

WITH LIBERTY AND JUSTICE FOR ALL? :
AN EXAMINATION OF RACIAL DIFFERENCES IN PERCEPTIONS OF THE
CRIMINAL JUSTICE SYSTEM

A Thesis

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In Partial Fulfillment

of the Requirements for the Degree

Master of Arts

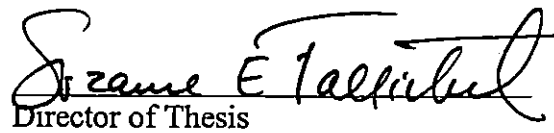
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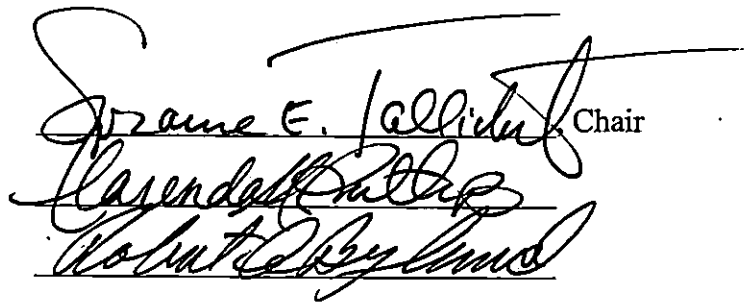
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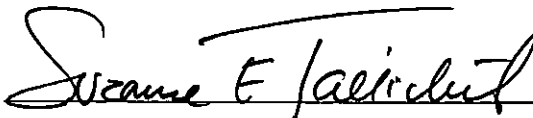
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WITH LIBERTY AND JUSTICE FOR ALL? :
AN EXAMINATION OF RACIAL PATTERNS IN PERCEPTIONS OF THE
CRIMINAL JUSTICE SYSTEM

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The primary purpose of the current study was to examine the relationship between race and confidence in the criminal justice system, and therefore, to attempt to determine whether any differences existed in levels of confidence between blacks and whites. Furthermore, the study sought to establish whether any racial differences existed after controlling for other variables. Another goal of the current research was to decide which theory (critical race theory or more conservative schools of thought) was more useful in interpreting racial patterns of confidence in the criminal justice system. In addition, although there was little previous research available about this relationship, the current analysis aimed to explore any effect relationship between race and gender, and confidence in the criminal justice system.

The present study analyzed the impact of education, income, ideology, race, racial view, and gender on confidence in the police and views of the death penalty. Data were drawn from the Racial Attitudes in America Survey conducted by the Princeton Survey Research Associates International (on behalf of the Pew Research Center for the People & the Press). The current study first uses multivariate tests (multiple and logistic regression) in an attempt to determine whether the bivariate

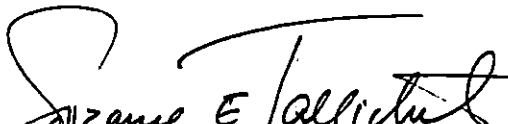
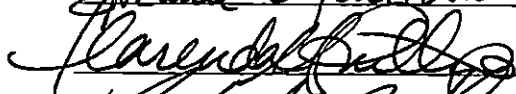
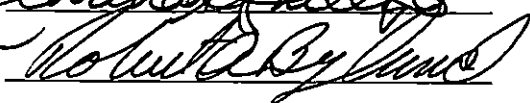
relationships between race and confidence in the criminal justice system remain after controlling for other variables. Both the multiple regression and logistic regression tests were conducted in two phases. All variables (race, gender, education, income, ideology, and racial view) were entered into the first phase of analysis. In the second phase of analysis, race and gender groups were combined to create three new variables to determine if there were any conditional relationships. That is, the race and gender variables were reconfigured to include the following variables: White Women, Black Men, and Black Women. White Men served as the reference group.

First and foremost, the present analyses demonstrated the importance of race in predicting confidence in different facets of the criminal justice system. The relationship persisted after controlling for a variety of other factors. Consistent with hypotheses, the findings demonstrated that blacks have less confidence in the police than do whites, and that they are also more likely to believe that the death penalty is applied unfairly. However, contrary to original belief, race was not the most significant predictor about views of fairness in the application of the death penalty. Although race was by far the most important predictor of confidence in the police, racial view was actually the most significant predictor of views of the death penalty.

Moreover, the study identified some important intersections between race and gender relative to individuals' confidence in the criminal justice system. The present study found that African American women had the least amount of confidence in the police, relative to white men. Further, it was also established that, relative to white men, black women were most likely to view the death penalty as unfair.

In all, the present research findings supported the interpretation offered by critical race theory. Very distinct racial patterns in levels of confidence were identified in every model of confidence evaluated. That is, blacks, regardless of their gender, were resoundingly less confident in the police, and also, were far more likely to believe that the death penalty is applied unfairly.

Accepted by:


Suzanne E. Talbot, Chair



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CHAPTER 1

INTRODUCTON

Two dominant theories about the criminal justice system are represented within the scholarship on U.S. race relations. The first (critical race theory) is the belief that ever since blacks were brought to America, they have been systematically oppressed. Originally, this oppression came by way of slavery, then by other discriminatory practices and policies, such as the “Black Codes”, the convict lease system, Jim Crow laws, and the practice of lynching. Adherents to this view argue that rather than developing into a society of racial harmony and equality in the decades following Emancipation, society has instituted one practice after another that has served to extend the oppression which began with slavery.

Therefore, critical race theorists suggest that while the names of the institutions and practices contributing to their oppression have changed over the years, the reality of that oppression has not. These individuals argue that after the former racist practices subsided, the control of blacks is now primarily achieved through state agencies. These individuals argue, therefore, that the modern criminal justice system is merely an extension of historical racist practices. Consequently, the vast majority of African Americans would view the criminal justice system as yet another agency of their oppression.

According to Weitzer and Tuch (1999), critical race theory links criminal justice institutions to the structure of inequality in society. That is, the police and

other representatives of the criminal justice system are seen as agents that control subordinate groups and protect the interests of dominant ones (Weitzer and Tuch 1999). According to Richard Quinney: "Law is a result of the operation of interests", and thus, it "incorporates the interests of specific persons and groups... Law is made by men, representing specific interests, who have the power to transmit their interests into public policy" (Brown and Shelden 2003: 65).

Additionally, critical race theory asserts that racism is the usual way that society operates, and therefore, that it represents the common everyday experience of people of color in our country (Delgado and Stefancic 2005). As Kimberly Crenshaw argues: "(R)acism is a central ideological underpinning of American society" (Russell 1994: 237). Therefore, for critical race theorists, racism exists in society not only at the individual level, but at the institutional and systemic levels (Lowy 1991).

That is, these scholars claim that even if an individual is not prejudiced, past institutional practices of racism may continue to operate (Lowy 1991). As J.M. Jones (1981) maintains, such "institutional racism" consists of: "those established... customs and practices which systematically reflect and produce racial inequalities in American society... whether or not the individuals maintaining those practices have racist intentions" (Lowy 1991: 447).

While these theorists apply this perspective of systematic racism to many issues in society, no issue receives more of their attention than does the racial disparity of the criminal justice system. Thus, they have argued that: "Historically, within the field of minority group research, virtually no expression of racism was

more blatant, widespread, and easy to document than the mistreatment of Blacks by the criminal justice system” (Monk 1994: 242).

Critical race theorists argue that racism can (and does) suit the interests of both white elites (through manipulating the labor pool to their advantage) and working-class whites (by giving them a reason to feel superior to blacks). Therefore, these theorists suggest that whites have little incentive to eradicate racism. As a result, they claim, laws disproportionately benefit whites while subsequently harming African Americans (Delgado and Stefancic 2005).

For example, the average citizen is more likely to be killed as the result of dangerous consumer products and more likely to suffer a loss of property due to white collar crime than from street crime. However, these theorists argue that the way society defines certain behaviors as threatening and makes certain acts criminal ignores this fact, and therefore, convinces many individuals that blacks are much more dangerous than are whites. Consequently then, critical race theorists argue that America’s criminal laws have been systematically based on racism (Delgado and Stefancic 2005).

According to a more conservative view, while blacks were obviously oppressed through slavery and the previously mentioned institutions implemented shortly thereafter, society has been transformed through the years from a system of oppression to one that is much more fair and equal, with a criminal justice system that is, in fact, just. Adherents to this notion do not view the racial disparities within prisons as a failure of the government and/ or criminal justice system. Rather, they

see disproportionate crime statistics as a reflection of individual action, and not of systematic oppression. Thus, the final blame rests upon individuals who commit these acts, rather than on any historical or contemporary institutional racism or injustice.

Those who claim that the criminal justice system is not racist argue that the media and civil rights leaders hold the criminal justice system to such a high level of accountability that there is no way it could possibly be racist. In fact, they believe that these allegations of racism distract society from the individual's wrongdoing, and therefore, that many within society use race to oversimplify the situation. Some even suggest that because of the media attention focused on perceptions of racism in the criminal justice system, blacks found guilty of committing crimes actually get the better end of the deal.

Further, these individuals claim blacks do, in fact, commit much higher rates of crime than do whites. For instance, McWhorter (2001) suggests that there is no racial discrimination present in regards to sentence lengths, wrongful accusations, or even death sentences. Rather, he claims that the disparities evident within these facets of the criminal justice system are warranted by greater amounts of criminal activity occurring within the black community. Furthermore, they claim that it is simply common sense for the police to target black communities more closely: "The first rule of duck hunting is: go where the ducks are" (Elder 2000: 44). In fact, scholar Dinesh D'Souza refers to such a practice not as racial discrimination, but as: "rational discrimination" (Romero 2002: 379).

Furthermore, these conservative writers seem to suggest that the modern day criminal justice system has come a great distance from the actions and practices of its predecessors. Therefore, while they do see slavery as the ultimate system of oppression, they feel as though most of that oppression ended with Emancipation--- and that any lingering oppression was dealt with by the Civil Rights movement. As a result, they argue, any disparity within the criminal justice system today is not a result of systematic oppression of African Americans. Rather, they would likely defend the idea that society has been “transformed” from the former days of oppression and discrimination into the fair and just system that we have today.

Although some African Americans do indeed have positive opinions of the criminal justice system, such sentiment is certainly not the norm. Statistics confirm that negative views of the criminal justice system are by far the predominant ones held among African Americans. Research conducted by Hurwitz and Peffley (2005) determined that most blacks believe that the criminal justice system is unfair, while most whites believe the opposite. Furthermore, it appears that not only do African Americans view the criminal justice system as unfair, but they believe that the system discriminates against them (Hurwitz and Peffley 2007). Hagan, Macmillan, and Wortley (1997) also suggest that a large proportion of African Americans perceive that the courts discriminate on the base of race.

Weitzer and Tuch (1999) found that, not only do blacks have far more dissatisfaction with the criminal justice system, but they also have a greater amount of dissatisfaction with the police. Baker, Lambert, and Jenkins (2005) also found that

blacks typically have a less favorable view of the police, as did Weitzer (1997; 1999; 2002); Cao, Frank, and Cullen (1996); Hagan et al. (1997); Schuck and Rosenbaum (2005); Sunshine and Tyler (2002); Eitle et al. (2002); and Parker, Onyekwuluje, and Murthy (1995).

These negative perceptions among blacks are also extremely prevalent when it comes to the ultimate form of criminal punishment—death sentences. Some studies have shown that as many as 91 percent of whites favor the use of the death penalty, while only 59 percent of blacks do so (Walker et al. 1996; McAdams 1998). A review of related literature conducted by Eisenberg, Garvey, and Wells (2001) also found that whites are considerably more likely to believe that the death penalty is applied fairly than are blacks. Likewise, Dowler (2003) found that race is the strongest indicator of punitive attitudes. Similarly, in their research, Baker et al. (2005) found that racial differences in 15 of 16 bivariate measures of support and opposition to the death penalty.

The Present Study

The present research drew upon data from the Racial Attitudes in America Survey conducted by the Princeton Survey Research Associates International (on behalf of the Pew Research Center for the People & the Press). To measure confidence in the criminal justice system, the following two dependent variables were utilized: confidence in the police and views about whether the death penalty is applied fairly or unfairly. Independent variables used in the analysis were:

education, income, ideology, race, racial view, and gender. Univariate (frequencies), bivariate (correlations), and multivariate analysis (multiple regression and logistic regression) are reported.

Purpose of the Study

The primary purpose of the current study was to examine the relationship between race and confidence in the criminal justice system, and therefore, to attempt to determine whether any differences existed in levels of confidence between blacks and whites. Furthermore, the study sought to establish whether any racial differences persisted after controlling for other variables. Another goal of the current research was to conclude which theory (critical race theory or more conservative schools of thought) better interpreted racial patterns of confidence in the criminal justice system. In addition, although there was little previous research available about the relationship, the current analysis aimed to explore any relationships that existed between race and gender, as related to confidence in the criminal justice system.

Research Questions

The present research seeks answers to the following questions:

- Does confidence in the criminal justice system vary between blacks and whites?
- Do racial differences found in levels of confidence in the

criminal justice system persist after controlling for other important variables?

- Are there other factors besides race that better explain patterns of confidence in the criminal justice system?
- Are there any relationships that exist between race and gender and confidence in the criminal justice system?
- Which theoretical framework (critical race theory or more conservative schools of thought) is better able to interpret racial patterns of confidence in the criminal justice system?

CHAPTER 2

BACKGROUND

Historical Discrimination as a basis for Modern Distrust of the Criminal Justice System among African Americans

Many blacks point to the early practices of slavery, the Black Codes, the convict lease system and lynching as laying the foundation for the oppression and discrimination that they now face at the hands of our current criminal justice system¹. They argue that since the time that blacks arrived in America, the oppression of blacks has been a reality, and that present times are no different. Further, they argue that while the names of the institutions and practices contributing to their oppression have changed over the years, the reality of that oppression has not. These individuals argue that after the former racist practices subsided, the control of blacks is now primarily achieved through state agencies. As Manning Marable explains:

The informal, vigilante-inspired techniques to suppress blacks were no longer practical. Therefore, beginning with the Great Depression, and especially after 1945, white racists began to rely almost exclusively on the state apparatus to carry out the battle for white supremacy. Blacks charged with crimes would receive longer sentences than whites convicted of similar crimes. The police forces of municipal and metropolitan areas received a carte blanche in their daily acts of brutality against blacks. The Federal and state government carefully monitored blacks who advocated any kind of social change. Most important, capital punishment was used as a weapon against blacks charged and convicted of major crimes. The criminal justice system, in short, became a modern instrument to perpetuate white hegemony. Extralegal lynchings were

¹ For additional history on slavery, the Black Codes, the convict lease system, and lynching, see Appendix A.

replaced by 'legal lynchings' and capital punishment (Bonilla-Silva 2001: 104).

These individuals argue, therefore, that the modern criminal justice system is merely an extension of historical racist practices. Consider the following "American nightmare" that Jackson, Jackson Jr., and Shapiro reveal:

You are at home one night when the police break down your door, place you in handcuffs, and accuse you of murdering an elderly couple—a crime of which you have never heard. Now add this to the nightmare: You are mentally retarded and cannot read or write. The local sheriff has arrested you to distract attention from his own corruption. Your defense lawyer has never tried a murder case and deals drugs in his spare time. Your trial is all over in three days. A career con artist testifies that you confessed in jail, a confession you never uttered. The prosecutor knows there is no evidence and knows you are mentally impaired, but hides that knowledge from the judge and jury. As you are sentenced to die, you insist upon your innocence, but even your lawyer does not believe you. From the shadow land of death row—confined to your cell 24 hours a day except for three hours per week of exercise—you protest. It doesn't matter. In two weeks' time, the prison's medical staff and guards and chaplain and officials will feed you a sedative and strap you to a gurney, utter a prayer over your head, and insert intravenous needles in your arms to receive a poison that will halt your breath and your heart (Jackson et al. 2001: 1-2).

This was not a dream, but rather, was reality. This particular individual was released from death row before his execution---albeit, 14 years after he was arrested. This particular "nightmare" is not the recollection of a former slave, nor is it a depiction of the years shortly after Emancipation. Rather, this is a true scenario that occurred within our modern criminal justice system. Needless to say, it is not too much of an exaggeration for blacks to liken such a scenario to the injustices of slavery and the other oppressive practices implemented shortly thereafter. According

to one writer: "From the very beginning of American history... Africans were stored on ships and held in jail, innocent of any crime, while waiting to be sold. Prison has been a second home for blacks" (Reed 2000: 203). As Keesha Middlemass argues in reference to modern policies:

This institutional control via public policy is not a new phenomenon; rather, the state has used many forms of institutional control-namely slavery and now the prison-to segregate those deemed 'criminal' and 'other' from the rest of society (Marable, Steinberg, and Middlemass 2007: 375).

From the time that slaves were granted emancipation, African Americans have been incarcerated in disproportionate numbers, and in many cases, have faced far more severe punishments and sentences than have whites. In fact, statistics show that African Americans are more often subjected to traffic stops, are arrested in disproportionate numbers tend to be given higher bail amounts, and receive stiffer sentences than do whites. Finally, blacks are also considerably more likely to be assigned the death penalty.

Racial Disparities within the Modern Criminal Justice System

African American men are incarcerated at a rate that is between six and seven times that of white men (Blumstein 1996; Chiricos and Crawford 1995; Cole 1999; Davis 1996; Walker, Spohn, and DeLone 1996; Denziger 1996; Gottschalk 2006; Greenberg 2004; Gutierrez-Jones 2001; Hull 2006; Mauer 1999; Radosh 2008; Smiley 2006). It has been pointed out that this rate is four times the comparable rates within Southern Africa (Chiricos and Crawford 1995). According to Sher Horosko:

Our closest competitor for incarcerating black men is South Africa. South Africa-and this is pre-Nelson Mandela and under an overt public policy of apartheid-incarcerated 729 black men for every 100,000. Figure this out: In the land of the Bill of Rights, we jail over four times as many black men as the only country in the world that advertised a political policy of apartheid² (Elder 2000: 265-266).

In fact, black men in the United States are incarcerated at a rate that is roughly 47 times the rate of incarceration in most countries in the world (Radosh 2008). While they make up only 6-7 percent of the United States population, they constitute almost one half of the prison and jail population (Barak, Leighton, and Flavin 2001; Browne-Marshall 2007; Butler 2003; Coker 2003; Cole 1999; Denziger 1996; Donohue and Levitt 2001; Gordon 2004; Hurwitz and Peffley 1997; Kramer and Steffensmeir 1993; Mauer 1999; Nelson 2000; Petersilia 1983; Russell-Brown 2006; Stuntz 1998; Tonry 1995).

Sadly, instead of getting better since the struggle for civil rights, this is one area where it appears that racial disparities have gotten worse over the years. In 1954³, around 98,000 African Americans were in prison. However, slightly over 50 years later, the number of blacks in prison had increased ten-fold (Cosby and Poussaint 2007). The ramifications for such statistics are astounding. As Demuth and Steffensmeier (2000) explain: “the symbolism of equality before the law is at the heart of our legal system, racial bias in the enforcement or administration of law threatens the value we place on equality in this system” (p. 705).

² Consequently, the enormous rate of African American incarceration has been referred to by some as “The New American Apartheid” (Brown and Shelden 2003: 277).

³ This was the year that the Brown v. Board of Education decision was rendered.

Racial Effects of the Federal War on Crime and War on Drugs

Racial disparities began to be especially pronounced during the 1980s.

Beginning in the mid-1980s, one-in-three African American men between the ages of 20 and 29 were under some form of criminal justice supervision (Butler 2003; Coker 2003; Denziger 1996; Walker et al. 1996; Donohue and Levitt 2001; 2003; Russell-Brown 1998)⁴. Blumstein (1982) found that this group has an incarceration rate that is 25 times that of the total population. It has been further established that the racial disparity in the criminal justice system has grown steadily worse since 1980 (Radosh 2008; Tonry 1994), as the number of black men in prison has increased almost 500 percent since that year (Boothe 2007).

Scholars have largely attributed this increase to the War on Drugs that was implemented during this era. The words of Ron Daniels echo the feelings of many African Americans regarding this policy: “The war on drugs is a war on us” (Nelson 2000: 250). Consequently, another claimed that: “(t)he so-called war on drugs... is racially biased on all fronts and has made young black men its enemy and the entire African American community its victim” (Harvey 1994: 1156).

However, the impact does not stop with black men. For example, Denziger (1996) and van Wormer (2003) both argue that not only have the War on Crime/ War on Drugs been a war on minorities, but also, that they have been a war on women.

⁴ As a result, some researchers have argued that prison time has “become a normal part of the early adulthood for black men in poor urban neighborhoods” (Pettit and Western 2004: 151). Likewise, Austin and Irwin (1997) argued that: “For many young males, especially African Americans and Hispanics, the threat of going to prison or jail is no threat at all but rather an expected or accepted part of life” (Pettit and Western 2004: 156).

For instance, between 1985 and 1998, the number of males under the supervision of the criminal justice system increased by 150 percent. However, during the same period of time, the number of women under the supervision of the criminal justice system increased by 260 percent (Enos 2001). From 1986 to 1991, the number of black women incarcerated in states prisons for drug offenses increased by 828 percent (Mauer and Huling 1995). During the years 1989 to 1994, African American women experienced the greatest increase in proportion of those under the control of the criminal justice system---a rate that was more than two times that of black men and white women and over nine times that of white men (Huli and Mauer 1995).

In all, statistics indicate that blacks comprise 46 percent of all incarcerated women (Enos 2001), although they account for only 13 percent of the nation's female population (Sokoloff 2007). However, this disparity is even more evident in some areas. For instance, although they make up only 32 percent of the New York female population, African American and Hispanic women account for 91% of all women sentenced on drug charges (Sokoloff 2007).

The impact of these policies on the racial makeup of prisons is evident. From 1980 to 1996, there was a 250 percent increase in nationwide incarceration rates. However, from 1991 to 1996, the number of FBI index crimes that were committed decreased by 9 percent (Stuntz 1998). In 1985, there were approximately 48,000 individuals in state and federal prisons for drug offenses. However, by 1995, that number had risen to 277,000 (Stuntz 1998). In 1980, drug crimes made up 6-8 percent of new state prison admissions. However, by 2004, such offenses were

responsible for 55 percent of the new admissions into federal prisons and 21 percent of the new state prison admissions. Since 1995, these offenses have equated to 49 percent increase in the number of federal inmates incarcerated for drugs (Radosh 2008).

From 1985-1995, the number of blacks sentenced for drug offenses increased by 700 percent (Gabbidon and Greene 2005). Nationwide, the rate of admission into state prisons for drug offenses has been 13 times greater for black men than white men. Overall, such crimes account for 38 percent of all black male arrests (Walker et al. 1996). Consequently, it has been found that the growth in incarceration rates have far exceeded the increase in crimes committed, the growth of reported crime, and arrest rates (Wright 1985).

Nevertheless, a greatly disproportionate number of blacks have been arrested for drug use across the nation in recent years. For example, in Baltimore, Maryland, 11,107 of the 12,965 arrested for drug abuse violations were African Americans. In Columbus, Ohio, blacks were 11 percent of the population, but over 90 percent of drug arrests. In Jacksonville, Florida, although they only made up 12 percent of the population, black men comprised 87 percent of those arrested on drug charges. Finally, in Minneapolis, black men made up approximately 7 percent of the population, but were arrested at a rate nearly 20 times greater than were blacks (Provine 1998).

The results of such policies have been astounding. The average time now served for drug crimes is longer than the average for all other crimes except murder,

and such charges require federal defendants to serve a longer percentage of their sentences than do other crimes (Radosh 2008). As such, these policies have largely contributed to the United States acquiring the largest incarceration rate in the world (Gottschalk 2006; Hawkins, Myers, and Stone 2003; Wright 1985). On any given day, there are almost 7 million individuals under some form of correctional supervision in the United States (Gottschalk 2006; Russell-Brown 2004). In 2004, about 6.8 million individuals were under some form of criminal justice supervision (Radosh 2008). Therefore, while the United States holds only 5 percent of the world's population, it incarcerates almost one-fourth of its prisoners (Gottschalk 2006).

Nevertheless, as aforementioned, such policies have greatly impacted the racial composition of those under various forms of correctional supervision. Between 1980 and 1990, the number of black males sentenced to prison for drug use has increased four times faster than the number of white males⁵ (Tonry 1994). In 1979, blacks constituted 39 percent of new admissions to state and federal prisons. However, by 1990, they were 53 percent of the new admissions into such facilities (Marable et al. 2007).

Research has indicated that African American women are primarily incarcerated for non-violent offenses. For instance, one-in-three women who are incarcerated in federal prisons are there because of drug offenses. Black women are

⁵ This translates into an increase of 1613 percent for black males and 477 percent for white males.

incarcerated in these institutions for drug offenses at a rate that is eight times that of white women (Sokoloff 2007). For all offenses combined, in the year 2000, black women were incarcerated at a rate that was three times that of Hispanic women, and six times that of Caucasian women (Jones 2007). Such disparities have caused some scholars to argue that African American women are simply judged by different standards (Manatu-Rupert 2000).

By the end of 1992, 4,094 of every 100,000 black males were incarcerated in state or federal prisons⁶ (Jones-Brown 2000). Consequently, it has been argued that the policies enacted since 1980 have resulted in the black incarceration rate being between six and seven times the national average (Behrens, Manza, and Uggen 2003; Tonry 1995). Of course, these percentages differed from state to state. In 1996, blacks comprised 73 percent of the new prison admissions in Louisiana, 64 percent of those in Alabama, 65 percent of those in Georgia, 79 percent of those in Maryland, 63 percent of those in North Carolina, 68 percent of those in South Carolina, and 65 percent of those in Virginia. That same year, there were 11 states in which the percentage of prisoners was over six times greater than the state's black population⁷ (Marable et al. 2007).

However, research does not indicate that rates of drug use among African Americans reflect the same disproportionality that is so evident in the makeup of the

⁶The corresponding rate for white males is 502 of every 100,000.

⁷In at least 15 states, black men are sentenced to prison for drug charges at rates that are between 20 and 57 times the rates of whites (Smiley 2006).

prison system. For example, in 1992, the U.S. Public Health Service's Substance Abuse and Mental Health Administration estimated that 76 percent of illicit drug users in the United States were white, 14 percent were black, and 8 percent were Hispanic---roughly proportionate to their representation within the population (Mauer 1999; Miller 1996; Gallagher 2009; Gutierrez-Jones 2001).

A host of scholars have determined that blacks account for about 12 percent of the United States population, and are about 13-14 percent of monthly drug users. However, they are 33-37 percent of those arrested on drug offenses, 55 percent of those convicted, and approximately 74-75 percent of those sentenced to prison for such offenses⁸ (Bell 2000; Butler 2003; Denziger 1996; Gallagher 2009; Harris 1999; Holbert and Rose 2008; Markowitz and Jones-Browne 2000; Leitzel 2001; Smiley 2006; Wise 2007). In all, surveys conducted by the National Institute for Drug Abuse have consistently found that drug arrest rates and policing behavior bear no relation to drug use rates (Denziger 1996; Hawkins et al. 2003).

Undoubtedly the drug policy which has had the most racially disproportionate impact is the mandatory minimum sentences associated with crack cocaine. To receive a five year prison sentence, one would need to be found in possession of five

⁸ Additional research has established that black men constitute 10 percent of the United States' drug users, but are nearly 80 percent of those incarcerated for related crimes. On the other hand, white men make up 80 percent of America's drug users, but are only about 10 percent of those incarcerated for such crimes (Gordon 2004).

grams of crack cocaine⁹. However, under the same federal statute, it would take 500 grams of powdered cocaine to receive the same sentence (Barak et al. 2001; Chambliss 2003; Coker 2003; Cole 2009; Davis 1996; Walker 1996; Gabbidon and Green 2005; Hurowitz and Peffley 2005; Kautt and Spohn 2002; Provine 1998; Radosh 2008; Reiman 2009; Russell-Brown 1998; Sklansky 1995; Spohn and Spears 2003; Spohn and Walker 1996; Tonry 1994; Websdale 2001; Weitzer 1996; Welch 1998). According to the 1994 report of the U.S. Sentencing Commission, the average federal sentence for individuals convicted of trafficking crack cocaine was 133 months, compared to an average of only 94 months for trafficking powder cocaine (Ross 1998a).¹⁰

Moreover, it happens that 90 percent of those arrested for crack cocaine are black¹¹ (Boothe 2007; Gutierrez-Jones 2001; Miller 1996; Ross 1998a; Sklansky 1994; Walton and Smith 2006), compared to 90 percent of powdered cocaine users who are white¹² (Walton and Smith 2006). It has been determined that urban crack

⁹ A repeat offender charged with a violation of this law could receive a sentence of life in prison without the possibility of parole (Provine 1998).

