



CRIMINAL JUSTICE NEWS COVERAGE IN 2016

Special Report February 2017

(in two parts)

Part One

By Ted Gest

Urban violence, police shootings, the opioid epidemic, and a tense political campaign dominated criminal justice coverage during 2016. But some critical longstanding issues, like gun control, barely got attention; and others, such as emerging questions about the role of prosecutors, still remain largely unexplored.

For the first time in two decades, much of the news media coverage of criminal justice in a national election year focused on politics.

Crime issues were prominent in both of Bill Clinton's campaigns for president in the 1990s. But it wasn't until Donald Trump made "law and order" a theme during his 2016 campaign that crime emerged as a high-profile issue in the race for the White House.

Because crime is primarily a state and local concern, the national campaigns of Trump, Hillary Clinton, and competitors for their parties' nominations inevitably touched on issues that already had commanded media attention during the year. Those included crime increases in many big cities, a continued focus on shootings by police, broader issues of police reform, and a crisis in opioid overdoses. Getting somewhat less attention from the media were perennial issues like gun control and prison reform.

Much of this analysis is based on print and online media, but a snapshot of what captured media attention can be seen in the [compilation](#) by Andrew Tyndall of the top ten stories covered by the three major broadcast networks' nightly newscasts, based on the number of minutes they consumed. They were: the gay night club massacre in Orlando; the killing of five police officers in Dallas; gun control; the killing of a man by a Charlotte police officer; the murders of police officers in Baton Rouge; Chicago violence; routine police stops that ended in violence; follow-ups on the Charleston, S.C. church massacre; ambushes of police officers generally; and the capture of drug lord "El Chapo" Guzman.

This annual assessment of the year in criminal justice as seen by the media was based in part on a conference call conducted by **Criminal Justice Journalists** on February 1, 2017, with **James Alan Fox**, a criminologist at Northeastern University, **William Freivogel** of Southern Illinois University and the *Gateway Journalism Review*, and **Marea Mannion**, a senior lecturer in journalism at Penn State's College of Communications, with contributions from **Brandt Williams** of Minnesota Public Radio.

CRIME RATES CONTINUE RISING IN MANY CITIES

As an important backdrop to the political campaigns, after many years of declining crime, 2016 was the second consecutive year that many big cities reported murder and violent crime totals beginning to rise again. For much of the year, media coverage of this trend was sporadic, reported city-by-city as local police departments made statistics available. The FBI's compilation of crime reports from law enforcement agencies nationwide is issued on a delayed basis, usually in September for the previous year. Two organizations, the Major Cities Chiefs Association and the Brennan Center for Justice at New York University, have begun to issue more up-to-date reports from many larger cities.

The result: the public frequently gets incomplete reports on crime trends. Data comparing one year to the previous year may give no indication of the long-term picture. What is happening in one locality may seem the opposite of the trend in another place, with no explanation of the different factors involved.

Besides some of the usual possible causes mentioned, such as gang warfare and availability of guns, the most frequently cited speculation involved the so-called "Ferguson effect," the idea that many police officers were becoming less aggressive after widespread criticism of police shootings of civilians starting with the shooting of Michael Brown in Ferguson in the summer of 2014. Police also were said to be reacting to the prevalence of smart phones that allowed just about any action of officers to be recorded and posted online.

A good summary [story](#) appeared in the *Washington Post* on May 16. Typically, experts cited a number of different causes contributing to the increases in a variety of cities, but no single, overriding factor. The *Post* made an important point that much coverage tends to overlook: Although crime data are usually reported for cities as a whole, offenses are distributed unequally.

“Some parts of the city are safe, always; and some parts of the city are unsafe,” criminologist Richard Berk of the University of Pennsylvania told the *Post*.

On September 11, the *New York Times* did its own [analysis](#), using statistics from the previous year. Headlined “Murder Rates Rose in More than a Quarter of the Nation’s 100 Largest Cities,” the story concluded that “each city appears to have unique circumstances contributing to the uptick.”

Chicago has been a major contributor to the homicide total in big cities, with at least 760 murders last year. In addition to relentless coverage by the Chicago media, the *New York Times* deserves credit for paying close attention to the problem. On Sunday, June 5, the newspaper [devoted](#) more than four full pages in its first section to a story that started on the front page. Headlined “A Weekend in Chicago,” it recounted much of the serious crime in the city over Memorial Day weekend, when 64 people were shot, six of them fatally. The newspaper assigned 16 reporters to work on the package, which it said “captured how much violence has become a part of the city’s fabric.”

The *Times* followed up with a front-page [story](#) on December 22, “Bored, Broke and Armed: The Seeds of South Side Gang Violence.” It was a detailed account of gang life in Chicago based on a reporter’s spending several weeks last fall with gang members.

The *Washington Post* contributed to the coverage with a front-page [story](#) on November 6, with the headline “As killings surge, Chicago police solve fewer cases.” The story said the city’s police department once had one of the best rates in the U.S. of clearing homicides, and now it has one of the worst. At the rate Chicago’s clearances have been heading, the *Post* said, Chicago detectives would be solving only 1 in 10 killings by 2023.

A CRITIQUE OF CHICAGO’S DAILY NEWSPAPERS

Chicago’s daily newspapers, the *Tribune* and the *Sun-Times*, have produced a large volume of stories on the city’s crime problems, and the *Tribune* has published good stories on police misconduct. On January 30, the *Tribune* [reported](#) that just 124 members of the city’s police force of 12,000 were identified in nearly one-third of the misconduct lawsuits settled since 2009, “suggesting that officers who engaged in questionable behavior did it over and over.”

However, neither newspaper has recently published in-depth series on roots of the city's violence epidemic that seek to explain why the Chicago crime problem is worse than other major cities.

Asked for a critique, Stephen Franklin of the Community Media Workshop in Chicago, a former *Tribune* reporter, says that "the *Tribune's* coverage has gotten better and they've tried to compare Chicago to other cities. This work has come in long readouts and not focused reports, and they have not explained specifically why Chicago differs from New York or Los Angeles in terms of gangs or guns or community policing or the numbers of black or Latino police."

