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**THE INEQUALITY OF JUSTICE:
A REPORT ON CRIME AND THE ADMINISTRATION
OF JUSTICE IN THE MINORITY COMMUNITY**

by the

**National Minority Advisory Council
on Criminal Justice**

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Executive Editor

**January 1982
Washington, D.C.**

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"Our constitution calls for the national government to establish justice -- including social justice -- and also to insure domestic tranquility."

President Jimmy Carter
Miami, Florida
June 1980

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PREFACE

This report is a body of scholarship and analysis that portrays the disproportionate and adverse impact of crime and the criminal justice system on this nation's minority people. The report is the result of four years of extensive research undertaken by the membership of the multiethnic National Minority Advisory Council on Criminal Justice to the Law Enforcement Assistance Administration (LEAA), U.S. Department of Justice.

The Council was established on June 18, 1976, just a few weeks before the nation's celebration of its bicentennial, after nearly a decade of federal action and involvement to reduce crime and to improve the effectiveness of the criminal justice system. The purpose of this pioneering action by a federal agency was to create an advisory body from which LEAA could secure advice on issues critical to minorities in the area of crime and the criminal justice system. Establishment of the Council signaled an important break with tradition in that it marked federal recognition of the necessity and distinct advantage of increasing minority participation and of incorporating a minority perspective and understanding in LEAA policies.

Prior to the creation of the Council, no process for minority input to criminal justice issues existed on the federal level. The need for establishment of the Council was dramatically demonstrated not only by the underrepresentation of minority employment throughout the criminal justice system, but also by other compelling factors: the disproportionately large percentage of minorities arrested, convicted, and imprisoned; discriminatory practices and other injustices experienced by minorities with the police, in the courts, and in the prisons; and the high rate of crime that plagues minority communities and increases minority fears and frustrations.

The Council's mandate is to provide guidance, direction, and recommendations to federal, state, and local law enforcement agencies. Its membership is representative of the nation's four majority groups: blacks, Hispanics, American Indians, and Asian-Americans. Its members come from all geographic sectors of the country, and their expertise encompasses various elements within the law enforcement system, including police, criminal justice policy leaders, community advocates, corrections, and the law.

This report is probably the most comprehensive study of crime and criminal justice ever conducted from a minority perspective. It differs from previous studies in that it

incorporates the opinions of diverse minority people along with the results of the Council's research activities. To assess the impact of crime and each element of the criminal justice system on minorities across the nation, the Council (1) reviewed past and current criminal justice literature, (2) sponsored numerous public hearings around the nation, (3) solicited input from consultants and experts on specific issues, (4) conducted field studies and interviews with selected minority criminal justice leaders and public officials, and (5) critically analyzed criminal justice policies and programs at various governmental levels.

Many public problems demanded the Council's examination, including the recent resurgence of the Ku Klux Klan, the revival of "severe and swift punishment" as a solution to crime, senseless assaults on minorities such as those in Buffalo and Boston, the New Mexico prison riot in reaction to inhumane conditions, and the immigration of tens of thousands of Cuban, Haitian, and Southeast Asian refugees. The nation's problems in criminal justice, especially those that impact on minorities, are increasing while the necessary resources to resolve these problems are dwindling.

Although charged by LEAA to conduct this study, the Council had a higher responsibility to the minorities addressed in this report. At its public hearings across the nation, the Council heard testimonies of minority people and their expressions of anger, frustration, and despair regarding crime and the criminal justice system. These people shared with the Council their experiences with and judgments of the criminal justice system. This report speaks out of the deep anguish and anxieties reported with urgency by those who appeared before the Council.

This study is particularly timely, coming as it does during a period when the nation's minority population is experiencing a new wave of racism and inequality in the criminal justice system and society as a whole. This report and recent disturbing public events such as the Miami riot clearly present an urgent challenge for national leadership.

Dr. Lee P. Brown
Chairman
National Minority Advisory Council
on Criminal Justice

ACKNOWLEDGMENTS

The membership of the National Minority Advisory Council on Criminal Justice to the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice wishes to gratefully acknowledge the generous contributions of many people and organizations who assisted the NMACCJ in the realization of this report.

The Council's membership applauds the exceptional assistance provided by A. L. Nellum and Associates, Inc., of Washington, D.C. The critical and scholarly leadership consistently provided by Raymond S. Blanks, the NMACCJ's Staff Director, were invaluable and significant. The job of conducting the final manuscript through the various production tasks was capably performed by Ms. Annette McLane, Director of Technical Services for A. L. Nellum and Associates; the editors, word processing specialists and other support staff associated with the production of the report are also commended for their skills and tireless efforts to render this final document.

The Council is deeply indebted to Dr. Alfreda Iglehart of the University of Michigan, Dr. Paul Takagi of the University of California, Berkeley, Dr. Darnell Hawkins of the University of North Carolina at Chapel Hill, Ms. Ella M. Kelly of the A. L. Nellum staff, Dr. Nolan P. Jones of the National Governors' Association, Ms. Cynthia G. Sulton, an independent criminal justice specialist and writer, Atty. Kirke Kickingbird and Alexander Shibine of the Institute for the Development of Indian Law, Jerry Mandel of National Council of La Raza, Atty. Haywood Burns of the City University of New York, Atty. Martha Fleetwood of the National Association for the Advancement of Colored People, Dr. Ozzie Edwards of Harvard University, Moises Sandoval of the Maryknoll Press, Dr. Larry Moss of Atlanta University and Dr. Linda F. Williams of Howard University.

Two staff members of LEAA, Mrs. Peggy Triplett and Ms. Carolyn Liberti Boyle, provided helpful guidance and assistance in their responsibility as agency monitors and liaison to the NMACCJ.

The Council is extremely appreciative to the scores of citizens who took the time and shared their concerns at the public hearings held around the country by the Council. Their public testimonies and insights significantly contributed to the development of this report's analysis. To them, we owe a special thanks because their input further generated this report and increased the Council's knowledge and understanding of crime and the criminal justice issues discussed

in this report. Likewise, the Council is grateful for the cooperation provided by a cadre of criminal justice leaders and political officials who consented to personal interviews for this report.

The Council is indebted to its previous staff directors including Dr. Gwynn Peirson and Alan G. Boyd who began their contributions when this report was an idea. In addition, we wish to thank the many minority criminal justice advocate groups who participated in our National Results Conference in October, 1979 and who supported the Council with contributions of research in the spirit of cooperation during the Council's four year tenure.

Finally we are grateful to George Bohlinger, the Administrator of LEAA, who consistently sought cooperation between the Council and that agency. Further, we appreciate the understanding, patience and support of our families who understood the demanding requirements of this responsibility and who solidly endorsed our commitment to this report.

Lee P. Brown
NMACCJ Chairman

EXECUTIVE SUMMARY

America stands as a distinctive example of ethnic, religious, and linguistic pluralism, but it is also a classic example of the heavy-handed use of state and private power to control minorities and suppress their continuing opposition to the influence of white racist ideology. Moreover, there is an air of hypocrisy in the public pronouncements about freedom by a nation in which the essential social levers of opportunity--education, jobs, housing, and political power--are kept out of the reach of the masses of minorities. Blacks, Hispanics, American Indians and Asian-Americans remain, with few exceptions, segregated, powerless, and at a marginal level of existence as a result of our nation's socioeconomic system and political practices.

Today, the existence of a large, disaffected minority population haunts America in its precarious posture as the world leader in equality and democracy. The periodic spasms of minority discontent across the nation are closely connected to the government's management of the economy and the use of government power in periods of crisis. Yet, for minorities all over the nation, the issues, above all others, are political and economic exploitation and racism, the basic causes of conflict and disorder in the American criminal justice system.

During the last twenty years, America's blacks, Hispanics, Asian-Americans and American Indians have been significantly influenced by a variety of social currents and historical events--chief among these forces is the Civil Rights Movement of the sixties. From the early 1960s to the present, important social and governmental initiatives have been enacted that have affected poor and minority people. Throughout the late sixties and the seventies, however, the nation's economic vitality declined, causing periods of deep recession and debilitating high rates of inflation. During such periods, the nation was faced with economic conditions that further decreased expanded opportunities for minorities. The decade of the seventies began with serious problems of inflation, which has lingered and worsened in recent years. At the same time, productivity fell to an all-time low, blocking any realistic potential for minorities to achieve measurable gains in real income. The consistently adverse and unstable economic trends often retarded, or even halted, the realization of many social programs such as the Humphrey-Hawkins Act, formally called the Full Employment and Balanced Growth Act of 1978. Recent federal policies based on sharply reduced budgets have also tended to favor military spending over domestic programs in a futile effort to balance the budget and counter the rise of inflation. Such adverse and stringent economic policies have profoundly affected the poor

and minorities of the nation, the results of which are evident in the rise of crime and its social impact.

The Supreme Court's rulings in the landmark decisions Brown v. Topeka (347 U.S. 483) and Baker v. Carr (369 U.S. 186), "one-man, one-vote," and the Civil Rights Movement served to influence emerging ideas within the nation's body politic. These events challenged the prevailing thoughts and practices in public policies which denied equal rights to many minorities. Further, the Supreme Court, in its important decisions of Escobedo v. Illinois (84 S.Ct. 1758) and Miranda v. Arizona (86 S.Ct. 1602), significantly improved the ability of suspected criminals to defend themselves and increased their legal rights.

Executive leadership in the area of civil rights changed at the beginning of the sixties. President John F. Kennedy challenged the nation to carve out a "new frontier." Included in his new program was the first major initiative of significance extending minority rights and full inclusion within the nation's economic, social and political spheres. In addition, labor unions and the religious community joined the president in the nation's new pursuits for equal rights. President Lyndon Johnson later designed what he labeled "a great society" and further advanced the cause of equal rights when he signed the Civil Rights Act of 1964. From the circuit courts to the Supreme Court, various judicial decisions gave increasing validity to the demands of minorities. With support of all branches of government and a supporting public coalition, the system was finally acknowledging the need for minority participation at all levels in the society.

These events and efforts forced America to confront seriously the critical problems of minorities and the poor. Dr. Martin Luther King, Jr., alerted the nation to the dynamic ethical challenge posed especially by the Civil Rights Movement:

America must reexamine old presumptions and release itself from many things that for centuries have been held sacred. For the evils of racism, poverty and militarism to die, a new set of values must be born.¹

During the late sixties, "white backlash" became a widely used term to describe white apprehension about minority progress, total equality and full inclusion of minorities in the traditionally white male sphere of socioeconomic power and political influence. For minorities, the issue was the inequitable distribution of power within the system; the nation had made certain commitments of equality to minorities and the poor but had failed in its attempt to make good its

social and economic promises. These national efforts achieved only marginal success in advancing minorities toward social and political equality. As the sixties came to a close, it became clear that the War on Poverty had failed to change the lives of the poor significantly.

One result of the Civil Rights Movement and the War on Poverty was that they produced and promoted a new realization in the public's conscience regarding minorities. Old truths were finally realized. Some aspects of the criminal justice system were revealed as inhumane. Often illegal practices by police in minority communities became increasingly apparent to the nation. The culprits, though, were not street criminals; they were public servants charged with upholding the law. Bull Connors' brutal treatment of black protesters in the streets of Birmingham--including the use of German shepherds, fire hoses and nightsticks--became an image of America's police to people all over the world. The lawbreakers included border patrol guards who had killed and brutalized incoming Hispanics. The culprits were the violent men at Wounded Knee charged with restoring order. From Miami to Milwaukee, the police, as symbols of authority for white America, often faced minority protesters in stormy confrontations. In turn, the police frequently became the target of minority protesters.

Similar acts of injustice were practiced by the courts. Hundreds of minority protesters were sent to jail or given excessive fines for their civil rights activities. Other minorities were jailed because of their immigrant or illegal status. Many felt that the law was perverted to control the protests of minorities against a patently unfair system. Further, the courts often failed to protect the rights of minorities who were aliens who sought equal justice.

But as minorities were slowly climbing the ladder of progress past the issues related to public accommodations and voting rights, they eventually discovered that the ladder to minority success and full participation in American had missing steps--economic and political power--the essential and elementary rungs to full equality.

While significant levels of progress eluded the minority poor, those same failures caused severe strains on the system.

History tells us that a nation can survive for years by shifting the burdens of life to the people confined by force and violence to the bottom. But history also tells us that this process, with inexorable logic, rebounds against the oppressor. For at a certain point, the people on the bottom begin

to straighten their backs and the burdens rise to the top of society, affecting everything and sparing nothing. That's where we are today.²

Violent urban riots erupted in the late sixties and again in 1970 and 1980 destroying people and property. In the process, America was challenged. The social disorders, just as the prison outbursts at Attica or New Mexico, indicated not only a fundamental inequality and an obvious gulf between the nation's ideals and its reality, but, more importantly, the failure of the system to respond adequately to the needs of its minority citizens. The nation was, and still is, confronted with a critical problem because the urban eruptions were so widespread, costly and damaging. Further, crime and violence affected not only the criminal but also the society. The restoration of order and justice requires that all elements of the system be made more efficient and equal, especially the criminal justice system, which was labeled in 1968 and again in 1980 as a chief cause of social disorders and division.

The Council acknowledges in this report that, after the riots of the sixties, there was a rush of appointed commissions to study civil unrest of that period. Among these were the National Advisory Commission on Civil Disorders, known as the Kerner Commission, the McCone Commission in Los Angeles, the Hughes Commission in Newark, and other such groups in Detroit, Cleveland, and Rochester. Each of these commissions was charged with examining the causes of the riots and making recommendations that would, ostensibly, preclude such future occurrences. In each city studied, unemployment as a way of life for minority youth and adults was found to be a major factor in causing the riots. Police behavior in the ghettos only added fuel to the fires.

Today, as was the case in the late sixties, officials in the criminal justice system deny primary responsibility for the violent ghetto uprisings and remain stubbornly insular and estranged from the minority community. Now the official law enforcement response to these social crises, as in the sixties, fails to demonstrate an understanding of the anger and frustration that the disturbances represent.

During the sixties, there was the eager anticipation that some social and economic wrongs would be set right and a feeling that perhaps the nation was moving with dispatch to eliminate racism and poverty, primary antecedents of crime, but the seventies were a decade of disappointment and bitterness over broken promises and unfulfilled dreams. The great surge in the sixties that carried racial justice briefly to the top of the nation's agenda had been stalemated--by war, economics, the disintegration of the old civil rights coali-

tion and the rise to power of the so-called Silent Majority who became the present Moral Majority.

With the current conservative mood of America as a framework, this report seeks to uncover the elements of both myth and reality in the way crime has been traditionally viewed, and to provide a more salient view of the links between higher crime rates, on the one hand, and patently inequitable criminal justice practices on the other. In pursuing these goals, the Council not only has analyzed the injustices and flaws within the criminal justice system, but also has focused on the broader socioeconomic factors that stimulate crime. In the course of highlighting the system's inherent fallibilities, the Council addressed itself to the socially systemic dysfunctions which fueled the dangers caused by crime. The Council also examined the critical role the criminal justice system plays in supporting and maintaining a social order in which massive inequality exists. Because economics and politics contribute to injustices, they, too, are the subject of our analyses. Such analyses reveal much about both the limitations and the potentials for reform in the administration of justice for minorities. Perhaps even more importantly, a fuller understanding of the intricacies of America's political and economic systems can do much to alleviate the pervasive problem of crime and can help in the attainment of justice in the United States.

Despite what the Council found to be some apparent differences, some broad conclusions were made about the minority groups studied. Almost without exception, disparity is evident in all the important mechanisms which maintain social structure, a structure in which minority subordination and racial inequality exist.

In brief, the Council's studies reveal that all minorities are much more likely than whites to be in the lowest income groups, unemployed, ill-housed, and subject to poorer health care and political powerlessness. With the exception of certain subgroups of Asian-Americans, minorities lead proportionately in the rate of criminal activity, arrest, and incarceration. Contrary to popular belief, the victims of minority crimes are, in large measure, also minorities.

The legal cases of minorities are most often handled by incompetent or overworked public defenders who are not minorities. The lack of bilingual communications skills and knowledge of the law on the part of these lawyers, further compounds the problem. The inequalities of the judicial process through the various stages of arrest, establishment of bail, pretrial detainment, and obtainment of legal counsel discourage many minorities so much that they give up hope and

taxes and acceptance of bribes from contractors while he was a Baltimore County executive, and that of the President himself in August 1974, after the House Judiciary Committee voted Articles of Impeachment involving the obstruction of justice, and recent events labeled Abscam are sobering reminders of the extent of white collar crime. If the personal harm and property loss of these kinds of crime were to be counted, the statistical significance of the Index Crimes would be even further diminished.

The analysis of street crime includes an explanation of not only its causes but also the public's preoccupation with this particular kind of crime. Other kinds of crime seem statistically more serious, yet the greatest public fear and the harshest punishment fall on minorities who commit street crime. The Council contends that the reasons for this are both political and race related.

Because of the society's intimate role in perpetuating this kind of disparate treatment, the particular aberration created by the heavy concentration on street crime in the criminal justice system is not addressed extensively in the literature. It is important to clarify the nature of street crime and white collar crime and examine more closely the attitudes toward both. Street crime is usually attributed to minorities and the poor. It consists of robbery, mugging, murder, rape and assault. According to FBI crime statistics for 1978, urban blacks constituted 49.7 percent of all arrests for violent crimes and 32.7 percent of all arrests for property crime, composing 36 percent of all arrests. On the other hand, white collar crimes such as bribery, embezzlement, consumer fraud, and corruption are committed primarily by whites. The rate of crime in this category for whites is, in fact, double the black rate.³ The government uses only two racial categories for white collar crime statistics. The important point is that, while minorities are overrepresented among those persons arrested and imprisoned for crime, they are not responsible for the majority of crime committed in this country. In addition, minorities are treated from the initial arrest to the ultimate detention in a much harsher way than whites who have been charged with similar crimes. There are no data to explain this obvious discrepancy other than the conscious choices of key decision-makers to focus on crimes committed more frequently by minorities. Because this kind of analysis is lacking, reformers have been denied the wisdom that such an analysis might provide.

Because of the disproportionate number of minorities whose lives are touched almost daily by the criminal justice system, either as victims or as offenders, this report has been written according to the definitions and concerns of minorities. This process is necessary because minorities are

no longer passive objects of study; minorities are fully capable of defining themselves. Lerone Bennett has so aptly written in his book, The Challenge of Blackness:

It is necessary for us [minorities] to develop a new frame of reference which transcends the limits of white concepts. It is necessary for us to develop and maintain a total intellectual offensive against the false universality of white concepts, whether they are expressed by William Styron or Daniel Patrick Moynihan. We must abandon the partial frame of reference of our oppressors and create new concepts which will release our reality, which is also the reality of the overwhelming majority of men and women on this globe."⁴

At this juncture in the history of minorities in America, there is little justification for minorities to regard contemporary social science theory and technique with anything but suspicion. This apparent shift in the point of view of minorities toward traditional social science methods has emerged because it has become blatantly clear that the group in power is likely to use every means at its disposal to maintain the status quo. At the same time, mainstream social scientists would suggest that those who have been excluded from this system have only themselves to blame. This kind of self-indulgence on the part of white social scientists continues only because many of them have carefully avoided genuinely challenging new intellectual thrusts of minority scholars which would force them to confront their own contradictions and shortsightedness.

In addition, the social paradigms that white social scientists have historically used to describe the minority person's relation to the criminal justice system are inappropriate given the fact that many minorities entered American society, not as immigrants or first class passengers on the Concord, but through either some form of mass coercion, as in the case of slavery, or the exigency of life over death, as in the case of Southeast Asian, Haitian or Cuban refugees.

Moreover, the Council notes in its analysis that many white social scientists bring with them professional habits and ideological baggage that are incompatible with what concerned minority investigators feel is satisfactory social science research. Many white social scientists do not believe they should be advocates. The Council submits that serious thought without equal action is empty and action without careful thought is useless. Nevertheless, many minority and some enlightened whites understand that all Americans--white, black, Hispanic, American Indian or Asian-Americans--who work on these problems of social reform are

advocates in one manner or another. It is also important to add that contemporary racism now comes under the guise of objectivity. Historically, especially since 1965, the majority of research funds on all governmental levels earmarked for investigative inquiry on or about minorities has, in the main, gone to white institutions of higher education or private agencies. The myopic research perspective of this group of social scientists has precluded any significant minority participation in the projects that these funds supported. For example, between 1975 and 1980, the federal Office of Juvenile Justice and Delinquency Prevention spent \$55 million for research purposes. Minority researchers were awarded not one research grant in those five years even though minority juvenile justice concerns and problems were in abundance.

This study of America's criminal justice system does not employ a conceptual framework that purports to be value-free or laden with neutral techniques, because these are the American social scientists' tools for the ideological rationalization of racial and class oppression which characterizes much of the current criminal justice system in America. Because of the limited participation of minority scholars in these research activities, too often the research questions posed were inappropriate, the hypothesis was incorrect and the methodology was insensitive to the minority community's culture and values.

Carter Woodson, the renowned black historian, raised a fundamental question in the thirties that perhaps needs to be raised again at the threshold of the eighties: "By what right do we [minorities], the victims of Western civilization, grant a privileged position to the values and concepts of a civilization which defines us [minorities] as anti-values."⁵ In confronting this fundamental challenge, the Council advocates this basic belief, "We must redefine the concept of knowledge within the perspective of our own needs and interests."⁶ The major concern of the Council in publishing this report is the disproportionate number of minorities who are involved in the criminal justice system and the reasons for such substantial involvement. While social science is an important tool in developing public policy, contemporary social science techniques have been often little more than modern sophistry designed and developed to legitimize further institutional instruments of racist and classist ideology. The Council has a clear and vested interest in defining crime and its system of administration and rehabilitation because of the unusual involvement of minorities. A description of this report's contents follows.

C. Area of Primary Focus

1. Impact of Crime and Criminal Justice on Major Minority Groups

a. Blacks. Blacks, as a group, tend to suffer disproportionately as victims of crime, and they are treated adversely by the criminal justice system. The part that traditional racism has assumed in this unfortunate set of circumstances seems evident, and the special lower socioeconomic circumstances of black life in America have combined to bring about an extraordinary intensification of racism within the criminal justice system. Despite recent data and the media image portraying the white middle class as the typical crime victim, minorities are more often victimized.

