



**The 1994 Crime Bill**  
**Legacy and Lessons**

**Overview and Reflections**

*Richard Rosenfeld | September 2019*

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## ABOUT THE COVER

The cover design was created by adults in custody working at Oregon Corrections Enterprises (OCE). The mission of OCE, in partnership with the Oregon Department of Corrections, is to promote public safety by providing adults in custody with work and training opportunities in a self-sustaining organization.

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The Violent Crime Control and Law Enforcement Act of 1994 (Crime Bill) was and remains the single largest piece of federal criminal justice legislation in U.S. history. Its 33 separate titles address topics as diverse as violence against women, policing, drug courts, the death penalty, and telemarketing scams targeting the elderly. The Crime Bill's breadth and level of detail virtually guaranteed that it would be controversial when it was passed a quarter of a century ago, and it certainly remains so today. But some of that controversy rests on an incomplete reading or misunderstanding of the bill's major provisions and the actual effects they had on the nation's criminal justice systems. Its impacts on incarceration growth and the sentencing of people convicted of violent crimes, in particular, have been overstated and mischaracterized, leading to inaccurate conclusions that echo in public and political discourse today.

On the 25th anniversary of the Crime Bill's signing, at a time when support for criminal justice reform is shared by Americans of nearly every demographic group and political perspective, it is important to clarify the legislation's key components and their consequences. To that end, the Council on Criminal Justice solicited statements from criminal justice experts that examine how the Crime Bill's most important provisions may have influenced subsequent developments in U.S. criminal justice policy and practice, and the lessons they may hold for formulating policy in the future.

Our project begins with two pieces – this reflection, which describes the historical and political context in which the Crime Bill was passed and sets forth some lessons learned, or still to be learned, 25 years later, and a companion piece that documents the bill's impact on prison growth and sentencing of people convicted of violent offenses. Additional papers analyzing specific provisions of the Crime Bill will be released by the Council throughout the coming year.

## Overview

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Signed into law by President Bill Clinton, the Crime Bill was a sweeping piece of bipartisan legislation that touched nearly every function or initiative of the criminal justice system. Overall, its 33 titles were intended, in one way or another, to reduce violent crime or to toughen societal retribution against people who commit crimes of violence. Like most omnibus bills that package disparate elements, the Crime Bill had something for nearly all interested parties, and any one of its titles could have stood on its own as a single piece of legislation. The Crime Bill imposed restrictions on the manufacture, sale, and possession of semiautomatic firearms; gave crime victims the right to speak at sentencing and parole hearings; expanded the federal death penalty to cover 60 offenses; put tens

of thousands of additional police officers on the streets; prohibited the awarding of Pell grants to federal and state prisoners and created incentive grant programs encouraging states to expand prison capacity and toughen sentencing for crimes of violence. (See the Appendix for a detailed summary of the Crime Bill's major provisions.)

In all, the Crime Bill authorized more than \$30 billion over a six-year period: \$10.8 billion for state and local law enforcement; \$2.6 billion for federal law enforcement; \$9.7 billion for prison construction; and \$7.1 billion for crime prevention.<sup>1</sup> Most of the funding for state and local law enforcement (\$8.8 billion) was directed to hiring additional police officers under Title I (the "COPS" program).

Of the \$9.7 billion authorized for prisons, \$7.9 billion was devoted to the truth-in-sentencing incentive grants and grants to incarcerate violent offenders. The Crime Bill represented an enormous and ambitious financial commitment. But, as William Sabol and Thaddeus Johnson demonstrate in the first piece of our series, not all of the authorized funding was ultimately appropriated by Congress.

