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In Fear We Trust: Anxious Political Rhetoric & the Politics of Punishment, 1960s-80s

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In Fear We Trust: Anxious Political Rhetoric & the Politics of Punishment, 1960s-80s

Senior Project Submitted to
The Division of Social Studies
of Bard College

by
Stella Frank

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Introduction

The horses tugged hard, each pulling straight on a limb, each horse held by an executioner. After a quarter of an hour, the same ceremony was repeated and finally, after several attempts, the direction of the horses had to be changed, thus: those at the arms were made to pull towards the head, those at the thighs towards the arms, which broke the arms at the joints. This was repeated several times without success. He raised his head and looked at himself. Two more horses had to be added to those harnessed to the thighs, which made six horses in all. Without success.¹

The goal of punishment has undergone many different phases: deterrence, retribution, rehabilitation— sometimes all of these simultaneously. From dismemberment to parole, *fear* has always been an intrinsic element of punishment. It is a Hobbesian fear that is pervasive, it is why we lock our doors at night, it is why we have alarm systems, all of which suggest that we have an inherent distrust of society. Hobbes is the classic archetypical theorist of fear. His notion of authoritarian rule is contingent upon the idea that threat and fear are basic to the human condition, and therefore protection is the “highest good.”² For Hobbes, if individuals do not submit to a common power, they’re liable to turn on one another rather than rely on each other for protection, and thus only Leviathan (the State) can ensure safety. Therefore, all of the “petty protectors” must relinquish their power to the State in order to guarantee their safety.³

This Hobbesian fear of danger is only a piece of the multidimensional fear examined in this thesis. In the following chapters I show how fear is plotted in political rhetoric through two

¹ Michel Foucault, *Discipline and Punish*, trans. Alan Sheridan (New York, NY: Vintage Books, 1995), p.4. This quotation opens Foucault’s famous book on punishment. He is describing the practice of dismemberment, which was used as a method of punishment before the 18th century.

² Iris Marion Young, “The Logic of Masculinist Protection: Reflections on the Current Security State,” in *Global Challenges: War, Self Determination, and Responsibility for Justice* (Chicago: University of Chicago Press, 2006), p.123. See also: Thomas Hobbes, *Leviathan* (1651; repr., South Bend, IN: Infomotions, Inc., 2001, Felix Catalog (bard.b1815694).

³ Young, “The Logic,” p.123.

narratives that each demonstrate distinct ways in which fear is used as a rhetorical tool to justify punitive policy. I focus on the structure of the rhetoric that drives punitive policy within these narratives. In so doing, I demonstrate the important role that fear plays in penal political discourse, and therefore, the importance of fear to American punishment as we know it.

In his book *Metahistory*, Hayden White focuses on how facts are emplotted within larger social narratives, which furthers his argument that there is an intentional narrative structure behind the way in which historians chronicle events. “Emplotment,” White explains, “is the way by which a sequence of events fashioned into a story is gradually revealed to be a story of a particular kind.”⁴ Similarly, I show how politicians position certain events into a narrative structure that furthers their own political agenda, and serves to evoke an emotional response from the public. Thus, the placement of one event has the significance to alter the takeaway of the entire story. Politicians have the opportunity to take advantage of this power. Whether it is intentional or subconscious, their emplotment sways public opinion.

I apply White’s concept of explanation by emplotment to the way in which politicians plot fear. I unpack the form and function of fear in political rhetoric to demonstrate the multifaceted ways that politicians use fear to further their agenda in the context of two recurring narratives. White’s theory of emplotment serves as a lense through which to understand how politicians plot fear in each narrative.

The first of these two plot structures I call the “Cowboy Father” narrative. This encompasses the classic “law and order” rhetoric wherein politicians use fear-mongering anecdotes and statistics to situate themselves as a “masculine protector.”⁵ Their doing so implies

⁴ Hayden White, *Metahistory: The Historical Imagination in 19th-Century Europe*, 40th anniversary edition ed. (Baltimore, MD: John Hopkins University Press, 1973), p.7.

⁵ This term comes from Iris Marion Young. The term will be explained later, as it is central to my rhetorical analysis in the first chapter. See: Young, “The Logic.”

that submitting to their policies is the only way to remain safe in such a “dangerous country”—as they depict it. Their rhetoric is therefore Hobbesian in its call for citizens to submit to their harsh policies in exchange for protection. I call this narrative the Cowboy Father, because it parallels the classic American western plot structure wherein the cowboy saves a helpless group of people from a racialized threat. This narrative is both gendered and racialized, as the protectionist role that both politicians and cowboys take on is masculine, and situates the American public as feminine and helpless. The fear-mongering language that politicians use is racially charged which reinforces the archetypal criminal as a deviant, non-white—often explicitly Black— man.⁶

The second narrative highlights the multidimensional aspect of fear explored in this thesis. Unlike the fear-mongering in the first narrative, the “Zero-Sum” narrative illustrates how politicians exploit fear over shifting notions of citizenship, the social contract, and the status quo. This narrative relies on an understanding of society as a social contract that is competitive, and divides its citizenry into winners and losers. Within this logic, rights and status are seen as a zero-sum game, where in order for one group to have them, another group must lose them.⁷

These ideological underpinnings demonstrate how rights and status came to be seen as scarce

⁶ Throughout this thesis I will capitalize Black and lowercase white. I follow other scholars who have made this same choice. In capitalizing Black, I regard it as an ethnicity, acknowledging that Black Americans are “people of an African diaspora.” I lowercase white because many whites in America consider themselves a part of other ethnicities such as Italian-American or Jewish. Many Black Americans cannot identify as such, however, because of the history of slavery, many Black Americans do not know their ancestral origins. For opinion pieces on this that expand on this perspective see: Elahe Izadi, “When to Capitalize 'Black' and 'White,’” DCentric, last modified October 5, 2011, accessed April 29, 2019, <http://dcentric.wamu.org/2011/10/when-to-capitalize-black-and-white/index.html>; Merrill Perlman, “Black and white: why capitalization matters,” Columbia Journalism Review, last modified June 23, 2015, accessed April 29, 2019, https://www.cjr.org/analysis/language_corner_1.php; Lori L. Tharps, “The Case for Black With a Capital B,” The New York Times, last modified November 18, 2014, accessed April 29, 2019, <https://www.nytimes.com/2014/11/19/opinion/the-case-for-black-with-a-capital-b.html>.

⁷ The concept of rights as a zero-sum game is written on by many scholars, I build on their works to broaden this discussion in my second chapter. For more on the idea of rights as a zero-sum game see: Julilly Kohler-Hausmann, *Getting Tough: Welfare and Imprisonment in 1970s America* (Princeton, NJ: Princeton University Press, 2017); Marie Gottschalk, *The Prison and the Gallows: The Politics of Mass Incarceration in America* (Cambridge, UK: Cambridge University Press, 2006); Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (London, UK: Oxford University Press, 2007).

commodities, and thus fear ensued over losing one's rights or status to someone undeserving. The Zero-Sum narrative demonstrates how this specific fear was used by politicians to perpetuate the same punitive ideology seen in the Cowboy Father narrative.

There are many emotions that play important roles in the purpose and function of punishment. By focusing on fear I do not suggest that it is the sole driver of punishment. Rather, I show how fear plays a vital role in numerous aspects of the penal system, and its surrounding logics. Fear operates as both a deterrent of, and justification for, punishment. It functions on both sides of power, with elites exploiting it for their gain, as well as acting out of their own fear of losing power. This thesis uses rhetoric to show how fear drives punishment through legislation, as well as through altering the American public's perspective on crime.

Literature Review

To examine these questions and themes, I rely on a wide body of research on punishment, criminality, and the rise of the carceral state, as well as political theory surrounding fear and the role of emotion in politics to contextualize my rhetorical analyses.⁸ Much of the sociological and historical analyses on the rise of mass incarceration attributes the rise in incarceration rate to the “tough-on-crime” policies that came out of the War on Drugs, rather than due to an increase in crime. Although this is a simplified explanation of their arguments, it captures an important aspect of these works, which is an emphasis on the role of law and order rhetoric in shaping incarceration rates.⁹

⁸ For traditional works on punishment see: Foucault, *Discipline and Punish*; Angela Davis, *Are Prisons Obsolete?* (New York, NY: Seven Stories Press, 2003); David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago, IL: University of Chicago Press, 2001); Malcolm Feeley and Jonathan Simon, "The New Penology: Notes on the Emerging Strategy of Corrections and Its Implications," *Criminology* 30, no. 4 (1992); Bruce Western, *Punishment and Inequality in America*, (New York: Russell Sage, 2006).

⁹ For in depth analyses of the role of law and order politics in the rise of mass incarceration see: Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York, NY: The New Press, 2010);

The punitive turn is a key historical moment to the study of mass incarceration and the policies that perpetuate it. The punitive turn occurred in the 1970s, and was a shift away from rehabilitation and toward punitive punishment. Most of the scholarship surrounding mass incarceration is focused on this time period, and the consequences of this ideological shift on punishment. For example, in her book *Making Crime Pay*, sociologist Katherine Beckett makes the argument that tough-on-crime legislation did not stem from the public's desire for more punitive measures against crime, nor from an increase in crime rates. Rather, she argues that elites and politicians exaggerated crime statistics to further their political aims.¹⁰ Julilly Kohler-Hausmann similarly focuses on politicians' role in the rise of mass incarceration and penal welfarism.¹¹ She problematizes Beckett's top-down argument by including several letters from constituents who call for more punitive policies.¹² While Kohler-Hausmann does complicate Beckett's narrative, she also highlights the important role that political agenda played in creating punitive policies such as the Rockefeller Drug Laws and Reagan's campaign against welfare fraud. Elizabeth Hinton's *From the War on Poverty to the War on Crime* is another widely cited text on the rise of mass incarceration. Unlike most scholars, Hinton intentionally begins with John F. Kennedy and Lyndon B. Johnson's Great Society social welfare programs to challenge the common narrative that the rise of mass incarceration began in the '80s with Reagan and the War on Drugs.¹³

Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary Society* (London, UK: Oxford University Press, 1997); Kohler-Hausmann, *Getting Tough*; Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge, MA: Harvard University Press, 2016). Michael W. Flamm, *Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s* (New York, NY: Columbia University Press, 2005); Gottschalk, *The Prison and the Gallows*.

¹⁰ Beckett, *Making Crime Pay*.

¹¹ David Garland coins the term "penal welfarism," and discusses it in depth in his book *The Culture of Control*. See: Garland, *The Culture of Control*. For more on the blend of the penal and welfare states see also: Kohler-Hausmann, *Getting Tough*.

¹² Kohler-Hausmann, *Getting Tough*.

¹³ Hinton, *From the War on Poverty to the War on Crime*.

Jonathan Simon and Marie Gottschalk produce work similar to the above scholarship. Both published in the early 2000s, Simon's book *Governing Through Crime* and Gottschalk's *The Prison and the Gallows* are in conversation with each other, and contribute to the large body of scholarship on the effect of mass incarceration. Simon's book concentrates on the effect of crime on American democracy, whereas Gottschalk focuses on the political factors driving mass incarceration, including legislation as well as grassroots political movements.¹⁴

I build on these works to contextualize my analysis of published speeches by former presidents Richard Nixon and Ronald Reagan, as well as archival documents from former New York State governor Nelson Rockefeller.¹⁵ I analyze their rhetoric through a political theory lense, while drawing on historical and sociological secondary works on the rise of mass incarceration.

I also build on political theorists who have previously drawn our attention to emotion and politics. Fear is a popular topic among academics and politicians alike. There are numerous specific works on the culture of fear. For example some focus on the rise of fear in America post-9/11, or the culture of fear under the Trump administration, in addition to scholars such as Corey Robin, who examines the politics of fear more generally.¹⁶ In his book *Fear*, Robin writes on the ways in which fear has influenced American politics and culture.¹⁷ Robin divides his chapter by theorist, beginning with Hobbes, followed by Montesquieu, de Tocqueville, and Hannah Arendt. I draw on Robin's discussion of Hobbes, who he uses to analyze the politics of fear in America. Similarly, in her article "The Logic of Masculinist Protection: Reflections on

¹⁴ See: Simon, *Governing Through Crime*; Gottschalk, *The Prison and the Gallows*.

¹⁵ Nelson Rockefeller was also Vice President, but I focus on his gubernatorial term.

¹⁶ For an example of a book on post-9/11 America, see: Mark Danner, *Spiral: Trapped in the Forever War* (New York, NY: Simon & Schuster, 2016). On fear in the Trump administration, see: Bob Woodward, *Fear: Trump in the White House* (New York, NY: Simon & Schuster, 2018).

¹⁷ Corey Robin, *G, Fear: The History of a Political Idea* (New York, NY: Oxford University Press, 2014).

the Current Security State,” political theorist Iris Marion Young uses Hobbes in her feminist critique of George Bush’s intervention in Iraq and Afghanistan. In addition to Young and Robin, I draw on Elisabeth Anker, who argues that melodrama is a genre of national political discourse in her book *Orgies of Feeling*.¹⁸ Young and Anker both unpack how the US justifies their paternalistic protectionist policies, through distinct but overlapping claims. I apply Anker and Young’s international theories to American politics, and build on them as well as Robin to theoretically frame my primary source analysis of political rhetoric in the first chapter.

Contribution

Extending what previous scholars have accomplished, this thesis offers a fine-grained analysis of fear, in addition to demonstrating the importance of focusing on rhetoric. I do not discount, but rather add to the body of scholarship on punishment that either explains the rise of mass incarceration as profit driven, a result of the increasing criminalization of poverty, or a consequence of increasingly militarized policing. I build on these perspectives to include fear as a necessary element to the rise of mass incarceration, particularly in its use as a political rhetorical strategy.

As Hobbes argues, we constantly prove that we live in fear through simple rituals such as locking our doors at night.¹⁹ My thesis stems from a curiosity around *how* these seemingly inherent fears became pervasive. I also question whether or not these fears are actually inherent, or if they are carefully constructed, as Hobbes suggests. These questions are paired with a deep

¹⁸ Elisabeth Anker, *The Orgies of Feeling: Melodrama and the Politics of Freedom* (Durham, NC: Duke University Press, 2014). This project was also influenced by other theorists of the role of emotion in punishment. For example, Durkheim’s theory of collective conscience has influenced this thesis, and he is referenced throughout the project, mostly in the first chapter. For a secondary source on Durkheim’s theory of collective conscience see: David Garland. "2: Punishment & Social Solidarity." In *Punishment and Modern Society: A study in Social Theory*, 22-46. Chicago, IL: University of Chicago Press, 1990.

¹⁹ See: Hobbes, *Leviathan*.

concern with the rise of mass incarceration and the prison industrial complex, and a confusion regarding Americans acceptance of the current penal state. Much of the literature on the rise of mass incarceration links the highly racialized prison industrial complex to slavery, as well as the Jim Crow era.²⁰ With this link in mind, I chose to focus on fear as a way to better understand Americans desire and complacency to keep our fellow citizenry in cages.

Through examining conservative politicians' rhetoric in the 1960s-80s with the intention of understanding how they use fear, I discovered the Cowboy Father and Zero-Sum narratives recurring throughout multiple politicians' speeches, sometimes both narratives occurring within the same speech. Using these two narratives as a lense allows me to present a unique and fine grained analysis of fear in two different contexts. In addition, by honing in on the language of fear, I illustrate the effects of using fear as a political tool. Rather than make a direct causal link between rhetoric and specific policies, I emphasize the contribution of fear-mongering rhetoric to punitive policy.

This thesis is divided into two chapters, each on a narrative plot structure. The first chapter on the Cowboy Father narrative begins with a brief history of the politics surrounding the punitive turn and the rise of law and order rhetoric. I then bring in Robin, Young, and Anker, whose theories I blend to frame the narrative. The chapter culminates in a primary source analysis of Rockefeller, Reagan, and Nixon's rhetoric to demonstrate how fear operates within the Cowboy Father narrative as a strategy to justify punitive policy through distinct rhetorical patterns. The conclusion of the chapter discusses how hegemonic law and order rhetoric has

²⁰ Many scholars write on this, for two prominent examples see: Alexander, *The New Jim Crow*; Davis, *Are Prisons Obsolete?*

become, as demonstrated through its use across political party lines. Thus as the chapter begins with the rise of law and order, it ends with its continued presence in modern politics.

The second chapter covers the Zero-Sum narrative, providing an example of the ways in which politicians use fear in the absence of danger. In this chapter, rather than continue rhetorical analyses, I point to historical moments in which this narrative is present. The chapter begins with an overview of the Victims' Rights Movement in the 1960s and the rise of the crime victim as America's "ideal citizen," with the criminal²¹ as the "anti-citizen." This background contextualizes how rights and status came to be seen as scarce commodities. I then turn to Reagan's anti-welfare fraud campaign in California in 1970s, as well as its national and local influence, which exemplifies the consequences and language of the Zero-Sum narrative. I discuss the figure of the "welfare queen" in the context of both national and local anti-welfare fraud efforts, and use scholars of black feminist thought to expand the history of consequences and discourse surrounding the welfare queen.²² The chapter concludes with examples of the treatment of Black women after the punitive turn as one of the consequences stemming from the ideology underpinning this narrative.

²¹ Throughout this thesis I will use the word "criminal," sometimes in quotation marks, and sometimes not. I do not believe in using this word to refer to those who commit crimes, but I use it throughout the thesis to highlight the way in which criminality is framed within the two narratives that I examine.

²² I want to address here that my discussion of the welfare queen falls short, as I only include one primary sources example of those considered "welfare queens." In addition, the black feminist thinkers I do include are only of a small portion of the chapter. The reader can expect a discussion of the welfare queen that focuses on the political rhetoric surrounding the figure, and its role in the Zero-Sum narrative. For texts that include a more in-depth discussion of the welfare queen see: Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, 2nd ed. (Great Britain: Routledge, 2000); Dorothy E. Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* (New York: Pantheon Books, 1977); Wahneema Lubiano, "Black Ladies, Welfare Queens, and State Minstrels: Ideological War by Narrative Means," in *Race-ing Justice, Engendering Power*, ed. Toni Morrison (New York: Pantheon Books, 1992), 323-63; Angie-Marie Hancock, *Politics of Disgust: The Public Identity of the "Welfare Queen"* (New York: New York University Press, 2004). Many of these sources come from Julilly Kohler-Hausmann, who also provides an in-depth discussion of the welfare queen, as well as her own archival research and quotations of those characterized as "welfare queens." See: Kohler-Hausmann, *Getting Tough*, p.121-163.

