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Forthcoming in *Punishment and Society*

## **Crime, Punishment and Segregation in the United States: The Paradox of Local Democracy**

*Nicola Lacey and David Soskice*

### **Introduction**

A copious literature has analysed the increase in levels of both crime and punishment in developed countries over the last 40 years. A comparative strand in this literature has thrown light on the differences between countries both in patterns of offending and, particularly, in patterns of punishment relative to trends in crime, and has ventured some explanations. Drawing on the analysis of Varieties of Capitalism (Hall and Soskice 2001), it has been suggested that the institutional capacity both to temper crime and to retain stable penal policy and moderation in punishment is greater in the co-ordinated political economies of northern Europe and the Nordic region, while the costs of exclusionary punishments are, at least for insiders, greater in these economies (Lacey 2008). Conversely, the more flexible, and significantly more unequal liberal market economies, lack the institutional mechanisms of coordination which foster capacity to broker cross-institutional agreements to stabilise penal policy in coordinated market economies. Moreover the lower investment made by liberal market economies in education and training implies that the cost of exclusionary and stigmatising punishment of those surplus to labour market requirements is lower than in coordinated market economies.

Among the higher-crime, more punitive liberal market economies which share similar economic and welfare state structures (Esping-Andersen 1990), however, the United States stands out in terms of both levels of serious violent crime, as measured by homicide rates or aggravated assaults (Gallo et al 2014), and punitiveness, as measured by imprisonment rates (Lacey and Soskice forthcoming). For

example, in the 1950s, the imprisonment rate in the US was double that in England and Wales; today, despite the fact that the English/Welsh rate has itself doubled in the intervening decades, the US rate is five times higher, with American prison rates at levels unprecedented among developed countries (Figure 1). The homicide rate stands at between 4 and 5 times that of England and Wales – not entirely out of line with its ratio in 1950 (6:1), but much lower than when homicide rates reached their peak in the 1970s, when the US rate reached ten times that of England and Wales (UNODC 2012).

There is a substantial literature which ponders the striking history of criminal justice in America during this period (Garland 2001; Lynch 2010; Pfaff 2012; Simon 2007; Tonry 2004; Wacquant 2009; Western 2006; Whitman 2003; Zimring, Hawkins and Kamin 2001; Zimring 2007, 2012). Three things about this literature are worthy of comment. First, the literature which is concerned with patterns of punishment – particularly with the growth of mass imprisonment – is relatively separate from the literature on patterns of crime, with the maintenance of high imprisonment rates notwithstanding steadily falling crime since the early 1990s encouraging the view that the two phenomena run on different tracks. Moreover much of the literature on crime is reluctant to venture general hypotheses, concentrating rather on using data to undermine mono-causal explanations (notably the impact of policing, imprisonment or unemployment). Secondly – and with one partial but important exception, that of race, - to the extent that these literatures speak to one another, they do so primarily in terms of an investigation of how criminal justice variables such as the ‘War on Drugs’, sentencing frameworks, levels of imprisonment or policing affect crime rates and vice versa, rather than in terms of how broader economic, social or political dynamics shape each of these areas. Thirdly, although much of this literature is ostensibly concerned with politics, and goes forward in terms of discussions of ‘the politics of race and crime’, ‘the politics of law and order’ or ‘punishment and democracy’, these references to politics in the criminological and sociological

literature mainly emphasise the salience of crime and punishment as political issues. They rarely scrutinise the relevant preferences and interests, and the political institutions through which criminal justice preferences and policies are constructed and filtered over time. Unfortunately, with a few honourable exceptions, political scientists have returned the compliment by ignoring crime, punishment and criminal justice institutions as genuinely political phenomena worthy of systematic analysis.<sup>i</sup>

In this paper, we seek to explain why both crime and punishment rose so sharply in the USA in the 1970s and 1980s, and why crime and the rate of change of punishment fell from the early 1990s onwards. These patterns of crime and punishment in the USA greatly magnify corresponding developments in other Liberal Market Economies - Australia, Canada, New Zealand and the UK - faced with similar broad macro-technological transformations, namely the collapse of Fordism in the 1970s and 1980s and the development of knowledge economies in the 1990s and 2000s. We set out the case for seeing these differences as largely the product of dynamics shaped by the institutional structure of the American political system. On the face of it, this may seem a surprising claim, given that all these countries are competitive political systems in Lijphart's sense (Lijphart 1984, 1999), by contrast to the negotiated political systems of Northern Europe. Nor – in comparing the American political system with these others – do we suggest that it is the Presidency or the operation of Congress which is the relevant factor. We will argue, rather, that the distinctive American trajectory is shaped directly and indirectly by local democracy in the USA in the key policy areas of *residential zoning*, *public education*, and *criminal justice* (embracing policing, prosecution and sentencing). The American level of local autonomy has no parallel in the other Anglo-Saxon polities, where regulatory frameworks as well as senior appointments of officials are made at national or provincial level. Local democracy, especially in the large Northern and Mid-Western cities, we hypothesise, may help to

explain America's distinctive patterns of crime and punishment in the late 20<sup>th</sup> Century, because it magnified through residential and educational segregation and concentrated poverty the social problems caused by deindustrialisation and the collapse of Fordism (Peach 1996; Johnston et al 2007; Peterson and Krivo 2010). Why then did violent crime drop and the rate of change of imprisonment fall from the early to mid 1990s on? We hypothesise and present evidence that the move back into city centres of young professionals associated with the 'knowledge economy' both dramatically improved local labor markets for low skilled males and operated via local democracy to change policing tactics in some inner city areas. This thesis is backed up by the evidence that city populations continued falling in large cities in which crime continued rising (notably Detroit, Philadelphia, Milwaukee and for a time Baltimore: see Figure 6). More generally, we argue that the debate about the relationship between crime and punishment has been distorted by its focus on imprisonment rates: while imprisonment rates do not track crime, *rates of change* in imprisonment track violent crime, in a lagged way, remarkably closely (see Figure 4).

How can local democracy generate such outcomes? The hypothesis which we put forward in this paper is that decisive voters in generally low turnout local elections (municipalities, counties, school boards, district attorneys and judges) are home-owners for whom a main concern is the value of their primary assets: their homes; and residential and implicit educational segregation, as well as tough policing, prosecution and incarceration, all played a part in the distancing of their homes from poverty and disorder during the 1970s and 1980s. While decisive voters remain home owners, we discuss the (limited but important) extent to which some of these policies – notably on policing – changed when inner city populations grew again from the early 1990s.

In direct opposition to the view that the cause of the ills of American criminal justice in the late twentieth century derives from an excess of 'federalisation' (Stuntz 2011, Scheingold 2010), we suggest that the radically decentralised character of American democracy may have been a key, if indirect, cause of both relatively high rates of crime (particularly serious violent crime: Miller, forthcoming) and punitiveness under the economic and social conditions prevailing from the 1970s until the 1990s following the collapse of Fordism. We further suggest that the crime decline and the gradual stabilisation of imprisonment rates since the 1990s has been shaped by local political dynamics, particularly in large cities, attendant on the emergence of a knowledge economy.

While both decentralisation and the impact of political institutions at the local level have begun to feature in a small literature on various aspects of criminal justice (Barker 2009; Garland 2010, 2013; Campbell 2012), there has as yet been no attempt to provide an integrated analysis of just how those institutions affect the interests and motivations of relevant groups of actors such as voters, criminal justice officials and political elites across a range of interlinked policy areas. The ambition of our paper is to set out a clear hypothesis about the role of the decentralised American political system in driving both punishment and, more controversially, crime from the 1970s to the 1990; to show how that thesis is consistent with the crime decline and deceleration of punishment over the last 20 years; to review the evidence which gives credence to our thesis, and supports the view that crime levels have been a more important determinant of incarceration rates than has been generally supposed; and to make the case for a research agenda exploring what has been a largely neglected area in the study of American criminal justice.

## **The politics of crime and punishment in America**

### *Democracy In America: non-partisan electoral competition in multiple arenas*

Voter affiliations – and hence the strategies which candidates use in seeking election – are defined in the USA in terms of the policies and even personalities of current office-seekers or office-holders to a much greater extent than the more disciplined political systems of the other Anglo-Saxon countries: in the American system, characterized by weak party discipline, it pays leaders, as individual candidates for office, to appeal directly to voters. In this context, policies likely to secure independent votes by appealing to median voter interests have become a key preoccupation for political leaders. To the extent that criminal justice is identified by politicians as just such an issue (here crime and the fear of crime potentially enter the political picture, Enns 2014), this sets up, loosely speaking, a ‘prisoners’ dilemma’ (Lacey 2008) in which candidates become locked into a strategy which they dare not abandon because of the electoral advantage, particularly *vis-à-vis* ‘floating voters’, which they fear would accrue to the other side. Key examples at the national level would be Richard Nixon’s War on Drugs (later amplified by Ronald Reagan) and Bill Clinton’s enthusiastic support for the death penalty. The key impact of the electoral ‘prisoners’ dilemma’ dynamic in the US seems likely, however, to be at the state and local levels.