## Setting

To understand the sheer size and cost of the Crime Bill, it is important to recall the social and political context in which it was enacted. The legislation was drafted and debated with a strong sense of urgency, at a time of mounting national concern about violent crime. By the early 1990s, over half of Americans ranked crime as the country's most important problem (see Figure 1).<sup>2</sup> This concern was far from irrational. Violent crime rates peaked at 758 violent crimes per 100,000 population in the early 1990s, a level 27% higher than the previous peak in 1980 and 371% higher than in 1960.<sup>3</sup> The violence and fear associated with the crack cocaine epidemic of the 1980s and early 1990s were lodged in the public

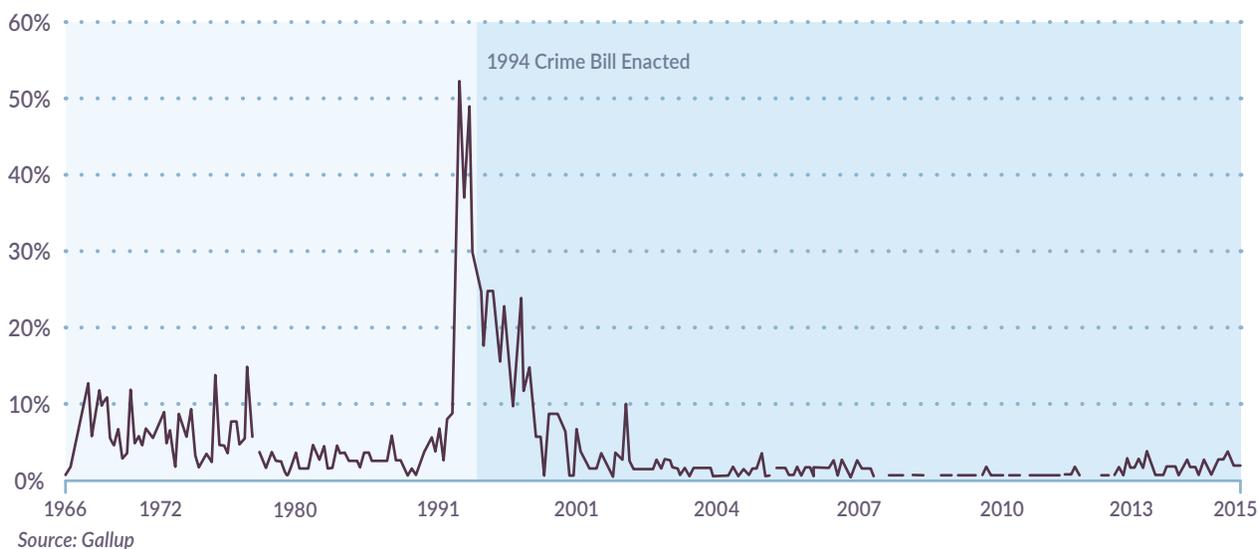
consciousness, and prominent criminologists were warning of an impending “blood bath” brought on by young “superpredators” if something were not done soon.<sup>4</sup>

In short, Congress and the Clinton Administration faced an American public that was demanding governmental action to incapacitate and punish violent criminals, as well as to rehabilitate them if possible, especially juveniles.<sup>5</sup> Criminal justice policy analyst Mark Kleiman characterized the public mood this way:

“No one knew then that we’d seen the worst. All we knew is that the number of murders had more than doubled, that the total number of violent crimes had increased six-fold in the previous thirty years, that no reversal of trend seemed to be in sight, and that the street-level arms race financed by the crack trade had expanded the age range of killers and their victims down into adolescence. If you weren’t seriously worried about crime in 1994, you just weren’t paying attention.”

The widespread sense of alarm about crime helps to explain why federal policymakers felt they needed to act, but it does not explain the

**Figure 1: Percent of Americans who said crime is “the most important problem”**



Crime Bill's enormous topical scope. Rather, its breadth is a product of the politics of crime and justice that prevailed at the time.

After the 1960s, when street crime became a national political issue, Republicans began to favor so-called tough-on-crime approaches (e.g., more police, stiffer sentences), while Democrats were more likely to support crime prevention programs that expanded non-criminal opportunities for at-risk youth and sentencing alternatives to incarceration for some convicted people. There were many exceptions to this partisan divide on crime – Southern Democrats, for example, were as tough on crime as most Republicans and opposed restrictions on guns – but it is reflected in the Crime Bill's many disparate provisions.