In the conclusion of this project I explain the role of sensationalization in both of these narratives, as well as modern examples of the same narratives, and finally, I link the politics of fear to prison abolitionism. Distinct from prison reformists, abolitionists seek a society without incarceration, with alternatives to punishment as well as policing and other state institutions. Many abolitionists advocate for a restorative justice model, rather than a system predicated on retribution and banishment. One of the more difficult questions surrounding abolitionist discourse is what to do with those considered truly dangerous to society. This question is rooted in fear, and thus fear is explicitly linked to abolitionist commitments, as abolitionists must overcome the presence of fear that drives punishment and specifically incarceration. The close analysis of fear that this thesis provides is crucial for abolitionists to combat the politics of fear

Chapter I: Cowboys & Pushers

Introduction

In 1953 Ronald Reagan starred in a western film called *Law and Order* wherein he played Frank Johnson, who arrests a notorious outlaw but is upset by the injustice when the locals threaten to hang the man without a trial. In *Law and Order*, as in almost all classic westerns, the cowboy symbolizes masculinity and protection. This chapter closely examines the parallels between the theatrical western plot structure and political rhetoric wherein politicians position themselves in the role of the cowboy, saving the defenseless American citizens from a racialized threat. In western films, fear often functions as a rationale for violent measures in the name of protection. This is also demonstrated throughout the conservative politics of the 1960s-80s. Focusing on law and order rhetoric as a genre of western narratives highlights how politicians plot fear as a rhetorical tool to justify extreme punitive anti-crime measures.

The Cowboy Father narrative includes the law and order rhetoric seen throughout many presidential administrations. I use “law and order,” “get tough,” and “tough-on-crime,” as synonymous terms to explain the discourse and genre of politics wherein politicians use fear-mongering rhetoric as a political strategy to appease constituents’ anxieties over crime and enact tough-on-crime policies. Following Hayden White, this strategy relies on the particular way in which politicians emplot stories to evoke fear.¹ As sociologist Katherine Beckett explains, “Law and order rhetoric has been a particularly important means by which conservative elites attempted to justify the reconstruction of the state’s role and responsibilities, and the racialization of American politics created fertile soil for the creation and mobilization of the crime issue.”²

¹ Hayden White, *Metahistory: The Historical Imagination in 19th-Century Europe*, 40th anniversary edition ed. (Baltimore, MD: John Hopkins University Press, 1973).

² Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary Society* (London, UK: Oxford University Press, 1997), p.43.

Here Beckett highlights the important link between rhetoric and justification of increased punitive policy. Although this link is not always causal, examining rhetoric reveals specific factors driving punitive political strategies. Barry Goldwater's 1964 presidential campaign is often referred to as the exemplary law and order platform, and the beginning of tough-on-crime politics. Although Goldwater's campaign marked a shift in political strategy that relied on promises to "get tough" on crime, he did not invent the law and order platform, which I demonstrate through detailing the history of its use as a political strategy.

Law and order rhetoric was particularly salient during times when drug abuse and crime control appeared to be of grave concern. Many turn to the Reagan administration's War on Drugs and attack on crack cocaine as the hallmark of punitive drug policies and widespread anxiety over drug use, but one must also look to New York City in the 1960s and '70s during Nelson Rockefeller's gubernatorial term. Rockefeller and his unprecedented drug laws exemplify the shifting ideologies about punishment during and after the punitive turn.³ Among these shifts was the reorientation of penal and welfare programs from transforming and assisting the individual, to protecting society. In this chapter I examine speeches from Nelson Rockefeller, Richard Nixon, and Ronald Reagan in the context of the punitive turn to demonstrate how these politicians utilized fear through gendered law and order rhetoric to construct racialized figures of dangerousness and justify punitive policy.

This chapter begins with a history of the rise of law and order rhetoric and the punitive turn. I then summarize three political theorists to provide the theoretical framework of the narrative. Finally, I closely examine speeches and text from Nelson Rockefeller, Richard Nixon, and Ronald Reagan to unpack law and order rhetoric framed by the Cowboy Father narrative.

³ I detail these laws later in the chapter. For more information on his laws also see: Julilly Kohler-Hausmann, *Getting Tough: Welfare and Imprisonment in 1970s America* (Princeton, NJ: Princeton University Press, 2017).

The Cowboy Father narrative most often occurs when politicians defend their punitive policies and when they critique liberals' "soft-on-crime" approach, thus my rhetorical analysis is divided into these two categories.

History & Theory

A History of Law and Order: The New Right & the Southern Strategy

Although many scholars point to the Civil Rights movement and the War on Drugs as the axis of tough-on-crime politics, Beckett details how law and order rhetoric first emerged in the 1950s as a strategy by southern governors to mobilize white opposition to Civil Rights.⁴ This demonstrates that the tough-on-crime political strategy is rooted in a history of racial partisan division that begins with the shifting dynamics in the New Deal Coalition in the 1930s. The New Deal Coalition, an alliance between "urban ethnic groups" and the white south, dominated electoral politics from 1932 to the early '60s.⁵ As the Coalition became increasingly Black, it altered the partisan allegiance before the Civil War, and created a problem for Democrats who were trying to maintain the white southern allegiance. Harry Truman recognized the Democrats' loss of the white southerners, and ran his campaign on a Civil Rights platform. In the following elections of 1952 and 1956, the Democrats tried to win back the white southerners, but consequently lost many northern Black voters. In response to this loss, John F. Kennedy based his campaign on a Civil Rights platform to appeal specifically to northern Blacks. The Civil Rights movement alienated white southerners, who eventually switched to the Republican party.⁶

⁴ Beckett, *Making Crime Pay*, p.40-42.

⁵ *Ibid.*, p.40.

⁶ In addition to Beckett's *Making Crime Pay*, for information on the Southern Strategy see: Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York, NY: The New Press, 2010).

Amidst this climate law and order became the dominant political strategy. During his 1964 presidential campaign, Barry Goldwater recognized that “we [the Republicans] are not going to get the Negroes as a block in the ‘64 or ‘68 elections, so we might as well go hunting where the ducks are.”⁷ This attempt to go after white southerners would become known as the “Southern Strategy.”⁸ As a part of the Southern Strategy, Republicans began going after suburban whites, non-white Catholics in the Northeast and Midwest, blue collar workers, and union members. This group of constituents became known as the “new majority,” and would come to dominate electoral politics.

The “New Right” emerged as a backlash against these burgeoning racial and social reforms. The demographic of the New Right consisted of Republicans who combined traditional conservative economic policies as well as conservative views on social issues— particularly those regarding race. Katherine Beckett explains that, “New sets of constituencies were mobilized through the use of racially charged ‘code words’—phrases and symbols that ‘refer indirectly to racial themes but do not directly challenge popular democratic or egalitarian ideals.’ The law and order discourse is an excellent example of such coded language, and allowed for the indirect expression of racially charged fears and antagonisms.”⁹ Here Beckett demonstrates the importance of focusing on rhetoric. The construction of racialized figures of dangerousness through coded language that serve to empower the politician, and justify their punitive policies are consequences of the Cowboy Father narrative. Some conservative political strategists have admitted that the Republican party exploits racialized fears of crime for their political gain. For example, one of Nixon’s key advisers, H.R. Haldemen, revealed that,

⁷ Beckett, *Making Crime Pay*, p.42.

⁸ The strategy was effective, as was exemplified by the increase in Republican vote from 49% to 76% in the poorest white neighborhoods in Birmingham, Alabama. See: Beckett, *Making Crime Pay*, p.42.

⁹ Beckett, *Making Crime Pay*, p.42.

‘He [President 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.’ Similarly, John Ehrlichman, special counsel to the president, explained the Nixon administration’s campaign strategy of 1968 in this way: ‘We’ll go after the racists.’ In Ehrlichman’s view, ‘that subliminal appeal to the anti-black voter was always present in Nixon’s statements and speeches.’¹⁰

As this quotation demonstrates, in the wake of the Southern Strategy and the demise of the New Deal Coalition, the focus on race was intended to steer constituents away from the Democratic party. In addition, Beckett suggests that it allowed the Republicans to establish a new partisan division. In one group were mostly white middle class and working class voters, traditional Republican elite, and in the other group were the “liberal elites” and the poor.¹¹ This shifted the party division by race, rather than solely socioeconomic class as it was before. This history provides an important foundation for the use of fear as a political rhetorical strategy, in addition to contextualizing the racialized history of law and order.

The Punitive Turn & Its Surrounding Logics

With reports of rising crime rates, and consequently a rising fear of crime, the goal of punishment began to shift. Scholars refer to this shift from rehabilitation to a more retributive approach as “the punitive turn.”¹² Before the punitive turn, the goal of the criminal justice system was partially rooted in the idea that punishment was not only for deterrence or retribution, but it was meant to use therapeutic approaches to help transform individuals into productive citizens

¹⁰ Alexander, *The New Jim Crow*, p.44. Beckett also uses this same quote from Ehrlichman, and Alexander cites Beckett. See: Beckett, *Making Crime Pay*, p.42.

¹¹ Beckett, *Making Crime Pay*, p.42.

¹² Sociologist David Garland termed this era of punishment as “penal modernism,” and similarly termed the mode of governance during this time, “penal-welfare,” due to the penal state’s adoption of welfarist ideologies and practices, and vice versa. See: David Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Chicago, IL: University of Chicago Press, 2001).

for successful re-entry.¹³ The punitive turn was predicated on the same racialized concepts of criminality as law and order politics, and the effects of this shift are seen throughout Rockefeller, Reagan, and Nixon's rhetoric.

Along with the punitive turn was an important underlying ideology in the 1960s and '70s, during the simultaneous loss of faith in the State, reported rise of crime, and increasingly racialized get tough rhetoric and policies. This ideology stems from Daniel Patrick Moynihan, who in March of 1965 published *The Negro Family: A Case for National Action*, commonly known as "The Moynihan Report."¹⁴ Moynihan was hired to work in the Department of Labor during Kennedy's administration, and he took his position as an opportunity to write and disseminate his "report" on what he understood as the untold but crucial story of Black American's struggle. Published soon after Lyndon B. Johnson had initiated the War on Crime, the Moynihan Report suggested that, "[T]he combined impact of a long history of racial discrimination and 'cultural deprivation' had produced a 'tangle of pathology' in Black urban families and communities, evidenced by high rates of illiteracy, single-parent households, and delinquency."¹⁵ Moynihan's "diagnosis" of the Black family as caught in a "tangle of pathology"

¹³ This shift is clearly exemplified in a report to former Governor Nelson Rockefeller on his drug laws from the Committee on Criminal Courts at the Association of the Bar of the City of New York. The report includes a quotation from a 1948 Supreme Court Case, *Williams v. New York*, wherein the Court stated, "Reformation and rehabilitation of the offenders have become important goals of criminal jurisprudence." The report uses this message to explain that Rockefeller's drug laws harken back to the "stone age system of dooming the culprit to a long, specific period of confinement without hope of earlier release or inducement to reform." This report demonstrates clearly this shift in the 1970s from reform to retribution. See: "Committee on Criminal Courts, Law and Procedure: Report on the Governor's Drug Proposals." Folder 847, Box 79, Nelson A. Rockefeller Gubernatorial Records, Rockefeller Archive Center, Sleepy Hollow, NY.

¹⁴ Many scholars writing on the history of law and order cite Moynihan, specifically see: Alexander, *The New Jim Crow*, p.46; Beckett, *Making Crime Pay*, p.34; Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge, MA: Harvard University Press, 2016), p.20; Kohler-Hausmann, *Getting Tough*, p.137. For a more in-depth critical analysis of the report see: Hortense J. Spillers, "Mama's Baby, Papa's Maybe: An American Grammar Book," *Diacritics* 17, no. 2 (Summer 1987): <https://www.jstor.org/stable/464747>; Ta-Nehisi Coates, "The Black Family in the Age of Mass Incarceration," *The Atlantic*, last modified October 2015, accessed April 26, 2019, <https://www.theatlantic.com/magazine/archive/2015/10/the-black-family-in-the-age-of-mass-incarceration/403246/>.

¹⁵ Hinton, *From the War on Poverty*, p.20.

helped perpetuate and justify racist claims of Black biological inferiority, which affected approaches to criminality. Although the purpose of Moynihan's report had been to gain support for a governmental attack on structural social issues that affected Black families, "[i]nstead his report was portrayed as an argument for leaving the Black family to fend for itself."¹⁶ This interpretation is due in part to Moynihan concluding his report with no policy recommendations or suggestions of how to approach this "tangle of pathology."

The effect of Moynihan's report permeated throughout the next two administrations, as Nixon hired him to be an advisor in 1967.¹⁷ Although Moynihan's theory is often associated with conservative approaches to crime, Johnson adopted his interpretation of pathology as the root cause of poverty for Black communities, although rejected his claim for increased federal responsibility and job creation.¹⁸ This is seen throughout Johnson's approach to "help the disadvantaged help themselves" in both the War on Poverty and the War on Crime.¹⁹ The racist ideology that Moynihan's report perpetuated contributed to shift in rhetoric and policy that occurred with the punitive turn, and its effect is seen throughout political discourse on crime control in the 1960s-80s.

Law and order is neither solely rhetoric nor simply an ideology, as evidenced by the punitive policies that began to emerge with tough-on-crime politics. Scholars look back at the 1970s as the axis of the punitive turn, a moment where some perceive the death of the "rehabilitative ideal."²⁰ This occurred during the public's growing distrust in the State's ability to effectively control and protect, simultaneously combined with the rise of tough-on-crime

¹⁶ Coates, "The Black," *The Atlantic*.

¹⁷ *Ibid.*

¹⁸ Hinton, *From the War on Poverty*, p.59-60.

¹⁹ *Ibid.*, p.76-7.

²⁰ Garland, *The Culture of Control*, p.8. Garland explains that Francis Allen brought this term into common usage in his 1981 book, *The Decline of the Rehabilitative Ideal*. See also: Bruce Western, *Punishment and Inequality in America*, (New York: Russell Sage, 2006).

ideologies and practices. Published 10 years after Moynihan's report, Robert Martinson's 1974 report, "What Works?— Questions and Answers about Prison Reform," concluded that rehabilitative efforts in punishment do not affect recidivism, thus contributing to what scholars refer to as the "nothing works era."²¹ Martinson's report was a crucial contribution to the punitive turn, and is thus widely cited in discussions of the death of the rehabilitative ideal. As a result of these ideologies and the State's growing hesitancy to fund rehabilitative programs, policy makers felt pressure to reframe any type of rehabilitation in the criminal justice system as tough-on-crime rather than for individual transformation.²²

This history demonstrates that the 1960s-80s were dominated by a sense of doom. Out of these coinciding factors emerged heightened anxieties and fear over drug use, further perpetuated by politicians and the media. During this time politicians capitalized on the public's fear and began to position themselves and the State as paternalistic protective figures. Their protectionist rhetoric relied on fear-mongering and racialized imaginary of criminals. I use the Cowboy Father narrative as a framework to unpack their language, demonstrating that the consequence of law and order rhetoric is increased securitization.

²¹ Robert Martinson, "What Works?— Questions and Answers about Prison Reform," *The Public Interest*, 1974. For more on the role that the loss of faith in the State and the idea that "nothing works" had on the punitive turn see chapters three and five in: Garland, *The Culture of Control*.

²² There are many scholars who cite Martinson, many of these are also on how rehabilitation has persisted after the punitive turn. Many of these are sociological ethnographies. For works on rehabilitation after the punitive turn that cite Martinson see: Jill McCorkel, *Breaking Women: Gender, Race, and The New Politics of Imprisonment* (New York, NY: New York University Press, 2013); Garland, *The Culture of Control*; Michelle Phelps, "Rehabilitation in the Punitive Era: The Gap Between Rhetoric and Reality in U.S. Prison Programs," *Law & Society Review* 45, no. 1 (2011); Mona Lynch, "Rehabilitation as Rhetoric: The Ideal of Reformation in Contemporary Parole Discourse and Practices," *Punishment & Society* 2, no. 1 (January 2000); Reuben Jonathan Miller, "Devolving the carceral state: Race, prisoner reentry, and the micro-politics of urban poverty management," *Punishment & Society* 16, no. 3 (2014); For works on rehabilitation on the punitive turn that do not cite Martinson, see: Allison McKim, *Addicted to Rehab: Race, Gender, and Drugs in the Era of Mass Incarceration* (New Brunswick, NJ: Rutgers University Press, 2017); Malcolm Feeley and Jonathan Simon, "The New Penology: Notes on the Emerging Strategy of Corrections and Its Implications," *Criminology* 30, no. 4 (1992); Teresa Gowan and Sarah Whetstone, "Making the criminal addict: Subjectivity and social control in a strong-arm rehab," *Punishment & Society* 14, no. 1 (January 2012).; Kerwin Kaye, "Rehabilitating the 'drugs lifestyle': Criminal justice, social control, and the cultivation of agency," *Ethnography* 14, no. 2 (June 2013).; Lynn Haney, *Offending Women: Power, Punishment, and the Regulation of Desire*, (Los Angeles, CA: University of California Press, 2010).

Theoretical Framework

I rely on Corey Robin, Elisabeth Anker, and Iris Marion Young to theoretically frame my rhetorical analysis of fear in the Cowboy Father narrative. In his book *Fear*, Robin demonstrates how fear is used as a political tool to either assist in furthering elites and politicians' goals, or to reflect and support already held political beliefs.²³ In her book *The Orgies of Feeling*, Anker explains how melodrama as political discourse produces a structure wherein the State is positioned as the virtuous and innocent victim.²⁴ Finally, in her influential article "The Logic of Masculinist Protection," scholar Iris Marion Young uses Hobbes' concept of fear to support her thesis that politicians in the US have adopted the role of "masculine protector" to effectively create a security state and subordinate citizens as well as other countries.²⁵ Drawing on these three scholars, I demonstrate how Rockefeller, Reagan, and Nixon employ the same fear-based narratives that position them as masculine protectors, while demonizing people who commit crimes, people of color, and low income communities. As a result, carefully constructed figures of dangerousness and exceptionally punitive policies emerge opposite their protectionist heroism.