¹⁰ In 2007, in *United States v. Kimbrough*, the U.S. Supreme Court ruled that judges may sentence individuals below the federal sentencing guideline recommendations in crack cocaine cases. Further, the U.S. Sentencing Commission lowered guideline sentencing recommendations for such offenses, resulting in an average 16 month decrease in prison sentences (Drug Policy Alliance Network 2009).

¹¹ In fact, in 1992, the U.S. Sentencing Commission identified 17 states where a white individual had never been prosecuted on a federal crack cocaine charge (Gallagher 2009). Therefore, it has been pointed out that: "... millions of white illicit drug abusers somehow avoided detection, surveillance, arrest, and prosecution during the national 'War on Drugs'" (Marable et al. 2007: 5).

¹² In 1998, the Substance Abuse and Mental Health Administration determined that 18.5 million whites had used powder cocaine. However, only 2.1 million blacks had ever tried the substance (Marable et al. 2007).

markets receive more police attention than markets for powder cocaine (Stuntz 1998). It has been established that 92.6 percent of defendants convicted for crack cocaine are black, compared to 4.7 percent who are white. On the other hand, 45.2 percent of the defendants who are sentenced for powder cocaine are white, compared to 20.7 percent who are black (Kennedy 1997; Gallagher 2009). Consequently, some have argued of such policies: “Had the same law been applied to powder cocaine, it would have sentenced droves of young whites to prison for extended terms” (Provine 1998: 847).

The so called “war” on drugs and its associated racial disparities has not gone unnoticed. As a result, some have argued that: “... I think that if you saw a lot of young white males getting five-and (ten)-year minimums for dealing powder cocaine, you’d have a lot more reaction” (Sklansky 1995: 1308). Further, many do not believe that these statistics could occur coincidentally, and therefore, see them as reaffirming their arguments that the system is, in fact, discriminatory. In fact, some scholars, such as Professor Michael Tonry, have argued that the War on Drugs was a “calculated effort foreordained to increase the percentage of African American prisoners” (Davis 1996: 1663). He further claimed that: “the recent blackening of America’s prison population is the product of malign neglect of the war’s effect on black Americans” (Tonry 1995: 115). According to Johnnie Cochran: “This was a racist law, aimed primarily at blacks” (Cochran 1996: 280). Further, “Sister Souljah” argues that:

Drugs is a government game... a way to rob us of our best
Black men, our army. Everyone who plays the games loses.
Then they get you right back where we started, in slavery! Then

they get to say, "This time you did it to yourself." (Boothe 2007: 13).

Racial Disparity in Incarceration Rates

Statistics show that black men between the ages of 25 and 29 are incarcerated at a rate that is ten times that of whites (Cole 1999). Research has suggested that approximately 75 percent of all black men will be arrested at least once before the age of 18 (Miller 1996). Nevertheless, this disparity is even more severe in some cities than others.

For instance, in some regions, the lifetime risk of arrest for black men may get as large as 80-90 percent (Denziger 1996; Miller 1996). Further, in Baltimore in 1992, 56 percent of black males between the ages of 25 and 29 were under some form of criminal justice supervision (Blumstein 1996; Denziger 1996). In 1991, almost one-third of young black males between the ages of 20 and 29 in Los Angeles County were jailed at least once (Miller 1996). In Washington, D.C., in 1991, 42 percent of black males between the ages of 18 and 35 were under some form of criminal justice supervision (Blumstein 1996; Denziger 1996; Gabbidon and Greene 2005; Miller 1996; Tonry 1995).

In Duvall County, Florida, it was found that black males made up only 12 percent of the population, but were half or more of those in jail. In the same county, it was determined that 75 percent of all 18-year-old men could expect to serve time in jail before the age of 35 (Miller 1996). Further, one of three black men between the ages of 20 and 29 in Duvall County was under some form of criminal justice

supervision in 1994 (Nelson 2000). In Columbus, Ohio, the disparity is even worse. Here, black males constitute less than 11 percent of the population, but are about 90 percent of that city's drug arrests (Gallagher 2009).

In California in 1996, blacks were incarcerated at a rate that was 11 times that of whites. In Texas, the ratio was 12-to-1. In New Jersey, it was 13-to-1. In Illinois, it was 14-to-1. Pennsylvania had a 16-to-1 racial disparity. Iowa had a 19-to-1 ratio. In Minnesota, 33 times as many blacks were incarcerated. Finally, in the nation's capital, it has been determined that blacks are incarcerated at a rate that is 34 times that of whites (Cole 1999). Finally, in the state of Minnesota, it has been established that blacks are 20 times more likely to be incarcerated than their percentage of the population would warrant (Myers 2002).

Within the entire United States, research has shown that for every white arrest, there are approximately three black ones, and for every white in prison, there are about seven blacks (Blumstein 1996; Denziger 1996; Gottschalk 2006; Hull 2006; Mauer 1999; Smiley 2006). Nationwide, for every black man that graduates college, another 100 are arrested¹³ (Cole 1999; Hallett 2006; Piche, Taylor, and Reed 2002). It has been determined that by the time they reach their mid-thirties, 60 percent of black high school dropouts have spent time in prison. In fact, in 2004, 21 percent of

¹³ Additionally, research has shown that the odds of an African American being sent to prison are greater than an African American joining the military or even getting married (Simon 2007). Research established that, black males born in 2007 had a 1-in-1,250 chance of becoming a NFL player, a 1-in-4,600 chance of being in the NBA, a 1-in-2,000 chance of earning a Ph.D. in engineering, math, or physical science, a 1-in-548 chance of becoming a medical doctor, and a 1-in-145 chance of becoming a lawyer. That same black male was found to have a 1-in-13 chance of being in prison before age 20, and a one-in-three chance of one day being an ex-felon (Boothe 2007).

black men who did not go to college were in jail or prison (Cosby and Poussaint 2007). Such findings have led some to argue that, nationwide, prisons are the “Black man’s university” (Boothe 2007: 86).

It has been found that, on average, African American males have a one-in-four chance of going to prison at some point in their lifetimes (Barak et al. 2001; Coyle, Campbell, and Neufeld 2003; Cosby and Poussaint 2007; Gabbidon and Greene 2005; Hawkins, Myers and Stone 2003), while white males have a 1-in-23 chance (Barak et al. 2001; Coyle et al. 2003; Gabbidon and Greene 2005; Hawkins et al. 2003).

Scholars predict that if the percentage of minorities in prison continues to increase at the same rate as they did from 1980 to 1993, by 2020, almost two out of every three young black men will be incarcerated (Denziger 1996; Hawkins, Myers and Stone 2003). Already, the Sentencing Project is estimating that 32 percent of the black men born today will go to prison at some point in their lifetimes (Cosby and Poussaint 2007).

Once again, many do not see these disparities as a coincidence, nor as a reflection of a difference in rates of illegal activity between the races. Rather, they see them as a calculated effort to oppress and discriminate against blacks.

Consequently, it has been argued that: “(t)he higher incarceration rates may be seen... as a way to discipline the lower classes, minority classes” (Harvey 1994: 1158).

Racial Disparity in Length of Sentences

This racial disparity is evident not only when looking at who is incarcerated, but also when considering the length of their incarceration. According to the National Minority Advisory Council:

The inequality of minority imprisonment is not only one of greater numbers, it is also one of greater duration of confinement once imprisoned. It has become increasingly evident that, proportionately, minority group members convicted of crimes are at greater risk of being: A) sentenced to a term of imprisonment B) sentenced to a longer term of imprisonment, and C) forced to serve a longer portion of any given term of imprisonment (Petersilia 1983: 63).

In 2000, the average sentence for blacks convicted of violent offenses was 102.7 months, compared with only 80 months for white defendants. This average was equal to a sentence that was nearly two years less for whites than for blacks (Reiman 2004). For state level drug offenses, the average maximum sentence length for whites was 51 months. For blacks, however, the average was 60 months (Weitzer 2003). Overall, research has shown that the average federal sentence for black offenders is 40 percent longer than it is for whites (Gallagher 2009). Further, in his evaluation of over 77,000 federal offenders, Mustard (2001) found that blacks receive “substantially longer sentences” (p. 285).

Racial Disparity in Criminal Justice System Progression

It appears that the racial disparity within the criminal justice system gets worse the further through the process one looks. That is, racial disparities enter the criminal justice process early on and subsequently get worse. According to Browne-

Marshall (2007), although twice as many blacks are arrested than whites, seven times more blacks are actually charged with crimes. According to Frazier and Hernetta (1980):

Race bias may enter the criminal justice process early and be passed on in the form of sentencing recommendations on the pre-sentencing report. This suggests race bias may be passed on subtly through recommendations for sentencing as well as through formal decisions such as arrest charges, bail dispositions, charges on an indictment, or the charges finally accepted in guilty pleas (Waters 1990: 94).

Additionally, Farrell and Swigert (1978) claimed that:

The institutionalization of criminal conceptions in the legal system implies that the administration of justice is an interpretive process. At each stage, legal representatives assess the offender and the offense that official sanction is warranted. From arrest through final conviction and sentencing, these assessments are guarded, in part, by popular images of criminality (McNeely and Pope 1981: 21).

Research indicates that blacks are less likely to receive lower bail decisions, and are more likely to be detained before trial (Gabbidon and Greene 2005). Moreover, blacks are less likely to be able to afford bail and pay fines (Hawkins et al. 2003). Blacks are also less likely to be able to hire private attorneys, investigators and psychologists (Hawkins et al. 2003). Furthermore, 73 percent of black defendants are assigned either a public defender or assigned counsel. Only 65 percent of white defendants use the services of these attorneys (Walker et al. 1996). Studies have shown that 65 percent of defendants who are represented by private counsel are incarcerated. The rate for those represented by public defenders, on the other hand, is 78 percent (Walker et al. 1996).

In addition, blacks appear to fare much worse when it comes to having their charges lessened or dropped. For instance, in one California study, of 71,668 adults with no prior record who were charged with a felony, one-third of the whites had their charges reduced to a misdemeanor or less. Less than one-fourth of African Americans and Hispanics, however, were afforded the same opportunity (Denziger 1996).

Further, blacks appear to be sentenced to more harsh institutions than do whites. For instance, William Chambliss has found that each year, over 95 percent of the individuals sent to “supermax” prisons are black (Hawkins 1995a).

Moreover, a report issued to the Attorney General in 2000 revealed white defendants are two times more likely than blacks and Hispanics to escape capital charges by plea agreements (Jackson et al. 2001). Statistics also show that when black defendants are released from prison, they have a re-arrest rate of 72.9 percent and a 51 percent chance of being re-convicted. The rates among whites, however, are only 62.7 percent and 43.3 percent, respectively (Gabbidon and Greene 2005).

Criminologists Edwin Sutherland and Donald Cressey explain that:

Numerous studies have shown that African Americans are more likely to be arrested, indicted, convicted, and committed to an institution than are whites who commit the same offenses, and many other studies have shown that blacks have a poorer chance than whites to receive probation, a suspended sentence, parole, commutation of a death sentence, or a pardon (Gallagher 2009: 235).

Likewise, Higginbotham (1996) argued that:

In the criminal justice system the fact of one’s race sometimes has been a critical factor in determining whether prosecutions are initiated or terminated, whether the jury returns a verdict of

guilty or not guilty, whether certain judicial instructions are given to the jury, whether witnesses are or are not believed, and in determining the formulation of ultimate judicial rulings...I remain confident that even today there are many cases whose outcome can be explained only by way of racial consideration (P. 127-128).

Racial Disparities and the Death Penalty

Finally, the most serious issue involving racial disparities in the criminal justice system is the racial disparity found among those who are sentenced to death. For instance, a report to Attorney General Janet Reno in 2000 showed that 80 percent of all federal death penalty charges referred by prosecutors for attorney general approval involved defendants that were either African American or Hispanic. Overall, 72 percent of active death penalty cases approved by the attorney general were minorities (Jackson et al. 2001). As of 2007, research revealed that 43 percent of those on death row were African Americans¹⁴ (Hawkins 2007).

In all, 53-54 percent of those executed of those since 1930 have been African Americans (Walker et al. 1996; Hawkins 2007; Kleck 1981; Radelet and Pierce 1985; Young 1991), although they comprised only about 10 percent of the population (Kleck 1981; Young 1991). Between 1977 and 1996, blacks were executed at a rate that was about five times that of whites (Hawkins et al. 2003). In 2000, the Department of Justice revealed that from 1995-2000, 48 percent of defendants who were sentenced to the death penalty were black, compared to the only 20 percent who

¹⁴ Being that blacks comprise only 12-13 percent of the United States population, Frank Chapman claims that such a disparity means that the justice system is "clearly practicing genocide" (McAdams 1998: 154).

were white. Of those under a federal death sentence, 68 percent were black, while only 21 percent were white (Coker 2003). At the end of 2004, blacks were 40 percent of those prisoners who were awaiting their death sentences (Barak, Flavin and Leighton 2007).

As Leigh Bienen argued:

The criminal justice system is controlled and dominated by whites, although the recipients of punishment, including the death penalty, are disproportionately black. The death penalty is a symbol of state control and white control over blacks. Black males who present a threatening and defiant persona are the favorites of those administering the punishment, including the overwhelming middle-aged white, male prosecutor who-in running for election or re-election-find nothing gets them more votes than demonizing young black men. The reasons for this have more to do with the larger politics of the country than with the death penalty. I would also argue that the class and economic discrimination affecting the death penalty are 'worse', in the sense of being more unjust, than the racial elements (Barak, Flavin and Leighton 2007: 216-217).

Consequently, it has been argued that: "Race and the administration of the death penalty have been like peas in a pod since the beginning of our country"¹⁵ (Marable et al. 2007: 53).

Nevertheless, this historical disparity has been especially apparent in southern states, where blacks make up 26 percent of the population, but were 83 percent of those executed between 1976 and 1995. If a murder is committed in a southern state,

¹⁵ This historical disparity was especially evident among defendants convicted of rape. Between 1930 and the 1972, blacks were 89-90 percent of those executed for rape (Bordt 2004; Walker, Spohn, and DeLone 1996; Pierce and Radelet 1985). In fact, it has been determined that a black man accused of raping a white woman was 18 times more likely to be executed than all other racial combination of offenders and victims (Wilson 1983).

a black defendant is three times more likely to be executed than a white defendant (Jackson et al. 2001). Needless to say, such statistics lead many to see modern capital punishment practices as discriminatory, unjust, and perhaps even racist. For instance, David Baker argues that: "Racism is integral to capital sentencing in U.S. society.... Nowhere is our societal indifference toward racial injustice more apparent than our patent denial of racial discrimination in capital sentencing" (Free 2003: 177).

This perception is evident among the writings of many African American scholars and activists across the nation. For instance, Rev. Jesse Jackson et al. (2001) state: "the reality is that the death penalty is essentially an arbitrary punishment, a product not of blind justice, but of geography and of ethnicity" (p. 70).

According to Ken Silverstein,

As any student of the death penalty in America knows, the chance that a person charged with a capital crime will live or die depends greatly on race, social class, and-perhaps most importantly-where the alleged crime was committed (Dow 2002: 79).

Consequently, the South has come to be known as the "Death Belt", due to the fact that over 80 percent of the United States' executions occur within this region (Dow 2002). Many authors would argue that it is no coincidence that the vast majority of capital punishments are carried out in the same area that was home to so much of the cruelty and abuse that was suffered during slavery. Therefore, not only do many African Americans see the practice as unjust, but even as being reminiscent of other historically racist and discriminatory practices, such as lynching. This reliance on death as a form of individual punishment and group control is demonstrated by

Virginia, which saw more than 555 slaves put to death in the less than 80 years between 1706 and 1784 (Jackson, Jackson Jr. and Shapiro 2001).

Besides the fundamental issues that numerous individuals have with the death penalty, many also stress the fact that it is subject to error, and could result in the loss of an innocent life. Thus, it is argued that the death penalty is a reflection of our less than perfect justice system. For instance, as of 2001, there had been approximately 86 innocent individuals released from death row since the death penalty was reintroduced in 1976. All in all, this accounted for about one of every eight executions (Jackson, Jackson Jr. and Shapiro 2001; Hawkins 2007).

In fact, the Death Penalty Information Center reports that an average of 4.8 individuals are freed from death row every year (Jackson et al. 2001). It appears that such an occurrence is much more common among black defendants (Barak et al. 2007; Gabbidon and Greene 2005). A study published by the American Bar Association evaluated 107 cases where individuals on death row had been wrongfully convicted. Of those exonerated, 43 percent were black (Barak et al. 2007).

If the system fails this many defendants each year, it is unlikely that no innocent person has ever been put to death. In the words of Justice Sandra Day O'Connor: "If statistics are any indication, the system may well be allowing some innocent defendants to be executed. More often than we want to recognize, some innocent defendants have been convicted and sentenced to death" (Hawkins 2007: 187). Justice Thurgood Marshall offered a similar conclusion: "... we have no way of judging how many innocent persons have been executed, but we can be certain that

there were some” (Jackson et al. 2001: 64).

Sadly, Rev. Jackson, Jackson Jr. and Shapiro do not predict a future much brighter:

We will always have mistakes, human error, and perjury. We will always have a rush to justice, hysterical public opinion, and political pressure. As long as we have these problems, innocent people will be convicted and sent to jail. And as long as we have the death penalty, innocent people will die, with no chance of correcting the error (Jackson, Jackson Jr. and Shapiro 2001: 64).

Needless to say, one wouldn't have to search American history too diligently to find other instances where innocent African American lives have been taken. Slave killings, lynchings, and various forms of extralegal violence come to mind are just a few examples of such atrocities.

Many African American scholars have also suggested yet another piece of evidence proving the unequal treatment of the races. Especially in light of the largely negative treatment of black defendants, many scholars point out the historic leniency given to most white defendants. As Tony Platt argues, there has historically been a:

(D)ouble system of justice, which erred on the white side by undue leniency and the practical immunity of red-handed criminals, and erred on the black side by undue severity, injustice, and lack of discretion (Marable et al. 2007: 37).

Further, in his address to the Louisville Convention in 1883, Frederick Douglass argued that:

Taking advantage of the general disposition in this country to impute crime to color, white men color their faces to commit crime and wash off the hated color to escape punishment. In many places where the commission of crime is alleged against one of our color, the ordinary processes of the law are set aside as too slow for the impetuous justice

of the infuriated populace. They take the law into their own bloody hands and proceed to whip, stab, shoot, hang, or burn the alleged culprit without the intervention of the courts, counsel, judges, juries, or witnesses. In such cases it is not the business of the accusers to prove guilt, but it is for the accused to prove his innocence, a thing hard for any man to do, even in a court of law, and utterly impossible for him to do in these infernal lynch courts (Kirkland and Lawson 1999: 361).

This inequality was evident from the time of slave plantations. For example, in general, slave masters were not punished for killing slaves, and in many situations, other whites were not punished for killing blacks. However, blacks even suspected of harming whites, albeit non-lethally, were often subjected to cruel and inhumane torture, and in some cases, even to death. Thus, the argument has been made that current death penalty practices are merely an extension of the oppressive acts that have been carried out against African Americans in the past: “The long legacy of slavery-the devaluing of African Americans-has marked the federal death penalty from the moment the constitution was drafted” (Jackson et al. 2001: 73).

This disparity is still evident today. Statistics show that African Americans convicted of killing whites are far more likely to be sentenced to death than are whites convicted of killing blacks (Bordt 2004; Denziger 1996; Gallagher 2009; Jackson et al. 2001; Mauer 1999; Spohn and Spears 2003). Although most homicides are intraracial, it has been found that since 1976 over two-thirds of the African Americans that have been executed in the U.S. had been convicted of killing whites (Weitzer 1996).

Consequently, Professor Michael Radalet argues that “Having a white victim increases the probability of a death sentence by a greater amount than smoking

increases the probability of heart disease” (Jackson et al. 2001: 65). A study consisting of data on states with the death penalty showed that in 75 percent of the cases, the race of the victim was indeed a predictor of who got sentenced to death (Bordt 2004). In fact, one of the most comprehensive studies of the death penalty showed that “killers of whites were 11 times more likely to be condemned to death than killers of African Americans” (Denziger 1996: 114). Cole (1999) found the same results. Gross and Mauro (1984) also found that: “white-victim homicides were much more likely to result in death sentences than black-victim homicides, controlling for any plausible combination of hundreds of legitimate sentencing variables” (p. 105).

Research has shown that, from 1976 to 1998, about seven white men were executed for killing blacks, while 115 blacks had been executed for killing whites (Cole 1999). Further, of the 16,000 executions that took place between 1608 and 1989, only 30 were for cases in which a white had been executed for killing a black¹⁶ (Barak et al. 2001; Gabbidon and Greene 2005). Similarly, other academics have found that, although 50 percent of murder victims are black, almost 85 percent of victims in death penalty cases are white (Jackson et al. 2001; Hawkins 2007).

Statistics have suggested that the death penalty is sought in 70 percent of the cases where a black is accused of killing a white, while it is sought in only 19 percent of cases where a white has been accused of killing a black (Gallagher 2009). Baldus and his colleagues (1990) conducted a study that controlled for hundreds of variables,

¹⁶ This number equated to less than .2 percent of all executions.

and still identified this strong race-of-victim effect (Gabbidon and Greene 2005). Their study further revealed that defendants accused of killing whites receive the death penalty in 11 percent of cases, while those accused of killing blacks receive the death penalty in only 1 percent of all cases.

Moreover, the study showed that courts are most likely to assign the death penalty when a defendant is black and victim is white, and least likely in instances in which the defendant and victim are both black. Finally, the study established that prosecutors request the death penalty in 70 percent of cases with black defendants and white victims, 32 percent of the cases where both the defendant and the victim are white, 15 percent of cases where both the defendant and the victim are white, and 19 percent of the cases involving white defendants and black victims (Russell 1994). Other research has concluded that U.S. Attorneys are twice as likely to seek the death penalty for African American defendants when the victim is not black (Jackson et al. 2001).

In all, the U.S. General Accounting Office reviewed 53 studies, and determined that 82 percent of them found that the race of a victim influenced the likelihood of capital murder charges and death penalty sentences (Mann 1993).

James Coleman traces this to historically similar instances:

This can be traced to the legacy of our antebellum criminal justice system, in which slaves and free blacks were not considered equals and in which more severe punishment was accepted as normal. I think the country still believes that black defendants deserve more severe punishment... especially when the victim of the crime is white. The criminal justice system will never be fair or nondiscriminatory until it is administered by both

black and white citizens, until prosecutors and jurors are forced routinely deal with the experience of black people and to factor those experiences in their decisions (Barak et al. 2007: 216).

This particular disparity, coupled with several well-publicized instances of police abuse in which virtually no one was held accountable, has played a major role in convincing many African Americans that the criminal justice system does not view their lives as having the same importance as others' (Kleck 1981). That is, many argue that because of such discriminatory practices as the administration of the death penalty, the criminal justice system constantly shows a blatant disregard for black lives, and thus, sends out the message that: "Black life is cheap but white life is valuable" (Gabbidon and Greene 2000: 134).

For some, this brings to mind memories of the historical devaluation of black life. For instance, during World War I, the captain of a southern police department argued that: "If a nigger kills a white man, that's murder. If a white man kills a nigger, that's justifiable homicide. If a nigger kills a nigger, that's one less nigger" (Gabbidon, Greene, and Young 2002: 204). According to Rev. Jesse Jackson et al.: "Quietly and methodically, one prosecution at a time, our judicial system is telling us that African American life is less important than white life, and its annihilation less tragic" (Jackson et al. 2001: 78). W.E.B. warned of this consequence long ago:

(I)n convictions by human courts the rich always are favored somewhat at the expense of the poor, the upper classes at the expense of the poor, the upper classes at the expense of the unfortunate class, and whites at the expense of Negroes (Gabbidon and Greene 2000: 27).

Likewise, African American writer Darnell Felix Hawkins suggested that:

“(t)he devaluation of black life is evidenced in many ways but is perhaps most apparent in the sentencing of criminal defendants” (Gabbidon et al. 2002: 202). He demonstrates this sentiment further in his hierarchy of homicidal severity. Hawkins places a variety of situations of homicide on a continuum according to how serious he perceives the societal reactions to that particular homicide to be. At the most serious end of this spectrum are instances where a black individual kills a white who is in authority. At the least serious end, however, are situations in which a white person kills an African American to whom they are related or intimately connected. Overall, homicides of whites by black perpetrators tend to be clustered at the most serious end of the spectrum. Toward the least serious end, however, are primarily situations in which a black kills another black. Still lower on the scale are homicides committed against blacks by whites (Gabbidon and Greene 2005; Hawkins 1995b; Hawkins et al. 2003).

The Use of Racial Disparities in the Stereotyping of African Americans

According to W.E.B. DuBois, these contrasting rates of arrest and sentencing have led many blacks to view the system as oppressive, and lose faith in the entire justice system. These statistics, in and of themselves, give the impression that blacks commit enormously disproportionate amounts of crime, and therefore, should be feared by the larger society. Even as early as 1901, these statistics were distorted in a way that served to “criminalize” blacks, especially young black men (DuBois [1901] 2000b). As African American criminologist Vernetta Young explains in her essay

“Women, Race and Crime”, written in 1980:

Disproportionality has been used to ‘criminalize’ black people, especially black males. Over-reliance on this concept in our discussions of race and crime intimate that the crimes of blacks are the crimes we should be concerned with, and that black criminals are the criminals to be feared. The fact that most or just as many whites are arrested for offenses of criminal homicide and assault is ignored (Gabbidon et al. 2002: 170).

Further, as Charles Henderson of the University of Chicago, in 1901 wrote:

There can be no doubt that one of the most serious factors in crime statistics is found in the condition of the freedmen of African descent, both North and South. The causes are complex. The primary factor is racial inheritance, physical and mental inferiority, barbarism and slave ancestry and culture (Gabbidon and Greene 2005: 58).

Nevertheless, the following words of George Winston demonstrate that these stereotypes about African American criminality have indeed been prevalent throughout American history:

The black brute is lurking in the dark, a monstrous beast, crazed with lust. His ferocity is almost demoniacal. A mad bull or tiger could scarcely be more brutal. A whole community is frenzied with horror, with the blind and furious rage for vengeance (Fredrickson 1971: 278).

Sadly, far too many people, including America’s policymakers, still subscribe to these distorted notions of blacks as criminals. For instance, President Theodore Roosevelt declared “relentless and unceasing warfare against lawbreaking black men” (Behrans, Uggem, and Manza 2006: 47). Further, William Bennett, the Director of National Drug Control Policy under President George H.W. Bush once declared that:

...I do know that it’s true that if you wanted to reduce crime, you could, if that was your sole purpose, you could abort every

black baby in this country, and your crime rate would go down... (this is) an impossible, ridiculous and morally reprehensible thing to do, but your crime rate would go down (Marable et al. 2007: 30).

Many have likened such comments to certain racist arguments that have been used throughout history. For instance, white supremacists adhered to a warped notion that blacks were biologically inferior, and therefore, claimed that unless their dangerous ways could be changed by the influence of decent whites; they would be bound to a life of crime and deviance. These individuals, therefore, believed that slavery was a way of “saving” blacks from themselves, and in the absence of this protection after Emancipation, other institutions and practices had to be implemented to control this dangerous part of the population.

Former slave James Fisher recounts the favor that his former master claimed he was doing for him:

... he sometimes talked to me an hour at a time, to convince me that I was better off than I would be if I was free. He said slaves were better off than their masters; much better off than the free colored people... He told me that the reason why they murdered and devoured one another in Africa, was because there were no white people there to make them behave themselves (Blassingame 1977: 234).