There are many causes of crime in the black community. After much research, the Council believes that there is a cause and effect relationship between adverse socioeconomic factors and crime. Further, evidence is presented that demonstrates rather striking commonalities between crime and social failures. A shocking number of black criminals who are incarcerated were unemployed or underemployed before their arrest. The constant suspicion of blacks by the police, their slow response to calls for help, their lack of respect or concern for black citizens, and their use of degrading language and offensive behavior all contribute to polarization between the police and the black community and the disproportionate degree of crime that plagues the black community.

The primary point from all these factors is plain: the fact that half or more of the persons arrested for crimes of personal violence and 40 to 50 percent of all prisoners in jails and penitentiaries are black says nothing at all about the criminality of black people. Moreover, the fact that an even higher proportion of persons arrested are poor or impoverished sheds no light whatever on the criminality of the poor. What these facts actually do is clearly identify the focus of police and court activity.

While the Council views socioeconomic factors as a major cause of crime, it recognizes the pattern of institutional targeting of criminal justice activity in communities that are poor, powerless, and by and large urban and minority. At the beginning of the seventies, 81 percent of the black population resided in urban areas. In 1980, blacks comprised 11.7 percent of the U.S. population, but were 32.5 percent of those classified as poor and 32.8 percent of those arrested for burglary, larceny and auto theft in the FBI's Crime Index.

Based on the legacy of racism and discrimination that has been consciously developed over many years, and also the relationship between crime and unemployment, poor education, inadequate health care and substandard housing, the chapter concludes that crime in the black community will continue in the eighties unless poverty, widespread inequality and economic exclusion are seriously alleviated.

b. Hispanics. Hispanic grievances touch many elements of the criminal justice system. The laws, still being made by non-Hispanic legislatures, often penalize Hispanic populations. There is discretionary enforcement of laws, and those that are most actively pursued likewise penalize Hispanics. Police are often perceived as discourteous, disrespectful, harassing, threatening, provocative and excessively violent. Police departments as a whole are seen as unresponsive to Hispanic complaints and so tolerant of violent behavior by some police against Hispanics that it appears the departments go out of their way to cover up complaints of the excessive use of force. The predominately white court system works hand-in-glove with the police and remains nearly impervious to investigations of the way in which it processes Hispanics. A triple standard exists--courts deal with Hispanics very severely, offer relative justice to Anglos, and bend over backwards to exonerate police charged with heinous crimes. Prisons come close to being cruel and unusual (and utterly ineffective) in inflicting punishment on all inmates. But the Hispanic prison experience is often compounded by numerous other problems.

These grievances of harsh treatment are longstanding and have been raised continually in Hispanic communities throughout the country. Until very recently, these protests were not reported, or listened to, or responded to, by the dominant society. Hispanics were treated as if they did not exist--as though they were less than citizens. This "invisibility" was, and still is, contributed to by criminal justice statisticians who rarely count or analyze Hispanics as a significant minority population. The consequences of not seriously considering Hispanics range from the demeaning stereotypes that are held by some law enforcement officers to a system-wide underrepresentation of Hispanics at policy-making and top administrative levels.

In recent years, Hispanics have been able to demonstrate their concerns to a national and concerned public. Police use of excessive and deadly force has been the most explosive topic and at once demonstrates the depth of antagonism held by the police toward Hispanics and the systems' utter

unresponsiveness to legitimate demands for justice. Hispanics are treated as not worthy of serious and equal consideration. However, far more numerous than unjustified police killings are the everyday complaints against police ranging from the common discourtesies to the relatively frequent beatings of Hispanic citizens by the police. At an early age, Hispanics learn to distrust, fear, and even run from the police. Police are even more antagonistic to Hispanics. History has shaped these attitudes. When the vast majority of contacts with the criminal justice staff are with English-speaking Anglos, who have little understanding and much fear of Hispanics, it is easy for both parties to view the other as an undeclared enemy.

Many Hispanics refuse to cooperate with the police except in dire emergencies, and police, for their part, are extremely slow in responding to calls from Hispanics for assistance. The perception of police in Hispanic communities is that they present a high presence, stopping, questioning and searching far too many people, in a cold and demeaning manner.

The problems of Hispanics in the courts involve well-documented cases of unavailability of bail, language difficulties, differentially longer sentences for Hispanics, incompetent legal representation in both defense and prosecution, insufficient numbers of adequate interpreters to provide services, minimal Hispanic staff representation at all levels of the judicial system, and most significantly, feelings of distrust and fear of the judicial process.

Prisons, too, are viewed by Hispanics with fear, places to be survived, schools for crime rather than "corrections." Again, language difficulties often exacerbate in-prison problems or prolong the time Hispanics spend in prison. Prison reforms in recent years have emphasized more hardware and security rather than preparing the prisoners for successful reentry into society.

It is a mistake to view the comprehensive list of Hispanic grievances as suggesting that all police, lawyers, guards or criminal justice bureaucrats are insensitive, punitive enemies. Conversely, it is wrong to think the complaints will subside after piecemeal concessions to serious problems facing Hispanics in the criminal justice system. To remedy the problems Hispanics perceive with the law enforcement agencies requires an understanding of the numerous ways, obvious and subtle, in which Hispanics are denied equal rights and protection under the law.

c. American Indians. American Indians as a group are the nation's only minority group specifically mentioned in the Constitution, the only minority once affirmed to have the sovereign right of self-government, the only minority whose sovereign government was denied sovereignty of its territory. Yet, the Council reports that in spite of the 90 million acres of land, mineral resources and vast quantities of water located on American Indian reservations, the treatment of American Indians in the nation's system of criminal justice is still inappropriate, brutal and, often, illegal.

American Indians have an astoundingly high arrest rate. It is three times that of blacks and ten times that of whites. The arrest rate for American Indians in urban settings is thirteen times that of whites and four times that of whites in rural areas. The reported crime rate is 50 percent higher on reservations than in rural America, the violent crime rate is eight times higher, and the murder rate is three times higher.

American Indians are arrested at absurd rates for public intoxication and other minor alcohol-related offenses, yet no alternative facilities are available to alcohol offenders who need treatment, not punishment. The lack of programs, such as detoxification centers, has a devastating effect on Indian people since many have committed alcohol-related offenses. American Indians also are the victims of unprovoked police brutality and harassment. They have a more difficult time raising bail and, as a group, suffer unnecessary pretrial detainment because they cannot post their bond. In addition, the Council reveals that the overwhelming majority of American Indians in the South Dakota Penitentiary had pleaded guilty. This raises the question of the right to plead not guilty as an important constitutional right for criminal defendants. The absence, in most instances, of interpreters fluent in Native languages, such as Navajo or Hopi, poses great problems. The Council found that most American Indian defendants will simply plead guilty to avoid a confrontation. It was found that, even if they are innocent, American Indian defendants fear that the treatment they might receive in a jury trial would be worse. Therefore, Indian defendants will often plead guilty because it is the path of least resistance.

The high crime rate among American Indians stems from the historically ill-conceived socioeconomic policies of the U.S. government and the Bureau of Indian Affairs. Prominent among their concerns was the expropriation of American Indian

land, the subsequent isolation of American Indians on reservations, the insensitive effort to force cultural assimilation on Indians, and the failure to understand American Indian history and their traditional system of criminal justice.

Historically, the American Indian legal system was based on a strong sense of community. Tenets of American Indian religion and folk customs so infused tribal life that instances of violations against tribal codes were rare. Each member of the tribe was important to the group's survival, in contrast to the so-called rugged individualism that characterizes much of twentieth century American attitudes and practices.

In 1789, the government began its destruction of the real autonomy of American Indians except in symbols. Federal law now limits the criminal jurisdiction of tribal courts to crimes that are punishable by not more than 6 months in jail and \$500 fine. Together, four agencies are responsible for law enforcement on American Indian reservations: tribal police, state police, the FBI, and the Bureau of Indian Affairs. This has led to duplication of activities, lack of coordination or cooperation, confusion about accountability, and general inefficiency. Authorities have no way of clearly knowing their jurisdictions. It is this system of insensitive justice that inexorably becomes a revolving door for many American Indian defendants.

Much like other minorities, American Indians face disproportionate levels of imprisonment. The complicity of the white judicial system and the recognition that prejudice has always been a factor in these vast proportions of Indian incarcerations need to be acknowledged.

In hearings, before the Council, American Indians complained about poor conditions in pretrial facilities, the absence of standards of fairness within the system and the deplorable conditions at the penal institutions to which they are sentenced. They repeatedly criticized the disparity between treatment of whites and Indians, especially if the victim of the crime is white.

The Council concluded that the treatment of the American Indian in the nation's criminal justice system is a direct extension of the colonial attitude that has traditionally characterized the government's posture toward American Indians. Instead of paternalism toward the American Indian, the distinctiveness of the American Indian cultures must be recognized and some commitment must be made to respect tribal legal practices on reservations--a commitment that would be sensitive to urban Indians as well.

Throughout the nation, American Indians continue to slip behind the rest of the population in nearly every category of social progress. The situation of the American Indian is, in effect, a crude microcosm of the total picture of American society in which racial polarizations have become the norm rather than the exception.

d. Asian-Americans. Asian-Americans are often considered without problems within the criminal justice system. Many citizens view them as successful and industrious, lacking the adverse problems that affect other minorities. But since the mid-1800s, the law and its agents have been cruel and unequal in their treatment of Asian-Americans. While laws were established against blacks, Hispanics and American Indians, racism and inequality of the law affected Asian-Americans just as harshly.

This chapter indicates that crime, delinquency, and victimization in Asian communities vary widely in nature and magnitude from one Asian subgroup to another. For example, because some subgroups form ethnic communities like Chinatowns, and others form corporate centers of trade like the Japanese nationals, the discussion of crime and the Asian-American communities requires individual treatment for each separate national group.

Historically, however, the Council notes that Asian-Americans have been no less despised than other nonwhite minorities. In 1882, when a total of 48 black people were lynched in America, the first federal immigration and naturalization statutes excluding Asians were passed. Moreover, in the late 1800s, Chinese were not allowed to testify against whites in court. In 1905, delegates from 67 labor organizations met in San Francisco to form the Asiatic Exclusion League. At that time, Chinese people were viewed with extreme hostility because of their potential competition with more politically established white workers. In 1924, immigration laws put permanent quotas on minorities from outside Northwestern Europe; the effect was to exclude the Japanese totally. Finally, in 1965, Congress removed the immigration quotas on Asian-Americans. Asian-Americans have been viewed as the model minority: hard-working, quiet, patient, and not rocking the boat. Many erroneously believe that Asian-Americans have no problems. However, many Asian-Americans experience inadequate and overcrowded housing, a need for bilingual and bicultural education and more access to social services. Discrimination against Asian-American people is as much a result of omission as commission.

National data were unavailable on Asian-Americans for the Council's research. Asian-Americans represented less than 1 percent of the U.S. population in 1970. Thus, the Council's conclusions regarding Asian-Americans are based primarily on data and information collected in California, where 36 percent of all Japanese, 39 percent of all Chinese and 40 percent of all Filipinos in the United States live.

The problems identified by the Council are more evident for some Asian-American subpopulations than for others. For example, Japanese, Thais, and Koreans who immigrate to the United States generally have high education levels and come from middle-class socioeconomic backgrounds. For these groups, the official crime and delinquency rates are very low. Instead, they tend to be more often the victims of crime than the criminals. For example, Koreans in their roles as petty entrepreneurs are victimized by armed robbers, extortionists, vandals and members of gangs.

Of all the Asian-American subgroups, the Chinese have had the most typical minority experience. The chapter indicates that they have larger, younger families and, accordingly, more of the high crime risk population. Moreover, Chinese juveniles have much higher arrest records.

The Council concludes that class is the distinguishing factor in the higher crime rates of the Chinese. In Chinatown, the average family monthly income in 1970 was \$311. Sixty-three percent of Chinese families earned less than \$3,600 annually; the adult unemployment rate was 13 percent and was much higher among Chinese youth; and suicide rates were three times the national average. The Chinese had the highest tuberculosis rate in San Francisco, and infant mortality rates were twice that of the rest of the city. Two-thirds of the adult Chinese population had less than a seventh-grade education, and their rate of substandard housing was 67 percent compared with 19 percent for the rest of the city. In sum, the Chinese community displayed what criminologists call criminogenic conditions.

More recently, the influx of 300,000 Indochinese refugees has renewed anti-Asian sentiments, both in poor communities where refugees now compete for jobs and in white areas where many resent the intrusion of these minorities. While data on the Indochinese refugee population are limited, evidence points to problems with the criminal justice system and the general society. Although many of the Vietnamese refugees are from the upper class, their psychological adjustment here has been as difficult as learning the language and the social climate. In addition, poor economic conditions in the nation makes adjustment of the Indochinese difficult. Generally, this group has experienced an adverse

change in their social status. Family life has suffered by the adoption of new patterns that conflict with their old practices.

1. Institutions of the Criminal Justice System

Having viewed the situation of the individual minority groups, the Council then focused its study on particular institutions in the criminal justice system. These institutions were examined in logical order, that is, as minorities chronologically confront them. Hence, the Council examined first the police, then the courts, then the corrections system, and finally LEAA's education and research projects and community anti-crime efforts.

The theme of these reports is compelling: laws and public policies in the United States reflect the contradiction of a society attempting to act within an egalitarian ideological posture while treating minorities with direct, blunt and flagrant inequality.

In the sixties, under pressure from the Civil Rights Movement, the apparent realities of minorities underwent a change in form. Overt indicators of racial dominance were diminished, but institutional racism has continued and even increased when so-called neutral decisions and actions about education, employment, imprisonment, and other social systems have had to be made. Such decisions enhance racial subordination. This is the basic form that recent criminal laws have taken. After years of legal segregation and because of institutional racism, it was no longer necessary to maintain past legal justifications or practices. In short, the police, courts, and correctional system play a crucial role in perpetuating the view among minorities that they are powerless and without a voice in determining their own fate at a time when overt racism is outlawed. This view is maintained chiefly through the underrepresentation of minority employees in the criminal justice system. Thus, minorities see few of their own with the legal power to exercise authority. Moreover, when competition for basic needs becomes keen in a stagnant or receding economy and when the push for equality comes closer to home, the veil of charity in an already fragile socioeconomic system disintegrates. Minorities are treated by key elements of the criminal justice system in ways that stigmatize, brutalize and reinforce their oppression in society, as a whole. Individual reports in this section all underscore this point.

a. The Police. Minority complaints of police brutality are common since the police are so evident on the streets of minority communities. It is understandable then that police

assaults and police use of deadly force are primary issues in minority communities today. The Council reports that police practices are too frequently arbitrary, discriminatory, and brutal. This kind of behavior is a violation, not simply of city ordinances or state statutes, but of fundamental constitutional rights.

Minorities understand that, theoretically, the functions of the police involve prevention of crime and protection of life and property. All too often police tend to use excessive force. The question minorities raise, however, is the historical one of who guards the guards; who polices the police? When it appears that criminal justice officials are working in collusion, not for justice but solely to protect members of their ranks, the question becomes that much more imperative.

Central to the problem of police brutality is the underrepresentation of minorities as police officers. Appreciable gains in minority representation in police departments have been made in the last ten years. It has been shown that the presence of minority police officers has a positive effect on police-community relations. Therefore, more minorities must be recruited into police employment.

The use of excessive force and abusive authority by police has become a national problem. Records show that many police abuses are, in reality, criminal offenses. Evidence also suggests that police abuse of minority citizens comes close to being an organized practice within some departments. That these acts affect minorities most is evident in the percentages of minorities killed by policemen. Some scholars maintain that minorities represent 80 percent of all persons killed annually by police although evidence on police killings nationally is unavailable.

While many of the underlying factors that trigger an officer's use of excessive force and authority are ostensibly external, there is mounting evidence to show that individual racism, institutional racism and faulty role identification contribute to police overreaction. At the same time that the U.S. government is stressing the value of human rights and human life, the criminal justice system is perceived to function in an incongruent manner with regard to the attainment of human justice. The fact that criminal actions filed against erring police officers have little chance of success attests to this. Civil actions for damages due to assault, false arrest, wrongful death or malicious prosecution have more potential for success, although the difference is more relative than real. The percentage of civil suits actually brought that are adjudicated in favor of citizens versus

police is discouragingly low. This encourages the police to feel free to use excessive force. Further, too often neither the courts nor lawmakers protect the rights of minorities against police use of excessive force.

Minorities suffer other serious problems with police who are often insensitive to minority cultures and who lack bilingual skills. Police response time to minority victims is slow. Police selectively enforce the law. When police do arrive at the scene, they often offend or increase conflict through their actions. Frequently, the quality of police services reflects insufficient training for dealing effectively and responsibly with minorities.

In short, the system appears to function to protect police officers who have killed citizens. In the final analysis, power is an inextricable element of police accountability. Police are only responsive to those whom they perceive to have power in the society. To halt the potential danger of police, minorities must gain access to the power structures, at least in their communities. Meanwhile, the police should not be allowed to define their role to the communities; rather, the communities should define and limit the role of the police. Minorities want police that serve them, prevent crime, respect their language and culture, and respond to their communities with the same speed and respect routinely accorded white communities.

b. The Courts. This chapter documents the use of discriminatory sentencing and bail procedures to perpetuate racial and class inequities. Too often courts have operated to aggravate rather than relieve the socioeconomical oppression of minorities. Most minority defendants actually brought to the point of trial plead guilty. If a trial is held, in most cases it is without a jury. Trial by jury is a very rare event, occurring in no more than 10 percent of felony cases brought to the courtroom. In the cases of misdemeanors or disorderly conduct, which are far more common, most jurisdictions have no provisions for trial by jury.

The Council notes that the pervasiveness of racial prejudice in the judicial system has been cited increasingly by prestigious fact-finding commissions and scholars since the civil disorders of the sixties. This report also points out the glaring disparities in the sentencing of the poor and minority defendants compared to the affluent and white. This phenomenon lacks any rational basis and leads the researchers to the inescapable conclusion of institutional racism. These practices undermine the integrity of the entire criminal justice process, implicate the court in racial and economic

discrimination, does violence to the U.S. Constitution, and contributes to prison unrest and community disrespect of the legal process.

Again, part of the problem is the significant underrepresentation of minorities at every level in the judicial system. For instance, minorities are grossly underrepresented in federal judgeships. Minorities are sparsely represented in courts as judges. A similar situation of limited minority involvement as personnel exists for lower state and local courts.

The Council concludes that one cause of this underrepresentation is the political patronage system currently used to appoint judges. In theory, the judiciary in a constitutional democracy functions as an impartial arbiter of conflict, relatively free from social, economic or political interests. Despite the theory, all too often the judiciary has been used as a political tool. Politicians generally select judges who share their political, racial and class biases and prejudices. Judges have broad discretionary powers and ultimately make public policy that reflects their biases. In short, the use of political patronage appointments as a means of selecting judges for the bench has not contributed to minority respect for the impartiality and equity of the bench. The systematic exclusion of minority group members from juries is also a serious flaw in the criminal justice system. It has been, and remains, a central problem in the administration of criminal justice.

But so-called objective methods of jury selection are not much better. For example, voter registration lists, which are often used to draw jury panels, exclude minorities who have been purged for nonvoting or who are unregistered. A better source of public records from which to secure real diversity in the pool of perspective jurors is the driver license listings. Blue collar and hourly workers, whose salaries reflect a loss during jury duty, often seek to be excused as opposed to salaried persons, since jury compensation is negligible.

Because of these and other factors, even "objective" methods of developing a jury panel tend to result in a selection pool that is largely middle-aged and elderly middle-class whites. The right to exercise a number of preemptory challenges by both prosecution and defense further increases the probability of a majority middle-class jury, especially since each challenge by the prosecution of a minority decreases the relative minority representation on the panel to a greater degree than does the challenge of middle-class whites.

Finally, progress toward needed reform in this area appears stalemated at this point. The long line of Supreme Court decisions guaranteeing equal rights for indigent and minority defendants appears to have come to an end with the Burger Court. In 1974, the Burger Court denied indigents the right to court-appointed counsel in their pursuit of discretionary review. It further limited the indigent's exercise of his or her right to counsel by permitting the state, as a condition of probation, to impose the payment of state-incurred costs for appointed counsel.

A close examination of the data suggests that the judicial process does not seem to sort out the innocent from the guilty, so much as the well-to-do from the poor. A steady series of advantages accrue to the more affluent defendant. He or she is considerably more likely to receive a preliminary hearing and, therefore, to have the case dismissed and not even brought to trial. Having money, he or she is more likely to be released on bail, which also has a substantial bearing on the outcome of the case. During all these procedures, the defendant is much more likely to have his or her own lawyer working to take advantage of the many procedural protections and to influence the police and the prosecutor to drop the charges altogether.

In conclusion, the practices and policies discussed in this chapter undermine the integrity of the entire criminal justice process, implicate the courts in racial and economic discrimination, and do violence to the nation's professed legal traditions, further contributing to prison unrest and community disrespect of the entire legal process in the country.

c. Corrections. The chapter examines what happens to minorities after they have been convicted and sentenced. It reports that, while the U.S. prison system is more and more populated by minority inmates, control of the system remains in the hands of predominantly white males. For the United States as a whole, it was found that nearly 50 percent of all prisoners are minorities, even though only 9 percent of the population is Hispanic and 12 percent is black. Yet, in terms of prison personnel, the 1970 U.S. census reported that, of all full-time wardens, whites accounted for 93 percent, blacks 6 percent, and other races 1 percent. In terms of custodial personnel, of the 91 percent of those identified by race, whites accounted for 85 percent, blacks made up 12 percent, and other races made up only 3 percent. Although Hispanics were counted as white, they are estimated to account for almost 4 percent of the personnel. For the most part, prison personnel are neither bilingual, bicultural, nor sensitive to minorities although a very large

proportion of their prisoners are black, Hispanic, American-Indian and Asian-Americans. Correctional administrative positions also exclude minority personnel.

Data are reported that demonstrate that minority women suffer much the same overrepresentation in prison populations as minority men.

As prisoners, minorities face the effects of racism in several ways. White prisoners often gain more privileges such as exercising, seeing visitors and getting better jobs. Minorities experience many subtle acts of racism. Treatment by prison officials is often based on race or languages. Prison rehabilitation programs are middle-class oriented, including psychological testing which is almost always in English only. Further, the tests are administered by white correctional counselors who do not understand minority culture or who cannot speak Spanish or native languages.