Franklin adds:

The role of the Bureau of Alcohol, Firearms and Explosives has been totally ignored, failing to point out a massive lack of support for cracking down on gun sales from ... gun stores, gun shows or private sellers. There needs to be an in-depth explanation of the evolution of gangs and how they have evolved and their impact. There needs to be a very pointed description of what anti-violence programs work and in the city's and state's current financial crisis, what programs have been cancelled or never initiated. And so, three years into a terrifying plague of violence, I don't think most folks here fully understand what's gone wrong, what's the solution and why this all matters.

Another media observer, Michael Miner of the *Chicago Reader*, says, "I admire the focused coverage and large take-outs the *New York Times* has published on crime in Chicago. I can't think of the equivalent being done locally, but I believe that's more a case of the *Times* being willing to than the local dailies being unwilling to. Crime in Chicago isn't spotlighted the same way because it's always in the spotlight ... It's quotidian news here rather than a special report.

Miner added:

But there's been a lot of [coverage]--not just from the *Tribune* and *Sun-Times* but also from the *Reader*, from whatever outlets Jamie Kalven of the Invisible Institute rounds up, and from Darryl Holliday's City Bureau (<http://www.citybureau.org>), to name some alternative sources. Crime coverage here is also impossible to separate out from political coverage. Laquan McDonald, for instance, was as much a story about an incriminatory videotape being suppressed to protect the mayor's reelection as it was a story about a police coverup.

Even sports overlaps--I've seen stories about the trouble local colleges have recruiting top local black athletes because they're

so eager to move out of their neighborhoods ... Crime news isn't being neglected here, nor is it being covered in a simpleminded bleeds-so-it-leads way.

The *New York Times* made a special effort in its own city when it [reported](#) in depth on each of the 14 murders in the 40th Precinct, a two-square-mile part of The Bronx. Reporters Benjamin Mueller and Al Baker said the project, called “Murder in the 4-0,” was a “way of understanding what drives homicide in a part of the city where crime has hardly dropped in the last 15 years.

CRIME AND THE PRESIDENTIAL ELECTION

It was not Donald Trump but Democratic rival Hillary Clinton who began the political discussion of criminal justice last year, in a February 14 speech at Columbia University. She cited the deaths at police hands of Walter Scott in South Carolina, Tamir Rice in Ohio, Eric Garner in New York City, and Freddie Gray in Baltimore before declaring that, “We have allowed our criminal justice system to get out of balance.”

Clinton’s choice to focus on criminal justice issues did not serve her well in media reports, which quoted liberals as criticizing her for having sided with her husband Bill’s tough-on-crime approach as president in the 1990s.

Both Bill and Hillary Clinton disavowed their earlier backing of federal aid for extensive state prison building in the big 1994 U.S. anticrime law, and media coverage offered a somewhat fuzzy picture of the Democratic candidate on the issue.

On April 11, the *New York Times* [reviewed](#) the record, concluding that the law the Clintons supported had only a modest effect on the national increases in incarceration, which had been under way well before the measure was passed.

Hillary Clinton also got flak—and news coverage—for having once seemingly endorsed the now-discredited “super-predator” concept—the idea in the 1990s that there was a large national contingent of incorrigible juvenile delinquents. She apologized for the statement during the 2016 campaign.

During the Democratic National Convention in July, a *Washington Post* [editorial](#) credited Clinton with highlighting criminal justice issues like police reform during her campaign, and criticized Trump for offering “slogans rather than solutions.”

Contrasting himself with Clinton, Trump focused on the high murder totals in some cities and declared himself as the “law and order” candidate, backing the use of “stop and frisk” practices by police and other, unspecified “tough” tactics.

One of the first media organizations to take a close look at Trump's stances was *The Crime Report* of the Center on Media, Crime and Justice at John Jay College of Criminal Justice. A March 28 [analysis by Adam Wisnieski](#) concluded that Trump "has eluded easy definition," and added that the Republican had not opposed proposals for criminal justice reform but rather had "avoided talking about it." Wisnieski observed that "Until recently, when asked for comments on the issue, Trump responded by threatening to get 'tougher' on criminals, or by defending police."

The Crime Report also [recounted](#) Trump's speech in July to the Republican National Convention, saying that, "The closest he got to any concrete proposal was a promise that he'd 'work with and appoint the best prosecutors and law enforcement officials in the country.' "

There was much more media concentration on the Republicans when the campaign was in full swing in the fall.

The *New York Times* devoted much of a lengthy front-page [story](#) on September 22 to Trump and "stop and frisk," saying that the candidate "remains an unabashed fan of the tactic and has glossed over the legal and racial objections to its use for years."

The next day, the *Times* took a closer look at Trump's proposals, headlining a front page [article](#), "Trump's Law-and-Order Plan is Seen as Falling on Minorities." The newspaper conceded that the Republican's plans were "sketchy" and "difficult to analyze," but it concluded, quoting "civil rights activists and national security veterans" that his platform "could have the effect of treating minorities with suspicion and singling them out for heavier government scrutiny."

While Trump declined to elaborate on many details of his policy proposals, he portrayed himself as the candidate of police. He did answer a questionnaire from the Fraternal Order of Police, the nation's largest police union, which endorsed him.

Trump frequently mentioned his "law and order" approach during the campaign, but news organizations were unable to flesh it out very thoroughly.

In a "Contract With the American Voter" released on October 22, Trump laid out his substantive platform, which included a promise to propose a "Restoring Community Safety Act" in his first 100 days in office; but there was little, if any, mention of it in the mainstream media before the election. Trump said he would propose a bill to create a "Task Force on Violent Crime" and increase funding for programs that "train and assist" local police, among other provisions.

POLICING – MORE SHOOTINGS, ANY SOLUTIONS?

Ever since the fatal shooting of Michael Brown in Ferguson, Mo., in August 2014, police killings and other severe treatment of civilians has been a major topic of news coverage. The trend continued through 2016 with a number of well-publicized incidents, from Charlotte, N.C. to Tulsa, Ok., that made the national news and were reported on locally in depth.

