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**Mass Incarceration: How the War on Drugs Created Today's System of Social Control**

By

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An Honors Thesis Submitted in Partial Fulfillment of the Requirements for Graduation  
from the Western Oregon University Honors Program

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In his essay regarding Civil Disobedience, the philosopher Henry David Thoreau states: “Under a government which imprisons any unjustly, the true place for a just man is prison.” Although this line is from a work that is well over 150 years old, these words may invoke a moral outrage to some when looking at this country’s tremendous growth in imprisonment over the past 35 years. Thoreau wrote the above quote motivated by his devout disagreement with giving obedience to a government that enforces legal slavery (Thoreau, 2009). Legal scholar Michelle Alexander, who has written a book on incarceration in the US, was quoted in an interview with NPR saying that “today there are more African-Americans under correctional control—in prison or jail, on probation or parole—then were enslaved in 1850 (Alexander, 2012).

The great social injustice of slavery that inspired dissent from some such as Thoreau has been replaced by a proliferation of imprisonment and correctional control as this country’s present-day method of legally-enforcing the minority subjugation found throughout our nation’s history. It may initially seem like hyperbole to compare this country’s past legal enforcement of African-American slavery with our nation’s current system of mass incarceration but there are a number of crime and imprisonment statistics that justify making the comparison.

Many in society may try to make the argument that high and increasing imprisonment in this country is simply a result of a tremendous increase in crime. However, according to every barometer used by our government to measure violent crime, there has actually been a decrease in serious violent crime (Konradi & Schmidt, 2004). In spite of this decrease in violent crime, the prison system of this country has grown significantly since the 1980s. This growth can be significantly attributed to

enforcement of tougher drug laws. In 1980 there were roughly 19,000 prisoners in state penitentiaries convicted of drug offenses, amounting to about 6 percent of state prisoners. By 2007 this number grew to 253,300 or about 19.5 percent of all inmates in state prisons. The 2007 data show that the percentage of drug offenders in federal prisons is even higher as 53.5 percent of all federal inmates are convicted drug criminals (Clear, Cole, & Reisig, 2011).

The Bureau of Justice Statistics first began reporting on the number of people under correctional supervision (including those on parole, probation, and incarcerated in prison or jail) in 1980 and found that there were fewer than two million adults that fit this classification. In 2009 the total membership in this group had exploded to over seven million adults under some form of correctional supervision according to the Bureau of Justice Statistics (Glaze, 2010). This explosion in correctional supervision has primarily been due to increasing enforcement of drug abuse violations and is narrowly concentrated among minorities in our society, particularly African-American and Hispanic men. For example, a 2001 comparison of imprisonment rates found that there were 3,535 sentenced black males in prisons and jails per 100,000 black men in the population compared with only 462 sentenced white men per 100,000 white men in the population (Konradi & Schmidt, 2004).

As shocking as these statistics are, they are just the tip of the iceberg in unraveling the true nature of this country's tremendous imprisonment expansion since the 1980s, which is primarily the result of increasing criminal penalties for drug violations. This essay will show that the War on Drug policy that was enacted in the 1980s during the Reagan administration has been the driving force responsible for turning this nation's

criminal justice system into the latest institution responsible for perpetuating minority subjugation in our society. This policy amounts to no less than a war waged on the poor minority communities that are disproportionately targeted for the enforcement of drug law violations. Like the institution of slavery and the practice of legally enforced segregation during the Jim Crow era, drug laws and their enforcement function to perpetuate a minority underclass for exploitation by the elite of society. Court decisions and policies regarding this nation's decades-long crackdown on drug violations have turned our criminal justice system into a modern institution of social control on exploited minority communities.

The racial inequity evidenced in the unequal enforcement of harsh criminal penalties for drug violations in minority communities today should come as no surprise to anyone familiar with the history of drug laws in our society. A brief look at past drug legislation on a number of different substances at different times throughout our nation's history shows that drug laws have routinely been heavily influenced by both racial and class motivations. For example, Chinese immigrants that remained in the country after completing work on the railroads in the 1870s were associated with opium-smoking. Anglo-Americans at this time were widespread users of opium as well; however they consumed opium through oral administration. Opium-smoking soon became the target of a strong anti-drug effort after the railroads were finished while the oral use of opium was not really considered a problem (Beckett, Nyrop, Pflingst & Bowen, 2005).

However, opium is not the only drug in which racial sentiments had an effect on perceived social harm. Jimmie L. Reeves and Richard Campbell showed in 1994 how media representations of cocaine stories shifted from an emphasis on the possibility of

recovery in the early 1980s, when the focus was on white recreational users who snorted powder cocaine, to a law and order response to the drug problem by late 1985 when cocaine users were depicted as poor, nonwhite crack cocaine smokers (Beckett, Nyrop, Pflingst & Bowen, 2005).

Of course it would not be fair to leave out our country's experiment with Prohibition in the early 1900s when discussing historic examples of the use of controlled substance policy to target particular groups in society. Prohibition is seen by William J. Stuntz as "partly a revolt against cities by the countryside, against immigrants by the native-born, and against Catholics by Protestants—just as the system's crusade against crack has been partly a revolt against poor urban blacks by middle-class suburban whites (Stuntz, 1998)."

These three examples all at different times in our country's history, show that it is very common for society to target a particular racial or social group in the creation and enforcement of stringent drug laws. The tremendous overrepresentation of black males among the incarcerated population of our country today due to the war on drugs may thus be perceived more skeptically by those who seek an explanation for this injustice. Given the past history of drug law enforcement, it is much harder to believe that the egregious overrepresentation of black males incarcerated in this country due to war on drugs policy is anything but a calculated suppression of a socially-stigmatized racial group.

Now that the historic prevalence of racially-motivated drug control policies has been examined, it is time to take a closer look at the increase in enforcing strict criminal penalties for drug possession and distribution violations beginning in the mid-1980s here referred to as "war on drugs policy." This is not simply a reference to one particular

piece of drug control legislation but instead refers to the political and societal support for increasingly harsh penalties of imprisonment for drug law violators beginning with President Reagan and still evident today.