The structure of the parole system is also antithetical to minority prisoners' interests. The main criteria used by parole boards in determining release are employment, housing, age (persons 18 to 25 years old are assessed as high risk), criminal history and behavior. Given the social handicaps affecting minorities, these criteria further reduce minority prisoners' chances for parole. Minority prisoners have only ghetto or barrios to return to where unemployment is high. Further, the judgment by white prison officials is affected by middle-class values and the tinge of racism. Thus, minorities experience, even in prison, exclusion from justice.

d. Education and Research. This chapter critically analyzes the failure of the U.S. government to educate, train, and use minorities in the criminal justice system, and to provide funds for minority investigators to conduct research on subjects of crime and criminal justice. The present level of underfunding and underencouragement of minorities to conduct research in criminal justice points to the deficiency of much of the present research done by white investigators.

Despite the obstacles, minorities have been engaging in criminal justice research, but their findings have been subjected to challenges regarding the relevance of the results, merit of their research, and overall job performance. The Council learned, based on careful analysis, that LEAA itself has underfunded minority researchers as well.

A great deal of the current research conducted by white investigators has been descriptive rather than analytical and

often blatantly racist. For the most part, the research focuses on the individual as the chief unit of analysis, while the problems faced by American minority group members are generally structurally caused and collectively shared. However, neither Hispanics nor Asian-Americans in most criminal justice research have been counted as a significant minority group. The Council recognizes that minority researchers have made and continue to make valuable contributions in the area of criminal justice. Further, it is urgent that these contributions be recognized and utilized, as well as funded, by the Department of Justice.

The Council notes that several options are available to advance the education of minorities in criminal justice. Certainly, federal support can be used to plan and develop graduate programs on minority campuses. In addition, the same federal support can be devoted to enlisting the efforts of nonminority institutions in training minorities. The Council strongly urges federal, state, and local governments to support more research by minority investigators on issues in criminology. This report has been a step in that direction.

While white researchers have used the bulk of research grants and contracts to conduct investigations into the problem of minority crimes as systemic injustices, crime has increased on all levels and the conclusions of these social scientists have added confusion rather than clarity to these complex problems. Programs have been designed based on such research, yet cities and prisons explode in disorder. While the federal response to crime has been to support, through grants, more guns, tanks and sophisticated technology, equally as deadly and dangerous are the ideas and research of some nonminority social scientists. While minority on minority crime has become an extreme danger in minority communities, the greatest portion of educational and research moneys have gone to nonminority researchers and institutions. Federal support in this crucial area has not been equal to the problems in crime and criminal justice adversely affecting minority communities.

e. Community Anticrime Program. The Council firmly believes that the war against crime requires the participation of the citizen. Police often abuse, the courts often miscarry justice, and prisons often fail to rehabilitate, while some scholars ignore the facts. During the last fifteen years, the government has gone in the wrong direction to fight crime by spending millions for police and hardware. Too often efforts to combat crime have excluded the people closest to the problem. People who live in the suburbs have designed anticrime programs for inner-city ghettos and

barrios although unaware of the culture or incapable of speaking the peoples' language.

The Council maintains that crime in minority communities results from institutional failures including the impact of inequality and racism. Crime has also increased because many within the law enforcement system violate the law and exercise their responsibility not based on the law or modes of decency. The public, including minorities, has also become cynical and distrustful of law enforcement personnel.

Crime and the fear of crime have altered the conduct of many minorities, e.g., double bolted doors, staying home at night, and installation of alarm systems. Police have not reduced crime, especially in minority communities where the causes of crime are beyond their control, and the government has not developed adequate social responses to urban problems. A viable alternative to community crime problems is the participation of the citizen. A key factor in solving the community crime problem is the citizen. In the last decade, citizens have initiated activities to halt crime's increase. Community anticrime programs not only increase cooperation and awareness but also encourage the notion of community, people knowing each other, supporting and protecting themselves and property, a cardinal method to fight crime. The Council believes the participation of the citizen with the aid of necessary social reforms is a critical means to reduce neighborhood crime.

3. Recommendations

The Council does not claim that the ideas or recommendations expressed in this report are the only answers, although they do represent an answer to the gnawing problems that engulf the nation and that require serious response. Through these issues, the solutions and other recommendations the Council proposes finally, we trust the nation, its leaders, and people are moved closer to the ideals of justice while reducing crime and its negative impact on society.

NOTES

1. Lerone Bennett, Jr., The Challenge of Blackness
(Chicago: Johnson Publishing, 1972), p. 17.
2. Ibid.
3. Statistical Abstract of the United States, 1979, U.S.
Department of Commerce, Bureau of the Census
(Washington, D.C.: Government Printing Office), p. 186,
No. 312.
4. Bennett, op. cit.
5. Ibid.
6. Ibid.

CHAPTER I

IMPACT OF CRIME AND CRIMINAL JUSTICE ON BLACKS

I remember the famous line or the infamous line from the Dred Scott Decision, when Chief Justice Taney said that no Negro has any right which any white man is bound to respect. That continues to be a kind of judicial fallout in our country like a polluted atomic bomb. For example, Black people have long felt that they could not get a fair trial in this country because of color. It seeps over, also, into employment and every phase of American life. We have a kind of unofficial apartheid in this country.¹

The American public has a steadily growing preoccupation with crime and its violent effects. Today's fears focus primarily on the threat of street crimes--the violent muggings and robberies that empty cities at night. Responses to public fears of street crime have increasingly helped to set the tone of presidential, congressional, gubernatorial and mayoral elections. Polling organizations and the media have described the extraordinary importance of the electorate's concerns about crime.

For a majority of white Americans, it is predominantly the perceived prospect of their victimization that most frightens, frustrates and angers them. For black citizens, as this chapter will vividly show, it is their dual prospect as victims of both crime and the criminal justice system's harsh and unequal treatment that often pervades the thoughts and contributes to their fear, distrust and hostility. Because blacks are more likely than whites to be the victims of crime and are more likely to meet disregard, disrespect and indifference as victims, blacks must also live with the reality that they are disproportionately suspected, arrested and prosecuted and more harshly sentenced. Further, blacks are brutalized by police and prison guards in ways largely unknown to their white counterparts. With regard to crime and criminal justice, black Americans live in a condition of double jeopardy: (1) drastically overrepresented in the national arrest and imprisonment statistics and (2) more likely than whites to be victims of rape, robbery, burglary, larceny and assault. Furthermore, the typical victim of crime is often a young, poor, undereducated black person, while the typical prisoner is similarly poor, black and under 30 years of age and has not completed high school. Thus crime and the criminal justice system come together to constitute a kind of double whammy for blacks.

The current criminal justice situation has evolved gradually but consistently throughout the history of this country. The breeding grounds of crime have been allowed to go essentially unchanged despite the strong and repeated warnings of black leaders. Unequal application of the law, as well as atrocious social, economic and political conditions, has helped to spawn and sustain a growing criminal element within black communities. The indifference of criminal justice agencies to black-on-black crime has served to further its consistent growth. The bulk of concern has not been for black-on-black crime, but rather for the more newsworthy black-on-white crime. Only the witnessing of riots and increased street crime has caused white Americans to be concerned with previously ignored black-on-black crime.

A. Historical Perspective

The crime problem in America has long been a euphemism for the black problem. A careful examination of the economic, social and legal precedents to the current "crisis" is therefore prerequisite to a clear understanding of the contemporary plight of black Americans as it relates to crime and the criminal justice system.

To recount the evolution of the significant economic, social and legal developments affecting the black crime problem requires a reexamination of American history of a type not typically taught to the average citizen. This analysis presents some answers to the difficult questions so poignantly phrased by Federal District Judge Leon Higginbotham when he was called to the White House after the assassination of Martin Luther King, Jr., and the subsequent urban riots. As recounted in his scholarly volume, In the Matter of Color, Judge Higginbotham asked:

Why had that very legal process that had been devised to protect the rights of individuals against the will of the government and the whim of the majority been often employed so malevolently against blacks? What were the options that ought to have been exercised years ago, even centuries ago, to narrow those disparities in the meted-out justice that had periodically--and had now once more--kindled black hatred and white fear?²

Black people came to America first as commodities valued for their labor. Africans, involuntarily brought into the then English colonies, initially as indentured servants and soon thereafter as slaves, worked without compensation building and helping to sustain the new economy of America. Slave-owning legislators developed an intricate legal system with separate "slave codes" to support that slave labor sys-

tem. After 250 years of bondage, black Americans were emancipated from slavery only to be shackled into a peonage labor system called sharecropping. The segregated Jim Crow social order and a legal process which included convict leasing were established to support that system of further exploitation of black labor. The most recent phase during the last decade of the economic history of black Americans includes their struggle to compete as wage laborers in an economic system nominally described as one of "free enterprise," but which for black Americans has been constricted by various forms of racial discrimination. This most recent phase has been one of the greatest participation by the greatest number of blacks in the fight to end their own oppression. The struggle has involved civil rights organizations, economic boycotts, demonstrations, subjection to violence and a long series of interactions with the courts and legislatures to secure full and equal justice accorded white Americans.

From slavery, through segregation, to the current period of more subtle forms of discrimination, blacks have been kept in their social and economic place in America by legal and extralegal methods--by laws, law enforcement and violence. The use of law throughout the history of this country to enslave and oppress black Americans explains partially why some blacks lack respect for and violate the criminal laws of the land. The violent victimization of black people from their kidnapping from Africa, to their enslavement in America and later in their efforts to exercise their full rights as citizens of this country to vote, work, attend school and use public accommodations answers most questions about why violence continues to exist in black communities.

It is believed that the first Africans imported to America to Jamestown, Virginia, in 1619 were legally recognized as indentured servants. By 1640, most Africans involuntarily imported to the colonies had neither indenture status nor contracts and could not anticipate freedom. A few "... enjoyed the dubious distinction of having contracts providing that they were 'servants for life' or 'perpetual servants.'"³ As the odious system of slavery evolved, so too did "... a legal process that assured blacks a uniquely degraded status--one in which the cruelties of slavery and pervasive racial injustices were guaranteed by its laws."⁴ The slave codes were first enacted in Virginia and then quickly copied by the other southern colonies.

There were variations from state to state, but the general point of view was

... that slaves were not persons but property; and laws should protect the ownership of such property, should protect whites against any dangers

which were likely to arise from the presence of large numbers of Negroes, and should maintain a position of due subordination on the part of slaves in order that the optimum of discipline and work could be achieved.⁵

Black slaves were thereby reassigned from the family of human beings to the legal classification of real property. They had no rights to protect themselves against abuse or even murder by their owners, but if they were harmed or killed by others or the state, their owners were compensated for property loss.

Public protection in colonial America required that both slaves and freemen be punished for criminal transgressions. The traditional criminal law, designed for free men, was not adequate for slaves.

The intrinsic nature of chattel slavery caused the development of a penal system appropriate for slaves, a system in which the master, as prosecutor, judge, and enforcer, administered justice within his domestic establishment, undisturbed by public authorities.⁶

When slaves were subject to criminal charges, they were tried in a special court without the right to a jury. The verdict of that court was final and the punishment ordered more severe than that administered whites convicted of similar crimes. Owning no personal property that could be confiscated or attacked, slaves suffered death or corporal punishments. The punishment of early colonial courts--the whip, stocks, pillory, branding and mutilation--remained slave punishments until after the Civil War. Such punishments were abandoned in the traditional criminal law in the early nineteenth century.

Legal enactments also severely curtailed the freedom of so-called free blacks in colonial and antebellum America. "All the slave states sought to expel them or so circumscribe their civil rights that their status approached that of slaves."⁷ Free blacks convicted of serious crimes received such punishments as death, flogging, enslavement or deportation. Later, during the late 1700s Virginia, North Carolina and South Carolina enacted laws prohibiting the migration of free blacks into those colonies. Free blacks in South Carolina were heavily taxed and were required to obtain white guardians. Vagrancy laws in Virginia were employed to force free blacks back into bondage; courts "hired out" convicted free black vagrants.⁸

In 1776, a century and a half after slavery began in

America, a new nation, composed in large part of slaveholders, issued a Declaration of Independence which bore witness to the world that "all men are created equal" but decreed that a black slave constituted only three-fifths of a man for the purposes of both taxation and representation. Also included in the Constitution was a fugitive slave clause which ". . . does not specifically give the responsibility to any governmental official, but ultimately, the rendition of fugitive slaves falls on the president under his duty to enforce the Constitution and laws."⁹

During the thirty years prior to the Civil War, runaway slaves and free blacks alike migrated north and west from the South in the hope of finding better opportunities and treatment. The reaction to this slow but steady migration was increased racial animosity in the North and West as demonstrated in the enactment of northern Black Codes; i.e., "The Illinois Black Code required every Negro who remained in the state to post a thousand-dollar bond and to carry a certificate of freedom."¹⁰ Further, the fears of working-class whites in numerous northern and western cities that black migrants would cause depressed wages culminated in incidents of physical violence. Among the sites of antebellum race riots were Portsmouth and Cincinnati, Ohio; Utica, Palmyra and New York, New York; Philadelphia, Pennsylvania; and Chicago, Illinois.¹¹

W.E.B. DuBois, in his classic work The Philadelphia Negro, describes the antebellum violence in Philadelphia as follows:

So intense was the race antipathy among the lower classes, and so much countenance did it receive from the middle and upper classes, that there began, in 1829, a series of riots directed chiefly against Negroes, which recurred frequently until 1840, and did not wholly cease until after the war.¹²

The violence and bloodshed of the Philadelphia and Cincinnati race riots were so gruesome that many blacks fled from those cities.

St. Clair Drake and Horace Cayton reported similar incidents in their case study of Chicago, Black Metropolis:

From time to time during the twenty years preceding the Civil War, Irish workingmen in Chicago rioted against fugitive slaves who secured employment as stevedores, porters, canal bargemen, and general laborers.¹³

Those blacks who remained and those who continued to migrate to northern and western cities were beset with this kind of violence in which the police offered little protection and did so because, unlike the South, those laws allowed blacks to organize and fight for their rights.

The struggle for black rights suffered a devastating setback with the Supreme Court's 1857 Dred Scott decision, which declared that blacks were not citizens and therefore not entitled to Constitutional safeguards enjoyed by white Americans.

After determining that it would be impossible to preserve the Union by proceeding with his preferred plan for emancipation with compensation for the slaveholders and colonization of the freed blacks in other parts of the world, President Lincoln abolished slavery in the United States with the Emancipation Proclamation of 1863. Lincoln's duplicity was shared by many white Americans as illustrated by the dramatic change in American literature before and after the Civil War. The antebellum propagandists rationalized slavery by portraying blacks as loyal, childlike and helpless; while after emancipation "what replaces it, is often enough, an undisguised hatred of Negro which portrays him as little if any better than a beast."¹⁴

Also following the Civil War, three Constitutional amendments were added to the nation's fundamental laws. These amendments abolished the principle of black inferiority before the law and proclaimed for all persons, without regard to race or color, equal protection of the law. In addition, Congress enacted several laws including the Civil Rights Act of 1875 to provide further meaning to the Civil War amendments.¹⁵

With the loss of blacks as exploitable slave laborers and the massive black migration to urban southern and western areas, whites began to enforce criminal laws against blacks more vigorously in order to retain some control over them. Several southern states passed new black codes that prohibited freedmen from voting, serving in the military and on juries and assembling without white law enforcement officers present. These enactments precluded black testimony in court except against other blacks and required freedmen to have passes for moving about the land. The codes also prescribed that blacks who refused to work could be fined and hired out by labor contractors. Black youth were subjected to "apprenticeships" until reaching the age of majority.¹⁶

The convict lease system was revived after the Civil War in the South, and soon 85 to 95 percent of the convict population was black. "The Thirteenth Amendment explicitly

authorized 'slavery' or 'involuntary servitude' as punishment for crime, leaving legislatures dominated by the master class free to reintroduce a species of slavery for Negroes and lower-class whites."¹⁷ The convict lease system was dominated by a profit motive for both the lessors and the state governments. Later, this same profit motive directed the chain gangs and prison farms which eventually replaced the convict lease system.

The repressive nature of the new black codes motivated Congress to pass the Reconstruction Act of 1867. The Act decreed that the South be divided into five military districts and that the former confederate states be readmitted into the Union only after ratifying the Fourteenth Amendment, which extended the Constitutional guarantees of equal protection under the law to black Americans. Southern whites' violent overreaction to the terms of Reconstruction has been described as a prolonged race riot. In the decade after the Civil War an estimated 3,500 whites and blacks were killed in the South.¹⁸

Whites in the South, North and West responded to the franchisement of blacks during Reconstruction ". . . with methods--some extra-legal, others incorporated into state codes--of preventing the Negro's participation in politics."¹⁹ Throughout the South and some border states, armed members of secret societies, such as the Ku Klux Klan, patrolled night and day using intimidation, force, arson and murder to maintain the system of white superiority. The law used to disfranchise blacks was the grandfather clause which restricted voting privileges to those who had voted in 1867 (a year in which former slaves had been prohibited from voting) or to the sons or grandsons of 1867 voters. The grandfather clauses were declared unconstitutional by the Supreme Court finally in 1915, but by then poll taxes and literacy and property ownership tests effectively restricted blacks from exercising their right to vote.²⁰

Two case studies provide vivid descriptions of northern violence in response to black voting freedmen. DuBois reports the reaction to the use of black votes to oust incumbent politicians in Philadelphia as follows:

In the spring elections of 1871 there was so much disorder, and such poor police protection, that the United States marines were called in to preserve order. In the fall elections street disorders resulted in the cold-blooded assassination of several Negroes.²¹

Similarly, Drake and Cayton describe how, three years after the Civil War, members of the Irish working class in Chicago

publicly denounced the Reconstruction policies in the South, opposed any federal aid to freedmen, and declared the doctrine of white supremacy. These actions met with the tacit approval of local politicians who, in their efforts to secure the Irish vote, called for restrictions on black migration to Chicago.²²

As black migration continued and accelerated early in the twentieth century, white citizens responded by segregating the black migrants into one section of the city. "Municipalities gave sanction to this practice by enacting housing segregation ordinances."²³ The result was extreme congestion and overcrowded, unsanitary homes for blacks.

In the South, Jim Crow segregation extended to almost every aspect of black life after the Supreme Court issued its famous "separate but equal" decision, Plessy v. Ferguson in 1896. Unfortunately, the Court was reluctant to assess whether the separate facilities and services that developed were in fact equal. In truth, many public facilities available to whites simply were not available to blacks. The separate facilities which did exist for blacks were vastly inferior to those for whites. In addition, segregation laws prohibited blacks from certain occupations and prescribed that whites and blacks in the same occupations be paid different salaries; i.e., in the South, white teachers "were paid an average of 60 percent more" than black teachers.²⁴

In addition to legal segregation, twentieth century black Americans were confronted with continuing violence in the form of race riots and lynchings. White strikers and sympathizers sparked a bloody race riot in East St. Louis in 1917 after blacks were used as strike breakers at a local factory. Blacks were indiscriminately beaten, an estimated 47 to 175 were killed, and more than 6,000 black families were rendered homeless, while "police did little more than take the injured to the hospitals and disarm Negroes."²⁵ The summer of 1919 was so violent and bloody that it was called the "Red Summer." There were no less than 24 "snow riots" in American cities between the close of the Civil War and the turn of the century.

Between the beginning of the century and the United States' entry into World War I, over 1,100 blacks were lynched. Some victims of the torturous lynchings were "accused" of violent crimes, while others:

. . . were lynched for such crimes as threatening to sue a white man, attempting to register to vote, enticing a white man's servant to leave his job, engaging in union activities, being disrespectful

to or "disputing with" a white man, or sometimes for no discoverable reason at all.²⁶

Even the black soldiers' participation in World War I did not protect them from racist killings. In the first year after the war, more than 70 blacks were lynched. Fourteen were burned publicly, eleven while still alive. Ten veterans were lynched in their uniforms.²⁷

The National Association for the Advancement of Colored People (NAACP) documented the violence perpetrated against black Americans in its study, Thirty Years of Lynchings in the United States, 1889-1922. In 1922 the NAACP sought passage of a federal anti-lynch bill that passed in the House by a healthy margin, but was killed in the Senate by a southern filibuster.²⁸

Black organizations also focused on gaining full voting rights for black citizens. In addition to the poll taxes and the literacy and property ownership tests, all the southern states instituted "white primaries" between 1923 and 1932. Also in the South, black citizens were barred by state law from participating in any Democratic primary. The Supreme Court upheld the conduct of white primaries in a 1935 decision, which it finally reversed in subsequent decisions in 1941 and 1944.²⁹

Black organizations have fought for more and better jobs for black Americans throughout the twentieth century. The Depression was particularly difficult for blacks as shown in the differential unemployment rates for whites and blacks during that period. Charles Johnson in the Economic Status of Negroes said, "in Philadelphia the unemployment rate of whites in 1929 was 9.0 and of Negroes 15.7, and in 1932 the rate was 39.7 for whites and 56.0 for Negroes."³⁰ Unions practiced exclusionary policies against blacks during the thirties. Blacks were able to gain entry into some industries only in event of extreme labor shortages, as during the two world wars, or when employers wanted to break a union strike.

Gunnar Myrdal reported in 1944 that blacks were precluded from certain industries in both the North and the South. Further, when blacks were accepted into an industry, they were usually ". . . confined to unskilled occupations and to such semi-skilled occupations as are unattractive to white workers."³¹ During World War II, as was true during World War I, the labor shortage in the country allowed for increased job opportunities for black workers. The number of black workers in the civilian defense industry increased rapidly when President Roosevelt issued a Fair Employment Practices Order in response to a threat by civil

rights leaders for a massive march on Washington protest demonstration for equal employment.

The housing situation in urban America continued to deteriorate for blacks as the municipal housing segregation ordinances were buttressed by federal policy. Of the 11 million homes built between 1935 and 1950,

wherever there was federal assistance, the racial policy was laid down in the manual of the Federal Housing Administration that declared, "If a neighborhood is to retain stability it is necessary that properties shall be continued to be occupied by the same social and racial classes."³²

Along with housing, employment, and educational discrimination, black Americans had to contend with unequal justice in the agencies of the criminal justice system. Myrdal described the inequality of justice for American blacks as follows:

. . . in criminal cases where only Negroes are involved there is sometimes a disposition on the part of the prosecutors, judges and juries to treat offenses with relative lightness. In matters involving offenses by Negroes against whites, Negroes will often find the presumptions of the courts against them, and there is a tendency to sentence them to a higher penalty than if they had committed the same offense against Negroes Negro witnesses have been made the butt of jests and horseplay Negroes are more likely than whites to be arrested under suspicious circumstances. They are more likely to be accorded discourteous or brutal treatment at the hands of the police than are whites. The rate of killing of Negroes by the police is high in many Northern cities. . . .³³

Myrdal gave numerous other descriptions of the injustices suffered by blacks in the criminal justice system in the forties. He also explained how whites tended to exaggerate the rate of black crime and underestimate white crime to the extent that the crime problem and the black problem became synonymous in the minds of most whites.