Dr. H.B. Frissel, the white superintendent at the all black Hampton Institute in Virginia, echoed a sentiment similar to that of the slave master when speaking of slavery:

While it kept Negroes from being educated; it also kept them from being criminals... When emancipation came, the naturally depraved and criminal class of Negroes were let loose and deprived of this restraining influence of the slavery system. Such men began,

naturally, to confound license with liberty, and they have instinctively denigrated since slavery days (Oshinsky 1996: 93).

Private Prisons Capitalizing on the Racial Disparity of the Criminal Justice System

Interestingly enough, there are still those individuals who argue similar points of view about prison inmates. These individuals emphatically insist that incarcerated individuals have it far better than those who are free. They see prisons as being very little different than resorts with free shelter, food, television, and access to education and other services not always provided to those on the outside. However, needless to say, in both instances-slavery and prison-such pleasure and luxury has not been the case. As Angela Davis argues: “The 13th Amendment, when it abolished slavery, did so except for convicts. Through the prison system, the vestiges of slavery have persisted” (Gilmore 2000). She further explains that,

With longer sentences being imposed for nonviolent drug offenses, with aggressive campaigns aimed at criminalizing young people, and with the growing number of children left orphaned by the criminal justice system, the carceral reach of the state and private corporations resonates with the history of slavery and marks a level of human bondage unparalleled in the 20th century (Gilmore 2000).

Some scholars have argued that the very beginning of these private companies' involvement in corrections was in response to what was perceived as an African American crime problem. As aforementioned, due to the stricter laws and punishments for African Americans subscribed by the Black Codes, rates of black incarceration were elevated after Emancipation. Consequently, the government began to lease out convicts and their labor to the highest bidder (Gabbidon and

Greene 2005; Hallett 2006).

However, Michael Hallett explains that again in the 1980's, there was a period of African American hyper-incarceration because of the war on drugs. In fact, from 1985 to 1995, federal and state governments were opening a new prison each week to deal with the influx (Hawkins et al. 2003). Soon after, the government began to negotiate deals in which private corporations would take over the management of certain correctional facilities (Hallett 2006). Other scholars have noted the similarities between the increase in black incarceration rates found after the Civil War and again after the Civil Rights Movement (Asim 2001). Consequently, author Ron Daniels claims that people of color have become a "commodity" in one of the fastest growing sectors of the American economy (Nelson 2000: 248). W.E.B. DuBois warned of such an effect, when he claimed that: "A modified form of slavery survives wherever prison labor is sold to private persons for their pecuniary profit" (Gabbidon et al. 2002: 83).

Other scholars have likened the impact that such privatized prisons have on racial disparities in the criminal justice to the historical "three-fifths compromise", which established that slaves would be counted as three-fifths of a person for purposes of determining taxes and the number of U.S. Representatives to which a certain district was entitled. These scholars explain that the federal government distributes money annually to local jurisdictions based on census counts. Since many of the private prisons in the United States are located in mostly white areas, incarceration raises population counts in these areas, while decreasing them in the

inmates' original areas of residence, often areas with larger black populations (Coyle et al. 2003).

Moreover, it appears that the recent explosion in the popularity of the privatized prison industry has been especially harmful to the plight of African American women. For instance, Sudbury (2005) argues that the expansion of the prison industrial complex is based on "older systems of racist and patriarchal exploitation", and furthermore, that it has created a "super-exploitation of black women" (p. 162). In addition, she suggests that the incarceration of large numbers of African American women is necessary for the industry to prosper: "black women are increasingly becoming the raw material that fuels... expansion and profitability" (p. 162).

Race and Felon Disenfranchisement

In *Reynolds v. Sims* (1964), the United States Supreme Court determined that: "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government" (Harvey 1994: 1145). Consequently, when arguing that the criminal justice system is a system of their oppression, many African Americans point to the usage of the system to disenfranchise a large number of African American voters. Because of laws preventing convicted felons from voting, in several states (Alabama, Florida, Iowa, Kentucky and Virginia), one-in-four black men are not permitted to cast their ballots (Behrens et al. 2006; Mauer 1999; Smiley

2006). Further research has determined that of the more than 4 million individuals who were prevented from voting in 1997 (Denziger 1996; Lippke 2001; Russell-Brown 2004), one-third were black men (Russell-Brown 2004).

In fact, nearly 7.5 percent of African Americans of voting age in this country are ineligible to vote (Behrens et al 2006; King 2007). In 1998, according to the U.S. Sentencing Project, in 1998 13 percent of the nation's African American male residents could not vote (Marable et al. 2007). Overall, blacks were disenfranchised at a rate that is over three times higher than the rest of the nation (King 2007). Moreover, it has been argued that if current trends continue, an estimated 20-40 percent of black males will lose their right to vote for at least part of their lives (Marable et al. 2007). The Bureau of Justice also predicted that 29 percent of the upcoming generations of black men are likely to lose their right to vote for at least some period of their lives (Hull 2006).

Moreover, Scholars have pointed out that the United States is the only democratic country in which such a large group of non-incarcerated felons are prohibited from voting (Uggen and Manza 2002). In addition, it has been argued that, "(f)or democratic governance to be threatened, disenfranchisement must reach a level sufficient to change election outcomes" (Uggen and Manza 2002: 778). Scholars argue the impact of disenfranchisement has reached such levels in the United States. For instance, it has been estimated that since 1978 seven Senate elections may have

been overturned if felons had been permitted to vote¹⁷ (Uggen and Manza 2002).

Moreover, it has been suggested that such laws have even contributed to the outcome of at least one presidential election. For instance, research has shown that the racial disparity of those impacted by such laws is greatest in Florida (Harvey 1994). Statistics have shown that at the time of the historical 2000 presidential election, 7.48 percent of all black men were prohibited from voting¹⁸. In Florida, 16.02 percent of all black men were not permitted to vote in the election (Hull 2006).

Research conducted by Uggen and Manza (2002) predicted that almost 35 percent of the disenfranchised voters would have voted in the presidential election. They also found that, of these potential voters, approximately 70 percent would have supported the Democratic candidate in the election. Consequently, in the 2000 presidential election, Al Gore would have received about 1 million more votes than did George Bush, as opposed to the 500,000 more that he actually garnered (Uggen and Manza 2002). As a result, had these black men not been disenfranchised, the outcome of that historic election would almost certainly have been very different.

Therefore, it has been argued that: “The penal system becomes, in effect, the ‘gatekeeper’ for the electoral system” (Marable et al. 2007: 227). To many, this brings to mind the many historical attempts that were used to prevent blacks from voting, such as the poll tax and literacy requirements (Hull 2006; Marable et al.

¹⁷ Research shows that if ex-felons had been permitted to vote in these elections, the result would likely have meant the Democratic Party attaining an equal representation in the 1984 Senate and gaining a majority in the 1986 Senate (Uggen and Manza 2002).

¹⁸ This rate was seven times the national average (Hull 2006).

2007). It further demonstrates similarities with the country's first campaign to disenfranchise blacks. The system has caused some to claim that such disenfranchisement policies have succeeded in banning blacks from the polls at rates last seen during the days of Jim Crow laws (Hull 2006). As Ryan Scott King argued:

... the power of disenfranchisement to silence the African American community is as strong, if not stronger, than many of the notorious practices of the Jim Crow south. The sheer volume of African Americans who are legally disenfranchised underscores the point that Jim Crow is alive and well and that its modern face is felon disenfranchisement (Marable et al. 2007: 261).

Much as is the case with modern disenfranchisement policies, the historical techniques used to suppress black political involvement also cited racially disproportionate rates of criminal behavior as sufficient evidence that blacks were not worthy of the full rights of citizenship. Take again, for instance, the words of Colonel Samuel Young:

The minds of blacks are not competent to vote. They are too degraded to establish the value or exercise with fidelity and discretion this important right... Look to your jails and penitentiaries. By whom are they filled? By the very race that is now proposed to clothe with the power of deciding upon your political rights (Behrens et al. 2006: 42).

Likewise, in 1898, the Chief Justice of the Louisiana Supreme Court urged a disenfranchisement law to be passed, as a way to "establish the supremacy of the white race" (Denziger 1996: 127).

Blacks as Criminal Suspects/ Racial Profiling

Perceptions of African Americans as criminals have largely survived the test of time, being of great detriment to the black community even today. The result has

been more and more policies implemented over time to monitor and survey blacks, thus resulting in a perpetuating cycle of high crime rates. For example, police in Denver created a list of suspected gang members. This list included the names of two out of every three African American youths between the ages of 12 and 24 in the entire city (Denziger 1996; Zatz and Krecker 2003; Miller 1996). Although the police estimated that there were only about 250 gang members in the city, there were 5,500 names on their list. Needless to say, such a scheme has been widely condemned, especially within the African American community. For example, according to Rev. Oscar Tillman of the Denver NAACP: "This is not a crackdown on gangs; it's a crackdown on blacks" (Miller 1996: 110). He went on to accuse the police department of "peddling a fear of blacks" to answer the demands of public safety (Miller 1996: 110).

Lists similar to this one have been formed across the nation. In Los Angeles in 1993, while 47 percent of all black men between the age of 21 and 24 were in the Sheriff Department's gang database, only .5 percent of whites were (Hawkins et al. 2003; Zatz and Krecker 2003). In Duvall County, Florida, a similar list was maintained by authorities. Over 80 percent of the individuals on this list were black (Miller 1996). In another instance, police in a New York town decided to question every black male in a local university after an elderly white woman claimed she was raped by a black man (Wise 2007). Therefore, some scholars have suggested that, in effect, all black men are under suspicion when the police are after one black man (Reed 2000).

Consequently, it has been proposed that black males (guilty or not) are forced to carry the stigma of being a “suspect” (Austin 2000). As sociologist William Chambliss suggests:

Suspects are young black males between the ages of (12) and (30) who are hanging around corners, driving in cars or seen gathered together through a window in an apartment... and excuse rather than a legal reason more accurately describes that the members of the RDU (Rapid Deployment Unit) are looking for. For young black males driving in a car the best excuse is some minor infraction: a broken taillight, an ornament hanging from the mirror, a license plate light that is not working (Miller 1996: 98).

This has led some blacks to argue that “skin color itself has been criminalized (Harris 1999: 242)”. Similarly, James T. Rapier argued that some have been found “guilty of the crime of color (Daley 2006: 59)”. The resulting situations have been atrocious. For instance, in one such occurrence, police showed up at a black man’s house looking for a black male with such a vague description as being between the ages of 18 and 40, being between the height of 5’6” and 5’10”, and having light or medium skin and curly black hair (Asim 2001).

Similar sentiment has been echoed within the research community. Kathryn Russell contends that black men have the highest probability of being stopped and harassed by the police, “whether they are driving while black, walking while black, running while black, standing while black, sitting while black, bicycling while black, or just being black” (Russell-Brown 2000: 144). Similarly, according to Johnnie Cochran, “This isn’t only a case of driving while black, it’s walking while black, it’s living while black, it’s breathing while black” (Cochran 1996: 176).

Another result of such racial stereotypes has been the all too widespread practice of racial profiling. This practice occurs when police think that “having black or brown skin elevates the chances that any given person may be engaged in crime, especially drug crimes”¹⁹ (Harris 2002: 11). Moreover, it is the “police use of race as sole basis for initiating law enforcement action” (Meehan and Ponder 2002: 403).

Walker et al. (1996) assert that profiling was greatly expanded because of the War on Drugs and the overall crackdown on crime. It has further been established that these instances of profiling are most pronounced when African Americans are “out of place”---that is, when they are in communities that are typically white or upper class (Hawkins et al. 2003; Meehan and Ponder 2002). Obviously, such practices result in a great deal of pain and embarrassment for those who are targeted by them. As one Ohio man explained:

Each one of those stops, for me, had nothing to do with breaking the law. It had to do with who I was... It's almost like somebody pulls your pants down around your ankles. You're standing there nude, but you've got to act like there's nothing happening (Harris 1999: 265).

Another explained that:

You've gotta learn to play through it. Even though you haven't done anything wrong, the worst thing you can do in a situation like that is to become emotionally engaged when they do that to you... because of you do something, maybe they're going to do something else to you for no reason at all, because they have the power. They have the power and they can do whatever they want to do to you for that period of time... It doesn't make a difference who you are. You're never beyond this, because of the color of your skin (Harris

¹⁹ Scholars have pointed out that the use of this practice was expanded during the 1980's as a way to target low-level drug couriers (Holbert and Rose 2008).

1999: 273).

Nevertheless, many innocent African Americans have been subjected to traffic stops, searches, and in some cases, even arrests. In fact, some research has determined that innocent individuals are more likely to experience racial profiling than are guilty ones (Harris 1999). In a 1993 study conducted by the California State Assembly, it was determined that 92 percent of blacks arrested on drug charges were released for insufficient evidence (Gutierrez-Jones 2001). Nevertheless, scholars have argued that black men are often subjected to police stops for a plethora of contradictory reasons: driving a luxury car or an old or rented car, being with other black men or with white women, driving early in the morning or late at night, and driving too fast or too slow (Russell 1998).

In fact, national surveys have indicated that 40 percent of blacks report being “profiled” in the past (Meehan and Ponder 2002; Oneto and Phillips 2003). A national poll conducted in 2001 revealed that 52 percent of the country’s black men reported having been victims of racial profiling at some point in their lives (Gross and Barnes 2002). Researcher David Harris argues that: “It is virtually impossible to find black people who do not feel that they have experienced racial profiling” (Harris 1999: 326).

One study found that, although among college students surveyed, black and white men faced the same odds of being stopped once within a year, African American men were 2.36 times more likely to be stopped on three or more occasions within a year---regardless of the fact that white men were more likely to report having

drugs in their cars (Oneto and Phillips 2003). Ramirez et al (2000) reviewed the police success rates in searches and found that minorities are searched more often, but are no more likely to be found to be in possession of contraband (Meehan and Ponder 2002). Petrocelli, Piquero and Smith (2003) also found that minorities have lower hit rates than do whites.

Perhaps the greatest example of such racial profiling is the case of the New Jersey Turnpike, which has been infamous for its' racially-disproportionate stops. In one instance, over a several year time frame, an African American dentist driving a golden BMW was stopped around 50 times, although he was never given a ticket (Harris 2002; Nelson 2000). Moreover, blacks were 23 percent of all drivers arrested for driving drunk on that road, although they are only 13.5 percent of the drivers on the highway (MacDonald 2001).

Research in 1988 determined that black drivers with out of state plates comprised less than 5 percent of all drivers on the Turnpike. However, these individuals experienced 80 percent of the stops (Barak et al. 2001). Some researchers have claimed that in one portion of the road, 78 percent of those stopped and searched are black or Latino, although police are twice as likely to discover evidence of illegal activity occurring within cars being driven by whites (Victor and Naughton 2007). To study the allegations, researcher John Lamberth designed two surveys to determine whether or not blacks were committing crime at rates that would warrant such high rates of traffic stops (Lamberth 1998).

First, one of his associates parked a car alongside four of the busiest segments of the road and counted the number of vehicles carrying one or more African American drivers or passengers. Approximately 13.5 percent of the cars had at least one black individual inside. Second, Lamberth conducted a “rolling survey”, in which a researcher drove 5 mph above the speed limit and used a voice recorder to keep tab of the race of individuals who did and did not violate the speed limit. This survey found that blacks violated the speed limits at very proportionate rates, making up 15 percent of such offenders, compared to 13.5 percent of all drivers. However, official statistics showed that blacks were 35 percent of all those pulled over on the road, making them 4.85 times more likely to be stopped than other drivers.

Therefore, the study indicates that at least on the New Jersey Turnpike, blacks are indeed stopped at disproportionate rates (Harris 1999; Lamberth 1998; Weitzer 2003). Scholars have suggested that the chance of this happening randomly would have been “substantially less than one in a billion” (Weitzer 2003: 198).

Further, a study in Volusia County Florida showed that nearly 70 percent of those stopped on part of an interstate highway were African American or Hispanic, although they only made up 5 percent of the drivers on that road (Hawkins et al. 2003; Leitzel 2001; Weich and Angulo 2002). Additionally, African Americans and Hispanics were detained for longer periods at each stop and were 80 percent of those who got searched after being stopped (Weich and Angulo 2002). In a North Carolina study, black drivers were two-thirds more likely to be stopped and searched.

However, contraband was found 27 percent more often in cars driven by whites

(Victor and Naughton 2007).

A study conducted of I-95 in Maryland found that between January 1995 and January 1999, although blacks were only 18 percent of the motorists, they constituted 63 percent of those who were searched by the state police (Knowles, Persico, and Todd 2001; Myers 2002). John Lamberth's study of Baltimore evaluated 5,741 cars over a 42 hour period. Researchers discovered that 93.3 percent of the motorists (17.5 percent who were black and 74.7 percent who were white) were violating some traffic law(s). However, 72.9 percent of the cars stopped by the state police were being driven by blacks (Barak et al. 2001; Weitzer 2003). Lamberth argued that the findings from this study had a level of statistical significance that was "literally off the chart" (Weitzer 2003: 198).

Further, a New York City study showed that, even after controlling for crime rates, police were still between two and three times more likely to search blacks' cars than they were whites' (Victor and Naughton 2007). Additionally, in New York City, research by the state Attorney General revealed that blacks made up 25.6 percent of the city's population, but were 50.6 percent of those stopped and frisked by the police (Barak et al. 2001; Petrocelli et al. 2003). A study conducted in St. Paul, Minnesota showed that African Americans comprised 3.5 percent of the population, but experienced 26 percent of the stops, and 43 percent of frisks and searches (Myers 2002). An Ohio study modeled after Lamberth's research analyzed parking tickets issued in four cities. The analysis showed that blacks were about twice as likely to receive tickets than were whites (Harris 1999; Weitzer 2003).

Nationwide statistics also demonstrate similar discrepancies. Victor and Naughton (2007) argued that every study done on the subject has found that there is no significant difference between the number of moving violations committed by blacks and whites (Victor and Naughton 2007). However, studies have revealed that the odds of a black driver receiving a citation are 47 percent greater than whites (Barak et al. Flavin 2007). A Department of Justice study found that although blacks are twice as likely to have their cars stopped and searched (Barak et al. 2007; Victor and Naughton 2007), police are twice as likely to find evidence of illegal activity in cars driven by whites (Victor and Naughton 2007). Other researchers have also established that searches of minorities are systematically less productive than those of whites (Ayres 2002).

Moreover, many scholars argue that arrest data for drug crimes are very unreliable, because they may only measure law enforcement actions and the choices of criminal justice institutions and actors, rather than actual rates of drug usage and associated crimes (Gutierrez-Jones 2001; Harris 1999). Angela Davis (1996) also suggests that because of discrimination, arrest statistics often overestimate some and underestimate other criminal behaviors. Nevertheless, research has shown that minorities are not only more likely to be stopped and given a ticket, but are also more likely to be handcuffed, officially threatened, and have force used against them (Tuch 2002).

As a result, it has been argued that:

The bottom line is that racial profiling doesn't happen because

data justifies the practice, but rather because those with power are able to get away with it, and find it functional to do so as a mechanism of social control over those who are less powerful (Victor and Naughton 2007: 99).

And, therefore, that it continues “not because it makes good sense, but because racist assumptions about danger-reinforced by media and politicians looking for votes-lead us to think that it does” (Victor and Naughton 2007: 99).

Many law enforcement officers, on the other hand, insist that such practices are warranted. For example, John Marcello, a former DEA agent, argues that:

If you work in a city where 99 percent of the crack is controlled by minorities, then inevitably, the vast majority of couriers arrested will be minorities. It's called reality, and it still will be true no matter how hard the apologists pretend it isn't (Harris 2002: 73-74).

Bernard Parks, former Chief of the Los Angeles Police Department, claims that:

It's not the fault of police... It's the fault of minority males for committing the crime. In my mind it is not a great revelation that if officers are looking for criminal activity, they're going to look at the people who are listed on crime reports (Lundman 2004: 310).

Yet another officer, this one a member of the Maryland State Police, claims that:

Ask me how many white people I've arrested for cocaine smuggling... None! Zero! I debrief hundreds of black smugglers, and I ask them, 'Why don't you hire white guys to deliver your drugs?' They just laugh at me. 'We ain't gonna trust our drugs with white boys.' That's what they say... I dream at night about arresting white people for cocaine. I do. I try to think of innovative ways to arrest white males. But the reality is different (Lundman 2004: 310).

However, as previously mentioned, many scholars argue that police find more drugs in minority communities simply because that is where they look for them (Denziger 1996; Harris 1999). For instance, David Harris argues that “there is a

connection between where police look for contraband and where they find it” (Harris 1999: 301). Similarly, Ronald Weitzer maintains that: “Because police will look for drug crime among black drivers, they will find it disproportionately among black drivers” (Weitzer 2003: 204). Because the result is more blacks being arrested, prosecuted, convicted, and jailed, Weitzer claims that such practices merely serve to reinforce the idea that blacks constitute a majority of drug offenders, and therefore, to reinforce the notion that such policies are needed to address the issue (Holbert and Rose 2008; Weitzer 2003). Consequently, the policies result in a never ending cycle. As Milovanovic and Russell argue: “policies which allow law enforcement officers to use blackness as an indicator of criminality have had the effect of creating black criminality” (Milovanovic and Russell 2001: 11).

The reality of such results is evidenced in a report (“Driving While Black”), written by the American Civil Liberties Union, where it was claimed that:

Racial profiling is based on the premise that most drug offenses are committed by minorities. The premise is factually untrue, but it has nonetheless become a self-fulfilling prophecy. Because police look for drugs primarily among African Americans and Latinos, they find a disproportionate number of them with contraband. Therefore, more minorities are arrested, prosecuted, convicted, and jailed... thus reinforcing the perception that drug trafficking is primarily a minority activity... (W)hite drivers receive far less police attention, many of the drug dealers and the possessors among them go unapprehended, and the perception that whites commit fewer drug offenses than minorities is perpetuated (Lundman 2004: 310).

Similarly, Civil Rights leader Rev. Al Sharpton has argued that:

And who is getting locked up the most? Blacks and Latinos. A

coincidence? Absolutely not. I've had some racists say that the reason why the jails are full of blacks and Latinos is because they commit more crimes. But that's simply not true. The truth is... Racial profiling is real. If you stop more blacks and Latinos, you will naturally have more arrests of blacks and Latinos. And studies show that if you are poor, you have an even greater chance of going to jail. So in the United States, according to studies, if you're black or Hispanic you're four times more likely to get jail time than your counterpart. That's not justice. That's 'just us' (Sharpton 2002: 133-134).

Consequently, he claims that: "Racism in the criminal justice system is the reason why blacks are disproportionately represented in our prisons" (Sharpton 2002: 99).

Nevertheless, these policies have been very effective in leading much of the public to buy into stereotypes about blacks having high rates of criminal behavior.

Malcolm X spoke of the damage caused by such perceptions: "...once the public accepts this image, it also paves the way for police state type of actions in the Negro community" (Breitman 1965: 166). As Harris (1999) argues, the result is that "all African Americans get treated as criminal suspects" (p. 319). Katheryn Russell-Brown claims that such practices have created a very pervasive, albeit destructive, image of a "criminal blackman" (Bonilla-Silva 2003: 170).

Consequently, it has been argued that this "stain of criminalization" doesn't end with the police, but that it permeates into blacks' interactions with everyday citizens, from department stores to street blocks (Austin 2000: 209). As one black man argued: "We look guilty and seem suspicious. I know it has to do with color and country. The history of both" (Asim 2001: 16). Another argued:

If you're black, there's a presumption of guilt, a presumption of wrongdoing if you're stopped. I think white folks are probably treated

with a great deal more respect, a lot more tolerance and patience. I don't think it's different with police than any other kind of environment. The racial problems in this country just filter right on down to the police department. Stereotyping-you see a black man, he's a criminal (Weitzer 2000: 138).

Another black male continued such sentiment by arguing that:

When black men walk with our hands in our pockets, we look like we're up to something. When a white man walk with his hands (in his pockets) we know he's cold. It's like that with me... They're always on the black man (Weitzer 2000: 138).

The opinion was echoed in the words of another African American:

If they stop a white guy at three in the morning, they'll figure he was working late and he's on his way home to see his wife. You stop a black person at three and figure he was up to no good, or just got through robbing a store, shooting somebody or whatever. Always assuming the worst when it's someone of color (Weitzer 2000: 138).

Finally, another black male argued a similar point:

You can make \$100,000 a year and you can be dressed very nicely... and drive a Lexus, but if there was a confrontation between officers and a black man with a Lexus, a white police would be more apt to think that this black man might not have the credibility... If it was a white guy with a tie on, I think he would be given much more credibility as not doing wrong. He's not perceived as obtaining his car through ill-gotten gains (Weitzer 2000: 140).

Other black men, such as Brian Gilmore, have noted that white women tend to look at him as a "bogyman" (Asim 2001: 45). Similarly, James Rapier recalls an experience in which a man he was with was treated as a "gentleman", while he was treated as a "convict" (Daley 2006). Likewise, scholar Derrick Bell argues that: "Our careers, our very lives, are threatened because of our color. Whatever our status, we are feared because we might be one of 'them'" (Nelson 2000: 98).

Moreover, Rohan Preston has argued that:

It is not difficult to argue that a black man in America... is a criminal predator, a sick beast as otherworldly as King Kong or an alien movie monster busting through the floor. It is not difficult to argue that a black man-any black man-is a thing of such vileness and animality that he deserves, like Rodney King, a discriminatory, rational response that might seem excessive only to those unfamiliar with the creature (Asim 2001: 156).

African Americans and the Police

Because of the very negative perceptions that many blacks have of the criminal justice system, instead of seeing the police and the court system as tools of protection and justice, many blacks see them as just the opposite---as agents of oppression and reminders of the historical domination used against them. In his 1969 book, "Look Out Whitey! Black Power's Gon' Get Your Mama!", Julius Lester argued the following:

Law and order must prevail' has become the cliché of the 1960's and the biggest lie, because the American black man has never known law and order except as an instrument of oppression; it has prevailed upside his head at every available opportunity. It exists for that purpose. The law has been written by white men, for the protection of white men and their property, to be enforced by white men against blacks in part and poor folks in general (Jenkins 1995).

Lester additionally argues that:

The American Black man has never known law and order except as an instrument of oppression. The law has been written by white men, for the protection of white men and their property, to be enforced by white men against Blacks in particular and poor folks in general (Gabbidon et al. 2002: 162).

Further, Frank Donner of the Protectors of Privilege claims that: "Law and order

became a coded cry as the police were transitioned into an army defending white power and the status quo” (Nelson 2000: 36).

These individuals are quick to point to the injustices that blacks have suffered at the hands of the police. Most likely, they are justified in doing so. According to the Justice Department, 11 black men per million were killed by the police in 1976. (Holbert and Rose 2008). In the early 1970’s, black men were shot and killed by the police at a rate that was several times higher than whites (Walker et al. 1996). Research has indicated that this disparity is still three-to-one in large cities²⁰ (Walker et al. 1996).

One study found that 97 percent of the victims of police brutality are of color, while 93 percent of the offending officers are white (Bolton and Feagin 2004). A separate study showed that black men between the ages of 13 and 24 make up only 1 percent of the United States population, yet they are 14 percent of those killed by the police (Russell-Brown 2004). One study found that blacks are three times more likely to be killed by police than are whites (Hawkins et al. 2003). Consequently, some have claimed that police brutality has markings of lynchings (Russell-Brown 2004). Katheryn Russell-Brown explains that although modern practices may not be the same as historical ones, they certainly bring to mind similar feelings:

Black distrust of the justice system is not new. It is historically rooted in the role police played in enforcing the slave codes,

²⁰ While addressing questions about the large number of African Americans killed at the hands of police (particularly by chokeholds), Los Angeles Police Chief Daryl Gates claimed: “We may be finding that in some blacks when (the carotid chokehold) is applied the veins or arteries do not open up as fast as they do on normal people (Brown and Shelden 2003: 186).”

black codes, Jim Crow segregation, the ultimate form of vigilante justice, lynching... Today, police brutality hardly resembles its past forms. Many blacks alive today, however, still remember the widespread, persistent, and inhumane abuse blacks suffered at the hands of the police (Hawkins 2003b: 321).

This sentiment has been demonstrated again and again in the words of blacks.