In 1982, the same year that Reagan first announced his administration's war on drugs, less than 2 percent of the public thought illegal drugs were the most important issue facing the country (Alexander, 2010 p. 49). However, Reagan steadily increased the resources dedicated to drug law enforcement while greatly decreasing the money allocated to drug education and treatment. Later in his term, The Anti-Drug Abuse Act of 1986 was signed into law by Reagan, a law which included mandatory minimum sentences of imprisonment for cocaine distribution (Alexander, 2010). Under this law the distribution of cocaine in the form of crack, which was primarily associated with blacks, was treated much more severely than distribution of powder cocaine which is associated with whites. This law established a five year mandatory-minimum prison sentence for the distribution of five grams of crack cocaine. An individual found guilty of distribution of the very same drug in powder form would have to be in possession of 500 grams of cocaine in order to receive the same five year mandatory-minimum sentence (Vagins & McCurdy, 2006). Two years later Congress, with the help of President Reagan, put further clamps down on those found guilty of drug offenses by passing the Anti-Drug Abuse Act of 1988. This law included civil penalties such as permitting public housing authorities to evict any tenant that lets any kind of drug-related criminal activity transpire on or near public housing premises. This legislation also featured the additional civil penalty of removing eligibility of many federal benefits such as student loans for those convicted of a drug offense. The law also increased criminal penalties by establishing

new mandatory minimum sentences of incarceration for drug offenses. Examples of increased criminal penalties included expanding the use of the death penalty in severe drug-related crimes as well as establishing a mandatory five year sentence for the mere possession of cocaine base (Alexander, 2010 p. 52-53).

It appears that these increasingly stiff penalties for nonviolent drug offenses that began in the 1980s signaled a shift to further suppress those who use or sell illegal drugs and in essence block them from any legitimate avenue of success in mainstream society. Not only did a conviction for the simple possession of a painfully addictive drug like crack result in a mandatory period of incarceration, but now those convicted of drug crimes could be further punished upon reintegrating into society after serving time by banning them from receiving some forms of public aid. Although the initial pitch of fighting to eradicate the use of harmful and addictive drugs may seem like a commendable policy goal to the casual observer, the policies that have been enacted, as well as the strategy guiding this country's fight against drugs in recent years, have functioned to destroy the minority communities that were the real target of this drug war policy.

Prior to the 1980s and for almost fifty years, the United States had a consistent prison population of about 200,000 individuals. Today this country leads the world in incarceration with 2.3 million people confined in the nation's federal and state prisons and local jails (Gotsch, 2011). The tenfold increase in the incarcerated population of the country over the past three decades is very alarming for those concerned that the criminal justice system may be used to exert social control on the weak in society. The egregious overrepresentation of minority individuals in this country's bloated prison population is



enough to raise even more doubt that the war on drugs has been used to suppress minority communities.

One common explanation espoused by the ill-informed for the overrepresentation of minority males in prison for drug law violations is that there is a higher propensity for minorities to use drugs. However, a look at the data does not lend support for this belief as there are only small differences in the illegal drug use prevalence of different racial lines (Drucker, 1999). The most recent (2010) National Survey on Drug Use and Health reported that the rate of current drug use amongst blacks was 10.7 percent while the rate among whites was 9.1 percent. The rate among Hispanics was even lower at 8.1 percent. The survey concluded that there was no statistically significant differences in the rate of past month drug use for any of the racial groups included in the results (Substance Abuse and Mental Health Services Administration, 2011).

Since drugs are used at about the same prevalence across racial categories it would be logical to assume that an increase in criminal penalties for drug violations would impact all races at about the same rate. This is sadly very far from the reality. Although the evidence tells us that all races use drugs at comparable levels, the enforcement and implementation of drug war policy primarily occurs in poor, minority communities. This fact is evidenced by the prison statistics as African American men are 13.4 times more likely than whites to be imprisoned for drug crimes (Clear, Cole, & Reisig, 2011 p. 529). By taking a closer look at the policies and judicial decisions that have guided the enforcement of this nation's war on drugs, it becomes evident that this country's decades-long crackdown on drug violations is intended to target and

incarcerate—and ultimately control or even subjugate—minorities and particularly black males.

The control of minorities through increased criminal penalties for conviction on a drug violation was not the only motivator for state and local law enforcement agencies to increase their resources dedicated to drug crime. The Comprehensive Crime Act of 1984 included a section that outlined a financial motivation for law enforcement agencies: asset forfeiture. This provision created a system allowing any local police agency that cooperated with federal drug enforcement authorities in a drug investigation to receive a substantial percentage of any assets seized as a result of the investigation. This provision went further by allowing law enforcement agencies to circumvent state laws that require seized assets go to areas or agencies other than law enforcement (Benson, Rasmussen & Sollars, 1995).

Obviously, law enforcement agencies now had financial motivation to target their resources toward drug enforcement while at the same time diverting resources away from other areas, even if those areas may be in greater need but do not offer the same return on investment. This inference is supported by data that show drug arrests relative to arrests for reported Index I crimes against persons and property remained relatively stable at one to four from 1970 to 1984. Five years later in 1989, this rate had changed significantly so that for every drug arrest the police were making 2.2 arrests for Index I crimes (Benson, Rasmussen, & Sollars, 1995). Between 1988 and 1992 there was over \$1 billion in assets seized by state drug task forces (Alexander, 2010 p. 78). Data from the U.S. Marshals Service, which manages all assets seized by federal law enforcement agencies throughout the nation, list the value of all forfeited assets seized in the year 2012 at \$4.4 billion (U.S.

Department of Justice, 2012). A Benson, Rasmussen, and Sollars study in 1995 found evidence that police bureaucracies responded to the benefit of asset forfeiture laws for drug crimes by making more drug arrests (Benson, Rasmussen, & Sollars, 1995 p. 38). The recent data from 2012 seem to indicate that law enforcement agencies today are still highly motivated by these forfeiture practices and continue to focus on crimes involving seized assets such as drug offenses.