Young evokes Hobbes' *Leviathan* to explain why citizens accept an authoritarian notion of sovereignty.²⁶ I apply her thesis, which extends to foreign relations, to the way in which

²³ Corey Robin, G, *Fear: The History of a Political Idea* (New York, NY: Oxford University Press, 2014).

²⁴ Elisabeth Anker, *The Orgies of Feeling: Melodrama and the Politics of Freedom* (Durham, NC: Duke University Press, 2014).

²⁵ Iris Marion Young, "The Logic of Masculinist Protection: Reflections on the Current Security State," in *Global Challenges: War, Self-Determination, and Responsibility for Justice* (Chicago: University of Chicago Press, 2006).

²⁶ Young's thesis relies on an understanding of Hobbes argument in his famous text, *Leviathan*. I explain this argument in the Introduction of this thesis, but I will rearticulate it briefly here. Hobbes' famous concept of the Leviathan in its simplest form, is the idea that citizens accept that they will only have peace if they agree to submit themselves to the Leviathan (the State) including forfeiting many of their natural rights. Further, Hobbes argues that if individuals do not submit the State, they'll turn on one another, and therefore only the Leviathan can ensure their safety. Young understands Hobbes' notion of authoritarian rule as contingent on the idea that threat and fear are basic to the human condition, and therefore protection is the "highest good." See: Young, "The Logic," p.123; Thomas Hobbes, *Leviathan* (1651; repr., South Bend, IN: Infomotions, Inc., 2001, Felix Catalog (bard.b1815694).

politicians use the same language within a national context.²⁷ Young's concept of masculinity is crucial to understanding politicians' employment of fear in the Cowboy Father narrative. Rather than refer to the hyper-masculine sexually aggressive and dominant man, Young's masculine protector takes the form of a chivalrous and selfless man, who makes sacrifices to protect women and children.²⁸ Thus, although many scholars understand Hobbes' Leviathan as tyrannical, Young understands it as analogous to the masculinist protector, or the "benevolent patriarch," who plays the role of the selfless protector.²⁹ Central to Young's logic of masculinist protection is the idea that "good" men put themselves in relation to "bad" men who are liable to attack whomever the "good" men are defending.³⁰ Following this rationale, Young highlights that this notion of masculinity as virtuous is contingent upon its contrast to the presumed evil of others. The political rhetoric that I will examine does exactly this. Politicians position criminals as "bad men," thus positioning themselves as the "good" masculine protector saving the American public. This allows politicians to enact Hobbesian justifications for increased securitization without appearing tyrannical.

Robin also draws on Hobbes, among other philosophers such as Montesquieu and de Tocqueville, to demonstrate the important role of fear in politics, which I apply to punishment as well. Robin argues that,

[P]olitically repressive fear is far more present in the United States than we like to believe. This may be a fear of threatening to the physical security or moral well-being of the population, *against which elites position themselves as protectors, or it may be the fear among the powerful of the less powerful, and vice versa.* These two kinds of fear—

²⁷ Young uses her thesis to explain how George W. Bush subordinated the US citizenry and justified his intervention in Iraq. I utilize her theoretical concept, but apply it to the political rhetoric on punishment.

²⁸ Because I am applying Young's theory to a national scale, in my argument, the American people are the women in children.

²⁹ Young, "The Logic," p.123.

³⁰ *Ibid.*, p.130.

the first uniting the nation, the second dividing it— reinforce each other, with elites reaping the benefit of their combined force.³¹ (My emphasis).

This quotation exemplifies why fear is so pervasive in the political rhetoric of punishment.

Politicians use law and order rhetoric as a tool to instill fear in others, but their own fear of losing power also drives their fear-mongering. Additionally, Robin’s observation that fear can both unite and divide a people is crucial to understanding how and why fear is instrumental to politicians. This was exemplified in the Southern Strategy, when fear-mongering was used to unite the white South against supporters of Civil Rights, which was also divisive. In this quotation Robin also claims that elites use fear to position themselves as protectors, which follows Young’s masculine protector logic, and thus reinforces the justification of protectionism seen throughout political rhetoric on punishment. I use Robin’s analysis of Hobbes to demonstrate that fear is a multifaceted political tool that can be twisted and used for different purposes, through differing methods.

The argument Anker makes in *The Orgies of Feeling* complicates Young’s “masculine protector.” Anker argues that, “[M]elodramatic political discourse casts politics, policies, and practices of citizenship within a moral economy that identifies the nation-state as a virtuous and innocent victim of villainous action.”³² Like Young, Anker’s argument extends to US-foreign relations, thus I apply her theoretical claims to political rhetoric in the US. Anker adds to Young’s argument by including a gendered and racialized victim-hero dynamic, wherein the US uses melodramatic discourse to depict itself as a feminine “virginal victim” and simultaneously the masculine hero.³³ Anker’s virginal victim figure serves the same purpose as the masculine protector— to justify increased State control. While Hobbes explains that the State uses fear to

³¹ Robin, *Fear*, p.162.

³² Anker, *The Orgies of Feeling*, p.2.

³³ Anker, *The Orgies of Feeling*, p.2-3.

justify increased securitization, Anker theory suggests that the State use virtue for the same justification.³⁴ For Anker, melodrama serves as a reassuring narrative wherein the US' innocence and moral authority justifies their power as an expression of their virtue.³⁵

Anker effectively uses the infamous 1915 film *The Birth of a Nation* to exemplify how “white American goodness” is pitted against “black aggressive villainy.”³⁶ She explains how the film transforms Black victims of racism into “oppressors of white goodness.” *The Birth of a Nation*, she continues, uses the innocent white victim to gain moral legitimation for “heroic aggression against the black minority.”³⁷ This analysis connects to Robin’s use of Hobbes to explain fear’s duality, where politicians are both afraid and instill fear. Further, Hobbes understands that fear is not a vice, but rather that those in fear exercise power through maximizing their means to obtain a future goal.³⁸ Therefore, Anker’s dichotomy of the “white innocent hero” juxtaposed with the “black aggressive threat” draws on a Hobbesian duality of fear.

There is another element of Anker’s argument that is crucial to her concept regarding the way in which America positions itself as a hero, or as she calls it, “heroization.”³⁹ As Young explains that the chivalrous man needs a “bad man” to situate himself as the masculine protector, Anker too explains that to accept the logic of the American hero, there must be a threat present.⁴⁰ In the case of the Cowboy Father narrative, this threat is a racialized image of criminality that exaggerates dangerousness to position the politician as a protector.

³⁴ Ibid., p.4.

³⁵ Ibid., p.6.

³⁶ Ibid., p.86.

³⁷ Ibid.

³⁸ Robin, *Fear*, p.41.

³⁹ Anker, *The Orgies of Feeling*, p.93. I apply Anker’s argument that “the State” positions itself as a hero, to politicians positioning themselves as heroes.

⁴⁰ Anker writes, “Evil’s power is so overwhelming that it requires heroism to be matched in its potency.” See: Anker, *The Orgies of Feeling*, p.98. This is very similar to Young’s claim that, “In this logic, virtuous masculinity depends on its constitutive relation to the presumption of evil others.” See: Young, “The Logic,” p.123.

Unpacking the Cowboy Father Narrative in Two Contexts

The Cowboy Father narrative encompasses two interrelated themes that frame and unpack the language of fear throughout Rockefeller, Nixon, and Reagan's speeches. Drawing on Anker, the first theme is the racialized dichotomy of good versus evil.⁴¹ By situating Americans and the American way of life as having a moral authority over those positioned as villains, politicians cast punitive protectionist policies as virtuous. The second theme is Young's concept of the masculine protector, which comes after politicians position America as virtuous. This includes a Hobbesian justification for submitting to the sovereign in exchange for protection. While these themes are distinct, they are often used together or simultaneously, as they sometimes build on one another. For example, the racialized dichotomy of evil versus virtue allows politicians to adopt either Young's masculine protector, or Anker's less paternalistic virginal victim-hero. Importantly, both figures allow politicians to enact a Hobbesian security state by characterizing themselves as benign rather than tyrannical through framing punitive policies as liberating for the "law-abiding" citizen. I examine these themes as rhetorical devices in this final section of this chapter.

The moral economy of good and evil that Anker writes on is especially salient in Reagan and Rockefeller's defense of drug policy. They both position drug pushers and addicts as villains and a threat to American virtue, and non-addict citizens as innocent victims. For example, in September of 1986 Reagan claimed that, "Nothing in our nation's history is more offensive to our fundamental values and national sense of purpose than drug abuse."⁴² Here Reagan explicitly positions drug abuse as a threat to American values. American values are seen as virtuous, and

⁴¹ This follows Anker's concept from *The Birth of a Nation* where "black villainy" is pitted against "white innocence." See: Anker, *The Orgies of Feeling*, p.2-3.

⁴² Ronald Reagan, "Remarks to Members of the National Fraternal Congress of America," speech, September 25, 1986, Ronald Reagan Presidential Library & Museum, accessed January 22, 2019.

thus drug abuse becomes the necessary villainous threat to this virtue. This sentiment echos both Richard Nixon and Nelson Rockefeller, who use this same rhetorical strategy. Often phrases such as these are used to set up politicians' adoption of Young's masculine protector.⁴³

I first use these themes to analyze Rockefeller and Reagan's language surrounding their punitive policies, and then through Nixon and Reagan's critiques of the liberal "soft-on-crime" approach. Much of Reagan and Rockefeller's rhetoric that I examine in regard to policy is dedicated to the "drug pusher" and drug addict.⁴⁴ Examining law and order rhetoric in the context of Reagan and Rockefeller's drug policies reflects the way in which politicians use fear to situate themselves as both the victim-hero and the masculine protector. The racially constructed "drug pusher" provides an evil with which Rockefeller and Reagan can use to adopt both figures.⁴⁵

I. The Cowboy Father Narrative in Politicians' Defense of Policy

Politicians use law and order rhetoric to defend punitive policy through two rhetorical strategies. First, they use stories to exaggerate the threat of crime, in which they characterize American way of life as both virtuous and in danger. This sets up the second piece, where they insist that tough-on-crime policies are the only way to "protect" innocent citizens. I use their

⁴³ As Anker explains, "Melodrama depicts the United States as both the feminized, virginal victim and the aggressive, masculinized hero in the story of freedom, as the victim-hero of geopolitics." Anker, *The Orgies of Feeling*, p.2-3.

⁴⁴ For examples of this narrative in Reagan's speeches not in relation to drug abuse see the following speeches (some of these examples include comments on the drug problem, but also provide other examples of this narrative): Ronald Reagan, "Remarks at the Annual Convention of the Texas State Bar Association in San Antonio." Speech, July, 1984. Ronald Reagan Presidential Library & Museum, accessed January 22, 2019; Ronald Reagan, "Remarks at the Conservative Political Action Conference Dinner." Speech, February 18, 1983. Ronald Reagan Presidential Library & Museum, accessed January 22, 2019; Ronald Reagan, "Remarks at the Annual Conference of the National Sheriff's Association in Hartford, Connecticut." Speech, June 20, 1984. Ronald Reagan Presidential Library & Museum, accessed January 22, 2019; Ronald Reagan, "Remarks at a Fundraising Dinner Honoring Former Representative John M Ashbrook in Ashland Ohio." Speech, *May 1983* Ronald Reagan Presidential Library & Museum, accessed January 22, 2019; Ronald Reagan, "Radio Address to the Nation on Proposed Crime Legislation." Speech, February, 1984. Ronald Reagan Presidential Library & Museum, accessed January 22, 2019.

⁴⁵ By using the word evil I am referring to Anker's argument of the racialized dichotomy of good versus evil. Anker, *The Orgies of Feeling*, p.42.

language to show how these two rhetorical strategies are used, often in reference to drug abuse. The following quotations exemplify how fear is used in the Cowboy Father narrative to cultivate a sense of omnipresent danger, juxtaposed with the politician's heroism as protection from this great evil.

Former New York State Governor Nelson Rockefeller's drug policies are considered the origin of the modern punitive drug war. His rhetoric surrounding these harsh measures exemplifies the rhetorical plot structure in the Cowboy Father narrative.⁴⁶ Drug use escalated in New York after World War II, which led to an increased effort toward drug treatment that merged law enforcement, doctors, and activists in an attempt to combat the issue. Having made drug treatment a priority, Rockefeller spent billions of dollars on drug treatment, increasing the number of rehabilitation centers, and trying new methods such as methadone clinics.⁴⁷ In the early 1970s, in conjunction with the punitive turn and the death of the rehabilitative ideal, Rockefeller's rhetoric shifted away from rehabilitating drug addicts as he began to regard drug addiction as a crime rather than an illness. Rockefeller did not reject treatment, rather he attempted to strike a balance between punishment and rehabilitation.⁴⁸ However it was not quite a balance, as Rockefeller became exceptionally harsh in his approach to combating drug addiction. The inception for Rockefeller's now infamous drug laws occurred in 1972, when Rockefeller met with a man named William Fine.⁴⁹ He asked Fine to go to Japan to better understand why they had a very low addiction rate. Fine did as he was told, and reported that

⁴⁶ Kohler-Hausmann, *Getting Tough*, p.33.

⁴⁷ For more on this see: Kohler-Hausmann, *Getting Tough*. Rockefeller also talks about the money they've dedicated to rehabilitation in many of his speeches. For example, see: "Remarks of Governor Nelson A. Rockefeller at Virginia State Chamber of Commerce Dinner at Holiday Inn," April 18th, 1973, Folder 256, Box 14, Nelson A. Rockefeller Gubernatorial Records, Rockefeller Archive Center, Sleepy Hollow, NY.

⁴⁸ Kohler-Hausmann, *Getting Tough*, p.33.

⁴⁹ Ibid.

Japan had an aggressive response to drugs, including life sentences for drug dealers. Rockefeller honed in on the idea of life sentences for sellers, and it became a crucial part of his drug laws.⁵⁰

The Rockefeller Drug Laws, which Rockefeller himself deemed “the toughest anti-drug program in the nation,” were unprecedented in their harsh penalties for drug pushers.⁵¹ The laws included life sentences for drug pushers, with parole only after a minimum sentencing term, and lifetime parole supervision. Second, they created mandatory minimum sentences for first or second felony offenders found guilty of violent offenses, taking the power away from judges. They also provided a \$1,000 reward for anyone who provided information about a “dangerous drug pusher,” encouraging Hobbesian fear-based surveillance.⁵² Unsurprisingly, these laws led to a surge in arrests and convictions, assisting in creating America’s now largest prison population in the world, including thousands of Americans who are incarcerated for small amounts of narcotics such as marijuana.⁵³ These laws also influenced many other US states to implement similar drug policies.

Rockefeller and Reagan frequently reference the “drug pusher,” using the racialized figure to prove that punitive policy is necessary to protect the public.⁵⁴ Rockefeller differentiates

⁵⁰ Ibid., p.81.

⁵¹ “Governor Nelson A. Rockefeller at Bill Signing Ceremony Narcotics Bills in the Red Room State Capitol Albany,” May 8th, 1973 1:00pm, Folder 265, Box 14, Nelson A. Rockefeller Gubernatorial Records, Rockefeller Archive Center, Sleepy Hollow, NY. See also: Kohler-Hausmann, *Getting Tough*, p.43.

⁵² Kohler-Hausmann, *Getting Tough*, p.81.

⁵³ Although there is a common misconception that almost everyone incarcerated is there based on drug offenses (see my critique of Michelle Alexander in the conclusion) and I do not mean to promote this idea, but rather to mention that there are a large number of Americans incarcerated for drug offenses—although still not the majority of those incarcerated. Today, drug offenses account for the incarceration of almost 500,000 people. Of the 1,306,000 people incarcerated in State prisons, 198,000 are incarcerated for drug offenses. See: Wendy Sawyer and Peter Wagner, “Mass Incarceration: The Whole Pie 2019,” Prison Policy Initiative, last modified March 19, 2019, accessed April 21, 2019, <https://www.prisonpolicy.org/reports/pie2019.html>.

⁵⁴ Rockefeller uses the term in almost all of his public appearances regarding drugs. Reagan uses it more seldomly. For an example of Reagan’s usage, see: Reagan, “Remarks at the Conservative,” Speech, Ronald Reagan Presidential Library & Museum.

between the addict, the addict-pusher, and the pusher in many of his speeches.⁵⁵ He includes both sympathetic messages to parents and loved ones of addicts, as well as harsh consequences for addicts who share or sell drugs. Despite his attempted differentiation between pusher and addict, the harsh sentences for the drug pusher are not limited to non-addicts, nor is the drug pusher narrowly defined. In a press release in January of 1973 regarding his new punitive legislation, Rockefeller said,

The hard drug pusher is a cold and cynical destroyer of lives as much as any killer. The only way to deter this commerce in tragedy is by measures so strong, so effective, so fully enforced that the hard drug pusher will no longer risk his own life and freedom by jeopardizing the lives of others.⁵⁶

The drug pusher plays an important role as a political tool. It embodies the dangerousness of drugs and crime that pose great threats to “innocent” Americans, and therefore represents the evil villain necessary to juxtapose against virtue, victimhood, and masculinity. Thus by attacking the drug pusher, Rockefeller can position himself as the virtuous masculine protector or the victim-hero against this evil. Although in this quotation Rockefeller adopts Young’s masculine protector by claiming that strong-arm approaches are the “only way” to combat the problem, the drug pusher serves as a tool in constructing *both* figures throughout the following rhetoric. The drug pusher provides the perfect necessary evil for politicians to adopt these roles.⁵⁷

Rockefeller’s language is similar to Reagan’s description of a criminal as, “a stark staring face— a face that belongs to a frightening reality of our time: the face of the human

⁵⁵ Rockefeller defines the pusher in many of his speeches, for example see: Press Release, “Special Message - Drugs,” January 10, 1973, Folder 846, Box 79, Nelson A. Rockefeller Gubernatorial Records, Rockefeller Archive Center, Sleepy Hollow, NY. Also see a memo from Dick Severo, former narcotics expert, that provides an interesting definition of the drug pusher: Memorandum, January 6, 1973, Folder 846, Box 79, Nelson A. Rockefeller Gubernatorial Records, Rockefeller Archive Center, Sleepy Hollow, NY.

⁵⁶ Press Release, “Special Message - Drugs,” January 10, 1973, Folder 846, Box 79, Nelson A. Rockefeller Gubernatorial Records, Rockefeller Archive Center, Sleepy Hollow, NY.