For the second calendar year, the *Washington Post* and *The Guardian* compiled their own counts of police shootings in the absence of a complete national count by a federal agency. On December 31, the *Post* [published](#) its year-end tally, saying that there had been 957 fatal shootings by police around the nation during the year, down from 991 in 2015. In what the paper called a “notable shift,” many more of the shooting – 231 – were captured on video in 2016 than in the previous year.

The Guardian, using a somewhat broader definition, [counted](#) 1,092 people last year who died after being “shot, tasered and struck by police vehicles as well as those who died in police custody.”

On December 15, *The Guardian* [reported](#) on a new compilation by the U.S. Bureau of Justice Statistics, finding more than twice as many homicides by police than had previously been reported by the FBI. (*The Guardian* appears to have stopped the count this year, but the *Post* is continuing.)

Among widely-publicized incidents last year: On July 5, Alton Sterling, 37, was shot and killed during a confrontation with two police officers outside a convenience store in Baton Rouge, La. The next day, a Minnesota officer fatally shot Philando Castile, 32, while he was in a car with a woman and child in the St. Paul suburb of Falcon Heights. The fatal police shooting of Keith Lamont Scott, a 43-year-old black man, as he was sitting in his parked vehicle outside his apartment in Charlotte on Sept. 20 provoked large protests in the city.

The Charlotte Observer provided extensive coverage of the Scott case and its violent aftermath. Among its many stories relating to the incident, the newspaper [reported](#) that two months before Scott was killed, Black Lives Matter members had heckled Mayor Jennifer Roberts at a City Council meeting, which the newspaper called a “possible warning sign of escalating tension.”

The policing story in the U.S. took a dramatic turn in Dallas on July 7, when an Army Reserve Afghan War veteran named Micah Xavier Johnson ambushed a group of police officers, killing five and injuring nine others before being killed himself. Johnson was angry over police shootings of black men and said he wanted to kill white people, especially white police officers.

Then, on July 17, a Kansas City, Mo., man named Gavin Long ambushed and killed three officers and wounded three others in Baton Rouge, Louisiana.

After these incidents and another one the same month in which a shooter at a Munich, Germany, shopping mall killed nine people and injured 27 others before killing himself, Mother Jones [warned](#) of a “chilling rise of copycat mass shooters.” Yet there were relatively few mass shootings for the rest of 2016.

Some coverage contended that the number of violent acts against police was higher than ever, but [data](#) from the National Law Enforcement Officers Memorial Fund show that many more officers were killed on duty in the 1970s than in recent years. The total of police officers killed in felonious acts was 280 in 1974, and it exceeded 200 in all but one other year in that decade.

Even with the Dallas and Baton Rouge episodes, last year’s total in the U.S. was 135.

The lives of most police officers do not revolve around shootings, but many Americans do not appreciate the breadth of issues a typical law enforcement officer encounters.

In an attempt to fill this gap soon after the Dallas and Baton Rouge incidents, the *New York Times* on Sunday, July 24, [published](#) “One Shift: Officers Patrol an Anxious America,” a lengthy account of ride-alongs its reporters took with officers in ten cities. “With the exception of some cities still awash in violence, crime has dropped, and the job has changed,” the story said. The long feature covered Prince George’s County, Md.; Paulding County, Ga.; Coventry, Ct.; Milwaukee; Houston; Seattle; Compton, Ca; New York City; Cambridge, Ma.; and Park Forest, Il. Observing the constant risks of a policing job, Deputy Constable Steve Faulkner of Houston said, “Your head’s on a swivel now.”

In addition to the basic count of killings by officers, the *Washington Post* continued its coverage of the previous year’s shootings. In a lead story on Sunday, April 3, the newspaper [reported](#) that the officers involved in one in five killings by police in 2015 had not been publicly identified. In one Chicago case the *Post* used as its lead anecdote, an agreement with the city’s police union blocked the disclosure.

There was less also coverage of efforts to reduce the number of unnecessary shootings. One exception was the *Washington Post*, which followed the policy debates more than most other media organizations did. On March 31, the newspaper [reported](#) on a proposal by the Police Executive Research Forum (PERF) to call on officers to “de-escalate” confrontations when feasible, an idea that some law enforcement organizations criticized. “What a ridiculous piece of claptrap!” said the Association for Los Angeles Deputy Sheriffs.

The plan was discussed in the fall at the annual convention of the International Association of Chiefs of Police (IACP), whose president was quoted as being skeptical about the PERF plan. (This year, the IACP led its own police coalition to propose a consensus statement on de-escalation.)

The *Post* also took a look at the national status of police reforms in a story on September 26 after the Keith Lamont Scott killing in Charlotte. In a [piece](#) headlined “Fatal police shootings keep pace, but reform efforts lag,” the newspaper focused on delays in efforts to improve training for officers, explaining that with 18,000 police departments around the U.S., “many with their own training academies and unions [it is] impossible for them to move in unison.”

On August 22, the *Post* [examined](#) the issue of early warning systems within police departments to spot problem officers, reporting that since 1994, 36 investigations of local police departments by the U.S. Justice Department found that local law enforcement agencies “had deeply flawed early intervention systems or no system in place at all.”

Other media reported on a problem that has been largely overlooked by journalists: the fact that it’s fairly easy for officers with extensive disciplinary records to be dropped by one police agency only to be hired quickly by another. On Sunday, September 11, the *New York Times* [explored](#) this phenomenon, with several anecdotes about “gypsy cops.” The paper quoted law Prof. Roger Goldman of St. Louis University, who has long advocated a national database of officers who have been convicted, fired or forced to resign, named in judgments or settlements involving misconduct, or have had their law enforcement licenses revoked.

The *Wall Street Journal* published a similar [story](#) on December 30, concluding that the nation’s police misconduct problem “might in part stem from the presence of a small but persistent minority of ‘bad apple’ officers who are allowed to stay on the job.” The *Journal* traced outcomes for 3,458 police officers from across the U.S. whose arrests resulted in their losing jobs or being convicted—or both—in the seven years through 2011. It found that 1,927 who left their departments after brushes with the law weren’t in law enforcement in 2015 but had not been placed on any list of decertified officers, which would create a prohibition to their returning to the profession in their states. Almost 10 percent—332—of the officers, remained in law enforcement.

