



[Crowd applause]

Josie Duffy Rice: It's a beautiful day in September of 1994, and 2,000 people have gathered on the South Lawn of the White House to celebrate. The risers, erected for just this occasion, are adorned with over a dozen American flags, and Congressmen from both parties file into their seats dutifully.

[Begin clip]

***Al Gore:** "Secretary Lloyd Bentsen, Attorney General Janet Reno..."*

[End clip]

Josie: In front of the risers are the extra special guests, whose names you may recognize.

[Begin clip]

***Al Gore:** "Mayor Rudy Giuliani of New York..."*

[End clip]

Josie: Hillary Clinton is there. So is Chuck Schumer, and Joe Biden.

[Begin clip]

***Al Gore:** "Congressman Chuck Schumer who did so much to write this bill and help get it passed..."*

[Crowd applause]

[End clip]

Josie: But all of this pomp and circumstance is just the introduction to the main event.

[Begin clip]

***Al Gore:** "...and now, it is my great pleasure to present to you, President Bill Clinton."*

[Crowd applause]

[End clip]

Josie: That applause you hear is the standing ovation he receives as he approaches the podium. It's the second year of his presidency, he is 48 years old, and he is about to sign what is arguably the most significant piece of legislation from his tenure as president—the Violent Crime Control and Law Enforcement Act of 1994, otherwise known as the '94 Crime Bill.

[Begin clip]

President Bill Clinton: *“My fellow Americans, this is about freedom. Without responsibility, without order, without lawfulness, there is no freedom. Today the will of the American people has triumphed over a generation of division and paralysis. We've won a chance to work together...”*

[End clip]

Josie: It's fascinating to watch footage of Clinton's speech three decades later—to see the relief, and the pride, and maybe just a touch of arrogance. It was all a reaction to this long-debated legislation's passage, a 30 billion dollar bill that remains the biggest federal crime legislation in American history, and which many saw as an achievement of both policy and politics.

[Begin clip]

President Bill Clinton: *“... and for 25 years, crime has been a hot political issue, used too often to divide us while the system makes excuses for not punishing criminals and doing the job, instead of being used to unite us to prevent crime, punish criminals, and restore a sense of safety and security to the American people...”*

[End clip]

Josie: The '94 Crime Bill is still, to this day, one of Clinton's most enduring legacies.

[MUSIC]

Josie: But now things look a little different than they did 30 years ago, and the nature of that legacy has been, let's say, contested.

Holly Harris: When I hear the words “'94 Crime Bill,” I think failure, I think unintended consequences, and I think complicated.

Jason Pye: It's that old definition of insanity: doing the same thing over and over again and expecting a different result.

Nkechi Taifa: It was destructive, it was disastrous, and we're still trying to climb ourselves out of its excesses.

Josie: The bill has become a political burden, and for many, it's evidence of these politicians's crucial role in creating the catastrophe that is mass incarceration. But the truth, of course, is a little more complicated. So what did this legislation do? What did it promise, and what did it accomplish? How big was its impact, and how does the bill continue to shape our criminal justice system now?

[MUSIC]

Josie: On the 30th anniversary of the 1994 Crime Bill, we take a brief look back on where we are, where we've been, and most importantly, what comes next. I'm your host Josie Duffy Rice, and from the Vera Institute of Justice, this is *The 30 Year Project*. Episode 1: Power.

[MUSIC]

Josie: I've spent my career focused on criminal justice issues, which means I spend a lot of time thinking about how we got here. And by "here," I mean to a system that incarcerates millions of people.

There are countless ways to answer this question, of course. But if you ask enough people, you will inevitably hear someone mention the '94 Crime Bill. The passage of the bill was a defining moment for our criminal legal system. In some ways, it was the apex of the country's multi-decade effort to use a system of incarceration in the name of combating crime.

30 years later, the anniversary of the passage of the Crime Bill arrives at a moment in flux. On one hand, the politics of crime look totally different now. The countless advocates and activists, who, for years, have organized to alleviate the harms of the criminal legal system, have made real progress. There's more of an understanding at this point that prisons and police are not a one-size-fits-all path to public safety—and there's even some acknowledgment that these systems often in fact exacerbate the very conditions that they're supposed to solve.