Moreover and not surprisingly, drug forfeiture laws have also provided a tremendous avenue for corruption within law enforcement agencies. When these provisions were first adopted, property or cash could be taken from an individual based on the mere suspicion of illegal drug activity. All that had to be shown was that there was probable cause that the property or cash had been involved in a crime. In some cases then, forfeiture laws were exploited to allow wealthy drug dealers an avenue for lowering their sentence. An investigation by journalists in Massachusetts found that on average a “payment of \$50,000 in drug profits won a 6.3 year reduction in a sentence for dealers (Alexander, 2010 p. 78).” Such “payments” obviously lead to unfair treatment of poor drug users and low-level dealers as they do not have the assets required to buy their way out of imprisonment. These laws, as Blumenson and Nielsen (1998) note, are a big reason why our nation’s prisons are filled with large numbers of men and women who had minor roles in drug distribution, while many of their bosses—the so-called drug kingpins—remained free. This system ensures that the poor who suffer the worst consequences of illegal drug use are most likely to receive the penalty of imprisonment while those making money exploiting poor drug users can often buy leniency. By including forfeiture laws in this country’s war on drug policy, we created a criminal

justice system where law enforcement can both condemn drug use and profit from it at the same time. This is an outrageous conflict of interest, as very few in law enforcement would ever want to completely eradicate the drug market, even if this was possible, because of the funding that forfeitures generate. Since 1985, the federal government has shared \$6.6 billion in forfeiture proceeds with state and local law enforcement agencies (U.S. Department of Justice, 2012). The forfeiture process established by the federal government also encouraged many state legislatures to incorporate the forfeiture process into their standard law enforcement practices (Benson, Rasmussen, & Sollars, 1995). Asset forfeiture laws ensured that law enforcement agencies would have a financial incentive to focus their efforts on detecting drug crimes because they would receive a cut of any assets seized. These forfeiture laws help to guarantee that poor drug offenders will be the most likely offenders subjected to the social control of imprisonment.

Besides asset forfeiture, recent judicial decisions regarding certain law enforcement tactics employed in the war on drugs have also had a substantial impact on where and how drug laws are enforced. For example, the Supreme Court has made a number of rulings over the course of this decades-long war on drugs regarding interpretation of Fourth Amendment protections. The Fourth Amendment, part of the Bill of Rights in the US Constitution, protects people from unreasonable searches and seizures by the government as well as establishing the need to issue warrants based on probable cause (U.S. Const. amend. IV). The laws surrounding search and seizure play a key role in establishing substantive and procedural limits on some police tactics, but not others (Stuntz, 1998). Importantly to this discussion, decisions made by the Supreme Court regarding the constitutionality of law enforcement tactics under the 4<sup>th</sup> Amendment

have routinely favored law enforcement, many times at the expense of poor, minority drug offenders.

One such ruling concerning consent searches was made in the case of *Florida v. Bostick*. In this case, a twenty-eight year old African-American man who had fallen asleep on a Greyhound bus on his way to Atlanta was abruptly awoken by two officers. These officers not only asked Bostick for his identification and bus ticket but also sought permission to search his bag. The officers had no reasonable suspicion that Bostick was involved in illegal activity and were simply going through the buses looking for people who might be carrying drugs. Bostick allowed the officers to search his bag even though he knew there was a pound of cocaine in it which led to him being charged and convicted of trafficking cocaine. On appeal, the Florida Supreme Court ruled that the conduct of the police was in violation of 4<sup>th</sup> Amendment protection against unreasonable searches and seizures because the search was conducted without the suspicion that Bostick was committing a crime. The Florida Court went so far as to compare the practice of bus sweeps in consent searches for illegal drugs to the unwarranted stops that were common under the rule of Hitler in Germany. The United States Supreme Court, however, reversed the decision of the Florida court ruling that Bostick's encounter with the police was voluntary. According to the majority opinion, Bostick was not considered seized under the Fourth Amendment as a reasonable person in his situation would have felt that he or she was free to refuse to answer the police officer's questions and to deny the request of the officers to search his bag. This, according to the Supreme Court, made the entire encounter "consensual" thereby establishing the "consent search" as a powerful

tool for law enforcement in waging the war on drugs because the Court ensured this decision would apply to all future drug sweeps (Alexander, 2010).

Since the police no longer need any sort of suspicion to make contact with an individual and gain “consent” for a search, they are free to use race to target certain people for investigation. In his dissenting opinion decision on *Bostick*, Justice Thurgood Marshall stated his belief that racial discrimination would likely play a role when an officer decides whom to target in order to conduct suspicion-less sweeps for drugs (Alexander, 2010). This fear appears to have been valid as four years after consent searches were established African-Americans accounted for 35% of all drug arrests, 55% of all drug convictions, and 74% of all drug sentences while accounting for only 13% of monthly drug users (Mauer & Huling, 1995). In 1982, the year Reagan declared his war on drugs blacks already accounted for a disproportionate 29 percent of all drug arrests. This percentage increased significantly after the drug war was declared peaking at 42 percent in 1991, the same year as the *Bostick* decision. The two years following *Bostick* the arrest rate remained at 40 percent or above (Human Rights Watch, 2009). These data, along with the exceedingly high rate of incarceration for African-Americans seen today, support the notion that African-Americans are unfairly targeted for enforcement of drug violations.

Perhaps the worst indictment against the Court’s majority decision in *Bostick* to allow consent searches without the basis of prior suspicion of illegal activity is the extreme disconnect between the Court’s “reasonable person’s” perception of the voluntary nature of a police encounter and how most people actually react in the real-life scenario. Almost every constitutional scholar who has looked into this issue is in

disagreement with the Court and state that the average, reasonable person will not feel like they are free to leave when approached and questioned by law enforcement (Maclin, 1991). In fact, the Supreme Court itself noted in an earlier ruling in *Schneekloth v. Bustamonte* (1973) that if the right of an individual to refuse a consent search was really “knowing, intelligent, and voluntary,” it would raise serious doubt as to whether these consent searches would still be conducted (Alexander, 2010).

In other words, the Court almost two decades earlier acknowledged that the utility to law enforcement of the consent search is contingent on the public being unaware that they have the right to refuse cooperation in these encounters with the police. This completely invalidates the “reasonable person” standard upon which the *Bostick* decision was dependent. By upholding the constitutionality of the consent search, the Supreme Court significantly reduced individual protections against police power. The Court’s justification for doing so was espoused in their “reasonable person” explanation but this fictitious person created in the court room does not exist. Individual protections against the powers of the state are vital in a democratic society, especially when a person’s freedom may be at stake. Police officers should not be allowed to target people for investigation without having some sort of rational suspicion of illegal behavior. This Court decision allowed the nation’s war on drugs to proceed without this basic check on law enforcement and ensured that the police would disproportionately target people from minority communities.