The impact of political institutions on criminal justice varies significantly as between different levels of electoral competition (Miller 2008). But these levels are much more numerous and differentiated in the US than in almost any other advanced democracy (Soskice 2009). The radically extensive and extraordinarily decentralized quality of American democracy sets up, we suggest, two dynamics which, particularly in a world of relatively widespread anxiety about crime, strongly shape the formation of crime policy. First, it implies that the ‘prisoners’ dilemma’ is reproduced through very frequent elections at state, county and municipal levels, significantly increasing its impact. Second, it

implies an accountability gap: individuals seeking election at local level have an interest in advocating popular policies the costs of which do not necessarily fall on the electoral constituency (Soskice 2009; Boggess and Bound 1993; Stuntz 2001; Campbell 2012:306; Zimring 2012 Appendix B). Increased resort to imprisonment, where the political benefit accrues largely to local politicians while the costs fall on the state, would be a key example. This accountability gap is a common consequence of the negative externalities of local decision-making, another example being expenditure on the education of those who subsequently move elsewhere.

In relation to the key policy areas relevant to poverty, segregation and crime and punishment, it would be hard to exaggerate the distinctiveness of the American tendency to organize governmental and executive power through electoral mechanisms at the local level (see Figure 3). Though state politics and the varying institutional structure of states are undoubtedly of great importance in understanding crime policy (Barker 2009), there is strong reason to think that the local level of the county or city, where in any case many state policies have to be implemented and interpreted – a level which is more laborious to research, and hence less fully understood - has been of equal or even greater significance. And if weak party discipline and personal platform- domination has largely characterized national and state level politics, this is yet more true of local politics. Here actors with key roles in the criminal process - mayors, judges, district attorneys, sheriffs, to name only the most obvious – are, in stark contrast to other liberal market economies, often elected, and hence subject to direct electoral discipline; and their electoral campaigns depend on an extensive practice of radio and television advertising focused on individual record or policy commitments rather than on party platforms. Beyond this, the American practice of electing officials – County Commissioners, School Boards, Treasurers and so on - reaches deep into institutions at one or more remove from the criminal justice system, in which a median voter orientation will be likely, under certain conditions, to bring concerns about crime and punishment into play. These locally elected officials in turn

appoint police chiefs and zoning boards. The resulting electoral cycle effects on policy areas such as police hiring, rates of prosecution, rates of dropping charges and conviction rates (particularly in property and drug cases: Dyke 2007) and even judicial decision-making on sentencing and case disposal are amply attested in a developing political science literature (Brooks and Raphael 2002; Gordon and Huber 2004; Berdejó and Yuchtman 2013; Levitt 1997; Shepherd 2009)<sup>ii</sup> as well as in ethnographic research (Bogira 2005: 311-36).

*The collapse of Fordism and the rise in violent crime and punishment from the late 1960s to early 1990s: the polarizing and reinforcing dynamics of local electoral democracy in education, zoning and crime policy*

In this section, we develop a testable thesis about how the dynamics of decentralized politics reacted to the social and economic upheavals of the collapse of Fordism and led to two decades of sharply rising violent crime and incarceration.

The ultimate locus of most democratic decision-making in residential zoning, public schools and law and order (policing, public prosecution and non-appellate state justice) in the US is the city or county; this entails that *local autonomy* has tremendous power, and that decisions reflect the interests and preferences of median voters. The decisive voter in local elections is likely to be a home owner with strong concerns (Fischel 2001, 2004) to segregate the poor residentially – in the suburbs to keep the poor out, and in the cities to push the poor into their own enclaves (Beckett and Herbert 2009); to keep property taxes low if public schools are bad (*de facto* segregated) or high if they are good, in order to maintain property values; and in any case to promote *de facto* educational segregation. The exclusionary implications of homeowners' concern with property

values is amply attested in the minutes of homeowner and neighbourhood associations in relation to zoning boards. These local political dynamics in zoning and public education explain the background conditions of densely segregated housing and *de facto* segregated and less resourced education for poor ethnic groups; as employment fell for less-skilled male workers in Fordist plants, so unemployment and poverty grew in these neighbourhoods – reinforcing the local politics of residential and educational segregation.

Another 'local' policy area is policing, with cities having independent police forces and in consequence senior appointments and decisions about police practices being made at local level. Refracted through mayoral and council elections broad police practices are responsive to local democracy. To take the most salient policy example, given residential segregation, homeowner voters will have reason to favour effective policing outside disadvantaged, high-crime areas and limited resources for policing in these areas (where victims are poor and are not median voters). Moreover in so far as these areas have high levels of violent crime and established gangs, they are extremely costly to police effectively. One can readily see how this may become a self-reinforcing process: with ineffective policing, violence is liable to increase, further eroding trust in the police and increasing the costs of 'community' policing. In this context, there is a greater temptation to turn to minimal, or aggressive, quasi-military policing tactics (Goffman 2014; Meares and Kahan 1999).

These policies on zoning, education and policing have strong implications for violent crime, both in highly segregated poor (largely black and hispanic) tracts and via its spill-over into middle class areas. In a powerful recent study, Krivo and Petersen have shown how violent crime is strongly related to highly segregated disadvantaged areas, with large ethnic populations and with a high

proportion of high school dropouts, in large ex-manufacturing cities (Peterson and Krivo 2010; Krivo, Peterson and Kuhl 2009). In an important finding, Krivo and Peterson also show that middle class areas in cities with high proportions of such poor high violence areas suffer from spillover of violent crime. Indeed, the violent crime rate in the most advantaged white neighbourhoods in cities with high segregation is equal to the rate in the least advantaged white neighbourhoods in low segregation cities (Peterson and Krivo 2010).<sup>iii</sup>

Why did violent crime rise so dramatically from the late 1960s to the early 1990s in these disadvantaged areas? Violent crime was relatively low in the early and mid 1960s, then began rising. It levelled off briefly from 1980 to 1983 and then resumed a rapid rise in the late 1980s till the early 1990s since when it has fallen (Figure 4). Our argument is that the major trends over time are shaped by the availability of reasonable employment for males from disadvantaged backgrounds in segregated neighbourhoods. In the early to mid-1960s, the Fordist regime provided, directly and indirectly, employment even for those with weak educational background and low social capital. This was because semi-skilled employment on assembly lines required physical skills but limited analytical or social skills, and unionisation was relatively easy to impose on Fordist employers, because of the assembly line system. Moreover the semi-skilled had considerable power within unions because they were necessary to assembly line continuity. So even the disadvantaged shared in high negotiated wages. Fordism gradually collapsed as a competitive system from the late 1960s through to the early 1990s. The implications of this can be seen from data in Figure 5 on real hourly earnings of male workers in 10<sup>th</sup> and 20<sup>th</sup> percentiles of the labour force.

What explains the collapse in 10<sup>th</sup> /20<sup>th</sup> percentile earnings illustrated in Figure 5? The 1970s and 1980s saw a continual middle-class exodus from inner cities, which in itself reduced availability of low-skill service employment in the inner city. As Fordist jobs were largely eliminated by automation, new jobs increasingly followed middle classes away from city centres - and increasingly demanded analytic and social skills. And as middle classes moved away, so socio-employment networks – which could link those in the inner city with employment opportunities – declined. This in turn led to the collapse in inner city unskilled earnings. Many of the resulting group of unskilled, unemployed men were black Americans who had moved relatively recently, in the middle decades of the 20<sup>th</sup> Century, from the Jim Crow South to the North in search of work and better opportunities – before becoming surplus to the requirements of the labour market in the 1970s (Wilson 1987, 1996). The Civil Rights Act was less than a decade old when the economic collapse overtook the industrial cities; persisting discrimination and segregation in both housing and education meant that the educational and social disadvantages which African Americans had brought north with them remained ineffectively tackled.

Why did this cause the huge increase in violent crime? We suggest that there were two types of causes: lack of (or inappropriate) public policy responses; and individual responses by disadvantaged males. Taking policy causes first, our suggestion is that these developments made homevoters more determined to maintain residential segregation; and local democracy allowed these interests to produce zoning ordinances and their enforcement through zoning boards, with accentuated segregation contributing to the increase in violence and the social disorganisation which produces it. Secondly, public education opportunities for disadvantaged youth were determined through school boards; here again, as disadvantaged youth turned to violence and the alternative economies offered, for example, by gangs, homevoters became more concerned to reinforce *de facto* educational segregation, especially for high schools. Thirdly, home voter interests were also decisive

in blocking the investment in serious foot patrols or 'community' policing in poor areas, which accordingly experienced either a vacuum of legitimate law enforcement or aggressive, military-style policing, often on an intermittent basis (Meares and Kahan 1999). In terms of individual responses, disadvantaged youths accordingly found themselves in dangerous weakly policed environments, and street gangs (which had been unimportant before mid-1970s) developed as protection devices, using violence to protect their turf. This increased with their engagement in the drug market, encouraged by the 'War on Drugs', and was further increased by gang instability as leaders were incarcerated and new leaders needed to establish a reputation for toughness. Gangs further became involved in legitimate as well as illegitimate social control, and teamed up with institutions like block clubs, community associations and churches to provide local goods and security – hence with public local support and toleration of their illegitimate activities, albeit within limits (Pattillo-McCoy 1999: chapters 4 and 5). While there is a significant amount of ethnographic work to support this argument (Venkatesh 2008, Patillo 2007; Hagedorn 1998, 2008), comparable aggregate data on gangs is poor. However, such data as exists confirms that this was period of major upswing of gangs (US Youth Gang Survey 2011); and recent research has confirmed that this was also a major period of growth of prison gangs which were important in areas with big cities (Skarbek 2014).