Incarceration and arrests have generally gone down over the past decade, and we've seen a reduction in racial disparities in prison. And tangible reforms are starting to take hold as

well: from ending cash bail to expanded re-entry support for people recently returned from prison. And in some places, public safety responsibilities are shifting to health, community-based, and other non-enforcement services.

But we're not there yet. There's still so, so much to do. Mass incarceration is still a massive albatross around our collective neck. We still use policing and prisons as a band-aid for our social wounds. And the "tough-on-crime" mindset remains persistent.

The pandemic led to a brief but significant spike in crime, which spurred some lawmakers to more openly and frequently call for a return to carceral approaches—approaches that echo the policies and platitudes that have failed us before.

[MUSIC]

So these past few years have been a reminder of how easily we can slip back to the most extreme era of "tough-on-crime" politics. 30 years after the Crime Bill, we're still battling this system—and instead of redoubling efforts, we're at the risk of regressing.

So, along with the Vera Institute of Justice, I'm taking this chance to look back—to examine the legacy of the 1994 Crime Bill.

So, let's go back to that day in September of 1994 on the South Lawn. There were a few reasons that President Clinton looked particularly happy. For one, he had staked a lot of political capital on this legislation. During the 1992 election season, then-President George H. W. Bush had hammered Clinton on crime and the criminal legal system, saying that Arkansas, where Clinton was Governor, wasn't spending enough on cops and prisons.

Clinton responded by doubling down on his promise of more police and more prisons, taking every chance he could to prove he was a hardliner.

The relentless posturing on crime was, in part, a result of a real problem that plagued the country at the time. In the early 1990s, crime was drastically higher than it is now. Here's Jeremy Travis, Senior Fellow at the Columbia Justice Lab, who, in 1994, was serving in the Clinton Administration as the Director of the National Institute of Justice:

Jeremy Travis: Crime was at the top of the public's mind in the early '90s leading up to the presidential election in '93. That was clear from the opinion surveys conducted by Gallup—that it reached a peak. Now, why did it reach a peak? It reached a peak because crime was going through the roof.

Josie: The murder rate in 1994 was twice as high as it was 20 years later, in 2014. And let's just take New York City as an example: the number of murders per year went from 2,300 in 1990 to fewer than 400 in 2023.

Crime, of course, has always been a go-to topic for politicians. Often, it's a cynical tool—a way to get votes by playing on voter's fears, but it was particularly weaponized back then. If you were an elected official at the time—this was THE issue. Every politician felt like they had to solve it. Here's Adam Gelb, president and CEO of the Council on Criminal Justice. He was on the Senate Judiciary Committee staff in 1994, when the bill was moving through Congress.

Adam Gelb: The overriding objective was to cut crime. That's what everybody wanted to do. It was the, not only the overriding objective, but, almost the only one that pervaded all the discussions.

Josie: As president, Clinton was laser-focused on passing a big federal anti-crime bill. In some ways, such legislation had been a long time coming—years, in fact. Sure, Congress passed anti-crime bills every couple of sessions, but there had been interest among some legislators in something massive. And standing up at the podium, Clinton was thrilled that he was the one who had gotten it done.

He was also relieved because the bill had come very close to failing. In July of that year, the bill passed the House with significant Republican support. But when, a few weeks later, the Senate sent back their final version to the House for another vote, the vote failed, 225–210.

[MUSIC]

Josie: So Clinton decided to call up Rudy Giuliani himself and invite the Republican Mayor with him as he gave a last-minute speech to the National Association of Police Organizations, where he excoriated the House for not supporting law enforcement. The plan worked, and the House agreed to vote on the bill again.

At the time, the legislation was seen as a double-win for Clinton and his party—it had bipartisan support, but was also a clear triumph-for the Democrats. As then-Senate majority leader George Mitchell said,

[Begin clip]

George Mitchell: *"...the fact of the matter is, this is a Democratic bill. The principal author of the legislation just passed is a Democrat standing right here next to me, Senator Joe Biden. The principal supporter for the bill is a Democratic president,*

President Clinton. And I believe that this could be one of those turning points in our history in terms of the positions of the parties..."

