

**The Making of the "Carceral State": Race, Punitive Politics, and the
Changing Logic of Incarceration, New York, 1956-1986**

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In 1970 there were slightly less than 200,000 people incarcerated in the United States. By 2007, more than 2.2 million people were incarcerated, and the total number of Americans under criminal justice supervision, including juveniles, people in jail or on parole or probation, exceeded seven-million, or one in a hundred American adults.[1] This dramatic surge in American reliance on incarceration was not inevitable or even predictable. In fact, the origins of mass incarceration were rooted in a period of great doubt about the very utility of prisons that emerged in the mid- twentieth century.[2] How, then, did Americans move toward a total reinvestment in an institution that many experts had declared a failure; and how did they come to accept and indeed embrace the punitive, retributive, hard-line penal philosophy that bolstered mass incarceration?

My dissertation, "The Making of the Carceral State: Race, Punitive Politics and the Changing Logic of Incarceration, New York 1956-1986," investigates the historical roots of this massive shift in American carceral practices and the changing ideas and policies regarding crime and punishment that occurred in the second half of the twentieth century. It focuses on New York State as a model and forerunner of national trends, beginning in the early 1950s, when drugs and street crime were not major public concerns and "prisons" were renamed "correctional facilities," rhetorically emphasizing American faith in rehabilitation as *the* purpose of the criminal justice system. By 1986, narcotics enforcement was at the forefront of crime fighting initiatives, and the goals of incarceration had fully shifted from rehabilitation to punishment for the sake of deterrence and retribution. Although law-and-order rhetoric had been circulating around the nation with a fury at least since Barry Goldwater's acceptance speech at the 1964 Republican National Convention, it was New York Governor Nelson Rockefeller's notorious drug laws in 1973 that marked the watershed moment in the turn toward hard-line policies such as mandatory minimum sentences. The changes in penal sentencing, law enforcement policy, and parole, which were introduced by the so-called Rockefeller Drug Laws, were critical to the construction of the carceral state.

Yet the use of mandatory minimum sentencing and the laws born out of the Rockefeller Drug Laws could not have been enacted without profound shifts in public and professional ideas about

the nature and roots of crime, drug use, and the appropriate state response. The very logic of incarceration had to change, and it did as the law-and-order movement of the last four decades of the 20th century became incredibly persuasive and powerful and captured the mood of many New Yorkers, and their fellow countrymen, across geographic, social-economic, partisan and, at times, ethnic and racial lines.

The wide appeal of this shift in penal logic challenges and complicates the scholarly narrative of a conservative backlash as an explanation for the shift in carceral practices. It is my contention that the backlash against the civil rights movement, even in its law-and-order incarnation (itself not an inevitable anti-civil rights response), did not necessitate a massive buildup in incarceration. Nor did the backlash necessitate (and certainly does not explain) a profound shift in penal thought. The state's response to rising crime and drug rates in the 1960s could have, and in fact did, result in multiple initiatives; incarceration in particular, and retributive penal policy in general, was neither natural nor inevitable. My research at the Rockefeller Archives establishes the policy shift from the early 1960s, when widespread heroin addiction was seen as a public health crisis that should be addressed with treatment, to post-1973, when treatment and other community-based initiatives were abandoned for a punitive, law enforcement approach to drug addiction that centered on long prison sentences. Of particular interest in my research were the Metcalf-Volker Act of 1962, which gave convicted drug addicts the option of rehabilitation instead of a prison sentence, and Rockefeller's controversial 1966 compulsory treatment program.

While there was clearly a relationship between the law-and-order politics of the 1960s and concomitant civil rights advances, my research at the Rockefeller Archives indicates that the development of harsher and more punitive sentencing laws and law enforcement tactics needs to be better understood in the much larger context of shifting ideas about the nature of crime and punishment rather than through simplistic linkages to racially tinged law-and-order rhetoric. The general punitive discourse around crime in the period prior to the civil rights gains of 1964 and 1965 must be examined alongside the very real crisis New York City faced at the time, most salient of which included rising rates of drug use and street crime, along with increased unemployment, poverty, urban decay, falling city revenue and social services and urban rioting. The records at the Rockefeller Archives indicate that many New Yorkers in the 1960s and 1970s, from black neighborhoods of Harlem and Bedford Stuyvesant, to Puerto Rican neighborhoods in East Harlem and the Lower East Side, to liberal white enclaves such as the West Village, to ethnic working class neighborhoods in Queens and Brooklyn, expressed frustration with the deterioration of the city and believed that more punitive laws were needed to address the issues. At the same time, many other residents and many experts were very dedicated to finding solutions to the city's drug and crime problems outside of the criminal justice system, preferring to concentrate on "root problems" such as poverty, unemployment, and poor educational opportunities. My research at the Rockefeller Archives indicates a period of profound public

debate in which the punitive turn was both widely supported and powerfully contested and in no way inevitable. The enactment of the Rockefeller Drug Laws, the aftermath of the Attica Rebellion, multiple incidents of urban rioting, and other touchstone events offer fertile moments in which public debate was recorded and can be examined to better understand how punitive politics eventually won the ideological and political debates.

The general punitive discourse around crime in the period must also be examined alongside emerging welfare debates, which contained its own set of racial under and over tones, and for which there exists its own body of backlash literature.^[3] The "politics of personal responsibility," as I have termed it, were implicitly and often explicitly racialized and had dramatic ideological repercussions for both the dismantling of the welfare state and the rise of the carceral state.

With the help of the Rockefeller Archive Center Grant-in-Aid program, I spent two weeks at the Rockefeller Archives in January 2010. Most of my research came from hundreds of files in the Nelson A. Rockefeller Papers, mostly in Record Group 15 and in Record Group 4, especially in the DNA series. These files included legislative and gubernatorial records, public polling data, media coverage, state and national campaign literature, political speeches, "State of the State" speeches, statistical reports, legislative debates around new penal law, government agency publications and internal memos and documents from the administration of Governor Nelson Rockefeller.

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ENDNOTES

1. Mauer, Marc. *Race to Incarcerate*. New York: The New Press, 1999; Garland, David. *The Culture of Control: Crime and Social Order in Contemporary Society*. University of Chicago

Press, 2001; Pew Center Report, "One in 100: Behind Bars in America, 2008."

2. Mass Incarceration, or mass imprisonment, is a term David Garland uses to describe the change in the incarceration rate over the last thirty years of the Twentieth Century. It describes both the unprecedented sheer volume of people under criminal justice supervision as well as the "systematic imprisonment of whole groups of the population." See Garland *The Culture of Control*.

3. Garland, David. *Culture of Control: Crime and Social Order in Contemporary Society*. University of Chicago Press, 2001; Simon, Jonathan. *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*. New York: Oxford University Press, 2007. Gilmore, Ruth Wilson. *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*. Berkeley: University of California Press, 2007