

# An argument against violent crime control and law enforcement act of 1994

[Law](#)



## **Midnight Basketball: Analyzing Clinton's 1994 Crime Bill**

### **Introduction**

Crime has been a staple in campaigns for politicians worldwide for the last few decades, and the United States is no exception. This is due in part because, “ since the late 1960s, crime has consistently been a top public concern” (Dilulio, 1999, p. 18). Both major parties in the American political sphere, Democrats and Republicans, have used crime as a weapon while running for and maintaining image in public office. In this analysis, H. R. 3355, the Violent Crime Control and Law Enforcement Act of 1994, stands to be another useful piece of legislation for politicians in Washington.

The age-old notion that crime is to be controlled is one that is reinforced by the public commentary. When unlawful tragedies strike, public opinion tends to sway toward controlling unlawful behavior and persecuting those at fault. Dilulio notes that, politically, “ it matters little how and whether the public's ongoing concern with crime is justified, and even less what criminologists conclude about the causes of changing crime rate” because federal officials will inevitably respond to whatever threat the public perceives (p. 19). One public tragedy that spurred on the inception of the 1994 Violent Crime Control and Law Enforcement Act was the 101 California Street shooting. This mass shooting took place on July 1st, 1993, a few months before the introduction of H. R. 3355. Gian Luigi Ferri entered an office building at 101 California Street in San Francisco at roughly 3 p. m. and proceeded to kill 8 people and wound 6 others. The reasoning behind Ferri's rage and subsequent shooting spree was never solidified, as the note he left behind

was jumbled and contained many grammatical errors (Dwyer and Hochmuth, 2013). Though his motive was never solidified, the public continued to engage in an outcry against this violence and demanded action from legislators.

Another such tragedy was the siege of Waco, Texas, in early 1993. On February 28th, 1993, around 80 agents from the U. S. Bureau of Alcohol, Tobacco, and Firearms raided the Mount Carmel religious compound that housed the Branch Davidians and their leader, David Koresh. Koresh and his followers were accused of illegally holding firearms against federal regulations. After an altercation between forces that resulted in the deaths of four ATF agents and six Davidians, a 51-day stand-off ensued. Attorney General Janet Reno gave the all clear for the FBI to raid the compound, using tear gas. The tear gas was meant to drive those residing in the compound out to the surrounding land, and just over 400 containers of gas were used on April 19th, 1993. Just hours after the initial raid, a fire broke out and engulfed the entire compound, resulting in the death of 76 people, 25 of whom were children (Waco: The Inside Story). The American public was immensely sensitive to this issue, and thusly the public narrative demanded that legislators respond.

These horrific events along with rising murder rates in the United States from the late 80s to early 90s provided reason enough for the Clinton Administration to take action on crime. Though Republicans had claimed crime as one of their main issues through Reagan's "law and order," the

Democrats of the 103rd Congress swiftly moved in to create legislation that would decrease crime in America.

### **BILL BACKGROUND**

H. R. 3355 was introduced into the House of Representatives on October 26th, 1993 by Rep. Jack Brooks (D-TX-9). The bill was co-sponsored by Rep. Chuck Schumer (D-NY-9) and Rep. William Hughes (D-NJ-2). It was originally drafted by Sen. Joe Biden (D-DE). The bill contained measures to add 100,000 new police officers, \$9.7 billion in funding for prisons, and \$6.1 billion in funding for prevention programs (Dilulio, 1999, p. 18). It expanded on existing federal law while adding in a Federal Assault Weapons Ban. It also expanded upon the federal death penalty, banned new classes of people from possessing firearms, and expanded the definition of crimes to include immigration crime, hate crime, sex crime, and gang-related crime. The omnibus package came as a result of the rising crime rates from the late 80s and early 90s and contained measures specifically related to those incidents, which provided a few roadblocks for Republicans and opposition groups to use as weaponry.