[End clip]

Josie: And, at the time, some Republicans were willing to cede the credit. In fact, as Clinton signed the bill on the South lawn, another event was being held across town, where Republicans Orrin Hatch and Bob Dole, among others, stood in front of news cameras and lodged their complaints with the legislation. They were not upset because the bill was too harsh—on the contrary. No, the only real backlash to the bill was that it was not harsh enough—and that it spent too much money on, quote, “social programs”, rather than more punishment. Here’s Newt Gingrich:

[Begin clip]

Newt Gingrich: *“... let me say first of all that I think it is a, uh, it's very sad that the Crime Bill the president has signed today is so much weaker than it could have been...”*

[End clip]

Josie: This idea that the bill was too “soft-on-crime” was the primary complaint of conservatives. Here’s what Texas Senator Phil Gramm had to say during bill negotiations:

[Begin clip]

Phil Gramm: *“... it is not sufficient to deal with the problems of our bleeding nation. We need a death penalty that can be used. We need minimum mandatory sentencing. We need to not just promise money—we need to take money away from other programs in the government to fund our crime effort. But the bottom line is: when you read their crime bill, deep down in their heart, they blame society for crime, and the President's Crime Bill is a bill that is weak on crime. It does not get the job done...”*

[End clip]

Josie: In some ways, though, the Republican backlash was pure politicking, not ideology. Because in the end, the bill reflected the traditionally conservative approach to crime and punishment that had been absorbed by the Democrats.

Nkechi Taifa: Generally speaking, there was not much distinction between conservatives and progressives when it came to criminal justice issues.

Jason Pye: In the 1980s, you had these years of bad examples of bipartisanship.

Holly Harris: The horrific unintended consequences of the '94 Crime Bill are not owned by one person or one party.

Jason Pye: You had Democrats and Republicans racing to the bottom to pass harsher sentencing laws to almost ensure that no individual who comes into contact with the criminal justice system can improve their lives.

Nkechi Taifa: They were both horrible, okay?

Josie: The Crime Bill was, in many ways, the culmination of the liberals' years-long effort to wrestle the “tough-on-crime” label away from conservatives—or at least to demand shared custody.

And on that September day in 1994, almost exactly 30 years ago, it felt like Clinton and the Democrats had succeeded.

[Begin clip]

***President Bill Clinton:** “... from this day forward, let us put partisanship behind us, and let us go forward—Democrats, Republicans and independents, law enforcement, community leaders, ordinary citizens—let us roll up our sleeves to roll back this awful tide of violence and reduce crime in our country. We have the tools now. Let us get about the business of using them...”*

[Crowd applause]

[End clip]

Josie: In hindsight, it was an ominous invitation. Here’s Jason Pye, Vice President of the Due Process Institute.

Jason Pye: You had members of Congress racing to further marginalize people in communities across the country, who are often already underrepresented, who lack economic opportunity, who struggle with addiction, to further demonize them and further exacerbate the problems in the federal criminal justice system that needed to be addressed, not worsened.

[MUSIC]

Josie: Before we get into the impact that the bill had, it’s important to understand what was in it, and there was a lot. The bill includes countless technicalities, specifics, provisions, and exceptions. So we asked the many advocates, experts, academics, and directly impacted people that we interviewed to tell us what was in the bill.

Here's Nkechi Taifa, the President of the Taifa Group. She was an attorney at the ACLU at the time that the Crime Bill was passed.

Nkechi Taifa: So the 1994 Crime Bill, it was an anti-prisoner bill. It was an anti-youth bill. It was a bill that had a discriminatory impact on the Black community.

Josie: Here's Zoë Towns, the Executive Director of FWD.us.

Zoë Towns: ...the vast amount of policy change and the vast amount of dollars really went to police prosecution in prisons.

Josie: Here's Terrell Blount, the Executive Director of the Formerly Incarcerated College Graduates Network.