In order to ensure passage of the Crime Bill, its authors needed to include sections that appealed to sufficient numbers of both Republicans and Democrats. That meant members of Congress had to accept provisions they disliked in return for including those they wanted. For example, then Rep. Bernie Sanders of Vermont, despite his opposition to prison expansion, voted for the Crime Bill because he supported other aspects of the legislation, in particular the Violence Against Women Act.<sup>7</sup> Likewise, the Congressional Black Caucus and prominent African-American leaders supported many features of the Crime Bill despite their misgivings about its more punitive provisions.<sup>8</sup> In short, if Congress were to act in response to mounting public concern about crime, the resulting legislation would need to contain a mixture of measures that toughened penalties for violent offenders, demonstrated concern for victims, and sought to alleviate the social conditions that underlay the rising rate of violent crime. It was neither a progressive piece of legislation nor a draconian crackdown, according to criminologist Franklin Zimring: "It was everything."<sup>9</sup>

While the partisan divide helps to explain the polyglot nature of the Crime Bill, the legislation also resulted from a concern among Democratic lawmakers that they not appear soft on crime. During the 1988 presidential campaign, an independent group supporting Republican George H. W. Bush had bitterly attacked Democrat Michael Dukakis for backing a prison furlough program when he was governor of Massachusetts. A prisoner named Willie Horton escaped from the program and went on to commit a brutal violent crime, and the episode was highlighted in an infamous – and widely criticized – television advertisement.<sup>10</sup> After Bush won the election, many Democrats, including then-Gov. Clinton of Arkansas, concluded that they would have to toughen their stance on crime to remain competitive. Had the Democrats not undergone a realignment on crime, in all likelihood there would have been no bipartisan support for the Crime Bill and it would not have passed.

## Legacy and Lessons Learned

Understanding the Crime Bill's legacy and lessons requires attention to two different kinds of impact, one specific, the other general: (1) Did specific provisions of the Crime Bill achieve their intended consequences and spur subsequent federal, state or local action? (2) How did the Crime Bill, as a whole, influence the criminal justice policymaking process? In particular, did the Crime Bill elevate the importance of research for developing and evaluating criminal justice policy initiatives? And did it influence views of the appropriate role of the federal government in criminal justice policymaking?

In the coming months, the Council will release a series of papers documenting the specific consequences of key Crime Bill provisions. Researchers will detail its impacts on policing,

the growth of drug courts, youth crime prevention, street gangs, services for crime victims, and initiatives to reduce violence against women, among other topics. Our first segment, the accompanying piece by Sabol and Johnson, kicks off the series by addressing what may be the most prominent question asked about the impact of the Crime Bill: Did it accelerate mass incarceration?

For decades, the Crime Bill has been portrayed as the catalyst for America's imprisonment boom and era of exceptional punitiveness. In fact, however, its provisions mostly intensified a movement that was already well underway in the states. As Sabol and Johnson write, the growth in the state and federal prison population actually slowed after the Crime Bill's 1994 passage. And while the Crime Bill provided grants to encourage states to adopt tougher sentencing laws for violent offenses, "its record of changing state sentencing law was mixed at best." Why? Because a large proportion of states already had adopted truth-in-sentencing statutes on their own. That said, the Clinton Administration was certainly beating the drum for "lock-'em-up" policies, even before the Crime Bill was passed. That message undoubtedly fueled policy deliberations in the states, and influenced how prosecutors, judges, and other criminal justice professionals approached their jobs.

### THE IMPORTANCE OF RESEARCH

One critically important legacy of the Crime Bill that often is overlooked is its impact on criminal justice research. The congressional appropriation authorized by the Crime Bill led to the largest investment ever in U.S. criminal justice research and evaluation. Prior to the bill's passage – and for a good while after – criminal justice practice and policy typically were based on anecdote and instinct. Pet programs favored by lawmakers or promoted

by a vocal constituency, for example, often were funded for years, even when no reliable data existed to support their effectiveness.