TERROR IN ORLANDO

In the worst mass shooting in U.S. history, Omar Mateen, a 29-year-old security guard, entered a gay nightclub in Orlando on June 12, where he shot and killed 49 people and wounded dozens more. Mateen pledged allegiance to the Islamic State before he was killed by police. The mainstream media understandably gave the case saturation coverage for days.

The *Los Angeles Times* did a [good job](#) of piecing together an earlier FBI investigation of Mateen that did not lead to charges against him. In an investigation that went from May 2013 to March 2014, agents concluded that Mateen was not a threat and closed the case, the *Times* said. “We don’t have a crystal ball, unfortunately,” a senior FBI official told the newspaper. “We went right up to the edge of what we could do legally, and there was just nothing there.”

A few weeks before the Orlando shooting, the *Washington Post* published a notable [story](#), headlined “Most mass shooters aren’t mentally ill.” The article said it was wrong to believe, as many Americans say in opinion surveys, and as then-President Barack Obama and House Speaker Paul Ryan (R-WI) also had said, that mental illness was a connecting link between many people who had committed some of the nation’s worst shooting atrocities.

Even though lawmakers at the federal and state levels have proposed or enacted laws linking mental health care improvements to mass shootings, the offenders in most such cases have not had classic mental problems like schizophrenia. “It would be ridiculous to hope that doing something about the mental health system will stop these mass murders,” said forensic psychiatrist Michael Stone of the Columbia College of Physicians and Surgeons.

Earlier, the *Post* raised the question “Are mass shootings contagious?” in a front-page headline. The March 9 [story](#) was published after a man in Kalamazoo, Mi., had killed six people while driving for Uber, followed five days later by a man in Kansas shooting 17 people. In the article, Gary Slutkin of the group Cure Violence, a physician and epidemiologist at the University of Illinois at Chicago, declared that, “Mass shootings are a risk factor for mass shootings.” Criminologist James Alan Fox of Northeastern was quoted as a skeptic, saying that “the majority of mass killers don’t need someone else to give them the idea.”

THE OPIOID EPIDEMIC HITS THE MEDIA

The big drug story of 2016 differed from the earlier narrative of inner-city wars over heroin and cocaine. This time it was a tale of overdose deaths often most affecting hitting middle-class areas of the Midwest. Newspapers including the *Cincinnati Enquirer* and the *Pittsburgh Post-Gazette* in hard-hit areas gave the plague intensive coverage.

In one example of enterprise reporting, the *Enquirer* has had a reporter, Terry DeMio, assigned for four years to cover the heroin beat. She traveled to Baltimore, which has long been struggling to deal with drug problems, to produce a four-part [series](#) that appeared in October, headlined, “Five things Baltimore can teach us about fighting heroin.”

The *Washington Post* also published notable stories in a series with the tagline “Unnatural Causes.” On Sunday, July 24, a long [feature](#) told the story of heroin addict Amanda Wendler of Farmington Hills, Mi. The newspaper said its coverage was based partly on the fact that drug

overdoses are now the leading cause of injury-related deaths in the U.S.—worse than guns, car crashes, or suicides.

On October 16, the newspaper [documented](#) the drug industry's quest for new drugs to treat the side effects of widely-prescribed opioids, making the point that drug makers were profiting by providing even more pills to counteract the impact of drugs they had made earlier.

Six days later, the newspaper placed on the front page of its Sunday newspaper a [story](#) headlined, "DEA retreats in its war on opioids." The story said that a decade ago, the U.S. Drug Enforcement Administration had started a campaign against companies that distributed hundreds of millions of highly addictive pills to corrupt pharmacies and "pill mills" that sold them for street use. Enforcement dropped markedly after the industry complained. The *Post* followed up on December 23 with an [article](#) reporting that firms that manufacture or distribute addictive pills had hired at least 42 DEA employees, prompting one watchdog group to comment, "It's not a surprise that DEA isn't as vigilant as it once was when so many ex-feds are working for the companies that they once investigated."

Also getting extensive attention was the continued trend toward legalization of marijuana. Most major media organizations covered votes in California and four other states to legalize recreational marijuana use. On November 2, for example, the *Los Angeles Times* [reported](#) that billionaires Sean Parker and George Soros, along with companies hoping to profit from pot legalization, helped the campaign raise nearly \$16 million, about four times the amount spent on a failed effort in 2010.

Still, the subject nationwide got much less media play than the groundbreaking 2012 legalization votes in Colorado and Washington state.

In an important series about drug enforcement, Ryan Gabrielson and Topher Sanders [wrote](#) in *ProPublica* about often unreliable "field tests" used by police officers in many of the 1.2 million arrests made each year in the U.S. for illegal drug possession. The piece reported that many of the tests, with kits that cost about \$2 and have changed little since 1973, produce false positive results, leading to wrongful arrests. The series won an award this year from the Center on Media, Crime and Justice at John Jay College of Criminal Justice.

GUN CONTROL FADES AS MAJOR MEDIA ISSUE

After the Newtown, Ma., school massacre in late 2012, gun control re-emerged as a major political issue, with several states enacting firearms curbs and President Obama making an ultimately unsuccessful effort to pass new federal legislation.

While there was periodic coverage by the news media of gun issues last year, there was far less than had appeared in the months after Newtown.

One exception to the dearth of coverage was the website TheTrace.org, which was launched in mid-2015 with seed funding from Michael Bloomberg's Everytown for Gun Safety organization. In its first full calendar year, The Trace produced a solid record of stories on gun violence issues, several in partnership with better-known news organizations.

Another exception was *New York Times*, which covered the gun issue well, if sporadically. On February 8, the lead [story](#) was headlined "Crackdown Plan for Gun Sellers Sits at Impasse." It described how very little had been done by federal agencies to follow up on a "plan for stemming gun violence" that President Obama had announced the month before.

In the fall, the *Times* devoted part of the front page and two full inside pages on Saturday, October 22, to an [examination](#) of the 130 cases in 2015 in which four or more people had been shot. The newspaper said its findings were "dispiriting to anyone hoping for simple legislative fixes to gun violence." In more than half of the 130 cases, at least one assailant was already barred by law from possessing a weapon but had one anyway. In 40 percent of the remaining cases, the shooter had no criminal record and could have acquired a firearm legally even in places with strict gun controls.