Terrell Blount: The impact of the '94 Crime Bill, I really believe we can talk about the many different aspects in which that impacted people's immediate lives, also in terms of race, people of color, and, more specifically, Black families in so many different ways.

Josie: Holly Harris, President of The Network and an advocate for bipartisan criminal justice reform.

Holly Harris: The '94 Crime Bill was just a part of a complex series of bills that led to mass incarceration bills at the federal level and in states across the country.

Josie: And here's John Pfaff, professor of law at Fordham Law School.

John Pfaff: It almost seems unfair to call it a "bill." It's like a holding company of bills, right? The '94 Crime Act itself contains dozens of other acts—some which had long-lasting power, some which didn't—it's all over the map.

Josie: John is correct. The bill included dozens of new policies, and laws, and incentives.

Nkechi Taifa: It featured the largest expansion of the federal death penalty in modern times.

Adam Gelb: The expansion of the death penalty to some 60 more federal offenses.

Jeremy Travis: Things that were just retrograde like denying Pell funding for college programs in prison, increasing the number of federal offenses subjected to the death penalty.

Nkechi Taifa: The gutting of Pell educational grants for prisoners, denying them the ability to access higher education.

Terrell Blount: You saw a drastic shift in the amount of college in prison programs that were offered in correctional facilities across the country.

Nkechi Taifa: It was the implementation of the federal three-strikes law.

John Pfaff: COPS. That's a huge other program they had, the civilian community-oriented policing program that's still in existence today.

Nkechi Taifa: It included 100,000 new cops on the streets.

John Pfaff: It's not a single coherent thing. It doesn't even have a single coherent ideology. It's a really sprawling mess.

Josie: So—expanding capital punishment, creating the federal three-strikes rule, eliminating higher education opportunities for incarcerated people, establishing the COPS office, and putting 100,000 new officers on the street, and, among other things, enacting dozens of new federal crimes.

And that's not everything.

One of the most important parts of the bill was not what it mandated, but what it incentivized.

John Pfaff: You've got the grants that are sort of the things that get blamed for mass incarceration, The Violent Offender Incarceration and Truth-in-Sentencing Act.

Nkechi Taifa: And egregiously, there were money, money, money, monetary incentives to States to enact truth-in sentencing laws.

Zoë Towns: The incentive programs that the federal government created to provide funding for construction of prison and jails, especially to states who were signing on to increase sentence penalties, mandating that people spend more time in their sentence behind bars.

Josie: The Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants Program allocated over ten billion dollars to states, earmarking half to those that passed harsher laws. Those billions had to be spent on building or expanding correctional facilities. And this was another place where the conservatives got their way—where social programs focused on prevention were abandoned in favor of carceral solutions focused on punishment. Here’s Adam Gelb again:

Adam Gelb: I don't think it's widely known, but there was a tremendous fight over the prisons provision, and it boiled down to two words. Those two words were, “and programs.” So that ten billion dollars that was going to go for prisons was either going to be just for facilities, or for facilities and programs. So it was a huge debate over whether this is just bricks and mortar, are we going to try to build our way out of this crisis with incarceration? Or were there going to be also programs that that money could pay for in order to help people change their behavior. And, it was really knocked down and dragged out over those two little words. And, the “and programs” language did not survive, and the money ended up being devoted to facilities only.

[MUSIC]

Josie: So, look, it wouldn’t entirely be fair to say the Crime Bill was entirely terrible.

Holly Harris: The bill did some good things.

Zoë Towns: Expanded dollars for drug treatment, expanded dollars for what they called at the time in the bill, “urban recreation,” but basically resources for afterschool, summer programs, community safety alternatives, domestic violence shelters, money for survivors of crime and for victims of crime.

Adam Gelb: The grant of authority to the Department of Justice to investigate a pattern and practice of racial bias in policing.

John Pfaff: You make it harder for the DMV to release the addresses of abortion providers.

Nkechi Taifa: There was a family unity demonstration project. There was a Violence Against Women Act.

Holly Harris: Provided some protections for victims of sexual assault and domestic violence.

John Pfaff: And you've got the assault weapon ban.