As if legalizing the practice of the consent search was not enough to make sure that the war on drugs would be waged extensively in minority communities, the Supreme Court provided law enforcement with another powerful tool: the pretext traffic stop. In

the case of *Whren v. United States*, the majority opinion of the Court ruled in favor of the law enforcement practice of using a minor traffic violation as a pretext for police to attempt to gain consent for search of individuals subjectively suspected by the officer to be in violation of drug laws. The justices of the Court were unanimous in their agreement that “subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis.” This essentially gave the police the authority to pull over any driver for any pretext, as long as the officer observes a minor traffic violation prior to initiating contact. Unsurprisingly, the ruling of the Court in *Whren* fueled the calculated targeting of minorities by law enforcement officials searching for potential drug offenders. For example, the federal Drug Enforcement Agency (DEA) started a program in 1984 under President Reagan known as Operation Pipeline. This program, which continues today, provides federal training to state and local law enforcement officers on how to lengthen a routine traffic stop and how such stops can be leveraged into a search for illegal drugs, either by extorting “consent” from the driver or manufacturing probable cause (Bascuas, 2007 p. 761). Of course the DEA says that they do not train police to use racial profiling, but numerous civil lawsuits brought against police departments that implement Operation Pipeline tactics consistently show that Hispanic and black individuals are unfairly targeted for investigation in comparison to white drivers (Bascuas, 2007 p. 762). Perhaps the worst infringement of the pretext traffic stops widely employed by law enforcement officers in the war on drugs is the huge number of people who must be targeted for search in order for this practice to have any success. Law enforcement officers must utilize a “shotgun” approach by pulling over huge



numbers of people that are primarily minority and more often than not, innocent of any drug-related crime (Bascuas, 2007 p. 763).

The Supreme Court's ruling in *Whren* is consistent with the dismantling of 4<sup>th</sup> Amendment protections supported by the majority opinion in the *Bostick* case discussed earlier that legalized consent searches in the war on drugs. Pretext traffic stops have facilitated the mass incarceration of minority drug offenders by legalizing and proliferating the police practice of conducting invasive drug investigations, often based on racial discrimination. In this country's current war against drugs police officers are not only given the legal authority to initiate a drug investigation without any semblance of probable cause (*Bostick*), they are also free to begin such an investigation based on any subjective belief a given officer might have that a particular individual is a drug suspect (*Whren*). This leads to the likelihood that police officers will use race as the basis for suspecting an individual is a drug criminal after initiating contact through the pretext of a minor traffic stop. As if this were not bad enough, once a law enforcement official has initiated contact with a "suspect" it is perfectly legal for that officer to use deceitful tactics to facilitate "consent" from the driver to search the vehicle in the hopes of uncovering a drug violation. The Operation Pipeline training received by state and local law enforcement therefore ensures that police officers throughout the nation could take full advantage of their legal right to overly target minority offenders.

One study of traffic stop data of the Los Angeles Police Department from July 2004 until June 2005 supports the assertion that law enforcement officers practice racial profiling. This study found that Hispanic and black drivers were four times as likely as white motorists to be searched by the LAPD. In fact, this study also showed that even

though African-American drivers are subjected to searches more often than their white counterparts, the discovery rate of criminal activity from these searches was higher for white drivers (Armentrout, Goodrich, Nguyen, Ortega, Smith & Khadjavi, 2007, p. 33). These data support the assertion that police overly target minority drivers for searches following traffic stops.

The Court decisions legalizing pretextual traffic stops and consent searches under the guise of waging war on drugs appear to be a façade given these data as well as the earlier evidence presented showing drug usage varying little across races. Just as segregation established an institution of legal subjugation of African-Americans, this nation's war on drug policy has turned the criminal justice system into the contemporary institutional equivalent to minority advancement out of the exploited lower class to which they have historically occupied. Of course it is no longer socially acceptable to explicitly deny a person Constitutional protections based solely on race as it was during the period of time of segregation. The modern-day system of mass incarceration that perpetuates minority subjugation instead relies on war on drugs policy to increase the criminality of drug violations and to frame this nation's drug problem almost exclusively as the scourge of inner-city minority communities.

One example of this framing can be found by examining the "crack babies" myth that was popularized in the 1980s. A study of just 23 infants spawned the "crack baby" madness and led researchers to exaggerate the impact of prenatal cocaine use on newborn infants (Winerip, 2013). Appalling symptoms such as tremors and low birth weight were reported by researchers and many major media outlets ran stories that went beyond the over-hyped research. In fact, fetal alcoholism is a much more serious problem than

prenatal cocaine use but this did not receive the same coverage as the “crack baby” story (Winerip, 2013). This framing of the crack baby story by the media as an epidemic reinforced a stereotype of the typical drug offender as a poor minority who is extremely deviant from mainstream society and not deserving of longstanding Constitutional protections found in the 4<sup>th</sup> Amendment.

Sadly, our country’s transition to a system of mass imprisonment as the primary institution of enforcing minority subjugation has required more than just the erosion of individual rights against unreasonable searches and seizures by law enforcement. When researching the potential penalties for convicted drug offenders, as well as the rights one typically must relinquish upon receiving a felony drug conviction, it becomes clear that this nation’s war on drugs is designed to subjugate the minority individuals targeted for enforcement of the drug laws and not to eliminate drug use itself. The policies formulated to fight the war on drugs are designed to stack the deck against those who are unfortunate enough to receive a felony drug conviction. Once someone, especially a minority, has fallen victim to the enforcement practices described above, the system then imposes penalties and conditions so severe that advancement out of the poor circumstances that often contribute to the drug crime in the first place becomes nearly impossible.

As noted above, criminal penalties were expanded when the war on drugs began in the 1980s. However, these penalties apparently were not quite harsh enough so in the 1990s welfare and social reforms were passed establishing civil collateral consequences following a felony drug conviction, designed to punish offenders after leaving imprisonment. A few examples of these kinds of civil penalties are The Felony Drug

Provision of the Welfare Reform Act of 1996, The United States Department of Housing and Urban Development “one strike and you’re out” initiative of 1996, and the 1998 amendment of the Higher Education Act.

The 1996 legislation regarding welfare reform included a section known as The Felony Drug Provision which instituted a lifetime ban on Temporary Assistance to Needy Families (TANF) as well as banning food stamp benefits for individuals with felony drug convictions. The “one strike and you’re out” initiative adopted by the United States Department of Housing and Urban Development in 1996 gave public housing agencies and Section 8 landlords (federally subsidized low-income housing) the authority to evict a tenant or any person under the control of the tenant for involvement in drug-related criminal activity on or off the public housing premises. Then in 1998 the Higher Education Act was amended to cut off any student with a federal or state conviction involving possession or sale of a controlled dangerous substance from receiving any grant, loan, or work assistance to attend college (Reynolds, 2004). Clearly, the institution of each of these collateral consequences functioned to weaken convicted drug offenders post imprisonment re-integration into society. And, since most of these released offenders were minorities, the policies had an even greater effect on these populations. In fact, these policies worked to extend the warlike attitude against the minority drug offender into the area of social policy, classifying them as undeserving of just about any kind of assistance from mainstream society.

