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# Unlocking the Truth About the Clinton Crime Bill

By DAVID YASSKY APRIL 9, 2016

AT a campaign event in Philadelphia last week, former President Bill Clinton was interrupted by protesters incensed about his 1994 crime bill. Mr. Clinton did not hold back: “Because of that bill we had a 25-year low in crime, a 33-year low in the murder rate, and because of that and the background-check law, we had a 46-year low in deaths of people by gun violence,” he said.

It is undeniable that two decades of mass incarceration have inflicted grievous harm on African-American men and their families. And yet Mr. Clinton was right to defend his policies (and, by extension, Hillary Clinton’s support for those policies at the time).

As counsel to the House Subcommittee on Crime led by Charles E. Schumer, then a representative, I spent 18 months helping to draft and negotiate the 1994 crime bill. Anyone who thinks the bill was just about locking people up is simply wrong.

If the battle over the 1994 bill was just campaign noise, we could shrug it off, but what’s really at stake is the future of crime policy. If we are going to move forward thoughtfully — keeping our neighborhoods safe without consigning huge segments of the population to life behind bars — we must understand how we got here.

In 1993, the year President Clinton took office, violent crime struck nearly 11 million Americans, and an additional 32 million suffered thefts or burglaries. These

staggering numbers put millions more in fear. They also choked the economic vitality out of entire neighborhoods.

Politically, crime had become one of the most divisive issues in the country. Republicans called for an ever more punitive “war on drugs,” while many Democrats offered little beyond nebulous calls to eliminate the “root causes” of crime.

President Clinton took a different approach, working with like-minded Democrats, including Mr. Schumer and Joseph Biden, who was the chairman of the Senate Judiciary Committee. The bill they devised actually reduced sentences for federal drug crimes by exempting first-time, nonviolent drug offenders from the onerous “mandatory minimum” penalties created under earlier administrations. It funded specialized drug courts, drug treatment programs, “boot camps” and other efforts to rehabilitate offenders without incarceration. It allocated more than \$3 billion to keep at-risk young people away from gangs and the drug trade.

The bill also banned semiautomatic assault weapons, building on the Brady Law background checks that had passed a year earlier. Recognizing that much violent crime involves intimate partners, not strangers, the bill incorporated Senator Biden’s Violence Against Women Act, which has transformed enforcement against domestic violence and sexual assault.

We didn’t get everything we wanted. There are two parties in Congress; the Republicans won some concessions. The crime bill left many of the Reagan-era sentences in place. Regrettably, it expanded the federal death penalty, with the support of President Clinton and solid majorities in both parties. But on the whole, it was indisputably a de-escalation of the so-called war on drugs, a first step toward the more wholesale decriminalization underway today.

The centerpiece of the bill — the part Bill Clinton ran on as a candidate — was a provision known as the “100,000 cops on the beat” program. In hearings on the legislation, local police chiefs told Congress that soaring crime rates had overwhelmed their departments — officers were spending far too much of their time responding to 911 calls. In response, the bill provided funds for police departments to add personnel and to adopt “community policing” strategies.

Each locality has used the program differently, but in general cities were able to hire more police officers for old-fashioned “walk the beat” assignments. These policies set in motion a reversal of crime trends. Since 1994, violent crime rates have essentially been cut in half. As Bill Clinton pointed out in Philadelphia, the people who benefit most from decreased crime are residents of poor urban neighborhoods. And — crucially for progressives — the reduction in crime has helped restore citizens’ confidence that government can accomplish important goals.

But those benefits have come with two enormous costs. First, far too many young African-American and Latino men have been subjected to unconstitutional or inappropriate stops by police officers. The Black Lives Matter movement is right to demand change in this practice. There is every reason to think that police departments can scale back the use of “stop-and-frisk” techniques substantially and still do their jobs well. The federal government can help protect against the overuse of stop-and-frisk with greater monitoring of local police departments — in retrospect, the 1994 bill should have specifically authorized such oversight.

The second cost is that an unacceptable number of Americans are in prison. This mass incarceration will be much harder to fix because it has resulted from the same “broken windows” policing that has helped to push down crime rates. Beefed-up police departments, pushing officers to be more active, have produced many more convictions and therefore many more inmates.

These people may not be hardened criminals, but taking them off the street nonetheless helps to reduce crime. That is what makes the mass incarceration problem so morally vexing. Bill Clinton diagnosed this issue precisely in a more reflective speech last year: “The good news is we had the biggest drop in crime in history. The bad news is we had a lot of people who were locked up, who were minor actors, for way too long.”

Critics of the 1994 bill gloss over the hard truth that the good news and the bad news are linked, perhaps because a myth has grown up that the inmates swelling our prison population are drug offenders who pose no real threat to public safety. That is not the case. Only about one-fifth of the people entering prison since the 1990s are drug offenders, according to research by John F. Pfaff, a law professor at Fordham

University. As FiveThirtyEight.com recently pointed out, if prisons in the United States released every drug offender tomorrow, we would still have the highest incarceration rates in the world (next up: the United States Virgin Islands, Turkmenistan and Cuba). When we talk about “mass incarceration,” we are mostly talking about people convicted of relatively low-level crimes of violence or theft — a stolen iPhone, a street-corner fight, a few-hundred-dollar burglary from a clothing store.

Surely these crimes need an enforcement response. We mustn’t abandon active policing, as some progressive advocates urge. That path leads back to pre-Clinton days, when Democrats left the crime-policy field entirely to lock-’em-up conservatives. To be fair, many progressives understand this. In New York City, for example, a mayor and City Council speaker who have been prominent supporters of the Black Lives Matter movement recently agreed to add 1,300 new officers to that city’s police force, and their police commissioner staunchly defends the broken windows approach.

Nor can we continue our extraordinary reliance on incarceration. The next evolution in criminal justice policy must be to reform our correctional system, and we must start by restoring rehabilitation as a core goal. Maybe prisons can someday accomplish that goal, but the ones that we have today do not. Instead, we should make much greater use of parole, halfway houses and other forms of supervised release. We also need to devote far greater resources to mental health services. By some estimates, more than 20 percent of inmates have a recent history of mental illness.

President Bill Clinton was right to reinvigorate policing. And President Obama was right to be the first sitting president to visit one of our prisons. The challenge for the next president is to reimagine those prisons — and as much as possible, to replace them.

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