With the end of World War II, returning black veterans were confronted at home with the same type of violence and racism which beset the returning black World War I veteran. Six lynchings of black veterans occurred in the South between June 20 and August 8, 1946. In response to this recurring violence and the continuing racial discrimination in America,

the NAACP took advantage of the country's increased international status as a free democracy and presented to the United Nations in 1946 "An Appeal to the World." This document "was a factual study of the denial of the right to vote and denial of legal, educational and social rights."³⁴ Similarly, the Civil Rights Congress, in 1951, presented the United Nations with another petition, "We Charge Genocide," a catalog of lynchings and other acts of violence against American blacks.

Blacks active in the struggle for civil rights were subjected to economic sanctions and to violence:

Dismissals from jobs, denials of loans, and foreclosures of mortgages were some of the tactics used to decimate the ranks of "agressive Negroes." . . . in 1957 and 1958 Negroes were murdered with impunity in South Carolina, Alabama, Georgia, and other Southern states.³⁵

Civil rights victories began in the 1950s after more than two centuries of black struggles against oppression, racism and inequality. In 1954, the Supreme Court ruled that "separate education facilities are inherently unequal" in the Brown v. Board of Education school desegregation case. After unsuccessful attempts in the four prior years, Congress, in 1957, passed the first civil rights bill since 1875, thereby reversing almost a century of a federal hands-off policy regarding civil rights. This law further secured and protected the right to vote and created the U.S. Commission on Civil Rights.

The slow implementation of the school desegregation order of 1954, the lack of enforcement of the 1957 Civil Rights law, continuing racial discrimination in public accommodations, housing and employment, denial of voting rights and violence against blacks were the combined stimuli for action of the Civil Rights Movement. The movement in the 1960s followed the technique of nonviolent mass action; i.e., demonstrations, economic boyotts, picketing and sit-ins. White segregationists reacted violently to this accelerated black effort to attain full equality before the law. As a result, many black lives were lost, among them Mississippi black leader Medgar Evers, who was assassinated outside of his home, and four young black girls attending a Birmingham church service. Evers' murderer was visited in his jail cell by the governor of Mississippi and the murderers of the children were not brought to justice until recent years, almost two decades after this brutal act. Black efforts would not be deterred and culminated in the 1963 March on Washington for Jobs and Freedom which was also the largest public protest rally ever held in America. White violence against

blacks and that massive demonstration of a quarter of a million people, along with the assassination of President John Kennedy, set the stage for the most far-reaching civil rights act in the history of the country. The Civil Rights Act of 1964:

gave the attorney general additional power to protect citizens against discrimination and segregation in voting, education, and the use of public facilities. It forbade discrimination in most places of public accommodation and established a federal Community Relations Service to help individuals and communities solve civil rights problems. It established a federal Equal Employment Opportunity Commission and extended the life of the Commission on Civil Rights . . . One of the most controversial provisions required the elimination of discrimination in federally assisted programs authorizing termination of programs or withdrawal of federal funds upon failure to comply.³⁶

The act was passed at a time when, even though token individual achievements led the white public to believe otherwise, the economic gap between blacks and whites had increased, particularly among blue collar and lower income groups. The 1964 unemployment rate for blacks was double that of whites.

Although the 1964 act opened doors for many individual blacks in the housing, educational and employment areas, the masses of black Americans whose expectations had been raised did not see an improvement in their lives due to this landmark legislation and the changing social climate. Their frustrations were ignited by a series of incidents involving police and erupted into the urban riots of the late 1960s. These riots differed from the earlier race riots when whites rampaged through black neighborhoods. The Kerner Commission reported that

The 1967 disorders . . . involved action within Negro neighborhoods against symbols of white American society--authority and property--rather than against white persons.³⁷

The Commission went on to cite hostile police-community relations as a primary cause of the 1967 disorders, but cautioned that the police were the tangible target for black grievances of injustice throughout the entire system of law enforcement and criminal justice. Nevertheless, the Commission acknowledged specific black complaints about police misconduct and inadequate police protection in the ghetto.

It is important to note that the President's Commission

on Law Enforcement and the Administration of Justice, in its 1967 volume on the police, identified a history of racially discriminatory personnel practices related to the selection, promotion and assignment of minority police officers. The Commission, calling for vigorous minority recruitment, stated, "The very presence of a predominantly white police force in a Negro community can serve as a dangerous irritant"38 Six years later, the National Advisory Commission on Criminal Justice Standards and Goals echoed the earlier Commission's warning that the needed increase in minority police officers would not be achieved ". . . if discrimination continues in the assignment and promotion of personnel within the agency"39

In 1975, the Equal Employment Opportunity Commission (EEOC) reported that, within the 2,303 reporting state and local police units, blacks composed 7.2 percent of the line officers and 2.4 percent of the supervisory and command personnel.⁴⁰ The serious problem of predominantly white police forces in American cities with large black populations continues today with such adverse effects as increased killings of black citizens by police⁴¹ and riots by black citizens. The 1980 civil disorders in Dade County, Florida, occurred after the acquittal by an all-white jury of white police officers who had brutally killed a black man. An analysis of that most recent disorder concluded:

Recent disorders in Dade County and elsewhere have been in many instances the result of a build-up of narrowly defined but widely shared grievances against the police or criminal justice system. Although deep-seated anger, frustration and disappointment with the role of the police and the criminal justice system in Dade County were not the sole causes of the disorder, few would disagree with the judgment that actions or inactions by the police contributed to and aggravated the potential for violent outbreak.⁴²

The frustration and despair of black residents of the Miami riot area were expressed in a citizen's statements to the press:

This thing has been going on for a long time down here. You can't let your child out on the street without the man fooling with him. It's the police and their routine check. There ain't no routine check if you are white.

All white police officials, all white court systems and all white juries don't let nothing happen to those people. And yet they have been locking up

black people--including our officials--for years.

It's always a shame when someone gets hurt, but the police are set up to protect white people from their enemies--and that is us.⁴³

As they have throughout their history in America, blacks continue to view the law and its agents as oppressors, unconcerned with protecting blacks or their rights. The war on crime initiated by President Richard Nixon and facilitated by the Law Enforcement Assistance Administration (LEAA) has evolved into a war on blacks. LEAA's early emphasis on hardware and technology coupled with its failure to involve communities in crime prevention and law enforcement efforts has served to exacerbate black communities' distrust of the criminal justice system. Black Americans, the predominant victims of black crime, have not been allowed to participate in attempts to solve the crime problem by either state or local law enforcement agencies or by the federal government. The agencies whose histories demonstrated a lack of concern about black-on-black crime were charged with solving this problem but have failed miserably to effect a decrease in crime.

B. Crime in the Black Community

1. The Nature and Extent of Black Crime

The two basic measures of crime in the United States are (1) the Uniform Crime Reports (UCR), published by the Federal Bureau of Investigation (FBI) and (2) the Criminal Victimization Survey, conducted by the U.S. Department of Justice through the National Criminal Justice Information and Statistics Service.

The UCR forms the basis for many federal and local governmental policy decisions. The reports provide not an exact measure of crime but an annual assessment of arrest and reported crime statistics provided by state and local law enforcement agencies to the FBI. For 1979, the UCR reported that 44.1 percent of those persons arrested for violent crimes were black, while 29.4 percent of those persons arrested for property crimes were black. City arrest data are particularly important because blacks have become predominantly urban people. The 1979 UCR data revealed that blacks accounted for 48.4 percent of all city arrests for violent crimes and 31.9 percent of all city arrests for property crime. It is clear from these data that blacks comprise a disproportionate number of arrested persons.

The second method of assessing the extent of crime in the United States is analysis of criminal victimization data. Unlike the UCR data, which is limited to reported crime, the

victimization surveys obtain information by conducting personal interviews with individuals in a representative sample of households and commercial firms about their experience with selected crimes of violence and theft. The victimization data have consistently indicated that blacks are criminally victimized in numbers disproportionate to their numbers in the population. As indicated in Table I-1, the black criminal victimization rate exceeded the white rate in 1973, 1975 and 1976. National crime panel surveys of Chicago, Detroit, Los Angeles, New York and Philadelphia in 1972-1973 revealed the following: (1) "For a majority of cities, blacks . . . had significantly higher victimization rates than whites for aggravated assault and robbery without injury . . ."44; and (2) "Households headed by members of minority races, mainly blacks, were more likely than households headed by whites to have been burglarized, and except among New Yorkers, to have been victims of motor vehicle theft."45 A second series of crime panel surveys also indicated a disproportionate rate of burglaries in households headed by blacks. The thirteen cities included in that panel survey series were Boston, Buffalo, Cincinnati, Houston, Miami, Milwaukee, Minneapolis, New Orleans, Oakland, Pittsburgh, San Diego, San Francisco and Washington, D.C. As indicated in Table I-2, only in Washington, D.C., did white households' rate of burglary exceed that of black households. In addition, Dr. Lee Brown, the Council's chairman, analyzed the results of the first victimization survey and determined that the personal crime "victimization rate for black males (85 per 1,000) was higher than that for white males (74 per 1,000)."46 Further, Brown concluded:

The survey showed that blacks were more likely to have been victims of rape, robbery and assault. Similarly, black males were more likely than white males to have been victims of aggravated assault.47

Also, blacks are victims of homicide in disproportionate numbers. Table I-3 shows that the homicide victimization rates for blacks far exceeded the rates for whites for the period 1940-1976. For 1976, the homicide rates for white men, white women, black men and black women were 11.0, 3.4, 82.9 and 17.8. The black male rate was 7.5 times the white male rate, and the black female rate was 5.2 times the white female rate.

Numerous witnesses at the Council's hearings around the country expressed strong concern about the impact of drug use as a stimulus to crime in black communities. Witnesses complained bitterly of an increase in drug-related crimes. Blacks clearly account for a disproportionate number of drug arrests. As indicated in Table I-4 below, the Drug Enforce-

Victimization Rates of Crimes Against Persons, by Race and Sex of
Victim and Relationship of Victim and Offender: 1973 to 1976

Rates per 1,000 persons, 12 years old and over. Figures include attempted crimes.
Data are estimates subject to sampling errors.

Year	Crime	MALE						FEMALE			Victim-Offender Relationship	
		White	Black	Other	White	Black	Other	White	Black	Other	Stranger	Non-Stranger
1973	Total ^a	31	41	32	43	53	44	20	32	22	21	11
	Rape	1	1	1				2	3	2	1	b
	Robbery											
	With injury	2	5	2	3	7	3	1	3	1	2	b
	Without injury	4	8	4	6	12	7	2	5	2	4	1
	Aggravated assault	9	16	10	14	23	15	5	10	5	6	4
	Simple assault	15	11	15	20	11	19	11	12	11	9	6
	Personal larceny	92	83	91	104	97	103	82	70	80	NA	NA
1975	Total ^a	31	43	33	42	53	44	21	34	23	21	11
	Rape	1	1	1				2	2	2	1	b
	Robbery											
	With injury	2	5	2	3	8	3	1	3	1	2	b
	Without injury	4	9	5	6	14	7	2	5	3	4	1
	Aggravated assault	9	14	10	14	19	14	5	11	5	6	3
	Simple assault	16	13	16	21	12	20	12	14	12	9	7
	Personal larceny	97	90	96	108	110	108	87	73	85	NA	NA
1976	Total ^a	31	44	33	42	55	43	21	36	23	21	12
	Rape	1	2	1	b	b	b	1	3	1	1	b
	Robbery											
	With injury	2	4	2	2	6	3	1	3	2	2	b
	Without injury	4	10	4	6	15	7	2	6	2	4	1
	Aggravated assault	9	16	10	14	19	14	5	13	6	6	4
	Simple assault	16	13	15	20	15	19	12	12	12	9	7
	Personal larceny	97	87	96	107	101	106	88	75	87	NA	NA

Source: Law Enforcement Assistance Administration, Criminal Victimization in the United States, annual.

^a Excludes personal larceny.

^b Less than 0.5.

NA Not available.

Table I-2

**Household Burglary Rates By Race of Head of Household
In Thirteen American Cities (Rate per 1,000 households)**

City	White	Black
Boston	138	204
Buffalo	88	133
Cincinnati	119	211
Houston	142	234
Miami	61	177
Milwaukee	126	303
Minneapolis	174	214
New Orleans	102	125
Oakland	164	194
Pittsburgh	81	139
San Diego	136	165
San Francisco	112	182
Washington, D.C.	79	73

Source: U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, Criminal Victimization Surveys in 13 American Cities, (Washington, D.C.: U.S. Government Printing Office, June 1975), pp. 20, 38, 58, 76, 112, 132, 152, 172, 192, 210, 230 and 248.

Table I-3

Homicide Victims by Race and Sex: 1940-1976

(Rates per 100,000 resident population in specified group,
15 years old and over)

YEAR	TOTAL	HOMICIDE VICTIMS					
		White			Black and Other		
		Male	Percent	Female	Male	Percent	Female
Number							
1940	8,329	2,977	45.3	796	3,670	54.7	886
1945	7,547	2,759		791	3,210		787
1950	7,942	2,586		952	3,503		901
1955	7,418	2,439		922	3,191		866
1960	8,464	2,832		1,154	3,437		1,041
1965	10,712	3,660		1,379	4,488		1,185
1968	14,686	5,106		1,700	6,417		1,463
1969	15,477	5,215		1,801	6,951		1,510
1970	16,848	5,865		1,938	7,413		1,632
1971	18,787	6,455		2,106	8,357		1,869
1972 ^a	19,638	6,820		2,156	8,822		1,840
1973	20,465	7,411		2,575	8,429		2,050
1974	21,465	7,992		2,656	8,755		2,062
1975	21,310	8,222		2,751	8,331		2,006
1976	19,554	7,568		2,547	7,574		1,865
Rate ^b							
1940	8.4	6.7		1.8	79.9		18.5
1945	7.7	6.8		1.7	71.4		15.2
1950	7.2	5.3		1.9	67.4		16.2
1955	6.4	4.8		1.7	57.8		14.4
1960	6.9	5.3		2.0	56.2		15.6
1965	8.0	6.3		2.2	66.6		15.9
1968	10.5	8.5		2.6	90.0		18.2
1969	10.9	8.6		2.7	95.1		18.3
1970	11.6	9.5		2.9	95.9		18.5
1971	12.6	10.2		3.1	105.9		20.7
1972 ^a	13.0	10.6		3.1	108.3		19.7
1973	13.3	11.3		3.6	100.7		21.4
1974	13.7	12.0		3.7	101.7		20.9
1975	13.4	12.2		3.8	93.9		19.7
1976	12.1	11.0		3.4	82.9		17.8

^a Based on a 50 percent sample of deaths.^b Rate based on enumerated population figures of April 1 for 1940, 1950, 1960, and 1970; July 1 estimates for other years.

ment Administration (DEA) estimates that blacks represented 26 percent of drug arrests nationally in 1977.

Table I-4

Drug Arrests by Race in 1977

Race	Percentage of Drug Arrests	Percentage in Population
White (Not Hispanic)	56	76
Black (Not Hispanic)	26	11

Source: Drug Enforcement Administration, Special Report, No. 76

A frequently used indicator of the extent of black crime is the black imprisonment rate. Table I-5 shows that 58,900 (42 percent) of the inmates of local U.S. jails in 1972 were black. Similarly, Richard Velde, former administrator of the Law Enforcement Assistance Administration reported that a 1973 LEAA prison survey found that about 48 percent of all U.S. prisoners were black.⁴⁸

Caution should be used when evaluating arrest and imprisonment statistics as measures of the extent of black crime. Many researchers have noted the inequities involved in police arrest reports to the FBI. Gwynne Peirson argues that the police also exercise their arrest powers selectively: "The police 'prove' Blacks commit most crimes by arresting mostly blacks."⁴⁹ Peirson further questions prison commitment rates, stating that, although the black arrest rate is twice the white arrest rate, the black prison commitment rate is six times the white rate. He then argues that the black imprisonment rate reflects the propensity of agents of the court to punish blacks more severely than whites for similar criminal violations. Peirson objects to the use of arrest statistics and prison commitment rates to "prove" the criminality of blacks.⁵⁰

Despite questions regarding exact measures, crime remains a significant problem for members of black communities, as illustrated by the numerous blacks who testified before the Council. Witnesses repeatedly told the Council that, in contrast to media images of the white, middle-class American as the typical crime victim, blacks are overwhelmingly the most likely victims of crime. Many witnesses stated that they believe there is no escaping criminal victimization for blacks. They live in a state of fear and accept the fact

Table I-5

Reason for Retention and Selected Socioeconomic Characteristics of Jail Inmates, by Race, 1972

Characteristic	White	Black	Other
Total inmates	79,600	58,900	141,600
Serving sentence	35,400	23,200	60,200
Awaiting trial	26,300	23,800	50,800
Other adjudication status	18,200	11,900	30,500
Education ^a			
8 years or less	20,300	11,000	32,200
9-12 years	49,500	34,500	94,500
Over 12 years	10,100	4,100	14,300
Age ^b			
14-17 years	2,900	2,200	5,200
18-24 years	33,000	27,300	61,500
25 years and over	43,900	29,400	74,700
Marital status			
Never married	34,400	34,400	70,500
Separated, divorced, or widowed	25,200	11,400	37,100
Prearrest annual income			
Less than \$2,000	33,500	26,800	61,800
\$2,000-\$2,999	8,600	7,000	16,100
\$3,000-\$7,499	24,800	19,000	44,400
\$7,500 and over	10,800	4,300	15,100
Unknown	2,200	2,000	4,300

Note: Jail--A locally administered institution with authority to retain adults for 48 hours or longer.

^a Excludes 600 inmates for whom data were not available.

^b Data include a small number of persons for whom information was not available, not shown separately.

Source: U.S. Law Enforcement Assistance Administration, Survey of Inmates of Local Jails: Advance Report, and unpublished data.

that little will be done by government or law enforcement agencies to combat crime effectively, especially in black communities. Many complained about the disproportionate number of homicides in the black communities and generally about the drastic level of black-on-black crime.

2. The Impact of Crime on the Black Community

It is our belief, and it is the basic premise of this issue, that black-on-black crime has reached a critical level that threatens our existence as a people. It is a threat to our youth, to our women, to our senior citizens, to our institutions, to our values. And although we are not responsible for the external factors that systematically create breeding grounds for social disorder, we cannot avoid the internal responsibility of doing everything to solve a problem that is rending the fabric of our lives.⁵¹

Publisher John H. Johnson introduced the August 1979 special issue of Ebony magazine with the previously cited quote. Various articles in that issue discussed the serious implications of the current high level of black-on-black crime which concerns many black Americans.

The psychological consequences of black crime are exhibited in the extreme level of fear within the black community, as described by many witnesses before the Council. In addition, 1976 National Crime Survey data indicate that 81 percent of black Americans believe that crime is increasing in their communities. Further, 61 percent believe that the probability of becoming victims of robbery or assault have also increased. Blacks' fear of crime is particularly intense at night; only 9 percent feel safe in their own neighborhoods after dark. Fifty-four percent reported having limited their nighttime activities in an effort to avoid being victimized.⁵²

Crime also has a serious economic impact on the black community. Andrew Brimmer, a former member of the Board of Governors of the Federal Reserve System, estimated the cost of crime to blacks in 1965 was about \$2.3 billion, 11 percent of the estimated \$21 billion crime cost to the nation as a whole. Brimmer's estimate of the 1969 crime cost to the black community was \$3 billion of the \$25 billion cost to the nation as a whole. Further extrapolation of Brimmer's equation indicates that crime cost the black community \$13.3 billion of the total national cost of \$88.6 billion in 1974.⁵³

An Ebony article described how crime affects businesses in the black community and reported that business owners must shorten store hours and "absorb the rising costs of burglar alarms, window bars, iron gates and other security devices to thwart criminals." Of course, those costs are passed on to black consumers in the form of higher prices for goods and services.⁵⁴ The black community's concern about crime, although extremely strong today, actually dates back to the beginning of the century. Three of the many forums on "Negro problems" held in predominantly black colleges focused specifically on black crime (Atlanta University, 1904; Hampton Institute, 1909; and Tuskegee Institute, 1931, 1946, and 1952). It is appalling that the problem of black crime has been clearly described and explained by black leaders and scholars for nearly a century but their insights have been ignored by the white majority until its effects spilled over into their residential neighborhoods and commercial districts during the last decade. The societal causes of black crime have been allowed to fester and spread by culpable white government officials who refused to respond to the recommendations of the nation's black leadership on the matter.

3. Causes of Black Crime

W.E.B. DuBois was one of the first black researchers to study crime and its causes in his 1899 pioneering study, The Philadelphia Negro. DuBois analyzed crime among Philadelphia blacks from the seventeenth century until 1896. Focusing on the period 1864 until 1896, DuBois concluded:

. . . young men are the perpetrators of serious crime among Negroes; that this crime consists mainly of stealing and assault; that ignorance, and immigration to the temptations of city life are responsible for much of this crime but not for all; that deep social causes underlie the prevalence of crime and they have so worked as to form among Negroes since 1864 a distinct class of habitual criminals: that to this criminal class and not to the great mass of Negroes the bulk of the serious crime perpetrated by this race should be charged.⁵⁵

It is significant to note that the deep social causes cited by DuBois have been institutionalized in American cities and that they continue to sustain a class of habitual criminals within the black community in 1981. Further, American society continues to identify crime and blacks in general rather than recognize that the limitations and cruelties of racist economic and social policies have created a growing number of blacks whose outlet for their oppression and poverty is violence and crime. DuBois explained how the peculiar environ-

ment in which blacks work and live is a cause of crime:

. . . homes badly situated and badly managed, with parents untrained for their responsibilities; the influence of social surroundings which by poor laws and inefficient administration leave the bad to be made worse, the influence of economic exclusions which admits Negroes only to those parts of the economic world where it is hardest to retain ambition and self-respect and finally that indefinable but real and mighty moral influence that causes men to have a sense of manhood or leads them to lose aspiration and self-respect.⁵⁶

The manner in which this peculiar environment has been institutionalized has been described in detail in the historical perspective section of this chapter; i.e., all-inclusive Jim Crow segregation in the South, housing segregation ordinances in northern and western cities, black exclusion from labor unions, occupational and industrial segregation, educational segregation, exclusion from voting, etc.