Josie: So, again, there were some decent things. The assault weapons ban outlawed 19 types of assault rifles until it expired ten years later, in 2004. The Violence Against Women Act, for example, is the reason there's a national domestic violence hotline. But, overall, the bill was focused on locking people up.

Zoë Towns: I think it was a moment when leadership from the highest offices made a resounding endorsement of punishment and prisons as the primary response to fighting crime.

Holly Harris: It is the most infamous of all the "tough-on-crime" legislation that, quite frankly, led us to a place where people were coming out of prison sicker and more dangerous, and we certainly never got the public safety return that we deserved out of that legislation.

Josie: In hindsight, it seems obvious that a bill like this would exacerbate an already growing problem. But at the time, people were kind of flying blind. The bill didn't really have a strong, evidence-backed basis. Here's Adam Gelb.

Adam Gelb: Everyone had their own ideas for what might work to reduce crime, but we had very little research at the time to guide us.

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Josie: There's no question that in the years after the Crime Bill's passing, the prison population continued to rise. At the end of 1994, there were about 1.5 million people incarcerated. By 2000, we hit two million, and by 2009, we were at 2.3 million—a 55 percent increase from the time that the bill was signed.

But from the beginning, the 1994 Crime Bill has been mythologized. In the 1990s, the legislation was often credited for the decline in crime rates seen nationwide. And then time brought skepticism. And after years and years of people being locked up by the millions, public sentiment began to shift, and the narrative about the bill changed. People began to blame the bill for the scourge of mass incarceration that plagued the nation.

Every so often, these two visions of the legislation—one as heroic and the other as villainous—come to a public head. Take this moment from 2016, for example, where Bill Clinton was confronted by protestors in Philadelphia while on the campaign trail during Hillary Clinton's bid for president. One of the protestors held a sign that read, "The Clinton Crime Bill destroyed our communities!" And in response, the former president said this:

[Begin clip]

Bill Clinton: "...because of that bill we had a 25-year low in crime, a 33-year low in the murder rate, and listen to this, because of that and the background-check law, we had a 46-year low in the deaths of people by gun violence..."

[End clip]

Josie: The truth, though, is that both protestors and the President are kind of wrong. Yes, crime is significantly lower than it was in the 1990s. And yes, mass incarceration has harmed countless communities. But in the end, neither the credit nor the blame for either of those things lies with this one bill. As harmful as it was, it did not create mass incarceration. In fact, one could argue the opposite: mass incarceration created this bill. Here's Jeremy Travis.

Jeremy Travis: I think it's misleading to say that the Crime Bill created mass incarceration. The drive to increase the incarceration rate in America started long before the Crime Bill—started in the '70s and continued through the 1990s. So the Crime Bill sort of rode the wave of mass incarceration, which was already well underway.

Josie: Law Professor John Pfaff has written a lot on misconceptions about the bill. And when I talked to him, he had thoughts on some of the bill's most infamous provisions—including the pieces that would send billions of dollars to states if they passed particularly draconian laws. Of course, those incentives—sending money to states if they punish people more—are horrific. But John had two things to say about their impact.

John Pfaff: The feds put up about ten billion dollars to be issued to the states over about six years, which sounds like a lot of money, but isn't, right? It's ten billion dollars total over six years across 50 states. At a time when the states as a whole were spending 30 or so billion dollars total per year on prisons. And what's really striking is that of the ten billion dollars they offer, states only claim three. They leave 70 percent of this allegedly free, prison-driving money, on the table, and an interview that one of the federal agencies did with state officials after the grant found that a majority of states said the grant had almost no impact on their decision-making whatsoever.

Here's Jeremy Travis:

Jeremy Travis: So, it didn't create mass incarceration, and it's even debatable whether it added to mass incarceration. And the provision of the Crime Bill that encouraged states to lengthen sentences, the truth-in sentencing parts of the Crime Bill, had, you know, really very, very minor effect on incarceration rates.

Josie: After the Crime Bill is passed, we see a few particularly interesting shifts. First, over the next few years, arrests go down. Which is interesting, given the bill was supposed to put 100,000 cops on the street. And second, the prison growth rate slows. Here's Adam Gelb.