MASS INCARCERATION AND THE MEDIA

The high national imprisonment rate never has been a dominant subject in the news, as media consumers generally put prisons near the bottom of their list of interests. It is mostly a state and local governmental issue, not a federal or national one.

One fairly rare prominent treatment of the subject of criminal sentencing appeared in the *New York Times* on July 5. The newspaper [focused](#) on lengthy sentences like a life-without-parole term given to Lenny Singleton of Virginia for a theft spree to fuel a crack cocaine habit. About 160,000 people are serving life terms, about one-ninth of the states' prison populations.

The *Times* produced several other examples of notable coverage related to incarceration. On September 2, the newspaper [documented](#) how "large parts of rural and suburban America" have reported rising prison-admission rates even as crime has fallen. Dearborn County, In., for example, sent more people to prison in 2014 than did San Francisco or Westchester County, N.Y., each with 13 times the population.

On the federal level, incarceration finally got some attention in recent years, as some key members of Congress in both parties realized that federal prisons were consuming more than

one-fourth of the Justice Department's budget and had not kept up with reform ideas adopted by many states.

Yet bills to address the issue never made it to the floors of either the Senate or the House despite predictions in some quarters that it could be a fairly easy "reform" topic in gridlocked Washington.

The *New York Times* published a good [analysis](#) of the main reform bill's death on September 17, calling the failure a "stunning display of dysfunction," but the story itself was buried in the depths of a Saturday edition. The article predicted that sentencing reform would be back in 2017, but it inadvertently raised some doubts about the prospect by prominently quoting Sen. Jeff Sessions (R-AL), an opponent of the bill. The newspaper had no way of knowing that he would end up serving in the key position of Attorney General under President Donald Trump.

The *Washington Post* gets credit for devoting [seven full pages](#) of its Sunday edition on July 10 to the stories of federal inmates whose prison sentences had been commuted by President Obama one year earlier. The *Post* noted that the people they wrote about were not pardoned, so they were still convicted felons, which has implications for jobs, housing and education aid. The newspaper said it had 40 reporters and editors tracking down the clemency recipients.

The *Post* also closely followed the problems of an Obama administration clemency initiative that set a record in terms of President Obama's actions shortening sentences but still fell short of dealing with many thousands of petitions from federal inmates.

The *Post* devoted part of its front page on Saturday, January 30 to 'A prison within a prison,' a [story](#) declaring that, "The use of solitary confinement has reached a watershed moment in the United States." The newspaper used the story of Kevin Bushrod, Jr., who spent six months in solitary after being charged with trying to kill a police officer with his car, to detail a solitary confinement system in Washington, D.C., in which some inmates say they don't know why they are in solitary and have little chance to get out of it.

Prison conditions rarely are prime subjects of news media coverage, in large part because access by reporters to correctional institutions can be difficult, but more broadly because of the perception of editors and news directors that public interest is limited, absent a scandal or a riot.

The *Miami Herald* continued reporting on abuse of prisoners in the state's institutions, [describing](#) on September 20 a lawsuit filed by the family of a 27-year-old prisoner who allegedly was killed in 2010 by corrections officers who tortured, gassed and beat him. The newspaper said the lawsuit was the latest in a series filed against the state involving inmates who died, allegedly as a result of mistreatment by staff members.

In New York State, the *New York Times* published notable stories on Sunday, December 4 and Monday, December 5, on racial bias both in the state prisons and the parole system. In the first [story](#), written by three reporters, the newspaper said it had reviewed tens of thousands of disciplinary cases against inmates in 2015 and found that blacks and Latinos were disciplined at rates far higher than were whites in some prisons twice as often. The *Times* said disparities existed even correcting for the fact that blacks were disproportionately in prison for violent offenses and minority inmates were disproportionately younger.

The newspaper explained the phenomenon largely in terms of an “upstate-downstate” culture difference in which staff members from rural, white areas where most prisons are located were dealing with minority inmates from cities.

In the second [story](#), “For Blacks Facing Parole, Signs of Broken System in New York,” the newspaper analyzed thousands of parole decisions from the past few years, and found that fewer than one in six black or Hispanic men were ordered released at their first parole hearing, compared with one in four white men. The *Times* also gave an example of a particular burglary offense for which blacks on average served longer terms than whites: 883 days compared with 803 days.

The newspaper also documented a lack of diversity among the state’s parole commissioners, who make the decisions on releasing inmates.

Criminologist Charles Wellford of the University of Maryland was critical of the *Times*. In a note to the author of this survey, Wellford said that the newspaper had published a headline suggesting that it had proved “rampant racism” in the state prisons—but that the story contained “lots of unsupported speculation masked as statistical analysis.” Wellford added that it should have been clear, as the newspaper suggested in its story, that the “model was incomplete” because the *Times* did not have access to inmates’ full disciplinary files, which could explain some of the decisions in their cases. Said Wellford: “Journalists are best when they describe an event or phenomenon. My concern is when they go on their own to make causal analyses. At that point, their work is consistently weak and very misleading to the public.”

After the *Times*’ stories appeared, New York Gov. Andrew Cuomo ordered an investigation by the state inspector general into what he called the “disturbing” evidence of racial bias reported by the newspaper.

A spokesman for the New York prison system declined an offer to critique the *Times*’ reporting. The agency did say that, “In order to accurately analyze inmate discipline you must take into consideration a multitude of factors. Some of those factors include the underlying behavior,

what cohort of inmates are engaging in the behavior, where does the behavior occur, as well as an inmate's overall institutional disciplinary record."

A notable [piece of work](#) involving private prisons was a lengthy account by Shane Bauer in *Mother Jones*. Bauer spent four months working as a guard at a Louisiana private prison then run by the Corrections Corporation of America. He provided rich detail of how the facility was operated by the private firm, including episodes involving staff not following company policies. The story won a criminal justice reporting award this year given by the Center on Media, Crime and Justice at John Jay College of Criminal Justice.