That the experience of black Americans differed from that of foreign immigrants to American cities is well documented. Stephan Thernstrom vividly described how black Bostonians remained mired in poverty from 1860 through 1940, while members of European immigrant groups experienced social and economic upward mobility. Thernstrom explained that, although blacks were generally limited to unskilled industrial jobs, in those instances where they obtained semi-skilled or skilled occupations they were forced out of their jobs with every new wave of European immigration.⁵⁷

Earl Moses conducted a comparative study of crime in four socio-economically equal Baltimore neighborhoods, two black and two foreign born. Noting that, although in the same low occupational lines, blacks were a step below whites on the occupational ladder, Moses explained the higher black crime rates:

A more reasoned explanation is to be found in the poverty of life in the deteriorated areas inhabited by them. One recognizes this poverty on every hand and in a variety of its manifestations. Because of it, life in these areas has been reduced largely to organic survival; and the reflex of this is an organic plane of living. The poverty is more than economic; it is pervasive in character: bad housing, overcrowding, restricted areas of settlement, limited outlets of expression, as in recreation, restricted employed opportunities, etc. On every hand, the Negro is hedged in by racial proscriptions.⁵⁸

Moses concludes that these conditions spawned higher black crime rates.

Similarly, Morris Forslund presents other factors explaining higher black crime rates:

. . . the overrepresentation of Negroes in high crime risk lower socioeconomic strata; the relative lack of opportunity for Negroes to achieve their goals through legitimate means; and the overrepresentation of Negroes among populations of high crime rate deteriorated sections of our cities which provide greater opportunity both to learn criminal behavior patterns, values, and motivations and to engage in criminal behavior.⁵⁹

Some criminal justice practitioners have acknowledged the significance of socioeconomic factors and black crime. Speaking before a Police Foundation forum on upgrading the police, Robert DiGrazia, a former Boston police commissioner, addressed the subject as follows:

There is one other thing few police chiefs are doing--leveling with the public about crime. Most of us are not telling the public that there is relatively little the police can do about crime. We are not letting the public in on our era's dirty little secret" That those who commit the crime which worries citizens the most--violent street crime--are, for the most part, the products of poverty, unemployment, broken homes, rotten education, drug addiction and alcoholism, and other social economic ills about which the police can do little, if anything.⁶⁰

Patrick V. Murphy, president of the Police Foundation and former chief of several of the nation's largest police departments, recounted before the Joint Economic Committee of Congress what his experience as a police officer and as a chief-of-police taught him about the relationship between unemployment and crime:

From my earliest days in police work 30 years ago, I became aware of the social costs of unemployment. Where there was a high rate of unemployment, there was a degradation and dislocation of the individual, the family, and the neighborhood. And with degradation and dislocation, particularly of the family, are found those conditions which encourage crimes, especially homicide, rape, street robbery,

and burglary--the type of crime which has turned many city neighborhoods into warrens of fear.

As the chief police official of New York City, Detroit, Washington, D.C., and Syracuse, New York, I found that whenever census tract data showed areas of high unemployment, there were also rates of crime 50 to 100 times as high as in other parts of these cities. In areas where there is a high rate of long-term unemployment, there is also an intensive concentration of social problems: alcoholism, drug abuse, mental illness, violence-ridden schools. In the parts of cities where unemployment is the highest, education is usually poorest. Where the map shows high unemployment rates, there are often hostilities flowing from centuries of racial discrimination and the greatest number of victims of economic injustice and exploitation.⁶¹

The Council believes, after reviewing historical, economic and sociological evidence and listening to the testimony of witnesses at the hearings held around the country, that black crime is rooted in concrete social and economic conditions. These conditions consist of discrimination, poverty, overcrowded housing, social marginality, and most of all, joblessness. In a fundamental sense, crime in the streets is the product of desperation--a desperation rooted in a system that consigns millions of black Americans to poverty, forces them to live in decaying environments, and resigns them to the view that the future will be merely a repetition of the past and certainly no ground for hope. Under such circumstances, the most vulnerable individuals embrace the view that anything ensuring their survival, whether it is petty thievery, selling dope, rackets, or even participation in violence, is more desirable than giving in or giving up to systematic forces which provide few viable options for legions of black Americans. When the stakes are survival, it should not be surprising that criminal activity comes to be viewed by offenders as an opportunity rather than a cost, normal behavior rather than deviance, and a potentially profitable enterprise that is far superior to an indecent existence.

Expressing a similar view on this point, Washington Post columnist William Raspberry astutely observed,

My own guess is that most criminals are gamblers who weigh the likely consequences of their actions against the probable gains The crucial question is: What have I got to lose? For members of the jobless, disaffected and desperate subcul-

Table I-7
Occupational Mobility

	Raw Measure ^a	Social Indicator Values ^b
	1965-1970	1965-1970
Males		
Amer. Ind./Alask. Nat.	1.85	.96*
Blacks	2.40	1.25
Mexican Americans	2.73 ^c	1.42
Japanese Americans	2.75	1.43
Chinese Americans	.71	.37
Pilipino Americans	-.13	-.07
Puerto Ricans	2.12	1.10
Majority	1.92	1.00
Females		
Amer. Ind./Alask. Nat.	.89	.46
Blacks	1.88	.98
Mexican Americans	.56	.29
Japanese Americans	.34	.17
Chinese Americans	-3.45	-1.80
Pilipino Americans	-3.78	-1.97
Puerto Ricans	.78	.41
Majority	1.37	.71

^a The average change in prestige scores for those who changed occupations between 1965 and 1970.

^b Ratios of raw measure to the majority male population.

^c The difference between this value and the majority benchmark is statistically significant at the 0.10 level.

* This can be interpreted as follows: "In 1970, the American Indian and Alaskan Native males who had different occupations in 1965 had, on the average, increased their occupational prestige 96 percent of the majority male average increase."

Source: Social Indicators of Equality for Minorities and Women: A Report of the U.S. Commission on Civil Rights, Washington, D August 1978, p. 40.

Table I-8

High School Overqualification

	Raw Measure ^a			Social Indicator Values ^b		
	1960	1970	1976	1960	1970	1976
Males						
Amer. Ind./Alask. Nat.	71.7	59.5	60.5	1.78	1.58	1.37*
Blacks	70.2	66.1	67.2	1.75	1.76	1.52
Mexican Americans	55.6	56.8	59.6	1.38	1.51	1.35
Japanese Americans	51.8	43.4	48.4	1.29	1.15	1.10
Chinese Americans	34.6	33.8	33.8	.86	.90	.98
Pilipino Americans	62.6	49.3	49.5	1.56	1.31	1.12
Puerto Ricans	58.2	54.8	60.8	1.45	1.46	1.38
Majority	40.2	37.6	44.2	1.00	1.00	1.00
Females						
Amer. Ind./Alask. Nat.	56.5	48.0	53.0	1.40	1.28	1.20
Blacks	65.1	53.0	56.1	1.62	1.41	1.27
Mexican Americans	42.8	42.0	52.5	1.06	1.12	1.19
Japanese Americans	44.5	35.4	50.8	1.11	.94	1.15
Chinese Americans	27.2	25.7	48.3	.68	.68	1.09
Pilipino Americans	35.8	33.2	34.8	.89	.88	.79
Puerto Ricans	54.0	38.5	59.0	1.34	1.02	1.33
Majority	33.4	29.9	49.0	.83	.80	1.11

^a The percentage of high school graduates who are employed in occupations that require less than a high school degree.

^b Ratios of raw measure to the majority male population.

* This can be interpreted as follows: "In 1976 the high school overqualification rate for American Indian and Alaskan Native males was 37 percent higher than (or 1.37 times) the rate for majority males."

Source: Social Indicators of Equality for Minorities and Women: A Report of the U.S. Commission on Civil Rights, Washington, D.C., August 1978, p. 18.

Table I-9

College Overqualification

	Raw Measure ^a			Social Indicator Value ^b		
	1960	1970	1976	1960	1970	1976
Males						
Amer. Ind./Alask. Nat.	51.6	49.2	51.9	1.21	1.18	1.16*
Blacks	58.8	52.6	55.0	1.38	1.26	1.23
Mexican Americans	46.9	47.3	46.5	1.10	1.13	1.04
Japanese Americans	52.4	44.3	49.4	1.23	1.06	1.10
Chinese Americans	48.2	38.3	51.3	1.13	.92	1.15
Pilipino Americans	48.1	45.1	56.2	1.13	1.08	1.26
Puerto Ricans	52.9	44.7	41.0	1.24	1.07	.92
Majority	42.7	41.7	44.7	1.00	1.00	1.00
Females						
Amer. Ind./Alask. Nat.	46.2	38.7	46.6	1.08	.93	1.04
Blacks	41.6	35.1	41.3	.97	.84	.92
Mexican Americans	28.1	31.7	38.8	.66	.76	.87
Japanese Americans	32.3	35.0	41.1	.76	.84	.92
Chinese Americans	39.0	34.5	51.2	.91	.83	1.14
Pilipino Americans	37.1	38.2	39.6	.87	.92	.89
Puerto Ricans	42.2	29.8	50.4	.99	.71	1.13
Majority	29.8	24.7	45.4	.70	.59	1.02

^a The percentage of persons with at least one year of college who are employed in occupations that typically require less education.

^b Ratios of raw measure to the majority male population.

* This can be interpreted as follows: "In 1976 the college overqualification rate for American Indian and Alaskan Native males was 16 percent higher than (or 1.16 times) the rate for majority males."

Source: Social Indicators of Equality for Minorities and Women: A Report of the U.S. Commission on Civil Rights, Washington, D.C., August 1978, p. 20.

Table I-10

Occupational Segregation^a

	<u>Compared with Majority Males</u>			<u>Compared with Majority Females</u>		
	<u>1960</u>	<u>1970</u>	<u>1976</u>	<u>1960</u>	<u>1970</u>	<u>1976</u>
Males						
Amer. Ind./Alask. Nat.	44.1	38.2	35.7*			
Blacks	44.7	44.3	37.9			
Mexican Americans	36.7	36.6	38.2			
Japanese Americans	28.9	31.3	41.5			
Chinese Americans	50.6	52.2	61.4			
Pilipino Americans	50.7	46.0	59.7			
Puerto Ricans	49.2	44.1	50.4			
Females						
Amer. Ind./Alask. Nat.	69.1	70.7	69.4	47.1	31.5	33.8
Blacks	72.4	71.1	69.3	52.4	40.4	35.8
Mexican Americans	63.5	68.3	75.1	31.0	27.5	36.9
Japanese Americans	63.8	68.9	72.1	26.6	22.5	32.6
Chinese Americans	71.8	70.9	79.7	36.4	34.1	52.9
Pilipino Americans	69.0	73.0	79.2	40.9	42.2	48.3
Puerto Ricans	71.6	70.9	78.9	53.9	37.7	48.3
Majority	62.4	65.8	66.1	-	-	-

^a Standard tests of statistical significance do not apply to this indicator. If, however, the indicator value is viewed as a normal percentage, every percentage value presented in the table is significantly different from 0.0, which is the reference point for equality for this indicator.

* This can be interpreted as follows: "In 1976, at least 35.7 percent of American Indian and Alaskan Native males would have had to change occupations in order to have an occupational distribution identical to the majority males."

Source: Social Indicators of Equality for Minorities and Women: A Report of the U.S. Commission on Civil Rights, Washington, D.C., August 1978, p. 42.

1960, 1970 and 1976 respectively. Although these statistics represent minimal improvement for black men between 1960 and 1976, the level of occupational segregation remains alarming. The disparity is greater and the rate of improvement in occupational distribution is worse for black men than for white men. For the group to have the identical occupational distribution as white men, 72.4, 71.1, and 69.3 percent of black women would have had to change occupations in 1960, 1970 and 1976 respectively. The disparity between white and black women is not as great, but this is due largely to the tremendous disparity between the occupational distributions of white men and women. Still, for the group's occupational distribution to be identical to white women, 52.4, 40.4 and 35.8 percent of black women would have had to change occupations in 1960, 1970 and 1976 respectively.

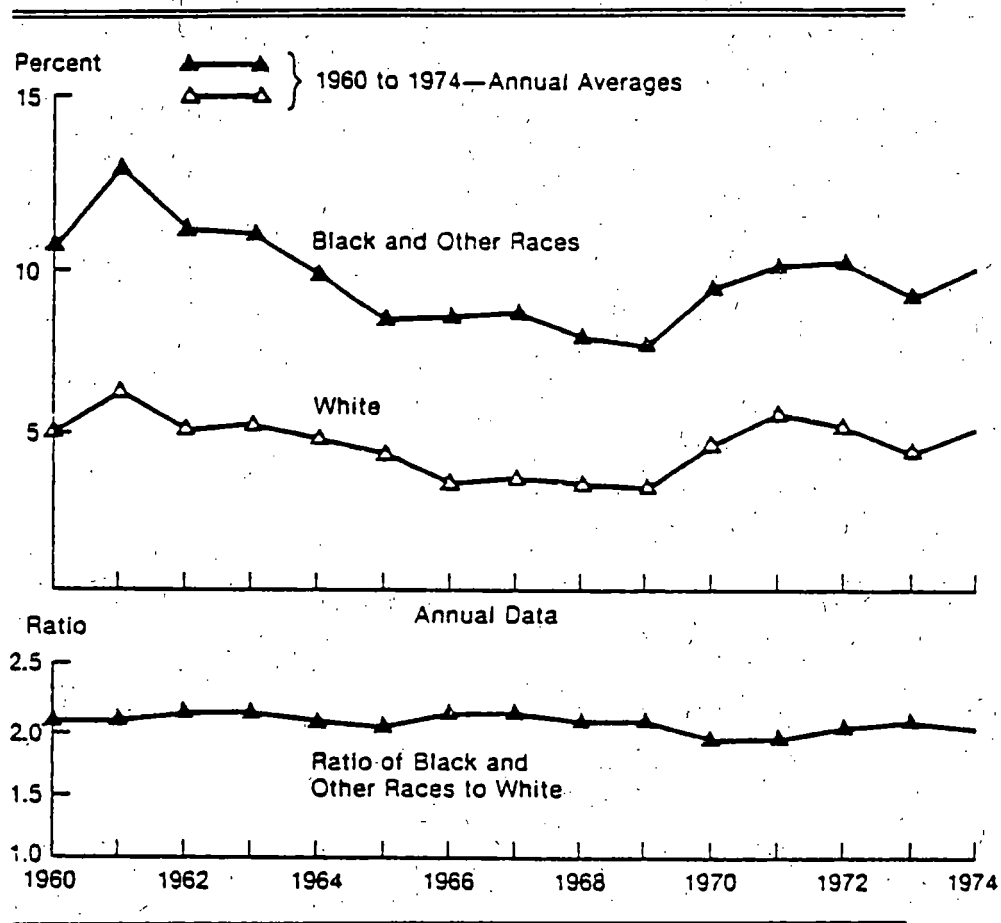
b. Unemployment Differentials. Unemployment, more than any other indicator, demonstrates consistent racial inequality. The black unemployment rate has consistently averaged about twice that of whites since 1960, as has the ratio of black unemployment to white unemployment. The data in Figure I-1 indicate that this disparate ratio between blacks and whites is increasing. Black male and female workers moved from having approximately twice the unemployment rate of white men in 1960 and 1970 to nearly three times the white male rate in 1976.

It should be noted that these unemployment statistics underrepresent the extent of black unemployment significantly insofar as black workers are more likely to become discouraged, cease seeking employment, and are dropped from unemployment statistics. The National Urban League (NUL) has developed the Hidden Unemployment Index to include discouraged black workers. For example, the official black unemployment rate in the first quarter of 1975 was 1.5 million. The NUL Hidden Unemployment Index on the other hand indicated that the actual black unemployed numbered 3 million or 26 percent of the black labor force.⁶⁵ The NUL reported further that:

. . . blacks are less likely than whites to receive unemployment insurance because (1) their jobs are less likely to be covered, (2) they are less likely to accumulate a significant number of continuous weeks of work to establish eligibility and (3) the black unemployed are more likely than whites to fall into the ineligible categories of new entrants, re-entrants, and job leavers.⁶⁶

The statistical relationship between unemployment and crime is difficult to show because of problems involved in measuring the data. Nevertheless, in a major study for the

Figure I-1
Unemployment Rates, 1960-1974



Source: Adapted from U.S. Department of Labor, Bureau of Labor Statistics.

Joint Economic Committee of Congress, Professor Harvey Brenner of Johns Hopkins University estimated the social costs of national economic policy as it affects mental and physical health, and criminal aggression by using regression techniques in an analysis of data from three states and three counties from 1940 until 1973. Although Brenner is careful to point out that regression analysis does not establish causation, he does report a consistent pattern of relationship among national economic changes, the several social measures that he used, and the unemployment rate. "Unemployment plays a statistically significant role in relation to social trauma for each of the indices of social cost and for virtually all ages, both sexes and for whites and nonwhites in the United States."⁶⁷ The social indices Brenner used were cardiovascular disease, suicide, homicide and imprisonment rates.

c. Income Differentials. A comparison of average family incomes for the period 1950 and 1976 indicates that blacks and other races received incomes ranging from one-half to two-thirds of white family incomes during this period. (See Table I-11.) Median household per capita income reflects the average income available to each individual in a family unit. Using that measure overcomes the problem of differing family patterns, which limits the utility of the median family income statistic. As indicated in Table I-12, in 1975 members of households headed by blacks had a median household per capita income that averaged 52 percent of the median for members of families headed by whites. That statistic represents a very small improvement since 1959. The situation for households headed by black females is even worse. In 1975, members of households headed by black females had a median household per capita income that was only 30 percent of the median of majority-headed households. Also important to note is "under current Federal procedures for defining and measuring poverty, in 1974 black people were almost three times more likely to be poor than whites."⁶⁸ The difference between the median family income of whites and that of blacks increased almost 10 percentage points between 1970 and 1980. In 1970, the median family income of whites was 63 percent greater than the median family income of blacks; in 1980 the difference was 72.8 percent greater. Median family income--that point at which half make more and half make less--increased for whites from \$10,236 to \$21,904 in 1980; for blacks it increased from \$6,279 to \$12,674. Such differences, the Council maintains, perhaps explain the difference of social outcomes between blacks and whites.

d. Housing Differentials. Repeatedly, the correlation between overcrowded housing conditions and crime have been asserted in the literature and by Council witnesses. Data of 1970 indicate that black-headed rental and owner occupied

Table I-11

Median Income of Families: 1950 to 1976

Year	Black and Other Races	White	Ratio of Black and Other Races to White
1950	\$1,869	\$3,445	0.54
1951	2,032	3,859	0.53
1952	2,338	4,114	0.57
1953	2,461	4,392	0.56
1954	2,410	4,339	0.56
1955	2,549	4,605	0.55
1956	2,628	4,993	0.53
1957	2,764	5,166	0.54
1958	2,711	5,300	0.51
1959	3,161	5,893	0.54
1960	3,233	5,835	0.55
1961	3,191	5,981	0.53
1962	3,330	6,237	0.53
1963	3,465	6,548	0.53
1964	3,839	6,858	0.56
1965	3,994	7,251	0.55
1966	4,674	7,792	0.60
1967	5,094	8,234	0.62
1968	5,590	8,937	0.63
1969	6,191	9,794	0.63
1970	6,516	10,236	0.64
1971	6,714	10,672	0.63
1972	7,106	11,549	0.62
1973	7,596	12,595	0.60
1974	8,265	13,356	0.62
1975	9,321	14,268	0.65
1976	9,821	15,537	0.63

Source: U.S. Bureau of the Census, Current Population Reports, Special Studies, Series P-23, No. 54, The Social and Economic Status of the Black Population in the United States, 1974, p. 25; and U.S. Bureau of the Census, Current Population Reports, Series P-60, No. 107, 2, p. 9.

Median Household Per Capita Income

	Raw Measure ^a			Social Indicator Values ^b		
	1959	1969	1975	1959	1969	1975
For All Households						
Amer. Ind./Alask. Nat.	\$ 467	\$1122	\$2453	.32	.43	.57*
Blacks	680	1303	2263	.46	.50	.52
Mexican Americans	742	1334	2130	.50	.51	.49
Japanese Americans	1680	3184	6105	1.14	1.22	1.41
Chinese Americans	1416	2449	3867	.96	.94	.89
Pilipino Americans	1145	2208	3897	.78	.85	.90
Puerto Ricans	869	1362	2153	.59	.52	.50
Majority	1472	2601	4333	1.00	1.00	1.00
For Female-Headed Households						
Amer. Ind./Alask. Nat.	378	711	1310	.26	.27	.30
Blacks	399	783	1310	.27	.30	.30
Mexican Americans	428	808	1228	.29	.31	.28
Japanese Americans	1168	2051	2341	.79	.79	.54
Chinese Americans	1309	2163	1778	.89	.83	.41
Pilipino Americans	569	999	2333	.39	.38	.54
Puerto Ricans	716	759	1252	.49	.29	.29
Majority	1099	1658	2568	.75	.64	.59

^a The median household per capita income is based on the income distribution of the total personal income for persons not living in a family situation and each family member's equal share of their family income. Because this indicator is based on medians, standard techniques for estimating sampling error do not apply.

^b Ratios of raw measure to the majority male population.

* This can be interpreted as follows: "In 1975, members of American Indian and Alaskan Native headed households had a median household per capita income that was 57 percent as much as the median for members of majority-headed households."

Source: Social Indicators of Equality for Minorities and Women: A Report of the U.S. Commission on Civil Rights, Washington, D.C., August 1978, p. 50.

households were more than twice as likely to live in overcrowded housing than were white-headed households. These disparities have numerous policy implications, especially regarding crime.

The Council concluded that the socioeconomic conditions acknowledged to be the breeding ground for crime continue to plague black communities. Just as it is necessary to eradicate swamplands in order to destroy breeding grounds for malaria-carrying mosquitoes, the Council believes that the government must begin with a commitment to better housing, full employment and equal access to social, economic and political institutions in order to achieve major reductions of crime in the black community.