The Crime Bill spurred a significant expansion in research on crime and justice issues, with portions of its appropriations dedicated to evaluating criminal justice programs and practices. This was helpful in two ways. One, it fueled the growth of a research base for the field that has evolved into a critical and trusted resource for practitioners and policymakers across the country. Just as importantly, it laid a foundation for the argument that data and evidence about what works, and what does not, should guide decision making about crime and punishment, a philosophy that is all but universally accepted today.

The National Institute of Justice (NIJ), the research arm of the Department of Justice, used the Crime Bill appropriations in a variety of ways. First, the funding supported a significant amount of social science research on policing, as well as evaluations in areas such as DNA identification, ballistics, less lethal weapons, and soft body armor. In addition, Crime Bill dollars covered initiatives such as a major study on recidivism by the Bureau of Justice Statistics during the 1990s. Another project funded under the Crime Bill umbrella was an executive session series on corrections sponsored by the NIJ. Among other outcomes, the series helped give birth to the concept of prisoner reentry.

NIJ funding also supported the publication of an influential study summarizing evidence on crime. Published in 1997, *Preventing Crime: What Works, What Doesn't, What's Promising* by Lawrence W. Sherman and colleagues from the University of Maryland, summarized existing evidence on the effectiveness of a broad range of criminal justice programs.<sup>11</sup> An immediate impact was the decision by

the House Appropriations Committee to cut off funding it had been providing to the Drug Abuse Resistance Education (DARE) program, a reflection of Congress' increasing willingness to pay attention to research.

Overall, the NIJ research portfolio now places a strong emphasis on partnerships between researchers and criminal justice agencies and on "action" research that has immediate relevance to policy and practice in the field. It is now widely accepted that criminal justice policy and programs should be based on reliable empirical evidence showing their effectiveness, rather than anecdote. But that is a relatively recent development, and the Crime Bill helped pave the way for the change.

### **THE FEDERAL GOVERNMENT AS CRIMINAL JUSTICE PARTNER**

By and large, the immediate and direct impact of the 1994 Crime Bill's sentencing and corrections provisions was limited to cases processed in the federal justice system. While it provided grants to incentivize states to adopt truth-in-sentencing requirements, as noted above, most states had already done so before the bill was passed.

In other ways, however, the influence of the Crime Bill and the funding streams it created was more pervasive. First, it strengthened the view of the federal role in criminal justice as a convener, a clearinghouse of information about state and local initiatives, a partner to state and local authorities and interest groups, and, of course, a major source of funding for criminal justice research. The bill and the way it was implemented by the Department of Justice also promoted the idea that the criminal justice system is not simply an administrative apparatus for apprehending and punishing offenders but, through evidence-based programming, can effectively address the sources of criminal behavior. While that

description is widely accepted now, far fewer people would have described the system's role that way a quarter-century ago.

### **POLITICAL LEGACY**

In addition to providing multiple prescriptions for the direction of criminal justice policy, the Crime Bill vividly reflected the era's retributive mood and fortified the nation's tough-on-crime movement. For years afterward, elected officials haunted by spiking homicide rates and the ghost of Willie Horton continued to demonstrate a preference for harsh penalties and more prison beds, even as correctional budgets ballooned. Gradually, however, the costs and collateral consequences of expansive imprisonment became compellingly clear, and research began to identify and validate more effective approaches to crime control. Along the way, political champions of the Crime Bill – namely, President Clinton and, more recently, 2020 Democratic presidential contender Joe Biden – came under attack by those who blamed the legislation for launching or greatly accelerating America's era of mass incarceration and exacerbating racial disparities in the justice system.