Adam Gelb: Our analysis showed that the growth rate slowed from about seven percent a year to about three and a half percent a year after the Crime Bill passed. So the growth rate was cut in half.

Josie: Now, to be clear, that doesn't mean the prison population shrinks. As I said before, the prison population continued to grow pretty much every year for the next 15 years. But every year, fewer and fewer people were being added to that population.

On some level this might all seem nitpicky, right? Like, who cares if the arrest rate slowed, if the prison population grew. Who cares if states used the money, if every state was still incarcerating more and more people every year?

But there's a bigger reason why this is so important. Here's John Pfaff, again:

John Pfaff: So just on the facts, the idea that a bill that gets passed at the end of '94 and doesn't go into effect at the end of '95 causes mass incarceration, which started in 1972, that's when prison populations hit their lowest point in a generation, like, unless the Crime Bill can travel backwards in time 20 years, like it just couldn't have, right? Between 1972 and 1994, the U.S. prison population grew by 800,000 people from about 200,000 people to about a million people. We'd add maybe about another six or 700,000 people in the ensuing years, 500,000, but fully 60, 70 percent of all prison growth takes place before the '94 Crime Bill goes into effect, right? So just on the numbers alone, it just comes in too late. Even if all the growth post '94 was due to the Crime Bill, which no one could possibly claim, and just isn't true, right? It's less than half from the start, just because it comes in at the end.

Josie: This is a really important point. The '80s were a crucial time in the criminal legal system. This is when the drug war picks up steam, when we see our first privatized prisons, but, more impactfully, this is the decade where imprisonment on the local and state level really starts to skyrocket. Here's Jeremy Travis.

Jeremy Travis: In the late '80s and '90s, we were very aware that incarceration rates were going up. I remember when the prison population passed a million for the first time, we had relied so much on prison as a response to crime. Almost unthinkingly, almost no matter how much it costs. We put more people in prison, and we kept them there longer. We added punishments on top of punishments.

Josie: So by the time we get to 1994, we're already seeing some of the most disastrous harms of mass incarceration. We're already seeing the vast racial disparities that disproportionately harm Black people and Black communities. We're already seeing the massive population growth. From 1980 to 1990, the prison population more than doubled from about 500,000 to over 1.1 million.

The larger point here is not about timing but about power. By the time Clinton signs the 1994 Crime Bill, most states are not just on the road to mass incarceration: they're already there.

Look, it bears repeating, fear-mongering around crime is one of the oldest political tricks in the book. Like clockwork, every election cycle, candidates, including presidential and congressional candidates, try their damndest to prey on fears of crime.

There's a reason this has traditionally been a popular campaign strategy: it works on a lot of people. Or, at least, it did. As criminal justice reform has gained traction, the tactics have shifted a little. But the truth is neither the President nor Congress really has the power to make a massive impact on the criminal legal system.

And by "system," I mean "systems." Here's John Pfaff, again.

John Pfaff: We tend to overstate sort of the coherence of this thing, right? We call it the "criminal legal system." I always get mad at my students, like you can't call it "system." It's gotta be the "criminal legal systems," right? Because none of these pieces fit together, right? You got the police, their city officials who respond to a police commissioner who's elected, who's chosen by a mayor elected by the city, or their sheriff's deputies who respond to a elected sheriff chosen by the county, right? The D.A. is elected by the county, not by the city. You know, the pro board responds to the governor. They're elected by the state, right? There's no one person—and no one person has any say over anyone else.

Josie: This system of systems, let's call it, is a chaotic, sprawling, decentralized, uncoordinated amalgam of 18,000 police departments, 2,300 prosecutor offices, and over 6,000 prisons, jails, and other correctional facilities. It's made up of police, sheriff departments, state troopers, prosecutors, wardens, parole and probation officers, prison guards, and correctional bureaucrats, all of whom drive the lockup of millions of people in prisons, jails, immigration detention centers, military prisons, tribal facilities, and juvenile correctional facilities. And very little—just about a tenth—of this system is in the control of the federal government.

