

BY VICTORIA LAW

35 Years of Demonization

The Criminalization and Incarceration of Black Women

In December 1990, when Alice Johnson lost her job, she never imagined she would end up in prison. The African-American single mother had been supporting her five children as a manager of a FedEx store in Memphis. She soon found another job, but at one-third the pay. Meanwhile, the bills mounted. When she was offered a quick way to make money—by passing phone messages about where to buy drugs—she took it. Johnson is now serving a life sentence for conspiracy to possess cocaine, attempted possession of cocaine, and money laundering.¹

Between 1990 and 2000, the number of people in U.S. prisons and jails increased from 292 per 100,000 to 481 per 100,000.² But the number of women in prison rose even more sharply, doubling over the ten-year period.

The numbers keep growing. The number of women sent to prison grew by another nearly three percent (or 2,800 people) between 2012 and 2013. The imprisonment rate for Black women is 113 of every 100,000, more than twice that of White women (who are imprisoned at a rate of 51 per 100,000). At the end of 2013, nearly one quarter (or 23,100) of the 104,134 women in state or federal prison were Black.³ In contrast, Black women make up just 13 percent of women in the United States.⁴ Today, approximately 206,000 women are in jails or prisons nationwide.⁵ Johnson, who was arrested in 1994 and charged with conspiracy to possess cocaine, attempted possession of cocaine, and money laundering, is one of those women.

Johnson's imprisonment did not happen in a political vacuum. The same policies of mass incarceration and racial policing that have sent disproportionate numbers of Black men to prison have also hit Black women hard.⁶ In 1996, the year Johnson was convicted, the rate of incarceration for Black women was seven times higher than for White women. The right-wing rhetoric that fueled those policies affecting Black men also reinforced a narrative in which Black women are seen as inherently criminal, a narrative that continues to influence public perception and law enforcement today.⁷

In 1971, Richard M. Nixon declared a War on Drugs. In 1982, President Ronald Reagan expanded that war. But, as Michelle Alexander notes in her pivotal study of the hyper-incarceration of African Americans, *The New Jim Crow*, this expansion came at a time when neither media nor most members of the public were particularly concerned about drugs. Reagan's administration launched a public relations campaign, focusing largely on crack, to build both public and legislative support for his drug war. The war was not race-neutral—images of Black people addicted to crack, whether in the form of



In July 2015, hundreds of people marched in Minneapolis to honor Sandra Bland and protest the deaths of Black women who have died in police custody. Photo by Fibonacci Blue via Flickr. License: <https://creativecommons.org/licenses/by/2.0/>.

Law, continued on page 17

Law, continued from page 3

“crack whores,” “crack dealers” or “crack babies,” were utilized to strike fear into the public and garner support for harsher laws and more punitive sentences.⁸

In 1986, Congress passed the Anti-Drug Abuse Act, mandating a five-year

mothers driving Cadillacs and having children solely to collect more taxpayer dollars, Reagan and his acolytes whipped up public furor against welfare recipients and the idea that society should support those most in need. The frenzy contin-

tended beyond welfare and, even 35 years later, continues to inform police interactions. In 2013, of all women stopped by New York City police, over 53 percent were Black although Black people make up only 27 percent of the city’s residents.¹²

“The image of Black women continues to be fueled by the right-wing narrative of Black women as welfare frauds, liars and cheats.” –Andrea Ritchie

sentence for a five-gram sale of crack cocaine; in contrast, the same sentence only took effect for 500 grams of powder cocaine. Although Whites and Blacks used drugs at similar rates, enforcement of the Act targeted Black people, drastically increasing the number of Black people sent to prison—in 1980, African Americans made up 12 percent of the country’s population, but 23 percent of all people arrested on drug charges. By 1990, however, they made up more than 40 percent of those arrested for drugs and over 60 percent of those convicted.⁹ The Act also took its toll on women, particularly Black women. Under the Act, police and prosecutors were able to arrest and charge spouses and lovers with drug trafficking “conspiracy” for everyday actions such as taking a phone message or sharing finances. This is what happened to North Carolina mother Phyllis Hardy, whose ordeal I have described elsewhere.¹⁰ In 1991, Hardy’s husband was arrested for conspiracy to import and sell cocaine. He told me that prosecutors asked him if he had ever given money to his wife. “She’s my wife. Of course I gave her money,” he told them.

But, under the Anti-Drug Abuse Act, sharing money with a spouse—even for household expenses like groceries or the mortgage—ropes him or her into the conspiracy. Phyllis Hardy was arrested and charged with conspiracy to import and distribute cocaine as well as money laundering. Believing that justice would prevail, she went to trial. She lost and was sentenced to 30-and-a-half years in federal prison. Her husband, who accepted a plea bargain, served 15 years.