Many observers seem to view the First Step Act, signed by President Trump on December 21, 2018, as an antidote for the punitive thrust of the 1994 Crime Bill. The First Step Act reduces sentences for drug convictions, improves prison conditions, and creates more job training programs—but only in the federal system, where about 14% of U.S. prisoners are held.<sup>12</sup> President Trump, aware of the Crime Bill's controversial legacy, explicitly contrasted the two measures: "Anyone associated with the 1994 Crime Bill will not have a chance of being elected. In particular, African Americans will not be able to vote for you. I, on the other hand, was responsible for Criminal Justice Reform, which had tremendous support, and helped fix the bad 1994 Bill!"<sup>13</sup>

As with the Crime Bill, the First Step Act passed with broad bipartisan support. But the politics of criminal justice reform have undergone a major change in a quarter-century. Today's coalition on criminal justice reform reflects a new consensus of liberals and conservatives, Democrats and Republicans, about the need to roll back incarceration levels and expand opportunities for people released from prison. Partisan differences remain, but they are far more muted than was the case when the Crime Bill was passed. Just as Democrats underwent realignment on criminal justice, many Republican lawmakers see the issue through a new lens and now support reforms – with firearms control a key exception – that would have been unimaginable three decades ago.

In fact, criminal justice reform stands out as one of the few significant political issues that enjoys widespread support by both of the major political parties. This unity in Washington follows a longer running period of collaboration

on criminal justice in the states. Since 2007, more than three dozen states – many of them led by Republican governors – have adopted bipartisan legislation that pares back Crime Bill-era policies. In most of those states, both crime and imprisonment rates are down.

It is difficult to predict how long the new political consensus on criminal justice reform will last. A lengthy period of falling crime rates certainly was a precondition for passing The First Step Act, and for criminal justice reform more broadly. A sustained crime spike could undermine the new consensus and dash hopes for further reforms. What is clear is that today's political climate provides fertile ground for those seeking to improve the fairness and effectiveness of our justice system, and a new wave of reforms – seeking everything from “clean slate” record expungement to restrictions on the use of cash bail – is well underway. In that sense, 1994 seems like a very long time ago.

## Appendix. Key Provisions of the Violent Crime Control and Law Enforcement Act of 1994

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### **Title I. Public Safety and Policing —**

Authorized hiring and training of additional police officers to adopt community policing strategies and innovative crime prevention programs and technologies.

**Title II. Prisons —** Provided grants to states for truth-in-sentencing provisions; to improve correctional facilities and develop alternatives, such as boot camps; to incarcerate violent offenders; to develop alternatives to traditional incarceration and probation for young offenders; and to compensate states for incarcerating undocumented immigrants. In addition, **Title II** required prison impact assessments for legislation that could increase or decrease the number of prisoners in federal facilities; expanded good-time credits for federal prisoners; authorized an evaluation of prison education programs; prohibited federal courts from declaring prison overcrowding unconstitutional unless a plaintiff shows that overcrowding caused cruel and unusual punishment of that plaintiff; prohibited Pell Grants for federal and state prisoners; authorized drug testing of federal offenders on post-conviction release; and encouraged job training and placement for federal and state prisoners and ex-prisoners.

**Title III. Crime Prevention —** Authorized block grants for crime prevention and recreational programs focusing on at-risk youth; prohibited discrimination by local governments receiving crime prevention funds; provided grants for community-based prosecution programs that identify, speed the prosecution of, and offer non-criminal alternatives for young violent offenders; provided grants to expand drug treatment in federal prisons and residential

treatment programs in state and local correctional facilities; and established Gang Resistance Education and Training (GREAT) projects.

**Title IV. Violence Against Women —** Increased penalties for sexual abuse; permitted courts to order mandatory restitution for victims of sexual abuse; made grants to strengthen law enforcement and prosecution strategies to combat violence against women and provide services to victims; restricted use of evidence in legal proceedings concerning the sexual behavior of victims of sex crimes; expanded assistance to victims of sexual assault; provided grant funds to establish a national domestic hotline for victims of domestic violence; increased penalties for interstate domestic violence and violations of protection orders; provided grants to encourage mandatory and pro-arrest policies for domestic violence; increased funding for domestic violence shelters; requested the National Academy of Science to develop a research agenda on violence against women; established a federal civil rights cause of action for victims of crimes motivated by gender; and enhanced protections for battered immigrant women and children.