In "Inside the Deadly World of Private Prisoner Transport," *The Marshall Project* [wrote](#) about the tens of thousands of fugitives and suspects who are transported each year by small private companies that specialize in extraditions. The article, based on interviews and a review of documents, found a "pattern of prisoner abuse and neglect in an industry that operates with almost no oversight." It won a runner-up award in the John Jay contest.

PROSECUTION – A LARGELY IGNORED MEDIA SUBJECT

Amid dramatic killings by police, mass shootings, and mass incarceration, the justice system's inner workings usually get much less attention from the media.

Credit the *New York Times* with a series, "No Money, No Mercy," which it described as "how money undermined reforms to America's criminal justice system." On December 12, the newspaper [published](#) "Spared From a Criminal Record, As Long as You Can Pay," which told of "diversion" programs in which prosecutors choose to "spare low-risk offenders from the devastating consequences of a criminal record" by choosing not to prosecute them if they stay out of trouble for a specified period, also taking classes or performing community service, depending on the case.

The problem, said the *Times*, is that in "many places, only people with money could afford a second chance." Prosecutors often require those who seek diversion to pay fees that can range from \$500 to \$5,000. Even \$500 can be prohibitive for an indigent defendant. The newspaper looked at 225 diversion programs in 37 states.

SECOND CHANCE CITY – WASHINGTON, D.C.

While the phrase "second chance" as applied to convicts usually appears in the media to characterize helping ex-prisoners return successfully to society, the *Washington Post* used it as a tagline for a series suggesting that the city's justice system was giving second chances too freely to repeat criminals.

In a front-page [story](#) on May 15, reporter Amy Brittain used a rape case to discuss the city's Youth Rehabilitation Act, which the newspaper said, "combined with lax enforcement by key federal agencies, can give many chances to violent offenders despite repeated criminal behavior and the failure to abide by terms of release."

On September 6, the *Post* [quoted](#) departing Police Chief Cathy Lanier as saying "the criminal justice system in this city is ... beyond broken." She cited the case of a man who was on home detention when his GPS tracking device became inoperable, and he then went on a crime spree. "The agency that supervises that person didn't tell anybody or do anything about it... it's happening over and over and over again. Where the hell is the outrage?" Lanier asked.

The *Post* returned to the issue in a front-page [takeout](#) on Sunday, December 4, "How a mercy law enables criminals," documented how hundreds of criminals sentenced under the Youth Rehabilitation Act got a second chance to be back on the street but went on "to rob, rape or kill." The newspaper obtained data from the D.C. Sentencing Commission for the outcome of every felony case since 2010 and found that at least 750 offenders had been sentenced multiple times under the Youth Act in the last decade.

Another [story](#) in the Second Chance City series, on December 22, started by interviewing a man serving a 22-year-prison term who said he had committed 100 robberies in Washington before committing a murder. He had received a 6-month prison sentence under the youth law, then "returned to the streets to commit more robberies and sell crack cocaine."

On December 29, the *Post* [took aim](#) at the federal Court Services and Offender Supervision Agency in Washington, which loses track of high-risk offenders about 150 times a year and does not notify the public about it. About once a week, a D.C. offender under federal supervision is either a victim or suspect in a homicide investigation. Nearly one of four people charged with a killing in last year was under the agency's supervision.

MEDIA NOTE

One of the few journalists who have specialized in criminal justice over a long period took a buyout at year's end, Gary Fields of the *Wall Street Journal*. Fields had been a *Journal* reporter for nearly 17 years after 10 years at *USA Today*. He was one of the nation's most knowledgeable journalists on corrections issues.

Ted Gest is president of Criminal Justice Journalists, and a co-founder and Washington bureau Chief of The Crime Report.

Part Two

Four leading press commentators assessed last year's coverage of topics that included criminal justice issues in the presidential campaign and continuing crime rises in some cities in a conference call moderated by **Ted Gest**, president of Criminal Justice Journalists and Washington Bureau Chief of The Crime Report.

The participants were **James Alan Fox**, The Lipman Family Professor of Criminology at Northeastern University; **William Freivogel**, a professor of journalism at Southern Illinois University and publisher of the Gateway Journalism Review, and **Marea Mannion**, a veteran broadcaster and senior journalism lecturer at the Penn State College of Communications. There are additional comments from **Brandt Williams**, a board member of Criminal Justice Journalists and a reporter for Minnesota Public Radio, who was unable to take part in the call.

Below is an edited transcript of their Feb 1, 2017 conversation.

2016 PRESIDENTIAL CAMPAIGN

Ted Gest: Crime and justice were bigger issues in last year's presidential campaign than they had been in recent contests. What did you make of the media coverage?

William Freivogel: Looking at network television coverage, analyst Andrew Tyndall [counted](#) only 32 minutes of issue coverage, and criminal justice was not a major topic. That compared with 220 minutes of issue coverage in the 2008 Obama-McCain race, a huge decrease. (The [top crime story](#) was the Orlando nightclub massacre, which got 163 minutes).

James Alan Fox: It's quite noteworthy that the official websites of the two campaigns gave quite different coverage in terms of volume to criminal justice issues. Clinton's criminal justice section was lengthy, covering a wide variety of criminal justice topics. Trump's was quite brief, talking mostly about immigration and guns. So whatever the media could do on crime issues was constrained.

Trump made a great deal of the issue immigration and crime, focusing a lot on anecdote. Based on criminology research, the connection between immigration and crime certainly was overstated by the Trump campaign. That element of his campaign got a lot of attention.

Marea Mannion: I agree. Trump got so much coverage of everything he put out. He spoke many times of out-of-control crime rates, reaching record levels. The statistics say something else. The question is how much coverage was there of what actually was out there versus what he put out. What he was saying was contrary to the facts.

James Alan Fox: In term of guns, there was a lot of coverage of Trump's appearance before the National Rifle Association, playing up his commitment to the Second Amendment, and in the process the

coverage completely distorted the position of Hillary Clinton. I don't think the media covered the fact that what he was saying of Clinton's position was inaccurate – the idea that she would eliminate the Second Amendment.