The juxtaposition of the extremes of wealth and poverty produced by America's distinctive form of capitalism, along with the normative force of the 'American Dream' combined with the impossibility, for many, of realising it, have been argued to produce a criminogenic anomie (Messner and Rosenfeld 2007; Lafree 1998). The dominant explanation of the relationship between segregation, poverty and crime lies in 'disorganisation theory' (Hagan and Peterson 1995; Sampson and Wilson 1995; Sampson and Groves 1989) – the argument that deprivation and in particular concentrations of deprivation undermine the capacity of communities to sustain norms of order. Crucially for our thesis, much of that disorganisation in the US is traceable to political decisions at the local level

(Hagan and Peterson 1995: 15 23-4; Massey and Denton 1993: 14, 153-60). As Krivo and colleagues spell out the irony here, the greater the fragmentation and polarisation, the greater the need for coalition-building to resolve problems, yet the lower the capacity to engage in it (Krivo, Peterson and Kuhl 2009). In the face of these developments, it is hardly surprising if the middle class median voter reacted by interpreting crime and indeed poverty as matters of individual responsibility, thus legitimating their own resistance to voting for expensive strategies such as the improved housing, better schools and proactive policing (Alexander 2012: 216).

Thus we believe the remarkable upsurge in violent crime through the 1970s and 1980s stemmed from three factors: ineffectively policed, poor (largely ethnic) residentially and educationally segregated neighbourhoods – the consequence of local democratic decisions reflecting the interests of middle-class homeowners; the collapse of Fordist employment and the devaluation of less-skilled labour which led to mass unemployment of young ethnic males in these segregated neighbourhoods and sharply reduced returns to legal low-skilled work; and, as social disorder developed, the rapid growth of gangs, initially as self-protection institutions, where violence was a consequence of turf war and drug-dealing. These factors as we see it were self-reinforcing as the economy of the inner cities weakened.

A key element of our underlying argument is that violent crime drives punitiveness which in turn drives the rate of change of incarceration. We have shown (Figure 4) that (at least in terms of correlations) this is true at the national level. Moreover Miller (forthcoming) has shown the relevance of violent crime for the political salience of crime and punishment. Unfortunately we do not have data for the punitiveness variable at the state or local level, and data for incarceration only at the state level. So while there is considerable ethnographic and electoral cycle research evidence

(already cited) that prosecutors and district judges are responsive to electoral concerns about spillover violence, this is an area which needs to be further researched before it can be pinned down. What is known however is that high violent crime in poor neighbourhoods in a city produces a spillover in violent crime to middle class neighbourhoods; and that this spillover effect is magnified by increasing levels of violent crime (Petersen and Krivo 2010). Given the relation between spillover violent crime and the political salience of punishment to which Miller (forthcoming) has pointed, this seems to offer a potential explanation for the rapid increase in incarceration during the decades of rising violence. Moreover when violence stopped increasing and began to fall, so too did the increase in incarceration (Figure 4). Bearing in mind that the change in incarceration is (loosely) the variable on which policy makers can act – by prosecuting and imprisoning offenders and then by hastening or not their release – this seems a relevant result. Again it is shaped by local democracy.

We might summarise our thesis by saying that when the poor have a strong presence (Wilson 1987), these reinforcing policies lead to a ‘bad’ equilibrium; conversely, when the poor are hardly present ‘nice’ communities result from the same dynamics. Our hypothesis would explain how the ‘bad’ equilibrium created fertile conditions for persisting (racially patterned) ghettos, poor schools and sporadic and/or militarised policing which further attenuated the social structures which would have been capable of promoting social norms and order (Patillo 2007). The thesis suggests that residential exclusion further leads to attenuated networks which create further barriers to integration and social mobility (Royster 2003; cf. Pattillo-McCoy 1999; Charles 2006), and effects damaging black exclusion from pluralist politics (Massey and Denton: 153-60). The perverse incentives here are proportionate to the level of disadvantage: the worse the disadvantage, the greater the incentive for middle class voters to opt for segregation. Evidence for the politically self-sustaining quality of this equilibrium, even independent of race, can moreover be found in ethnographic research such as Pattillo’s rich study of the gentrification of a downtown Chicago area, *Black on the Block*, in which

middle class blacks who have invested in housing exhibit much the same concern as their suburbanite white counterparts about the impact of the lifestyles of their less advantaged neighbours for property values (Pattillo 2007: Chapters 2 and 6). Furthermore the electoral success of a significant number of black leaders depends on the concentration of black voters which is produced by residential segregation – a factor which may have diluted the incentive for black elites to fight segregation (Massey and Denton 1993: 213-5).

### *The crime decline and the deceleration of punishment since 1990*

Our argument so far suggests that the dynamics of voting and of electoral competition in the decentralised US system have implied powerful polarising forces, which have given added political weight to both criminogenic and punitive dynamics. The poor schools, residential segregation and zoned policing policies produced by local autonomy have, we suggested, combined with the economic and social upheavals generated by the prolonged collapse of Fordist semi-skilled employment for males to produce social disorganisation. And social disorganisation is associated with high levels of crime (Sampson 1987; Sampson and Groves 1989; Sampson and Wilson 1995). But two obvious questions can be raised about this thesis: First, how can the marked decline in violent crime since the 1990s be explained? Second, while the marked decline in violence has indeed led to a corresponding decline in our measure of punitiveness (Enns 2014: see Figure 4), how are we to explain the continuing rise in the rate of incarceration until very recently?

So why did violent crime start to decline in the 1990s? The gradual development of a knowledge economy combined with the prolonged period of growth and low inflation in the US and elsewhere from the early 1990s to the financial crisis (the 'Great Moderation') generated a major population shift back especially into the largest cities where growth in high skill industries has been

concentrated. Florida's important work on the 'Creative Classes' ([Florida 2002](#)), as well as Glaeser and colleagues' work on skill clusters ([Chatterji, Glaeser et al. 2013](#)), help to explain the gentrification of inner city areas during this period. We hypothesise that this co-movement of economic growth and of young professionals into the inner city led to declining crime for three interrelated reasons. First, as Figure 5 demonstrates, it decisively raised real hourly earnings of unskilled male workers (10<sup>th</sup> percentile) as a corollary of the need for unskilled work to complement the emerging skill clusters. Second, with rising population in city centres, actual residential segregation declined between 1990 and 2000 (Massey and Rothwell 2009). This in turn transformed the political dynamics, in that the new residents wanted effective policing of these areas including city centres. Recent research by Sharp (2013) has shown econometrically across a range of metropolitan areas that the key variables in determining the importance of 'Order Maintenance' policing are, first, the percentage of 'creative classes' or other measures of post-industrial development and, second, police use of surveys of citizen concern on crime and disorder to guide police deployment. Our tentative argument is therefore that violent crime declines (in the cities where it does) for fundamentally political-economic reasons; and that these political, economic and demographic developments are already having significant effects on the dynamics of local democracy.

If the new political-economic dynamics have had decisive implications for crime, however, the polarising dynamic of American local politics remains evident. For those unable or unwilling to play by the rules of the newly refurbished cities, or whose presence promotes feelings of insecurity among residents or those spending money on property investment, retail or leisure activities, new kinds of zoning regulation have been created. These regulations take the form of local civil, criminal and planning laws to 'banish' the troublesome from middle class areas (Beckett and Herbert 2009).

We can loosely test this broad explanation, since not all very large cities benefited from falling violent crime from the 1990s. The effects upon crime are suggested by Figure 6: of the largest cities outside the South, New York, Boston, Los Angeles, Chicago and Washington DC all saw falling violent crime from the early 1990s on, while their population grew; Philadelphia,<sup>iv</sup> Detroit, Milwaukee and Baltimore did not have declining violent crime (at least until the 2000s), and did have continuing population decline.

It can be seen from Figure 4 that the decline in violent crime since the early 1990s has been associated with a fall in the Enns (2014) punitiveness index, which measures changing attitudes to the rate of change of incarceration over time, and compares this with both public attitudes to crime and rates of violent crime. Incarceration has gone on rising, so does that mean that the link between punitiveness and policy responses via incarceration has been broken? There is good reason to think otherwise. For the continuing increase in the imprisonment rate is driven by many factors which are not readily within policy-makers' control – notably the continuing impact of increased numbers of long term prisoners on the global number. So the relevant policy response which we would expect to see if there is indeed a link between crime, punitiveness and imprisonment is rather an effort *to change the rate of incarceration*, by operating either on new admissions to prison or on releases. As can be seen in Figure 4, the rate of change in imprisonment, after rising sharply through the 1970s and 1980s, began to fall equally fast. This suggests that the effect of crime on punitiveness and the effect of punitiveness on policy on imprisonment have remained very much in place, albeit that institutional path dependence and the accretion of commercial interests in the prison system may well have slowed the deceleration of imprisonment to some extent (Gottschalk 2014: 25-74). Furthermore, the rate of change remained positive until recently, with rising incarceration (although significantly lower for violent crime). This is an area for future research, but

some part of the explanation is likely to do with the more intensive policing of urban centers (often oriented to 'banishment' of the homeless or otherwise troublesome: Beckett and Herbert 2009).

*Centralised vs local democracy: American crime, punishment and democracy in comparative perspective*

We have already suggested that the power of homevoters - people particularly motivated to vote out of concern with ensuring policies which protect the value of their primary asset - (Fischel 2001, 2004, 2005), in the American system of local democracy may hold an important key to understanding the distinctive dynamics of crime and punishment. And we know that 'homevoters' turn out to vote in much higher numbers than others (Hajnal and Trounstein 2005), resulting in a more advantaged median voter at local level. Particularly given low turnout and homevoter interests, median voters at local level are hence likely to be considerably to the right of median voters at federal or even state level (Hajnal and Trounstein 2005: 16-17; Cutler, Glaeser and Vigdor 1999). They are also more likely to be significantly concerned about the impact of crime on property values and the quality of local services such as education than general survey respondents. It is therefore a significant problem that most evaluations of the political impact of concern about crime are based on generalised survey evidence (e.g. Beckett 1997). Our hypothesis is that the homevoters who have so much power in local elections are in a position to co-opt the local state, which in effect operates in their private interests.

