Patterns of police violence and mass incarceration directed against African-Americans have recently gained public attention. I theorize these phenomena from a political economy perspective, which investigates the question of which institutions are best assigned to solve which problems. For example, should the problem of drug addiction be assigned to the criminal justice system or the public health system? In the United States, different institutions are assigned depending on the race of the persons enmeshed in the problem. I theorize the practice of routinely assigning African-Americans enmeshed in certain problems to the criminal justice system as a modern version of the ancient practice of outlawry. Traditionally, the outlaw was a person designated beyond the protection of the laws. Modern outlawy creates classes of persons from whom the ordinary protections and benefits of the law are withheld, and who are subject to private punishment in virtue of their membership in an outlaw class.

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