⁵⁷ This idea of pitting “evil” against “virtue” is seen in both Anker and Young when she states. For quotations from each author on this point see footnote 40.

predator... Nothing in nature is more cruel or more dangerous...”⁵⁸ Both Reagan and Rockefeller’s exaggeration of criminality constructs criminals as villains followed by harsh punitive measures as solutions. Additionally, this represents the shift that Rockefeller made away from rehabilitating addicts, and toward punishment as a result of seeing pushers as dangerous villains. Rockefeller effectively separates the pusher from the addict to justify his move away from rehabilitative solutions.

Five months after the press release quoted above, Rockefeller signed his soon-to-be infamous narcotics bill, The Rockefeller Drug Laws. Rockefeller gave a speech at the bill signing ceremony in which his rhetoric illustrates how law and order is used to justify paternalistic protectionist rhetoric. He stated,

With the signing of this bill today we are creating the strongest possible tools to protect our law-abiding citizens from drug pushers— providing that the police and the district attorneys and the courts throughout the state use these laws vigorously and effectively. [...] With the signing of this bill we now have the chance to begin to reverse the present tragic situation in which the drug pushers roam the streets freely *while decent citizens are imprisoned by fear*. [...] This is indeed a tough program — *tough on the pushers and the criminals who terrorize the people off the street and forcing frightened merchants to shut down early and churches to remain closed in the evening in drug-infected neighborhoods and making parents fear to send their children to school*.⁵⁹ (My emphasis).

In this quotation, Rockefeller adopts the masculine protector role by promising that tough-on-crime legislation will protect the citizens who he frames as in need of saving. By outlining the injustice of the current status quo, Rockefeller emphasizes that “innocent” citizens are in danger and *need* this tough legislation. This follows Young’s concept within the logic of the masculine protector, that the women (or whoever is being protected) “adore” their protector, thus it is not an

⁵⁸ Alexander, *The New Jim Crow*, p.49.

⁵⁹ “Governor Nelson A. Rockefeller at Bill Signing Ceremony Narcotics Bills in the Red Room State Capitol Albany,” May 8th, 1973 1:00pm, Folder 265, Box 14, Nelson A. Rockefeller Gubernatorial Records, Rockefeller Archive Center, Sleepy Hollow, NY.

unwanted dominant power, but a desired “pastoral power.”⁶⁰ In the second sentence, Rockefeller implies that innocent Americans’ fear of crime is so strong that it restricts their freedom to the degree that they—ironically—feel imprisoned, but that Rockefeller’s laws will “free” them. This follows Hobbes’ idea that fear is something to be liberated from. The final sentence emphasizes this point, providing specific examples of how citizens are victimized and “terrorize[d]” by fear of crime. His example of parents who are afraid to send their children to school only exaggerates the point further, suggesting that drug-related crime has seeped into every aspect of life. Rockefeller’s exaggeration proves Anker’s argument that melodrama serves as a reassuring narrative with which politicians justify power as an expression of virtue.

In a speech a month before the bill signing ceremony, Rockefeller ironically explains that his goal is *not* to instill fear. He says, “I don’t want to frighten anyone here but I just think America has got to face some of the tough problems we’ve got if we want to preserve this society as we’ve known it and enjoyed it and loved it, and believe me, I do.”⁶¹ First, by distancing himself from fear-mongering, he implies that he is not exaggerating these threats, which makes them seem realistic and therefore more frightening. Rockefeller’s statement that the only way to “preserve society as we’ve known it” reflects on Anker’s notion of American vertuity. This then allows him position himself as the chivalrous male protector who will sacrifice anything to protect American society “as we’ve known it.” His protection, however, is predicated on his draconian sentencing policies, which would take away the freedom of millions of Americans. In addition, Rockefeller’s statement demonstrates the Hobbesian notion of fear as unity, and again reflects the idea that fear is something to be liberated from.

⁶⁰ Here Young also relies on Foucault’s idea of “pastoral power.” See: Young, “The Logic,” p.122.

⁶¹ “Remarks of Governor Nelson A. Rockefeller at Virginia State Chamber of Commerce Dinner at Holiday Inn,” April 18 1973 9:00pm, Folder 256, Box 14, Nelson A. Rockefeller Gubernatorial Records, Rockefeller Archive Center, Sleepy Hollow, NY.

Numerous scholars turn to Reagan's War on Drugs and the panic over crack cocaine as a crucial starting point for the rise of mass incarceration. For example, in her book *The New Jim Crow*, Michelle Alexander sheds light on Reagan's War on Drugs. She exposes that Reagan announced the drug war in 1982 when illegal drug use was *declining*, and before crack cocaine was a hot-button issue in the media or a crisis in poor Black neighborhoods. She explains that it was a few years *after* the War on Drugs that crack started to spread around poor Black neighborhoods.⁶² After the explosion of crack, Reagan began to publicize it in an effort to garner support for his drug war.⁶³

This history is important with regard to Reagan's rhetoric on drug abuse. In a 1986 speech at the National Fraternal Congress of America, Reagan dramatically discusses drug abuse and crime as such,

And the victims of drug abuse, the victims of this terrible crime, are countless. They're the people beaten and robbed by junkies. They're the people who pay higher insurance rates because of such robberies. [...] The victims, in short, are you and me, our friends, our families -- all Americans. Even our children do not escape the tragedy and horror of drugs. [...] Drugs take away the dream from every child's heart and replace it with a nightmare.⁶⁴

Here Reagan uses drug abuse to position American citizens as innocent and virginal victims in need of protection. Drug abuse again serves as the necessary evil villain that Reagan uses to construct himself as the victim-hero.⁶⁵ Unlike other quotations where Reagan and Rockefeller position themselves as the masculine protector through emphasizing their harsh approach to

⁶² Alexander, *The New Jim Crow*, p.5.

⁶³ Alexander explains that in October of 1985 the Drug Enforcement Administration sent Robert Stutman to "drum up public support" for the administration's new war. He was successful, and drew journalists attention to the spread of crack cocaine in the inner cities. As an example of his success, in 1986 *Newsweek* names crack the biggest story since Vietnam or Watergate, and *Time* called it "the issue of the year." See: Alexander, *The New Jim Crow*, p. 5.

⁶⁴ Reagan, "Remarks to Members," speech, Ronald Reagan Presidential Library & Museum.

⁶⁵ Anker, *The Orgies*, p.108.

crime, here Reagan becomes the victim-hero through including himself in the list of victims. Through using emotionally charged words such as “tragedy,” which Rockefeller also uses to refer to drug abuse, Reagan further victimizes Americans. “Tragedy,” unlike “disaster,” or “epidemic,” evokes sadness, and therefore reinforces the role of the American people as victims of this tragedy. Although this quotation differs from the “get tough” masculine protector approach, it sets up the same justification of harsh drug policies that relies on paternalistic protectionist rhetoric.

The rhetoric Reagan used to defend policies against drug-related crime mirrors Rockefeller’s speeches a decade prior. For example, there are many parallels reflected in a speech that Rockefeller gave in January of 1973 at a Joint Hearing for the Senate and Assembly in Albany. In one section of the speech he specifies who the “victims” of drug abuse are. His language parallels Reagan’s, providing many examples of how drug abuse affects the average citizen, often those examples include the citizen being taken advantage of, or having to handle the consequences of the drug addict’s actions. Rockefeller’s examples, however, do include the addicts themselves as the victims. This difference between Rockefeller and Reagan demonstrates the shift in perspective toward the addict with the shift away from rehabilitation from the 1970s-80s.

At the beginning of the same speech, Rockefeller uses the word “nightmare” as Reagan does, which uses melodramatic language to perpetuate the idea that New York was in chaos due to addiction and crime. Rockefeller says, “The people want this nightmare ended. The preservation of our society and individual security demand it.”⁶⁶ Rockefeller’s suggestion that his strong-arm approach is what the people want is also seen throughout Reagan’s speeches. This

⁶⁶ “Testimony of Governor Nelson A Rockefeller at Joint Hearing Before Senate and Assembly Codes Committees,” 1973, Folder 846, Box 79, Nelson A. Rockefeller Gubernatorial Records, Rockefeller Archive Center, Sleepy Hollow, NY.

falls in line with the aspect of Young's masculine protector that relies on the idea that those being protected "adore" their protector.⁶⁷ Similarly, in a speech Reagan gave in May of 1983, he emphasized the importance of government serving the people, rather than exercising tyrannical power.⁶⁸ Thus both Reagan and Rockefeller repeatedly use rhetoric to position their get tough policies as reflective of societal needs and desires, which reinforces their masculine protection as chivalrous and virtuous, rather than tyrannical.

There are numerous moments in Reagan's speeches in which he situates himself as the masculine protector. First, as we saw from the quotation above, he uses fear-mongering exaggerations of criminal threat to victimize the law-abiding American citizen, and emphasize danger as imminent. This allows him to bring in tough-on-crime solutions as a response to the injustice he describes. For example, in his 1984 Radio Address on Proposed Crime Legislation, Reagan says,

We need new laws to stop drug traffickers from harming our people, especially our young people. And we need tougher laws to fight other forms of crime so we can make the lives of all Americans more secure. [...] Bottling up long-overdue reforms that would provide you, the people, greater protection against dangerous criminals is a serious mistake you should not tolerate.⁶⁹

Here Reagan explicitly correlates tough policy with protection. This masculine protector rhetoric is Hobbesian in its call for the people to submit to the sovereign exchange for their security. He includes rhetorical devices such as the threat to youth, and almost threatens Americans by claiming that any response other than his tough laws would be "a serious mistake." In addition,

⁶⁷ Young, "The Logic," p.122.

⁶⁸ Reagan, "Radio Address," speech, Ronald Reagan Presidential Library & Museum. He says, "From their own harsh experience with intrusive, overbearing government, the Founding Fathers made a great breakthrough in political understanding: They understood that it is the excesses of government, the will to power of one man over another, that has been a principle source of injustice and human suffering through the ages. The Founding Fathers understood that only by making government the servant, not the master, only by positing sovereignty in the people and not the state can we hope to protect freedom and see the political commonwealth prosper."

⁶⁹ Reagan, "Radio Address," speech, Ronald Reagan Presidential Library & Museum.

he says that these laws will make the lives of *all Americans* more secure. This not only excludes those that the laws target, who are presumably also American, but is another call to increased securitization labeled as protection.

II. The Cowboy Father Narrative in Critiques of Liberal Leniency

Both Nixon and Reagan consistently critique liberals' lenient approach to crime, and the liberal philosophy that saw poverty and social marginalization as structural issues as the root causes of crime. Their critiques exemplify the changes that emerged with the punitive turn detailed earlier in this chapter. Although the speeches that I examine from Nixon and Reagan are roughly a decade apart from each other, they both demonstrate a shift away from the rehabilitative ideal as the purpose of punishment, and mirror the call for harsh sentencing that Rockefeller advocated for in the 1970s. Within their critiques of liberal leniency, both Nixon and Reagan employ the same rhetorical devices seen with regard to justifying policies, including Anker's victim-hero, Young's masculine protector, and the dichotomy of good and evil. There is a particular emphasis on victimization, however, to emphasize the injustice in granting any mercy to "stone cold criminals."

Crucial to the history of law and order and the punitive turn was the assumption that "nothing works" and the State was failing to effectively control crime and rehabilitate criminals.⁷⁰ There was a debate between Republicans and Democrats over the cause of crime and how to approach it. Democrats pursued what they understood as the root cause of crime, such as poverty and racial oppression.⁷¹ For example, Kennedy and Johnson's "Great Society" programs

⁷⁰ See: Martinson, "What Works?"

⁷¹ See the discussion of Moynihan in the beginning of this chapter. For more on Moynihan's impact on addressing crime and poverty see: Hinton, *From the War on Poverty*, p.74-7.

were aimed at strengthening the community in order to prevent crime.⁷² Both Reagan and Nixon's attack on the liberal philosophy of crime control is rooted in this history. Law and order rhetoric increased with the death of the rehabilitative ideal, and the notion that "nothing works." This was seen throughout the rhetoric surrounding drug addiction, and it is also seen in critiques of liberal leniency.

In May of 1968 Nixon gave an aptly titled speech, "Toward Freedom From Fear." Johnson was still president at this time, and it was three years before Rockefeller's infamous drug laws. Following the structure of the Cowboy Father narrative, Nixon's speech utilizes many different rhetorical strategies to advocate for a tougher laws against criminals and drug pushers. He also critiques Johnson's approach and philosophy surrounding crime, constantly calling on statistics of crime rates to criticize Johnson's leniency and neglect. Nixon opens the speech with an alarming statistic that there had been an 88% increase in crime, which he repeats five times throughout the speech. He follows it with another fear-mongering prediction that if this continues, rapes, robberies, assaults, and thefts will double by the end of 1972.⁷³ He goes on to claim that poverty as the cause of crime is a myth, suggesting instead that attacking illegally gained profits will reduce crime. Nixon emphasizes the injustice of crime through explaining how law-abiding citizens are being victimized by the billions of dollars earned through illegal means. He also very ironically criticizes the Johnson administration for their opposition to the use of wiretapping and electronic surveillance as a national security tool, as well as critiques the Supreme Court's decision regarding Miranda Rights. To distinguish himself from the image he

⁷² For more information on these programs and their administrations in the context of mass incarceration see: Hinton, *From the War on Poverty*.

⁷³ Richard Nixon, "Remarks in New York City: 'Toward Freedom From Fear,'" speech, May 8, 1968, The American Presidency Project, <https://www.presidency.ucsb.edu/documents/remarks-new-york-city-toward-freedom-from-fear>.

constructs liberal indifference, he refers to crime as a national threat and, the “tapeworm of American society.”⁷⁴

Nixon repeatedly makes racialized remarks despite his claim that justice must be color blind, and that “our call for ‘law’ [is not] meant to be any code word for the repression of the black American.”⁷⁵ Still, Nixon uses blatantly racialized rhetoric such as referring to the streets as the “jungle.”⁷⁶ His racially charged language is also seen in a quotation wherein he critiques liberal leniency. For example,

There is another attitude that must be discarded if we are to wage an effective national war against this enemy within. That attitude is the socially suicidal tendency — on the part of many public men — to excuse crime and sympathize with criminals because of past grievances the criminal may have against society. By now Americans, I believe, have learned the hard way that a society that is lenient and permissive for criminals is a society that is neither safe nor secure for innocent men and women.⁷⁷

His suggestion that sympathy is given to criminals due to “past grievances the criminal may have against society,” conflates “the criminal” with someone who would have grievances with society, which heavily suggests that the criminal he envisions is neither white nor wealthy. The phrase “past grievances” in relation to race is often invoked in discussions of reparations for slavery, therefore Nixon’s coded language casts criminals as explicitly Black. This imagery aids in the continued racialization of criminality. In addition, in the final sentence of this quotation, Nixon’s dismissal of soft-on-crime policy positions the law and order approach as the only way to protect

⁷⁴ Ibid.

⁷⁵ This claim was made in a speech a month later. See: Richard Nixon, "Statement Submitted to Republican National Convention Committee on Resolutions: 'The Crusade Against Crime,'" speech, July 31, 1968, The American Presidency Project, accessed January 22, 2019, <https://www.presidency.ucsb.edu/documents/statement-submitted-republican-national-convention-committee-resolutions-the-crusade>.

⁷⁶ For example, he says: “That is a prospect America cannot accept. If we allow it to happen, then the city jungle will cease to be a metaphor. It will become a barbaric reality, and the brutal society that now flourishes in the core cities of America will annex the affluent suburbs. This nation will then be what it is fast becoming — an armed camp of two hundred million Americans living in fear.” See: Nixon, "Remarks in New York City" speech, The American Presidency Project.

⁷⁷ Nixon, "Remarks in New York City," speech, The American Presidency Project.

innocent citizens. This Hobbesian justification for harsh policy framed as protection shows how critiques of liberal leniency were used as a rhetorical strategy for the same end goal as the policy defense in the previous section. Both encompass the plot structure of the Cowboy Father narrative.

Throughout this speech Nixon repeatedly relies on fear-mongering statistics to demonstrate the harm of a soft approach to crime. For example, in a statement he made for the Republican National Convention Committee, he claimed,

It is not a Great Society when millions of women refuse to walk in their neighborhood or visit their parks after dusk—out of fear. It is not a Great Society when millions of men buy locks for their doors and watch-dogs for their homes and rifles and pistols for themselves—out of fear.⁷⁸

This critique of the Kennedy and Johnson administration's Great Society programs serves as a strategic tool to demonstrate why Americans need and *want* a tough-on-crime approach. By emphasizing that fear of crime, as Rockefeller will say, "imprisons" innocent law-abiding Americans, Nixon evokes the reoccurring Hobbesian notion that fear is something to be liberated from. In calling Johnson's America "lawless," Nixon suggests that *he* will restore law and order.

More than a decade later, Reagan's speeches mirror Nixon's critique of liberal leniency on crime. Reagan's speech at the Annual Convention of the Texas State Bar Association in San Antonio in July of 1984 is rich with rhetoric that reflects multiple themes from Young and Anker, often in one line of thought. For example, he declares,

I also noted the American people have lost patience with liberal leniency and pseudo intellectual apologies for crime. They're demanding that our criminal justice system return to realism; that our courts affirm values that teach us right and wrong matters, and

⁷⁸ Nixon, "Statement Submitted," speech, The American Presidency Project.

that individuals are responsible for their actions, and retribution should be swift and sure for those who prey on the innocent.⁷⁹

In the first sentence, Reagan strategically frames his critique of the Great Society programs as the dominant view of the American public. In reinforcing the public's demand for harsh penalties, Reagan activates the chivalrous aspect of the masculine protector logic wherein those being protected "adore" their protector. The second sentence plays directly into Anker's moral economy that positions the US as virtuous, using retribution as the just response.⁸⁰ This virtue-signalling allows Reagan to adopt Anker's victim-hero and characterize criminals as villains. Reagan does so through affirming that the law-abiding citizen is "right" and the criminal "wrong," and preys on the "good" citizen. The last sentence emphasizes the use of fear in garnering such support, as well as how fear underlies strategies that pit "white innocence" against "black villainy."⁸¹

Both Nixon and Reagan's critiques of liberal approaches to crime reflect the multiple rhetorical devices at work within the Cowboy Father narrative. These rhetorical strategies, which often fall under the category of law and order, are not only seen in conservative discourse but also in Democratic administrations. Namely, the Clinton administration. To conclude this chapter I broaden my scope and turn to modern examples of this rhetoric, as well as some of the many ramifications of the punitive turn beyond rhetoric.