William Freivogel: Not just in this campaign, but in general, the media do a poor job of explaining that the Second Amendment is not an absolute guarantee that you can have a gun at any place at any time. Clinton's position didn't mean she wanted to take people's guns away. We often forget that Obama and his administration took a position in favor of the Supreme Court's Heller decision recognizing an individual right to have a gun.

Beyond that, even though Trump didn't have on his website the kind of detail that Clinton did on criminal justice, he was able to get across the notion that he was pro-police, pro-gun, anti-crime, anti-what was going on in the Chicago streets.

I'm not sure what Clinton got across, despite all of the things on her website. You heard about her agreement with blacks about police shootings, but Trump's was a more powerful message.

James Alan Fox: The media spent far too much time on the "super-predator" term that Clinton used in the 1990s, painting her as someone who was behind that term, which I don't think she was. At the same time, the media failed to point out that Bob Dole used the same term when he was the Republican nominee in 1996. Politician after politician latched on to that term. Some media described it as a racist term, which it wasn't necessarily. It described crime rates about juveniles, white and black, that were rising at the time.

The media assisted in unfairly painting Clinton as a racist, as if she were the only person at the time using the term.

Marea Mannion: Are you talking mostly about the broadcast media?

James Alan Fox: Yes. The media also unfairly tied Clinton to mass incarceration. Her whole thing was "it takes a village," not "it takes a prison." Some media suggested that she was single-handedly behind a rise in mass incarceration, which was hardly the case. Back in the 1990s, she was strongly committed to crime prevention programs.

TRUMP AND CRIME NUMBERS

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Ted Gest: Back to Donald Trump, did he make major misstatements during the campaign about crime and justice, and did the media try to correct him?

James Alan Fox: Yes and yes. He continually was suggesting that there were record crime levels in the cities. Sure, there were some cities like Chicago where crime totals were rising, but crime had been decreasing so much-- homicides had declined 50 percent over two decades--the totals were getting so low that the only way they could move was upwards.

In some places, it could have been an aberration or a blip. Trump was called on that. The media did say that his focusing on that was inaccurate.

William Freivogel: I have a bit of a different point of view on this. There were some reputable criminologists, such as Richard Rosenfeld of the University of Missouri at St. Louis, who did a report on it for the Justice Department, who said that crime was going up in a number of cities.

Rosenfeld said that a so-called Ferguson effect may have been happening in some cities. So there was some truth to the data.

James Alan Fox: The numbers were accurate, but I'm talking about benchmarking. A one-year change or a two-year change is not a trend. Long-term, we're so much better off than we used to be. Even in Chicago, the numbers are much lower than they were two decades ago. We're not at record levels.

Ted Gest: To pick up on Bill Freivogel's point, what's wrong with the media reporting that crime numbers went up in a given year?

James Alan Fox: There's nothing wrong with it, as long as they do say when the totals are lower than they were in years past. They should give the long-term perspective.

Ted Gest: What if a police department gives only one year's data?

James Alan Fox: The media should ask, "What about five years ago? Ten years ago?" It's a longstanding practice to focus at the beginning of a year on a year-to-year change. That can be ambiguous. The last year could have been particularly bad, or particularly good.

If crime rates drop, the next year you've got to hold your breath, because next year they may be talking about an increase. We don't focus much on day-to-day changes in the stock market, and we shouldn't do that on crime, either.

In Boston, there was an increase in homicides reported for 2016, but it turns out that 2015 was one of the best recent years ever. And remember that when we're talking about violent crime generally, the biggest category is aggravated assaults, many of which don't involve injury. So when a violent crime rate is reported, the media should break that down into its component parts.

William Freivogel: I agree that reporters should be asking about the possible reasons for a change in the crime rate. For instance, a homicide increase could be a result of the "Ferguson effect" of police being less aggressive, or heroin problems, but it may be difficult to connect the possible explanations to a one-year change.

James Alan Fox: You should ask people beyond the police, including academics and community groups, because when crime goes down, the police typically take credit, but when crime goes up, they blame other sources. The police have a vested interest in interpreting crime changes.

Marea Mannion: Do the media also have a vested interest in covering crime, to earn revenue? Are they not reporting that crime is much lower than it used to be because of the pressure on them to draw

readership and viewership? I don't think many in the media, particularly cable TV, are providing enough context on crime.

William Freivogel: I don't see that changing much. Local TV news coverage gives a distorted picture when it comes to crime.

Brandt Williams: Context is so important in reporting crime figures. We need to include comparisons to previous years when reporting levels of reported violent crime. Homicides tend to lead newscasts, but from what I understand, are not necessarily the best measure of public safety. I know it's not always possible, but I think we better inform readers, viewers and listeners when we can also include where homicides *are* happening and what populations are most impacted by them. People tend to assault and kill the people closest to them and the people who look like them. I've instituted my own prohibition of the term 'black on black crime.'

James Alan Fox: Another thing local TV news does is treat victims like they are experts: they know everything, because they were a victim of crime. They were a victim once, and they now know what should be done about crime. But it's only one person's point of view.

POLICE SHOOTINGS

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Ted Gest: Let's move on to shootings of civilians by police officers. This was a big media topic starting with the shooting of Michael Brown in Ferguson in 2014. That continued through 2015 and into last year. There were also killings of police by civilians. How are the media doing on this subject?

James Alan Fox: There is a tendency by the media to think in epidemic terms. The *Washington Post* says there were about 1,000 killings of civilians by police in each of the last two years, but we don't know how many there were in 2010 or 2005, for example. The reports make it sound like it's out of control.

As far as shootings of police are concerned, the FBI's count of felonious killings of officers is down. We have seen some heinous tragedies like the one in Dallas that received a tremendous amount of attention, but in terms of the risk now to police, it's no greater than it has been in the past, and in fact it may be lower.

The numbers go up and down, but the national total generally is in two digits each year, so the Dallas shootings might be 10 percent of the total. It's another case in which you have to look at long-term trends.

William Freivogel: The way in which the media cover shooting by police is entirely different from what it was three years ago. Social media now dominates the story that gets told. What is reported on social media, such as the original reports about the 2014 Michael Brown shooting in Ferguson, has become the *unofficial* way in which protesters and other people in the street find out what is happening, rather than the traditional media.