But why should this 'homevoter' effect be so powerful in the United States, leading to unique levels of residential segregation (Peach 1996; Johnston et al 2007; Reardon and Bischoff 2011)? Two considerations are important, and differentiate the United States from comparable countries such as the United Kingdom. The first has to do with the structure of the labour market and of pensions

provision. The motivation of the median voter is almost certainly strongly affected by concern about property values in other countries where home ownership is widespread, as is the case in most liberal market economies. But in the US the home represents not only the largest personal investment for many middle class families, but also their pension pot, as compared with more complete public and occupational pension provision in the less flexibilised liberal market economies. Growing rates of home ownership through the second half of the Twentieth Century have increased the relevant dynamics (Simon 2010).

The second consideration follows from the fact that the main mechanism by which segregation is achieved is that of zoning – a key form of autonomous political power at the local level ever since the Supreme Court ruled on the legality of zoning ordinances in 1926.<sup>v</sup> By contrast to the localised basis for zoning, education and policing decisions in the US, all the key rules governing zoning, police organisation and practice, justice, public prosecution, and the education system are made primarily at the national or provincial level in other liberal market economies such as Canada, the UK and New Zealand (Figure 3). This may help to explain the striking differences between the US and other liberal market economies which have also struggled with issues of inner city decline and unemployment following the collapse of Fordist production in the 1970s. Despite the ‘prisoners’ dilemma’ effects attendant on national governments’ competing for median voters, more centralised systems, our thesis would suggest, avoid the negative externalities of local decision-making characteristic of the US. This is because of an important difference in the typical interests of median voters – and hence of politicians – at national as opposed to local level, *even leaving the demographic differences just discussed aside*. The idea that people are more likely to vote for public goods at the national than at the state or local levels seems counter-intuitive given evidence that more homogeneous groups are more likely to vote for collective goods (Alesina, Baqir and Easterly 1999). However, it makes sense if one assumes a mobile society in which people vote at the national level for goods from which they

will benefit wherever they live. Conversely, at the local level people will be inclined to vote only for things from which they can be guaranteed to benefit – hence voters are less likely to vote for long term investment, notably in education, where the benefits accruing may then move elsewhere. Local voters, in short, have an incentive to ‘capture’ the benefits of social policy by restricting their support to policies from which they are sure to benefit. Under conditions of relative homogeneity, this becomes a less pressing concern. But the extensiveness of local electoral government means that arrangements which are in the interests of politically powerful swing voters – themselves drawn from more advantaged groups - can more readily be inscribed in public policy.

If it is true that the positive externalities – the expectations that they may benefit from widely diffused goods - mean that voters are more likely to vote for public goods at higher levels of government, especially the national level, it would follow that localities make a poor basis for long term policy-making let alone redistribution. (Indeed many progressive reforms at state level through US history have been motivated by the recognition that local decision-making performs poorly in terms of redistribution: Zackin 2013: 103). And while there has been some progress in the US, especially at the state level, in mounting legal challenges to impose uniform standards in education – notably in decoupling school spending from local property tax revenues (a strategy which itself ultimately depended on state enforcement (Corcoran et al 2003)) – housing and zoning policies remain strongly shaped by local interests, with devastating effects for efforts at desegregation, in both class and race terms. Even in the area of education, litigation strategies have had mixed success (Douglas 2005; Frankenberg and Orfield (eds.) 2012), with network-based inequalities rooted in factors such as private/parental contributions to school infrastructure and variations in teacher standards persisting even in the face of some political successes at the state level in increasing overall per capita spending. The continuing battle to counter voting restrictions likely

disproportionately to exclude the disadvantaged is testimony to the power of the relevant interests here.

The structure of local government and in particular of 'city trenches' in the US is well known to have accorded power to 'in-groups' (typically those with property, strongly associated with race, for obvious reasons). Early city politics ran on ethnic lines, and provided a strong basis for reproduction of group/sectoral identities and ethnic separation (Katznelson 1981: 104ff, 80ff). Newer local political structures such as school boards have in many ways reproduced the old group-based Tammany Hall structures.<sup>vi</sup> The scope of local autonomy is such that huge regional and intra-state differences of what would in more centralized countries be stabilized by public provision and national regulation can emerge. In the UK, for example, policing, education and planning all go forward within a national legislative framework, with modest provision for local control/variation. In Canada, these policies are largely framed at Province level, while even voter preferences for more localised city government have on occasion been overridden by provincial legislatures in the interests of better co-ordination of policy (Mitchell-Weaver et al 2000:865). In the 'balkanised' (Miller 2010; Orfield 2002) local government of the US, multiple jurisdictions do not have to consider effects on other jurisdictions. Yet more importantly, the fact that elections are decided by a relatively small group of 'median' voters means that the 'truly disadvantaged' are rarely heard at the ballot box even if they vote, and that this problem becomes more intractable the greater the degree of inequality and concentration of disadvantage. Again, this is confirmed by empirical research: Pattillo's black 'middlemen' lost power (Pattillo 2007) due to demographic changes and the collapse of Fordism.

That the voices of the disadvantaged tend to be muted in electoral politics, and that that disadvantage itself was accentuated by the collapse of Fordism is, of course, true in all the industrialised democracies. What is special about the US, however, is the degree to which the structure of the political system has allowed these widespread facts to issue in distinctively polarising policy. Our thesis implies that local autonomy in the US means that wealthier groups can opt out of collective problems via the construction of gated communities or the purchase of private education or private security: they can even incorporate within a new city with its own zoning laws. But, yet more importantly, local autonomy means that the local state itself can be invoked for similar structural purposes. In other words, zoning decisions, public housing policy, policing and school funding can be organised in the interests of the middle classes who swing elections. Hence to the extent that their interests have become more different, and that they view their fate as more and more independent from that of the disadvantaged, support for redistribution to the latter becomes ever harder to motivate. Moreover this would not be changed by a greater emphasis on local democracy or a change in constituency boundaries. For even granting Miller's (2008) finding that high victimisation/high crime groups such as poor inner city blacks have a more sophisticated view of crime policy than do more privileged groups, to implement the sorts of policies which that sophisticated view would endorse – better housing, education and employment – would require resources. And these resources in turn depend to a significant extent – particularly in the wake of the federal funding cuts and squeezed state budgets of recent years - on a local tax base which would be severely attenuated. There is an irony here: in this markedly anti-statist democracy, it seems that the local state has become a powerful medium for realising private interests. Our suggestion is that these decentralisation effects, though they vary according to specific state structures (Barker 2009), are sufficiently pervasive to constitute a key part of the explanation for American exceptionalism.

One further aspect of decentralisation bears on our explanatory hypothesis about America's distinctive problems of criminal violence, punitiveness and polarising social policy: the coordination

problem implicit in reliance on legal enforcement, often at local level, to implement national or state policy. As the Great Society and New Deal Programmes of the mid 20<sup>th</sup> Century attest – an era, incidentally, which saw drops in the homicide rate (Hall and McLean 2009) – the US can develop significant national policies in areas such as education, housing and criminal justice. President Obama’s Affordable Care Act provides a more recent example. But the federal government can push forward nationwide policy objectives only within certain constitutional constraints and under certain conditions: either where a party with a clear programme has control of Congress as well as the Presidency, or where there is cross-partisan consensus. Where there is neither this power nor this consensus at federal level, everything turns on states or localities. And even when federal initiatives are brokered, implementation largely rests on action at the state and local levels (Feeley and Sarat 1980). In the absence of powerful agencies or plentiful funding to provide economic incentives, implementation furthermore has to be triggered either by legal enforcement or by local political will (Lacey and Soskice forthcoming).

Law is often regarded as a particularly salient resource to counter the discriminatory effects of public power in the US. But local autonomy means that law can often be subverted to the interests of the relatively advantaged. For the democratic choice at local level of local judges and district attorneys blunts what has been seen as the primary resort of minorities whose rights have been abused by the political will of local majorities, namely the US Constitution and the Constitutions of the several states. ‘Legal adversarialism’ (Kagan 2001) has undoubtedly put tools into the hands of litigants with the resourcefulness (and resources) to challenge outcomes such as educational segregation or housing discrimination. However, the democratic choice of justices at the local level makes effective implementation of standards against local majority will difficult, even leaving aside pathologies of legal adversarialism such as high costs, delays, patchy impact and ineffectiveness at the level of implementation (Frankenberg, Lee and Orfield 2003; Douglas 2005; Frankenberg and Orfield (eds.)