[MUSIC]

Josie: Ultimately, most of these people, and offices, and facilities, are local because crime and punishment are largely shaped by local systems. Mass incarceration is driven by people in your community: the police officer who decides whether or not to arrest you, the judge who approves the bail recommendation, the sheriff who operates the prison. And most significantly, mass incarceration has been driven by local prosecutors in more than two thousand offices across the country. These are the people that decide what a person is charged with, what plea to offer, and what sentence to recommend.

I asked Kim Foxx, the head prosecutor in Chicago about this. As State's Attorney of Cook County, the second biggest county in the country, she has made national news because of her less punitive approach to prosecution. And she, more than almost anyone, really, understands the power of the prosecutor.

SA Kim Foxx: For every conversation that we're having about how bloated the criminal justice system is, there's a gatekeeper to that system, and the gatekeeper to that system is the prosecutor. Like, people don't just walk into jail, right? Like, they just don't, like, "sign me up, I'm in." There are people who make decisions on who to charge, what to charge, how to charge, what sentences to offer, whether or not to give someone a diversion, whether or not to give some offer of probation. And so I think we understood that we didn't have all of these conversations about big policy initiatives. But if the stakeholders who have the power are exercising their authority in a way that keeps the doors open, it doesn't matter, especially at the federal level, like, the overwhelming majority are at the state level.

Josie: I asked her what it's like to endure political attacks because she's tried to think about prosecution in a different way.

SA Kim Foxx: The attacks on me for trying to do things that actually feel fair: let's not put people in jail for inability to pay parking tickets, that seems dumb. Let's not charge people ridiculous amounts of money for pretrial release. Let's acknowledge when we wrongfully convict people. All of these things are indicators, as I said before, that we are actually the people causing harm. And no one wants to own that? Because it's just this individualism piece, right? If we have to own it, the systems that we have bought into, that we pay our taxes to support, is actually causing harm, and we don't do anything about it; what does that say about us?

Josie: Part of the reason that the bill didn't have as much of an impact as many people think is because it was a reflection of what many states were already doing. States weren't learning from the federal government—the federal government was learning from the states. Here's John Pfaff, again.

John Pfaff: To me, the real problem with the, "it's the '94 Crime Bill" narrative is it suggests that mass incarceration is top-down. The feds, these evil guys over there, they came along, gave us all this money, and now we kind of got bribed into doing this thing we wouldn't have done, but that's just not true. We did this. We, the local people. We, who elected the mayors who wanted to be "tough-on-crime" and funded police and not libraries and schools and hospitals and therapists. We, the people who elected the D.A.'s, who chose to send people to prison rather than dismissing or diverting or creating alternatives. We, who let the judges, who don't like drug courts, but prefer to send people to prison. Like, we did this, and it means that we can't blame someone else for being here. And we also can't hope someone else can bail us out, right? The feds are never going to be able to bring the kind of budgetary oomph to criminal policy to push states and cities and counties around. And I think we sort of hope that maybe there's this one... it's like, it's like that every, like, meme: this one trick solves mass incarceration, right? If the feds can just pass the one right bill... they caused it with one bill, let's reverse it with another, right? But they didn't cause it, and they can't reverse it.

Josie: Now, to be clear, there's no question, of course, that the '94 Crime Bill had an impact. For example, it got rid of Pell grants for incarcerated people, effectively eliminating the opportunity for higher education for decades until they were reinstated in 2023. We'll discuss Pell grants more next episode, but they are just one part of the bill that did change the system. And, at baseline, there was also the impact on rhetoric and messaging, which matters a lot. The bill perpetuated the belief that the way to prevention is through

punishment, that the way to fix crime and harm is the back-end solution of police and prisons. In many ways, it helped normalize the cruelty. Here's Nkechi Taifa again.

Nkechi Taifa: It solidified the prison industrial complex, and it created a mindset for lengthy imprisonment as the default punishment as opposed to consideration of alternatives to incarceration. And it, in essence, solidified a mentality of meanness.