C. The Administration of Criminal Justice

The administration of justice itself is from beginning to end so much a part of the whole system of Negro-white social relations that it must be viewed not only as a process which discriminates against Negroes and thus biases the statistics of crime, but also a direct and indirect causative factor in the production of Negro crime.⁶⁹

With this conclusion, Guy Johnson indicted the criminal justice system for perpetuating crime that it is mandated to control. A similar view is held by Ramsey Clark, a former U.S. Attorney General. Clark presented the following criticism of the federal government's so-called war on crime and its emphasis on increased manpower, technology and prisons:

More untrained police in communities where relations with the public are hostile, where crime isn't reported, where riots are a constant risk, is not in the public interest. More judges where there is no effort at court administration, where techniques of efficient docket control are not developed, will only diminish the role of the individual judge and the chance for equal justice. More juvenile detention homes that brutalize the young, more jails where homosexuality is rampant, more prisons hardening criminals will not enhance public safety.⁷⁰

The criminal justice system as described by both Johnson and Clark is, at best, an extreme temporary control mechanism which in the long run keeps itself in business by fueling hostility and producing tougher criminals.

Former Mayor Maynard Jackson of Atlanta, Georgia, told the Council, "There is no equality under the law....Black people still are the oppressive objectives of a dispropor-

tionately unjust system."⁷¹ The inequities of the criminal justice system as it relates to blacks has been described by many. In an assessment of the criminal justice system, a noted criminologist concluded that:

. . . once arrested, Black suspects are more likely to be jailed rather than bailed, more likely to be convicted than acquitted, and more likely to receive stiff sentences. This claim has been supported by other evidence which revealed that Blacks are arrested between three and four times more than whites. Blacks (41.7%) are adjudicated guilty more than whites (28.3%), and among offenders sentenced to Federal prisons in 1972, the average sentence is for 43.3 months for whites and 58.7 months for non-whites.⁷²

Tagaki and others have discussed the disproportionate number of police killings of blacks,⁷³ and Julius Debro has described how prisons have been the foci of medical experimentation.⁷⁴ John Boone has given the following explanation of his experience in federal and state prisons:

. . . underpaid guards who went about the job with the idea that a good prison is a quiet prison, and often they were willing to work for very low pay for the opportunity to "work niggers." As long as there are no escapes, no disturbances, nothing to draw unfavorable publicity, they do not care that the prisoners are drifting along on a low physical, mental and moral condition and that most of them will leave prison worse off than they entered.⁷⁵

The problems within U.S. prisons should be reviewed along with the growing disparity in incarceration rates for blacks and whites. A recent study confirms the disproportionate imprisonment of blacks and reports that the problem has grown worse. Acknowledging an expansion trend in corrections since the early 1970s by citing the 907 federal, state and local prisons currently proposed or under construction, Scott Christianson reports that "not only has the prison system gotten bigger, but it also has gotten blacker."⁷⁶ Between 1973 and 1979, the black proportion of the state prison population increased from about 46.1 to 47.8 percent. Similarly, ". . . the black incarceration rate rose from about 368 to 544.1 per 100,000 during that period."⁷⁷ Table I-13 indicates that the disparity between black and white incarceration rates increased in every region of the United States between 1973 and 1979.

In 1973, the white incarceration rates ranged from

Table I-13

**Jurisdictions Ranked by Change in Disparity Between Black and
White Incarceration Rates, 1973-79**

Rank	Jurisdiction	Disparity	Rank	Jurisdiction	Disparity
1	Idaho	850.4	27	Tennessee	146.7
2	South Dakota	657.6	28	North Carolina	120.2
3	Washington	611.2	29	Illinois	118.9
4	Delaware	598.4	30	Rhode Island	117.2
5	Nevada	569.0	31	New Hampshire	106.9
6	District of Columbia	471.2	32	Missouri	94.6
7	Connecticut	469.0	33	Maryland	92.5
8	West Virginia	456.4	34	New Jersey	91.6
9	Vermont	429.7	35	Arkansas	89.8
10	New Mexico	424.1	36	Massachusetts	84.9
11	Oregon	401.9	37	Mississippi	83.2
12	Arizona	400.0	38	Alaska	74.5
13	Wisconsin	393.5	39	Georgia	58.2
14	Michigan	344.9	40	Wyoming	42.7
15	Iowa	311.0	41	Montana	33.6
16	Ohio	283.1	42	Oklahoma	32.8
17	Utah	263.8	43	Pennsylvania	27.5
18	Virginia	246.9	44	Nebraska	22.8
19	Hawaii	229.0	45	California	11.3
20	Texas	222.8	46	Kentucky	3.6
21	Maine	215.9	47	Minnesota	0.2
22	Louisiana	190.2	48	Colorado	-6.1
23	Florida	184.9	49	Alabama	-18.4
24	Kansas	155.7	50	Indiana	-19.7
25	South Carolina	155.2	51	North Dakota	-77.2
26	New York	148.9			

Source: Scott Christianson, "Our Black Prisons," Crime and Delinquency, Vol. 27, No. 3, (July 1981), p. 366.

a low of 23.1 in the Northeast to a high of 66.6 in the South, while the black rates ranged from 340.3 in the Northeast to 452.5 in the West. Six years later the white rates had climbed to levels ranging from 36.7 in the Northeast to 100.5 in the South, but the black rates were up to 484.1 in the Northeast and 580.4 in the North Central states.⁷⁸

As pointed out by Christianson, the fact that a large percentage of urban black males are imprisoned at one time or another in their lives can only have an extraordinary impact on the black community. (See Table I-14.)

The reasons for these gross disparities in black incarceration rates can be found in the prosecutorial and judicial processes. In February 1974, the National Association of Blacks in Criminal Justice passed a resolution establishing court monitoring as a high priority. Former Judge Harry T. Alexander emphasized the necessity of court monitoring and urged that the prosecutor's office be made accountable to the community. Alexander cited such judicial improprieties as permitting an accused person to appear before the jury in jail clothes, in handcuffs, in chains and shackles; the refusal to conduct a complete voir dire (pre-trial examination) of prospective jurors; allowance of improper and illegal testimony into evidence; and the permittance of disrespect of the accused person by the prosecutor, by his lawyer and by the judge. Alexander also expressed skepticism about the power of the prosecutor, citing prosecutorial abuses based on bias, discrimination, improper prosecutorial motives, discrimination and corruption. Alexander expressed particular concern about "overcharging" and "plea bargaining," as follows:

What does overcharging do? The overcharging of the accused permits the government to extract a plea of guilty from the accused, who by the very fact of the padded indictment is intimidated and overwhelmed at the charges which carry many years of imprisonment upon conviction.⁷⁹

Although the majority of the population may ignore these inequities within the criminal justice system, black Americans are keenly aware of how ineffective and destructive the system really is. Sadly,

there is a reluctance on the part of Blacks to publicly speak out on the crime issue and to openly discuss the increasing fear of crime in the Black community because of the fear that the authorities will use such public announcement to further advance their "law and order" posture.⁸⁰

Table I-14

Incarceration Rates Per 100,000 for Black Males, 1978

Rank	Location	Incarceration Rate	Rank	Location	Incarceration Rate
1	Washington	2408.6	27	Minnesota	1114.8
2	Arizona	2210.3	28	Massachusetts	1107.7
3	Alaska	2200.0	29	New York	1076.5
4	Iowa	1972.2	30	Georgia	1039.7
5	Nevada	1963.2	31	New Jersey	1006.3
6	Delaware	1961.1	32	South Dakota ^a	1006.0
7	Nebraska	1834.8	33	Missouri	1002.9
8	Utah	1775.0	34	Louisiana	975.0
9	Michigan	1734.7	35	South Carolina	954.5
10	Wisconsin	1734.2	36	Pennsylvania	879.2
11	New Mexico	1720.0	37	California	870.1
12	Florida	1577.0	38	Tennessee	845.7
13	Oregon	1520.0	39	Indiana	819.0
14	Maryland	1509.8	40	Illinois	810.3
15	Texas	1438.9	41	Maine	800.0
16	Ohio	1399.6	42	Arkansas	736.7
17	Connecticut	1378.6	43	Alabama	661.6
18	Oklahoma	1372.6	44	Kentucky	644.2
19	Idaho ^a	1301.7	45	New Hampshire	600.0
20	Rhode Island	1266.7	46	Montana	500.0
21	Maine	215.9	47	Minnesota	0.2
22	Virginia	1233.1	48	North Dakota	400.0
23	Colorado	1211.4	49	Hawaii	350.0
24	Kansas	1208.2	50	Vermont ^a	225.7
25	West Virginia	1200.0	51	Wyoming	0.0
26	District of Columbia	1118.0			

^a No estimates for the number of black males in the civilian population of these states were available for 1976. Therefore, these rates were computed from 1970 census figures. In all other cases, the source for general population statistics was Bureau of Census, "Demographic Social and Economic Profile of Stats: Spring 1976," Current Population Reports (Washington, D.C.: Government Printing Office, 1979), Series P-20, No. 334, pp. 10-18.

Source: Scott Christianson, "Our Black Prisons," *Crime and Delinquency*, Vol. 27, No. 3 (July 1981), p. 366.

The methods of implementing an offensive against crime under the slogan "law and order" have had so many negative results that "for black Americans this slogan connotes oppression, police occupation of black communities, inequitable and selective police treatment, disregard for human and constitutional rights of black citizens and continued denial of equal opportunity."⁸¹

Testimony before the Council showed that, in addition to their fear of crime, blacks have an even greater fear of the agents of the criminal justice system. Further, many expressed the belief that the criminal justice system is demonstrating only minimal effort to prevent the problem of black-on-black crime. As one witness explained:

The black community feels that the criminal justice system could care less if blacks killed blacks. We feel that the reality in this situation is that the system looks at it as just another black killed, and that is one less black for the system to be concerned with. The black community cannot help but believe that black life to the system is worthless, so why worry about it.⁸²

In short, many expressed the view that they saw four standards of justice in the United States. First, where whites commit crimes against whites, there is equal protection under the law; second, where blacks commit crimes against blacks, the courts and police are lenient; third, where whites commit crimes against blacks, whites are punished lightly, if at all, and the black complainant may expect reprisals; and fourth, where blacks commit crimes against whites, especially an offense against the person, retribution is swift and severe.

At a 1976 symposium of the nation's top-ranking black police executives, "the executives were unanimous in their belief that there is a great inconsistency in the way the law is enforced in black and white communities. Because of this inconsistency, there is a lack of trust among blacks of the police."⁸³

Black judges described racism in the courts and in the law and problems of discrimination at a 1973 workshop on the administration of criminal justice and the black community. Judge George Crockett, Jr., now a U.S. Congressman, explained the effects of increased black representation on the bench in Detroit:

As a result of this change in complexion you don't have nearly as much abuse of discretion by our judges in matters of arrest, bail and sentencing in

Recorder's Court today as you had before 1966. You don't have nearly as much police brutality. You don't have nearly as much overcharging by prosecutors.⁸⁴

The obvious underrepresentation of black personnel throughout the criminal justice system was the subject of concern and complaint by numerous witnesses before the Council. One witness stated:

When we look at the supervisory personnel of the various police departments, this picture becomes even more serious. The percentage of nonwhite sergeants, lieutenants, and captains is significantly lower than the racial makeup of the whole department. Thus, because all law enforcement personnel are white, ghetto residents view the law itself as white.⁸⁵

Witnesses maintained that the paucity of blacks in other parts of the criminal justice system was even more appalling; blacks are represented in substantial numbers only in the courthouse and prison janitorial service.

Data compiled by the EEOC demonstrate how blacks are concentrated in the lower-level jobs in both police and corrections departments.⁸⁶ Although EEOC does not provide employment data on courts, a report from the National Center for State Courts EEO project includes the findings that women and minorities are underrepresented among judicial and nonjudicial personnel in the state judiciaries.⁸⁷

After a careful review of the current operations of the criminal justice system and the racial configuration of its personnel, the Council concluded that the system as a whole, as well as each of its component agencies, is in dire need of review in order to ensure greater fairness and to increase its efficiency and effectiveness. Concomitantly, the Council urges vastly increased participation of blacks in the operation of the criminal justice agencies in all its phases and at all levels. It is essential that more blacks occupy decisionmaking positions and that they are granted the necessary resources and support to perform their task.

D. Conclusion

This chapter has discussed the problem of crime in the black community and the perceptions black citizens have about crime and the criminal justice system. The problems of both are rooted in the racism and discrimination that have permeated all social, political, economic and legal institutions in this country throughout its history. Black Americans have

been and continue to be limited in their "pursuit of happiness" in the United States. They have been the subject of oppressive laws and brutal law enforcement. They have been denied equal opportunities to more fully participate in the social and economic life in America. Their efforts to exercise their political rights have been met often with violence. Yet black Americans are expected to respect the laws that are used to oppress them. That their anger is expressed with greatest frequency against each other is a direct result of the pathology created by inhuman conditions and the history of racism and inequalities. They are forced to live in overcrowded and substandard housing in segregated ghettos. Unemployed and underemployed, they are denied the human right to work and to support themselves and their families. Finally, they are subjected to a criminal justice system which associates blackness with criminality, whose agents abuse their power by using deadly force, whose adversarial legal system works to the disadvantage of the poor, whose predominantly white judiciary disparately sentences, and whose prisons are in reality human warehouses.

The causes of crime in the black community and the inequities of the criminal justice system have been described countless times by black leaders, social scientists and presidential commissions. Crime is a despicable symptom of a cancerous disease called racism, which manifests in unequal treatment of black Americans. For those who maintain that they have "never seen a root cause," the black ghettos still exempify all the misery that one group can perpetrate on another.

The Council recommends that the government reverse its concentration on the criminal results of allowing breeding grounds of crime to flourish and focus instead on preventing crime by improving the quality of life for the inhabitants of black communities. This country has successfully proved that poverty, overcrowding and unemployment can precipitate crime waves. It is time now to demonstrate how crime, along with poverty, overcrowding and unemployment, can be reversed. This should not be the effort of patronizing white governmental missionaries, but rather blacks must participate in leadership positions in the reversal proposed by the Council. The War on Poverty, started in the Johnson administration, is the second major war which this country has lost, but, unlike Vietnam, its site remains within our boundaries and its effects continue to detract from the lives of all Americans.

In discussing the ethical choice before America regarding social justice, Dr. Martin Luther King, Jr., wrote:

We are faced with the fact that tomorrow is today.
We are confronted with the fierce urgency of now.

In this unfolding conundrum of life and history there is such a thing as being too late. Procrastination is still the thief of time. Life often leaves us standing bare, naked, and dejected with a lost opportunity. The tide in the affairs of men does not remain at the flood; it ebbs. We may cry out desperately for time to pause in her passage, but time is deaf to every plea and rushes on. Over the bleached bones and jumbled residues of numerous civilizations are written the pathetic words: Too late. There is an invisible book of life that faithfully records our vigilance or neglect.⁸⁸

This chapter then must be seen as a statement by the Council that, as citizens, blacks are due the protection of the U.S. Constitution and that the failure of the nation and its government to reduce crime and ensure an equal system of justice can only lead to the sad inevitability of "too late."

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CHAPTER II

IMPACT OF CRIME AND CRIMINAL JUSTICE ON HISPANIC-AMERICANS

Lack of representation of a cross-section of the Hispanic professional and client community on priority and policy making bodies continues to develop tunnel vision in addressing Hispanic community needs.¹

A. Introduction

There has been a dramatic increase in crime in America during the last decade--an increase that is now significantly reflected in Hispanic-American communities and that provides the context within which this analysis of crime and criminal justice practices in selected Hispanic-American communities is offered. The National Minority Advisory Council on Criminal Justice was limited in its study of this subject by the dearth of social science research on issues affecting Hispanics. A review of the literature reveals several reasons for this neglect.

First, there are only a few studies of crime in Hispanic-American communities. Most studies on Hispanics have focused on employment, educational achievement, immigration or the impact of racism. To a limited degree, there have been studies of criminal behavior within some subgroups of Hispanic Americans, especially those of Puerto Rican origin. The understanding of crime among Hispanics, therefore, can only be gleaned inferentially from these studies. In addition, there is virtually no literature addressing crime among the more recent subgroups of Hispanics: Cubans, Dominicans and those from other Central and South American nations.

The few extant studies on Hispanic Americans and crime are not very informative. The major failing of these assessments is that they are hampered by the lack of national statistics on Hispanics and the various facets of the criminal justice system. Arrests, prosecutions, convictions and incarceration rates, particularly in metropolitan areas, are dominated by black representation. Hispanics are often "invisible," despite the fact that they are now the second largest minority in the United States. Still, if accounted for at all, they are usually in the category of "other" or "white."

As Sisson pointed out in his monograph on criminal justice and Hispanics,² the low statistical profile reflects

that agencies both in and out of the criminal justice system use differing criteria for describing their populations, often preferring racial to ethnic categories. When, however, Hispanic ethnicity is used, inconsistent definitions, based on language, place of birth or parentage, often result in inaccurate statistics. The failure of many government agencies to achieve a uniform statistical definition of the composition of the Hispanic population and to present the data adequately hampers most research. Researchers, thus, often must begin by defining the population and the environment of their studies. The results have been that there is little comparability of data and methodologies for those studies.

Most of the studies that have been completed fall in two general categories: one category reflects the view that there is a unique Hispanic experience which can be understood as a result of initial differences between Hispanic and mainstream cultural assumptions, particularly those concepts of law, social control, communication patterns, and/or the result of breakdowns and transitional changes in Hispanic cultural values and supports. The other category holds the view that these cultural differences ought to be taken into account in the operations of the various criminal justice systems. A look at the implications of each set is necessary to appreciate the problems Hispanics face in the criminal justice system and to understand probable contexts for ameliorating those problems.³

When Hispanic culture is presented as a minority culture whose norms partially conflict with those of the larger culture, it is usually accepted that behavior which is "acceptable" in the Hispanic culture is considered "deviant" in the larger society. The assumption is often made that the behavioral patterns of a particular culture may not be appropriate or acceptable to the larger society and that individual members of the minority culture, ignorant of those norms of the wider society, can be expected to behave in a manner deviant to the norm. In addition, the member of the minority culture may find that he or she is automatically labeled "deviant" by virtue of the norms of his or her culture and that behavior that is "normal" to him or her is labeled as "criminal" by the larger culture. This is often the case of culture-specific activities such as gambling; religious practices such as spiritualist ceremonies; attitudes toward property, particularly communal property; and patterns of interpersonal communication.⁴ All of these activities are frequently misinterpreted and misunderstood by those not familiar with Hispanic culture.

New immigrants, aware of the differences between their culture and those of the majority, often experience ambivalence and embarrassment when they first enter the established

immigrant group whose culture they share. As a result, the attitudes and behavior patterns which distinguish earlier immigrant groups may be judged negatively not only by the majority society but also by the new immigrants themselves. The negative impact of such misrepresentations and stereotyping can be compounded and multiplied if the stereotyping can benefit the interests of the dominant group in the new society. Thus, the imported Hispanic culture is stereotyped as deviant, and, unfortunately, this label is perpetuated whenever a member of the group manifests any antisocial behavior such as the commission of a crime.

The issue of Hispanic culture in conflict with the mainstream culture is also evident in the legal system. The differences between the civil law, derived from Spanish colonial law, and the case law of the United States, derived from English common law are considerable. Spanish colonial law is based on the presupposition of the rationality of the human will. It is generally characterized by codification, the separation of public and private law which restricts equity in legal proceedings involving the state, and the historical acceptance of closed proceedings in which the judge plays the investigatory role. English common law, however, is rooted in the assumption that social control depends less on a state-imposed rationality than on the legal order which exists in nature. In common law traditions, the doctrine of precedent, the adversary system in criminal justice, the writ against illegal imprisonment (habeas corpus), and trial by jury provide a fundamental legal restriction on the power and the authority of the state and serve to provide a contrast with civil law.⁵

The two traditions present differing views of the place of power and authority within the society and different cultural responses to social control. Civil law of the Spanish colonies is based on codes; while common law is based on previously established legal principles.

For the Puerto Rican, an experience with the U.S. criminal justice system is further complicated by the legal history of his country and its influence on his culture. Puerto Rico was a colony of Spain, a civil law nation, until 1898. With the advent of American rule, the law of the State of California with its accommodation to Mexican civil law was adopted for the island in 1902. Inevitably, residual elements of civil law remained intimate to and a part of the Puerto Rican legal system. According to Sisson, a comprehensive exploration of the consequences of these cultural elements in Puerto Rico's legal system has never been made.⁶ Moreover, the cultural dilemma which these historical conditions have created within the legal system and the expectations of the population regarding changes in that system have

not yet been examined.

The second category of Hispanic studies argues that cultural considerations ought to play a part in the administration of criminal justice. However, these good intentions are seldom planned and implemented with any understanding of the various aspects of Hispanic cultures which should be considered. The consensus about the need for fair representation of Hispanic-Americans in the criminal justice system is seldom coupled with a knowledge of the role which Hispanic-Americans can and ought to play within the criminal justice system. Most often the practical need to overcome language barriers within parts of the criminal justice system diverts attention from issues such as allocation of authority to Hispanic-Americans within the criminal justice system, new arrangements for the successful treatment of Hispanic offenders and the probable roles of Hispanic law enforcement officers as a critical link between law enforcement agencies and Hispanic communities.

The courts increasingly are weighing the issue of culture in considering the admission of evidence, the determination of innocence or guilt and the criminal sentence to be rendered. The opinions of expert witnesses from the fields of psychology, sociology and other areas of social science are being accepted by jurists. However, social investigations and theories rest on sets of assumptions and values which may be restricted and/or limited to schools of thought, rather than on the evidence of the physical and natural sciences. Still, the recognition of new kinds of information by the courts is a subtle acknowledgment that, even when bound by the rational formula of common law procedure, judicial judgments are based on relative, rather than absolute, truth.

There are strong grounds for taking cultural factors into account in administering justice, but to do so requires a framework within which the relationship between the Hispanic communities and the criminal justice system may be understood. Gaps in knowledge by criminologists and practitioners about the experience of the various Hispanic communities, absence of an accepted set of definitions for the Hispanic community, absence of a system for the collection of data about those communities by law enforcement agencies at all levels, absence of an understanding of the role which Hispanic officers should and might play within the criminal justice system, and absence of any knowledge about social science data relative to Hispanic culture are appropriate for admission as evidence in criminal justice proceedings. But it is appropriate these issues must be addressed individually and collectively before a cohesive framework from which the interrelationship of the criminal justice system and Hispanic

communities may be understood.

This chapter presents an analysis of the impact of crime on Hispanic-American communities. It consists of four major sections. The first section is a historical overview of the Hispanic experience with particular focus on events that have affected the nature and extent of crime among Hispanic-Americans. The interrelationship of racial/ethnic antagonisms and economic conditions and the manner in which they influenced the everyday life situations of Hispanics are examined.