**Title V. Drug Courts —** Provided grants to states and localities to establish and maintain drug courts for nonviolent offenders.

**Title VI. Death Penalty —** Expanded the federal death penalty to cover 60 offenses, including terrorist homicides, murder of a federal law enforcement officer, large-scale drug trafficking, drive-by-shootings, and carjackings resulting in death.

**Title VII. Mandatory Life Imprisonment for Persons Convicted of Certain Felonies –** Required mandatory life imprisonment for persons convicted of a violent felony or serious drug offense who were convicted on separate prior occasions of two or more violent felonies or one or more violent felonies and one or more serious drug offenses (federal “three-strikes” law).

**Title VIII. Applicability of Mandatory Minimum Penalties in Certain Cases –** Permitted federal courts to avoid otherwise applicable mandatory minimum sentences if the defendant did not have more than one criminal history point as determined under sentencing guidelines; did not use or induce others to use violence, a firearm or other dangerous weapon in the offense; was not an “organizer, leader, manager, or supervisor” of others in the offense; and the offense was not part of a continuing criminal enterprise and did not result in death or serious bodily injury.

**Title XI. Firearms –** Prohibited manufacture, sale, and possession of semiautomatic firearms and large capacity ammunition feeding devices, except for those legally possessed by the date of enactment; prohibited sale or transfer of handguns to persons under age 18; required a photograph and fingerprints to obtain a federal firearms license; prohibited firearm possession by persons under court order for domestic abuse; and enhanced penalties for firearm use in selected crimes.

**Title XIV. Youth Violence –** Permitted prosecution as adults of juveniles age 13 and older charged with a violent offense and increased penalties for persons employing juveniles to distribute illegal drugs near schools and playgrounds or for soliciting a minor to commit crime.

**Title XVII. Crimes Against Children –** Required persons convicted of a crime against a minor

or a crime of sexual violence to register with a designated state law enforcement authority and increased penalties for assaults against minors under the age of 16.

**Title XXI. State and Local Law Enforcement –** Extended Byrne grant funding; increased funding to improve DNA analysis; declared as unlawful actions by law enforcement and other criminal justice authorities that deprive persons of the rights, privileges, or immunities guaranteed by the Constitution or laws of the United States; required that the Attorney General compile data on the use of excessive force by law enforcement officers; authorized grants for computer automation and other technological improvements in criminal justice agencies.

**Title XXIII. Victims of Crime –** Gave victims of a violent crime or sexual abuse the right to speak at an offender’s sentencing hearing and any parole hearing; established a crime victim’s compensation fund.

**Title XXVIII. Sentencing –** Issued directions to the U.S. Sentencing Commission regarding sentencing enhancements for hate crimes; required the U.S. Sentencing Commission to submit a report with recommendations to Congress on the different sentencing levels for different forms of cocaine.

#### **Other titles of the Crime Bill**

- increased funding for hiring and training law enforcement officers in rural areas;
- increased funding for the federal judiciary, Department of Justice, FBI, and Department of the Treasury;
- increased penalties for drunk driving resulting in the death or serious bodily injury of a minor or if a minor was present in the motor vehicle when the offense was committed;

- established the Police Corps and scholarships to increase the number of police officers with higher education;
- increased penalties for illegal drug use and drug trafficking in federal prisons and drug trafficking in drug-free zones;
- extended the statute of limitation for certain terrorism offenses and increased penalties for providing material support to terrorists;
- enhanced penalties for gang-related crimes and made grant funding available for gang prevention programs;
- prohibited importation of child pornography and encouraged states to enact legislation prohibiting the production, distribution, or possession of materials involving persons under the age of 18;
- increased penalties for departing or reentering the United States after a final deportation order and authorized improved border controls;
- enhanced penalties for crimes against the elderly; authorized new or enhanced penalties for computer crimes; prohibited release and use of certain information from state motor vehicle records; and created the Violent Crime Reduction Trust fund.