⁷⁹ Ronald Reagan, "Remarks at the Annual Convention," speech, Ronald Reagan Presidential Library & Museum.

⁸⁰ See: Garland, "2: Punishment."

⁸¹ See: Anker, *The Orgies of Feeling*, p.86.

Conclusion

*The law and order perspective, first introduced during the peak of the Civil Rights Movement by rabid segregationists, had become nearly hegemonic two decades later.*⁸²

Law and order rhetoric framed by the Cowboy Father narrative reveals the embedded plot structure of pitting racialized innocence against villainy to evoke fear, and justify punitive policy. A product of the punitive turn, the rhetoric of the Cowboy Father narrative empowers politicians, elites, media, and the State. The Cowboy Father narrative has become so pervasive—as is demonstrated in the above quotation—that it is reflected throughout both liberal and conservative rhetoric. The “superpredator scare” of the 1990s exemplifies its hegemony.⁸³ Hillary Clinton’s rhetoric surrounding juvenile offenders mirrors that of Rockefeller’s “dangerous pusher.” In 1996 she went on C-Span to discuss the problem of juvenile crime, during which she said, “They [gangs] are often connected to big drug cartels, they are not just gangs of kids anymore. They are often the kinds of kids that are called ‘superpredators.’ No conscience, no empathy. We can talk about why they ended up that way but first we have to bring them to heel.”⁸⁴ During this time, there was a heightened fear of juvenile delinquents due to a surge in crime rates, and an influx of stories about juveniles committing serious crimes. Politicians and political scientists capitalized on these statistics, exaggerated them, and created a culture of fear that led to harsh sentencing.

⁸² Alexander, *The New Jim Crow*, p.57.

⁸³ *The 'Superpredator' Scare*, produced by Bonnie Bertram and Scott Michels, RetroReport, 2014, accessed June 15, 2018, <https://www.nytimes.com/video/us/100000002807771/the-superpredator-scare.html>. Also see: John Dilulio, "The Coming of the Superpredators," *The Weekly Standard*, November 27, 1995, accessed June 10, 2018, <https://www.weeklystandard.com/john-j-dilulio-jr/the-coming-of-the-super-predators>.

⁸⁴ "Remarks by Hillary Clinton at Keene State College in New Hampshire on Jan. 28, 1996," video file, 1:11, C-SPAN.org, posted by Robert Mackey, February 25, 2016, <https://www.c-span.org/video/?c4582473/hillary-clinton-superpredators-1996>.

The rhetoric surrounding the “superpredator scare” is demonstrative of the Cowboy Father narrative’s snowball effect across the political spectrum, as well as the continued effects of this language on poor people of color. The language and policy outcomes mirror Rockefeller’s position on the “drug pusher,” demonstrating a political pattern predicated on fear.⁸⁵ Actors who Beckett calls “claimsmakers,”⁸⁶ use political rhetoric consistent with the Cowboy Father narrative to construct racialized images of dangerousness. In so doing, claimsmakers again position themselves as the virtuous masculine protector, using a Hobbesian notion of fear and security to justify their policies.

Trump has also adopted the rhetoric of the Cowboy Father narrative, although his erratic nature makes it so that he does not always follow one rhetorical pattern. There are many examples, however, of Trump’s fear-mongering that hold parallels to conservative political discourse in the 1960s-80s. Specifically, Trump’s rhetoric echos Reagan and Nixon’s critiques of liberal leniency. For example, last year he said this in regard to immigrants,

These are animals. They cut people. They cut them. They cut them up in little pieces and they want them to suffer. And we take them into our country because our immigration laws are so bad. And when we catch them — it’s called catch-and-release — we have to, by law, catch them and then release them. Catch-and-release. And I can’t get the Democrats — and nobody has been able to for years — to approve common-sense

⁸⁵ Two examples of harsh policy outcomes include the institution of juvenile life without parole, and the death penalty for juveniles. Both of which were eventually overturned in two different Supreme Court cases. For the death penalty decision see: “Roper v. Simmons.” Oyez. Accessed June 26, 2018. <https://www.oyez.org/cases/2004/03-633>. For the life without parole decision see: “Miller v. Alabama.” Oyez. Accessed June 20th, 2018. <https://www.oyez.org/cases/2011/10-9646>.

⁸⁶ Beckett refers to social actors as “claims makers,” explaining that, “Claimsmakers may also define social problems in ways that direct attention away from inconvenient social conditions.” Thus the term *claimsmakers* includes an awareness of social issues, redefined using constructed figures for a political gain. See: Beckett, *Making Crime Pay*, p.6.

measures that, when we catch these animal-killers, we can lock them up and throw away the keys.⁸⁷

Beyond the mass generalization and exaggeration in this phrase, Trump follows the rhetorical pattern in the Cowboy Father narrative of beginning with sensationalized stories of crime, followed by a punitive measure to combat the aforementioned criminal activity. By calling his approach “common-sense,” Trump implies that his strong-arm response is the most obviously logical. His phrase “animal-killers” is of course racialized, which further perpetuates the racialization of criminality. Trump’s speeches are full of examples of this type of fear-mongering, often including the sensationalized stories of crime that position him as the masculine protector.

Although the above discussion includes evidence of tangible consequences of this narrative beyond rhetoric— most clearly the Rockefeller Drug Laws— there have been a multitude of political and legal reverberations throughout the criminal justice system that reflect the increasing punitiveness toward criminal behavior. Not only have prison populations grown drastically as a result of these punitive ideologies and practices, but prisons and other state control apparatuses are increasingly filled with people of color. In addition, the number of women in state and federal prisons increased by over 400%, with three-quarters of the population either Black or Latina.⁸⁸ As a result of this, women’s prisons became more masculinized in their physical appearance and ideological approach.⁸⁹ The approach to punishment is now distinctively retributive, with previous rehabilitative approaches reimagined within this

⁸⁷ Donald J. Trump, "Remarks by President Trump at the Conservative Political Action Conference," speech, February 23, 2018, accessed April 23, 2019, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-conservative-political-action-conference-2/>.

⁸⁸ McCorkel, *Breaking Women*, p.15.

⁸⁹ *Ibid.*, p.2.

framework.⁹⁰ Punishment after the punitive turn reflects the imagery and construction of criminality represented throughout the rhetoric in the Cowboy Father narrative.

⁹⁰ For more on how rehabilitation has persisted after the punitive turn see: Feeley and Simon, "The New Penology." For sociological ethnographies of rehabilitation after the punitive turn see: McKim, *Addicted to Rehab*; McCorkel, *Breaking Women*; Phelps, "Rehabilitation in the Punitive Era."; Lynch, "Rehabilitation as Rhetoric."; Miller, "Devolving the carceral state."; Gowan and Whetstone, "Making the Criminal"; Kerwin Kaye, "Rehabilitating the"; Haney, *Offending Women*.

Chapter II: “Equal Rights for Others Does Not Mean Less Rights for You, It’s Not a Pie”¹

Introduction

This letter is written to you by a law-abiding citizen who feels she is discriminated against in favor of dope addicts and welfare cheats. I am a widow who lives alone, works every day, pays taxes and lives by the rules. I get very little from by taxes when I can no longer walk on the streets and when I am afraid in my own home... Sorry this letter is not typed. My typewriter was stolen.²

We hear so much about “rights” these days. What about the “rights” of the tax paying citizen who is losing his home and going without things he needs, because the government takes his money from him as fast as he earns it.³

The first quotation is from a letter to Governor Rockefeller written by constituent Anne S. in 1971. Anne is not alone in feeling neglected as a “law-abiding citizen.” Her assertion that the government is focusing too much on “dope addicts and welfare cheats,” and not enough on tax paying citizens, is symptomatic of a larger ideology that emerged with the punitive turn. It was during this time that the American public began to view rights as a zero-sum game.⁴ This logic is a distinctive feature of imagining society as a social contract that could break apart if rights are given to those deemed undeserving in favor of the “law-abiding citizens.” Within the

¹ I saw this phrase online from a sign at a protest.

² Julilly Kohler-Hausmann, *Getting Tough: Welfare and Imprisonment in 1970s America* (Princeton, NJ: Princeton University Press, 2017), p.84. This is from Kohler-Hausmann’s archival research. Kohler-Hausmann decidedly only uses the initial of last names to keep anonymity.

³ Kohler-Hausmann, *Getting Tough*, p.149. This is also from Kohler-Hausmann’s archival research.

⁴ Marie Gottschalk writes on this, “In a way not seen in other Western countries, penal conservatives successfully framed the issue as a zero-sum game that pitted the rights of victims against the rights of offenders.” See: Marie Gottschalk, *The Prison and the Gallows: The Politics of Mass Incarceration in America* (Cambridge, UK: Cambridge University Press, 2006), p. 77. Many scholars write on the idea of rights as a zero-sum game. I rely on Kohler-Hasumann, Marie Gottschalk, and Jonathan Simon for their discussions of this concept. See: Kohler-Hausmann, *Getting Tough*; Jonathan Simon, *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear* (London, UK: Oxford University Press, 2007).

context of punishment, the rights of the victim were put in competition with the rights of the offender. As a consequence of this perspective, rights came to be seen as a scarce commodity. This is demonstrated in the second quotation, in which concerned citizen Dora E.N. expresses the sentiment that the government is not focusing on the rights of the “taxpayers,” in addition to taking from them to support others. Both quotations suggest that it is not possible for the government to simultaneously address the rights of both the “taxpayers” and the “dope addicts and welfare cheats.” This chapter unpacks how rights and status came to be seen scarce within this image of the social contract.

This thesis demonstrates that fear is multidimensional, and can occur throughout punishment rhetoric and policy in various forms and functions. The Zero-Sum narrative illustrates one of the unique ways in which politicians exploit fear in the absence of danger.⁵ Unlike the fear-mongering rhetoric examined in the previous chapter, the Zero-Sum narrative shows how politicians exploit fear over shifting notions of citizenship through positioning individuals who commit crimes as undeserving of the rights constitutionally entitled to all Americans. I approach this chapter differently than the last. Rather than focus solely on rhetoric, I examine the consequences of this narrative by unpacking the ideology it produced and the policies enacted based on this ideology.

The Rise of the Victims’ Rights Movement & the Construction of the Ideal Citizen

It is necessary to examine the shifting role of the crime victim in punishment discourse throughout recent history in order to understand the zero-sum notion of rights at the heart of this

⁵ My using the word emplotment here is a reference to Hayden White, whose theory I explain in the introduction of this thesis. See: White, *Metahistory: The Historical Imagination in 19th-Century Europe*, 40th anniversary edition ed. (Baltimore, MD: John Hopkins University Press, 1973).

narrative.⁶ One of the crucial aspects of the punitive turn was the ideological shift away from transforming the criminal, and toward protecting the public. With safety and risk assessment as the new priority of punishment and control apparatuses, the crime victim took on an important role in penal discourse.

The rise of the Victims' Rights Movement and the construction of the ideal citizen as the crime victim are two mutually constitutive factors within this narrative that together explain how it is possible to understand rights as a zero-sum game. In repeatedly casting criminals as undeserving of the rights granted to all Americans, the rhetoric and policy that was espoused during the Victims' Rights Movement contributed to the viewing rights as a scarce commodity. Building on the works of Marie Gottschalk, Jonathan Simon, and Julilly Kohler-Hausmann, I demonstrate how politicians began to centralize the crime victim during the rise of the Victims' Rights Movement to advance their law and order agendas.⁷ I then map the construction of the victim as the ideal citizen, which is later juxtaposed with the "anti-citizen." These categories allow politicians and citizenry to differentiate between those who are deserving or undeserving of rights. The centrality of the crime victim and its consequent construction as the ideal citizen contextualizes the role of fear in the Zero-Sum narrative, which is both a fear over losing rights to those deemed undeserving, as well as anxiety over becoming a second-class citizen. These both stem from a socially contractualist idea of society as competitive and hierarchical.

The Victims' Rights Movement marked a discursive shift during the punitive turn wherein the crime victim was pushed to the forefront of crime discourse and used as a political tool. The focus on the crime victim emerged simultaneously with the rise of women's groups

⁶ By recent history I mean from the 1960s onward.

⁷ Among many, see: Simon, *Governing Through Crime*; Gottschalk, *The Prison and the Gallows*; Kohler-Hausmann, *Getting Tough*.

advocating for the rights of survivors of sexual violence and domestic abuse.⁸ This political climate allowed for politicians to capitalize on victims' rights rhetoric through emphasizing the important role of the crime victim in an attempt to promote their own law and order agendas.⁹ Former president Reagan, for example, created National Crime Victims' Rights Week within his first six months in office. He used this as a platform to highlight the crimes committed at the expense of "innocent citizens," garnering support for harsher punishments.¹⁰ In another example, Lyndon B. Johnson notoriously created the Law Enforcement Assistance Administration (LEAA), which provides a tangible example of the impact that focusing on victims' rights had on penal policy.

The LEAA was established during the Johnson administration under the Safe Streets and Omnibus Crime Control Acts, and was created as an attempt to increase surveillance in low-income communities.¹¹ As a result, it played an important role in the overall expansion of the carceral state. One of its central goals was to involve more citizens in the War on Crime, as exemplified through the Crime Victims Initiative, which provided funding to programs for

⁸ In 1983 a newspaper said that the victims movement was making more progress than any other civil rights movement in US history. See: Gottschalk, *The Prison and the Gallows*, p.88, quoting Curtis Sitomer from Christian Science Monitor from Shirly Abrahamson "Redefining Roles."

⁹ Gottschalk makes an important clarification, saying, "It is too simplistic, however, to portray the victims' rights issue as largely the creation of conservatives identifies with the rise of Reaganism who craftily transformed this cause into the golden key that hijacked the victims' movement and took it in a more punitive direction with the help of state money doled out by the LEAA. Victims' rights became such a potent and politically charged issue because of other deeper historical and institutional factors as well that made the relationship between the criminal justice system and victims in the United States significantly different from that of other Western countries, including its common-law cousin, Britain." Gottschalk, *The Prison and the Gallows*, p.91.

¹⁰ Gottschalk, *The Prison and the Gallows* p.88. Reagan has a speech called "Remarks at a White House Ceremony Observing Crimes Victims Week." This will be quoted later on in this chapter.

¹¹ Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge, MA: Harvard University Press, 2016), p.3. Importantly, Daniel Patrick Moynihan's claims regarding the Black family in the "The Moynihan Report" influenced Congress' decision to enact the LEAA. I briefly discuss the report in my history of the punitive turn in Chapter I, as well as in my discussion of the welfare queen in this chapter. In addition to Hinton's book, for a critical discussion of the report see: Ta-Nehisi Coates, "The Black Family in the Age of Mass Incarceration," *The Atlantic*, last modified October 2015, accessed April 26, 2019, <https://www.theatlantic.com/magazine/archive/2015/10/the-black-family-in-the-age-of-mass-incarceration/403246/>; Hortense J. Spillers, "Mama's Baby, Papa's Maybe: An American Grammar Book," *Diacritics* 17, no. 2 (Summer 1987): <https://www.jstor.org/stable/464747>; Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, 2nd ed. (Great Britain: Routledge, 2000), p.75-78.

victims and witnesses.¹² Johnson defends the Safe Streets Act as follows, “I signed the bill because it responds to one of the most urgent problems in America today— the problem of fighting crime in the local neighborhood and on the city streets.”¹³ By situating crime in “local neighborhoods” and “city streets,” Johnson insinuates that crime is everywhere, and thus *any* American could fall victim to this omnipresent threat.¹⁴ Johnson reflects the discourse during the Victims’ Rights Movement, wherein politicians situated all Americans as victims, or potential victims. In so doing, the victim became the ideal citizen— and therefore representative of the majority— with the criminal as its opposition.

The crime victim as the ideal citizen has two consequences: first, it divides the citizenry into categories and results in stigmatization based on the categorization. Second, because the ideal citizen becomes the subject of legislation, their needs are considered reflective of the citizenry at large. Simon unpacks this second notion in stating,

For more than three decades, the making of crime laws has offered itself rather explicitly as the most important subject for expressing the common interest of the American people. *We are crime victims. We are the loved ones of crime victims. Above all, we are those who live in fear that we or those we care for will be victimized by crime.* Although few of us recognize this as our primary identity, our social practices and the way our lawmakers make laws for us testify to that. By writing laws that implicitly and explicitly say that we are victims and potential victims, *lawmakers have defined the crime victim as an idealized political subject, the model subject, whose circumstances and experiences have come to stand for the general good.*¹⁵ (My emphasis).

¹² Gottschalk, *The Prison and the Gallows*, p.86-7.

¹³ Simon, *Governing Through Crime*, p.95. Simon is quoting a Johnson speech. Simon comments on the racialized use implications for the words “city street” and “local neighborhood.”

¹⁴ This is reflected in many of Johnson’s speeches at this time, as he focused on crime prevention through expressing solidarity with crime victims, and promising solutions to prevent crime risk, as well as funding to modernize police departments, criminal courts, and prisons and jails. See: Simon, *Governing Through Crime*, p.93.

¹⁵ *Ibid.*, p.109-10.

Here Simon illustrates how, as in the case of the LEAA, politicians utilize the crime victim to position all Americans as victims or potential victims.¹⁶ As a result of this, the crime victim as the idealized citizen became representative of the American majority. In the Zero-Sum narrative, the criminal as the anti-citizen is pitted against the victim as the ideal citizen by politicians, elites, and the media alike to justify punitive policy predicated on racist and classist biases, as evidenced by the disproportionate number of Black Americans currently incarcerated.¹⁷

The crime victim is only the latest in a series of idealized citizens throughout history. In *Governing Through Crime*, Simon details four previous ideal subjects: the “yeoman farmer” in the 19th century, the freedman of the Reconstruction era, the industrial worker of early 20th century, and the consumer after WWII.¹⁸ In each of these historical moments, the legislation reflected the idealized subject of the period, just as punitive policy reflects the needs of the crime victim today. For example, when the freedman became the idealized subject during the

¹⁶ The positioning of Americans as victims is seen in Reagan’s rhetoric as well. For example, in a speech quoted in Chapter I he claims that victims of drug abuse are “you and me, our friends, our families—all Americans.” See: Reagan, “Remarks to Members,” speech, Ronald Reagan Presidential Library & Museum.