As one argued: "In some instances... the white sheets have been replaced by police uniforms worn by a chosen few with the power to put in motion the process of taking away one's freedom" (Holbert and Rose 2008: 95). The sentiment expressed by civil rights leader Malcolm X shares many similarities with these ideas as well:

"Nowadays, our people don't care who the oppressor is; whether he has a sheet or whether he has on a uniform, he's in the same category" (Breitman 1965: 67).

Likewise, Douglas Thompkins explains that:

Fearing the police has the same effect on me as my fear of the Ku Klux Klan on the side of a dark deserted road in Mississippi in the 1960s. I do not fear the person inside the uniform, I fear the uniform and the power of the state that often sanctions the behavior of their agents, creating an environment within which I can be discriminated against, and even killed (Milovanovic and Russell 2002: 24).

He continues by arguing that: "If we're going to talk about police brutality, it's because police brutality exists. Why does it exist? Because our people... live in a police state" (Nelson 2000: 206). He further asserts that he: "doesn't live in any democracy, he lives in a police state... that's what Harlem is" (Breitman 1965: 66).

Rev. Martin Luther King, Jr. echoed this sentiment in speaking of the police brutality that was a daily experience for many blacks in the South: "They live in a police state which, paradoxically, maintains itself within a democratic republic" (Washington

1986: 173). Rev. King further elaborated on specific instances of police abuse that he had witnessed in his "Letter from Birmingham Jail":

You warmly commended the Birmingham police force for keeping 'order' and 'preventing violence'. I don't believe you would so warmly commend the police force if you had seen its angry violent dogs literally biting six unarmed, non-violent Negroes. I don't believe you would so quickly commend the policemen if you would observe their ugly and inhuman treatment of Negroes here in the city jail; if you would watch them push and curse old Negro women and young Negro girls; if you would see them slap and kick old Negro men and young boys; if you will observe them, as they did on two occasions, refuse to give us food because we wanted to sing our grace together. I'm sorry that I can't join you in your praise of the police department (Washington 1986: 301).

Researchers have pointed to a multitude of instances in which innocent minorities have been brutally beaten and killed by the police²¹. For instance, in 1995, a black man named Jonny Gammage was asphyxiated by the police after he was stopped in a late model Jaguar in a predominantly white suburb. He was unarmed and had no previous record. Another black man in Maryland (Archie Elliot) was shot 14 times by two police officers while handcuffed behind his back and in a police cruiser (Nelson 2000).

One of the most commonly cited cases of police brutality is that of Amadou Diallo, who in 1999 was shot at 41 times, and killed with 19 bullets (Nelson 2000). While this sounds like an unheard of event, some authors are quick to point out that these occurrences are not uncommon within the black community. Rather, scholars such as Ron Daniels argue that such violent occurrences are a "fact of life" in the

²¹ Derrick Bell argues that "innocence offers no insulation against abuse" (Nelson 2000: 90).

black community (Nelson 2000: 245). Reverend Al Sharpton claims that: "Amadou Diallo's only crime that night was being black. It could have been any of us, any one of our children" (Sharpton 2002: 272). Author Jill Nelson further explains such sentiment:

Surprise. Shock. Disbelief. These were the emotions felt by most white Americans when they learned of Amadou Diallo's murder by the police. There is a world of white privilege in which whiteness confers not only power toppling but also a presumption of innocence and the right to protection. It is a world in which the police are, if not exactly friends, certainly not enemies, a world in which, more often than not, if the players are a black person and a policeman, the policeman will receive the benefit of the doubt (Nelson 2000: 10).

Nevertheless, such actions have been the source of the deep sense of fear that many blacks hold toward the police. As Katheryn Russell argues:

(F)or many blacks, police killings tap into long-held fears of unprovoked, random, brutal attacks, inexplicable-except for their being of the wrong race, in the wrong place, at the wrong time. This historical legacy is directly linked to the visceral, negative reaction many blacks today have toward the police (Nelson 2000: 143).

Further, these perceptions have been passed from one generation to the next. For instance, one African American explained that:

My dad would tell me, 'if you get pulled over, just keep your mouth shut and do exactly what they tell you to do. Don't get into arguments, and don't be stupid. It doesn't make a difference (that you did nothing wrong). Just do what they tell you to do (Harris 1999: 274)'.

Moreover, Dr. Ramirez, a law professor, tells her son to: "Sit up straight. If you slouch to the right or the left, the police are gonna think you're carrying a gun" (Harris 2002: 112). Another parent warned his son that:

(The police) are supposed to be there to protect and to serve, but you being black and being male, you've got two strikes against you. Keep your hands on the steering wheel and do not run, because they will shoot you in your back. Keep your hands on the steering wheel, let them do whatever they want to. I know its humiliating, but let them do whatever they want to so to make sure you get out of that situation alive. Deal with your emotions later. Your emotions are going to come second-or last (Harris 1999: 274).

Even a black police officer warned his teenage son that:

(If) you're black, you're out in the neighborhood. It's a fact of life you're going to get stopped. So how you deal with the police is how your life is going to be. They say you did something, say 'O.K.', and let them get out of your life (Harris 1999: 274).

Many younger blacks have internalized such advice and developed similar opinions. One black man explained that: "My mother always told me that the criminal justice system is like slavery. When slavery was abolished, white people tried to find new ways to bring black people down" (Russell 1998: 6). These individuals have both internalized their parents' warnings, and formed their own opinions based on their own experiences:

This is why I hate the police, but more importantly, why I fear them, fear them even more than I hate them. The fact is that most black men, regardless of age, occupation, or economic class, have similar feelings. If they themselves haven't been abused or mistreated, they know of a black man who has (Asim 2001: 83).

Others have echoed this belief. For instance, Richard R. Wright, Jr. explained: "I was convinced early on that policemen were my enemies" (Nelson 2000: 93). Another African American explained that: "I do not feel safe around cops" (Harris 1999: 273). Rev. King claimed that: "If you try to tell the people in

most Negro communities that the police are their friends, they just laugh at you”

(Washington 1986: 325). Even a veteran African American police officer

sympathizes with such perceptions:

... For blacks, trusting the police is difficult; it goes against the grain of years of accumulated distrust... and countless experiences in which blacks have learned that police are not necessarily there to protect and serve them (Harris 1999: 309).

A California assemblyman once explained the source of such distrust: “When black people in Los Angeles see a police car approaching, they don’t know whether justice will be meted out or whether judge, jury and executioner is pulling up behind them” (Cole 1999: 23).

Another writer referenced real life occurrences of police abuse to demonstrate that fear of the police is justified:

If a person can be catching a ride with a friend one moment, and be shot dead the next, or walking down the street with friends, then get beaten, have his jaw broken, or have a disagreement with his landlord one moment, and be sodomized with a nightstick the next, just because he had an encounter with the police, I believe there is definitely reason to be afraid (Asim 2001: 88).

Writer Jill Nelson demonstrates just how commonplace such occurrences are in our society: “In a wide range of communities of color, being harassed, or brutalized, or even murdered by the police has never been a cause for surprise. Alarm, yes, but not surprise” (Nelson 2000: 9). Such instances have prompted some to argue that police officers have “one trigger finger for whites, another for blacks” (Petrocelli et al. 2003: 3). Some have even gone so far as to claim that such acts are “genocidal” (Wilson 1983).

Needless to say, such ideas do not represent the idea of the police as agents of protection and deserving of respect, but rather, as a force of oppression and violence (Nelson 2000; Petrocelli et al. 2003; Woodson 1977). Petrocelli et al. (2003) additionally argue that by playing the role of an occupying army, police are required to do the dirty work of organizations in order to protect the wealthy and the white. Thus, according to Gallagher (2009), actions by the police serve to enforce compliance with the status quo, and therefore, to serve as a reminder to blacks of the extent to which they are allowed to participate in the white-controlled society. Wilson (1983) also discusses such an “order maintenance” function that the police perform.

According to Gunnar Myrdal, who conducted a study of U.S. racism during the 1930s and 1940s: “The Negro’s most important public contact is with the policeman. He is personification of white authority in the Negro community” (Bolton and Feagin 2004: 18). Based on the previous arguments, it appears that this may still be so, because police are the “gatekeepers” of the criminal justice system. That is, they are the first agents with whom citizens interact and are largely the ones who determine who will advance to the next step of the criminal justice system (Anthony and Cunneen 2008: 206).

Similarly, others have claimed that “police misconduct toward people of color is a cornerstone of the perpetuation of racism and white privilege” (Nelson 2000: 15). Consequently, scholars have suggested that police are a visual symbol of the coercive resources of dominating rule, and that they are therefore a form of “paternal

surveillance” (Holmes and Smith 2008: 23) over the “dangerous classes” (Holmes and Smith 2008: 25). As Jerome Miller explains:

Despite its pretensions, modern criminal justice is no more about crime control than it is about deterrence. None of that matters. Rather, it is increasingly about identifying and managing unruly groups... Having put in place the conditions to ensure a violent self-fulfilling prophecy on crime control, we are poised to move from disciplining an incorrigible population to controlling a disposable one (Gutierrez-Jones 2001: 135).

Scholars such as Ron Daniels point out that police do not play this same role as an occupying army in middle and upper class white communities (Nelson 2000). Robert Woodson also demonstrates this point: “For most Americans, this system works well-that is for most white Americans. But for others (e.g. poor, blacks, browns), the system is seen as a tool of the power structure” (Woodson 1977: 79). Rev. King also used this analogy of the police as an occupying force²²: “In the larger sense, police must cease being occupation troops in the ghetto and start to protect its residents” (Washington 1986: 325). Malcolm X references it as well:

Any occupied territory is a police state; and this is what Harlem is. Harlem is a police state; the police in Harlem, their presence is like occupation forces, like an occupying army. They’re not in Harlem to protect us; they’re not in Harlem to look out for our welfare; they’re in Harlem to protect the interests of the businessmen who don’t even live there (Breitman 1965: 66).

Further, it has been argued by some blacks that:

We live in a country in which many black and brown communities define themselves as under siege, not only by poverty, miseducation, and crime, but also by the police. In need of protection, we are instead

²² Similarly, Brown and Shelden (2003) refer to the police in this context, as an “alien force” in “enemy territory” (p. 181).

given an army of occupiers (Nelson 2000: 15).

As Dr. Lee Brown argued at a symposium sponsored by the National Urban League in the 1970's:

In essence, the mission of the police was developed for white people and not black people. The police consider themselves as representatives of the white community. Hence, within the black community, the police are indeed looked upon as an occupying army protecting the interests of the ruling class in a neo-colonial setting. Thus, within the black community, police harassment, police brutality, police corruption does exist (Gabbidon and Greene 2000: 123).

This sentiment is evidenced by the argument of Blauner (1969):

The police are the most crucial institution maintaining the colonial status of black Americans... Police are key agents in the power equation as well as the drama of dehumanization. In the final analysis they do the dirty work for the larger system by restricting the striking back of black rebels to skirmishes inside the ghetto, thus deflecting energies and attacks from the community and institutions of the larger power structure (Gabbidon and Greene 2005: 85).

James Baldwin further argues that:

The only way to police a ghetto is to be oppressive. None of the police commissioner's men, even with the best will in the world, have any way of understanding the lives led by the people; they swagger about in twos and threes patrolling. Their very presence is an insult and it would be, even if they spent their entire day feeding gumdrops to the children. They represent the force of the world and that world's criminal profit and ease, to keep the black man corralled up here, in its place. The badge, the gun and the holster, and the swinging club make vivid what will happen should his rebellion become overt... It is hard, on the other hand, to blame the policeman, blank, good-natured, thoughtless, and insuperably innocent for being such a perfect representative of the people he serves. He too, believes in good intentions and is astounded and offended when they are not taken for the deed. He has never, himself, done anything for which to be hated-which of us has? And yet he is facing, daily and nightly, the people

who would gladly see him dead, and he knows it... He moves through Harlem, therefore, like an occupying soldier in a bitterly hostile country: which is precisely what, and where he is, and is the reason he walks in twos and threes (Woodson 1977: 81).

Dr. Brown, however, takes a much harsher position in this regard:

The problem is not one of a few 'bad eggs' in a police department of 1,000 or 10,000 men, but rather of a police system that recruits a significant number of bigots, reinforces the bigotry through the department's value system and socialization with older officers, and then takes the worst of the officers and puts them on duty in the ghetto, where the opportunity to act out the prejudice is always available (Woodson 1977: 80).

Perhaps even more harshly, Bruce Wright, an African American judge on the New York Supreme Court, once even warned of a "killer instinct seemingly aroused in so many white police officers by the sight of black skin" (D'Souza 1995: 282).

Other researchers have also claimed that such oppression occurring at the hands of the police may be the result not of the actions of individual officers, but rather, of systemic factors (Gordon 1983). As referenced by Robert Woodson:

First, the police departments recruit from a population (the working class) whose members are more likely than the average population to anti-Negro sentiments; second, the recruits are given a basic classroom (training by trainers who) are more likely than the average population to hold anti-Negro sentiments, third, the recruit goes out on the street as a patrolman and is more likely than not to have his anti-Negro attitudes reinforced and hardened by the older officer; fourth, in the best departments, the most able officers are soon transferred to special administrative duties in training, records, juvenile work, etc., or are promoted after three to five years to supervisory positions; fifth, after five years the patrolmen on street duty significantly increase in levels of cynicism, authoritarianism, and general hostility to the non-police world. Finally, it is highly likely that the worst of the patrolmen will wind up patrolling the ghetto, because that tends

to be the least-wanted assignments (Woodson 1977: 92).

However, any researchers attribute these same discriminatory actions to many agents and institutions of the criminal justice system in addition to the police. Their sentiments about prison are very similar. For instance, Keesha Middlemass argues that: “prison became a contained engine of the current political order” (Marable et al. 2007: 378). Angela Davis further argues that:

Along with the army and the police, prisons are the most essential instruments of state power. The prospect of long prison terms is meant to preserve order; it is supposed to serve as a threat to anyone who dares disturb existing social relations, whether by failing observe the sacred rules of property, or by consciously challenging the right of an unjust system of racism and domination to function smoothly (Gabbidon et al. 2002: 166).

Because of this perceived oppression at the hands of the police, many have likened them to patrollers on slave plantations: “Like slave patrollers of old, working-class white men employed in the criminal justice system regulate... men and women of color discarded by global capitalism” (Websdale 2001: 154). In fact, some would argue that the very inception of police forces was in response to perceived African American crime. Primarily, these patrols were used in managing the slave populations of the south (Denziger 1996; Jones-Brown 2000; Meehan and Ponder 2002; Mann 1993; Milovanovic and Russell 2002; Nelson 2000; Websdale 2001).

These “slave patrols” were designed to control black movement, and were generally formed of southern white men who rotated the duty of watching over black slaves. It has been revealed that, on occasion, these “patrols” would forcibly remove

a black from custody and mete out whatever punishment they deemed to be appropriate (Russell-Brown 2000). These slave catchers would sometimes even tie slaves like hogs and subdue them with cattle prods (Asim 2001). The task of these patrollers was expounded by the unique and discriminatory laws (called “slave codes”²³) that applied to the slaves²⁴ (Gabbidon and Greene 2005). As Katheryn Russell explains:

Slave codes embodied the criminal law and procedure applied against the enslaved African. The codes, which regulated slave life from cradle to grave, were virtually uniform across states—each with the overriding goal of upholding chattel slavery. The codes not only enumerated the applicable law but also prescribed the social boundaries for slaves—where they could go, what types of actions they could engage in, and what type of contracts they could enter into. Under the codes, the harshest criminal punishments were reserved for those acts that threatened the institution of slavery (e.g. murder of someone white or a slave insurrection). The slave codes also punished whites who opposed slavery (Gabbidon and Greene 2005: 9).

Therefore, as W.E.B. DuBois argued, in this form of “plantation justice” (Gabbidon and Green 2005: 9), slave patrollers were able to act as police, judge, and jury:

²³ These codes also prohibited slaves from inheriting or owning any property (including pets), prevented them from testifying in any court case involving a white, and forbade slaves from using abusive language toward whites and preaching. These laws also outlawed male slaves from gathering in groups of eight or more, and imposed harsh penalties on whites who taught blacks to read (Daley 2006, Russell-Brown 2006), or tried to help them escape (Russell-Brown 2006). The codes also deterred slave rebellions and forbade them from marriage (Delgado and Stefancic 1997).

²⁴ African American jurist A. Leon Higginbotham identified ten precepts of American slavery jurisprudence. Higginbotham argues that these laws were based on the notion of black inferiority, their role as property of the whites, black powerlessness, an insistence on maintaining racial purity, limiting of the number of free blacks, recognizing no familial rights of blacks, denying blacks their education and culture, recognizing no religion of the blacks, and limiting black opposition and resistance. There was also a firm belief in securing these laws “by any means possible” (Gabbidon and Greene 2005: 11).

The result was a system of rural police, mounted on and on duty chiefly at night, whose work it was to stop the nocturnal wandering and meeting of slaves. It was usually an effective organization (to) which all white men belonged, and were liable to active duty at regular intervals (Gabbidon and Greene 2000: 32).

Sadly, it has been argued that such an arrangement continues today: “Each day, African Americans confront hostilities from their fellow white citizens, who see themselves as unofficial deputies for an occupying army: the police” (Reed 2000: 190). Other aspects of modern-day police patrol have also been likened to the practice of slave patrols. For instance, scholars have pointed back to the Reconstruction period, at which time blacks were required to carry identification cards that allowed them to pass through certain areas. Patrolmen could ask them to show their identification and ask their reason for travel at any time. Those patrolling the slaves were authorized to “stop, search, whip, maim, and even kill any African slave caught off the plantation without a pass, engaging in an illegal activity, or running away” (Jones-Brown 2000: 79). These scholars have noted that in modern society, police officers are permitted to randomly stop any individual (most often blacks), ask to see his/her identification, and inquire into his/ her reason for being in the area (Austin 2000; Nelson 2000).

Some have even contended that:

White racial dominance over blacks in America from the estimation of black slavery in the seventeenth century to the establishment and consolidation of black ghettos in the late nineteenth and throughout the twentieth centuries depended upon systems of white policing (Cashmore and McLaughlin 1991: 66).

Therefore, it has been argued that the “white policing of blacks in general has been a

consistent pattern in the history of white racial dominance over blacks in America” (Cashmore and McLaughlin 1991: 66). As a result, these individuals see the unjust practices of some police departments, again, as little more than an extension of the historical forms of oppression and discrimination that they faced. As Rev. Al Sharpton once pointed out:

In 1986, in New York City, a young black man was killed for being in the wrong neighborhood. In 1950, Emmitt Till was murdered, lynched, for being on the wrong sidewalk in Mississippi. We haven’t come that far (Sharpton 2002: 93).

African American Women and the Criminal Justice System

Various scholars have documented the unique position that African American women are in with regards to the criminal justice system; first of all, because of the large number of African American men who are incarcerated, and second, because of the disproportionate number of African American women who are incarcerated each year²⁵. When so many African American men are incarcerated, African American women face the enormous burden of being left behind in the community, often with children to support and with very few means of providing such support on their own (Clarke 2007).

For instance, Simien (2005) argues that African American women face a double disadvantage within the social, political, and economic structure, as they must bear the burden of both racial prejudice and the subjugation of women. Furthermore,

²⁵ As a matter of fact, statistics reveal that African American women constitute the fastest growing segment of the prison population (Johnson, Logan, and Davis 2003).

black women tend to lag behind other groups in income, employment, education, social class, domestic violence, and poverty (Simien 2005). Consequently, it has been claimed that African American women face a “cumulative experience” of their race and gender (Simien 2005: 532). Therefore, when encountering the criminal justice system, African American women face what Clarke (2007) calls the “dual crisis of racism and sexism in the justice system” (p. 92). Other scholars echo this sentiment. Chesney-Lind terms it as “multiple marginality” (Van Wormer and Bartollas 2000: 97), and Gabbidon, Greene, and Young (2002) refer to it as “double status” (p. 263).

Moreover, once incarcerated, black women tend to face a variety of serious threats. First of all, African American women experience higher rates of HIV/ AIDS while in prison. In addition, they are at a higher risk of other infections and chronic diseases while incarcerated (Sokoloff 2007). Furthermore, statistics demonstrate that this group of women faces an even greater risk of experiencing physical and sexual assaults while incarcerated (Jones 2007). Finally, it has been found that while incarcerated, as compared to their male counterparts, black women receive poor healthcare services, inadequate drug treatment, limited job training, and stand a greater risk of losing custody of their children (Sokoloff 2007).

Racial Disparity in the Criminal Justice System as Indicative of Racial Problems in Society at Large

Many have argued that the discriminatory practices and policies of the criminal justice system are blatantly representative of similar problems within society

at large. According to A. Leon Higginbotham, racism within the courts is reflective of racism in the larger society. He argues that:

When one race receives harsher treatment than another, the court is announcing to the world that one group is perceived as supreme and the other inferior, the latter not being entitled to the quality of justice that is assumed to be the dominant group (Gabbidon et al. 2002: 138).

He further explains that the “courts do not dispense justice in sterile isolation, unaffected by the prevailing political, social, and moral attitudes and currents of the broader society in which they operate” (Higginbotham 1990: 130). Cole (1999) also argued that: “Racial disparities appear at virtually every point in the criminal justice system. Disparities within the criminal justice system in turn reflect disparities in social and economic conditions beyond that system” (p. 139).

As Higginbotham demonstrates, the history of such interplay between the criminal justice system and society as a whole is a very long and extensive one:

Racial segregation and other forms of discrimination have a long and tragic history in the criminal justice system of many state courts when one race receives harsher treatment than another, the court is announcing to the world that one group is perceived as superior and the other inferior; the latter not being entitled to the quality of justice that is assured to the dominant group. The entire antebellum period was so infected with racism that it was the remote exception, rather than the rule, when witnesses, defendants, or litigants who were African American were treated just like everyone else (Higginbotham 1996: 128).

As one black man argued: “It (the criminal justice system) is just a microcosm of what the larger American society is... (It) has been more or less an instrument to maintain the racism within the country” (Russell 1998).

Therefore, when many see statistics demonstrating racial disparities within the criminal justice system, they attribute them to a failure of the system, rather than a reflection of the black community. This point is perhaps best illustrated by the analogy that Rev. Martin Luther King, Jr., within his famous “I Have a Dream” speech, drew of the Declaration of Independence as a promissory note---a binding pledge that the United States would guarantee all men and women inalienable rights:

In a sense we have come to our nation’s capitol to cash a check. When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir. This note was a promise that all men would be guaranteed to unalienable rights of life, liberty, and the pursuit of happiness. It is obvious today that America has defaulted on this promissory note insofar as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check, a check which has come back marked ‘insufficient funds’ (Daley 2006: 112).

More radical, however, was Malcolm X’s assertion that: “Uncle Sam’s hands are dripping with blood, dripping with the blood of the black men in this country” (Daley 2006: 124).

Because of the widespread evidence of such perceptions, many scholars argue that even in today’s society, blacks still hold far less trusting and confident attitudes toward the criminal justice system than do whites. This consequence was warned of by DuBois (1899), in his essay “The Negro and Crime”:

(L)et a negro be simply accused of any crime from barn-burning to rape and he is liable to be seized by a mob, given no chance to defend himself, given neither trial, judge nor jury, and killed. Passing over the acknowledged fact that many innocent Negroes have thus been murdered, the point that is of greater gravity is that lawlessness is a direct encouragement to crime. It shatters the faith of the mass of

Negroes in justice; it makes race hatred fiercer; it discourages honest effort; it transforms horror at crime into sympathy for the tortured victim; and it binds the hands and lessens the influence of those race leaders who are striving to preach forbearance and patience and honest endeavor to their people. It teaches eight million wronged people to despise a civilization which is not civilized (Gabbidon and Greene 2000: 31).

Today, over 100 years after these revealing words of DuBois, the idea has not changed too much. As Tony Platt argues:

When you fasten crime upon this race as its peculiar trait, they answer that slavery was the arch-crime, and lynching and lawlessness its twin abortion; that color and race are not crimes, and yet them it is which in this land receives most unceasing condemnation, North, East, South and West (Marable et al. 2007: 37).

The purpose of this chapter was to familiarize readers with the different facets of racial disparities within the criminal justice system. Further, the chapter was intended to acquaint the reader with background information that is useful in explaining perceptions of the criminal justice system among members of different races. In the following chapter, findings from previous research will be presented, as will several theoretical perspectives that have addressed the matter.

The theories that will be presented stand in stark contrast to one another. Critical race theory is a conflict theory that is used to argue that the racial disparities evident within the modern day criminal justice system are due to systematic racism, in which laws are written and enforced in a racially discriminatory way. Contrarily, the other theories take a much different approach to the issue, suggesting that any racial disparities found within the criminal justice system are due, not to racism, but to a disproportionate amount of criminal activity committed by African Americans.

CHAPTER 3

LITERATURE REVIEW/ THEORETICAL FRAMEWORK/ HYPOTHESES

Literature Review: Race and Perceptions of the Criminal Justice System

Although some African Americans have positive opinions about the criminal justice system, such sentiment is certainly not the norm. Weitzer and Tuch (1999) suggest that a race-based version of a conflict theory (such as critical race theory) predicts a high level of racial homogeneity with regards to opinions of the criminal justice system and other issues. Statistics confirm that negative views of the criminal justice system are by far the predominant ones held among African Americans²⁶.

A Gallup Poll conducted in 1998 found that an individual's race was the factor most closely related to his or her confidence (or lack thereof) in different agencies of the criminal justice system. The results showed that blacks were consistently less confident in the police, the local court system and the state prison system²⁷ (Sherman 2007). Weitzer and Tuch (1999) also found race to be a significant predictor of confidence in the criminal justice system in each of the five

²⁶ David Cole found that "blacks are more consistently more skeptical of the criminal justice system than whites (Cole 1999: 11)".

²⁷ In a 1998 Gallup Poll, 61 percent of whites (but only 34 percent of blacks) had confidence in the police, 36 percent of whites (versus 16 percent of blacks) had confidence in the local courts, and 26 percent of whites (compared to 15 percent of blacks) were confident in the prison system (Sherman 2007).

models that they tested²⁸.

Research conducted by Hurwitz and Peffley (2005) determined that most blacks believe that the criminal justice system is unfair, while most whites believe the opposite. Furthermore, it appears that not only do African Americans view the criminal justice system as unfair, but they believe that the system discriminates against them (Hurwitz and Peffley 2007). Hagan, Macmillan, and Wortley (1997) also suggest that a large proportion of African Americans perceive that the courts discriminate on the base of race. It has been found that as high as 70 percent of African Americans believe that blacks receive harsher treatment within the criminal justice system. However, only 40-45% of whites appear to hold such an opinion (Cole 1999; Weitzer and Tuch 1999). Stuntz (1998) concluded with similar findings, and determined that as many as 66 percent of blacks believe that the criminal justice system is “racist”.

Additional research has further indicated that blacks are more likely to believe that police racism and prejudice are common (Weitzer 2000). For instance, in one study, 44.5 percent of blacks said that racism among the police was “very common”, compared to only 10.5 percent of whites (Hagan et al. 1997). A study by Weitzer and Tuch (1999) yielded even more disparaging results. Their study indicated that 80 percent of blacks view racism by the police as “very” or “fairly” common. Similarly,

²⁸ The five models evaluated were: views on which race is treated most harshly by the criminal justice system, opinions on whether police protected black neighborhoods as adequately as white neighborhoods, how much confidence individuals have in the police to treat blacks and whites equally, whether the individual ever personally felt treated unfairly by the police because of his/ her race, and how widespread the respondent felt that racism against blacks is among the police. In each of the models, blacks demonstrated a considerably smaller amount of confidence than did whites.

Hagan et al. (1997) found that a large proportion of African Americans believe that the police discriminate on the basis of race. A 2001 Washington Post Survey (Weitzer and Tuch 1999) found that, when it came to citizens' confidence in the ability of their local police to treat blacks and whites equally, over 71 percent of whites had a "great deal" or "fair amount" of confidence in the police. However, only 34.2 percent of blacks had such an opinion²⁹.

Henderson et al. (1997) also found that African Americans are far more likely to perceive racial injustice within the criminal justice system. This relationship remained strong, even after controlling for socio-demographic characteristics, experience with the criminal justice system, neighborhood disorder, and other factors. Research by Rottman and Tomkins (1999) echoed these results, as 31 percent of African Americans perceived "far worse treatment" of African Americans from the courts. Only 9 percent of whites, however, held similar views.