### **TRACKING THE BILL**

After being introduced in the House on October 26th, 1993, it was referred that same day to the House Judiciary Committee. Coincidentally, the chair of the House Judiciary Committee in the 103rd Congress was Rep. Jack Brooks, the sponsor of the bill itself. On October 28th, 1993, the Judiciary Committee voted to issue a report to the full chamber which included a recommendation that the bill be considered on the floor for a vote. The vote for the measure to pass the house took place on November 3rd, 1993, but it was a voice

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vote, so there is no record for the way each member voted individually. Nonetheless, the measure passed the House and was sent on to the Senate. It was placed on the Senate calendar on November 4th, 1993. After an amendment was added, it passed on November 19th, 1993, and was subsequently sent back to the House. The House then passed the measure with an amendment on April 21st, 1994 and was sent to a conference committee to iron out the differences in language between the House Resolution and the Senate Resolution. The conference committee report was approved by the House on August 21st, 1994 with a final vote of 235-195. A few days later, on August 25th, 1994, the Senate approved the committee report by a vote of 61-38. After passing both chambers of Congress, the bill was enacted into law with President Bill Clinton's signature on September 13th, 1994.

## **OPPOSITION**

Most bills face opposition before Congress, be it from factions within the legislative body or pressures from outside interest groups. While the National Rifle Association did lead the gun lobby to protest the bill's ban on assault weapons, the NRA was not the only opposition (Wheelock and Hartmann, 2007, p. 317). The Congressional Black Caucus came out in support of the bill in its early stages, largely in part due to The Racial Justice Act, which contained language from a failed measure in 1991. The goal of the Racial Justice Act was to minimize racial inequalities in those who received the death penalty. However, the measure was dropped in mid-July of 1994 by Democrats because the leadership believed that the opposition from Republicans on that measure would derail the entire bill. After this measure

was revoked, the Congressional Black Caucus withdrew its support (Wheelock and Hartmann, 2007).

One of the largest opposition groups to the 1994 Crime Bill did not arise until well into the discussion of the bill. The Republicans in Congress were contentious due to several factors, the first of which was the delay in releasing the conference committee's finished document. While the committee finished its work in late July, members of the House and Senate did not receive copies of the nearly 1, 000-page document until August 10th. The short deadline, they argued, did not provide legislators enough time to sift through the document for unnecessary provisions (Wheelock and Hartmann, 2007, p. 317). The largest source of opposition from Republicans, however, came from Section F of the bill, which referred to sports programs as a mechanism for keeping youth out of trouble during high crime hours as "midnight basketball". This terminology hearkens the image of youth of color in inner city environments, conjuring up feelings of racial resentment and completely racializing the issue.

Racial coding is nothing new to the political sphere. However, it was slightly new to the Democratic party. Republicans like Reagan and Nixon used racial coding with "law and order" during their presidencies, but the tendency for racial coding is exemplified in the 1988 Bush campaign's Willie Horton ad (Wheelock and Hartmann, 2007, p. 317). The Willie Horton ad featured a black prisoner who was granted a weekend furlough from a Massachusetts prison after being convicted of murder and rape. On this furlough, he committed both murder and rape again and was captured and re-sentenced

accordingly. What this ad did, however, was portray the Democratic Party, and Michael Dukakis, as the Democratic nominee for President, as weak on crime (Wheelock and Hartmann, 2007). It simultaneously discredited Dukakis and the Democratic Party as well as intensified feelings of racial resentment and hostility. As Democrats began to use the coded language of midnight basketball, Wheelock and Hartmann note that this method from Democrats runs up against, “the conventional theoretical assumptions of how racial codes operate” (2007, p. 319). While it is expected that Republicans would use racial coding, the Democrats changing their strategy to involve the racialization of the issue was completely unconventional. Originally, the reference to midnight basketball was made as an appeal to racial liberals, but it evolved to serve the conservative purpose.

One of the most interesting points about the reference to midnight basketball and the outcry from Republicans afterward is that the funding for this particular program was around \$50 million in comparison to the bill’s total expenditures of \$33 billion. This measure contained barely a tenth of a percentage point of the overall spending, yet it caused the legislative action to slow to a halt (Wheelock and Hartmann, 2007, p. 319). This coded language coupled with Democrats struggling to reach a compromise over the Racial Justice Act, which was embedded in the enormous bill, crafted a very tumultuous political environment in the middle of June 1994.