Josie: This narrative shift matters. And yet, the perception that the bill created, or even drove, mass incarceration—it's a fiction, and this also matters. It's important to understand the impact of the Crime Bill because if we can't identify the problem, we can't fix it. Here's Jeremy Travis, again.

Jeremy Travis: So it's part of the public narrative that the '94 Crime Bill created mass incarceration, but that's not historically accurate and is misleading and it really, distracts from our understanding of why we have mass incarceration, which goes back many decades before the Crime Bill.

Josie: Looking back at the footage from that celebratory White House bill signing, it's almost ironic seeing Giuliani's smug grin in the video. At the time, people thought it was inappropriate for him to be standing right behind the president—too prominent a placement for someone who didn't really have anything to do with the bill's development. But in hindsight, he actually had a lot to do with it. Clinton may have signed the bill, but Giuliani and other mayors and police commissioners and prosecutors, they were the ones who built the criminal legal system. Mass incarceration is a product of countless individual decisions driven by people with fewer press briefings but more impact than the President.

They are the ones with the power.

[MUSIC]

Josie: We mentioned earlier that things have changed since 1994. Today, almost everyone has heard of the concept of mass incarceration. But, back then, the term hadn't even been coined yet. Here's Nkechi Taifa.

Nkechi Taifa: The term, "mass incarceration," was not there as a term of art in those early days or even in part of the discussions leading up to the Crime Bill of 1994. This kind of happened afterwards, after people began to see the impact of these provisions, the impact of mandatory minimum sentences, the impact of three strikes, the impact of the crack versus powder disparity, the impact not only on individuals, but on their families and communities. That's when the term, "mass incarceration," kind of became a term of art.

Josie: Over the past 15 years, the movement to end mass incarceration has emerged in force. The combination of grassroots advocacy, electoral campaigns, media focus, and increased philanthropic investment, among others, has driven attention to the harms of our carceral system. And, as a result, the movement has seen some notable wins. Numerous state, local, and federal lawmakers across the political spectrum have signed criminal justice reform legislation, including President Obama, President Trump, and President Biden. Less carceral prosecutors have beat their “tough-on-crime” opponents everywhere from Dallas to Chicago, from Los Angeles to Boston. And these efforts have had an impact. In 2011, after decades of growth, the prison population finally began to decline. But mass incarceration is not over and the recent post-pandemic push for more punitive policies has had a concerning impact. In 2022, after a decade of decline, the prison population began to increase once more. America’s punishment infrastructure is gargantuan. Creating it took billions of dollars, millions of people, thousands of jurisdictions. It took hearings and bills and budgetary negotiations. It took arrest after arrest after arrest, conviction after conviction, plea deal after plea deal. It took countless people dolling out 30-year, 50-year, life sentences like they were passing out detention slips. In other words, it took effort. And dismantling it will take even more. And there’s no time to waste. There are millions of people still suffering the harms of this criminal legal system. Not “monsters” or “thugs”, or “superpredators”, not statistics, but real people.

[MUSIC]

Gina Clayton-Johnson: Incarcerated women are a group who go completely without care, resource, attention.

Terrell Blount: You talk about the school to prison pipeline...

Vivian Nixon: Prisons are not physically easy spaces to be in.

Daryl Atkinson: Narratively, this country, before they could do really bad things to a group of people, has always had to debase their humanity.

Josie: That’s next time on *The 30 Year Project*.

[MUSIC]

Josie: *The 30 Year Project* is a production of the Vera Institute of Justice. I'm Writer and Host, Josie Duffy-Rice. Ed Chung and I are the Executive Producers. Florence Barrau-Adams is the Producer. Trendel Lightburn is the Associate Producer. Vera's Director of Marketing is Chris Choi and their Director of Digital Engagement is Megan Diamondstein. Special thanks to all our guests. For more information about each episode and to find full transcripts visit vera.org/thirtyyearproject. That's T-H-I-R-T-Y year project. And follow @verainstitute on Instagram. Please take a minute to follow us and rate us five stars on Apple Podcasts and Spotify, and let us know what you think. More reviews help more people find us. Thank you for listening.