The second section deals with the problem of Hispanic crime, as presented in available official statistics. The statistics, however, should be viewed with caution, given the limitations that were noted previously. The seemingly low arrest rates and prison commitments of Hispanics, when compared with those of blacks, are not accurate indicators of crime in Hispanic communities, but they may well reflect the confluence of defects in the definitional/reporting system of criminal activity and the attitudes of Hispanics toward the role of law enforcement in their everyday lives.

The third section provides a more comprehensive analysis of crime in Hispanic communities and examines the impact of crime in selected communities: Puerto Rican, Cuban, and Mexican. The analysis is based on testimonies by citizens before the NMACCJ public hearings, in-depth interviews with valid sources, including local officials and community people, as well as information from newspapers and local police records.

The fourth section discusses the conflicts between Hispanic communities and enforcement agencies. This section delineates the use of deadly force by law enforcement agencies against individual Hispanics, the apparent disregard of the civil liberties of citizens in Hispanic communities by local law enforcement agencies and the seeming unwillingness of local and state governments to address the conflicts between Hispanic communities and law enforcement agencies. This issue is important in that it calls into question the very issues raised earlier about perceptions by Hispanics and the larger community of Hispanic culture, the operation of Hispanic culture and the probable behavior of individual members of Hispanic culture as they interact with the larger society.

B. The Hispanic Experience in the United States

This section is a historical overview of the major Hispanic communities in the United States. The purpose of this section is to highlight the relationship between racism and

crime. Since there already exists literature that provides a more comprehensive account of Hispanic history, the following discussion is limited to events of the Mexican, Puerto Rican and Cuban experiences in the United States. It also analyzes the forces behind these key events and interprets their significance with respect to crime and criminal justice. This interpretation is intended to provide a perspective within which one may understand crime and its related impact on present-day Hispanic communities.

An understanding of terms, however, is necessary initially. The term Hispanic is a relatively new one.⁷ It has been used increasingly in the media and in general discussion as an easy way to refer collectively to a growing number of Spanish-origin or Spanish-speaking people in the United States. At one time it most often designated Mexican-Americans in the Southwest and Puerto Ricans in the East. Later, it was applied across the country to people whose connection to Spain or to a former Spanish possession was distant or recent. In local and national politics it helped forge a common sense of purpose and unity among groups that differ widely among themselves. The term Hispanos properly refers to the fourth- and fifth-generation descendants of the colonial Spanish largely concentrated in New Mexico and Texas.

As now used, the term Hispanic combines the following ethnic groupings:

- o All persons of Mexican descendant, whether recent arrival or long-term resident and citizen;
- o All Puerto Ricans, mainland or island; and
- o All immigrants from Central and South American countries.⁸

Though referred to as Hispanic, the group represents a variety of ethnic groupings who speak languages other than Spanish. Some, as in the case of Brazilians, speak Portuguese; others, as in the case of those from French Guiana, speak French; and others, as in the case of those from Surinam, speak Dutch.

One cannot reasonably talk about crime and criminal justice and their impact on Hispanics without separately discussing the experiences of each ethnic group. Such a task is quite complex and beyond the scope of this chapter. Thus, the abbreviated histories presented in this analysis are of the largest subgroups within the population called Hispanics.

1. Mexicans in America⁹

The first large group of Mexican Americans, some 80,000, came to the United States as victims of conquest and annexation following the acquisition of territory in the Southwest and the U.S.-Mexican War. Between 1845 and 1854, the United States acquired about half the territory formerly belonging to the Republic of Mexico, including all or part of the present states of Arizona, California, Colorado, Nevada, New Mexico, Texas, Utah and Wyoming. During these early years, the Mexican-American population of this area grew slowly until the beginning of the twentieth century, when immigration from Mexico soared. With one of the highest birthrates in the nation, the group grew rapidly from natural increase as well. In the 1960s, for example, the Mexican-American population of the United States rose by 32 percent, two and a half times the rate of the U.S. population.

Perhaps the most perplexing and misunderstood general characteristic of Mexican-Americans is that of race. In the United States people tend to be placed in simplistic racial categories without allowances for racially mixed groups or individuals. Chicanos, as Mexican-Americans are more popularly called, are not a race, but a multiracial group principally of Spanish and Indian, and to a small degree, African heritage. The solution adopted by the Census Bureau in 1970, making Mexican-Americans a subcategory of Caucasians, is a distortion of the heavy Indian ancestry. However, placing them in the Indian category would also be incorrect, as most have some Spanish ancestry and a few are of purely Spanish-American extraction. A brief review of history reveals the multiracial characteristics of this subgroup.

Before the seventeenth century the American Southwest was dominated by American Indian groups, each with its own culture and society. Throughout the sixteenth century, periodic expeditions from central New Spain (from which the nation of Mexico later emerged) penetrated the area and developed knowledge of its geography and inhabitants. At the end of the sixteenth century, the region that is now New Mexico became the first target for colonization, followed by the areas that are now Arizona, Texas and California.

In general, the colonies developed in relative isolation. It was not until the Old Spanish Trail between Santa Fe and Los Angeles was established in 1829, eight years after Mexico had won its war with Spain, that communications among them became regular and frequent. The region's economy was based on agriculture and livestock. In contrast to central New Spain, the colonists found little mineral wealth and few agricultural Indians for cheap labor. Most of the colonists became farmers or ranchers and worked either their own land

or that of other colonists.

From 1821 to 1846, northern Mexico experienced a major change: the coming of the Anglo-Americans. Anglo trappers used New Mexico as a base and Anglo merchants settled in Santa Fe and Taos. California also attracted trappers and traders, who often remained there to live. In both New Mexico and California, many of these settlers eventually married Mexican women, became Mexican citizens and obtained land grants from the Mexican government. In contrast, the overland pioneers who settled in the Sacramento Valley of northern California brought their families, stayed to themselves, and resisted integration into Mexican society. It was this group that ultimately rebelled in 1846 against their Mexican hosts and formed the short-lived secessionist "Bear Flag Republic" in California.

Texas was different; Anglo-Americans remained a minority in New Mexico and California but not in Texas. They flooded into east and south Texas and, by 1835, outnumbered the Mexicans by six to one. The earliest of these Anglo settlers was given a land grant by the government of New Spain in 1821. In obtaining land grants, Anglo immigrants agreed to become Mexican citizens, obey Mexican laws, accept the official Catholic faith, learn Spanish, and take steps to become fully assimilated into Mexican society. However, over the years, it became apparent that the settlers did not want to become integrated into Mexican society. The Mexican government countered with a series of restrictions that reflected the desire for increased centralization of authority. The strains and disagreements led to the Texas Revolution of 1835. The outcome was that the Anglos won and formed the Lone Star Republic. The republic joined the nation as the state of Texas in 1845.

Shortly after the annexation of Texas, there was the U.S.-Mexican War of 1846-1848. Tensions between the two countries had developed because of U.S. expansion on the Pacific Coast. After a series of battles fought throughout most of northern and central Mexican territory, and after American troops had captured Mexico City, the capital, the Treaty of Guadalupe-Hidalgo was drafted. The treaty recognized U.S. possession of northern Mexico, which included about one-third of Mexico's territory, not including Texas. In return, the United States agreed to pay Mexico \$15 million and to assume up to \$3.25 million in claims by U.S. citizens against the Mexican government.

The treaty did not solve all boundary problems, for the United States realized that the Mesilla Valley, now in southern Arizona and New Mexico, was needed for the southern route of the U.S. transcontinental railroad. Financially

pressured, the Mexican government sold this 30,000 mile strip to the United States for \$10 million, as ratified in the Gadsden Treaty of 1854.

The 2,000 mile U.S.-Mexican boundary had played a major role in Mexican-American history. Mexican immigration into the United States during the second half of the nineteenth century was on a modest scale, compared to developments in the twentieth century. However, the California gold rush attracted many Mexicans to California, primarily from the state of Sonora. After working the gold mines, the miners often remained in the United States instead of returning to Mexico. Tucson, Arizona, became a magnet for Mexican workers. The growth in the cattle, sheep, cotton and vegetable industries in Texas during the last part of the nineteenth century attracted Mexicans from the border state of Coahuila and also from many of the distant ones. The 1890 Census counted more than 75,000 Mexican-born immigrants in the United States, a figure which did not include either those born in the annexed areas before the conquest or those born in the United States.

Social and economic changes in both countries were critical to the migration of Mexicans during the twentieth century. The development of mining and industry in northern Mexico, as well as the north-south railroad lines, attracted large numbers of Mexicans to the north. The new industrial, mining and railroad skills they learned were useful when many later migrated to the industrial areas of the United States, and the railroad provided quick and easy transportation for the Mexicans to various parts of the United States.

The responses of Americans to Mexican immigration varied. Most people, particularly outside of the southwest, were not aware or concerned about this phenomenon. Social service organizations, charitable institutions, Catholic and Protestant churches and some government agencies attempted to ease the immigrants' difficult transition. Members of the country's industry and agriculture communities generally supported open immigration from Mexico because it increased the labor pool. However, opposition to Mexican immigration grew throughout the 1920s, particularly from groups such as city chambers of commerce, local welfare agencies, nativist organizations and labor unions. Such opposition ultimately became a part of the national debate over immigration policy. The establishment of the Border Patrol under the U.S. Bureau of Immigration in 1924 was a response to this debate.

The end of the Depression and the coming of World War II reversed the migration flow again. Wartime expansion of the U.S. armed forces and war industries created a labor shortage, and Mexican workers were again welcomed. These

conditions not only generated a growth of immigration but also helped to create Bracero Program. Initiated in 1942 by a U.S.-Mexican executive agreement, the program provided for Mexican braceros (laborers) to enter the United States as short-term contract workers, primarily in agriculture and transportation. Before the program ended in 1947, an estimated 200,000 braceros worked in 21 states, about half of them in California. The program was reenacted by Congress in 1951, largely because of agricultural shortages created by the Korean War, and continued until 1964, peaking in 1959 when nearly 450,000 braceros entered the United States. In 1960, they formed 26 percent of the nation's seasonal agricultural labor force. Even after the termination of the program, Mexican workers could enter the United States by such mechanisms as the "green cards" that permit temporary employment.

World War II brought increased tensions between Mexicans and law enforcement agencies. Two events in Los Angeles brought this issue into focus. In the Sleepy Lagoon case of 1942-1943, 17 Mexican-American youths were convicted of charges ranging from assault to first-degree murder for the death of a Mexican-American boy discovered on the outskirts of the city. Throughout the trial, the judge openly displayed bias against the accused youths and allowed the prosecution to bring in racial factors. Further, the defendants were not permitted haircuts or changes of clothing. In 1944, the Sleepy Lagoon Defense Committee obtained a reversal of the convictions from the California District Court of Appeals, but the damage had been done. Los Angeles newspapers sensationalized the case and helped to create an anti-Mexican atmosphere, police harassed Mexican-American youth clubs and repeatedly rounded up Mexican-American youth "under suspicion."

In addition, at this time tensions and conflicts arose between U.S. servicemen in the area and young Mexican-American youths, many of whom were dressed in "zoot suits," which were popular at the time. Soldiers and sailors attacked the youths on the streets, even dragging them out of theaters and public vehicles. Instead of intervening and stopping the attackers, local police moved in and arrested the Mexican-American victims. Spurred on by the sensational anti-Mexican press coverage on the "zoot suit riots," these assaults spread throughout southern California and even into midwestern cities. A citizens' investigating committee appointed by the governor of California reported that racial prejudice, discriminatory police practices and inflammatory press coverage were the principal causes of the riots.

As was the case for most groups of Americans, Mexican-Americans experienced many favorable socioeconomic changes

during the post-World War II period. Despite racial and other tensions, individuals within the various minority groups benefited from legislation such as the G.I. Bill. And, through such legislation, many individuals within the Mexican-American communities benefited and achieved higher socioeconomic status. However, such gains did not bring full equality for Mexicans. According to the 1970 census, the percentages of Mexican-Americans in professional, technical and clerical positions have increased, yet Mexican-Americans still fall far short of parity with their numbers in the general population. Moreover, within nearly every major occupational group, Mexican-Americans hold inferior jobs as compared to whites, and their earnings within the same job classifications are lower than those of Anglos. The 1970 census indicated that the percentage of Mexican-Americans in professional and technical positions was less than half that of the total population. People with Spanish surnames composed 0.9 percent of the lawyers and judges, 1.1 percent of the dentists, and 3.7 percent of the physicians in the United States. Mexican-Americans owned less than 1.0 percent of all businesses with gross profits of less than 0.2 percent of the national figure.

Mexican-Americans, however, are overrepresented in unskilled and farm labor. In 1970, Mexican-American men worked in farm labor at more than three and a half times the rate of the general U.S. male population, and Mexican-American women held such jobs at nearly five times the rate of women in the overall work force. Income figures also reflect this disparity. The income of Spanish-surnamed persons in the Southwest as compared to Anglo-Americans rose from slightly more than 57 percent in 1949 to almost 62 percent in 1959. From 1959 to 1969 the median income of families with Spanish surnames in the Southwest as compared to the median for Anglo-American families barely inched from 62 percent to 66 percent. Moreover, while Spanish surname families made gains in this period in four southwestern states, including a jump from 57 to 67 percent in New Mexico, in California they dropped from 73 to 70 percent of the Anglo family income.

The unemployment rate for Mexican-Americans has remained consistently greater than that of Anglos. Mexican-American women who are heads of households are at an even greater disadvantage than are women of other races; in 1974, their family income averaged only \$4,390, whereas female-headed families nationally had an average income of \$6,415. Nearly half of all families headed by Mexican-American women fell below the poverty line.

The unequal economic conditions are also reflected in educational statistics. Before 1920, only 9 percent of Mexican-American men graduated from high school. By the mid-

1960s, the figure was 38 percent for the Mexican born and 56 percent for second-generation Mexican-Americans. Still, in 1970 Mexican-Americans over 25 years of age averaged less than 9 years of schooling, compared to more than 12 years for Anglo Americans. The U.S. Commission on Civil Rights reported in 1971 that in the five southwestern states 86 percent of Anglos, 67 percent of blacks but only 60 percent of Mexican-Americans had completed high school. This gap widened at the postsecondary level, with 24 percent of the Anglos, 8 percent of the blacks, and 5 percent of the Mexican-Americans graduating from college. Hispanic-Americans received 254 doctorates in 1973-1974, only 1.1 percent of the national total. In the year 1976-1977, Mexican-Americans made up only 1.5 percent of the first-year students in U.S. medical, dental and American Bar Association-approved law schools.

Historically, Mexican-Americans have encountered educational segregation and deprivation. A six-volume study of Mexican-Americans in education published in the early 1970s by the U.S. Commission on Civil Rights showed that Mexican-American schools tended to have lower expenditures per student than Anglo schools and were physically inferior, less well-supplied and less favorably staffed. Mexican-American children have been excessively and incorrectly assigned to classes for the mentally retarded, and they have traditionally been tracked into vocational rather than college preparatory programs.

How do these factors relate to crime and the criminal justice system in the Mexican-American experience? As has been shown, the criminal justice system and the laws on which it is based have been used in a systematic way to deprive Mexican-Americans of their rights. Beginning with the early expansionist period in U.S. history, Mexicans and later Mexican-Americans found themselves required to fight for their rights, despite Anglo pronouncements that the foundation of the American legal system was based on equality for all. In addition, despite major contributions to the development of economic growth of the United States, especially in the Southwest, Texas and California, Mexican-Americans have been denied educational and economic opportunity in the larger spheres of American life.

Consistently, commissions and other study groups have found that Mexican-Americans have been victimized by law enforcement agencies. Stereotyped as different, as in the zoot suit cases of the World War II era, these stereotypes are still perpetuated, and Mexican-Americans still find themselves victims of law enforcement agencies. The 1970 report of the U.S. Commission on Civil Rights on Mexican-Americans and the Administration of Justice in the Southwest documented

unequal treatment by law enforcement agencies and the judicial system. Among the widespread abuses cited in the Commission's report and other studies are the lack of bilingual translators in court proceedings; underrepresentation of Mexican-Americans on grand juries, as judges and as law enforcement officers; unequal assignment of punishments and probations to convicted Mexican-Americans; excessive patrolling of Mexican-American communities; anti-Mexican prejudice among police and judicial officials; and wrongful use of law-enforcement agencies in the search for undocumented aliens.

2. Puerto Ricans in America¹⁰

According to the 1970 census, Puerto Ricans living in the continental United States represented one-third (1,491,463) of the total Puerto Rican population; the remaining 2,712,033 lived in the Commonwealth of Puerto Rico. Slightly over half (54.8 percent) of those in the United States live in New York City, which has the largest Puerto Rican population of any city in the world (817,712), compared with 463,242 in San Juan, Puerto Rico's capital and largest city. Chicago has the second largest U.S. community with 78,856. Smaller settlements can be found in Philadelphia and Newark (about 26,000 each) and in other cities in New Jersey, California, Connecticut, Massachusetts and Ohio.

Puerto Ricans have been U.S. citizens since 1917 and, therefore, can travel freely between the island and the mainland. But because the island's language and culture are foreign to most of the mainland Puerto Ricans, immigration involves a cultural transition very much akin to that of immigrants from Europe or Asia. Puerto Ricans have not gone in large numbers to the Southwest, where an old and large Spanish-speaking population is already established; their problems are those of urban-based immigrant minorities. On national issues, they find themselves a minority among Spanish-speaking Americans. Mexican-Americans dominate in numbers and in influence.

Puerto Rico is a Caribbean island 100 miles long and 35 miles wide, situated about 1,000 miles southeast of Florida. Discovered and claimed for Spain by Columbus in 1493, it remained a Spanish colony and was mainly a military outpost until 1898. When discovered, the island was inhabited by Indians called the Tainos, most of whom died out after the Spanish conquest. The predominant elements of Puerto Rican culture, however, remain those of the Spanish colonizers. Little of the Taino culture survived, although Indian physical features can still be seen on the faces of some of the inhabitants. African influence has been more substantial. Intermarriage and sexual union have resulted in

a varied population ranging in color from completely Caucoid to completely Negroid, with many variations in between. However, the language is Spanish, the common religion Roman Catholic, and the cultural patterns and social relations are Spanish colonial.

After the Spanish-American War, Puerto Rico was given to the United States by the terms of the Treaty of Paris (1898). There followed a brief period of military occupation, and in 1900 the United States granted its island possession a measure of local government under the Foraker Act. This arrangement lasted until 1917 when the Jones Act, passed in reaction to pressures for independence and widely resented by Puerto Ricans, unilaterally declared Puerto Ricans to be citizens of the United States unless they explicitly refused it. In 1946, the United States appointed Puerto Rico's first native-born governor; in 1947, the Elective Governors Act authorized the popular election of a governor; and in 1948, Luis Munoz Marin, founder of the Partido Democratico Popular (Popular Democratic Party), was elected the first governor of Puerto Rico.

In 1950, the U.S. Congress passed the Puerto Rican Federal Regulations Act enabling Puerto Ricans to draft their own constitution, so long as its provisions did not exceed the limitations placed on an incorporated territory of the United States. The constitution could not provide for independence or statehood. The constitution, which was drawn up and approved by the Congress and accepted by a Puerto Rican referendum, designates Puerto Rico as a "free associated state" or "commonwealth." It remains subject to most U.S. laws, including federal conscription. Its citizens cannot vote in U.S. elections and have no representation, aside from an elected resident commissioner who sits with the Congress but has no vote. As a result, however, they also pay no federal taxes.

It should be mentioned, however, that the varying political parties in Puerto Rico have been formed along lines related to their position regarding the desired status of Puerto Rico. In 1953, the General Assembly of the United Nations categorized Puerto Rico as a possession that had already been given the right of self-determination through its commonwealth constitution and should therefore not be identified as a non-self-governing territory. The island's independence parties continued to challenge this decision. In the fall of 1977, the three major political parties came before the U. S. Committee on Decolonization to protest its limited autonomy. The issue of the future political status of Puerto Rico still continues to be an explosive one on the island.

The first Puerto Ricans came to the United States in the

nineteenth century as political exiles, seeking a base in New York from which to work for independence for the island. The first, mostly political immigrants, returned home after the island had become a U.S. possession. There they assumed the leadership of the various political movements that marked the island's history. However, they were soon replaced in the United States by other mostly poor islanders who came looking for work. Between 1898 and 1940, the number of Puerto Ricans who came to New York seeking employment already constituted a major portion of the city's population, more than 61,000 people. From them, others soon learned of economic opportunity on the mainland, and many came knowing that they could count on the hospitality of the earlier arrivals.

After World War II, a massive migration from the island to the mainland occurred. Most of those who came were young, unemployed or underemployed workers seeking economic opportunity. Contract farmworkers constituted the first post-World War II wave of immigrants. Beginning in the mid-1940s an average of 20,000 contract farmworkers came to the mainland every year. Some of them stayed, moved to whatever city was closest to where they could work, and became permanent residents. The numbers have decreased only in recent years.

With the development of cheap air travel in the late 1940s, it became possible to fly from the island to New York City in six hours for less than \$50. The scale of migration and travel increased dramatically, by 1973 close to 5 million people a year were making the journey back and forth from the mainland. While some were tourists or people on private or government business, the great majority were coming or going to visit family or were in search of jobs.

By far the largest Puerto Rican settlement on the mainland is New York City and its environs. New York is where Puerto Ricans first settled, and it continues to be the most important and influential of Puerto Rican settlements on the mainland. The Puerto Ricans first came to Brooklyn and settled in the area around the Navy Yard during and after World War I. By 1930 East Harlem had become a larger Puerto Rican community and had acquired the name El Barrio (the neighborhood). It is still the area most clearly associated with Puerto Ricans in New York City.

The Puerto Rican population is very young: 48 percent was below 20 years of age in the 1970 census. In the 1974-1975 school year, 253,000 Puerto Rican children were enrolled in the public schools of New York City or 23 percent of the total school enrollment. As these children reach marriageable age and begin to raise families, the rapid increase in their numbers will probably make them one of the largest ethnic groups in the city, assuming that the majority of them

remain in the city.

In New York City, as elsewhere, Puerto Ricans face problems common to most immigrant newcomers: poor housing, menial jobs, economic exploitation, unemployment, poor health, and handicaps of language and limited education. They came to New York just as the unskilled jobs by which newcomers once sustained themselves were disappearing from the marketplace. New York City lost 500,000 jobs between 1970 and 1976, and large areas of the city have fallen into a state of deterioration and decay, while neighborhoods, such as the South Bronx, have been almost totally burned down, making stable residency impossible for many of its residents.

