsta rap’ lyrics as public says ‘Enough’ RAP GETS A BAD REP. *The Christian Science Monitor*, 1993, Dec 13

²⁵⁸ Krims, *Rap Music and the Poetics of Identity: New Perspectives in Music History and Criticism*, 200.

incarcerated in their lifetime. For artists to leave those neighborhoods and achieve success in the music business and to then condemn the dangerous lifestyles prevalent in these communities was an important development as it gave young Black kids role models that came out of similar situations and achieved success within the law. Using these lyrics as historical sources is an important exercise in trust. It is an extension of trust to these subjects that their stories are valid and truthful when too often they are disregarded as ignorant thugs.

CONCLUSION

CRACK IS WHACK.

In May 1996, *Emerge* magazine—which prided itself on being a news magazine for Black America—ran a cover story on Kemba Smith titled, “Kemba’s Nightmare: A Model Child Becomes Prisoner #26370-083.” Smith’s story quickly gained national attention, and Smith herself became a symbol for unjust sentencing structures. After the article ran, Smith’s parents began receiving invitations to speak about her incarceration and petition for support for Smith’s petition for clemency across the country. By August of that same year, the Legal Defense Fund (LDF) expressed interest in taking on Smith’s case pro bono. Members of Congress also offered their help and support. Congressman Bobby Scott (D-VA) and Congresswoman Maxine Waters (D-CA) both contacted Smith and worked to bring justice to her case. The Congressional Black Caucus, Families Against Mandatory Minimums, National Organization of Black Law Enforcement Executives, National Association of Black Journalists, National Association of Black Social Workers, and the National Association of Black Psychologists all offered Smith

their support in her quest for early release. Despite all these efforts, as the sun was setting on the millennium, Smith remained behind bars.²⁵⁹

Smith became the poster child for the unjust nature of mandatory minimums because her story is a clear example of the problems they cause. Smith's only crime was loving a drug dealer; she did not use herself nor did she act as a mule for her boyfriend Peter Hall. Yet, as rap star Ice Cube put it, "they hit [her] with everything but the kitchen sink."²⁶⁰ Like so many others whose stories will never be told, Smith's undoing was her proximity to crack cocaine. From its emergence onto the drug scene in the mid-1980s, crack has been characterized as a menace to society with a destructive power like nothing before it. Crack is a very addictive substance that deteriorates the human body, and there is no denying that. But politicians dismissed those who fell victim to it as people beyond help, ones who deserved no future in a United States trying to recover from the social and political traumas of recent decades.

Indeed, federal politicians punished crack use so harshly, while they punished cocaine, which has the same chemical makeup, 100 times lighter. The reason they did this is more complicated than their evolving rhetoric suggests. There was no buildup of politicians working years in advance to finally get a piece of racist drug legislation onto the books. In fact, there was virtually no conversation about crack cocaine until the death of Len Bias in 1985, just a year before the establishment of the 100/1 sentencing discrepancy. It seems that the implementation of the 100/1 crack cocaine disparity was just an extension of the larger war on drugs and tough on crime mentality. With the

²⁵⁹ Smith, *Poster Child: The Kemba Smith Story*, 200.

²⁶⁰ Ice Cube, "Color Blind," *Death Certificate*, Priority Records, 1991.

unprecedented media attention given to crack in 1986, it became an easy avenue to win political points for all politicians, who punished the drug to a degree that satisfied the misguided public. Moreover, politicians' decision to punish drug users so severely was made based on anecdotal evidence rather than empirical data. Stories published in the media drove the compulsion of harsh punishments rather than studies from scientists or sociologists. This lack of attention to detail affirms the notion that politicians sought to use the war on drugs as a political tool rather than a solution to the nation's drug abuse problem. Though there is not evidence to suggest that these lawmakers sought to explicitly design a set of laws to oppress communities of color, the negative consequences of their actions cannot be ignored. These individuals must be held accountable for their swift decisions.

Furthermore, this examination of the establishment of the 100/1 crack cocaine disparity reveals who is culpable for the discrepant impact of the war on drugs. While President and Nancy Reagan spearheaded a rejuvenated drug war in the early 1980s, they cannot be held solely responsible. Certainly, they worked to generate a socio-political climate that would be receptive to harsh drug penalties through their extensive media campaign, which was massively successful with citizens and lawmakers alike. Yet, President Reagan was not the most punitive voice in the nation during his presidency, nor can he be held solely responsible for the 100/1 sentencing disparity or the mass incarceration crisis. Several of his proposed punishments were weaker than those that later became law. Congress must share in the liability for these sentencing structures—not just Republicans but also Democrats. The drug war was a bipartisan effort, running through the 1980s and 1990s. Indeed, despite famed author Toni Morrison's assertion

that Clinton was in everything but the color of his skin the first black president, given the opportunity to change one of the most racially biased drug laws in the nation, he chose to keep it in place because the political consequences of equalization between crack and cocaine were far too great, highlighting the massive shadow that Reagan cast on American politics.