¹⁷ The Bureau of Justice Statistics reported in 2015 that the demographic makeup of state prisons was: 38% Black, 35% White, and 21% Latinx. Although this doesn’t seem like a notable difference, when you look at these statistics compared to the overall population in the US, you see that people of color and Blacks specifically are overrepresented. For example, the Pew Research Center reported in 2016 that Whites makeup 64% of the US total population, but 30% of the US prison population. While Blacks makeup 12% of the US population, and 33% of the prison population. Finally, Latinx Americans make up 16% of the US population, and 23% of the prison population. See: Ashley Nellis, “The Color of Justice: Racial and Ethnic Disparity in State Prisons,” The Sentencing Project, last modified June 14, 2016, accessed April 19, 2019, <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/#II.%20Overall%20Findings>. Also see: Pew Research Center, “Blacks and Hispanics are overrepresented in U.S. prisons,” Pew Research Center, last modified January 12, 2018, accessed April 19, 2019, https://www.pewresearch.org/fact-tank/2018/01/12/shrinking-gap-between-number-of-blacks-and-whites-in-prison/ft_18-01-10_prisonracegaps_2/.

It is also important to note, however, that you cannot make a blanket statement that the majority of people in prisons are Black. One must look at the statistics that vary state to state. “Another widely held misconception Gilmore points to is that prison is majority black. Not only is it a false and harmful stereotype to overassociate black people with prison, she argues, but by not acknowledging racial demographics and how they shift from one state to another, and over time, the scope and crisis of mass incarceration can’t be fully comprehended. In terms of racial demographics, black people are the population most affected by mass incarceration — roughly 33 percent of those in prison are black, while only 12 percent of the United States population is — but Latinos still make up 23 percent of the prison population and white people 30 percent, according to the Bureau of Justice Statistics.” See: Rachel Kushner, “Is Prison Necessary? Ruth Wilson Gilmore Might Change Your Mind,” *The New York Times* (New York, NY), April 17, 2019, accessed April 19, 2019, <https://www.nytimes.com/2019/04/17/magazine/prison-abolition-ruth-wilson-gilmore.html>.

¹⁸ For more explanation on each subject see: Simon, *Governing Through Crime*, p.77-84.

Reconstruction era, laws were created to establish rights for this new category of legal subjects—freed slaves. In addition, it was during the Reconstruction era that *negative* subjects were first realized, such as the Klu Klux Klan.¹⁹ For the modern period, the aforementioned Omnibus Crime Control Act, Safe Streets Act, and LEAA, marked the beginning of crime legislation that was based off the needs of citizenry as defined by the crime victim.²⁰

Simon's account of the victim as the new "idealized subject of the law" contributes to the broader understanding of citizenship that I examine in this chapter. Politicians during the Victims' Rights Movement used the crime victim to cast criminals as undeserving of the same rights as the crime victim. In addition, they cultivated a perspective that to focus on the rights of the criminal anti-citizen devalues and degrades the citizenship of law-abiding Americans. This ideology is exemplified in the LEAA and its surrounding rhetoric. As Gottschalk highlights, "The LEAA was pivotal in the creation of not just a victims' movement in the United States, but a very particular kind of victims' movement, one that viewed the rights of victims as a zero-sum game predicated on tougher penalties for offenders."²¹ Here Gottschalk how the Victims' Rights Movement was an opportunity for politicians to perpetuate the idea of rights as a zero-sum game, which they later used to enact punitive policies. The LEAA illustrates how lawmakers and politicians capitalized on victims rights rhetoric for their own agenda, and perpetuated a zero-sum understanding of rights through centralizing the crime victim

¹⁹ Simon, *Governing Through Crime*, p.82-4

²⁰ *Ibid.*, p.75.

²¹ Gottschalk, *The Prison and the Gallows*, p.85. Gottschalk explains that the zero-sum ideology reflected in the victims movement is unique to America. For more on LEAA in the Victims' Rights Movement see: Simon, *Governing Through Crime*; Hinton, *The War on Poverty*.

Rights as a Zero-Sum Game: Welfare Fraud

The Victims' Rights Movement and the development of the crime victim as the ideal citizen popularized the perception that criminals were not considered full citizens, and therefore did not deserve the same rights and privileges as their fellow Americans. Although there are social contracts that view society as a family, or social contracts predicated on religion, these ideologies were able to progress due to a particular understanding of a social contract that imagines society as competitive, with distinct winners and losers. Kohler-Hausmann demonstrates how the zero-sum idea developed within the latter understanding of a social contract through multiple letters from constituents to politicians reflecting this perspective. In many of these letters, she explains that, "They [the constituents] typically did not call for smaller government but instead for a renegotiation of the social contract—a restructuring of who gets a voice and benefits and on what terms. Both Richard Nixon and Ronald Reagan attempted to mobilize this popular frustration for their own political projects."²² The constituents' letters therefore reflected the rhetoric that politicians espoused, casting those who commit crimes or receive government aid as undeserving of full citizenship. In addition, the letters reinforce the emerging understanding of society under a social contract that restricts citizenship, often based on identity.

The Zero-Sum plot structure recurs countless throughout American political history. Politicians often invoke this narrative when referring to crime control. For example, in 1972 former president Richard Nixon announced, "Together, let us show that the day of the criminal is past in America, and the day of the citizen is here."²³ In this quotation Nixon implies that

²² Kohler-Hausmann, *Getting Tough*, p.127.

²³ Richard Nixon, "Statement About National Crime Statistics for the First Quarter of 1972," speech, July, 1972, The American Presidency Project, <http://www.presidency.ucsb.edu/ws/index.php?pid=3494>. This quotation is also eerily similar to a phrase Trump said during a speech in 2018: "And you meet with Democrats and they're always

criminals are not citizens, and that their needs and the needs of “law-abiding” citizens cannot be met simultaneously. This mirrors the sentiment in the quotations from constituents at the beginning of this chapter, demonstrating how pervasive the Zero-Sum narrative was. Similarly, in Reagan’s Remarks at the White House Ceremony Observing Crime Victims Week— which he instituted during the Victims’ Rights Movement— he claimed, “For too many years, the scales of criminal justice were tilted toward protecting rights of criminals. Those in charge forgot or just plain didn’t care about protecting your rights— the rights of law-abiding citizens.”²⁴ Finally, in 1968 Nixon stated, “At the judicial level it is time that the rights of the victimized millions in this country receive at least the same measure of concern and attention and action as have the rights of the criminally few.”²⁵ All of these quotations perpetuate the notion that rights are scarce, and can neither be given to everyone equally nor simultaneously. They do so through reflecting the idea that the rights of the rest of the citizens will diminish if the rights of “criminals” are being tended to instead. This rhetoric perpetuates the division between citizens and “criminals” cast in terms of deserving and undeserving.

Although the Zero-Sum narrative recurs in many contexts, I focus on its presence in anti-welfare fraud measures in the 1970s, spearheaded by Reagan’s anti-fraud campaign in California. I use this moment to show how fear was emplotted in a way that cultivated anxiety among Americans over losing their rights to “welfare cheats.” In *Getting Tough*, Kohler-

fighting for the criminal. They’re not fighting for law-abiding citizens. They’re always fighting for the criminal. (Applause.) Doesn’t make sense.” See: Donald J. Trump, "Remarks by President Trump at the Conservative Political Action Conference," speech, February 23, 2018, accessed April 23, 2019, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-conservative-political-action-conference-2/>.

²⁴ Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary Society* (London, UK: Oxford University Press, 1997), p.49 Beckett is quoting Reagan’s speech, “Remarks at White House Ceremony Observing Crime Victims Week.”

²⁵ This quotation again references Anker’s victim-hero concept seen throughout the Cowboy Father narrative. Richard Nixon, “Statement Submitted to Republican National Convention Committee on Resolutions: ‘The Crusade Against Crime,’” speech, July 31, 1968, The American Presidency Project, <https://www.presidency.ucsb.edu/documents/statement-submitted-republican-national-convention-committee-resolutions-the-crusade>.

Hausmann's archival research provides primary source examples of citizens who adopted the zero-sum logic of rights. One such example occurred in a letter to Ronald Reagan in 1970, during his first gubernatorial term in California.

[T]hese people [welfare recipients] add nothing to our economy but, because they are citizens of the United States, they exercise their right to vote. Actually, they are, in my opinion, no more than second rate citizens and because they continually draw welfare, I do not believe they should have the right to have a say in our government or how our tax money is spent.²⁶

This citizen's concern exemplifies the perception during this time that those on welfare were not full citizens. Casting welfare recipients as "second-rate citizens" helped construct and perpetuate the competitive logic that pitted the anti-citizen (criminal) against the ideal citizen (victim). The constituent's language also highlights the racist and classist underpinnings behind definitions of citizenship. The definitions that categorize Americans into deserving and undeserving of full citizenship contribute to the competitive understanding of rights and status as defined by the particular social contract seen in the Zero-Sum narrative.

Scholars have long written on the idea of "civil death," but the effect on the figures examined in the Zero-Sum narrative resembles what Kohler-Hausmann calls "civic degradation."²⁷ This is the idea that those under state control apparatuses are not *excluded* from the citizenry, but rather are subordinated to second-class citizens through racialized laws and practices that serve to oppress target populations.²⁸ Civic degradation is not only perpetuated by the State, it is also reinforced by fellow citizens. The dichotomy between taxpayers and "tax

²⁶ Kohler-Hausmann, *Getting Tough*, p.125. This is from Kohler-Hausmann's archival research at the Ronald Reagan Presidential Library, Simi Valley, California.

²⁷ For more on the idea of "civic death," see: Orlando Patterson, *Slavery and Social Death* (Cambridge, MA: Harvard University Press, 1982). Scholars attribute the term to Patterson. For more on civic death see: Kohler-Hausmann, *Getting Tough*, p.17; Alec C. Ewald, "'Civil Death': The Ideological Paradox of Criminal Disenfranchisement Law in the United States," *Wisconsin Law Review*, 2002, 1045-1137, HeinOnline.

²⁸ Kohler-Hausmann says, "Conceptions of full citizenship continued to be constructed through and defined against these racialized and subordinated civic categories." See: Kohler-Hausmann, *Getting Tough*, p.14-5.

takers”²⁹ empowered the State and citizens to justify taking away the rights of those deemed undeserving, or not fulfilling their civic responsibility. For example, increased citizen-on-citizen surveillance of those suspected of welfare fraud in the 1970s-80s reflected the understanding that welfare recipients no longer had the right to privacy once *suspected* of committing fraud. In addition, this dichotomy engendered fear in the law-abiding citizen that any rights given to the “tax takers” would degrade their own status. These two effects are seen throughout both politicians and constituents’ rhetoric surrounding welfare fraud.

As the criminal became the anti-citizen during the Victims’ Rights Movement, welfare recipients became similarly positioned as the antithesis of productive citizens. In so doing, the surrounding policies cast them as having no legitimate claims on the State. As a result, other economic reform efforts such as a national income floor and rights to material security, were cast aside in favor of degrading anti-fraud policies justified as “protecting the public.”³⁰ There have been many reforms that increasingly criminalize welfare recipients. The California Welfare Reform Act of 1971 and an anti-welfare fraud hotline in Illinois in the ‘70s demonstrate both the ideology surrounding welfare recipients, as well as the consequential practices of civic degradation.

The California Welfare Reform Act was created due to an emerging perspective, perpetuated by Reagan, that parents on welfare were lazy and moral failures.³¹ In an attempt to

²⁹ Kohler-Hausmann says, “This rhetoric created a dichotomy between ‘taxpayers,’ which served as a proxy for full citizens, and welfare recipients, who were presented as not contributing to the polity and therefore having no claim to the benefits of citizenship.” Kohler-Hausmann, *Getting Tough*, p.194.

³⁰ Kohler-Hausmann details the results of this shift in *Getting Tough*. She explains that, “Instead of building a more expansive citizenship, policymakers degraded the civic position of the nation’s poorest citizens.” She also compares anti welfare fraud campaigns to Rockefeller’s drug laws, saying that, “Similar to the Rockefeller Drug Laws, the anti-fraud campaigns reoriented the purported mission of state programs from reforming or serving a marginalized group to protecting the ‘public’ from that population.” Kohler-Hausmann, *Getting Tough*, p.123-4.

³¹ One of the many falsities of the narrative of “welfare cheats” is that those who cheat do so to own lavish items, when in reality, most welfare recipients who “cheat” (which sometimes means having more than one job in addition

address this, Reagan created the “pilot workfare program,” which forced people on welfare to work 80 hours per month in exchange for their benefits. Ironically, the majority of those receiving government aid had full-time jobs and sometimes multiple jobs. Reagan’s perception of welfare recipients as lazy was also ironic because the Act penalized those already in the workforce. The Act also mandated that every birth certificate identify the child’s father with his social security number, making it more difficult for victims of domestic violence to separate from their child’s parent. In addition, the Act switched the qualification measure to gross income, making it more difficult to receive aid.³² Demonstrating the political support for punitive welfare reform in California, the act passed with an overwhelming majority of 60-9 in the Assembly, and 31-8 in the State Senate.³³ The punitive aspects of this Act illustrate the increasing blend of the penal and welfare states.³⁴ Nixon viewed Reagan’s strong-arm approach as a political threat, which was evident when Nixon abandoned his campaign for a national income floor to focus on welfare fraud.³⁵ This competition shows that many of the get tough approaches to crime control were for political gain. The blend of the penal and welfare states also reflects a long-standing contractarian obsession to punish those who take from society without giving back, which is another distinctive feature of imagining society as a competitive social contract.³⁶

to receiving aid) are doing so to make enough money to survive. For more on this, as well as specific examples and quotations from welfare recipients, see: Kohler-Hausmann, *Getting Tough*, p.195.

³² Kohler-Hausmann, *Getting Tough*, p.167.

³³ Ibid.

³⁴ For many examples of criminalizing those on welfare—such as requiring fingerprints— see: Kohler-Hausmann, *Getting Tough*, p.121-165. In addition, David Garland coins the term “penal welfarism” to reflect the blending of these two control apparatuses. See: Garland, *The Culture of Control*.

³⁵ Kohler-Hausmann, *Getting Tough*, p.123.

³⁶ For example, John Locke wrote that people were living in poverty because of their own laziness, and were therefore undeserving of government assistance. See: John Locke and Mark Goldie, “An Essay on the Poor Law,” in *Locke: Political Essays*. New York: Cambridge University Press, 1997.

The spike in use of a welfare fraud hotline in Illinois between 1977-80 demonstrates that Reagan's spotlight on "welfare cheats" impacted both national and local anti-fraud measures.³⁷ The hotline exemplifies how the fear seen in the Zero-Sum narrative manifested in "welfare cheats" the 1970s. The callers concerns reflect two ideologies in the Zero-Sum narrative. The first is that those on welfare—and other state control apparatuses—are not entitled to *all* rights that every US citizen is granted. The second is predicated on the first. If welfare recipients gain material goods that symbolize status, they must be cheating the system, and therefore they are lowering the status of citizens not receiving government aid. These two perspectives serve as justifications for civic degradation. The hotline provides an example of how the citizenry and the State worked together to civically degrade welfare recipients.

There was clearly a lack of awareness of what constituted actual fraud, as evidenced by 10% of 32,000 calls resulting in grant cancellations.³⁸ Those who called the hotline reported status symbols rather than legal evidence of fraud, and many calls were clearly based on personal vendettas.³⁹ Despite the lack of legitimacy, the State had promised to investigate all tips. Kohler-Hausmann provides multiple examples of callers who reported status symbols of welfare recipients, rather than providing evidence of actual fraud. For example, she details a caller who accused the hotline of not properly doing their job because someone across the street from them was receiving aid and driving a new car—two acts that the caller believed were incompatible.⁴⁰ This is exemplary of the idea that those on welfare are undeserving of achieving a certain status. In addition, the call reflects the idea that those on welfare must be cheating the system if they are performing certain class symbols, as a product of the increasing criminalization of welfare

³⁷ In 1977 the hotline received 10,047 calls with the calls growing each month. From 1977-80 the hotline received 30,000 calls reporting suspected fraud. Kohler-Hausmann, *Getting Tough*, p.193.

³⁸ Ibid.

³⁹ Ibid., p.194 and 197.

⁴⁰ Kohler-Hausmann, *Getting Tough*, p.195.

recipients. The callers desire to report this incident exemplifies the specific type of fear seen in the Zero-Sum narrative, over losing one's status to someone who is seen as a second-class citizen.

This level of citizen-on-citizen surveillance, which is a form of civic degradation, reflects the idea under the Zero-Sum narrative that those on welfare are considered “second rate citizens.”⁴¹ This is further demonstrated when the same tipper called the hotline again an hour later to say that, while using his binoculars to look at his neighbors through his window, he saw that the suspect in question was employed at Sears.⁴² Kohler-Hausmann comments on this call explaining that, “While press and law enforcement might have condemned spying on people as a violation of privacy in another context, welfare recipients had entered a suspect category and thus surveillance was encouraged.”⁴³ This shows how viewing rights and status as scarce results in civic degradation, enacted by both the citizenry and the State. In addition, this instance demonstrates how Illinois citizens legitimized their state's anti-welfare fraud campaign and aided in creating another method of surveillance on poor families.⁴⁴

Constructing the Welfare Queen: The Effect of the Zero-Sum Logic

The same rhetoric that categorized those under state control apparatuses as undeserving also contributed to a narrative that framed single Black women as “welfare mothers,” or,

⁴¹ The local media helped to perpetuate this citizen-on-citizen surveillance. *The Chicago Tribune*, for example, published a list with the names of those charged with welfare fraud. While almost all major publications advertised the hotline, only *The Chicago Defender*, a Black run newspaper, criticized the campaign. For group indictments of 50-75, the paper would publish the names plus address and places of illegal employment at the end in small print. “Reading about actual indictment played a key role in convincing the public that the welfare program, wasted their tax dollars on financially secure, manipulative criminals.” Kohler-Hausmann, *Getting Tough*, p.191-92.

⁴² Kohler-Hausmann, *Getting Tough*, p.195.

⁴³ *Ibid.*

⁴⁴ Kohler-Hausmann further explains this saying: “Their participation, however, further legitimized the state's campaign and added another technique for monitoring poor families. This street level surveillance enabled citizens to intervene in the *performance* of recipients' stigmatized position; it impeded recipients' ability to subvert that position by acquiring consumer goods conoting status.” And, “Like citizens on probation and parole, welfare recipients were located by these campaigns in a subordinated civic status that could be exploited by family members, friends and neighbors.” Kohler-Hausmann, *Getting Tough*, p.196 and 197.