Reagan’s War on Drugs coincided with a less-trumpeted right-wing war on women. Invoking images of Black welfare

ued past his presidency; in 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) was introduced as part of the Republican Contract with America and heavily pushed by

“The image of Black women continues to be fueled by the right-wing narrative of Black women as welfare frauds, liars and cheats,” Andrea Ritchie, a Soros Justice Fellow examining police violence against women and LGBT people of color, told *The Public Eye*. “These images drive interactions from whether to write someone a traffic ticket or arrest them for not putting their cigarette out to what to charge someone.” Ritchie pointed to the example of Charlena Michele Cooks, a



Andrea Ritchie, co-author of the *Say Her Name* report speaks at the 2015 New York City #SayHerName vigil in remembrance of Black women and girls killed by the police. Photo by The All-Nite Images via Flickr. License: <https://creativecommons.org/licenses/by-sa/2.0/>.

House Speaker Newt Gingrich and other Republicans, as well as right-wing think tanks such as the American Enterprise Institute, home of Charles Murray, whose racist writings formed the foundation for welfare reform. In 1996, Clinton signed it into law. The bill, popularly known as “welfare reform,” placed a five-year lifetime limit on welfare, excluded benefits to children born to mothers already on welfare, required recipients to work after two years, and enacted a lifetime ban on welfare benefits for people with drug felonies or who had violated probation or parole.¹¹

The demonization of Black women ex-

Black mother in Barstow, California, who was eight months pregnant when she was brutally arrested in January 2015. While dropping her second-grade daughter off at school, Cooks had a driving dispute with another mother. The other mother, who is White, called the police. According to his body cam footage, the officer, after listening to the White mother’s statement, said, “I don’t see a crime that’s been committed,” but offered to speak with Cooks. The officer approached Cooks and, when she refused to give her full name and began to walk away, the officer twisted her hands behind her, forced her against a fence and arrested

her as she screamed in pain and fear. She was charged with resisting arrest. A court later dismissed the charge; the ACLU of Southern California confirms that Cooks did indeed have the right to refuse to give her name.¹³

Whenever interactions like this occur, the underlying justification demonizes Black women, noted Ritchie. “Every police interaction is informed by the perception that they’re lying, cheating and not worthy of protection.” The brutal 2015 arrest of Sandra Bland, who died in police custody in Texas following a questionable traffic stop, illustrates the way in which these ingrained perceptions can be deadly.

Even when they are not deadly, the narrative informs who police choose to target—and arrest. In the 1990s, New York City, under Mayor Rudolph Giuliani and his police commissioner Bill Bratton, instituted a policy of “stop, question and

frisk is not limited to New York; other cities also employ the tactic and, as in New York, people of color are often the targets.

Those stopped and frisked can be arrested not only for weapons or drugs, but also for carrying legal items such as condoms. Until recently in New York, police could—and would—seize condoms as evidence of sex work. But this policy didn’t just affect people engaged in sex work. Trans and gender non-conforming people, particularly people of color, also felt the brunt in a phenomenon known as “walking while trans.”¹⁵ Nearly 60 percent of trans and gender non-conforming people of color living in Jackson Heights, one of New York City’s most diverse neighborhoods, reported being stopped by police, who profiled them as sex workers solely because of their race and gender identity. None were actually sex workers, but they were charged with prostitution-related offenses if they were carrying condoms.¹⁶ Considering that the city’s Department of Health distributes over 35 million condoms each year, the practice of using condoms as evidence seems particularly absurd. But not absurd enough to abolish the practice. In May 2014, Bratton (once again

levels. Andrea Ritchie is the co-author of *Say Her Name*, a July 2015 report examining police violence against Black women and girls, which includes some examples of policy demands that address Black women’s particular experiences of

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National Day Of Action to end State violence against Black girls and women. Photo by The All-Nite Images via Flickr. License: <https://creativecommons.org/licenses/by-sa/2.0/>.

frisk,” soon shortened to “stop and frisk,” in which police stop and search people whom they perceive to be acting suspiciously. Not surprisingly, most of the stops involved people of color. In 2011, nearly 90 percent of these stops involved Black or Latina/o people.¹⁴ But stop and

New York’s police commissioner) announced that police will no longer use condoms as evidence—unless they suspect people of sex trafficking or promotion of prostitution.¹⁷

Undoing 35 years of demonization requires approaches on several different

policing, such as a ban on using Tasers and excessive force on pregnant women or children and the passage of the End Racial Profiling Act of 2015, which prohibits any agency from engaging in racial profiling.¹⁸ In New Orleans, years of organizing and attention to the city’s racist policing practices ended in a 2012 consent decree in which the New Orleans Police Department was ordered to implement bias-free policing.¹⁹

At the same time, the underlying narrative that promotes these policies and interactions needs to change. The popular hashtag and associated movement #BlackLivesMatter have helped challenge this script, calling attention to the racism and violence against Black people. While #BlackLivesMatter, started by three Black women, does not focus exclusively on the violence against Black men, activists and media makers made sure that the call was expanded to ensure that Black women and Black trans people were not forgotten with calls for Black Trans Lives Matter and Black Girls Matter. Activists, media makers and members of the general public need to continue challenging the stereotypes of Black women and rewrite the script so that gender and gendered violence remain integral in the struggle to transform the criminal justice system.²⁰

Victoria Law is a freelance writer focusing on the intersections of incarceration, gender and resistance. She is also the author of Resistance Behind Bars: The Struggles of Incarcerated Women.

35 Years of Demonization, p. 3

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