As a matter of fact, Rottman and Tomkins (1999) established that only 23 percent of blacks believe that the court system treats African Americans the same as other racial groups. In a 2001/2002 Race, Crime, and Public Opinion survey, 89 percent of African Americans felt that the criminal justice system is biased against blacks, while only 38 percent of whites reported similar views. Furthermore, 56 percent of whites and 8 percent of blacks said that the criminal justice system affords

²⁹ A study conducted by the Bureau of Justice Statistics found similar results. In this survey, 54 percent of whites had a great deal of confidence in the police, while only 38 percent of blacks did so (Walker et al. 1996).

fair treatment to blacks (Bobo and Thompson 2006).

Research has further indicated that other factors may also serve to compound the negative perceptions that African Americans hold of the criminal justice system. For instance, because of their pervasively negative experiences with the criminal justice system, a general distrust of the system has been found among black women. For instance, Clarke (2007) found that African American women are less likely to go to the police for help because they feel the authorities are unlikely to follow up on their claims. Other scholars have revealed similar findings. For instance, it has been established that African American women who are victimized are far less likely than whites to use criminal justice agencies and public services because of their distrust in the police (Manatu-Rupert 2000). Thus, as Henriques argues, black women simply “cannot depend on the criminal justice system to protect them” (Manatu-Rupert 2000: 191).

Studies have determined that such attitudes often translate into perceptions of injustice within the legal process itself. For instance, two New York Times, WCBS-TV, and Newsday polls conducted in 1998 found that blacks are over twice as likely as whites to perceive court favoritism for white defendants (Hagan et al. 1997). Specifically, Young (1991) found that blacks are significantly more likely to perceive sentence inequities. Hagan and Albonetti (1982) found that African Americans’ ideology about the criminal justice system was found to persist even after controlling for political ideology, crime experience, contact with the criminal justice system, and neighborhood criminality (Browning and Cao 1992).

Moreover, the Kerner Commission, in its report on civil disorders, found that:

The belief is pervasive among ghetto residents that lower courts in our urban communities dispense 'assembly line' justice; that from arrest to sentencing, the poor and uneducated are denied equal justice with the affluent, that procedures such as bail and fines have been perverted to perpetuate class inequities... Too often the courts have operated to aggravate rather than relieve the tensions that ignite and fire disorders (Bell 1973: 174).

Such findings are perhaps best evidenced by scholar Derrick Bell's assertion that:

"To the black defendant the courts are part of an alien process controlled by a white majority that created it and that could, if it chose, eliminate the deficiencies (Bell 1973: 185)." He further explains that:

At every stratum of the system-client, law student, lawyer, and judge-the black man is aware of racism in the administration of criminal justice. Though not as blatant as in the past, its effects remain sufficiently obvious to vitiate the continuing debate over whether a black man can receive a fair trial (Bell 1973: 200).

Perceptions of the Police

Weitzer and Tuch (1999) found that, not only do blacks have far more dissatisfaction with the criminal justice system, but they also have a greater amount of dissatisfaction with the police. Baker, Lambert, and Jenkins (2005) also found that blacks typically have a less favorable view of the police, as did Weitzer (1997; 1999; 2002); Cao, Frank, and Cullen (1996); Hagan et al. (1997); Schuck and Rosenbaum (2005); Sunshine and Tyler (2002); Eitle et al. (2002); and Parker, Onyekwuluje, and Murthy (1995).

In addition, a study conducted in 2001 by the National Institute of Justice

determined that 63 percent of whites have a great deal of confidence in the police. Only 31 percent of African Americans, on the other hand, were found to have the same amount of confidence (Tyler 2005). In all, it has been found that whites tend to have more favorable opinions of the police, favor more aggressive law enforcement techniques, and are skeptical of criticisms of the police (Tuch 2002).

Further, Weitzer and Tuch (1999) found that, of those surveyed about their personal experiences with the police, few whites reported mistreatment by the police. Among blacks, however, 40 percent reported such an experience (Cole 1999). In a similar finding, Tuch (2002) concluded that 70 percent of African Americans, but only 30 percent of whites, believe that the police treat blacks less fairly.

A study conducted in 1996 by Huang and Vaughn rendered similar findings. The research determined that 67 percent of African Americans, but only 40 percent of whites, believe that there is a problem with the use of force by the police (Sunshine and Tyler 2003). In addition, Weitzer and Tuch (2004) found that African Americans are much more likely to believe that police misconduct occurs quite often (Weitzer and Tuch 2004):

In a 1999 Gallup Poll, 77 percent of black respondents, but only 56 percent of white respondents, believed that racial profiling is widespread (Holbert and Rose 2008). Among whites, women are more disapproving of the practice. However, among blacks, research has indicated few age or gender differences (Tuch 2002). Nevertheless, another study revealed that 80 percent of African Americans believe that blacks are more likely to be stopped and arrested (Henderson et al. 1997).

Weitzer (2000) argues that the majority of whites who believe that policy differences do exist argue that such policies are merely a response to differences in rates of criminal behavior between the races.

In a study conducted by Holbert and Rose (2008), over four-fifths of blacks claimed to have been stopped by the police because of their race. Of that number, 60 percent said they had been stopped three or more times, and 15 percent said they had been stopped eleven times or more (Holbert and Rose 2008). Moreover, in a 2001 Washington Post survey, 37 percent of blacks claimed to have been subjected to an unfair police stop. Among whites, however, only 4 percent reported experiencing such a stop (Walker et al. 1996).

It has been determined that 53 percent of black men between the ages of 18 and 34 claim to have been treated unfairly by local law enforcement (Holbert and Rose 2008). As a matter of fact, Weitzer and Tuch (1999) found that blacks are over five times more likely than whites to say that they have been mistreated by the police. In all, Lundman and Kaufman (2003) found that blacks and Hispanics are less likely to report that police act properly during traffic stops. Specifically, blacks were more likely to believe that the police did not act properly, while whites were more likely to think that they did act properly (Weitzer and Tuch 1999). In addition, Roberts and Stalans (1997) cite survey data in which less than one-third of blacks believed that police are very honest and maintain ethical standards. Almost one half of whites, on the other hand, claimed to believe that the police are very honest and maintain ethical

standards³⁰.

In sum, Walker et al. (1996) argue that all studies and surveys completed to date show that race and ethnicity are the most important factors when looking at individuals' attitudes toward the police³¹. Consequently, Sigelman and Welch claimed that: "It is hardly an overstatement to say that blacks and whites inhabit two different perceptual worlds. Whites do not acknowledge the persisting prejudice and discrimination that are so obvious to blacks" (Hurowitz and Peffley 2005).

Scholars disagree about the impact of social class on perceptions of the police among African Americans. Some suggest that class influences the amount of confidence that African Americans have in the police, while others do not (Hagan, Payne, and Shedd 2005; Weitzer and Tuch 1999; Tuch 2002). Some scholars, such as Brooks and Jeon Slaughter say that disadvantaged blacks are more critical of the police (Miller and Foster 2002), while others say that upper class blacks are more critical of the police (Wortley, Hagan, and Mamillan 1997).

Perceptions of the Death Penalty

These negative perceptions among blacks are also extremely prevalent when it comes to the ultimate form of criminal punishment—death sentences. Some studies

³⁰ Almost one-third of blacks rated the honesty and ethics level of police as "low" or "very low".

³¹ Cao et al. (1996) conducted research which indicated that females tend to have more confidence in police than do males. However, their research also suggested that education and income have no significant impact on confidence in the police (Cao et al. 1996).

have shown that as many as 91 percent of whites favor the use of the death penalty³², while only 59 percent of blacks do so (Walker et al. 1996; McAdams 1998).

Moreover, it has been determined that 73 percent of blacks believe that blacks are more likely to receive the death penalty than are whites. However, only 41 percent of whites hold a similar opinion (Walker et al. 1996). Another study (Henderson et al. 1997) found that as high as 80 percent of African Americans believe that blacks are more likely to receive the death penalty.

A review of related literature conducted by Eisenberg, Garvey, and Wells (2001) also found that whites are considerably more likely to favor the death penalty than are blacks. Likewise, Dowler (2003) found that race is the strongest indicator of punitive attitudes. Similarly, in their research, Baker et al. (2005)³³ found that this racial difference in support for the death penalty was documented in 15 of 16 bivariate measures of support and opposition to the death penalty. Differences remained in ten of the sixteen measures, even after controlling for gender, age, and educational level.

Likewise, conservatives were found to have stronger levels of support for the death penalty than were liberals (Soss et al. 2003). In addition, although stronger support for the death penalty has been found among men than among women

³² Some research has determined that racial prejudice is the most important predictor of white attitudes toward the death penalty (Hurwitz and Peffley 2007). Soss et al. (2003) also found that whites with the highest levels of anti-black prejudice are very likely to indicate the strongest support for the death penalty. In all, Soss et al. (2003) found that individuals with more negative beliefs of blacks generally endorse more punitive responses to crime.

³³ Research conducted by Eisenberg et al. (2001) established that almost two-thirds of white jurors voted to give defendants a death sentence, compared with less than one-third of black jurors.

(Eisenberg et al. 2001; Soss et al. 2003), the greatest levels of support for the death penalty were found among white females (Soss et al. 2003). Other research has indicated that the impact of gender on support for the death penalty varies among the races. Hurwitz and Peffley (2007) found that among whites, males are consistently more supportive of the death penalty. However, among blacks, the opposite seemed to be the case.

Furthermore, scholars have determined that individuals' beliefs about the causes of crime also influence their support (or lack thereof) for the death penalty and other punitive measures. Research has indicated that those who attribute the causes of crime to internal problems (i.e. having a "violent nature") support more punitive policies than do those who believe that crime stems from external problems, such as societal deficiencies (Hurwitz and Peffley 2007). The researchers found blacks are considerably more likely to attribute disproportionate levels of black crime to external factors. Whites, on the other hand, are much more likely to believe that crime stems from internal causes (Hurwitz and Peffley 2007). Moreover, research by Henderson et al. (1997) established that, while 44 percent of African Americans believe that African Americans' disadvantaged status in society is due to discrimination, only 21 percent of whites hold similar views.

Moreover, Jacobs, Kent, and Carmichael (2005) discovered that conservatives are more likely to place the responsibility for criminal behavior on personal actions, while liberals attribute responsibility to external conditions. In addition, they reveal that conservatives are more likely to support harsh punitive measures than are

liberals. These studies also indicate that African Americans are more likely to be liberal (Henderson et al. 1997).

Theoretical Framework

There are two dominant ideologies about the criminal justice system represented within the scholarship on race. The first is the idea is that since blacks first arrived in America, they have been systematically oppressed. Originally, this oppression came by way of slavery, then by other discriminatory practices and policies, such as the “Black Codes”, the convict lease system³⁴, Jim Crow laws, and the practice of lynching. Adherents to this view argue that rather than developing into a society of racial harmony and equality in the decades following Emancipation, society has instituted one practice after another that has served to extend the oppression which began with slavery.

It appears that the vast majority of African Americans adhere to this notion of continuance, viewing the criminal justice system as yet another agency for their oppression. These individuals would argue that America has manipulated the criminal justice system into becoming an avenue for the continuation of historical systems of oppression. As Dow (2002) suggests: “The criminal courts are the institutions in the United States least affected by the civil rights movement that brought changes to many American institutions in the last forty years” (p. 47).

The other line of thought is a more conservative one. Followers of this view argue that while blacks were obviously oppressed through slavery and the previously mentioned institutions implemented shortly thereafter, society has been transformed

³⁴ Referred to as “debt slavery” by Milfred Fierce, “the spawn of slavery” by W.E.B. DuBois, and “slavery by another name” by Douglas Blackmon.

through the years from a system of oppression to one much more fair and equal, with a criminal justice system that is, in fact, just. Adherents to this notion do not view the racial disparities within prisons as a failure of the government and/ or criminal justice system. Although they argue that the higher crime rates among black Americans may be a result of the historical oppression that the race has faced, they do not see it as a reflection of discrimination within modern society.

Critical Race Theory

Among the views considering the racial disparities evident in the criminal justice system are the ones written from the perspective of “critical race” theorists. Critical race theory was developed in the late 1960’s and the early 1970’s with the work of Derrick Bell and Alan Freeman, who were each concerned about the slow pace of racial reform in the United States (Billings 2003). Moreover, the theory is an outgrowth of the leftist “critical legal studies” movement. As Cornel West (1993a) explains:

Critical legal theorists fundamentally question the dominant liberal paradigms prevalent and pervasive in American culture and society... it is a pronounced disclosure of inconsistencies, incoherencies... and blindness of legal formalists, legal positivists, and legal realists in the liberal tradition... (P. 196).

Thus, it has been asserted that “critical race theory became a logical outgrowth of the discontent of legal scholars of color” (Ladson-Billings 1998: 11). Further, these theorists claim that: “Whites don’t see their viewpoints as a matter of perspective. They see it as the truth” (Taylor 1998: 122). Consequently, critical race

theorists seek to re-evaluate many of the “truths” commonly accepted in our society.

According to critical theorists Brown and Shelden (2003), there are four key tenants concerning the relationship between the law and social hierarchy. First of all, they claim that the current social order helps determine not only the nature of the law, but also, the definition of crime itself. Second, they maintain that the legal system helps to support and perpetuate the existing social order. Third, they argue that the capitalist system and the inequalities within it result from an unequal distribution of resources. Finally, they assert that the legal institution tends to operate in a way that favors those with the most resources, and therefore, in a way that harms those with the least resources.

According to Weitzer and Tuch (1999), such a theory links criminal justice institutions to the structure of inequality in society. That is, the police and other representatives of the criminal justice system are seen as agents that control subordinate groups and protect the interests of dominant ones (Weitzer and Tuch 1999). According to Richard Quinney: “Law is a result of the operation of interests”, and thus, it “incorporates the interests of specific persons and groups... Law is made by men, representing specific interests, who have the power to transmit their interests into public policy” (Brown and Shelden 2003: 65).

Additionally, critical race theory asserts that racism is the usual way that society operates, and therefore, that it represents the common everyday experience of people of color in our country (Delgado and Stefancic 2005). As Kimberly Crenshaw argues: “(R)acism is a central ideological underpinning of American society”

(Russell 1994: 237). Therefore, for critical race theorists, racism exists in society not only on the individual level, but on the institutional and systematic level, as well (Lowy 1991).

That is, these scholars claim that even if an individual does not hold prejudiced notions, past societal practices of racism may continue to operate (Lowy 1991). As J.M. Jones (1981) maintains, such “institutional racism” consists of: “those established... customs and practices which systematically reflect and produce racial inequalities in American society... whether or not the individuals maintaining those practices have racist intentions” (Lowy 1991: 447). Consequently, critical race scholars have argued that:

... racism is a normal, not aberrant or rare, fact of daily life in American society. It is said that the assumptions of white superiority are so ingrained in the political and legal structures as to be almost unrecognizable. In fact, individual racist acts are not isolated instances of bigoted behavior but a reflection of the larger, structural, and institutional fact of white hegemony (Taylor 1998: 122-123).

Valdes, Culp, and Harris (2002) identify three predominant focuses of critical race theorists. First of all, they question whether the so called “color-blind”³⁵ policies that our lawmakers currently employ will ever result in an elimination of racism within society. Further, critical race theorists do not believe that racism can be fought without also waging war against other forms of oppression (i.e. sexism, homophobia, and classism). Finally, critical race scholars reject the notion that today’s racism is

³⁵ Ruth Frankenberg defines color blindness as: “a mode of thinking about race organized around an effort to not ‘see’, or at any rate not to acknowledge, race differences” (Twine and Warren 2000: 145).

perpetuated by extremist individuals. Rather, they maintain that such racism is perpetuated by mainstream social institutions (Romero 2002). As the scholars explain:

CRT (critical race theory) describe(s) and critique(s) not a world of bad actors, wronged victims, and innocent bystanders, but a world in which all of us are more or less complicit in sociolegal webs of domination and subordination (Romero 2002: 385).

While these theorists apply this perspective of systematic racism to many issues in society, no issue receives more of their attention than does the racial disparity of the criminal justice system. Thus, they have argued that: "Historically, within the field of minority group research, virtually no expression of racism was more blatant, widespread, and easy to document than the mistreatment of Blacks by the criminal justice system" (Monk 1994: 242).

Critical race theorists question the old assumptions of liberalism and conservatism, as well as the goals and means of the traditional civil rights movement reform, asserting that such policies benefited whites more than blacks (Crenshaw et al 1995). Critical race theorists argue that racism can (and does) suit the interests of both white elites (through manipulating the labor pool to their advantage) and working-class whites (by giving them a reason to feel superior to blacks). Therefore, these theorists suggest that whites have little incentive to eradicate societal racism. As a result, they claim, laws are formed to disproportionately benefit whites while subsequently harming African Americans (Delgado and Stefancic 2005).

For example, the average citizen is more likely to be killed as the result of

dangerous consumer products and more likely to suffer a loss of property due to white collar crime than from street crime. However, these theorists argue that the way society defines certain behaviors as threatening and makes certain acts criminal ignores this fact, and therefore, convinces many individuals that blacks are much more dangerous than are whites. Consequently then, critical race theorists argue that America's criminal laws have been systematically based on racism (Delgado and Stefancic 2005).

As critical scholar Jeffrey Reiman (2004) demonstrates, such a technique is not only harmful to the African Americans and other minorities which it discriminates against, but to the rest of society, as well. According to Reiman, any victory that the justice system is able to achieve comes at such a great expense and loss of life, that in all actuality, it amounts to a failure³⁶. For example, he claims that by focusing on the crimes of the poor and racial minorities, the picture of crime to which most individuals adhere is greatly distorted. As a result, many hold irrational and unhealthy fears, and an inordinate amount of money is spent guarding against such crimes, although they are not the acts of greatest threat to society. Nevertheless, Reiman points out that when it waged its infamous "War on Crime", the United States government gave the impression that the crimes of greatest threat to society are those committed by the poor and by minorities.

Richard Quinney expounds on how certain behaviors come to be defined as "criminal". He claims that such behaviors are merely forms of human conduct that

³⁶ Reiman (2004) terms this "pyrrhic defeat theory".

have been defined as “criminal” by authorized agents in a politically organized society. Further, he claims that the term “crime” is used to describe behavior that is in conflict with the interests of certain segments of society that have the power to shape the law. Moreover, such criminal definitions, according to Quinney, are applied by the very segments of society that have the power to shape the enforcement and administration of criminal laws (Brown and Shelden 2003).

Consequently, Quinney argues that those who have the power to make laws have a vested interest in writing them to maintain the status quo, and in so doing, to benefit themselves. Such a technique, however, inherently disadvantages those who do not have the power that is needed to either write laws or influence those who do. These individuals (the homeless, the young, those who are ‘out of place’, ethnic and racial minorities, and those who otherwise resist the status quo), are those who Quinney refers to as “problem components” (Brown and Shelden 2003: 105).

Another fascinating example of critical race theory in regards to racial disparity within the criminal justice system is Donald Black’s Theory of the Law³⁷. This theory holds that the social structure of a legal case (the social statuses and ties of all participants) determines its outcome. He further argues that the quantity of law varies from one setting to another, and thus, that each progression in the criminal justice system represents an increase in law³⁸. Consequently, he looks at five separate

³⁷ Black identifies law as “government social control” (Oneto and Phillips 2003).

³⁸ Black identifies social status as a person’s position in society relative to others.

dimensions of social space: vertical, horizontal, normative, symbolic and corporate (Oneto and Phillips 2003). Four of these (vertical, horizontal, normative and symbolic) are applied to the issue at hand.

Black defines the vertical component of social status as wealth. He argues that “downward law” is greater than “upward law”, and therefore, that a rich person who initiates a complaint against a poor person attracts more law than a poor person who initiates a complaint against a rich person³⁹. The horizontal component of social status, on the other hand, refers to one’s integration into social life: being employed, being married, having children, and attending college. Consequently, he argues that “outward law” is greater than “inward law”, and therefore, that an integrated person who initiates a complaint against a marginal person attracts more law than a marginal person who initiates a complaint against an integrated person (Oneto and Phillips 2003).

Further, the normative component of social status refers to the amount of social control that a person has been subjected to in the past. Therefore, Black argues that law is greater in a direction toward less respectability than toward more respectability. Thus, a clean record would tend to reduce law toward that person (Oneto and Phillips 2003).

Finally, the symbolic component of social status refers to items of culture, such as language, religion, and appearance. Black argues that law is greater in a

³⁹ Likewise, it could be argued that a member of the dominant race who initiates a complaint against a member of a minority race would attract more law than a minority who would initiate a complaint against a member of the dominant race.

direction toward “less culture” than toward “more culture”. Thus, those deviating from cultural conventions are subjected to more law than are others (Oneto and Phillips 2003: 6). Unfortunately, African Americans and other minorities tend to fall within the groups in each of these categories that Black hypothesizes getting “more law” than others. Thus, this theory offers one very plausible explanation as to why there is such a great racial disparity in the United States’ criminal justice system.

Another prominent example of the critical race perspective is one that is offered with regards to the racist implications of the death penalty. This is the theory of homicidal severity, as set forth by Darnell Felix Hawkins. Hawkins places a variety of situations of homicide on a continuum according to how serious he perceived the societal reactions to that particular homicide to be. At the most serious end of this spectrum are instances in which a black individual kills a white who is in authority. At the least serious end, however, are situations in which a white person kills an African American to whom they are related or intimately connected. Overall, homicides of whites by black perpetrators tend to be clustered at the most serious end of the spectrum. Toward the least serious end, however, are primarily situations in which blacks kill other blacks. Still lower on the scale are homicides committed by whites against blacks (Gabbidon et al. 2002).

This same line of thought was offered over a century ago by a man who was at the forefront of the critical race movement. W.E.B. DuBois demonstrated how the racist tone of laws often translates into distrust for the criminal justice system among blacks. To this day, as referenced above, research has found that the vast majority of

blacks appear to believe that the police and the courts do discriminate against African Americans, while the majority of whites believe otherwise.

Further, DuBois looked at the injustices that the law permits being done to blacks. Like the critical race theorists who came after him, DuBois argued that racism was not only a general social phenomenon, but that it was a personal and political one, as well. Thus, DuBois also identified the problem as “systemic and systematic” (Rebakka 2007: 3). As he explains, such atrocities began with the institution of slavery, and continued through the convict lease system that was developed shortly thereafter:

... the first and almost universal device was to use the courts as a means of enslaving the blacks. It was not then a question of crime, but rather one of color, that settled a man's conviction on almost any charge. Thus, Negroes came to look upon courts as an instrument of injustice and oppression, and upon those convicted in them as martyrs and victims (Du Bois [1903] 1986: 129-130).

As aforementioned, blacks still hold far less trusting and confident attitudes toward the criminal justice system than do whites. This consequence was warned of by DuBois:

Let a Negro be simply accused of any crime from barn-burning to rape and he is liable to be seized by a mob, given no chance to defend himself, given neither trial, judge nor jury, and killed... it shatters the faith of the mass of Negroes in justice... it teaches eight million wronged people to despise a civilization which is not civilized (Gabbidon and Greene 2000: 31).

Today, many years after these revealing words of DuBois, the idea has not changed too much. As Julius Lester argues:

‘Law and order must prevail’ has become the cliché of the 1960's and

the biggest lie, because the American black man has never known law and order except as an instrument of oppression; it has prevailed upside his head at every available opportunity. It exists for that purpose. The law has been written by white men, for the protection of white men and their property, to be enforced by white men against blacks in part and poor folks in general (Lester 1969).

As a result of these very negative perceptions that many blacks have of the criminal justice system, instead of seeing the police and the court system as tools of protection and justice, many blacks see them as just the opposite---as agents of oppression and as reminders of the forms of historical domination used against them.

As Dr. Lee Brown explains:

In essence, the mission of the police was developed for white people and not black people. The police consider themselves as representatives of the white community. Hence, within the black community, the police are indeed looked upon as an occupying army protecting the interests of the ruling class in a neo-colonial setting. Thus, within the black community, police harassment, police brutality, and police corruption does exist (Gabbidon and Greene 2000: 123).

This sentiment is also evidenced by James Baldwin:

The only way to police a ghetto is to be oppressive. None of the police commissioner's men, even with the best will in the world, have any way of understanding the lives led by the people; they swagger about in twos and threes patrolling. Their very presence is an insult and it would be, even if they spent their entire day feeding gumdrops to the children. They represent the force of the world and that world's criminal profit and ease, to keep the black man corralled up here, in its place. The badge, the gun and the holster, and the swinging club make vivid what will happen should his rebellion become overt... he is facing, daily and nightly, the people who would gladly see him dead, and he knows it... He moves through Harlem, therefore, like an occupying soldier in a bitterly hostile country: which is precisely what and where he is, and is the reason he walks in twos and threes (Woodson 1977: 81).

Dr. Brown expounds on this point:

The problem is not one of a few 'bad eggs' in a police department of 1,000 or 10,000 men, but rather of a police system that recruits a significant number of bigots, reinforces the bigotry through the department's value system and socialization with older officers, and then takes the worst of the officers and puts them on duty in the ghetto, where the opportunity to act out the prejudice is always available (Woodson 1977: 80).

Because of this perceived oppression at the hands of the police, many blacks liken the actions of the police to those of patrollers on slave plantations: "Like slave patrollers of old, working-class white men employed in the criminal justice system regulate... men and women of color discarded by global capitalism" (Websdale 2001: 154). In fact, some would argue that the very inception of American police forces was in response to perceived African American crime: "The first formal U.S. police systems emerged in the South to manage slave populations" (Websdale 2001: 191). Therefore, some argue that the "white policing of blacks in general has been a consistent pattern in the history of white racial dominance over blacks in America" (Cashmore and McLaughlin 1991: 66). As a result, the unjust practices of some police departments are seen as little more than extensions of the historical forms of oppression and discrimination faced by blacks.

Therefore, critical race theorists seem to argue that the previously mentioned inequalities and discriminatory practices are the result of decades of laws that have been manipulated to more heavily impact African Americans, of unjust police practices that have targeted minority populations, and of a system that has failed to ensure the equal treatment of many black defendants. Consequently, these scholars

do not see disproportionate statistics as coincidental, nor do they see them as a reflection of individual failings. Rather, they view them as the result of years of systematic oppression and racism. They argue that the modern criminal justice system is simply the next step in the evolution of oppression, which began with the definitive source of their oppression---slavery. Out of slavery was born the subordination, dehumanization, and cruelty that these scholars claim still flourishes within the modern criminal justice system.

This sentiment is perhaps best evidenced by Milovanovic and Russell (2002), who discuss the “grand apartheid” that was practiced by way of slavery, the Black Codes, etc., and furthermore, the “petit apartheid” that still occurs today through the “informal practices of criminal justice agents and agencies which include ... inhumane and demeaning behavior by law enforcement, court, and corrections officers directed at nonwhite suspects and arrestees” (Gabbidon and Greene 2000: 156). Many scholars have pointed out that the racial discrimination occurring within the criminal justice system is only one demonstration of racism within modern society.

Although this form of racism is not as blatant as historical practices, it still represents racism, nonetheless⁴⁰. Street (2003) explains it this way:

Defined simply as overt public bigotry, racism in the United States has fallen to an all-time low. Understood in socioeconomic, political, and institutional terms, however, American racism is as alive as ever (P. 30).

⁴⁰ Eduardo Bonilla-Silva (2006) refers to such a practice as “racism lite (pp. 3)”. Other scholars refer to it as “color-blind” racism.

Furthermore, in this more modern display of racism, individuals mask their negative views of black individuals by expressing their negative views of certain issues that are indirectly related to racial issues. As Wiley (1991) explains:

When they want to say 'niggers', they say 'crime'. When they want to say 'niggers', they say 'welfare'. When they want to say 'niggers', they say 'drugs'. When they want to say 'niggers', they say anything but 'niggers,' because nice and good and fair people don't say 'niggers'. They deciders and their well-trained and highly skilled reflectors and refractors, the rotators of the prisms, are careful with their own images, for they above all know how important these images are (pp. 81).