## Notes

- <sup>1</sup> The funding data are from the Legislative Analyst's Office, State of California (<https://lao.ca.gov/1994/pb092794.html>).
- <sup>2</sup> From Lopez, German, The simple truth about why mass incarceration happened, VOX (August 30, 2015). <https://www.vox.com/2015/8/30/9223105/why-mass-incarceration>.
- <sup>3</sup> FBI, Uniform Crime Reports, various years.
- <sup>4</sup> Haberman, Clyde, When Youth Violence Spurred 'Superpredator' Fear, New York Times (April 6, 2014). <https://www.nytimes.com/2014/04/07/us/politics/killing-on-bus-recalls-superpredator-threat-of-90s.html>.
- <sup>5</sup> Cullen, Francis T., Jennifer A. Pealer, Bonnie S. Fisher, Brandon K. Applegate, and Shannon A. Santana, Public Support for Correctional Rehabilitation in America: Change or Consistency? In *Changing Attitudes to Punishment: Public Opinion, Crime and Justice*, Julian V. Roberts and Mike Hough, eds. Portland, OR: Willan Publishing (2002). <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=199898>.
- <sup>6</sup> Kleiman, Mark, The Current Crime Debate Isn't Doing Hillary Justice, Washington Monthly (February 17, 2016). [http://www.washingtonmonthly.com/ten-miles-square/2016/02/the\\_current\\_crime\\_debate\\_isnt059655.php](http://www.washingtonmonthly.com/ten-miles-square/2016/02/the_current_crime_debate_isnt059655.php).
- <sup>7</sup> Lopez, German, Bernie Sanders voted for the 1994 tough-on-crime law. But it's complicated, VOX (April 8, 2016). <https://www.vox.com/2016/2/26/11116412/bernie-sanders-mass-incarceration>.
- <sup>8</sup> Fortner, Michael, The Clintons Aren't the Only Ones to Blame for the Crime Bill, The Marshall Project (October 7, 2015). <https://www.themarshallproject.org/2015/10/07/the-clintons-aren-t-the-only-ones-to-blame-for-the-crime-bill>.
- <sup>9</sup> Quoted in Barabak, Mark Z., How a Biden crime bill meant to unite his party now divides Democrats, Los Angeles Times (June 26, 2019). <https://www.latimes.com/politics/la-na-pol-2020-democrats-crime-bill-biden-20190626-story.html>.
- <sup>10</sup> Withers, Rachel, George H.W. Bush's "Willie Horton" ad will always be the reference point for dog-whistle racism, VOX (December 1, 2018). <https://www.vox.com/2018/12/1/18121221/george-hw-bush-willie-horton-dog-whistle-politics>.
- <sup>11</sup> See Sherman, Lawrence W., Denise C. Gottfredson, Doris L. MacKenzie, John Eck, Peter Reuter, and Shawn D. Bushway. 1998. Preventing Crime: What Works, What Doesn't, What's Promising. National Institute of Justice Research in Brief. Washington, D.C.: U.S. Department of Justice. <https://www.ncjrs.gov/pdffiles/171676.PDF>.
- <sup>12</sup> George, Justin, First Step Offers Release for Some Prisoners—But Not Non-Citizens, The Marshall Project (June 18, 2019). <https://www.themarshallproject.org/2019/06/18/first-step-offers-release-for-some-prisoners-but-not-non-citizens>.
- <sup>13</sup> Quilantan, Bianca, Trump slams Biden for role in 1994 crime bill, Politico (May 27, 2019). <https://www.politico.com/story/2019/05/27/trump-slams-biden-for-role-in-1994-crime-bill-1345356>.