2012). And this in turn – notwithstanding, and indeed in some ways evidenced by, the limitations of the various programmes rolled out under the aegis of the New Deal and the Great Society in the 20<sup>th</sup> Century – relates to an underlying structural difficulty for the Presidency to establish micro-governing, rule-implementing federal bureaucracies across the US (Feeley and Sarat 1980). The US system moreover features lower status bureaucracies, and a lower overall level of trust in expertise, than other comparable countries (Savelsberg 1994, 1999). Lessons from school segregation and civil rights history show that while litigation strategies can achieve real progress, they are both costly and divisive: they provide an adversarial framework for policy implementation, while individual case-based legal remedies or even class actions are rarely effective to resolve structural or coordination problems (Kagan 2001; Douglas 2005; Aaronson 2015). Hence this distinctively American translation of political activism into legal strategy has significant disadvantages. It is no surprise that law has come to assume such dominance in the American system: it makes sense that the more individualistic and fragmented the society, the more likely it will be to resort to legal enforcement which does not depend on compromise and negotiation, hence bypassing structural problems of coordination. But these problems, inevitably, reproduce themselves at the implementation level, with key recent examples including the lack of enforcement powers under the Fair Housing Act (Massey and Denton 1993: 14-15, 187, 223-30, 206 ff ) and the notoriously long-running Gautreaux litigation in Chicago (Pattillo 2007: 110-4; Peterson and Krivo 2010: Chapter 5). These difficulties have become more acute in an era of declining funding for agency enforcement (Pierson and Skocpol 2007).

## **Conclusion**

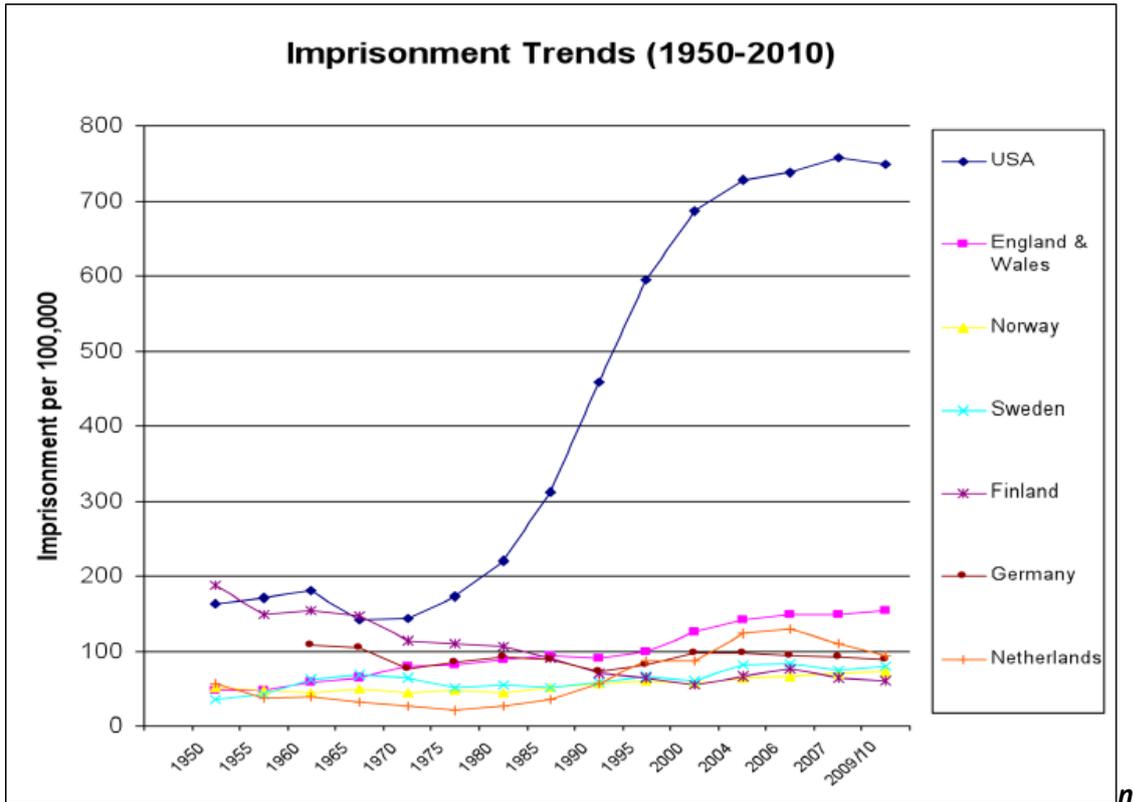
Our hypothesis about what explains the exceptional character of American crime and punishment turns, then, on the nature of the US political system. But we have not centred our analysis on the features of the American system which generally capture attention: its federal structure, its distinctive constitution, its powerful system of judicial review or its distinctive reliance on legal solutions to political problems. Rather, we have focused on institutional arrangements which have drawn little comment from criminologists and sociologists of crime and punishment: the United States' weak party discipline under conditions of declining voter partisanship and, above all, its peculiarly decentralised character, which obstructs the development of national criminal justice policy while allowing for varying local solutions which tend towards significant regional variation; and which disproportionately reflect the interests of the relatively advantaged, and of homeowners in particular. In the context of the significant demographic shifts which affected many cities in the run-up to the collapse of Fordist production in the 1970s, the decentralised political system has arguably led to increasing polarisation of housing quality, education quality, policing styles and social provision in and around American cities. In parallel, economic forces and technological change have led to similar polarisation in working life, and gangs have provided alternative paths to peer approval and meaningful activity, particularly for many young black and Hispanic men (US Youth Gang Survey 2011). Our suggestion is that, taken together, these political, economic and social dynamics created a powerful centrifugal force which, up to the 1990s, significantly increased crime, insecurity and punishment in the least advantaged sectors of the population, while also increasing their poverty and the extent of their geographical and social isolation. The inevitable upshot, to paraphrase Peterson and Krivo (2010), is an ever more divergent social, economic and spatial world, and the development of what we might call 'alternative social and political economies' – parallel worlds of work, social interaction and social control, most vividly in the example of gangs – competing, colliding and, on occasion, co-operating with the legitimate economy and the conventional social order.

If our argument is persuasive, it follows that there is a significant empirical research challenge to be met in criminal justice scholarship: to further investigate electoral cycle effects; patterns of local implementation of state and federal provisions; and the impact of local decisions on zoning, policing and education. Our thesis also has significant policy implications, suggesting for example that it would be a mistake to conclude, as some scholars have (Stuntz 2011), that the solution to the problems of crime and punishment is a rejuvenation of local democracy, let alone to think that an increase in direct electoral accountability equates to a better quality of democratic governance. An analysis of the distribution of voter preferences within the decentralised US system in fact suggests the very different conclusion that the diffusion and localisation of democracy has been a powerful institutional factor in shaping America's distinctive patterns of crime, punishment, segregation and indeed social inequality. The 'truly disadvantaged' groups, mainly located in inner city areas or poor suburbs, whose victimisation at the hands of both crime and criminal justice underpins their more complex view of crime and punishment (Miller 2008), are rarely the median or decisive voters in the electoral contests which shape policy. The recent history of increasing racial and socio-economic polarization, in both economic and spatial terms, much of it driven by zoning regulations and median voter concern with property values, gives the lie to any thought that greater localisation spells more equal criminal justice. Radical local autonomy is, in short, one important source of the ills of American criminal justice, and not a recipe for its cure.

This thesis would also, finally, help to explain the extraordinary scalar and qualitative difference between criminal justice and other social policy outcomes in post-1970 America as compared with other liberal market countries. Democratic local autonomy plays a much smaller role in the rest of the Anglo-Saxon world: indeed, the contrast between this radical decentralization and the national frameworks within which planning, education and criminal justice policy proceed in other liberal market economies can hardly be exaggerated. Framework rules and laws governing all the policy

areas discussed in this paper - public education, zoning, police, public prosecution and justice - are made at the level of central government (England and Wales, and New Zealand) or at provincial/state and partially federal levels (Australia and Canada). It remains to be seen whether the British Conservative Party's 'Big Society' agenda, or the Labour Party's localism agenda, will make significant changes in the decentralized American direction. In the event that they do so, our argument would lead us to expect adverse effects on poverty, educational inequality, spatial segregation, crime, punishment and relative disadvantage in England and Wales.

***Figure 1: Imprisonment Trends in Europe and the USA, 1950-2010***



Source: International Centre for Prison Studies (2010) World Prison Brief; John Pratt (2008)'Scandinavian Exceptionalism in an Era of Penal Excess'

Figure 2: Levels of Political Decision-making in Liberal Market Economies

	<i>Police</i>	<i>Prosecutors</i>	<i>Local judges</i>	<i>Zoning</i>	<i>Schools</i>
<i>US</i>	<i>City/municipal appointment by mayor (sometimes elected)</i>	<i>DA elected county or multi-county district</i>	<i>Most states elected on county or multi-</i>	<i>Zoning Boards appointed by locally elected Council/Mayor</i>	<i>Property tax by elected School Board at</i>

			<i>county district</i>		<i>School District</i>
<i>Canada</i>	<i>Office of Provincial AG; operating procedures, appointments, training</i>	<i>Provincial AG</i>	<i>Provincial government</i>	<i>Provincial, Federal defined policies</i>	<i>Provincial policies</i>
<i>England and Wales</i>	<i>Home Office appoints Chief Constables</i>	<i>Attorney General (government agency)</i>	<i>Lord Chancellor (Ministry of Justice)</i>	<i>Min Housing rules, right of appeal to Minister</i>	<i>National government policies</i>
<i>NZ</i>	<i>Government appoints (under Minister of Police, prosecution independence)</i>	<i>Attorney General appoints (remain private lawyers) national guidelines</i>	<i>Attorney General</i>	<i>National guidelines</i>	<i>National system (Ministry of Education)</i>