“welfare queens.” The concept of the welfare queen embodies the fear over the scarcity of rights, as well as demonstrates the consequence of this fear. In the 1970s, the welfare queen figure helped perpetuate many misguided stereotypes. First, it furthered the stereotype that most people on welfare, or on any government subsidies, were Black single mothers.⁴⁵ Second, that those on welfare were taking advantage of the State— this ranged from narratives claiming that welfare recipients chose not to work, or were cheating the system in some capacity. In reality, most people on welfare worked several jobs and still did not make enough money to support themselves and their families.⁴⁶ The welfare queen figure is also tied to former president Nixon’s regulation of women’s sexuality in his changes to Aid to Families with Dependent Children (AFDC) and his Family Assistance Plan (FAP) in 1970-71. These changes included cutting off benefits to families with children born out of wedlock, among other policies that encouraged Black women to rely on men to make money, sometimes forcing them to stay in dangerous situations.⁴⁷ The welfare queen figure thus encompassed a Black woman who deviated from sexual and marital norms, as well as reflected anxiety surrounding poor Black women’s inclusion into society as a consumer. The figure is therefore emblematic of rights and status as a scarcity.⁴⁸

⁴⁵ Before 1958, the majority of welfare recipients were white, and almost half were people of color after. However, this does mean that the majority of people on welfare are people of color. See: Kohler-Hausmann, *Getting Tough*, p.130. In 2016, of the 2.7 million Americans receiving aid from Aid to Families with Dependent Children (AFDC), 36.9% were Latinx, 27.6% were white, and 29.1% were black. See: Arthur Delaney and Ariel Edwards-Levy, "Americans Are Mistaken About Who Gets Welfare," HuffPost, last modified February 5, 2018, accessed April 21, 2019, https://www.huffpost.com/entry/americans-welfare-perceptions-survey_n_5a7880cde4b0d3df1d13f60b. See also: Lexington Law, "45 Important Welfare Statistics for 2019," Lexington Law, last modified December 31, 2018, accessed April 21, 2019, <https://www.lexingtonlaw.com/blog/finance/welfare-statistics.html>; Ryan Sit, "Trump Thinks Only Black People Are on Welfare, But Really, White Americans Receive most Benefits," Newsweek, last modified January 12, 2018, accessed April 21, 2019, <https://www.newsweek.com/donald-trump-welfare-black-white-780252>.

⁴⁶ For quotations from welfare recipients unable to support their families only on the aid they were given see: Kohler-Hausmann, *Getting Tough*, p.199-205.

⁴⁷ For more on this see: Kohler-Hausmann, *Getting Tough*, p.134-140.

⁴⁸ This is exemplified in a tip to the welfare fraud hotline about someone who is sexually promiscuous. Kohler-Hausmann explains that as the tipper was trying to regulate this woman’s sexuality, “It connected the older rhetoric that considered normative sexual behavior a condition for receiving aid with the more modern anxiety regarding poor women’s inclusion in consumerist society.” See: Kohler-Hausmann, *Getting Tough*, 196.

In 1974 *The Chicago Tribune* began to cover a story about Linda Taylor, a Black woman who used at least 27 different names, 31 addresses, 25 phone numbers, 100 different aliases, and many husbands, to illegally receive more than \$200,000 of government money from 12 different states.⁴⁹ This story became known nationwide, and rather than be interpreted for what it was—a one-off story of an individual who cheated multiple government aid programs—it became emblematic of the idea that fraud was pervasive in the welfare system. Although welfare was one of the many government aid programs that Taylor used, the political rhetoric surrounding the story only framed her as a welfare recipient.⁵⁰ In 1978 the *Chicago Tribune* said, “Once the focus of national outrage, the flamboyant and mysterious Chicago woman has relinquished her throne to hundreds of others who have developed equally outrageous schemes to milk the welfare of millions of dollars each year.”⁵¹ Thus, Linda Taylor is thought of as the original “welfare queen.”⁵² The term “throne,” a reference to her owning high class items at the expense of the State, characterized the “welfare queen” as someone who was cheating the system to buy expensive material items, at the expense of the taxpayer. Further, the quote suggests that Taylor reflected a norm, rather than one sensationalized story. Having already launched several attacks against welfare fraud in California as governor, Taylor’s story added fuel to Reagan’s fire. In his 1976 presidential campaign speech he used statistics from Linda Taylor’s story, emphasizing that she made 15,000 of tax-free income per year. The audience gasped in reaction to this figure.⁵³

⁴⁹ Kohler-Hausmann, *Getting Tough*, p.186.

⁵⁰ *Ibid.*, 187. Kohler-Hausmann expands that, “Instead of framing welfare as one of myriad avenues Taylor used for her nefarious enterprises, political rhetoric in the 1970s positioned her as a representative AFDC recipient and a product of the welfare bureaucracy.”

⁵¹ *Ibid.*, 189.

⁵² As I will demonstrate later in this section, she is not necessarily the “original” welfare queen, although her story did perpetuate the popularization of the term.

⁵³ “Ronald Reagan Campaign Speech, January 1976,” video file, 00:24, YouTube, posted by Alex Salgado, November 10, 2017, accessed April 19, 2019, <https://www.youtube.com/watch?v=ASDsLNDgHKE>.

Like the callers to the hotline in Illinois, the focus on Taylor's material possessions reflects the view in the Zero-Sum narrative of status as a scarcity reserved for those deserving.

Taylor's story represents the increasing criminalization of welfare recipients after the punitive turn that was predicated on the perception that welfare fraud was a means to attain high status, which is contrasted by many welfare recipients' experiences with fraud. Regulations for welfare recipients, of which there were many, criminalized and perpetuated poverty in low-income families.⁵⁴ Kohler-Hausmann provides many primary source examples to demonstrate this, as well as reinforce the notion that those who received government aid "surrendered their cherished American rights."⁵⁵ The necessity for many welfare recipients to continue to work also reflects a structural issue with government aid— as well as larger institutional problems such as criminalizing poor people of color—rather than an issue with "welfare cheats." For example, a new mother expressed to a reporter from *The Chicago Tribune* in 1978 that she got on welfare after being recently laid off from her job. When she began working again, she was encouraged to stay on welfare and so she did. The woman expresses that the extra income allowed for her to increase the quality of life for her and her daughter. She tells *The Chicago Tribune*, "I moved from my apartment with roaches to a decent apartment. I could go to the store and load up the basket instead of buying hamburger and chicken necks. I could send my baby to catholic school."⁵⁶ This quotation demonstrates that the perspective reflected in the welfare fraud hotline of aid recipients taking advantage of the State in order to cheat their way to the upper class, relied on stories such as Linda Taylor's to exaggerate and misconstrue welfare fraud. Counter

⁵⁴ For detailed examples of these regulations, as well as the increasing punitization of the welfare state, see: Kohler-Hausmann, *Getting Tough*, p.121-163.

⁵⁵ Kohler-Hausmann, *Getting Tough*, p.195.

⁵⁶ Kohler-Hausmann, *Getting Tough*, p.199. Prior to this quotation, Kohler-Hausmann quotes the same woman saying, "I had a good job [...] But then I got laid off. I had a baby and so I got on welfare. But then I got a job and everyone told me to just stay on welfare and not tell them I was working again. So I did. Everyone was doing it... But now what am I going to do? Go to Jail?" These quotations are from an article in *The Chicago Tribune* in 1978 called, "Welfare Cheats Find 'Easy Street' Has a Dead End." Kohler-Hausmann first cites the article on page 185.

examples of how and why one would engage in one of the many acts that constitute welfare fraud contest the narrative perpetuated by Reagan and others that criminalized welfare recipients, and exploited the fear over status in the Zero-Sum narrative.

At its core, the image of the welfare mother constitutes a class-specific, controlling image developed for poor, working-class Black women who make use of social welfare benefits to which they are entitled by law. As long as poor Black women were denied social welfare benefits, there was no need for this stereotype. But when U.S. Black women gained more political power and demanded equity in access to state services, the need arose for this controlling image.⁵⁷

In this quotation sociologist Patricia Hill Collins unpacks the “why” behind the inception of the welfare mother trope— which became the welfare queen in the 1980s.⁵⁸ Collins exposes this figure as a tool for the State to manipulate public perspective of those on welfare, criminalize those on welfare, as well as to rationalize and pathologize Black poverty. Collins examines the “welfare queen” as an extension of the “breeder” trope of enslaved Black women, demonstrating that it is yet another way to “harness Black women’s fertility to the needs of a changing political economy.”⁵⁹ Collins’ discussion of the welfare queen is among her broader examination of “controlling images,” which are archetypes of Black femininity manipulated by the State to perpetuate racist and misogynistic ideologies of Black women, and to justify their oppression. Hortense Spillers, another prominent scholar of black feminism, writes on these labels as well. Spillers emphasizes the danger of these figures as she states, “Embedded in bizarre axiological ground, they demonstrate a sort of telegraphic coding; they are markers so loaded with mythical

⁵⁷ Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, 2nd ed. (Great Britain: Routledge, 2000), p.78.

⁵⁸ The shift to “queen” is due to the perception that people on welfare were cheating the system to gain status symbols, as was demonstrated in the discussion of the welfare fraud hotline, and Linda Taylor’s story.

⁵⁹ Collins, *Black Feminist Thought*, p.78.

prepossession that there is no easy way for the agents buried beneath them to come clean.”⁶⁰

Here she explains how these stereotyped labels are so ingrained that they are difficult to shed, or “come clean,” in her words. Taken together, Spillers and Collins demonstrate that the history of the welfare queen goes beyond the story of Linda Taylor.

In addition to Collins and Spillers, many scholars have challenged the welfare queen narrative and shown how it, along with other tropes of Black womanhood, serve as an explanation for racial inequality. In the first chapter I briefly describe the Moynihan Report’s influence on the punitive turn, but the report also contributed to the controlling images of Black women in America. Moynihan’s report suggested that the racist figures that permeated during slavery, such as “sambo” and “mammy,” transferred to the next generation and produced high levels of unemployment, failed schools, and neglected housing in Black communities.⁶¹

Moynihan saw Black families as matriarchal due to slavery and white oppression, and suggested that racial inequality was because the Black family structure differed from the patriarchal structure he considered the American norm.⁶² In addition, he argued that single-parent households fostered crime and deviance, thus again blaming social and economic disparities on his perception of the Black family.⁶³ In this context Collins aptly assesses that,

The image of the matriarch also supports racial oppression. Much social science research implicitly uses gender relations in African-American communities as one seeming measure of Black cultural disadvantage. For example, the Moynihan Report (1965) contends that slavery destroyed Black families by creating reversed roles for men and

⁶⁰ Spillers, “Mama’s Baby,” p.65.

⁶¹ Hinton, *The War on Poverty*, p.59.

⁶² In his report Moynihan says, ““In essence, the Negro community has been forced into a matriarchal structure which, because it is so out of line with the rest of the American society, seriously retards the progress of the group as a whole, and imposes a crushing burden on the Negro male and, in consequence, on a great many Negro women as well.” See: Coates, “The Black,” *The Atlantic*.

⁶³ This is an ironic and peculiar perspective because Moynihan’s father left his family when he was a child. See: Coates, “The Black,” *The Atlantic*.

women. Black family structures are seen as being deviant because they challenge the patriarchal assumptions underpinning the traditional family ideal.⁶⁴

Here Collins explains how Moynihan's claims contributed to the criminalization of Black mothers on welfare. This adds to Collins' idea that Black mother's failure to conform to American notions of motherhood contributed to arguments of Black cultural defiance.⁶⁵ Collins shows how and where these controlling images come from, and why they are so powerful and difficult to combat, as Spiller's quotation suggests.

Collins continues to unpack controlling images of Black women through discussing how politicians used Moynihan's findings to ignore structural issues that contributed to economic disadvantage.

Thus, locating the source of cultural difference in flawed gender relations provides a powerful foundation for U.S. racism. Black women's failure to conform to the cult of true womanhood can then be identified as one fundamental source of Black cultural deficiency. Advancing ideas about Black cultural disadvantage via the matriarchal image worked to counter efforts by African-Americans who identified political and social policies as one important source of Black economic disadvantage.⁶⁶

The idea that Black families were caught in a "self-perpetuating tangle of pathology,"⁶⁷ as Moynihan advanced in his report, allows those who adopt his "diagnosis" to ignore institutional and structural racism. Thus politicians who accepted Moynihan's claims turned to ways to "help the disadvantaged help themselves," as well as provided justifications for increased punitive interventions in the 1960s and '70s.⁶⁸ This particularly influenced Johnson's approach during the War on Poverty. Scholar Elizabeth Hinton explains that, "Social welfare and antipoverty

⁶⁴ Collins, *Black Feminist Thought*, p.77.

⁶⁵ Collins writes that, "Black women's failure to conform to the cult of true womanhood can then be identified as one fundamental source of Black cultural deficiency."⁶⁵ Collins, *Black Feminist Thought*, p.77

⁶⁶ Ibid.

⁶⁷ "Tangle of pathology" is a phrase directly from the Moynihan report, "self-perpetuating 'tangle of pathology'" is from Hinton. See: Hinton, *The War on Poverty*, p.74.

⁶⁸ Hinton, *The War on Poverty*, p.75 and p.77.

agencies increasingly referred to cultural deficiencies in low-income Black communities, rather than employment figures or other economic indicators, in order to generate support for the administration's self-help programs."⁶⁹ This quotation, which refers to the mid-60s during Johnson's War on Poverty, emphasizes how Moynihan's gendered claims impacted approaches to poverty and crime. This discussion helps locate the welfare queen within the tradition of black feminist thought. The welfare queen exemplifies the consequence of the logic under the Zero-Sum narrative. In addition, the trope helped politicians such as Reagan and Nixon advance their own strategies, and deflect any consequential blame for racial inequality.

Conclusion

The Zero-Sum narrative provides an alternate example of how fear is used by politicians, this time in the absence of danger. In so doing, this narrative exemplifies the multifaceted nature of fear that this thesis seeks to unpack. Regardless of the context, the idea that rights are a scarce commodity is pervasive in American politics, and is particularly salient today. This ideology is seen throughout rhetoric surrounding immigration rights and gay marriage in particular. I focused on anti-welfare fraud efforts in the 1970s to highlight a particular moment during the punitive turn where fear was emplotted using an image of the social contract that categorized the American public into winners and losers. Examining the rise of the Victims' Rights Movement along with Reagan's anti-welfare fraud campaign provides an ideological context for welfare recipients' characterization as second-class citizens. It also demonstrates the irony of those constituents who claim that their rights are being cast aside in favor of the "criminal." The construction of the welfare queen further emphasizes this irony, and reflects how far the

⁶⁹ Ibid., p.78.

pendulum swung in the opposite direction of protecting the rights of those under state control apparatuses.

The welfare queen is not the only controlling image of Black women that emerged with the punitive turn.⁷⁰ Although the fear incited by welfare queens was over the scarcity of rights, and not danger, many other racialized policies and practices have contributed to a particular fear and criminalization of Black women. For example, the trope of the “crack whore” emerged during the crack epidemic in the 1980s. There are countless examples of the consequences of this narrative, such as the hundreds of Black mothers who were sent to prison as soon as they gave birth due to traces of drugs in their system, as compared to white mothers in the same position who were sent to rehabilitation facilities.⁷¹ It was also during the 1980s that women’s prisons became “masculinized,” through changing both their physical structure as well as their methodological approach.⁷² This was a direct result of the influx of Black and Brown women to prison— as a consequence of the War on Drugs— and the racialized notion that female criminals shifted from having been led astray by bad men, to “real criminals.”⁷³ Thus, as Patricia Hill Collins demonstrates, controlling images of Black femininity consistently serve to reinforce governmental control over Black women’s bodies, while simultaneously pathologizing Black oppression. The history surrounding the Zero-Sum narrative, of which I have only briefly touched on in this chapter, is a part of the larger story of using racialized rhetoric to stigmatize, oppress, and control Black bodies. The welfare queen is one of many examples of this.

⁷⁰ For more on the Black women in the criminal justice system after the punitive turn see: Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* (New York, NY: Vintage Books, 1997); Jill McCorkel, *Breaking Women: Gender, Race, and the New Politics of Imprisonment* (New York, NY: New York University Press, 2013); McKim, *Addicted to Rehab*; Haney, *Offending Women*.

⁷¹ For more on this see: Roberts, *Killing the Black Body*.

⁷² For more on this see: McCorkel, *Breaking Women*.

⁷³ McCorkel, *Breaking Women*.

In the Zero-Sum narrative, politicians perpetuate a classed and racialized image of the anti-citizen, juxtaposed with the crime victim as the ideal citizen. Beyond the legislative impact (seen through acts such as the LEAA), this helped cultivate the ideologies that underpin the Zero-Sum narrative. This narrative figures fear in two interrelated ways: the first, driven by an understanding of rights and status as scarce, is the fear of losing both rights and status to someone undeserving. Second, is the fear that the “law-abiding citizen” will become the “undeserving” citizen after losing their rights to them. These are both predicated on a fear that the social contract will break apart if those deemed undeserving of rights are granted them. The Zero-Sum narrative captures the role of these two fears amidst the ideological struggle over rights and citizenship after the punitive turn.

Conclusion

There should be no fear – we are protected, and we will always be protected. We will be protected by the great men and women of our military and law enforcement and, most importantly, we are protected by God.¹

MS-13 gang members have brutally murdered 17 beautiful, young lives in this area on Long Island alone. Think of it. They butcher those little girls. They kidnap, they extort, they rape and they rob. They prey on children. They shouldn't be here. They stomp on their victims. They beat them with clubs. They slash them with machetes, and they stab them with knives. They have transformed peaceful parks and beautiful, quiet neighborhoods into bloodstained killing fields. They're animals.²

Taken from speeches two years apart from each other, these two quotations from Trump juxtaposed together resemble the paternal protectionist rhetoric seen in the Cowboy Father narrative. However, adopting the masculine protector role is only one of Trump's many unique fear-mongering tactics. More broadly, it is only one of the numerous fear-based rhetorical devices that almost all politicians employ. Although much of Trump's language echoes the law and order rhetoric of the Reagan era, his, as well as other contemporary fear-mongering politicians, stray from the Cowboy Father and Zero-Sum narratives.