The legislation imposing collateral consequences for felony drug convictions, punishing offenders even after they are released from imprisonment, lends even more support to the argument that the system of mass incarceration was primarily designed to

perpetuate subjugation of minority communities under the pretense of a war on drugs. In spite of this country's astonishing increase in imprisonment over the last three decades, it still cannot be a permanent method of subjugating minority drug offenders as nearly all prisoners (93%) are released and return to their communities (Reynolds, 2004, p. 252).

The collateral consequences of imprisonment, particularly imprisonment from a felony drug conviction, which results in civil consequences greater than those faced by a convicted rapist, punish more than just the former offender. They punish the children, families, and communities of minority drug offenders (Reynolds, 2004). These social consequences resulting from a war on drugs allow the system of mass incarceration to extend further into the minority communities from which an extremely disproportionate number of drug offenders come. These policies allow politicians the opportunity to disinvest in and thoroughly disconnect poor, minority communities from mainstream society. This has all been done under rhetoric supporting the elimination of dangerous drugs while at the same time creating and enforcing drug control policies that make it even harder for a nonviolent drug offender to reintegrate back into society. Just like the institution of slavery and the legally-supported practice of segregation were both designed to ensure that minorities would be perpetually subjected to an inequality of opportunity, today's system of mass incarceration enforces this societal cleavage today through a supposedly race-neutral war on drugs ideology.

Up to this point this essay's primary discussion regards the evidence supporting the argument that this nation's decades-long expansion of the penal system through war on drugs policy, as well as the social consequences of a drug conviction, have functioned to continue the historical practice of minority subjugation in our society. For those

readers who have yet to be convinced of these arguments we now turn to the moralistic justifications policymakers have commonly espoused to legitimize the war on drugs, claiming it is an honest enforcement effort aimed at lowering drug use. This discussion should make it even clearer that war on drugs policy and Court decisions regarding such policy has transformed this country's criminal justice system into an institution responsible for perpetuating the historical exploitation of the minority underclass.

One of the primary justifications given by many politicians and citizens for the necessity of harsh criminal penalties for drug violations, is that we must severely punish those who are caught so that potential offenders will be deterred from engaging in the same activity. This is the primary belief of many tough on crime politicians who believe that the criminal justice system should be guided by deterrence theory in enforcing criminal violations. For example, when asked about his get-tough crime policies, then Mayor of New York City Rudolph Giuliani stated "Obviously murder and graffiti are two vastly different crimes. But they are part of the same continuum, and a climate that tolerates one is more likely to tolerate the other (Francis)."

Giuliani's stance is motivated by a belief in the effectiveness in general deterrence. General deterrence assumes that people will observe the severe punishments that others receive for violating the law and determine that these punishments are too severe to risk any potential benefit from committing the crime. Deterrence can also be classified as specific or individual. The concept of specific deterrence relates to individuals as opposed to the general public. Those who prescribe to the validity of specific deterrence in criminal punishment believe that the punishment a convicted

offender receives should be so severe that the offender is discouraged from committing the crime ever again (Clear, Cole, & Reisig, 2011).

Measuring the effectiveness of criminal punishment in deterring potential offenders is tricky for a great number of reasons. One reason is that it is dependent on potential criminals thinking rationally, which may be a very unrealistic assumption for criminals generally but perhaps even more so when one is under the influence of drugs. Another problem with deterrence is that it is impossible to measure the number of individuals that were deterred from committing a crime because of fear of getting punished. For example, many studies have been conducted on the effectiveness of the death penalty in deterring murder with contesting results. University of Buffalo professor Isaac Ehrlich published the first study on this in 1975 finding that an execution saved an average of eight lives. These findings provided scientific justification for the death penalty, but Ehrlich's conclusions were rejected by an expert panel of the National Academy of Sciences three years later in 1978 and later studies on this same topic have followed a similar pattern. This debate has produced a standoff with some more recent studies claiming a deterrent effect greater than that observed by Ehrlich while recent studies of only capital-eligible homicides indicate no deterrent effect from executions (Fagan, 2013). Given the shortcomings of scientific studies seeking validation on the general deterrent effect of severe punishment, it should come as no surprise that harsher penalties have had little success in lowering crime, including drug crimes (Clear, Cole & Reisig, 2011). The effectiveness of specific deterrence has also been called into question by researchers recently. Criminologists Cassia Spohn and David Holleran concluded in

their study on felony drug offenders that those sentenced to incarceration have higher recidivism rates than those sentenced to probation (Spohn & Holleran, 2002).

Even those who may still hold convictions that deterrence is effective in criminal punishment despite the scientific shortcomings previously noted, cannot ignore the studies that have found imprisonment to now be a regular predictable part of the life experience for young black and Hispanic males in large urban centers. Black men are now faced with a lifetime risk of imprisonment of almost 30 percent since the expansion of the prison system while white men have a risk lower than 5 percent (Petit & Western, 2004 p. 156). The increased imposition of incarceration as punishment for minority drug offenders has been taken to such an extreme level that serving a term in prison has become a more common life event for recent birth cohorts of black men than college graduation or military service (Petit & Western, 2004 p. 164). When such a state of affairs exists, when children in a community are more likely to associate with someone with a prison record than a military record or college degree, it is logical to assume that such youth will find it easier to accept imprisonment as a normal occurrence of everyday life, rather than an effective deterrent against crime. And in fact, many observers believe that the war on crime has led to a diminishing of the stigmatizing effect of arrest and imprisonment among poor black males as it becoming a more common experience (Walker, 2006 p. 111). Therefore, as the country's prison population has increased through war on drugs policies it has achieved a level of racial disproportion in imprisonment so high that not only is the threat of incarceration ineffective as a deterrent, it is now accepted as a common occurrence in many minority communities.



The argument above has established that the penalties associated with the war on drugs do not adequately deter drug use, sale, or manufacture in our society. Next, the amount of damage drugs cause in minority communities compared with the damage caused by drug enforcement will be the final basis for the dismissal of any legitimate explanation for this “war.” Some have argued that increasing criminal penalties, and unequally enforcing these penalties in minority communities, is justified because drugs are the main source of the crimes that are destroying these communities. However, this last potentially legitimate justification for the war on drugs is also not supported by the research: there does not appear to be a simple connection between the use of drugs and violent or other criminal behavior. In fact, The National Association for Public Health Policy recognized in 1998 that an objective evaluation of the war on drug enforcement in this country demonstrates that the enforcement of the war has caused more damage in the communities than the drugs themselves (National Association for Public Health Policy, 1999 p. 268).