**Figure 3 : American Exceptionalism in Adverse Social Outcomes**

	<i>United States</i>	<i>United Kingdom</i>	<i>Australia</i>	<i>New Zealand</i>	<i>Canada</i>	<i>Sweden</i>
<i>Residential Segregation: (Ethnic)</i>	<i>10.8</i> <i>[11.4]</i> <i>Black</i>	<i>1.7</i> <i>[9.9]</i> <i>S Asian</i>	<i>0.1</i> <i>[2.7]</i> <i>Asian</i>	<i>0.0</i> <i>[19.6]</i> <i>Maori</i>	<i>1.4</i> <i>[11.2]</i> <i>Asian</i>	
<i>Prison per cap</i>	<i>701</i>	<i>141</i>	<i>115</i>	<i>155</i>	<i>129</i>	<i>73</i>
<i>Homicide rate</i>	<i>5.0</i>	<i>1.2</i>	<i>1.2</i>	<i>1.5</i>	<i>1.8</i>	<i>1.0</i>
<i>Literacy score 5<sup>th</sup> percentile</i>	<i>136.7</i>	<i>151.2</i>	<i>145.1</i>	<i>164.8</i>	<i>144.5</i>	<i>214</i>
<i>Child poverty</i>	<i>23.1</i>	<i>12.1</i>	<i>10.9</i>	<i>11.7</i>	<i>13.3</i>	<i>7.3</i>

**Source:** Ron Johnston, Michael Poulsen and James Forrest (2005) 'Ethnic Residential Segregation Across an Urban System: The Maori in New Zealand 1991-2001'; International Centre for Prison Studies (accessed 2010) [World Prison Brief](#); OECD (accessed 2013) 'Literacy in the Information Age'; Unicef (accessed 2013) 'Measuring Child Poverty'; UNODC (accessed 2013) [Homicide statistics](#).

**Notes:**

**(1) Residential segregation: % population in large cities living in tracts where (a) > 70% ethnic (non-white), (b) one ethnic group dominant, (c) > 30% of group in city live in these tracts. The number in [] is % of main ethnic group in cities analysed. 2001-2 Johnston et al 2007**

**(2) Prison data 2002-3; 2004 Canada**

**(3) International Adult Literacy Survey 2000 OECD**

**(4) Unicef, 2012**

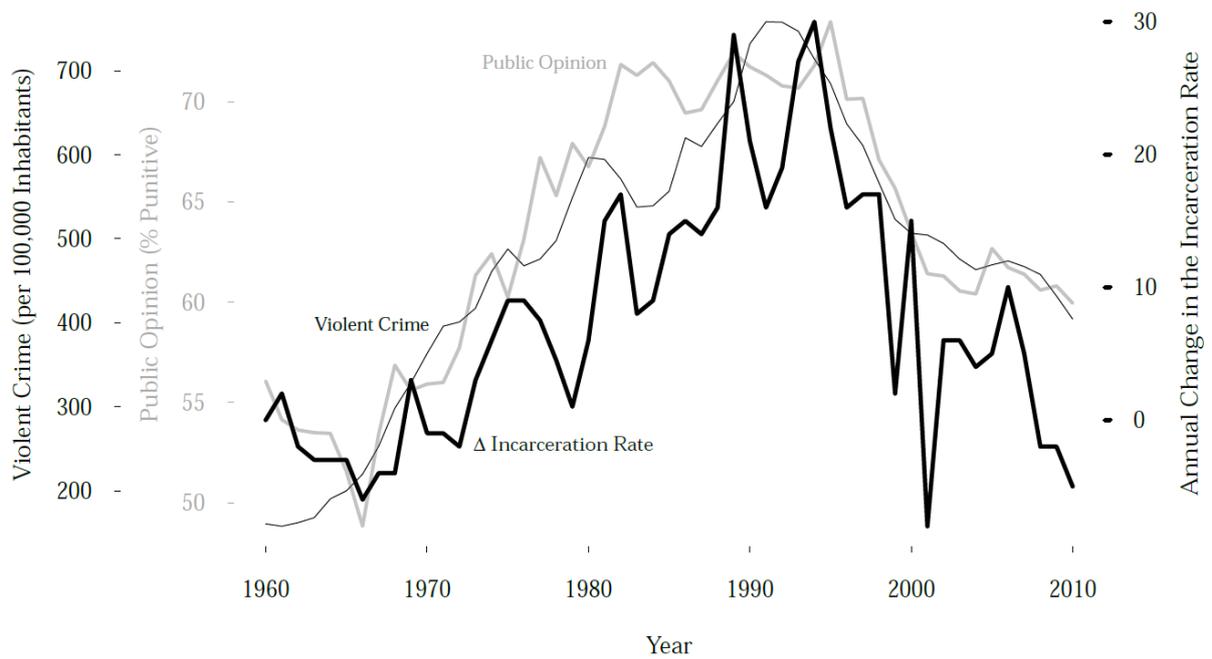
**(5) Homicide rate 2009**

**(6) Note that black % in US big city sample is < % in US population (because of South), while Maori % >; both around 15% of population**

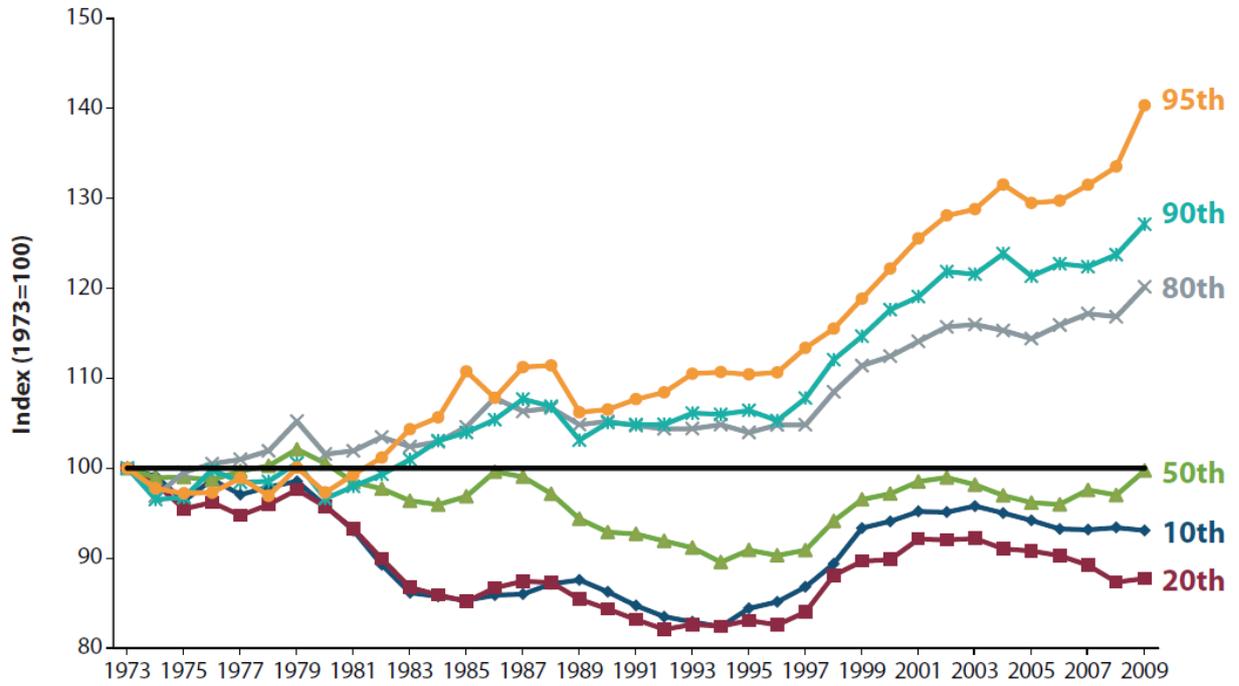
**(7) Prison per capita in US, male and female, includes jail.**

**(8) % children 0-17 in households disposable income (corrected for family size/comp) < 50% median.**

**Figure 4: Violent Crime Rate, Punitiveness Opinion Index and Change in Incarceration Rate, 1960-2010 (Violent crime rates, UCR data; change in incarceration rate data and public opinion data, Enns (2014)).**