I recognize that in narrowly focusing on a small group of politicians during a specific time period, I exclude the wider history of fear in politics. There are many well known modern examples of fear-based policies and movements that I do not explore. Such as the worry that gay marriage would infringe on the sanctity of straight marriage, or the fear that immigrants and

¹ Donald J. Trump, "The Inaugural Address," speech, January 20, 2017, The White House.gov, accessed April 23, 2019, The Capitol, Washington, DC, <https://www.whitehouse.gov/briefings-statements/the-inaugural-address/>.

² Dara Lind, "Trump Just Delivered the Most Chilling Speech of His Presidency," Vox, last modified July 28, 2017, accessed April 23, 2019, <https://www.vox.com/policy-and-politics/2017/7/28/16059486/trump-speech-police-hand>.

refugees will take away jobs and increase the crime rate.³ There was also a surge in the language of fear surrounding 9/11, through the xenophobic rhetoric that accompanied the terrorist attacks and the following war. Each of these three examples were accompanied by specific type of fear that cultivated ideologies which served to oppress those groups cast as dangerous, or a non-dangerous threat in the case of gay marriage.⁴ Fear-based political rhetoric almost always results in oppressive measures against marginalized groups. For example, the continued existence of detainees at Guantánamo is one of the many punitive consequences of the fear-based political rhetoric that followed 9/11. The consistency with which fear is used, and the varying nature of its use, proves the continued importance of understanding how fear works. So far I have focused on the role of fear in politics, I conclude this thesis by detailing its impact, as well how this project contributes to prison abolitionism, as it is necessary for prison abolitionists to combat the politics of fear.

In the above quotations, Trump demonstrates a method of fear-mongering that he often relies on, and is seen throughout both narratives: Sensationalization. The impact of the role of fear in politics is deeply felt through its sensationalization. The phrase, “It’s 11:00 PM, do you know where your kids are?” used to play as a Public Service Announcement after news programs to instill fear in Americans who were at home watching television. This phrase exemplifies how sensationalization is used by the media and politicians to construct a new normal predicated on omnipresent danger, and therefore, fear. It creates the sense that crime is everywhere, and could happen to anyone, at any time. I use the word *sensationalization* to refer to the way in which stories of crime are used to alter Americans’ understanding of what is typical. Sensationalization demonstrates that the effect of rhetoric that weaponizes fear is not only seen through laws, but

³ See footnote six for examples of Trump’s rhetoric surrounding immigration.

⁴ I recognize that there are many more examples of fear-based policies than the short list I provide here.

also through its effect on the status quo. Although sensationalization serves this distinct purpose, it does not constitute its own narrative, as we see it occur throughout both the Cowboy Father and Zero-Sum narratives. The media and the political elite help to instill this fear of omnipresent crime through repeated examples of recent incidents to depict a sense of doom. Often the stories perpetuate a racialized image of a criminal as a man of color.⁵ The rhetoric surrounding the crime victim is often of their accomplishments in life, highlighting their innocence as well as the injustice of this act.⁶

In the Cowboy Father narrative, politicians use sensationalized stories of crime to justify the “need” for their position as the masculine protector, and therefore the “need” for their policies to ensure safety. Sensationalization is also often used to critique liberals’ “soft-on-crime” approach. For example, a famous ad during Bush Sr.’s campaign featured the story of a Black man named Willie Horton, whom former Governor of Massachusetts Michael Dukakis had let out on furlough through a new program he was spearheading.⁷ While on furlough Horton committed several violent crimes. Bush Sr. used this story in his ad to further his message that lenient programs such as Dukakis’ would result in more crimes, and therefore voting for Bush would ensure the American people’s safety. Rather than frame Willie Horton as one example, he

⁵ I specifically say “man” here, because the archetypal criminal is often cast as a man.

⁶ This is another example of Anker’s “black villainy” pitted against “white heroism” that we saw in the Cowboy Father narrative. Trump provides many examples of this in discussing immigration. I provide two quotations here that exemplify this narrative structure. First, “Jamiel’s 17-year-old son was viciously murdered by an illegal immigrant gang member who had just been released from prison. Jamiel Shaw, Jr. was an incredible young man, with unlimited potential who was getting ready to go to college where he would have excelled as a great college quarterback. But he never got the chance. His father, who is in the audience tonight, has become a very good friend of mine. Jamiel, thank you. Thank you.” Second, “One such border-crosser was released and made his way to Nebraska. There, he ended the life of an innocent young girl named Sarah Root. She was 21 years old, and was killed the day after graduating from college with a 4.0 Grade Point Average. Her killer was then released a second time, and he is now a fugitive from the law.” For both, see: Dara Lind, “Trump Has a Long History of Fearmongering About Immigrant Murder,” Vox, last modified February 5, 2019, accessed April 23, 2019, <https://www.vox.com/policy-and-politics/2017/7/28/16059486/trump-speech-police-hand>.

⁷ Doug Criss, “This is the 30-year-old Willie Horton ad Everybody is Talking About Today,” CNN Politics, last modified November 1, 2018, accessed April 21, 2019, <https://www.cnn.com/2018/11/01/politics/willie-horton-ad-1988-explainer-trnd/index.html>.

became emblematic of the idea that programs like Dukakis' have more dangerous consequences than benefits, and in addition, Horton became another Black criminal figure in the American imaginary.

Trump's rhetoric surrounding immigration closely mirrors Bush's emplotment of Willie Horton's story. Both of them sensationalize stories to critique liberals for being soft-on-crime, and prove the need for a strong-arm response. For example, in 2016 Trump said, "Also among the victims of the Obama-Clinton open borders policies was Grant Ronnebeck, a 21 year-old convenience store clerk in Mesa, Arizona. He was murdered by an illegal immigrant gang member previously convicted of burglary who had also been released from Federal Custody."⁸ Just as Bush blames Dukakis for the murder Horton commits, Trump blames Clinton and Obama for the murder of Grant Ronnebeck. He even goes so far as to directly correlate the two in saying that Ronnebeck was a "[victim] of the Obama-Clinton open borders policies," and not a victim of the people who murdered him. Thus both Bush Sr. and Trump further polarize crime control by blaming individual politicians for specific crimes. This quotation also resembles the critique of liberal leniency seen in the first chapter under the Cowboy narrative, which shows how sensationalization can be used as an additional rhetorical strategy.

Similar rhetoric is also seen throughout political speeches in the 1980s, through anecdotes that use sensationalization to create a sense that crime is pervasive and must be combatted. For example, in 1986 in his speech to the National Fraternal Congress of America Reagan says,

Nancy has brought back to me so many stories from her visits out to treatment centers, schools, and so forth. Could you believe — they're unbelievable, some of them — could

⁸ Donald J. Trump, "Donald Trump immigration speech in Arizona," speech, August 31, 2016, Politico, last modified August 31, 2016, accessed April 23, 2019, <https://www.politico.com/story/2016/08/donald-trump-immigration-address-transcript-227614>.

you believe a boy in the fourth grade, 8 years old — and this boy is not only a user; already he's a pusher. And he carries a beeper. If he's in class and the beeper goes off, he excuses himself from class because that means there's a customer outside waiting for him. What have we let happen in this country of ours over these recent years?⁹

Reagan includes this story in his speech as if it is common practice, rather than one anecdote. His ending question suggests that this story is reflective of the entire country's ethos, which he implies is in crisis. His use of this story not only typifies this one example, but serves as a justification to enact harsher punishments for drug pushers.

In the Zero-Sum narrative, the existence of the welfare queen figure exemplifies how sensationalized stories are used to create a new normal. Linda Taylor, who is seen as the original “welfare queen,” was a one-off story of someone who had gone through extreme lengths to cheat, not only the welfare system, but *many* government assistance programs. Taylor's story became a tool for Reagan to typify welfare fraud, which helped cultivate the opinion that most people on welfare do not deserve the benefits they're receiving. As Kohler-Hausmann notes, “As the anti-fraud investigations produced more and more convictions, the public became convinced that fraud was endemic to the entire program.”¹⁰ Kohler-Hausmann's reflection of some fraud equating to “everyone on welfare cheats the system,” in addition to the media's response to Taylor, demonstrate how the media and politicians alike use sensationalization to exaggerate one-off examples of crime as a way to prove the need for “get tough” policies.

Sensationalization is not only seen in specific examples that construct one figure, such as the welfare queen or Willie Horton. This plot structure is also seen throughout historical phenomena such as the crack epidemic, wherein politicians and the media repeatedly emphasized

⁹ Ronald Reagan, "Remarks to Members of the National Fraternal Congress of America," speech, September 25, 1986, Ronald Reagan Presidential Library & Museum, accessed January 22, 2019.

¹⁰ Julilly Kohler-Hausmann, *Getting Tough: Welfare and Imprisonment in 1970s America* (Princeton, NJ: Princeton University Press, 2017), p.192.

that drugs were moving from more “urban” areas to “suburban” areas, implying that crime is inescapable.¹¹ They do so through using language such as, “They have made jungles out of schools, jungles out of housing projects, and jungles our Times Square and Greenwich Village.”¹² Similarly, in 1968 Nixon warned,

If we allow it to happen, then the city jungle will cease to be a metaphor. It will become a barbaric reality, and the brutal society that now flourishes in the core cities of America will annex the affluent suburbs. This nation will then be what it is fast becoming — an armed camp of two hundred million Americans living in fear.¹³

By using the racialized term “jungle,” both of these quotations link the fear of spreading crime with race and barbarism, and as a result, construct the archetypal criminal as non-white and omnipresent. This language of chaos also points to a fear in the state of nature that if the social contract devolves, we will go back to Hobbesian ruthlessness. This notion is also illustrated in Trump’s quotation at the opening of this conclusion, wherein he says, “They have transformed peaceful parks and beautiful, quiet neighborhoods into bloodstained killing fields. They’re animals.”¹⁴ Trump’s language here is very similar to Nixon’s in 1968. These examples demonstrate how sensationalization can occur throughout generalized rhetoric surrounding crime, as well as specific one-off examples. In both cases, sensationalization uses fear to alter Americans idea of what is typical. This makes the politics of fear especially difficult to combat.

¹¹ Trump’s language on immigration is also an example of this.

¹² This is a quotation from Reverend Oberia Dempsey, a pastor in Harlem, quoted by Nelson Rockefeller in 1973. This was not during the crack epidemic, but is also in reference to drug abuse, and holds parallels to the language surrounding crack in the 1980s. The quote is from a New York Daily News editorial. See: “Testimony of Governor Nelson A Rockefeller at Joint Hearing Before Senate and Assembly Codes Committees,” 1973, Folder 846, Box 79, Nelson A. Rockefeller Gubernatorial Records, Rockefeller Archive Center, Sleepy Hollow, NY.

¹³ Richard Nixon, "Remarks in New York City: 'Toward Freedom From Fear,'" speech, May 8, 1968, The American Presidency Project, <https://www.presidency.ucsb.edu/documents/remarks-new-york-city-toward-freedom-from-fear>.

¹⁴ Lind, “Trump Just Delivered,” Vox.

“Why do prisons tend to make people think that their own rights and liberties are more secure than they would be if prisons did not exist?”¹⁵ Foremost abolitionist scholar and activist Angela Davis asks this question in her book *Are Prisons Obsolete?*, in which she covers the broad history of the rise of the prison and prison reform. Davis touches on many crucial subjects such as: making explicit the parallels between the prison system and slavery, clarifying the difference between prison reform and abolition, unpacking the role of gender in the prison system, and emphasizing that the racist and xenophobic underpinnings of the prison system cannot be separated from the penal state.¹⁶ My thesis builds on her claims, as I add that abolitionists must also focus on combating a politics of fear.

Many Americans agree that it is unjust to sentence someone to life in prison for selling or using marijuana. It is less palatable to discuss “what to do with the serial rapists and murderers.”¹⁷ This is a frequent question directed toward prison abolitionists and reformers, and it is a more difficult conversation than discussing minor drug offenses. For example, the popularity of Michelle Alexander’s *The New Jim Crow* is due in part to her focus on drug offenses and the War on Drugs.¹⁸ Fear underpins this more difficult conversation of violent offenders. Many Americans are afraid of the “dangerous criminal,” a figure that—as I have shown in this thesis—is constructed for us. Abolitionists must engage in these discussions to strengthen their vision of

¹⁵ Angela Davis, *Are Prisons Obsolete?* (New York, NY: Seven Stories Press, 2003), p.14.

¹⁶ As well as the connection between slavery and the prison system, Davis also notes the parallel between post-slavery laws such as the Black Codes, that served to re-enslave Blacks.

¹⁷ This is in quotation marks because it is not the language I would use, but it is a common question that I myself have asked, and been asked.

¹⁸ In a recent feature on Ruth Wilson Gilmore in the New York Times Magazine, Rachel Kushner explains that, “It’s easy to feel outrage about draconian laws that punish nonviolent drug offenders, and about racial bias, each of which Alexander catalogs in a riveting and persuasive manner. But a majority of people in state and federal prisons have been convicted of what are defined as violent offenses, which can include everything from possession of a gun to murder. This statistical reality can be uncomfortable for some people, but instead of grappling with it, many focus on the “relatively innocent,” as Gilmore calls them, the addicts or the falsely accused — never mind that they can only ever represent a small percentage of those in prison.” See: Rachel Kushner, “Is Prison Necessary? Ruth Wilson Gilmore Might Change Your Mind,” *The New York Times* (New York, NY), April 17, 2019, accessed April 19, 2019, <https://www.nytimes.com/2019/04/17/magazine/prison-abolition-ruth-wilson-gilmore.html>.

decarceration that separates crime and punishment, as Davis explains. Ruth Wilson Gilmore, another scholar and activist at the forefront of the abolition movement, speaks to these difficult questions.¹⁹ In a recent feature on Gilmore in *The New York Times Magazine*, Rachel Kushner clarifies that, “Instead of asking how, in a future without prisons, we will deal with so-called violent people, abolitionists ask how we resolve inequalities and get people the resources they need long before the hypothetical moment when, as Gilmore puts it, they “mess up.””²⁰ This quotation reinforces the importance of focusing on the possibility of a different system that effectively addresses crime *without* putting humans in cages. To do this, abolitionists must combat the culture of fear that permeates American society and aids in the continued incarceration of over two million Americans.

Specifically, abolitionists need a more liberatory answer to the question, *What consequence for your perpetrator would make you feel safe, and make you feel sure that this will not happen again to you or others?* For many, the answer to this question may be death or imprisonment. It is thus necessary to further question how death or imprisonment is beneficial for both the growth of the perpetrator, and the healing of the victim.²¹ Kushner’s article also addresses this point, explaining that, “[a]mong liberals, a kind of quasi-Christian idea about empathy circulates, the idea that we have to find a way to care about the people who’ve done bad. To Gilmore this is unconvincing. [...] She was asking if punishment is logical, and if it works.”²² In relation to the question stated above, this comment clarifies that abolitionists are not

¹⁹ Ruth Wilson Gilmore has been at the forefront of the abolition movement and abolition scholarship for decades. She is well known for her book on prisons in California called *The Golden Gulag*. See: Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley, CA: University of California Press, 2007).

²⁰ Kushner, “Is Prison Necessary?”

²¹ Rachel Herzig (at the front of the abolitionist movement) gives a thorough discussion on this point on a podcast called “Beyond Prisons.” See: *Beyond Prisons*, “Political Education feat. Rachel Herzig,” Shadowproof, April 3, 2019 (originally aired April 3, 2019), hosted by Kim Wilson and Brian Sonenstein.

²² Kushner, “Is Prison Necessary?”

simply seeking complete empathy for individuals who commit crimes (although some empathy is called for), rather, it is a deep questioning of our penal system. These questions must address whether or not punishment “works” effectively, as well as whether it is humane.

Whether someone has already been the victim of crime, or is worried that they will become one, Americans view punitive measures as the only solution to keep them safe— as Davis’ quotation suggests. Fear of crime often serves as justification for, and perpetuation of, incarceration. Restorative justice models are often overlooked, as many Americans do not understand the benefits and effective nature of such an alternative.

The quotation from Foucault that introduced this paper reminds us that prison has not always been the leading method of punishment, proving that the above question is answerable. The concept of incarceration occurred with the rise of individual rights that came out of the American and French Revolutions.²³ This allowed for the possibility of incarceration, as imprisonment served to take away those rights. As Davis writes, “Before the acceptance of the sanctity of individual rights, imprisonment could not have been understood as punishment. If the individual was not perceived as possessing inalienable rights and liberties, then the alienation of those rights and liberties by removal from society to a space tyrannically governed by the state would not have made sense.”²⁴ Thus, although transformation used to be a part of the goal of prison, it’s premise rests on taking away rights as punishment. And with the loss of any intention to transform “the criminal,” prisons have become warehouses.

To dismantle the prison system, one must combat the ingrained fears that are perpetuated daily. At the end of her book Davis details abolitionist practices that help readers envision

²³ There is much more to the history of the rise of the prison, and it is a very fascinating story. For more see: Davis, *Are Prisons Obsolete?* As well as: Michel Foucault, *Discipline and Punish*, trans. Alan Sheridan (New York, NY: Vintage Books, 1995).

²⁴ Davis, *Are Prisons Obsolete?* p.44.

potential tangible steps to take. In addition to tangible practices, Davis explains the work of combating long standing ideologies that contrast an abolitionist vision. For example, Davis writes, “Creating agendas of decarceration and broadly casting the net of alternatives helps us to do the ideological work of pulling apart the conceptual link between crime and punishment.”²⁵ I add fear as another element in this conceptual link that must be pulled apart. The rhetorical analyses in this project demonstrate how politicians force our consistent consumption of discourse that links fear, crime, race, and punishment. The fear emplotted in this rhetoric serves to uphold these conceptual links, making it more difficult for abolitionists to dismantle them. I will conclude this thesis with the claim that, just as combating the politics of fear is both a legislative and ideological battle, “[p]rison abolition is not just about closing prisons. It’s a theory of change.”²⁶

²⁵ Davis, *Are Prisons Obsolete?* p.44.

²⁶ This is a phrase from a quotation from Michelle Alexander in Kushner’s feature on Ruth Wilson Gilmore. Commenting on Gilmore’s perspective, Alexander says, “But Ruthie [Ruth Wilson Gilmore] has always been very clear that prison abolition is not just about closing prisons. It’s a theory of change.” See: Kushner, “Is Prison Necessary?”

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