Specifically, the enforcement of war on drugs policy has led to an increase in violence in minority communities by creating a hugely profitable and illegal business environment that is largely responsible for high urban murder rates as drug dealers kill each other for market and turf (National Association for Public Health Policy, 1999 p. 274). The Bureau of Justice Statistics examined homicides in the 75 most populous counties in the United States in 1988 and found that many homicides involved drug trafficking. As many as 18% of defendants of homicides were involved in circumstances such as drug manufacture, arguments over drugs, and bad drug deals when their crimes were committed (Bureau of Justice Statistics, 1994).

Other research has indicated that increasing drug enforcement can cause property crime. Studies indicate that reallocating limited police resources from control of property crimes to control of drug crimes significantly lowers the risk faced by property criminals. This in turn leads to a significant increase in the amount of property crime (Benson, Rasmussen, & Sollars, 1995). For example, a 2000 time-series analysis of crime in New York City completed by Corman and Mocan concluded that the positive impact of drug arrests on crime was stronger than the positive relationship of heavy drug use on robbery and burglary. Benson, Leburn, and Rasmussen also found from their study of Florida data from 1994-97 that the opportunity cost of more drug enforcement is more Index I crime (Benson, Leburn & Rasmussen, 2001 p. 1001-1002).

These studies provide clear evidence that there is more harm done by the enforcement of drug violations than the harm these substances cause through use and addiction. Given this evidence showing that the war on drug policies have destroyed minority communities, the continued existence of the system of enforcement of these laws and the mass incarceration of offenders suggests it is not connected with fighting crime at all. It seems clear that this policy is about enforcing strict controls on over-policed African-American communities, thus preventing them from attaining the equality of rights and the opportunities available to other Americans, rights and opportunities also denied them under slavery and during pre-Civil Rights institutional segregation.

Criminologists have long studied why laws are made that criminalize certain behavior but not others. For example in 1964 Chambliss described the emergence of vagrancy laws as a reaction to changes in the economic social structure in England during the time of the Black Death plague (Chambliss, 1964 p. 69). This classic work sparked a

new way of thinking among sociologists about the process of criminalization and helped spawn hundreds of historical case studies that helped to develop an analytic argument on the process that is commonly espoused today. Basically, this argument attributes criminalization to changes in structural conditions in society. People in society with the power to change and institutionalize criminal law are motivated to criminalize a set of activities attributed to a social group as a way of instituting control on the group (Jenness, 2004 p. 150).

As an example, public opinion survey data from 1985, when the war on drugs was just beginning, show only two percent of respondents said drug abuse was the nation's most important problem. Such evidence has helped lead some scholars to conclude that the escalation of the war on drugs by law enforcement throughout the country after 1984 was a product of institutional policy changes that encouraged police departments to drum up public support for this crackdown (Benson, Rasmussen, & Sollars, 1995 p. 22). This suggests that the analytic argument of criminalization first proposed by Chambliss in 1964 may be applied to the current war on drugs. Civil Rights legislation ended the legal subjugation of black Americans who could no longer be denied equal rights and opportunities because of their race. The Civil Rights movement can be viewed as the structural change in society that led policy makers to initiate the war on drugs at a time when most of the public did not appear overly concerned with drug abuse. The disproportionate impact that war on drugs policy has had on African American communities since its inception provides further support for the argument that these policies have been used to overly target minorities for social control by the system of mass imprisonment.

President Nixon verbally declared a war against drugs about a decade before President Reagan, and although Nixon's war did not focus on enforcement, his administration provided the first glimpse at how politicians could gain the support of working class and poor white voters. H.R. Haldeman, a key adviser of President Nixon, at one point stated the former leader purposely advanced a racial strategy, saying "He (Nixon) emphasized that you have to face the fact that the whole problem is really the blacks. The key is to devise a system that recognizes this while not appearing to (Alexander, 2010 p. 43-44)."

That system became mass incarceration through the war on drugs initiated by Nixon but expanded by the Reagan Administration. Politicians gained public support for a policy that basically ensured minority communities would be subjected to extremely disadvantageous circumstances. These policies, moreover, almost guaranteed that many, if not most, poor African Americans could not advance out of their exploited circumstances and compete with lower-class whites for the limited resources afforded them by our capitalist system.

Theoretical work regarding the Conflict perspective of the criminal justice system lends even more support for the argument that the war on drugs has overly targeted minority communities for control through mass imprisonment. This perspective has been traced to the political writings of the philosophers Hobbes and Machiavelli who recognized that power and self-interest played an integral role in shaping human interactions.

There are a number of different varieties of Conflict theory including radical feminism, left realism, and peacemaking criminology (Greek, 2005). However, the

implementation of war on drugs policy outlined by this essay is best understood through the lens of class struggle traced to Marxist theory (see, for example, Trainer, 2010).

Marxist theory is centered on the belief that class struggle for the means of production in society permeates all areas of society. Under the Conflict theory of the criminal justice system, the design of our society's criminal justice system is merely a reflection of policies that the upper class have designed to protect their interests or social status. One of the main assumptions that Conflict theorists use as a basis for their beliefs on the nature of the criminal justice system is that the state is the mediator of class struggle in society (Lenin, 1932). In fact, there is no such thing as a neutral state under the framework of the Conflict perspective of the criminal justice system. One element of the state that Marxists routinely point to as proof that the state is used to enforce the dominance of the ruling upper class is the police institution, an institution that gives the state sole legitimate authority on the legal use of violence and coercion in society (Crank, 2003).

Looking at this nation's current war on drugs policy under the framework of the Conflict perspective provides a prime example of the Marxist view of class struggle permeating the social structure. Prior to the creation of the system of mass incarceration through war on drugs policy, the state mediated class struggle through institutions that were blatantly racist, such as slavery and segregation. By legally establishing minorities as undeserving, these institutions insured that minority communities would not be given equal rights or the same opportunities for advancement that white members of society enjoyed. Since slavery was abolished by the 13<sup>th</sup> Amendment (U.S. Const. amend. XIII), and as the fight for civil rights started to achieve victories in ending the discriminatory

practices of segregation, it became necessary for the state to develop an institution that could be portrayed as race-neutral while still functioning to enforce the lower-class status of minority communities. This was precisely the problem that was recognized by former President Nixon when he discussed with his former adviser Haldeman that the problem was “the blacks” and creating a system that realized this without appearing overtly racist, as this was no longer acceptable in society.