And video becomes the story that is told nationally. When you compare this with the way stories were told five or 10 years ago, it's totally different.

Ted Gest: Even though we don't have comparative numbers from many years ago, is 1,000 killings of civilians by police around the U.S. a serious problem to which the media are paying sufficient attention?

William Freivogel: Both the *Washington Post* and *The Guardian* have done good reporting on this, and I think it is a serious problem that is getting the attention from both social and traditional media that it should get.

We must be careful about whether some of the video of an incident is accurate or not. For example, the "hands up, don't shoot" narrative of the Michael Brown incident was not borne out by the police investigation.

James Alan Fox: We also should keep in mind that even if a majority of the 1,000 people shot by police in a year are black males, there were also 7,000 or 8,000 black men shot by other black men. Police shootings are an important issue because the police have a significant amount of power, but the biggest risk for young black men in this country is from their peers.

BROADER POLICING ISSUES

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Ted Gest: Are the media doing a good job of following up on broader issues raised by police shootings, such as the need for better training of officers?

Marea Mannion: Perhaps in the major markets, but in smaller markets, there is reactive coverage of the incident itself, and that's about it. There could be more follow-up coverage of issues like police recruiting, which many agencies are having trouble with. There tends to be coverage only of the shooting incident, but little context or coverage after the fact.

There are many other issues that could be reported. However, local media with tight budgets and reduced staff don't always have the resources to stay on the topic even if they want to. They are often in the position of waiting for the next dramatic incident.

William Freivogel: There has been follow-up coverage in some places, such as in the St. Louis area by the *St. Louis Post-Dispatch* and St. Louis Public Radio on issues including unconstitutional municipal court practices and police training. NPR has also covered several important topics related to court collection of fines in minor cases.

There is also the issue of police licensing. Some of the biggest states, like Massachusetts and California, do not have licensing of police officers. That's a topic that hasn't got a lot of attention.

Brandt Williams: Gender tends to be missing from coverage of police brutality or use of force stories. Unfortunately, the body of research isn't terribly broad, but it appears that women officers are much less likely than male officers to wind up sued in excessive force suits. Will increasing the amount of women on police forces also reduce excessive force lawsuit payouts and increase police/community relations?

MASS SHOOTINGS AND TERRORISM

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Ted Gest: How did the media do last year in covering mass shootings, whether the terrorist incident in the Orlando nightclub or other cases?

James Alan Fox: What I notice is the presumption in any mass shooting that it is terrorism. Media reports say “terrorism has not been ruled out.” The vast majority of mass shootings have nothing to do with terrorism. Many are prompted by personal issues, revenge, hate crimes, and slights. When reports say “terrorism has not been ruled out,” that is scaring the public.

There’s nothing wrong with saying, “We don’t know the motive.”

Also, the term “active shooter,” the new phrase for a bogeyman with a gun, gets far too much attention. For example, a UCLA faculty member was shot, and that was on CNN within minutes, but it turned out to be a teacher who was shot by a student, who then killed himself. It was a very local, small story that became a national story because the term “active shooter” was assigned to it. The nation is not at risk when one professor is killed by a student. The nation doesn’t need to know about every shooting that occurs in every jurisdiction.

In the UCLA case, nearby schools were locked down even though the shooter was dead. We see this time and time again – a hysterical response to a shooting –widespread panics and widespread lockdowns.

Marea Mannion: With incidents like these, some cable networks tend to do wall-to- wall coverage – it goes on and on and on. When it’s over, it just goes away.

Ted Gest: Anything to say about coverage of the Orlando nightclub shooting?

James Alan Fox: There was a lot of misinformation at the beginning. This may not have been true in the Orlando case, but initial reports of these incidents typically include speculation that there was more than one shooter. There often are more shooters suspected than there turn out to be involved.

There also is a tendency of media to focus on record-setting, saying for example that this is the largest shooting of all time. Does that imply that if there were fewer than 45 people killed, it is not important? Focusing on records also may challenge others to try setting a new record.

Finally, there are many erroneous reports that mass shootings are on the rise, which is not correct. It’s an unfortunate narrative that keeps being played out.

William Freivogel: Note that coverage of the Orlando shooting got 163 total minutes on the network nightly news programs, twice as much as any other crime story. (Number two was the shootings of the officers in Dallas.) The amount of coverage may have been justified.

Ted Gest: To touch on a few other topics very briefly, how was the coverage of marijuana legalization, including the big victory in California?

James Alan Fox: I thought it got good coverage, and both sides were represented.

William Freivogel: And the California marijuana vote was overwhelmed by the news coverage of the presidential election.

THE OPIOID EPIDEMIC

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Ted Gest: How about coverage of the opioid epidemic?

Marea Mannion: Here in Pennsylvania it has gotten lots of coverage on a regular basis in both the print and broadcast media. That includes things like the police and other first responders being trained in the use of Narcan. In some markets there has been almost daily coverage of something related to the epidemic and especially the miracle overdose cures when schools or first-responders administer Narcan. Some police agencies have sought out positive media reports on their departments and their Narcan training, by holding public ceremonies that award officers for saving lives with the Naloxone antidote.

Although these miracle overdose reversals could be increasing public awareness of the epidemic, it seems like there could be more context by reporting of the bigger opioid addiction problem. In some cases there is little or no local media follow-up which addresses the reality of this addiction. Some uninformed readers or viewers are probably not aware that this same person just given the miracle reversal drug may run out that same day and buy more heroin.

James Alan Fox: Some media have published maps showing the differing rates of deaths in different places, but that can be misleading because the numbers in jurisdictions can be so small.

Marea Mannion: It may be a big shock to some citizens when there is an opioid-related death in a rural area. One death in these smaller, low crime communities has been getting a lot of local media coverage. Reports could be misleading or could magnify or exaggerate the hysteria if the problem is not reported with accurate numbers and in proper context.

Ted Gest: Anything to say about media coverage of incarceration?

James Alan Fox: I am impressed by the amount of coverage on solitary confinement.

Brandt Williams: I'd like to see more coverage of why, in a 30-year period of declining violent crime, incarcerations are increasing in many states.

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