The opposition held a firm grasp over the issue as Democrats struggled to come up with a response. Finally, on August 11th, the Democrats sent Representative Bruce Vento and Representative Nancy Pelosi to the House

floor to defend the bill. What was different about this response was the coded language approach. Wheelock and Hartmann note that Democrats, “no longer touted the appeal of these programs to young, at-risk men of color” (2007, p. 328). Instead, they started to discuss Section F, or midnight basketball, in terms of “midnight sports” or “late-night basketball”, which resulted in the coining of the term “late-night sports”. This step back from the racialized context after the backlash from Republicans stripped the program of its appealing, race-specific elements entirely (Wheelock and Hartmann, 2007). Wheelock and Hartmann conclude their discussion of the Democratic response to Republican opposition by noting that Democrats looked weak on two points. Firstly, Democrats were seen as appealing strictly to their minority constituencies. This targeting made voters, both minority and otherwise, uncomfortable at best. Secondly, the Democrats were seen as overly eager to jump on the strategy and to create an opportunity out of a hardship that many of their constituents faced. This came off as intrusive and abusive, neither of which works well when considering public opinion.

The opposition to this bill made had Democratic legislators holding their breath as the final discussions were being made in Washington during the summer of 1994. Despite Democrats removing the Racial Justice Act from the omnibus package, the Congressional Black Caucus ended up providing their support in the end. After the removal of the Racial Justice Act, Republicans were more willing to support the bill, despite the large amount of funding for preventative and social programs that pertain mostly to a Democratic audience. With the added support of the Congressional Black



Caucus and several Republicans, the Violent Crime Control and Law Enforcement Act of 1994 was passed by both chambers of Congress and signed into effect by President Bill Clinton.

## **Conclusion**

The 1994 Crime Bill followed the expected path of legislation according to the original functions of the United States Congress. Though many pieces of legislation that are controversial do not follow this immediate path to passage, the 1994 Crime Bill became controversial late after its introduction, passing through committee approval before major dissent appeared in the chambers. The United States government, as an agency that is to defend and protect its citizens, is highly sensitive to public opinion. Thusly, when tragedies such as the Waco Siege and the 101 California Street shooting occur, legislators immediately feel the pressure to create public policy that will protect citizens from such tragedies being repeated. Though members of the Congressional Black Caucus did initially revoke consent of the bill, ultimately the majority of the caucus ended up consenting and voting to pass the bill in its final form. The major source of opposition, the Republican Party, eventually had members change votes from no to yes in order to pass the bill. Given that the government session was unilateral, meaning that the Democrats controlled the House of Representatives, the Senate, and the Presidency, they needed few votes from Republicans to pass the bill. This aided the Democrats in passing H. R. 3355, the Violent Crime Control and Law Enforcement Act of 1994.

This bill faded away from the public's attention briefly as time went on, but it came back to resurface in the 2016 Presidential Campaigns as Hillary Clinton, who was the First Lady at the time of the bill's passage, was left to defend herself from her role in creating the controversial legislation. While competing for the Democratic nomination against Senator Bernie Sanders, Clinton was challenged during debate after debate about the controversial effects of the legislation, such as lengthy terms of imprisonment for nonviolent offenses and the disproportionate effect that was seen in communities of color across the United States (Berenson, 2016). She noted briefly during the debate that there were both positive and negatives to the legislation. Positively, the bill included provisions to defend women from violent actions. Negatively, the bill targeted people of color and lengthened sentences for nonviolent offenses, essentially fostering an environment of mass incarceration (Berenson, 2016). While the United States Congress passed this legislation to protect citizens, this bill also worked to the detriment of several minority groups in the country. As public opinion regularly over-exaggerates a worried, anxious mood regarding crime, it is up to legislators to both address the concerns of the public while making sure to protect the groups that are more susceptible to racial profiling, unfair sentencing, and targeting by police. While the 1994 Crime Bill had positive aspects, more committee review and attention to the concerns brought forth by the Congressional Black Caucus may have played a key role in changing this legislation to diminish the negative effects on communities and citizens of color. Just as any legislation has positives and negatives, a delicate balance is required to ensure the safety and fairness of citizens, regardless

of their participation in late-night sports. It is important to remember that racially-coded language is not a thing of the past, and just as it was used in the 1994 Crime Bill to target certain communities, it is used today in the same manner. Midnight basketball is a dangerous phrase, and that was certainly demonstrated in H. R. 3355, the Violent Crime Control and Law Enforcement Act of 1994.