Conservative Views of the Criminal Justice System

Some writers, however, do not believe that the criminal justice system is operated in a racist fashion. While these individuals agree that historic discrimination was a reality, and that it may even play a part in higher crime rates, they see the disproportionate crime statistics as a reflection of individual action, and not of systematic oppression⁴¹. Thus, the final blame rests upon the shoulders of the individuals who commit these acts⁴² (and also on the black families⁴³ and

⁴¹ Consequently, some scholars blame the alleged black criminals, rather than a racist criminal justice system, with the harm that has been done to the African American community. As Juan Williams argues: "Black crime is a cancer that is quietly killing the moral center of black America" (Williams 2006: 114).

⁴² Steve Perry (2005) argues that: "Let one White police officer kill one black boy who was out running the streets at 2:00 AM on a Tuesday and black people will march, call for reforms, scream racism and spray murals of the slain child on other people's property. But when we kill our own every single day where's the outcry? Sure, we pour out a little liquor, get some iron-on letters to make a R.I.P. t-shirt, then we start back down the road of blaming the White man for bringing weapons and crack back into the black community. What if we began to attack the racist lethal behavior of our boys with the same vigor that we do the racist lethal behavior of cops... Every single day, hour after

communities⁴⁴ in which it occurs), rather than on any historical or contemporary institutional racism or injustice. As Thomas Sowell argues: "Slavery was an ugly, dirty business, but people of virtually every race, color, and creed engaged in it on every inhabited continent. And the people they enslaved were also of virtually every race, color, and creed" (Sowell 2004).

Further, Larry Elder writes in his book, "Showdown", that "Black leaders use hysterical, inflammatory, and absurd language to trumpet the 'poor me' line" (Elder 2002: 143). However, as Thomas Sowell argues, this has not always been the case:

For most of the history of this country, differences between the black and the white population---whether in income, IQ, crime rates, or whatever---have been attributed to either race or racism. For much of the first half of the twentieth century, these differences were attributed to race---that is, to an assumption that blacks just did not have it in their genes to do as well as white people. The tide began to turn in the

horrifying hour, black boy after black boy is being killed by friendly fire and we silently understand" (p. 38).

⁴³ Such sentiment is evidenced in the following argument presented by Bill Cosby: "In our own neighborhood, we have men in prison... I'm talking about these people who cry when their son is standing in an orange suit. Where were you when he was twelve? Where were you when he was eighteen, and how come you don't know he had a pistol? And where is his father, and why don't you know where he is? And why don't the father show up to talk to this boy?... Looking at the incarcerated, these are not political criminals. These are people going around stealing Coca Cola. People getting shot in the back of the head over a piece of pound cake! And then we all run out and we're outraged, 'Ah, the cops shouldn'ta shot him.' What the hell was he doing with the pound cake in his hand?... And when they stand there in an orange suit and you drop to your knees, and say, 'Please, he didn't do anything, he didn't do anything.' Yes, he did do it. And you need to have an orange suit on too... You got to tell me that if there was parenting, help me, that if there was parenting, he wouldn'ta picked up the Coca Cola bottle and walked out with it to get shot in the back of da head. He wouldn't have. Not if he loved his parents. And not if they were parenting! Not if the father would come home. Not if the boy that dropped the sperm inside of da girl and the girl said, 'No, you have to come back here and be the father of this child.' They don't have to" (Dyson 2005: 59-60).

⁴⁴ Perry (2005) claims that: "The black community builds thugs. We foster their development when we apologize for, instead of correcting the havoc that they create. We teach thugs to be who they become and then blame the world for the negativity that they bring" (p. 34).

second half of the 20th century, when the assumption developed that black-white differences were due to racism on the part of whites (Sowell 2005).

Another writer, Shelby Steele, argues that this perception of blacks as victims has a very detrimental impact upon them⁴⁵:

When a white fails, he alone fails. His doubt is strictly personal, which gives him more control over the failure. He can discover his mistakes, learn the reasons he made them, and try again. But the black, laboring under the myth of inferiority, will have this impersonal, culturally determined doubt with which to contend (Steele 1990: 49).

Those who claim that the criminal justice system is not racist argue that the media and civil rights leaders hold the criminal justice system to such a high level of accountability that there is no way it could possibly be racist. In fact, they believe that these allegations of racism distract society from the individual's wrongdoing, and therefore, that many within society use race to oversimplify the situation. As Thomas Sowell explains, "If an incident involves a white cop and a black criminal, you don't (have to) know the facts to know how liberals in the media will react" (Sowell 2003).

Some even suggest that because of the media attention focused on perceptions of racism in the criminal justice system, guilty blacks actually get the better end of the deal⁴⁶. For example, Sowell points out that Rodney King resisted arrest, kept

⁴⁵ Nevertheless, those who argue that the system is unjust point out that disproportionate rates of black crime do not always translate into individual black failure. Rather, they contend that many of these individuals have been treated unfairly by those in authority---thus, the system has failed, as exemplified in unfair police practices, disproportionate arrest rates, stricter sentences, etc.

⁴⁶ As Thomas Sowell argued: "Drug dealers and other violent criminals have been the beneficiaries of reduced police activity and of liberal judges throwing out their convictions because of 'racial

advancing on the police, and refused to obey their commands (Sowell 2002).

However, the media did not portray this. Therefore, society got a picture of King as a victim, rather than of him as a criminal.

This alleged preferential treatment granted to many black defendants is expounded upon by journalist Jim Sleeper, who argued that:

(L)iberals have been curbing systemic racism in favor of a racism that refuses to pay blacks the compliment of holding them to the same elementary civil standards as everyone else. With stunning callousness, 'civil rights' attorneys from Kunstler to Cochran have goaded black juries into political, 'send a message' acquittals of black assailants of whites, never considering that not only are such acquittals morally indistinguishable from those of white assailants of blacks in the old South, they also encourage liberals' shameful neglect of black victims killed or raped by blacks (Brown 2003: 134).

Elder similarly argues that this perception of blacks as victims has a very detrimental impact upon individual blacks:

After all, he reasons, 'why work hard'? 'Black leaders' tell him the white man intends to bring him down; that a credit-worthy black can't get a loan; that a man as prominent as Danny Glover can't get a taxicab in New York; that standardized tests like the SATs are culturally biased; that the police persecuted the innocent O.J. Simpson; that the CIA introduced crack cocaine to South Central Los Angeles; that some scientist invented the AIDS virus to kill blacks; that he can't get into college without affirmative action; that if you get suspended from school, it is due to a racist administration seeking to persecute black children; and that you can't get a table at Denny's. At some point, this kid says to himself, 'why bother'? (Elder 2000: 58).

According to Elder, this so-called 'poor me' perception causes black leaders to be overly pessimistic about race relations in America, saying that they "refuse to

profiling.' These criminals go back to the black community-not the affluent, suburban and often gated communities where journalists, judges, and politicians live (p. 403)."

acknowledge the good news: Racism no longer remains a potent threat in American life..." (Elder 2002: 151). In another of Larry Elder's books, "The Ten Things You Can't Say in America", he shares statistics demonstrating that "Blacks, usually young black men, commit nearly half of all street crime, and most of certain other categories of crime, such as robbery" (Elder 2000: 43). As a result, Elder seems to argue that the disparity in numbers of African Americans behind bars are justified. Cose (2002) gives a similar impression, by asserting that:

As black men we have endured some of the worst America has to offer-lynchings, enslavement, the indignities of Jim Crow-but never were we coconspirators in our own subjugation-until now. Untold numbers of us stand to lose virtually everything the civil rights struggle won us-the right to vote, to earn a living, to raise our children free from fear-all because we cannot stay out of jail (P. 99).

In arguing that there is a disproportionate amount of criminal activity occurring among blacks, Elder explains that "before September 11, 2001, many blacks demanded that cops ignore reality and pretend that young black men do not disproportionately commit crime" (Elder 2000: 101). He, therefore, argues that it is simply common sense for the police to target black communities more closely: "The first rule of duck hunting is: go where the ducks are" (Elder 2000: 44). In fact, scholar Dinesh D'Souza refers to such a practice not as racial discrimination, but as: "rational discrimination" (Romero 2002: 379).

Other conservatives are similarly sympathetic towards the practice of racial profiling. For example, Walter Williams (2001) argues that such practices are warranted because a disproportionate number of crimes are committed as blacks.

Therefore, he claims that ending the practice of racial profiling would create a situation in which blacks and whites alike are at a greater risk of being victimized by criminals. Williams further demonstrates his notion that the perception of black males as dangerous criminals is not completely unwarranted:

The reality is that race and other characteristics are correlated, including criminal behavior... the behavior of taxi drivers and owners of pizza restaurants cannot be explained by a dislike of dollars from black hands. A better explanation is they might fear for their lives. The true villains are the tiny percentage of the black community who prey on both blacks and whites and have made black synonymous with crime (Williams 2001).

Williams further claims that: "In absolute numbers, blacks commit most of the crime in the United States. Blacks account for half of all the arrests for assault and rape and two-thirds of arrests for robbery" (Williams 1999: 257). He concludes: "most crime occurs mainly within black communities" (Williams 1999: 258). Phillips (2006) also contends that "forty percent of all violent street crime-murder, rape, robbery, assault-is committed by young (black) men and their victims are overwhelmingly other black people" (p. 193). Citing similar statistics, Peterson (2000) argues that: "It doesn't take a genius to see that young black men have a problem with crime. They are inflicting tremendous misery on their own black communities, and on our country as a whole" (p. 30).

Consequently, these scholars believe that any racial disparities evident within the criminal justice system are due, almost exclusively, to a disproportionate amount of criminal behavior that blacks commit, rather than to racist or discriminatory actions by the criminal justice system or its agents. Writer John McWhorter explains

that:

(A)most half of the United States prison population is black. This is generally interpreted as evidence that black people are arrested out of proportion to their numbers in society, since they constitute only 13 percent of the population. However, the figures must be seen in light of the fact that as sad as it is, nationwide blacks commit not 13 percent, but 42 percent of the violent crimes in the country (McWhorter 2000: 13).

He further argues that the number of blacks in prison corresponds closely to the amount of crime that they commit, and therefore, that blacks do not suffer from disproportionate rates of incarceration.

Moreover, McWhorter suggests that there is no racial discrimination present in regards to sentence lengths, wrongful accusations, or even death sentences. Rather, he claims that the disparities evident within these facets of the criminal justice system are warranted by greater amounts of criminal activity occurring within the black community (McWhorter 2000). Rev. Jesse Lee Peterson echoes such sentiment:

Liberals can complain all they want about racism in the justice system, institutional racism, disparate sentencing for drug offenses, etc., but the truth of the matter is that young black males simply commit far more crimes of violence than do whites or other minority groups. The statistics are undeniably accurate. Claiming that racism is the cause of black crime rates is absurd and shifts to blame away from the real culprits: the violent young men who turn to crime to satisfy their lust for guns, power, money, control, and women (Peterson 2003: 47).

Furthermore, these conservative writers seem to suggest that the modern day criminal justice system has come a great distance from the actions and practices of its predecessors. Therefore, while they do see slavery as the ultimate system of oppression, they feel as though most of that oppression ended with Emancipation---

and that any lingering oppression was dealt with by the Civil Rights movement. As a result, they argue, any disparity within the criminal justice system today is not a result of systematic oppression of African Americans. Rather, they would likely defend the idea that society has been “transformed” from the former days of oppression and discrimination into the fair and just system that we have today. Take, for instance, the words of Thomas Sowell:

Given the unique-and uniquely oppressive-history of blacks, it would follow almost inevitably from the civil rights vision that blacks would today suffer far more than other groups from low income, broken homes, and the whole litany of social pathology. But like so many things that follow from the civil rights vision, it happens not to be true in fact (Sowell 1990: 74).

Black Harvard sociologist Oscar Patterson offers a similar point of view:

The sociological truths are that America, while still flawed in its race relations... is now the least racist white-majority society in the world; has a better record of legal protection of minorities than any other society, white or black; offers more opportunities to a greater number of black persons than any other society, including all of those of Africa (Elder 2009: 151).

Dinesh D’Souza expounds on the claim that racism within the criminal justice system is no longer a reality. Nevertheless, many of his accusations stand in direct contrast the findings of the previously mentioned research:

If racism were pervasive in the criminal justice system, we might expect to find the racial gaps between blacks and whites increasing at every stage of the process from arrest to conviction to parole. This turns out to not be the case. Black overrepresentation is overwhelmingly concentrated at the arrest stage, and does not change very much throughout the criminal justice system. A second reasonable expectation is that racial discrepancies between blacks and whites would have decreased over time, since no one argues that the criminal

justice system is more racist now than twenty or fifty years ago. In fact, a larger proportion of blacks are in prison today than at virtually any time of the twentieth century. A third plausible forecast is that Southern states where blacks are thought to be at the mercy of bigoted sheriffs and juries would have larger black-white differences in arrests and convictions than Eastern, Mid-western, and West Coast states. In fact, no such pattern is evident, and many Southern states show gaps smaller than the national average (D'Souza 1995: 283).

Syndicated talk radio host Ken Hamblin further extends the conservative argument. Speaking of the racial disparity within the criminal justice system, he claims that:

This is a tragedy all right. But it's a tragedy spawned for the most part by a permissive system of social coddling that has black ghetto thugs practically immune to old-fashioned standards of right and wrong. It is not a tragedy-as some would claim-spawned by widespread racism among our American police (Hamblin 1999:188).

Finally, the words of Rev. Jesse Lee Peterson provide perhaps the best summation of the sentiment of conservative scholars on the relationship between race and the criminal justice system: "It's not racism-it's lack of character" (Peterson 2003: 39).

Hypotheses

To measure confidence in the criminal justice system, the following dependent variables will be utilized in the present analysis: confidence in the police, and views about whether the death penalty is applied fairly or unfairly in this country. Based on the background information provided and a review of previous research on the subject, it is believed that race will be the most important predictor of confidence in the criminal justice system within this analysis, even after controlling for other important factors (gender, education, income, ideology, and racial view). In addition, although there was little previous research available about the relationship, the current analysis aimed to explore any relationships that existed between race and gender and confidence in the criminal justice system.

Furthermore, the theoretical framework used in the present study consisted of two opposing views of the criminal justice found in the literature on the issue. The first attributes racial disparities within the criminal justice system to discriminatory and racist practices and policies. Such beliefs translated into a considerable amount of distrust in the system. The second view presented attributes racial disparities within the criminal justice system to a belief that blacks commit more crimes than do other races. This belief translated into a generally positive affect for the criminal justice system.

Based on a review of the previous literature and an evaluation of the theoretical frameworks used in this study, it appears that there are indeed racial differences when it comes to confidence in the criminal justice system. Specifically,

after a thorough review of the previous research and the relevant theories, hypotheses for this study were developed:

- Blacks will have less confidence than whites in the police.
- Blacks will be more likely than whites to believe that the death penalty is applied unfairly in this country.

The next chapter will describe the statistical methods and procedures used in the current study, examine the effects of the aforementioned variables on levels of confidence in the criminal justice system and views of fairness in the application of the death penalty, with a particular emphasis on race, and report the subsequent findings of the analyses.

CHAPTER 4

METHODOLOGY

This chapter presents information about the original national survey from which data were drawn for use in the present analysis. Specifically, a description of dependent and independent variables used in the study and coding information for the variables are presented. Finally, the data analysis used in the study is described, including information about the specific methods of analysis chosen.

Data Source

The present analysis drew upon data from the Racial Attitudes in America Survey. This survey was conducted by the Princeton Survey Research Associates International on behalf of the Pew Research Center for the People & the Press, between September 5th and October 6th of 2007. The Racial Attitudes in America Survey was a telephone survey conducted in both English and Spanish, and yielded a nationally representative sample of 3,086 adults (including approximately 1,500 non-Hispanic whites, 1,000 non-Hispanic blacks, and 500 Hispanics) (Pew Research Center 2007). Due to missing responses and the exclusion of certain groups of respondents not being studied in this analysis, however, the sample used in the present study is noticeably smaller than the original sample. The sample size used in the present study varied depending on the variable, from a low of 2561 (income) to 3086 (gender).

Researchers used two samples from which to collect data.

Disproportionately-stratified random digit dialing accounted for 2,522 of the interviews. The design implemented a random digit dial method in which telephone numbers were drawn disproportionately from area codes with higher than average amounts of African American and Hispanic households. An additional 564 interviews from households initially contacted and screened out from the Pew Research Center's Muslim Survey released in 2007 were added to the sample. Consequently, households with an African American adult resident that was not Muslim were included in the survey (Pew Research Center 2007).

In order to maximize response rates, interviewers attempted to contact every sampled telephone number as many as ten times, and calls were spread out over various times of the day and across different days of the week. Upon making contact, researchers asked to speak with the youngest adult male currently at home. If a male was not available, the researcher then asked to speak with the youngest adult female at home. This method is said to produce samples that are very similar to the general population with regards to age and gender (Pew Research Center 2007).

Further, in an attempt to match African American interviewers with African American respondents, all callback interviews were conducted by African American interviewers, and no African American interviewers made calls into the areas with the highest proportion of non-minority respondents. In all, 82 percent of the interviews with African American respondents were conducted by African American interviewers (Pew Research Center 2007).

The design effect (which represents the loss in statistical efficiency that results from systematic non-response) is 1.91 for this survey. This survey's margin of error is 2.4 percent. Thus, the estimated proportions based on the entire sample will be 2.4 percentage points from their true values in the population in 95 out of every 100 samples chosen using the same methodology (Pew Research Center 2007).

Sample Characteristics

After weighting each variable to better represent the general makeup of the population, the researchers reached some general conclusions about the characteristics of the sample. Females accounted for 51.9 percent of the sample, while men made up the remaining 48.1 (Pew Research Center 2007). Regarding the age breakdown of the sample, 10.9 percent of the final sample were between the ages of 18 and 24, another 16.6 percent were between the ages of 25 and 34, 19.3 percent of the sample were between the ages of 35 and 44, fully 19.8 percent of the sample were between the ages of 45 and 54, 14.7 percent were 55 to 64, and 16.6 percent of the sample were 65 years old or older (Pew Research Center 2007).

Regarding education levels of the sample, 13.7 percent had less than a high school level education, 36.3 percent were high school graduates, 22.6 percent had received some college education, and 27.2 percent were college graduates (Pew Research Center 2007). Furthermore, 18.4 percent of the sample came from the Northeast region, 22.7 percent were from the Midwest, 36.5 percent were from the South, and the remaining 22.4 percent of the sample were from the West (Pew

Research Center 2007). Finally, 70.1 percent of the sample was White/ non-Hispanic, 10.8 percent were Black/ non-Hispanic, 12.3 percent were Hispanic, and the remaining 5.8 percent fell into the Other/ non-Hispanic racial/ ethnic category (Pew Research Center 2007).

Variables

The following variables are used in the present analysis. Variable names are the same ones that will be used throughout the analysis and in all corresponding charts and tables. Information about the coding and/ or recoding of each variable is also provided⁴⁷. All missing data were omitted from the analysis.

Dependent Variables

Confidence in the criminal justice system will be evaluated using two variables: confidence in the police (**Confidence Index**), and whether respondents believe the death penalty is applied fairly or unfairly (**Death Penalty**). The original survey had three items measuring confidence in the police. The first item (**Law Enforcement**) asked respondents how much confidence they had in the police to do a good job of enforcing the law. The second item (**Excessive Force**) asked respondents how much confidence they had in the police to do not use excessive force on suspects. The final item (**Equal Treatment**) asked respondents how much confidence they had in the police to treat blacks and whites equally. For purposes of

⁴⁷ Original survey questions can be found in Appendix B.

this analysis the responses on these variables were summed to create an index⁴⁸. The confidence index serves as a useful data reduction device, and more importantly, increases the level of measurement.

For each of the three items, responses were coded to indicate confidence in the police (1= a great deal; 2= a fair amount; 3= just some; 4= very little; 5= none). Before creating the index, responses to the items were reverse coded, so that lower scores would represent lower levels of confidence, and higher scores would represent higher levels of confidence. Therefore, responses were coded as follows: 1= none; 2= very little; 3= just some; 4= a fair amount; and 5= a great deal. After responses were combined to create the index, scores ranged from a possible low of 3 (indicating no confidence in the police) to a high of 15 (indicating a great deal of confidence in the police).

Death Penalty This item asked respondents whether they believed that the death penalty is applied fairly or unfairly. Responses were originally coded as 1= fairly; 2= unfairly. To simplify interpretation of results, responses were recoded into a dummy variable. The dummy variable was recoded with 0 representing an unfair application and 1 representing a fair application. The final coding of the variable was as follows: 0= unfairly and 1= fairly.

⁴⁸ For separate analyses of the original variables before they were combined into the index, see Appendix C.

Independent Variables

Education In some previous research, education is shown to have an impact on individuals' views of the criminal justice system. This variable indicates how much formal education respondents have completed. Responses to the variable were originally coded as follows: 1= 8th grade or less; 2= less than high school (grades 9-11); 3= high school graduate (grade 12 or GED certificate); 4= technical, trade, or vocational school after high school; 5= some college, no 4-year degree (including associate degree); 6= college graduate (B.S., B.A., or other 4-year degree); 7= post-graduate training or professional schooling after college (e.g., toward a Master's degree or Ph.D., law or medical school). Because the number of respondents who had no formal education or who had only completed grades one through eight was so small (less than 3 percent of the sample), they were combined into one category with those who did not complete high school (less than high school). In addition, because the number of those with technical, trade, and/ or vocational training was also very small (less than 4 percent), they were combined into one category with those with some college but no four year degree (some college). Thus, responses were coded as follows: 1= less than high school; 2= high school graduate; 3= some college; 4= college graduate; 5= post graduate training.

Income Income is also found to impact perceptions of the criminal justice system in some previous studies. This variable indicates respondents' total family income from all sources (before taxes) in the year 2006. Responses were coded as follows: 1= under \$10,000; 2= \$10,000 to under \$20,000; 3= \$20,000 to under

\$30,000; 4= \$30,000 to under \$40,000; 5= \$40,000 to under \$50,000; 6= \$50,000 to under \$75,000; 7= \$75,000 to under \$100,000; 8= \$100,000 to under \$150,000; 9= \$150,000 and above.

Ideology The results of at least one previous study indicated that ideology may impact views of the criminal justice system. This variable indicates what respondents identified as their political ideology. Responses were coded as follows: 1= very conservative; 2= conservative; 3= moderate; 4= liberal; 5= very liberal.

Race This variable indicates the race of respondents, which is the primary focus of this study. The Racial Attitudes in America survey categorized respondents into the following races: 1= white; 2=black; 3= Asian; 4= other/ mixed race. However, because the present study sought only to examine differences between blacks and whites, all other races of respondents were coded as missing, and were therefore excluded from the analysis. Subsequently, the variable was recoded into a dichotomous variable, in which responses were coded as follows: 0= white; 1= black.

Racial View This variable was used to indicate whether respondents believed that racial discrimination is the main reason why blacks cannot get ahead, or whether they believed that blacks are mostly responsible for their own condition. Responses were originally coded as follows: 1= racial discrimination is the main reason why blacks cannot get ahead; 2= blacks are mostly responsible for their own condition; 3= neither/ both equally. For this analysis, neither/ both equally responses were coded as missing and excluded from the analysis, and the remaining responses were dummy coded into a variable where 0= racial discrimination is the main reason

why blacks cannot get ahead and 1= blacks are mostly responsible for their own condition.

Gender Some previous studies have shown that gender effects views of the criminal justice system. In this study, gender was also used to examine differences within racial groups with regards to confidence in the criminal justice system. This variable indicates whether respondents are male or female, with responses being coded as follows: 1= male; 2= female. Responses were recoded for data analysis purposes. The final variable was dummy coded as follows: 0= male and 1= female.

Design of the Present Analysis

As revealed in the next section, the current study first evaluates the univariate statistics associated with the variables. The study subsequently evaluates the bivariate relationships between the variables used in the analysis. Finally, the study uses multivariate techniques (multiple and logistic regression) in an attempt to determine whether the bivariate relationships between the dependent and independent variables persist after controlling for other variables.

Both the multiple regression and logistic regression analyses were conducted in two models. All variables were entered into the first model. In the second model, race and gender groups were combined to create three new variables to explore whether there were any relationships between race and gender, and confidence in the criminal justice system. That is, the race and gender variables were removed from the analyses, and were recombined as the following variables: White Women (0= no; 1=

yes), Black Men (0= no; 1= yes), and Black Women (0= no; 1= yes). The final category, White Men, became the reference group to which the other three were compared.

Methods of Analysis

Multiple Regression Multiple regression is a “statistical technique that... predict(s) someone’s score on one variable on the basis of their scores on several other variables” (Brace, Kemp, and Snelgar 2003: 206). Multiple regression is designed to test independent variables that are interval level or dichotomous on interval/ ratio dependent variables (De Vaus 2002). In the present study, multiple regression was used to predict the impact that independent variables (education; income; ideology; race; racial views; and gender) had on the dependent variable that measured confidence in the police. Although interval-ratio variables are the ideal variables used in multiple regression, the procedure is also commonly used to analyze ordinal variables, as well.

Logistic Regression Within social science, there are certain dependent variables for which multiple regression tests are not appropriate, such as those with nominal levels of measurement (De Vaus 2002). For such variables, logistic regression is a more suitable method of analysis (De Vaus 2002), as it permits the testing of models attempting to predict scores on categorical dependent variables (Pallant 2007). Furthermore, logistic regression analyzes the significance of each independent variable, as well as the interaction between these variables (Pallant

2007). In the present analysis, because responses to the final dependent measure of confidence (opinions of fairness in the application of the death penalty) was dummy coded (0= fairly; 1= unfairly), logistic regression was the appropriate multivariate method to use

Finally, Nagelkerke's R^2 was used to determine the percent of variation in each logistic regression model. While ordinary regression presents only one R^2 value, logistic regression offers two (Cox and Snell's R^2 and Nagelkerke's R^2). However, the Nagelkerke statistic is the one most often utilized (Walker and Maddan 2008).

CHAPTER 5

RESULTS

Results of the data analysis will be separated into three sections: results of univariate analyses (frequencies), results of bivariate analyses (correlations), and results of multivariate analyses (multiple regression and logistic regression).

Univariate Analyses

Frequencies

Table 1 presents percentage distributions of the variables used in the analysis.

Confidence Index Within the index, scores range from a low of 3 (representing the least amount of confidence) to a high of 15 (representing the highest amount of confidence). Most respondents had at least a fair amount of confidence in the police, as the median score on the confidence index was 12.0. Relatively few respondents received extremely low scores on the index. For example, only 1.6 percent of respondents scored a three on the fifteen point scale. A considerably higher number (19.2 percent), however, received the maximum score of fifteen.

Death Penalty A majority of respondents (52.4 percent) believed that the death penalty is applied unfairly. On the other hand, 47.6 percent reported believing that the death penalty is applied fairly.

Race Whites made up two-thirds of respondents (62.8 percent), while blacks accounted for another 37.2 percent.

Gender Males accounted for 42.9 percent of the sample, while females were 57.1 percent of respondents.

Education Respondents, by and large, appeared to have received at least some formal education. The largest proportion of respondents (54.3 percent) reported having either a high school degree or completing some college. A relatively small portion of respondents, on the other hand, claimed to have received either less than a high school diploma (11.8 percent) or having acquired post-graduate training (13.3 percent).

Income Respondents' family incomes tended to be most concentrated in the middle income range, rather than on the extremely low or high end. The median annual family income of respondents was between \$40,000 and \$50,000. Only 8.2 percent of respondents had a family income of less than \$10,000, and only 7.1 percent had a family income of \$150,000 or more.

Ideology The political ideology of most respondents appeared to be closer to the middle than either end of the spectrum. The largest proportion of respondents (38.4 percent) identified themselves as being moderate. Only 6.7 percent of the sample, however, identified themselves as very conservative. Another 31.9 percent identified themselves as conservatives. The same pattern was evident on the liberal end of the continuum, as those who identified themselves as being liberal comprised 16.1 percent of the sample, and only 6.8 percent identified themselves as being very liberal.

Racial View Only 27.6 percent of respondents believed that racial discrimination is the main reason why blacks cannot get ahead, while 72.4 believed that blacks are mostly responsible for their own condition.

