



TEXAS SOUTHERN UNIVERSITY

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Barbara Jordan – Mickey Leland  
School of Public Affairs  
*Center for Justice Research*

Written Statement of the Record

Texas Southern University's Center for Justice Research  
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Controlled Substances: Federal Policies and Enforcement  
on  
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Committee on the Judiciary

Subcommittee on Crime, Terrorism, and Homeland Security

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## Overview

I am appreciative of the opportunity to testify on the impact of federal drug policies and their criminalization of people of color and poverty. As a professor of justice administration and the director of the Center for Justice Research in the Barbara Jordan – Mickey Leland School of Public Affairs, I present this statement for the record with respect to the Congressional hearing on “Controlled Substances: Federal Policies and Enforcement” on March 11, 2021. My testimony will provide a brief overview of the evolutionary impact of federal drug policies on Black communities. A suggested equity-based framework for the reframing of federal drug policies will serve as the basis of this testimony’s conclusion.

In this testimony I offer a structural and historical overview of the differential impact of the federal drug policy enforcement tradition. Rather than viewing unequal treatment in drug policy as a result of racism per se, it should be understood that such inequality is in part a continuation of the historical process of cultural, institutional and structural oppression. Similar to Gottschalk’s (2006) argument that “contemporary penal policy actually has deep historical and institutional roots that predate the 1960s” (p. 4), in the current testimony I posit that contemporary American federal drug policy, and its relationship to racial inequality, is only the latest chapter in an unremitting narrative in which the drug legislation constitutes the middle ground of a race and class-stratified social order. In other words, this inequality has emerged from the dialectical production and reproduction of racists logics as part of the broader culture of control (Garland, 2001).

The objective of this testimony is not to say that the situation remains unchanged from the America of old. Our current racialized social order, however, is not wholly divorced from the past either. Instead, contemporary society is merely another step in the long arch of history. In this spirit, I posit that racist logics did not disappear with the culmination of the Civil Rights Movement (indeed, many racist policies continue – see Michelle Alexander’s *The New Jim Crow*). Rather, racism in our criminal justice system has transformed over time, with many strategies for stratifying and subjugating marginalized racial populations persisting in one form or another. American criminal justice, particularly federal drug policy, has often been on the front line in the deployment of such tactics.

## Staging Federal Drug Policy

As African Americans were disproportionately displaced into urban ghettos, a connection formed in the public mind between ghetto residents and crime, which inextricably linked perceptions of danger to skin color other forms of expression present among ghetto residents (e.g., clothing, dance, music, graffiti art) (Weaver 2007). Ghettos were increasingly becoming places of not just crime but Black crime. Criminal justice became the intervention of choice—an intervention that involves the direct and indirect control of urban denizens but does little to address the root structural causes of the misery that spawns crime. In fact, the impact of federal drug policies in these spaces have only exacerbated the problems confronting African Americans in urban ghettos (Alexander 2010; Murakawa 2014). When contemporary African American ghettos were fully established in the 1980s, President Reagan declared the War on Drugs. The central concern for the Reagan administration and others was the ascendance of crack cocaine as the next big drug “epidemic”. Crack was cast as an antecedent to many current and future problems in America. Experts prophesied about an impending societal descent at the hands of crack babies and superpredators (Murakawa 2014).

The War on Drugs drastically increased police presence and power in disenfranchised communities. The policy mandated drastic increases in police presence throughout many urban areas. Although the heavy policing of these districts was billed as a response to upticks in urban crime (Lea and Young 1984; Miller 2015; Weaver 2007), much of the legitimacy of this campaign was propelled by unsubstantiated moral panics (Becker 1963; Cohen 1972; Kappeler and Potter 2005). Ghetto spaces were constructed as terrifying abodes of Black urban decay. Crime

and victimization were said to run rampant. In addition, paternalistic rhetoric and imagery were deployed that cast poor urban denizens as incapable of resolving the problems wrought by crack cocaine. Criminal justice intervention was thus deemed necessary.

Notions of disrepair, broken communities, and moral deprivation through the crack cocaine epidemic were powerful messages that, for many politicians and members of the general public, justified and even necessitated intervention in the ghetto. In the process, urban ghettos have become synonymous with war zones in the public imagination. The police are viewed as soldiers on the front line against disorder, becoming increasingly militarized as a result of the War on Drugs, the expansion of criminal justice following the Crime Omnibus Act of 1990, and the changes to American policing in the wake of the events of 9/11 (Kappeler and Kraska 2015; Kraska 2001; Kraska and Kappeler 1997; Murakawa 2014). Many departments began to deploy more aggressive tactics and adopt military equipment and technology (Kraska 2007; Kraska and Kappeler 1997). In the next section I will detail policies and practices that manage urban ghettos utilizing drug enforcement as the *modus operandi*.

The aggressive and militarized policing of drug activity provides an exploitive funding stream for municipal governments and police departments. The Institute of Justice reports the U.S. Treasury and the Justice Department forfeited more than \$5 billion largely through narcotic warrants and arrests (Carpenter et al. 2015). Narcotic seizures and forfeitures are just one form whereby police departments exploit the underclasses, especially minorities, through monetary dispossession, resulting from federal drug policy. Federal drug legislation set the stage for ‘Zero Tolerance’ policing models, which have been shown to lead to the exacerbation of fines and outstanding warrants that contribute to local government coffers. In Ferguson, Missouri, the municipal court issued 32,975 arrest warrants in 2013, despite the city’s population of only 21,000 residents (U.S. Department of Justice, Civil Rights Division 2015). Ninety-two percent of these warrants were issued to African Americans, who were 68 percent less likely than others to have their court cases dismissed. The City of Ferguson (2014) accumulated \$2.4 million in revenue from court fees and fines in 2013. The practice of accumulating revenue through fines and fees is related to the carceral state expanding by enforcing civil and administrative laws (Beckett and Murakawa 2012). Revenue generation through seizures, forfeitures, fines, and warrants exploits the economically vulnerable and especially harms African American populations (Alexander 2010; Beckett and Murakawa 2012; Goffman 2009; Murakawa 2014). Districts affected by such practices are essentially subjected to resource extraction, a prototypical objective of federal legislation, as codified through the War on Drugs, mandated by Federal Drug Policy.

## Conclusion

As I have attempted to articulate in this testimony, federal drug policy in the United States continues to perpetuate systems of inequality and domination that, in many ways, mirror Jim Crow-like forms of control and ultimately violations of basic human rights. As the line between drug legislation and plantation style justice has become increasingly blurred in recent decades, federal drug policies have helped create, recreate, and manage a racialized “problem population” or “dangerous class” pushed to the margins of the labor market and political priority—or, as Brucato (2014) explained, they maintain the “color line” (Shelden 2008; Spitzer 1975).

The testimony offered here is undoubtedly incomplete. Addressing failed federal drug policy is an expansive and pervasive process. There are, therefore, a multitude of dynamics left unexplored in this single testimony. It is critical for this committee to recognize the contemporary and historical linkages between race, class and federal drug policy, as well as the structures and processes of its institutionalization. The crises in America’s failed drug policy are not new developments. They are the products of long-running contradictions in American society - contradictions and attunement to policies disproportionately and

unnecessarily impacting historically marginalized communities.

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