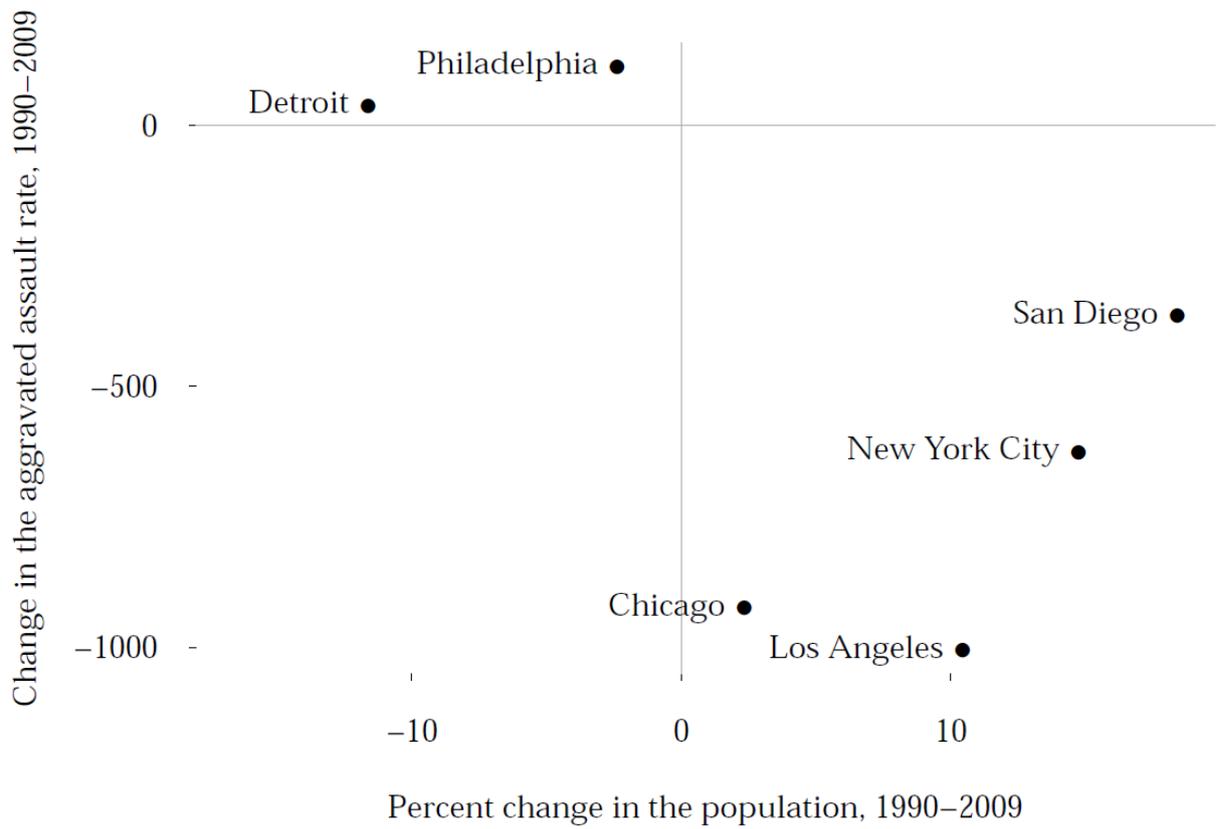


**Figure 5: Hourly real earnings male employees by deciles, 1973-2009**



**SOURCE:** EPI analysis of U.S. Census Bureau, Current Population Survey, Outgoing rotations group. Adapted from EPI's online State of Working America series, <http://www.stateofworkingamerica.org/charts/views/235>.

**Figure 6: Change in Aggravated Assault Rate and in Population, 7 Largest non-Southern Cities, 1990-2009 (Aggravated assault rates, UCR data; population change, census data and population estimates)**



## References

Aaronson, Ely (2015), From Slave Abuse to Hate Crime: The Criminalization of Racial Violence in American History, New York: Cambridge University Press

Alesina, Alberto, Reza Baqir and William Easterly (1999) 'Public Goods and Ethnic Divisions' 114 Quarterly Journal of Economics 1243-84

Alexander, Michelle (2012) The New Jim Crow: Mass Incarceration in the Age of Colourblindness  
New York: The New Press

Barker, V. (2009) The Politics of Punishment: How the Democratic Process Shapes the Way America Punishes Offenders New York: Oxford University Press

Beckett, Katherine (1997) Making Crime Pay, New York: Oxford University Press.

Beckett, Katherine and Steve Herbert (2009) Banished: The New Social Control in Urban America,  
New York: Oxford University Press

Berdej6, Carlos, and Noam Yuchtman. "Crime, punishment, and politics: an analysis of political cycles in criminal sentencing." *Review of Economics and Statistics* 95.3 (2013): 741-756

Boggess, Scott and John Bound, 'Did Criminal Activity Increase During the 1980s? Comparisons across Data Sources', National Bureau of Economic Research Working Paper no. 4431 (1993)

Bogira, Steve (2005) Courtroom 302, New York: Vintage Books

Brooks R.R. and S. Raphael. 2002. Life terms or death sentences: The uneasy relationship between judicial elections and capital punishment. *Journal of Criminal Law and Criminology*: 609-640

- Campbell, Michael C. (2012) 'Ornery alligators and soap on a rope: Texas prosecutors and punishment reform in the Lone Star State' DOI: 10.1177/1362480611416842 Theoretical Criminology 2012 16: 289
- Charles, Camille Zubrinsky (2006) Won't You Be My Neighbour? New York: Russell Sage
- Chatterji, A., E. Glaeser et al (2013) Clusters of Entrepreneurship and Innovation National Bureau of Economic Research
- Chubb, John E. (1988) 'Institutions, The Economy, and the Dynamics of State Elections' American Political Science Review 82, No. 1: 133-154
- Corcoran, Sean, William N Evans, Jennifer Godwin, Sheila E Marry, Robert M Schwab (2003) The Changing Distribution of Education Finance 1972-1997, New York: Russell Sage
- Cutler, David M., Edward L. Glaeser, Jacob L Vigdor (1999), 'The Rise and decline of the American Ghetto' Journal of Political Economy 107 455-506
- Douglas, Davison M. (2005) Jim Crow Moves North: The Battle over Northern School Segregation 1865-1954 New York: Cambridge University Press
- Dyke, Andrew (2007) '*Electoral cycles in the administration of criminal justice*', Public Choice 133: 417-37
- Esping-Andersen, G. (1990) The Three Worlds of Welfare Capitalism Cambridge: Polity Press.
- Feeley, Malcom and Austin Sarat (1980) The Policy Dilemma: Federal Crime Policy and the Law Enforcement Assistance Administration Minneapolis: University of Minnesota Press
- Enns, Peter K. (2014) 'The Public's Increasing Punitiveness and its Influence on Mass Incarceration in the United States' American Journal of Political Science 1-16

Fischel, William A. (2005) 'Politics in a Dynamic View of Land-Use Regulations: Of Interest Groups and Homevoters' 31:4 The Journal of Real Estate, Finance and Economics 395-403

Fischel, William A. (2004) 'An Economic History of Zoning and a Cure for its Exclusionary Effects' 41 Urban Studies 317-340

Fischel, William A. (2001) The Homevoter Hypothesis Cambridge: Harvard University Press

Florida, R.L. (2002) The Rise of the Creative Class New York: Basic Books

Frankenberg Erica, Chungmei Lee and Gary Orfield (2003) A Multiracial Society with Segregated Schools: Are We Losing the Dream? The Civil Rights Project, Harvard University

<http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/a-multiracial-society-with-segregated-schools-are-we-losing-the-dream/frankenber-multiracial-society-losing-the-dream.pdf>

Frankenberg Erica and Gary Orfield (eds.) (2012) The Resegregation of Suburban Schools: A Hidden Crisis in American Education Harvard Education Press

Gallo, Zelia, Nicola Lacey and David Soskice (forthcoming) 'Comparing Serious Violent Crime in the US and England and Wales: Why it matters, and how it can be done' in Kevin Reitz (ed.) American Exceptionalism in Crime and Punishment New York: Oxford University Press

Garland, D. (2001) The Culture of Control, Oxford: Oxford University Press.

Garland, David (2010) Peculiar Institution: America's Death Penalty in an Age of Abolition New York: Oxford University Press and Cambridge Mass.: Harvard University Press

Garland, D. (2013) 'Penalty and the Penal State' 51 Criminology 475-517

Goffman, Alice (2014) On the Run: Fugitive Life in an American City Chicago: University of Chicago Press

Gordon, S.C. and Huber, G. (2007) 'The Effect of electoral competitiveness on incumbent behaviour' Quarterly Journal of Political Science 2 (2): 107-138

Gottschalk, Marie (2014) Caught: the Prison State and the Lockdown of American Politics Princeton University Press

Hagan, John and Ruth D. Peterson (eds.) (1995) Crime and Inequality Palo Alto: Stanford University Press

Hagan, John and Ruth D. Peterson (1995) 'Criminal Inequality in America: Patterns and Consequences', in Hagan, John and Ruth D. Peterson (eds.) (1995) pp. 14-36

Hagedorn, John M. (1998) People and Folks: Gangs, Crime and the Underclass in a Rustbelt City Chicago: Lake View Press

Hagedorn, John M. (2008) A World of Gangs: Armed Young Men and Gangsta Culture, University of Minnesota Press

Hajnal, Zoltan and Jessica Trounstein (2005) 'Where turnout Matters: The consequences of Uneven Turnout in City Politics' 67 Journal of Politics 515-35

Hall, P.A. and Soskice, D. (2001) 'An Introduction to the Varieties of Capitalism', in P.A. Hall and D. Soskice (eds) Varieties of Capitalism Oxford: Oxford University Press, 1-68.

Hall, Steve and Craig McLean. 2009. A tale of two capitalisms: Preliminary spatial and historical comparisons of homicide rates in Western Europe and the USA. *Theoretical Criminology* 13: 313-339.

Huber, G. and S.C. Gordon. 2004. Accountability and Coercion: Is justice blind when it runs for office? *American Journal of Political Science* 48: 247-263

Johnston, Ron, Michael Poulsen and James Forrest (2007) 'The geography of ethnic residential segregation: a comparative study of five countries' 97 Annals of the Association of American Geographers 713-38

Kagan, Robert A. (2001) Adversarial Legalism: The American Way of Law Cambridge, Mass.: Harvard University Press

Katznelson, Ira (1981) City Trenches: Urban Politics and the Patterning of Class in the United States Chicago: University of Chicago Press

Krivo, Lauren J., Ruth D. Peterson and Danielle C. Kuhl (2009) 'Segregation, Racial Structure, and Neighbourhood Violent Crime' American Journal of Sociology 114:1765-1802

Lacey, Nicola (2008) The Prisoners' Dilemma: Political Economy and Punishment in Contemporary Democracies, Cambridge: Cambridge University Press.