Two major problems faced by members of Puerto Rican communities are poverty and lack of education. Puerto Ricans as a group are the poorest citizens in New York City. Their median family income in 1970 was \$5,575, lower than the \$7,150 black median and little more than half the citywide median of \$9,682. One-third of Puerto Ricans live below the poverty level. Thirty percent were receiving public assistance in New York in 1970, somewhat higher than the 25 percent receiving public assistance nationwide. Since the mid-sixties their relative income position has deteriorated; family earning increased by 13 percent between 1959 and 1969, but the increase for New York families generally was 26 percent. They are also the poorest of Hispanic groups in the United States, with a median family income in 1974 more than \$1,800 below that of Mexican-Americans. Still, the situation is better than it would be if they were on the island of Puerto Rico, where the median income for families in 1970 was \$3,063, or \$2,500 lower than on the mainland.

Several reasons have been suggested for the persistence of poverty among Puerto Ricans. Puerto Ricans came to the mainland without the skills necessary for white collar jobs; many did not know English; their schooling did not prepare them for the technical nature of the labor market; they migrated to large metropolitan eastern cities where job opportunities for unskilled labor were declining; and many are also victims of racial discrimination. Unemployment is consequently higher than it is among other groups. Only 48 percent of Puerto Ricans 16 years of age and older were in the labor force in New York City in 1970, compared to 57 percent for the total population, partly because fewer Puerto Rican women over 16 years of age were in the labor force, in contrast to 40 percent of women in the total population. Puerto Rican women have more children, and earlier, than the population as a whole. In addition, many become discouraged at not finding work and eventually simply drop out of the labor force. The large proportion of women (28 percent) who are the head of families, many of which include small children,

rely on public welfare for a subsistence income. If they are employed, it is likely to be in a poorly paid, menial job. Family income lags even if the wife does work. In New York City, a Puerto Rican couple's combined median income is comparable to that of an average non-Puerto Rican, New York family with only one wage earner.

Second-generation Puerto Ricans are doing better than their parents. The 1970 Census reports 7 percent of second-generation men in professional and technical positions in contrast to only 3 percent of the first generation; 30 percent of the second-generation men are in clerical and sales as opposed to 17 percent in the first; for women in clerical and sales employment, the advance is from 32 percent in the first to 66 percent in the second.

Even at the highest occupational levels, Puerto Ricans are at a disadvantage. Those in professional and technical positions in the New York area in 1970 had median annual incomes \$800 lower than blacks in similar positions and \$4,500 lower than the average for the total population primarily because they are recent arrivals and do not have many high earners at those occupational levels.

Puerto Ricans also have a much lower educational level than the American average. According to the 1970 census, they had completed a median of 8.6 years of schooling by age 25, compared with the norm of 12.1 years. Few ever finish college--2 percent, compared with 10 percent for the nation. They also have one of the highest dropout rates of any group in the United States. In 1970, 18 percent of Puerto Rican males 18 to 24 years of age were still enrolled in school compared with 38 percent in the total population. The proportion of Puerto Rican college freshmen in the United States dropped from 0.6 percent in 1971 to 0.1 percent in 1973.

The islanders came from a culture where color has little meaning to one where it means a great deal, and in New York City they live with the largest number of blacks in any U.S. city. The U.S. census continues to sort Puerto Ricans in the United States into categories of white and Negro. Puerto Ricans have numerous terms designating gradations in color, and the general term "Negro" is rarely used (Negra and Negrita are terms of endearment for anyone of color). The term de color (a colored person) is the most common. Moreno in Spanish-language newspapers usually describes an American black as opposed to a colored Puerto Rican. The most common term for people of in-between color is trigueno, Indio if the person has Indian features. Grifo refers to people with kinky hair, but light skins; pelo malo (bad hair) is more or less equivalent. Discrimination among Puerto Ricans centers more on class than color. Among the poor especially there is

an ease of social interaction between classes very different from the black experience in the United States. Prejudice exists in Puerto Rico, but it is not as overt and pervasive as it is on the mainland.

When Puerto Ricans come to the United States, the shock of discrimination is a major source of tension, and one for which they are not prepared. The intermediate designation of trigueno disappears; people are identified either as "white" or "black." They quickly learn that being white makes things easier. In studies of Puerto Ricans, as well as in their own writings, color is repeatedly mentioned as one of the most serious problems of adjustment they have to face. Some expect that Puerto Ricans will eventually split into two groups: those who can win acceptance as white will assimilate into the white community; those who are identified as black will join the black community. As yet, this has not happened.

Puerto Ricans, however, make a sharp distinction between Puerto Ricans who are de color and American blacks. Tension exists between the Puerto Rican and black communities. This antagonism centers largely on issues of politics and community control over institutions and access to public funds, and it is reflected in the persistent street violence between the two groups that is common where they live.

Many Puerto Ricans arrived on the mainland when the black Civil Rights Movement and, later, the black power movement were in the forefront. This created problems for Puerto Ricans, for they were faced simultaneously with the fact of racial prejudice and the ambiguities it created for them as a racially mixed group.

How does this experience affect the Puerto Rican experience with the criminal justice system? As stated previously, the Puerto Rican experience has been filled with a set of negative circumstances. Like most of the immigrants who came to the United States, they came looking for economic advancement. However, several factors converged to depress their aspirations for a better life. The major waves of immigration came at a time when the economic character of the older cities on the eastern seaboard to which they were drawn was changing dramatically. Their youth and low levels of education combined to negate their participation in the better jobs which were available. Their difficulty with English also inhibited their fuller participation in the economic life of the cities in which they settled. Any one of these factors is sufficient to depress substantially any gains in the economic arena; combined, they have acted absolutely to restrict and restrain the socioeconomic level of Puerto Ricans far below that of other Hispanic subgroups.

What has emerged is a group of people fighting overwhelming odds. Out of poverty and frustration, the young, unskilled and poorly educated Puerto Rican males have sought alternatives for economic survival. For many, this has meant a life of criminal activity; usually one involving drug traffic. Recent studies of the Puerto Rican experience with the criminal justice system have drawn this profile as typical of the Puerto Rican offender, and, as these studies have also indicated, their participation in the criminal justice system is growing at levels disproportionate to their numbers in the population as a whole. The specifics of the criminal activity and experience with the criminal justice system are addressed in the last two sections of this chapter.

3. The Cuban Experience in the United States

Cubans, for the most part, have come to the United States relatively recently; only in the 1970s did they begin to have a visible cultural and economic impact on the cities where they settled in large numbers. The number of persons of Cuban origin or descent residing in the United States in 1977 was estimated at 681,000 by the U.S. Bureau of the Census. Less than 20 years earlier, there were not more than 50,000 Cubans in the United States, less than 8 percent of the 1977 estimate.

Although most of the Cuban immigrants have lived in the United States for less than 20 years, Cuban immigration has a long history. As early as 1831, Cubans were living in Key West, Florida, where a small Cuban-owned cigar factory employed 16 craftsmen. Later, during the decline of Spanish colonial rule of Cuba, some Cubans looked to the United States as a place of refuge. There was substantial migration just before, during and after the Cuban struggle for independence from Spain in the late nineteenth and early twentieth centuries. Many of the immigrants were also cigar makers. From 1868 to 1878, the immigration of tobacco workers increased as the anti-Spanish struggles devastated tobacco plantations, especially in the eastern part of the island.

From the beginning of the twentieth century until the Cuban Revolution of 1959, immigration fluctuated according to the changing political and economic conditions on the island. In the late 1950s, during the last years under dictator Fulgencio Batista, Cubans migrated to the United States at an estimated rate of 10,000 to 15,000 annually. Those who immigrated prior to the revolution of 1959 were a heterogeneous group, including members of the ruling elite who were out of favor at the time, other politically or socially alienated persons, and unemployed persons seeking employment.

Immediately after the overthrow of Batista's government by the rebel forces led by Fidel Castro, some people who were closely associated with the Batista government fled to the United States. The immigration did not really start in earnest until 1960, when the new Cuban government made it clear that Cuban society was to be restructured. More than 155,000 Cubans immigrated to the United States between 1959 and 1962. This was facilitated in great part by U.S. hostility toward the rebel government. The U.S. government granted Cubans refugee status, which allowed an unlimited number to enter the nation despite the Cuban immigration quota. Some entered the country with immigrant visas granted by U.S. embassies in a third country or in Cuba prior to severed relations with the United States. Most entered with temporary visas and had parolee status until 1966, when a procedure was established by which they could become permanent residents.

The suspension of direct flights from Cuba to the United States lasted more than three years. During that time, immigration slowed considerably. Nonetheless, 30,000 Cubans arrived in the United States during that period. The immigration rate increased, again, however, after President Johnson's administration signed a "memorandum of understanding" with the Cuban government in December 1965, which established an airlift between Varadero and Miami. These daily flights brought some 257,000 Cubans to the United States between December 1, 1965, and December 31, 1972. The airlift ended in 1973.

More recently, as a result of agreements between the Carter administration and the Castro government, Cuban refugees have been allowed into the country. Inadequate preparation for the large number of those wishing to come to the United States and the need to provide temporary shelters in abandoned military bases throughout the Southeast have resulted in conflicting estimates of the number of Cuban refugees who have remained in the United States. Some, unable to find sponsors in the United States, have expressed the desire to return to Cuba.

Cubans arriving after the 1959 revolution have been labeled exiles or political refugees, because their immigration was in response to the changes in political life on the island. The socioeconomic characteristics of such exiles are very different from those who came seeking better employment. The latter are usually drawn disproportionately from the less-advantaged and less-skilled segments of the society, while exiles are almost always members of somewhat more privileged classes.

In Cuba, between 1960 and 1962, a capitalist system was replaced by a socialist political and economic order,

resulting in the emigration of the upper and upper-middle classes: professional, managerial, entrepreneurial, commercial and landowning. The revolution also alienated people who were less affluent. Cubans who came to the United States later, after more than a decade of socialism, were noticeably different; people of lower-middle class and blue-collar backgrounds predominated. As a result, Cubans living in the United States have come more and more to reflect the Cuban population as a whole, although the upper levels are still overrepresented, and the rural poor, in particular, are underrepresented.

Because of the relationship between class and race in prerevolutionary Cuba, whites are also overrepresented in the immigrant population. In the Cuban census of 1953, approximately 72 percent of the population was classified as white; in the 1970 census, almost 95 percent of the Cubans in the United States identified themselves as white. Socioeconomic selectivity in America explains most of this difference, but, in addition, black Cubans were probably less likely to emigrate because their perception of race relations in the United States is less satisfactory than that of socialist Cuba.

Cuba's revolutionary leaders emphasize their achievements in ensuring racial equality and describe the United States as oppressive and exploitative of black people. There is evidence that these claims are supported by the experiences of black Cubans in the United States. In Miami, black Cubans experience housing discrimination even in predominantly Cuban neighborhoods. Significantly, the majority of all Cubans in the United States live in the South, while the majority of black Cubans live in the Northeast. Black Cubans are discriminated against both as racial and as ethnic minorities; they are cut off from their ethnic group and, at the same time, isolated by language and culture from other black Americans.

Asian-Cubans represent another racial minority; most of these are of Chinese ancestry. The 1953 Cuban census data listed 16,657 people, or 0.3 percent of the population, as "unmixed persons of the yellow race." The 1970 U.S. census indicated that about 2 percent of the U.S. Cuban population was of Asian extraction. This representation of Chinese Cubans is probably a result of their role in the economy of Cuba; most of them were either small entrepreneurs or engaged in service occupations, two categories which were eliminated or curtailed by the socialist government.

The 1970 U.S. census found Cubans living in every state except Wyoming and Vermont. Despite this broad geographical dispersal, most Cubans were found in a few metropolitan

centers; 99 percent were urban dwellers in 1970. Metropolitan Miami (Dade County) is the major center of Cuban residency. In 1970 more than 40 percent of all Cubans in the United States lived there. Most of the rest are in New York City, Jersey City, Newark, Los Angeles, and Chicago--all of which are large centers for other Spanish-speaking peoples.

The distribution is somewhat attributable to the policy of the U.S.-Cuban Refugee Program. Since its inception in February 1961, the program sought to minimize the impact of the Cuban influx on the Miami community by encouraging resettlement outside of southern Florida. The program provided sponsors, if the refugees had no family ties in the community, as well as job contacts and temporary assistance. Between January 1961 and December 1972, almost 300,000 Cubans were settled away from Miami, but many returned.

In the past few years, a substantial number have returned to Miami after having acquired job skills, training and experience somewhere else. Because of the large Cuban community, the climate and other considerations, most Cubans want to live in the Miami area. The skills they have acquired elsewhere, combined with the growth of southern Florida, make it relatively easy for them to find employment. Those who resettle permanently in other areas of the country are likely to be in technical or professional occupations; the Cuban population elsewhere in the United States has more education and a higher average income than the population in Florida. Given the most recent wave of immigration in 1980, in which the majority of Cuban refugees were low-income individuals with few job skills, it is too soon to determine how this most recent influx will affect the character of the Cuban community in Miami and other communities across the United States where Cubans have settled.

The economic profile of the Cuban community is mixed, though much publicity has been given to the few rags-to-riches experiences. In 1976, the median income of Cuban families in the United States was \$11,773, more than \$3,000 below the median for U.S. families as a whole. Only 15.4 percent of Cuban families earned less than \$4,000 a year, a higher proportion than that of all Spanish-origin families. However, as a group, Puerto Ricans have the lowest median family income of all Spanish-origin families.

Most Cubans hold clerical, semiskilled or service jobs, and their unemployment rates are higher than that of the total U.S. labor force. On the other hand, Cubans in the Miami area have helped to revitalize the economy there. They have created jobs through their business enterprises, and politicians and businessmen in the Miami area are aware that they are important producers and consumers.

American Cubans are fairly well-educated. More than 51 percent of those over 25 years of age have completed four years of high school or more, and nearly 15 percent are college graduates, reflecting the nature of the migration and the compulsory education in the United States. The value that Cubans attach to success leads them to encourage their children to attend college. This parental goal has been facilitated by the community colleges and public universities in the cities where many Cubans live, particularly in Miami and New York, and by the Cuban Student Loan Program instituted by the federal government to provide financial assistance for Cuban students.

A growing number of Cubans now teach in U.S. colleges and universities. Some of them received their training in Cuba prior to the revolution, but the majority received advanced training in the United States. Many of those in the social sciences and humanities contribute to the study of Cuban society, culture and history, particularly the revolution, the migration to the United States and related subjects.

The Cuban community of Miami also has its own elementary and secondary schools. In the early years of immigration, several Catholic religious orders established parochial schools for Cuban children in the Miami area; more recently, private secular schools have proliferated. Most are small, teach most of their classes in Spanish, emphasize Cuban history, geography, and culture, maintain strict discipline and adhere to traditional values. They flourish because many Cuban parents are greatly concerned with transmitting to their children their language and culture. They are also anxious about busing and crime, immorality and drugs in the public schools.

As might be expected, given the cohesiveness of the Cuban community, especially in Miami, acculturation and assimilation have been slow. Furthermore, there appears to be a lack of social and cultural integration between Cubans and other Hispanic groups in U.S. cities with sizable and differentiated Spanish-speaking populations. Of the major Hispanic groups, only the Cubans have come as political exiles, and this has resulted in social, economic and class differences. In the New York area, Cubans and Puerto Ricans maintain distinct social distance. Many Cubans feel or perceive that they have little in common with Puerto Ricans, Mexicans or Dominicans.

There are some obvious political dimensions to this apparent lack of communication. A number of Puerto Ricans and Mexicans in the United States have been involved in

militant, anti-establishment and leftist activities--strikes, civil disobedience, demonstrations, and in some cases, violence against symbols of authority. The politically conservative Cubans, wary of leftist or disruptive social movements, are most prone to disapprove of this type of behavior. However, there are signs that there may be some changes in this attitude.

During the last wave of immigration, because of the size of the influx, many of the refugees were resettled temporarily in little-used military posts in other parts of the country, especially Arkansas. Because of the problems related to finding sponsors and in confirming refugee status for many of the Cuban population, sporadic acts of violence occurred. In addition, many younger Cubans do not share their parents' conservative views, and there are now indications that many are working with Mexican-Americans and Puerto Ricans in bilingual education programs, community advancement agencies and Hispanic coalitions.

There are also indications that the relationship between some communities of Cubans and the local law enforcement agencies is becoming strained. This is particularly the case for black Cubans, many of whom suffer alienation both from their white Cuban counterpart and from native-born American blacks. They have suffered from experiences more akin to those of black Americans and have not enjoyed economic benefits similar to their white, middle-class Cuban counterpart.

Since 1975, there has been a noticeable increase in juvenile offenses by Hispanics in Dade County.¹² The most conservative available data estimate a fourfold increase in the growth of Hispanic juvenile crime between the late 1970s and any other previous year. Based on partial data, Miami judges and the Dade County Criminal Justice Council estimate Hispanic juvenile crime to be between 14 and 20 percent of all juvenile offenses committed.

Though the Cuban experience in the United States has been a long one, for all practical purposes, the bulk of their experience has been more recent, within the past thirty years. Unlike other Hispanic groups, the Cubans came to the United States as political refugees and, given the socioeconomic and political status of the early refugee population of the 1950s and 1960s, the Cuban community developed in ways quite different from other Hispanic communities. Cubans tended to be more conservative and more achievement oriented. Because many came with skills and were highly educated, they were able to play a major role in the educational and economic spheres of their communities. Recent refugee populations, however, have demographic characteristics very much unlike the earlier generation of refugees. In addition, younger

Cubans, despite their conservative upbringing, are displaying many of the characteristics of other minority youth in terms of their involvement with law enforcement and criminal justice agencies, as witnessed by the rise in crime statistics for Hispanic youth, especially in the Dade County area.

Though information is incomplete, there is evidence that Cuban youth, when involved with local law enforcement officials, are experiencing situations similar to that of other racial and ethnic minorities: racism and unequal treatment in terms of arrests, conviction, and incarceration.

These historical overviews point out the experiences of selected Hispanic-American groups in the United States. Obviously, however, it is necessary to look beyond these descriptions to examine how such experiences came about; how the various communities responded to them and how crime and criminal justice practices impinged on Hispanic-Americans lives. Several considerations emerge from these overviews. First, any analysis of crime cannot be limited to attributional studies of the offenders who get caught up in the criminal justice system. Traditionally, social science research has focused on crime as defined by law. This has validity, but there are other aspects of crime that should also be pursued. Discriminatory legislation is a case in point. Racist-oriented legislation deprived Mexican-Americans of their basic civil liberties and civil rights. Indeed, laws that legitimized the notion that whites were superior to blacks helped to create negative self images on the part of Hispanic-Americans, thus making them vulnerable to criminal activity.

The nature and impact of crime varied among Hispanic groups, depending on the composition of their immigration and their participation in the labor force. Cubans, for example, are the only Hispanics who had refugee status and tended to have a lower crime rate than, for example, Mexican-Americans and Puerto Rican-Americans, who were used primarily as cheap labor in agriculture and other unskilled and semiskilled job categories. Thus, the class nature of recent immigration must be examined to understand the present structure of many Hispanic communities: the racial/ethnic composition within and across classes needs to be studied, and the mutual perceptions by the Hispanic communities and the local law enforcement agencies must also be studied.

C. Crime and Hispanic-American Communities

1. Official Statistics on Hispanic-American Crime and Victimization

The critical role that official statistics play in the analysis of crime in general, and for Hispanic-Americans in particular, requires an examination of the nature of Hispanic crime as revealed in those statistics. The following discussion, therefore, has two purposes: it presents the extent of Hispanic crime as recorded by official agencies, and it points out limitations inherent in these statistics.

Data describing the involvement of Hispanics in criminal justice proceedings are available in a variety of sources, but the definitions of Hispanic-American in these studies often overlap. In addition, the time frames of the different data bases do not always coincide, and those that describe Hispanic populations usually must be extracted from other raw data and then subjected to additional analyses.

The main source of statistical information about the incidences of crime is the Uniform Crime Reports submitted annually to the Federal Bureau of Investigation by state reporting agencies, which obtain their data from state and local police departments. The reports vary in composition from state to state, and the data on ethnicity are not consistent and are often impossible to analyze adequately. Most reporting sources use the racial/ethnic categories of white, black, Chinese, Japanese, and other. Hispanics, as noted earlier, many of whom are racially mixed, are often classified as either white or black. For the first time, the U.S. Census in 1980 included a separate category for Hispanics. There is generally no breakdown within these racial categories of the ethnic composition. Even where the police data are adequately categorized, it is acknowledged generally that they are susceptible to bias.

Data provided by the criminal courts are also inconsistent in reporting on ethnicity. This may be due to the fact that the court structure is so diverse and/or the fact that even when ethnic information is collected, it may not be reported by the system. Data available from correctional systems tend to be the most complete within the criminal justice system, yet they, too, often do not report the ethnic composition of the inmate population. This is especially true regarding Hispanics.

a. Mexican-Americans. In states where recently large numbers of Hispanics, have settled, Hispanics were imprisoned at rates greater than their proportion in the general population. Table II-1 shows the ethnicity of populations in six states with the largest Mexican-American populations.

Table II-1

**Ethnicity of Prisoners (and Population at Large)
Six States with Largest Mexican-American Population**

State & Year	Percent State Population	^a	Percent Prison Population
Arizona (1979)	W 71 B 3 M/A 20		50 20 24 ^b
California (1980)	W 72 B 7 M/A 17		39 35 24
Colorado (1980)	W 82 B 3 M/A 14		49 22 28
New Mexico (1978)	W 50 B 2 M/A 41		32 13 54
Texas (1980) ^c	W 68 B 12 M/A 19		43 38 19

^a 1970 Census data, persons age 15-34.

^b In Arizona, 2.7 percent of prisoners were Mexican Nationals.

^c Texas Department of Corrections, 1980 Fiscal Year Statistical Report.

The pattern of offenses for Mexican-Americans is similar to that for Puerto Ricans; that is, opiate drug offenses are the major reasons for Mexican-Americans being imprisoned. Though the numbers declined slightly toward the end of the seventies, in recent years, 15 to 20 percent of Mexican-Americans who were imprisoned were serving terms for drug-related offenses. Only on narcotics charges, it should be noted, were Hispanics, in general, imprisoned at a per capita rate greater than that of blacks.¹⁴ Anglos convicted of drug violations, are imprisoned far more often than minorities for drug traffic involving extremely large sums of money.