Table 1: Percent Distributions of Variables used in the Study

Dependent Variables

Confidence Index

3	1.6%
4	.9%
5	.9%
6	6.3%
7	3.9%
8	6.2%
9	7.9%
10	8.7%
11	9.6%
12	17.7%
13	8.4%
14	8.6%
15	19.2%

100.0%
N=2736

Death Penalty

Fairly (%)	47.6%
Unfairly (%)	52.4%

100.0%
N=2678

Independent Variables

Race

White (%)	62.8%
Black (%)	37.2%

100.0%
N= 2827

Gender

Male (%)	42.9%
Female (%)	57.1%

100.0%
N=3086

Education

Less than H.S. (%)	11.8%
H.S. Graduate (%)	29.2%
Some College (%)	25.1%
College Graduate (%)	20.6%
Post Graduate Training (%)	13.3%

100.0%
N=2961

Income

Less than \$10,000 (%)	8.2%
10 to under \$20,000 (%)	10.7%
20 to under \$30,000 (%)	13.9%
30 to under \$40,000 (%)	12.2%
40 to under \$50,000 (%)	10.3%
50 to under \$75,000 (%)	18.0%
75 to under \$100,000 (%)	11.7%
100 to under \$150,000 (%)	8.0%

\$150,000 or more (%)	7.1%
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100.0%
N=2561

Ideology

Very Conservative (%)	6.7%
Conservative (%)	31.9%
Moderate (%)	38.4%
Liberal (%)	16.1%
Very Liberal (%)	6.8%

100.0%
N=2843

Racial View

Racial discrimination... (%)	27.6%
Blacks are responsible... (%)	72.4%

100.0%
N=2583

Bivariate Analyses

Correlations Table 2 displays correlations among the variables used in the analysis. The two dependent variables were significantly correlated with one another. The relationship was a moderate and positive one (.313**). Respondents who had higher levels of confidence in the police were more likely to believe that the death penalty is applied fairly. Those who had lower levels of confidence in the police, on the other hand, were more likely to believe that the death penalty is applied unfairly.

While several of the independent variables were significantly correlated with one another, some of the relationships are worth pointing out. For instance, since race is the primary independent variable being evaluated in the analysis, the correlations between it and some of the other independent variables are worth noting. For instance, race and education were significantly correlated, although the relationship was a weak one (-.093**). The same was true for race and income (-.147**). Therefore, black respondents were slightly more likely to report lower levels of education and lower family incomes than were whites. Race was also significantly correlated with ideology (.089**) and racial view (-.199**). Consequently, it appeared that blacks were somewhat more likely than whites to identify themselves as liberals and to believe that racial discrimination is the main reason that blacks cannot get ahead.

Further, it is especially important to note the bivariate relationships between the independent and dependent variables before controlling for other factors. All of

the independent variables, other than gender, were significantly correlated with the confidence index. Therefore, those with higher levels of education were likely to have reported more confidence in the police (.123**). Likewise, those reporting higher family incomes tended to report having more confidence in the police (.160**). Additionally, conservative respondents appeared to have claimed to have more confidence in the police (-.158**). Moreover, black respondents reported having less confidence in the police than did whites (-.398**). In addition, it seemed that respondents who believed that blacks are mainly responsible for their own situation were more likely to report having more confidence in the police (.240**).

Four of the independent variables were significantly correlated with views of fairness in the application of the death penalty (race, gender, ideology, and racial view). Education and income, however, were not significantly correlated with views of fairness in the application of the death penalty. Nevertheless, black respondents (-.332**) tended to believe that the death penalty is, in fact, applied unfairly, as did females (-.116**), liberals (-.219**), and those who believed that racial discrimination is the main reason why blacks cannot get ahead (.269**).

Further, an analysis of these correlation coefficients revealed that race was by far the independent variable most strongly correlated with each dependent variable⁴⁹, followed by racial view. This finding was consistent with hypotheses, which

⁴⁹ For more information on bivariate relationships between race and the dependent variables, see Appendix D.

predicted that race would be the most important factor in determining confidence in the police and views of fairness in the application of the death penalty. Finally, there was no multicollinearity found among the variables used in the analysis.

Table 2: Correlation Coefficients between Independent and Dependent Variables used in the Analysis

	Confidence Index	Death Penalty	Race	Gender	Education	Income	Ideology	Racial View
Confidence Index	1 2736							
Death Penalty	.313** 2435	1 2678						
Race	-.398** 2511	-.332** 2462	1 2827					
Gender	-.047 2736	-.116** 2678	.088** 2827	1 3086				
Education	.123** 2727	-.039 2672	-.093** 2815	-.003 3072	1 3072			
Income	.160** 2327	.039 2261	-.147** 2344	-.127** 2561	.462** 2555	1 2561		
Ideology	-.158** 2560	-.219** 2511	.089** 2618	.041 2843	.010 2835	-.012 2408	1 2843	
Racial View	.240** 2341	.269** 2312	-.199** 2381	-.062** 2583	-.056* 2576	.034 2183	-.168** 2415	1 2583

** . Correlation is significant at the 0.001 level

* . Correlation is significant at the 0.05 level (2-tailed).

Coding: Confidence Index (3= None; 15= A Great Deal), Death Penalty (0= Unfairly; 1= Fairly), Education (1= Less than High School; 2= High School Graduate; 3= Some College; 4= College Graduate; 5= Post-Graduate Training), Income (1= Under \$10,000; 2= \$10,000 to under \$20,000; 3= \$20,000 to under \$30,000; 4= \$30,000 to under \$40,000; 5= \$40,000 to under \$50,000; 6= \$50,000 to under \$75,000; 7= \$75,000 to under \$100,000; 8= \$100,000 to under \$150,000; 9= \$150,000 or more), Ideology (1= Very Conservative; 2= Conservative; 3= Moderate; 4= Liberal; 5= Very Liberal), Race (0= White; 1= Black), Racial View (0= Racial discrimination is the main reason blacks can't get ahead; 1= Blacks are mostly responsible for their own condition), Gender (0= Male; 1= Female)

Multivariate Analyses

Model I Multiple Regression (Main Effects)

Table 3 reports the regression of the confidence index on race, gender, education, income, ideology, and racial view. Race, gender, education, income, ideology, and racial view combined to explain nearly 22 percent of the variation of confidence in the police ($R^2 = .217$). The following variables were statistically significant predictors of scores on the confidence index: race, income, ideology, and racial view. Gender and education were not significant indicators of scores on the confidence index.

Black respondents tended to be less confident in the police. This relationship was the strongest of the variables. The relationship yielded a moderate negative beta coefficient of $-.346^{**}$. Moreover, respondents with lower incomes tended to be less confident in the police. This relationship was a weak positive one, with a beta coefficient of $.103^*$. Further, respondents who identified themselves as being more liberal tended to be less confident in the police. This relationship was also a weak negative one ($-.085^{**}$). Finally, respondents who felt that racial discrimination is the main reason that blacks cannot get ahead tended to be less confident in the police. The relationship between racial views and confidence was weak and positive, with a beta coefficient of $.165^{**}$.

In this model, several interesting findings were brought to light. First of all, although education was significantly related to the confidence index in the bivariate analysis, after controlling for race, gender, income, ideology, and racial view, the

relationship was no longer significant. The same is true of gender. Although gender and the confidence index were significantly correlated in the bivariate analysis, after controlling for race, education, income, ideology, and racial view, the relationship was no longer significant.

Nevertheless, the relationship between race (-.346**), income (.103**), ideology (-.085**), and racial view (.165**) remained after controlling for the other factors. Even after entering other factors into the analysis, race was still found to be the most important predictor of confidence in the police. Blacks scored 2.146 points lower on the confidence index than did whites. As a matter of fact, the strength of the relationship between race and the confidence index was over twice as strong as the relationship found between the next independent variable (Racial View) and the confidence index.

**Table 3: Coefficients for Regression of the Confidence Index on Independent Variables
(Model I- Main Effects)**

	b	B
Intercept	1.097 (.321)	
Race	-2.146** (.139)	-.346
Gender	-.054 (.132)	-.009
Education	.093 (.061)	.037
Income	.136** (.033)	.103
Ideology	-.256** (.065)	-.085
Racial View	1.099** (.148)	.165
R ²		.220
Adj. R ²		.217

Standard errors in parentheses.

*p≤.01, **p≤.001

b= Unstandardized Beta; B= Standardized Beta

Coding: Confidence Index (3= None; 15= A Great Deal), Education (1= Less than High School; 2= High School Graduate; 3= Some College; 4= College Graduate; 5= Post-Graduate Training), Income (1= Under \$10,000; 2= \$10,000 to under \$20,000; 3= \$20,000 to under \$30,000; 4= \$30,000 to under \$40,000; 5= \$40,000 to under \$50,000; 6= \$50,000 to under \$75,000; 7= \$75,000 to under \$100,000; 8= \$100,000 to under \$150,000; 9= \$150,000 or more), Ideology (1= Very Conservative; 2= Conservative; 3= Moderate; 4= Liberal; 5= Very Liberal), Race (0= White; 1= Black), Racial View (0= Racial discrimination is main reason blacks can't get ahead; 1= Blacks are mostly responsible for their own condition), Gender (0= Male; 1= Female)

Model II Multiple Regression (Race and Gender Combinations Included)

Because of the differences found between black and white respondents, the respondents were separated into groups based on their gender in an attempt to determine if the racial differences could be better understood. Therefore, in this model of analysis, the race and gender categories of White Women, Black Men, and Black Women were included into the analysis in lieu of the original main effect variables of race and gender. White men were treated as the reference group. The results are revealed in Table 4.

This regression model reports the effect of education, income, ideology, racial view, white women, black men, and black women on the confidence index. The following variables were significant in predicting levels of confidence in the police: income, ideology, racial view, black men, and black women. Education and white women, however, were not significantly related with scores on the confidence index.

With regards to the new variables included in this phase of analysis, black male respondents tended to have less confidence in the police than did white men. This relationship approached a moderate strength, and had a negative beta coefficient of $-.222^{**}$. Black female respondents also tended to have less confidence in the police than did white men. This relationship was the strongest of all variables, with a negative beta coefficient of $-.315^{**}$.

As expected, the relationship between the original independent variables used in Model I and the dependent variable remained almost completely unchanged in this model, as did the R^2 value. However, the new variables added to the second model of

multiple regression analysis yielded some very notable differences in confidence among certain race/ gender groups, but not among others. This analysis indicates that white women did not appear to have significantly different levels of confidence in the police than did white men. However, the examination revealed that black women appeared to be the group whose confidence in the police was the furthest removed from that of white men.

**Table 4: Coefficients for Regression of the Confidence Index on Independent Variables
(Phase II- Race and Gender Combinations Included)**

	b	B
Intercept	11.032 (.324)	
Education	.098 (.061)	.039
Income	.134** .033	.102
Ideology	-.261** (.066)	-.087
Racial View	1.100** (.148)	-.165
White Women	.089 (.166)	.014
Black Men	-1.918** (.212)	-.222
Black Women	-2.216** (.183)	-.315
R ²		.221
Adj. R ²		.217

Standard errors in parentheses.

*p≤.01, **p≤.001

b= Unstandardized Beta; B= Standardized Beta

Coding: Confidence Index (3= None; 15= A Great Deal), Education (1= Less than High School; 2= High School Graduate; 3= Some College; 4= College Graduate; 5= Post-Graduate Training), Income (1= Under \$10,000; 2= \$10,000 to under \$20,000; 3= \$20,000 to under \$30,000; 4= \$30,000-under \$40,000; 5= \$40,000-under \$50,000; 6= \$50,000-under \$75,000; 7= \$75,000 to under \$100,000; 8= \$100,000 to under \$150,000; 9= \$150,000 or more), Ideology (1= Very Conservative; 2= Conservative; 3= Moderate; 4= Liberal; 5= Very Liberal), Racial View (0= Racial discrimination is main reason blacks can't get ahead; 1= Blacks are mostly responsible for their own condition), White Men (0= No; 1= Yes), White Women (0= No; 1= Yes), Black Men (0= No; 1= Yes), Black Women (0= No; 1= Yes)

Model I Logistic Regression (Main Effects)

The logistic regression used in this analysis sought to determine the effect of race, gender, education, income, ideology, and racial view on whether an individual believes that the death penalty is applied fairly or unfairly. In all, this model classified 52.8 percent of the cases correctly. The likelihood ratio of the model was 1979.961, indicating a low to moderate goodness of fit. The two previous statistics indicate some important information about the current model. Although the current model does explain a portion of the variance in views of fairness in the application of the death penalty, explaining nearly 25 percent of the variation in views of whether the death penalty is applied fairly or unfairly ($R^2 = .245$), three-fourths of the variance was left unexplained. The following variables were statistically significant in explaining views of fairness in the application of the death penalty: race, gender, education, ideology, and racial view. The relationship between income and views of fairness in the application of the death penalty did not reach the .01 level of statistical significance (See Table 5).

Odds ratios are related to unit changes in predictor variables (race, gender, education, income, ideology, and racial view). Although the relationships were statistically significant, odds ratios were generally fairly small, indicating a low likelihood of change with a unit increase in the predictor variable. The exceptions to this were race and racial view. Race was significantly related with views of fairness in the application of the death penalty (.266). Black respondents were nearly 75 percent less likely to be classified as believing that the death penalty is applied fairly

than white respondents. Further, racial view was also significantly related with views of fairness in the application of the death penalty (2.636). As a matter of fact, respondents who believed that blacks are mainly responsible for their own condition were over two and a half times more likely to be classified as believing that the death penalty is applied fairly than were respondents who believed that racial discrimination is the main reason why blacks cannot get ahead.

In this model, racial view was the strongest predictor of views regarding fairness of the application of the death penalty. This was especially interesting, considering the fact that race was by far the most important predictor of the other dependent variable used in this analysis (confidence in the police). Nevertheless, when it came to views of fairness in the application of the death penalty, racial view was a much stronger predictor than was race. Finally, although the relationship between gender, education, ideology, and views of fairness in the application of the death penalty were statistically significant, the predictive power of these variables was not nearly as strong as those of race and racial view.

Table 5:

**Logistic Regression: Predictors of Views of Fairness in the Application of the
Death Penalty
(Model I- Main Effects)**

Model Summary

Step	-2 Log Likelihood	Cox & Snell R Square	Nagelkerke R Square	Classification
1	1979.961	.184	.245	52.8

Variables in the Equation

	<u>B</u>	<u>S.E.</u>	<u>Wald</u>	<u>Df</u>	<u>Sig.</u>	<u>Odds Ratio</u>
Race	-1.323	.117	128.587	1	.000	.266
Gender	-.376	.110	11.633	1	.001	.687
Education	-.163	.051	10.076	1	.002	.849
Income	.021	.027	.585	1	.444	1.021
Ideology	-.336	.056	35.988	1	.000	.741
Racial View	.969	.126	59.622	1	.000	2.636
Constant	1.233	.269	21.056	1	.000	3.432

Coding: Death Penalty (0= Unfairly; 1= Fairly), Education (1= Less than High School; 2= High School Graduate; 3= Some College; 4= College Graduate; 5= Post-Graduate Training), Income (1= Under \$10,000; 2= \$10,000 to under \$20,000; 3= \$20,000 to under \$30,000; 4= \$30,000 to under \$40,000; 5= \$40,000 to under \$50,000; 6= \$50,000 to under \$75,000; 7= \$75,000 to under \$100,000; 8= \$100,000 to under \$150,000; 9= \$150,000 or more), Ideology (1= Very Conservative; 2= Conservative; 3= Moderate; 4= Liberal; 5= Very Liberal), Race (0= White; 1= Black), Racial View (0= Racial discrimination is main reason blacks can't get ahead; 1= Blacks are mostly responsible for their own condition), Gender (0= Male; 1= Female), White Men (0= No; 1= Yes); White Women (0= No; 1= Yes); Black Men (0= No; 1= Yes); Black Women (0= No; 1= Yes)

Model II Logistic Regression (Race and Gender Combinations Included)

Because of the differences found between black and white respondents, the respondents from the two races were separated into groups based on their gender in attempt to determine if the racial differences could be better understood. In this model of logistic regression, the race and gender categories in the previous model were replaced with dummy variables that represented white women, black men, and black women, with white men serving as the reference group. In addition, as in the previous logistic regression model, education, income, ideology, and racial views were also considered (See Table 6). The following variables were statistically significant in explaining beliefs about fairness in the application of the death penalty: education, ideology, racial view, white women, black men, and black women. The relationship between income and views of fairness in the application of the death penalty, however, was not statistically significant. There was no significant change in the classification statistic or the R^2 value from the first model of logistic regression to the present one.

While the independent variables analyzed in the first model of logistic regression (education, income, ideology, and racial view) predicted views of fairness in the application of the death penalty to roughly the same extent in this model, each of the added racial/ gender variables were also found to be important predictors of views of fairness in the application of the death penalty. In reviewing the race/ gender interaction terms, it was established that white women, black men, and black women were less likely to believe that the death penalty is applied fairly than were

white men. Examining the odds ratios reveals that white women's views of fairness in the application of the death penalty were the closest to those of white men (.625), followed by black men (.228), and then black women (.187).

Table 6:

**Logisitic Regression: Predictors of Views of Fairness in the Application of the Death Penalty
(Phase II-Race and Gender Combinations Included)**

Model Summary

Step	-2 Log Likelihood	Cox & Snell R Square	Nagelkerke R Square	Classification
1	1978.567	.185	.246	52.8

Variables in the Equation

	<u>B</u>	<u>S.E.</u>	<u>Wald</u>	<u>Df</u>	<u>Sig.</u>	<u>Odds Ratio</u>
Education	-.167	.052	10.497	1	.001	.846
Income	.022	.027	.648	1	.421	1.022
Ideology	-.333	.056	35.175	1	.000	.717
Racial View	.968	.126	59.425	1	.000	2.632
White Women	-.469	.136	11.922	1	.001	.625
Black Men	-1.478	.177	69.560	1	.000	.228
Black Women	-1.674	.158	112.504	1	.000	.187
Constant	1.280	.272	22.114	1	.000	3.597

Coding: Death Penalty (0= Unfairly; 1=Fairly), Education (1= Less than High School; 2= High School Graduate; 3= Some College; 4= College Graduate; 5= Post-Graduate Training), Income (1= Under \$10,000; 2= \$10,000 to under \$20,000; 3= \$20,000 to under \$30,000; 4= \$30,000 to under \$40,000; 5= \$40,000 to under \$50,000; 6= \$50,000 to under \$75,000; 7= \$75,000 to under \$100,000; 8= \$100,000 to under \$150,000; 9= \$150,000 or more), Ideology (1= Very Conservative; 2= Conservative; 3= Moderate; 4= Liberal; 5= Very Liberal), Racial View (0= Racial discrimination is main reason blacks can't get ahead; 1= Blacks are mostly responsible for their own condition); White Men (0= No; 1= Yes), White Women (0= No; 1= Yes), Black Men (0= No; 1= Yes), Black Women (0= No; 1= Yes)

CHAPTER 6

DISCUSSION

This chapter will discuss the findings of the current study and offer a comparison to previous research findings and the specific research hypotheses. This chapter will also present limitations of the present study. Lastly, it will offer suggestions for the direction of any future research that may be conducted on the relationship between race and confidence in the criminal justice system. While some of the present research findings reinforced the findings of previous studies, other findings conflicted with previous studies. Beyond that, the present study also made some new contributions to the existing literature on confidence in the criminal justice system.

The primary purpose of the current study was to examine the relationship between race and confidence in the criminal justice system, and therefore, to attempt to determine whether any differences existed in levels of confidence between blacks and whites. Furthermore, the study sought to establish whether any racial differences existed after controlling for other variables. Another goal of the current research was to determine which theory (critical race theory or more conservative schools of thought) was a better interpretation of racial patterns of confidence in the criminal justice system. In addition, although there was little previous research available about the relationship, the current analysis aimed to explore any relationships that existed between race and gender, relative to confidence in the criminal justice system.

First and foremost, the present analyses demonstrated the importance of race in predicting confidence in different facets of the criminal justice system. The relationship persisted after controlling for a variety of other factors. The findings were consistent with hypotheses that blacks have less confidence in the police than whites, and that they are also more likely to believe that the death penalty is applied unfairly. Moreover, the study identified some intersections between race and gender and confidence in the criminal justice system.

Consistent with hypotheses, the present analyses revealed that African Americans do, in fact, have less confidence in the police. This revelation echoed the results of studies conducted by Weitzer and Tuch (1999); Baker, Lambert, and Jenkins (2005); Weitzer (1997, 1999, 2002); Cao, Frank, and Cullen (1996); Hagan et al (1997); Schuck and Rosenbaum (2005); Sunshine and Tyler (2002); Parker, Onyekwuluje, and Murthy (1995); Huang and Vaughn (1996); and Rottman and Tomkins (1999). Further, some unique findings were revealed by the current exploration of the interaction between race and gender regarding confidence in the police.

The present study found that African American women had the least amount of confidence in the police, relative to white men. Although the scarce studies previously conducted on the issue did not reveal such straightforward findings, they did suggest these results. For example, research conducted by Clarke (2007) determined that African American women are less likely to go to the police for help. Likewise, Manatu-Rupert (2000) argued that African American female victims are far

less likely to use criminal justice agencies and public services because of their distrust of the police.

Findings about views of fairness in the application of the death penalty also revealed some familiar patterns. Consistent with hypotheses, the current analyses established that whites were far more likely to say that the death penalty is applied fairly in the United States. A literature review conducted by Eisenburg et al (2001) concluded with a similar finding. Similar results were rendered by Walker et al (1996) and McAdams (1998), who found that whites are far more likely to favor the use of the death penalty than are blacks.

Surprisingly, however, race was not the most significant predictor of views of fairness in the application of the death penalty. Although race was by far the most important predictor of confidence in the police, racial view was actually the most significant predictor of views of fairness in the application of the death penalty. That is, whether respondents believed that racial discrimination is the main reason that blacks cannot get ahead or believed that blacks are primarily responsible for their own condition was found to be more important than whether respondents were black or white in predicting views of whether the death penalty is applied fairly or unfairly.

Although this finding is somewhat surprising, it is also perfectly understandable. Race is a social construction over which a person has no control. Moreover, various opinions and beliefs can be found, therefore, among members of each race. As a result, a white individual may have views that more closely resemble those most often found within the black community, and vice versa. Racial view,

however, measures views about race, regardless of the race of the individuals who hold them. Consequently, this variable may have been a more accurate indicator of where respondents stood on racial issues than even race itself.

Furthermore, the racial view variable measured whether respondents believed that blacks are mainly responsible for their own condition, or believed that racial discrimination is the main reason that blacks cannot get ahead. Similarly, the death penalty variable asked respondents whether they believed that the death penalty is applied fairly or unfairly, in effect measuring perceptions about whether or not there is discrimination in the application of the death penalty. Thus, perhaps the strong relationship between these variables is completely logical.

With regards to the relationship between the intersection of race and gender and views of fairness in the application of the death penalty, the current results partially confirmed and partially differed with what few previous similar findings there were on the matter. For instance, Soss et al (2003) found the greatest level of support for the death penalty among white women. The current study revealed that white women were the next most likely to believe that the death penalty is applied fairly, relative to white men. Research by Hurwitz and Peffley (2007) indicated that white men are consistently more supportive of the death penalty than are white women. However, Hurwitz and Peffley (2007) argued that the opposite was true among blacks, and that black females are more supportive of the death penalty than black men. The present study found that black women were the group most likely to believe that the death penalty is applied unfairly.

In the current analysis, black women were the group with the least amount of confidence in the police, relative to white men, and also the group most likely to believe that the death penalty is applied unfairly, relative to white men. Therefore, it can be concluded that black women have the least amount of confidence in the criminal justice system. There are a number of reasons why this may be the case. First of all, since the arrest, incarceration, and sentencing rates for black men are higher than for any other group, a very large number of African American women (and mothers) are left behind in the community with few resources.

Moreover, there have been widespread allegations of the police being hesitant to get involved in problems occurring within the black community. Therefore, some have argued that police are not adequately responding to complaints of domestic violence within the black community. If this is the case, it is possible that black women may perceive that the police do not place enough value on their safety, and therefore, may have very little confidence in them. Further, just as white women were less likely than white men to believe the death penalty is applied fairly, gender and gender roles may contribute to African American women's perceptions of the death penalty, as well.

Finally, statistics have revealed that African American women are the group with the fastest growing rate of incarceration. The number of black women being arrested and incarcerated continues to grow at a disproportionate rate. Such a reality could be affecting their low levels of confidence in the criminal justice system

The two theories presented in this analysis offered distinct patterns of confidence in the criminal justice system. For instance, Weitzer and Tuch (1999) explain that a race-based version of a conflict theory, such as the strain of critical race theory used in this research, predicts a high level of racial homogeneity with regards to opinions of the criminal justice system. Moreover, proponents of this theory suggest that race plays an important role in the criminal justice system process. The more conservative lines of thought, however, suggest that the criminal justice system does not discriminate by one's race. Consequently, the present research findings support the interpretation offered by critical race theory, as very distinct racial patterns in levels of confidence were identified in every model of confidence evaluated.

Since blacks are arrested and incarcerated at much higher rates, it is understandable that racial patterns in levels of confidence in the system are found. That is, blacks, regardless of gender, encounter the criminal justice system at extremely disproportionate rates. Consequently, they are given an intimate look at its functioning, and therefore, are made especially aware of any inequities or discrimination within the system. Whites, however, due to their lower rates of arrest and incarceration, are not as often exposed to the inner-workings of the criminal justice system. As a result, they do not often see systematic injustices firsthand.

Considering the aspects of police that are measured in this analysis (to do a good job of enforcing the law, to not use excessive force on suspects, and to treat blacks and whites equally), the lack of confidence found among blacks is not at all

surprising. With regards to law enforcement, as referenced in chapters two and three, many blacks suggest that the police do not sufficiently respond to problems within the black community and that crimes committed against blacks are not adequately punished. Regarding excessive force, chapters two and three also revealed that blacks have been the recipients of disproportionate amounts of police abuse throughout history and in modern society. Finally, with regards to whether police treat blacks and whites equally, whites seldom experience racism from the police. Rather the majority of racist actions are aimed at blacks. Consequently, whites do not commonly experience or even witness racial discrimination within the criminal justice. Blacks, on the other hand, are all too familiar with it. It is therefore very understandable that such distinct racial patterns were found regarding confidence in the police.

Moreover, it was to be expected that similar racial distinctions would be found in this study's evaluation of views of fairness in the application of the death penalty. Again, proportionately fewer whites receive the death penalty relative to blacks. As a result, it would be easy for whites to assume that the death penalty is applied fairly. Blacks, however, see a largely disproportionate number of their community members receiving the ultimate form of punishment. Such a reality is eerily reminiscent of historical practices and policies that resulted in an enormous loss of African American life and liberty.

The racial breakdown of confidence in the criminal justice system revealed by this study is similar to the premises of the "color-blind racism" argument offered by

Bonilla-Silva (2006). In this study, whites seemed to assume that racism is a concern of the past, and that it no longer plays an important role in how society functions today. Blacks, however, largely appeared to believe that racial problems are alive and well. However, it seems that such racism takes a different form in modern society. That is, racial slurs and insults may not be as freely offered today. Nevertheless, race still plays an important role in how society operates. Racism is now present primarily in society's institutions and their policies, which are largely believed to have been designed and enforced to disadvantage and discriminate against blacks. Such a belief being held by a considerable number of blacks understandably translates into a lack of confidence in societal institutions, especially one with such a racially discriminatory past as the criminal justice system. Consequently, although the following words of Ida B. Wells-Barnett were written well over a century ago, such sentiment can still be found among many African Americans today: "O, God, is there no redress, no peace, no justice in this land for us?" (Johnson 2003: 25).

Limitations of the Present Study/ Suggestions for Future Research

There are several limitations to the present study that are necessary to mention. First, because the analyses conducted within this study drew from secondary data, there were several factors that may have been important predictors of confidence in the criminal justice system that were not addressed by the original interview questions. For example, previous research has indicated that an individual's prior involvement with different aspects of the criminal justice system (the police, the court system, jails and prison, etc.) as either a victim or an offender plays an

important role in the amount of confidence that he/she has in the criminal justice system. Consequently, any similar research conducted in the future should evaluate this relationship.