While lawmakers must be held accountable for creating these sentencing structures, law enforcement practices ensured that minorities would receive the largest negative impact of the drug war. The targeting of poor neighborhoods, frequent traffic stops for minor driving offenses resulting in searches, racial profiling, and a lack of empathy from prosecutors and judges have played the most significant role in sending so many people of color to prison. Despite the efforts of rap and hip hop artists to expose these issues to the public, they were often disregarded as White Americans viewed them as thugs making excuses for their bad behavior. Regardless, these musicians understood a fundamental truth about the criminal justice system long before middle class White Americans began to pay attention. They understood that biased police practices were sending too many people of color to prison. Over twenty years after these artists tried to expose law enforcement, many American people are finally listening to their criticisms and offering their support. The growing body of scholarship on the war on drugs and mass incarceration crisis are a testament to the growing awareness of and concern with the catastrophic effects of the drug war. Central to the growing historiography is the question of culpability for the modern mass incarceration crisis, and that fact underscores the importance of a micro study on powder and crack cocaine structures. In looking at these two drugs and their mandatory minimums, one can begin to trace the complicated

chain of cause and effect, political decision making, and police action that created the mass incarceration crisis. In identifying these coopting institutions and individuals, no one group, political party, or individual can be held responsible for today's crowded prisons.

The fundamental flaw in the war on drugs was that it failed to address the underlying issues of drug abuse. Instead of seeking to alleviate the pain that drove individuals to drugs, the drug war funneled individuals into prisons. This was a futile effort in regards to ending drug use. As one former convict recalled,

Now the prison for Black women is what I call just a warehouse for people. They don't have programs to help you come back in society, to help you with your problems as to why you wound up there. It's just to get the money every time you come through the door. It's a lucrative business. So here you are going right back out there to do the same thing with fifty dollars. What is fifty dollars, with no skills and no training and no education, going to do for someone? Getting out of jail with fifty dollars would make me want to go use some drugs and forget what's going to happen two days down the line when I wake up with no money and no job. You would see women go out and come right back. There are three basic life-sustaining things that you have to have in life: food, clothing, and shelter. They don't come free, and you can't get them for fifty dollars. They know when they let you out that you'll be back, unless you get fortunate enough to have a program like this to help you. And you have to want it. People fail to realize that all the people out here on the street that they see walking down the street using crack cocaine and stealing don't do that because they want to do it. They have no other way.²⁶¹

The stories of individuals caught in the snares of the drug war ground the narrative in the struggles of real people experiencing the effects of the drug war on the street, in real time. It's easy to get caught in the politics of the subject and miss the point of it all. The stories of incarcerated individuals and lyrics of rap artists that grew up in communities ridden

²⁶¹ Johnson, *Inner Lives: Voices of African American Women in Prison*, 139.

with drug use and incarceration highlights the human casualties of the drug war. They also combat racist views of individuals within these communities that misunderstand these people as miscreants, rather than victims of a larger system that works against them. It reveals that these individuals resented drug use as well as the white power structure that perpetuated and enabled the harsh conditions of their communities.

While the drug war was based on fundamental misunderstandings about drug abuse, no drug was more misunderstood than crack cocaine. Though it was indeed cheap and whack, as the late popular Black pop star Whitney Houston suggested, policymakers and the American public failed to grasp why it was “whack.” They understood it as a lightning rod for crime, violence, prostitution, and destruction. While crack is highly addictive and retains a great capacity for destruction, the other problems that mainstream society attributed to crack were not necessarily crack’s responsibility. The rise of gangs, crime, and violence in the inner cities was not because everybody was smoking crack but because they were destitute. The manufacturing jobs were gone, and thousands were left jobless. Add in systemic racism and poor education, it seems that the mythical rise of crack was born out of White American’s neglect and indifference towards the plight of urban minorities. This is important to note because it changes the conversation around the war on drugs. It frees us from a focus on punishment and accountability and allows us to instead consider the ways in which communities can come together to heal. It challenges the archetype of an urban youth as a hoodlum and a degenerate and instead understands these individuals as byproducts of a country that historically operated against them. It has left them poor and poorly educated yet maintains that their failures were byproducts of their own actions. This altered view of the inner city and drug abuse casts these

individuals as victims rather than as degenerates. Perhaps this kind of understanding of addiction is the only approach with the potential to eradicate drug abuse.

On December 22, 2000, with only eight days left in the Clinton presidency, Kemba Smith anxiously waited for an update on her clemency plea. That day Smith's lead counsel came to visit her. After chatting for over an hour, Smith asked him to go see if there were any updates on her case and then went to the yard to socialize with her fellow inmates, who offered her their congratulations. Recalling the confusing moment, Smith writes,

Once I set foot out on the yard, other inmates came up to congratulate me. "What for?" I asked one of them. "You're out of here!" She responded. I didn't believe it. I had just walked past my case manager, who didn't say a word to me. How could I be leaving if my case manager passed me without saying a word about it? Then I saw my close friend, Michelle, who was serving a life sentence.... Then she told me she saw it on CNN. She told me she had just seen an announcement on CNN that I was granted executive clemency.²⁶²

Smith was released that day and finally able to be the mother she longed to be. She went on to be an author and public speaker, sharing her story in the hopes of making a difference in the lives of women everywhere. Smith's story is one of triumph, but it is also a rarity. Too many mothers and fathers remain behind bars, unable to watch their children grow up, because of non-violent drug charges. The costs of the drug war cannot be measured by dollar amounts but in human lives. Each drug criminal has a story of what got them into prison, and listening to these stories is the key to Reagan's dream of a drug free America. Listening to these individuals and understanding why they turned to

²⁶² Smith, *Poster Child: The Kemba Smith Story*, 312.

drugs will provide the answers on how best to tackle drug abuse, because it is clear that the current plan is not working.

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