Unsurprisingly to the Marxist, policymakers used the power of the state, in particular the police, courts, and corrections, to legitimize the new institution of designed social control known as mass incarceration. Moreover, the monopoly on violence that the law enforcement institution enjoys in our society was further exploited by greatly increasing the threat of violence to drug offenders through a militarization of the police. For example, in 1997 alone the Cato Institute observed that the Pentagon gave over 1.2 million pieces of military equipment to local police departments to help them wage the war on drugs (Balko, 2006 p. 8) . The emergence of the use of SWAT teams was another effort by the state to induce cooperation with increased drug enforcement by upping the ante on the use of violence in local policing. This process was so thorough that today the main use of SWAT teams is to serve narcotics warrants (Alexander, 2010 p. 73).

The war on drugs, initially designed by President Reagan and furthered by other policymakers since, was not just about strong political rhetoric but it actually provided the blueprint for how the powerful in society would legitimize the system of mass incarceration. The authority for local law enforcement to use violence has been steadily increased under the guise of the drug war, and the violence makes it evident to the

minority offenders, who are disproportionately targeted, are the enemy who will be controlled by any means necessary.

The arguments presented in this essay thus far should establish that the war on drugs has been very effective in growing this country's prison system into an institution of social control for poor minority communities. From the year 1970 to 2005, there was a 700 percent increase in the prison population of the United States (Clear, Cole, & Reisig, 2011). There are about 2.3 million people currently incarcerated in this country and nearly 1 million of these individuals are black (National Association for the Advancement of Colored People, 2013). According to the most recent U.S. Census estimates from 2011, blacks constitute only 13.1% of the total population (United States Census Bureau, 2013) which shows they are significantly overrepresented amongst the incarcerated population. In fact, minorities are so disproportionately incarcerated that the prison and jail population would decrease by nearly half if blacks and Hispanics were imprisoned at the same rate as whites (Austin, Clear, Duster, Greenberg, Irwin, McCoy...& Page, 2007).

Not only has this growth in incarceration disproportionately affected poor, minority members of society but the prison expansion in this country has been funded at the expense of other areas of public spending. For example, the state of Colorado saw state revenues decline 7.8 percent between fiscal year 2007-08 and fiscal year 2011-12 which led to a number of significant cuts to most areas of state spending. Both higher education and K-12 education were among the areas that saw their general fund appropriations slashed as the overall appropriations of the general fund decreased 5.1% over this time. The Public Safety and Courts sector of state spending was one of only

two sectors to receive an increase over this same period. This sector, which includes the Department of Corrections, Department of Law, and the Department of Public Safety, received a 6.0% increase in general fund allocation. This increased the Public Safety and Courts budget appropriation to 15.2% of general fund spending, or roughly \$1.06 billion in fiscal year 2011-12. In comparison, the spending for this budget item in fiscal year 1988 totaled approximately \$76 million (Griesmer, 2012 p. 3-4). This evidence provides support for the argument that the war on drugs has disproportionately affected people from poor communities. Colorado passed a budget that cut state spending for education while at the same time approving public funds for corrections over 1,000% greater than the amount spent by this same sector less than 25 years earlier. Public school districts in Colorado are primarily financed from state tax revenue (\$3.4 billion, fiscal year 2012-13) but also receive a significant amount of funding from local property taxes (\$1.8 billion, fiscal year 2012-13 (The Colorado Department of Education, 2013). It logically follows then that reducing the amount of money the state gives to fund local school districts will have a greater impact on the poorest school districts that are not able to generate the same level of property tax revenue as more affluent districts.

In spite of the obvious success the war on drugs has had in fueling a contemporary system of minority control and subjugation in society, this has come at a cost much greater than the \$104 that is now spent yearly by every United States resident to run state prisons (Clear, Cole, & Reisig, 2011). The extremely disproportionate impact that war on drugs policy has had on poor minority communities will logically lead to these communities developing a sense of mistrust for the system. Polls conducted in 2012 by the Pew Research Center are consistent with findings from earlier surveys in



2007 and 1995 that support the position that confidence in local law enforcement in this country is greatly impacted by race. Specifically, over one-third of blacks polled reported that they had very little confidence that their local police agency will give equal treatment to all races. Only nine percent of whites expressed this same level of mistrust in local law enforcement.

However, these are not the only responses that appear to indicate a racial cleavage in the perception of equal treatment in society. Almost half of blacks polled (43%) responded that there is a lot of discrimination against their race while less than one-seventh of whites (13%) supported this perception. Perhaps the most shocking indication of racial division in society may be that the vast majority of African-Americans in this survey (81%) believe that this country must keep making changes to provide blacks with rights equal to white members of society. A majority of whites surveyed (54%), however, expressed the opinion that the country had made the changes necessary to provide blacks with rights equal to white individuals in society (Pew Research Center for the People & the Press, 2012).

The survey data cited above support the assumption that members of black communities commonly believe their local police agency would provide unequal treatment to members of their race. The fact that this perception of mistrust in law enforcement specifically, and society in general, is so much more prevalent among black respondents than white respondents lends further support for the argument that the war on drugs provided the fuel necessary to transform this country's prison system into a contemporary institution for enforcing minority control and ultimately, subjugation.

The statistics on the black incarceration rate of this country, as well as the evaluation of the Colorado state budget noted above, support the argument that the detriments of this country's mass incarceration system have disproportionately impacted people from poor minority communities, subjecting these groups to control and subjugation. New federal data on drug arrests in 2010 and 2011 support the claim that black drug offenders are unfairly targeted by law enforcement. Arrests for marijuana possession account for nearly half of all drug arrests in this country. The evidence indicates that marijuana, like other drugs, is used at a comparable rate amongst black and white individuals yet blacks are nearly four times as likely to be arrested for marijuana possession (Hart, 2013).

This apparent targeting of black drug offenders may help explain the emergence of an antiestablishment movement in black communities designed to foster an environment of noncooperation. For example, the "No Snitch" idea traces its roots back to rap lyrics in the late 1990s and has since grown into a cultural movement prevalent in many major American cities including Baltimore, Philadelphia, and Dallas (Masten, 2009 p. 702). This movement has expanded its influence into cities through rap lyrics from songs like "Snitch" by rap artist Obie Trice in which the last lines of the chorus state "Just don't, whatever you do snitch, cause you will get hit, pray I don't face you, yeah (Trice, 2006)." These kinds of rap lyrics are used along with clothing depicting various "No Snitch" slogans to encourage individual members of communities to refuse cooperating with local law enforcement.