Lacey, Nicola and David Soskice (forthcoming), 'American Exceptionalism in Crime, Punishment and Disadvantage: Race, Federalisation and Politicisation in the Perspective of Local Autonomy' in Kevin Reitz (ed.), American Exceptionalism in Crime and Punishment New York: Oxford University Press.

Lafree, Gary (1998) Losing Legitimacy: Street Crime and the Decline of Social Institutions in America 1946-96 New York: Basic Books.

Levitt, Stephen D (1997) 'Using Electoral Cycles in Police Hiring to Estimate the Effect of Police on Crime', The American Economic Review 87: 270-90.

Lijphart, Arend (1999) Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries New Haven: Yale University Press

Lijphart, Arend (1984) Democracies: Patterns of Majoritarian and Consensus Governments in Twenty-one Countries New Haven: Yale University Press

Lynch, Mona (2010) Sunbelt Justice: Arizona and the Transformation of American Democracy  
Stanford University Press

Massey, Douglas S. and Nancy A. Denton (1993) American Apartheid: Segregation and the Making of the Underclass Cambridge: Harvard University Press

Mearns, Tracey L. and Dan M. Kahan, (1999) Urgent Times: Policing and Rights in Inner City Communities (New York: Random House)

Steven F. Messner and Richard Rosenfeld (2007) Crime and the American Dream (4<sup>th</sup> edition, Belmont CA, Wadsworth)

Miller, Lisa L. (2008) The Perils of Federalism: Race, Poverty, and the Politics of Crime Control New York: Oxford University Press.

Miller, Lisa L. (2010) 'The Invisible black victim: how American federalism perpetuates racial inequality in criminal justice' Law and Society Review 44: 805-42

Miller, Lisa L. (forthcoming) 'What's Violence Got To Do with It? Rethinking punishment, Inequality and the Modern American State

Mitchell-Weaver, Clyde, David Miller and Ronald Deal Jr, (2000) 'Multilevel Governance and metropolitan regionalism in the USA' 37 Urban Studies 851-76

Orfield, Myron (2002) American Metropolitics Washington: Brookings Institution Press

Pattillo-McCoy, Mary (1999) Black Picket Fences: Privilege and Peril among the Black Middle Classes Chicago: Chicago University Press

Pattillo, Mary (2007) Black on the Block: The Politics of Race and Class in the City Chicago: Chicago University Press

Peach, Ceri (1996) 'Does Britain have Ghettos?' Transactions of the Institute of British Geographers 21 216-35

Peterson, Ruth D. and Lauren J. Krivo (2010) Divergent Social Worlds: Neighbourhood Crime and the Racial-Spatial Divide New York: Russell Sage

John F. Pfaff (2012) 'The Micro and Macro Causes of Prison Growth' Georgia State University Law Review 1139

Pierson, Paul and Theda Skocpol (2007) The Transformation of American Politics: Activist Government and the Rise of Conservatism Princeton, NJ: Princeton University Press

Plunkett, Leah A. (2013) "Captive Markets," 65 Hastings Law Journal

Reardon, Sean F. and Kendra Bischoff (2011) Growth in the Residential Segregation of Families by Income, 1970-2009 (US2010 Project: Russell Sage Foundation)

Rothwell, Jonathan and Douglas S. Massey (2009) 'The Effect of Density Zoning on Racial Segregation in U.S. Urban Areas' 44 Urban Affairs Review 779-806

Royster, Deidre A. (2003) Race and the Invisible Hand: How White Networks Exclude Blacks from Blue Collar Jobs, Berkeley and Los Angeles: University of California Press

Sampson, Robert J. (1987) 'Urban Black Violence: The Effect of Male Joblessness and Family Disruption' 93 American Journal of Sociology 348-382

Sampson, Robert J. and W. Byron Groves (1989) 'Community Structure and Crime: Testing Social-Disorganisation Theory' 94 American Journal of Sociology 774-802

Sampson, Robert J. and William Julius Wilson (1995) 'Toward A Theory of Race, Crime and Urban Inequality', in Hagan, John and Ruth D. Peterson (eds.) (1995) pp. 37-54

Savelsberg, J.J (1994) 'Knowledge, Domination, and Criminal Punishment', American Journal of Sociology, 99, 911-43.

Savelsberg, J.J. (1999) 'Knowledge, Domination and Criminal Punishment Revisited', Punishment and Society, 1, 45-70.

Scheingold, Stuart A. (2010) The Politics of Law and Order: Street Crime and Public Policy New Orleans: Quid Pro Books (first published 1989)

Sharp, Elaine (2013) 'Politics, Economics, and Urban Policing: The Postindustrial Thesis and Rival Explanations of Heightened Order Maintenance Policing' 50 Urban Affairs Review 340-365

Shepherd, Joanna M. (2009) 'The Influence of Retention Politics on Judges' Voting' 38 Journal of Legal Studies 169

Simon, J. (2007) Governing through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear, New York: Oxford University Press.

Simon, Jonathan (2010) 'Consuming Obsessions: Housing, Homicide, and Mass Incarceration since 1950', The University of Chicago Legal Forum 141-180.

Skarbek, David (2014) The Social Order of the Underworld Oxford: Oxford University Press 2014

Smith, K. B. (2004) 'The politics of punishment', *Journal of Politics* 66(3): 925-938.

Soskice, D. (2009) 'American Exceptionalism and Comparative Political Economy', in Clair Brown, Barry Eichengreen and Michael Reich (eds). Labor in the Era of Globalization New York: Cambridge University Press, 51-93

Stuntz, W.J. (2001) 'The Pathological Politics of Criminal Law' 100 Michigan Law Review 505-600

Stuntz, William J. (2011) The Collapse of American Criminal Justice Cambridge: Harvard University Press

Tonry, M. (2004) Thinking about Crime: Sense and Sensibility in American Penal Culture , New York: Oxford University Press

UNICEF (2012) 'Measuring child poverty. New league tables of child poverty in the world's richest countries', Innocenti Report Card 10, (Peter, Adamson; UNICEF Innocenti Research Centre)

UNODC (2012) Homicide statistics, <http://www.unodc.org/unodc/en/data-and-analysis/homicide.html>

US Bureau of Justice Statistics (2006) Inmates at Midyear 2006

US Bureau of Justice Statistics (2010) Prisoners in 2010 (Paul Guerino, Paige M. Harrison and William J. Sabol)

US Department of Justice (2011) US Youth Gang Survey 2011  
<http://www.ojjdp.gov/pubs/242884.pdf> (accessed 14/10/14)

Venkatesh, Sudhir (2008) Gang Leader for a Day. New York: The Penguin Press.

Wacquant, Loïc (2009) Punishing the Poor: The Neoliberal Government of Social Insecurity, Durham: Duke University Press

Western, B. (2006) Punishment and Inequality in America New York: Russell Sage.

Whitman, J.Q. (2003) Harsh Justice Oxford: Oxford University Press.

Wilson, William Julius (1987) The Truly Disadvantaged: The Inner City, the Underclass and Public Policy Chicago: Chicago University Press

Wilson, William Julius (1996) When Work Disappears: The World of the New Urban Poor New York: Knopf

Yates, J. and R. Fording (2005) "Politics and state punitiveness in black and white", *Journal of Politics* 67(4): 1099-1121.

Zackin, Emily (2013) Looking for Rights in All the Wrong Places Princeton: Princeton University Press

Zimring, Franklin E., Gordon Hawkins and Sam Kamin (2001) Punishment and Democracy: Three Strikes and You're Out in California New York: Oxford University Press

Zimring, Franklin E. (2007) The Great American Crime Decline Oxford: Oxford University Press

Zimring, Franklin E. (2012) The City that Became Safe Oxford: Oxford University Press

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<sup>i</sup> An example would be Pierson and Skocpol (2007) in which the significant criminal justice initiatives of mid-20<sup>th</sup> Century activist government receive no attention whatsoever.

<sup>ii</sup> Consistently with our argument about the effects of competition, Gordon and Huber's (2007) study found no electoral cycle effects in non-competitive judicial retention elections in 17 Kansas counties, as compared with clear effects in the 14 counties where judges were selected on the basis of partisan elections. To date, underlining the need for further research on the local determinants of crime policy, electoral cycle research has been more focused on federal (presidential) and state (gubernatorial, state supreme court) elections (see for example Hall 1992; Smith 2004; Yates and Fording 2005) than on local elections.

<sup>iii</sup> We focus our analysis on non-southern cities, and acknowledge that the explanation may be different for the South.

<sup>iv</sup> The implications for Philadelphia, not least in terms of the polarising effects of intensive policing, are represented in Goffman's vivid ethnography (2014).

<sup>v</sup> A decision which was made during a period of significant black migration from the South.

<sup>vi</sup> Some key differences between migrants from overseas, and black American migrants from the South, themselves related to the American political system, help to explain the dramatically different levels to which those groups became integrated in the city trenches system. The political regime in the Jim Crow South deliberately obstructed both the formation of political networks and the development of education by and for blacks. Even given that, as with most migration, those migrating North were among the best educated and organised of their group, it is logical to suppose that the blacks who moved north in search of a better life and an escape from Jim Crow would have been, on average, considerably less educated and politically organised

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than other migrant groups, implying that their full integration would have been more costly for the localities to which they moved. The fragmented American system has never managed to co-ordinate an effective strategy to tackle the continuing effects of Jim Crow – a fact which is reflected in the racial patterns of crime, imprisonment, educational disadvantage and residential segregation discussed in this paper.