I. The historical and analytic stories told by Provine and Alexander are quite similar but Alexander tells the story as a way of activating a social movement.
   A. Alexander’s story about the conditions of incarceration and the after-release treatment of offenders tells us that America is not a very civil society.
      1. A real aspect is that offenders come out of communities where there is a lot of violence and crime so perhaps those communities are not civil
      2. but the more important story is that the state relates to black men in ways that are coercive, excessive and unfair
      3. the impression we have is that the black community she describes is not part of a U.S. civil society
         a. in the sense that political and institutional practices create a formal, economic, and legal separation between the black and white communities
         b. in the sense that the government does not give black men constitutional citizenship rights
         c. so that blacks are not full and free participants in American society but rather are placed as a subordinate, oppressed sub group.
   B. On the other hand, her account of how mass incarceration happened situates it in relationship to the processes of the democratic political system, and in particularly in terms of the political strategies and interests of the Republican party.
      1. This means that she sees the outcome she objects to as a product of an interest group competition in which Democrats and blacks failed to respond effectively.
      2. This interpretation tells us that mass incarceration does not create a separate system for blacks and whites but rather that it is happening within our political system
      3. and that the proper response is a confrontational, effective political movement that redresses the situation
      4. she is recommending this rather than recommending a revolution or armed struggle and thus she makes recommendations that are consistent with the philosophy of civil society

II. Provine tells us that mandatory minimum sentences for crack only makes sense in a framework of symbolic politics and the social construction of social problems.
   A. Provine and Alexander give us a picture of the War on Drugs and mandatory minimum sentencing as fundamentally irrational and you would be hard put to find solid academic arguments that give
evidence or a rationale in favor of this policy. Provine asks how this could happen.

1. The policy is expensive, ineffectiveness, extreme, and racist.
2. When a law is passed citizens would expect that there is a need and a problem to be solved and that we could judge or evaluate the law in terms of whether it achieved its effect.
   a. As a victimless crime affecting the user primarily the publicly advertised effects of drug abuse have been exaggerated
   b. As a law enforcement effort, the War on Drugs has been ineffective at stopping the flow of drugs or lowering the price, although drug use has gone down
   c. Law enforcement of crack cocaine sales has emphasized black communities ignoring that use and distribution are much higher in white communities.
3. When a large portion of the population is injured by a government policy citizens might expect there would be open discussion and reconsideration.
   a. We will talk more about race effects on Wednesday
   b. The main conservative argument is that enforcement is targeted at law violations and the fact that those are supposedly higher in black communities cannot stop enforcement.

B. Rather than testing a policy (the War on Drugs) against ethical arguments or objective effectiveness data, Provine says we must understand it in terms of the social construction of a social problem and in terms of symbolic politics.

1. Social construction argues that social problems are issues or concerns that
   a. capture the attention of a large portion of the public
   b. that are then picked up by political and institutional leaders who pass laws and formulate policies
   c. that then create institutional programs and incentives that make management of the social problem a large scale social routine
   d. where certain portions of the population receive treatments for the problem—in this case arrest and imprisonment.
2. Social problems may or may not
   a. be measurable in terms of objective reality that in terms of personal behavior the problem actually exists as it is claimed to exist (think about Mercer’s retardation case)
   b. be the most severe social condition in terms of the need to receive public attention
      i. other severe social conditions may be ignored or neglected (attention to economic problems
in inner cities that help to produce conditions of crime)

ii. other definitions of the problem with alternative intervention approaches may be ignored (treating drug use as a medical problem and emphasizing rehab rather than imprisonment)

c. lead to a public institutional response that is in proportion to the problem

i. once an institutional response gets going there tend to be self-reinforcing dynamics internal to the institution that keep treatment going and that work to expand the response

ii. Once it exists constituencies develop to lobby for and expand the response

iii. large numbers of jobs come to depend on the policy

iv. Funding thus may come to be very large whether or not this represents an appropriate balance of resources spent on this issue vs other important issues.

C. Provine traces a history that shows us why it made sense in terms of political dynamics for crack cocaine to be a focus of intense political intervention.

1. In the 1960s and 1970s there was a small a declining emphasis on criminalization of drugs and imprisonment generally as an intervention.

a. Philosophically at the time there was public support for rehabilitation more than punishment

b. Heroin, the drug of the time, was treated as a medical problem via rehabilitation significantly because it was a Vietnam War vets problem and people did not want to punish its use.

c. While marijuana had been a black community drug, that changed in the 1960s so it became a counter culture drug—the large white constituency made it hard to punish.

2. Change in direction came during the Nixon administration 1968-1973 when he made tough policies on crime control a focus.

a. this was a time when a long period of democratic domination of national politics was beginning to be challenged by a new Republican coalition that appealed to working class and Southern anger over civil rights laws.
b. parallel to that was anger at the cultural experimentation and permissiveness of the counter culture

c. This gave energy to a political movement emphasizing conservative cultural and social values

d. In this context, crime became a symbol both of social misbehavior and lenient governmental policies and practices.

3. Reagan’s election made cultural polarization a legitimate focus of national politics

   a. Other issues like the emergence of HIV-AIDS were culturally polarizing.

   b. Drug enforcement shifted focus to cocaine and this justified the War on Drugs

   c. Crack emerged in 1985 and it proved an attractive target of political action

      i. because it was new and had no history, it had no “constituency” that could argue for leniency

      ii. because it was new and intensely active it made the drug a huge news story where it received massive coverage shaping the national consciousness.

   d. the way crack was presented to the public, it was viewed as a black drug and a source of violence and anti-white sentiment

D. Politics of the moment made crack cocaine a powerful political symbol and a way politicians could get lots of votes by taking dramatic actions that were easy to portray in the media.

1. These measures included extreme mandatory sentences and massive federal funding for police intervention.

2. Legal changes that

   a. helped police with the difficult investigatory task of collecting data on victimless crimes

   b. reduced protections of privacy for accused criminals

   c. deemed necessary because of the new awareness of the problems of victims who did not feel that they could report crimes.

3. The consequence was a large-scale political intervention and launching of a massive institutional expansion of the prison system that was motivated by political opportunity more than by necessity or effectiveness of the intervention.