The atmosphere of noncompliance promoted by this movement is so thorough that people will refuse to provide police with information regarding violent crimes to

which they are a witness and even in some instances of violent crimes in which they are a victim (Masten, 2009). The evisceration of the 4<sup>th</sup> Amendment discussed earlier has provided fuel for this movement as the Supreme Court has routinely ruled in favor of law enforcement officials in cases regarding the extent of Constitutional protections against unreasonable searches and seizures by the police. Examples of such decisions include the *Bostick* and *Whren* cases mentioned earlier.

The success of law enforcement agencies can be greatly impacted by community cooperation. However, community action such as the “No Snitch” movement popularizes the delegitimizing of local law enforcement agencies throughout major American cities, thus making it increasingly difficult for officers to enforce not only drug violations but also all other types of crime. The nature of many drug law violations make them difficult for the police to detect and enforce since nearly all participants are willing parties who do not consider themselves victims and generally attempt to hide their drug use. It should then come as no surprise that many potential drug violators are unwilling to cooperate with police. However, the war on drugs created an environment where policymakers, as well as the judiciary, through actions such as the “No Snitch” movement, are willing to expand law enforcement authority in the name of justice to such a degree that an increasing number of people in urban communities would rather see a violent criminal go free than provide police with any level of cooperation.

This paper has argued that the war on drugs policy, first enacted under the Reagan administration, has been calculated and targeted to foster a system of mass incarceration disproportionately affecting individuals from poor, minority communities. The system of mass imprisonment that emerged from increasing the criminality of drug violations and

differentially enforcing these violations in urban centers dominated by poor minorities has been shown to be a modern analogue to the institutions of slavery and legally enforced segregation that existed in this country during earlier time. In spite of statistics showing that drugs are used with roughly equal prevalence among the races, the war on drugs has had an extremely disproportionate impact on minority drug offenders.

A historical pattern can be observed in our society of the use of controlled substance policy to place more institutional control on a particular race or ethnicity associated with the use of a given substance. The war on drugs allowed policymakers to frame the drug problem as primarily a problem of poor minority communities that are ravaged by violent, drug-crazed criminals selling drugs for huge profits. Yet the increased criminality of drug violations, popularized by war on drug policy, has been the catalyst for increasing property and violent crime; for example urban burglary and theft rates as well as urban homicide rates, have been influenced by drug dealer violence. Moreover, increasing the criminality of drug violations while differentially enforcing these violations in poor minority communities has allowed the state to disinvest in social programs that would provide equal opportunities for advancement to African-Americans. By creating the environment necessary for drug crime to flourish by increasing criminal penalties for these violations while at the same time increasing enforcement of these laws, the state was able to institutionalize a race-neutral justification for the unequal protection of black rights in today's society.

In short, the war on drugs was never designed to eliminate the damage that drug use inflicts on society by reducing use or supply as policymakers would like us to believe. The war on drugs was instead a calculated effort to ensure that the state could

continue to provide legal, institutionalized impediments to advancement out of the exploited lower-class historically occupied by black Americans through slavery and legal segregation. The war on drugs has never been about providing an avenue to bring justice against the drug offenders supposedly wreaking violent havoc on our society. The violence associated with the war on drugs has largely been a result of the damage inflicted by law enforcement officials designated with the service of justice. The evidence and arguments presented throughout this essay show that the war on drugs is nothing less than a present-day adaptation of institutionalizing unjust subjugation of African-American communities.

It is now time to try and address the injustice of the system of mass incarceration and examine what might be done to bring an end to the institution of minority subjugation. If we hope to make progress towards ending the system, it is important to have an understanding of the impediments to change we are likely to encounter. In her book on mass imprisonment called *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, Michelle Alexander discusses how the tremendous size of today's prison system in itself creates a gigantic barrier to enacting change. Alexander notes that in order to return to the incarceration levels of the 1970s, 80% of prisoners would have to be released which in turn could lead to more than a million justice system employees losing their jobs (Alexander, 2010 p. 218). The millions of people employed by the justice system are likely to resist attempts to eradicate the mass imprisonment system of social control as they have a vested financial interest in maintaining the status quo. Sadly, justice system employees are not the only members of society that profit from the system of mass incarceration. Private corporations such as the American Correctional

Association contract with states to build and operate prisons in order to make a profit. This provides powerful incentive to resist any changes that would lower the number of people subjected to correctional control (Alexander, 2010 p. 219).

This essay has primarily focused on those subjected to the social control of the mass imprisonment system fueled by the war on drugs. However, those within the system responsible for enforcing this institutional social control have also been impacted by this great prison expansion. This paper has provided a number of statistics to support the claim that expenditures on law enforcement and corrections have increased greatly in this country since the war on drugs sparked the institution of mass imprisonment. However, this spending data is not useful until the masses realize that each and every dollar allocated to the system of mass incarceration is used by the state to ensure that some members of society will profit from the unjust removal of human freedom. Dramatic increases in enforcement and incarceration expenditures, such as the 1,000% growth in Colorado state appropriations from fiscal year 1988 to fiscal year 2012, may then be viewed as an act of the state to buy more support for the system of mass imprisonment.

Earlier this paper used the Conflict theory of class struggle to establish a theoretical support for the argument that the war on drugs has disproportionately targeted poor, minority offenders for subjugation. This theoretical perspective further argues that the system of mass imprisonment cannot be brought down by making incremental changes through a handful of legal reforms. The first step of course is to end the war on drugs and implement a national drug policy that treats drug addiction as an issue of public health. This may be done by adopting harm-reduction policy strategies similar to

the ones proposed by the National Association for Public Health Policy in their 1999 report entitled *A Public Health Approach to Mitigating the Negative Consequences of Illicit Drug Abuse* (National Association for Public Health Policy, 1999).

But perhaps more importantly, the Conflict theory of class struggle hinges on the belief that the state is the mediator of class struggle for the means of production in society. The state established a system of mass incarceration using the war on drugs to disproportionately target and subjugate poor, minority offenders to protect the interests of the elite. Over \$185 billion was spent by the US on police protection, detention, judicial, and legal activities in the year 2003 alone (Alexander, 2010 p. 218). The Conflict theory of class struggle hinges on the belief that the state mediates this struggle to protect the interests of the upper class and block the lower class from attaining the means of production. Therefore, the poor, disproportionately minority communities that have been overly targeted and subjugated by the mass imprisonment system must organize a collective movement that demands the state end the social control of incarceration that primarily protects the interests of the upper class.

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