Moreover, it may be useful to explore other attributes that could predict differences in levels of confidence in the criminal justice system, such as rural and urban differences, as well as regional differences. Furthermore, the current research only evaluated differences in levels of confidence between blacks and whites. While such an approach was appropriate for this study, future researchers may find it intriguing to examine the confidence of other racial groups, as well. For instance, since the Hispanic population of the United States continues to increase, an evaluation of this group's sentiment may be in order, as well.

In addition, this investigation relied solely on quantitative analyses. It might behoove future researchers to address this issue in a qualitative manner, as well. Although the current analyses established that blacks were consistently less confident in the criminal justice system and that this relationship existed even after controlling for a host of other important factors, this analysis was unable to address why this was the case. In-depth research should be conducted with members of both races in the future that would seek specific answers about the nature of their views of the criminal justice system. Likewise, future research should also further inquire into the practical implications brought about by decreased confidence in the criminal justice system among blacks.

Finally, although only in an exploratory fashion, this study was able to identify some important patterns about the relationship between race and gender and confidence in the criminal justice system. For example, black women consistently had the lowest levels of confidence, relative to white men. Further, in each model, black women were the group with next lowest amount of confidence relative to white men. While these differences were consistent and significant, the same was not true of differences in confidence between white men and white women. For instance, the difference in confidence between white women and white men was statistically significant only when it came to views of fairness in the application of the death penalty. When evaluating confidence in the police, however, there were not significant differences between white men and white women. Consequently, since differences in confidence between these two groups were inconsistent, these findings should be replicated in order to determine whether the reported differences do, in fact, exist.

Finally, the design of the present analysis only permitted that the confidence levels of white women, black men, and black women be compared to confidence levels found among white men. For instance, confidence levels found among black men and black women could not be directly compared. In the future, therefore, it would be beneficial for a study to be designed in a manner that would permit direct comparisons to be made between each of the groups.

Conclusion

The preceding research findings have confirmed portions of existing literature, have questioned others, and have offered insights and expansions to the currently limited body of literature on the issue at hand. This examination marks the first study that evaluates certain aspects of confidence in the criminal justice system.

Specifically, the exploration of gender differences within the races that this study employed was atypical of most other studies on the subject. Moreover, to my knowledge, this is the only study that pits two competing theories against each other and subsequently tests the accuracy of each theory's interpretations about patterns of confidence in the criminal justice system. Lastly, while other research has examined levels of support for the death penalty, research about views of the fairness of its application is much more limited.

Although literature abounds on the racial disparities that are evident at all stages of the criminal justice system from traffic stops to capital punishment, literature addressing racial differences in perceptions of the criminal justice system is rare. Moreover, the literature that does exist is becoming more and more dated. For example, the last study cited in the literature review that examined differences in confidence levels between the races while controlling for political ideology was conducted by Hagan and Albonetti in 1982.

The lack of literature on this issue is very unfortunate, especially considering the wide gap in citizens' trust and confidence in the criminal justice system and the implications associated with these feelings. Having less confidence in the criminal

justice system may cause individuals to fail to report criminal activity to authorities, refuse to cooperate with investigations, decline jury duty, hesitate to seek a career in the field, have very negative or even dangerous interactions with criminal justice authorities, and perhaps even choose to engage in criminal behavior. It is possible that such consequences could be averted if individuals had more confidence in the criminal justice system. However, the origins of their confidence, or lack thereof, must first be understood before they can be addressed. Moreover, with the population of Americans under the supervision of the criminal justice system continuing its rapid increase, and questions lingering about the prevalence of racial discrimination in society, continued research into perceptions of the criminal justice system is imperative.

APPENDIX A

HISTORICAL INFORMATION

What follows is a discussion about the historical practices of slavery, the Black Codes, the convict lease system, and lynching. This information is intended to support the text of the paper by providing a foundation for which the intersections between race and the criminal justice system can be better understood. This background offers a chronological discussion of the important connections that can be drawn between the racially discriminatory practices of the early American criminal justice system and the strikingly similar practices of the modern day criminal justice system. Consequently, this information will provide readers with greater insight into the development of modern perceptions of the criminal justice system.

Slavery

Scholarship on race almost universally condemns slavery as the ultimate form of their oppression. None of these scholars seek to justify the atrocious acts committed through slavery. Rather, they view it as the discriminatory, oppressive, cruel, and inhumane practice that it was---and one need not look very far to find proof of such sentiment. The following account from Frederick Douglass demonstrates this inhumanness at its finest:

I have often been awakened at the dawn of day by the most heart-rending shrieks of an old aunt of mine, whom he used to tie up to a joist, and whip upon her naked back till she was literally covered with blood. No words, no tears, no prayers, from his gory victim, seemed to move his iron heart from its bloody purpose. The louder she screamed, the harder he whipped; and where the blood ran fastest,

there he whipped the longest. He would whip her to make her scream, and whip her to make her hush; and not until overcome by fatigue, would he cease to swing the blood-clotted cow skin (Gates 1996: 258).

Former slave, Jack Frowers, recalls a similarly inhumane experience:

Just as soon as Master Holley got me home, he set the dogs to worry and bite me, and the scars on my legs and arms are what they did with their teeth. After he got tired of that fun, he took me to a blacksmith, who put a ring around my ankle, bending the ends in when it was red hot. And then a heavy timber chain was wound twice around my waist, and locked. The chain weighed as much as fifty pounds, and was put next to my skin, and I wore both these derbies four weeks, and got a hard flogging every day beside. Master Holley himself whipped me, saying he had got me now where he wanted me, and where he would have full satisfaction (Blassingame 1977: 451).

Unimaginably, this cruelty became even worse, should a slave try to escape:

He slit both her ears, then branded her on the back of her left hand with a hot iron, cut off with an axe the little finger and bone connecting therewith of her right hand, searing the wound with a hot iron, and also branded her on the stomach with a letter (Blassingame 1977: 342).

Even the more “fortunate” slaves suffered such abuses, as evidenced by Frederick

Douglass’ recollection:

I was seldom whipped by my old master, and suffered little from any thing else than hunger and cold. I suffered much from hunger, but much more from cold. In hottest summer and coldest winter, I was kept almost naked—no shoes, no stockings, no jacket, no trousers, nothing on but a coarse low linen shirt, reaching only to my knees (Gates 1996: 271).

Unsurprisingly, it appears that these horrible punishments and treatments were primarily carried out against slaves to reinforce their subordination. As Matthew

Mancini points out:

Whipping is a punishment not just of insupportable pain, but of deep humiliation, as well. Few men or women can bear it in silence. The

vulnerability of the recipient and the power of the boss who metes it out are underscored by the ritual nature of the chastisement (Hallett 2006: 51).

Consequently, Wade (1964) argued that:

(N)o other penalty carried the same meaning or so embodied the social relations of the peculiar institution. The lash in the white hand on the black back was a symbol of bondage recognized by both races (Adamson 1983: 557).

Frederick Douglass hypothesized that such harsh treatment was used as a way not only to control blacks (Hawkins 1980; Higginbotham 1995a), but also to stifle any attempts that they may make for freedom, and thus, to keep them both physically and psychologically downtrodden:

Beat and cuff the slave, keep him hungry and spiritless, and he will follow the chain of his master like a dog, but feed and clothe him well, work him moderately and surround him with physical comfort, and dreams of freedom will intrude... You may hurl a man so low beneath the level of his kind, that he loses all just ideas of his natural position, but elevate him a little, and the clear conceptions of rights rises to life and power, and leads him around (Higginbotham 1980: 9).

Many had hoped that along with Emancipation would come a fundamental transformation in the way blacks were viewed and treated within society. However, scholars agree that the oppression of blacks did not end with slavery, rather that is where it began. As African American jurist A. Leon Higginbotham claims: “(for) black Americans today... the early failure of the nation’s founders and their constitutional heirs to share the legacy of freedom with black Americans is at least one factor in America’s perpetual racial tensions” (Higginbotham 1980: 6-7).

Consequently, it has been argued that blacks have been kept at the bottom of America’s social structure since arriving on its shores (Mann 1993). As has been

demonstrated time and again, such disadvantaged social status has translated, over time, into a much different experience for blacks than whites:

The dominant experience has been one in which the law acted as the vehicle by which the generalized racism in the society was made particular and converted into standards and policies of subjugation and social control. Most white Americans tend to view the historical role of the law in this country as that of a tool for the expansion of liberty, and they are largely correct as to themselves-especially if they are not poor (which most are not). However, etched deep in the collective consciousness of American blacks is the role that law has played in their oppression. It is a present perception which comports with both the historical and contemporary reality (Mann 1993: 160-161).

Lynching

It has been argued that while legal oppression began with slavery, many other practices implemented over time have continued such oppression. For instance, after slavery, American society implemented a host of new practices and policies, both legal and extralegal, that extended the oppression and subordination that was born out of slavery. Although the use of slavery as a legally sanctioned practice was banned, the ideas and values it demonstrated were not. As Ida Wells-Barnett points out, in some ways, the systems implemented after slavery were even worse than slavery itself:

Beginning with the emancipation of the Negro, the inevitable result of unbridled power exercised for two and a half centuries by the white man over the Negro began to show itself in acts of conscienceless outlawry. During the slave regime, the Southern white man owned the Negro body and soul. It was to his interest to dwarf the soul and preserve the body. Vested with unlimited power over his slave, to subject him to any and all kinds of physical punishment, the white man was still restrained from such punishment as tended to injure the slave by abating his physical powers, and thereby reducing his financial worth. While slaves were scourged mercilessly, and in countless cases, inhumanly treated in other respects, still, the white owner rarely

permitted his anger to go so far as to take a life, which (would) entail upon him a loss of several hundred dollars. The slave was rarely killed, he was too valuable... But emancipation came and the vested interest of the white man to the Negro's body were lost (Wells-Barnett 2002: 57).

Thus, practices such as the abuse associated with the convict lease system and lynching commenced. It has been determined that in the late nineteenth and early twentieth centuries, lynch mobs killed nearly 5,000 African Americans (Asim 2001; Nelson 2000). However, some estimates put this at a much larger number. One researcher estimated that from 1882 to 1964, lynching claimed the lives of between 3,000 and 10,000 black individuals (Barak et al. 2001). In fact, these murders occurred with such frequency that they came to be of little surprise to the community. As Ida Wells-Barnett explains:

Lynch law has become so common in the United States that the finding of the dead body of a Negro, suspended, between heaven and earth to the limb of a tree, is of so light importance that neither the civil authority nor press agencies consider the matter worth investigating (Gabbidon and Greene 2000: 15).

These lynchings were used to punish a multitude of alleged behaviors, such as window peeping, moonshining, stealing, and failing to turn off the road for a white driver (Dray 2002). The method of this punishment varied---from shooting, to drawing and quartering, to stabbing, burning, whipping, tarring and feathering, and hanging (Markovitz 2004; Russell-Brown 2006). This has led many to claim that black life was largely devalued during that era and in the years that followed. Consider the words of a Southern black: "In those days it was 'kill a mule, buy another. Kill a nigger, hire another!' They had to have a license to kill anything but a

nigger. We was always in season” (Asim 2001: 29).

Thus, some have argued that such a system “reveals a justice system aimed at controlling rather than protecting black citizens, and it highlights the men who stepped into the breach” (O’Brien 1999: 59). What has enhanced such perceptions even more is the fact that, in many cases, the police either turned their heads on such behavior or participated in it. For example, sociologist Arthur Raper found that during the 1920’s, approximately half of all blacks who died at the hands of whites were killed by police officers (Nelson 2000).

Moreover, these practices served a host of purposes in addition to the punishment of black individuals. For instance, some have referred to these events as “spectacle lynchings”, because they reinforced white solidarity (Apel 2004: 25). In one historically noted lynching, thousands of individuals turned out to help torture and kill a particular black man (Waldrep 2002). In many instances, the crowd gathered at these executions and fought over the fingers, toes, teeth, flesh, and clothing of the executed individual (Nelson 2000; Russell-Brown 2006).

During these executions, vendors would even sell hot dogs, cotton candy and souvenirs to the crowd (Wright 1990). In addition, some of the onlookers took pictures and purchased post cards that commemorated the event (Apel 2004; Markovitz 2004; Russell-Brown 2006). In fact, shortly after the turn of the twentieth century, around \$50 million had been made in the retail sales of lynching postcards alone (Apel 2004). Consequently, because of the large crowds in attendance and the popularity surrounding such events, it has been argued that lynching was as

“distinctly American as baseball games and church suppers” (Dray 2002: 17).

Furthermore, it has been suggested that these lynchings served as a constant reminder to blacks of their position within the social hierarchy (Dray 2002; Markovitz 2004; Russell-Brown 2006; Wright 1990). Consequently, lynchings were more likely to occur when a black’s actions threatened that hierarchy (Markovitz 2004; Russell-Brown 2006). As Richard Hofstadter argued: “The lynching of blacks, although apparently spontaneous, seemed also to manifest a desire to establish beyond any doubt the point that the cast system of the South could not be challenged” (Wright 1990:14).

In particular, historical scholars emphasize the frequent use of lynchings in instances where black men were accused of sexual contact with a white woman (Apel 2004; Markovitz 2004; Miller-Sommerville 2004). Research determined that from 1880 to 1930, one-quarter of all lynchings were performed against men accused of rape (Nelson 2000), although one historian has argued that the likelihood of a white woman being raped by a black man was about the same as being struck by lightning (Cosby and Poussaint 2007).

Nevertheless, it has been found that the “protection” of white womanhood became one of the most frequently cited reason for a lynching (Apel 2004; Nelson 2000). Especially in these situations, castration often accompanied public lynchings (Apel 2004). As Peter Bardaglio asserted: “anxieties of southern white males about black sexual aggression found their most morbid expression in the castration of black males for the rape and attempted rape of white females” (Miller-Sommerville 2004:

74).

The purpose for such a punishment was evident. As Calvin Hernton, in the 1960s, argued:

Castration represents not only the destruction of that mythical monster, but also the partaking of that monster. It is a disguised form of worship, a primitive pornographic divination rite-and a kind of homosexuality in reverse. In taking the black man's genitals, the hooded men in white are amputating the portion of themselves which they secretly consider vile, filthy, and most of all, inadequate. At the same time, it is the acting out of the white man's guilt for having sex with Negro women, an of the white man's hatred and envy of the Negro male's supposed relations with and appeal to white women. And finally, through the castration rite, white men hope to acquire the grotesque powers they have assigned to the Negro phallus, which they symbolically extol by the act of destroying it (Apel 2004: 135-136).

Another scholar suggested that:

In severing the black male's penis from his body... the mob aggressively denies the patriarchal sign and symbol of the masculinity, interrupting the privacy of the phallus and thereby reclaiming, through the perversity of dismemberment, the black male's (masculinity) potentiality for citizenship (Markovitz 2004: 48).

Even politicians upheld vigilante punishment and justice, deeming it as justified, and perhaps, even necessary. As South Carolina Senator Bill Tillman argued in a speech before Congress in 1907:

The white women of the South are in a state of siege... Some lurking demon who has watched for the opportunity seizes her; she is choked or beaten into insensibility and ravished, her body prostituted, her purity destroyed, her chastity taken from her... Shall men... demand for (the demon) the right to have a fair trial and be punished in the negative course of justice? So far as I am concerned he has put himself outside the pale of the law... (Waldrep 2006: 21).

Cole Bleass, a candidate running to be South Carolina's senator was even more

blatant, when in 1929 he argued that: “(W)hen the Constitution of the Unites States comes between me and the chastity of white women, to hell with the Constitution” (Markovitz 2004: 8). Consequently, Earl Ofari Hutchinson insisted that such a warped sense of justice was merely an extension of slavery:

The Civil War ended legal slavery, but it did not put the old planters entirely out of business. They still had one big trump card to play: The Black Scare. They played it hard by convincing whites, North and South, that blacks were out to get land, power, and white women (Fiske-Rusciano and Cyrus 2005: 273).

The Black Codes

After slavery, societal leaders felt as though they must implement some practice to control the population of newly freed slaves. Thus, the Black Codes were created. The Black Codes were a separate, and far stricter, group of laws that only applied to freed blacks, and often resulted in blacks being placed under the realm of the convict lease system (Russell-Brown 2005). For example, in 1748, Virginia enacted a law stating that:

If any negro or mulatto, bond or free, shall at any time lift his or her hand in opposition to any person not being a negro or mulatto, he or she, so offending, shall, for every such offense, proved by the oath of the party before a Justice of the Peace of the county or corporation where such offense shall be committed, receive such punishment as the Justice shall think proper, not exceeding thirty lashes on his or her bare back, well laid on, except in those cases when it shall appear to such Justice that such negro or mulatto was wantonly assaulted, and lifted his or her hand in his or her defense (Wilson 1965: 26).

These laws also forbade groups of more than four or five blacks from walking without a white person present (Higginbotham 1980; Websdale 2001), and created the office of “Common Whipper” for the punishment of slaves (Higginbotham 1980). In

addition, blacks were prohibited from learning how to read and write, and even from walking with canes. Further, some laws required blacks to step aside if whites walked toward them (Websdale 2001). Other laws demanded that white adults regulate slaves. These laws went so far as to prescribe a penalty on whites if they did not arrest or chastise a slave who was away from his/ her plantation without proper consent (Websdale 2001).

Moreover, because the “Vagrancy Act” associated with these Black Codes required that “all free Negroes and mulattoes over the age of 18 must have written proof of a job at the beginning of each year” (Oshinsky 1996: 21), a great number of blacks were quickly driven into the convict-lease system (Oshinsky 1996; Russell-Brown 2006). In fact, in the state of Virginia, there were 72 crimes for which blacks could be sentenced to death. Only two of these same crimes, however, could result in a white being executed (Daley 2006).

Katheryn Russell argued that, under these Black Codes:

Blackness itself was a crime. The codes permitted blacks to be punished for a wide range of social actions. They could be punished for walking down the street if they did not move out of the way quickly enough to accommodate white passersby, for talking to friends on a street corner, for speaking to someone white, or for making eye contact with someone white (Barak et al. 2001: 10).

Clearly, these Black Codes were used to oppress newly freed slaves. Some argue that their freedom was viewed as a threat by many whites in power:

African American liberation threatened to topple the class structure of southern society and the racial caste system on which it was fabricated, and this challenge to the established social order could not go unanswered (Tolnay and Beck 1995: 5).

Likewise, Stamp (1970) argued of the Black Codes: "More than just vagrancy laws, their purpose was to keep the Negro exactly what he was: a propertyless rural laborer under strict controls, without political rights, and with inferior legal rights" (Adamson 1983: 559).

Not only were these violent acts carried out to punish the individual black but also to strike fear and subordination into the hearts of the black community. It was not unusual for crowds of thousands to gather to watch a lynching. Men, women, and children alike came together to witness these barbaric events unfold. Such tactics date back to the slave plantations. Stories have been told of a bell being rang to assemble slaves to watch a flogging take place (Blassingame 1977).

In many cases, such barbarity was upheld by legal authorities. A judge of the 1850 North Carolina Supreme Court stated that:

It is unfortunate that this third class exists in our society... A free Negro has no master to correct him... and unless a white man, to whom insolence is given, has a right to put a stop to it, in an extra judicial way, there is no remedy for it. This would be insufferable. Hence we infer from the principles of the common law, that this extra judicial remedy is excusable, provided the words or acts of a free Negro be in law insolent (Wilson 1965: 27).

As more and more blacks found themselves in prison from minor infractions of the Black Codes and other laws, new practices had to be created that would help alleviate the burden that this placed upon prisons. Thus, the convict lease system was established.

The Convict Lease System

The convict-lease system was the first actual encounter that many African

Americans had with the state-sanctioned criminal justice system. While on slave plantations, most slaves were subjected solely to his/her master and that master's preferred method of punishment. After Emancipation, however, former slaves were no longer under their former master's "jurisdiction". Therefore, any alleged wrongdoing on their part was to be dealt with through the court system (Hallett 2006).

The convict-lease system existed from roughly 1880 to 1920, and ended, in part, because of the opposition it faced from labor unions and other organizations. Nevertheless, this system allowed private vendors to lease offenders from the government and provide for their housing and food, in exchange for their labor in areas such as coal mining, logging, turpentine production, railroad construction, and farm work (Gottschalk 2006; Hallett 2006). This work was often performed six days of the week and ten hours each day, without adequate clothing or equipment (Gottschalk 2006).

While performing this brutal work, inmates were often followed by packs of hounds and groups of guards (referred to as "Bosses") that were authorized to shoot and kill them (Gottschalk 2006). Further, in many cases, the state did not monitor or regulate the conditions of these arrangements. These arrangements often consisted of the inmates being housed in poorly ventilated and dilapidated shelters, all while receiving poor medical care and nutrition (Gottschalk 2006).

Consequently, it has been claimed that, in effect, the convict lease system had "reintroduced a species of slavery for Negro criminals and lower-class Whites"

(Gabbidon and Greene 2005: 230). Perhaps one of the worst aspects of this system was the fact that many of the convicts were leased right back into the hands of their former masters (Russell-Brown 2006). W.E.B. DuBois explained that, in many instances, provisions were made for contracting black offenders to white bosses, under the conditions that blacks be known as “servants”, and their white bosses be known as “masters” (Hallett 2006).

In his essay, “The Spawn of Slavery: The Convict-Lease System in the South”, written in 1901, DuBois argued that: “The South believed in slave labor, and was thoroughly convinced that free Negroes would not work steadily or effectively. The whites were determined after the war, therefore, to restore slavery in everything but name” (Hallett 2006: 2). This sentiment is well demonstrated by the words of one white of the time:

I think God intended the nigger to be slaves. I think the best we can do is keep ‘em as near to a state of bondage as possible. My theory is, feed ‘em well, clothe ‘em well, and then, if they don’t work, whip ‘em well (Barak et al. 2001: 98).”

Some scholars have claimed that this system was even worse than was slavery itself. As L.G. Shivers, in 1930, argued: “The convict’s condition (following the Civil War) was much worse than slavery. The life of the slave was valuable to his master, but there was no financial loss...if a convict died” (Oshinsky 1996). Other scholars have made similar observations (Dray 2002; Miller-Sommerville 2004; Nelson 2000; Oshinsky 1996). Perhaps this is best evidenced by the words of a southern employer, who in 1883, claimed that:

Before the war we owned the Negroes. If a man had a good

nigger, he could afford to take care of him; if he was sick get a doctor. He might even put gold plugs in his teeth. But these convicts: we don't own 'em. One dies, get another (Oshinsky 1996: 55).

In fact, of the practices instituted in the time immediately following slavery, the convict-lease system appears to have been an especially significant factor in the linkage that many scholars have drawn between the former system of slavery and the modern day criminal justice system. As DuBois remarked in 1901 essay:

The effect of the convict-lease system on the Negroes was deplorable. First, it linked crime and slavery indissolubly in their minds as simply forms of the white man's oppression... The Negroes lost faith in the integrity of courts and the fairness of juries (Gabbidon et al. 2002: 85-86).

He further argued that:

... the first and almost universal device was to use the courts as a means of enslaving the blacks. It was not then a question of crime, but rather one of color, that settled a man's conviction on almost any charge. Thus, Negroes came to look upon courts as an instrument of injustice and oppression, and upon those convicted in them as martyrs and victims (Du Bois 1986: 129-130).

Similar sentiment was demonstrated by Frank Sanborn, who explained in his 1904 keynote address to the Ninth Atlanta Conference on Negro Crime:

The abuses of (our criminal justice) system have often been dwelt upon. It had the worst aspects of slavery without any of its redeeming features. The innocent, the guilty, and the depraved were headed together, children and adults, men and women, give into complete control of practically irresponsible men, whose sole object was to make the most money possible (Oshinsky 1996).

Monroe Work, in his essay "Negro Criminality in the South" (written in 1913), also expressed similar concerns. However, Work demonstrates that this

opinion of the courts continued even after emancipation:

Before emancipation the Negro had noted that wherever the law had been invoked with reference to a Negro... it was generally to punish or restrain. Thus he came to view the law as something to be feared and evaded but not necessarily to be respected or to be sought as a means of protection. Under freedom the Negro's experience with the law was much the same as it had been in slavery. He found that the courts were still used as a means of punishment and restraint and that generally they were not the place to seek... protection (Gabbidon et al. 2002: 94).

He further asserted that:

The result is that at present the attitudes of Negroes toward the law is that many still associate laws with slavery and look upon courts as places where punishment is meted out rather than where justice is dispensed (Gabbidon et al. 2002: 94).

APPENDIX B

INTERVIEW QUESTIONS

Original Interview Questions

(Pew Research Center Poll #2007-SDT07: Racial Attitudes in America)

GENDER

- 1= Male
- 2= Female

HISP *Are you, yourself, of Hispanic origin or decent, such as Mexican, Puerto Rican, Cuban, or some other Spanish background?*

- 1= Yes
- 2= No
- 9= Don't know/ Refused

RACE If HISP=1: Are you white Hispanic, black Hispanic, or some other race?

If HISP= 2,9: What is your race? Are you white, black, Asian, or some other?

- 1= White
- 2= Black
- 3= Asian
- 4= Other or mixed race
- 5= Don't know/ Refused

Q22= Which of these statements comes closer to your own views-even if neither is exactly right?

1= Racial discrimination is the main reason why many black people can't get ahead these days

OR...

2= Blacks who can't get ahead in this country are mostly responsible for their own condition

3= Neither/ Both equally (VOLUNTEERED)

4= Don't Know/ Refused (VOLUNTEERED)

Q26= How much confidence do you have in police officers in your community (INSERT ITEM)---a great deal, a fair amount, just some, or very little confidence?

- A. To do a good job of enforcing the law
- B. To not use excessive force on suspects
- C. To treat blacks and whites equally

RESPONSE CATEGORIES:

- 1= A great deal

- 2= A fair amount
- 3= Just some
- 4= Very little confidence
- 5= None (VOLUNTEERED)
- 9= Don't know/ Refused

Q29= Generally speaking, do you believe the death penalty is applied fairly or unfairly in this country today?

- 1= Fairly
- 2= Unfairly
- 9= Don't know/ Refused

EDUC= What is the last grade or class that you completed in school?

- 1= None, or grade 1-8
- 2= High school incomplete (Grades 9-11)
- 3= High school graduate (Grade 12 or GED certificate)
- 4= Technical, trade, or vocational school AFTER high school
- 5= Some college, no 4-year degree (including associate degree)
- 6= College graduate (B.S., B.A., or other 4-year degree)
- 7= Post-graduate training or professional schooling after college (e.g., toward a Master's degree or Ph.D.; law or medical school)
- 9= Don't know/ Refused

INCOME= Last year, that is in 2006, what was your total family income from all sources, before taxes?

- 1= Less than \$10,000
- 2= 10 to under \$20,000
- 3= 20 to under \$30,000
- 4= 30 to under \$40,000
- 5= 40 to under \$50,000
- 6= 50 to under \$75,000
- 7= 75 to under \$100,000
- 8= 100 to under \$150,000
- 9= 150 or more
- 10= Don't know/ Refused

IDEOLOGY= In general, would you describe your political view as...

- 1= Very conservative
- 2= Conservative
- 3= Moderate
- 4= Liberal
- 5= Very liberal
- 9= Don't know/ Refused

APPENDIX C

MEASURES OF CONFIDENCE

This appendix provides information about the three variables constituting the confidence index (confidence in the police to do a good job of enforcing the law, confidence in the police to not use excessive force on suspects, and confidence in the police to treat blacks and whites equally). Frequencies of the three variables are discussed, followed by an evaluation of the multiple regression models for each of these variables. As in the text, the multiple regression analyses are completed in two models. The first model evaluates the main effects of race and gender, while the second attempts to find interactions between the two.

Frequencies

Law Enforcement By far, those who reported having no confidence in the police to do a good job of enforcing the law comprised the smallest portion of the sample (2.4 percent). Fourteen percent reported having just some confidence, and an additional 12.4 percent claimed to have very little confidence. Another 33.7 percent reported having a fair amount of confidence in the police to do a good job of enforcing the law. Over all, it appears that the vast majority of respondents had confidence in the police to do a good job of enforcing the law. As a matter of fact, the largest proportion of respondents (37.5 percent) reported having a great deal of confidence.

Excessive Force Again in this variable, those who reported having no confidence in the police to do a good job of enforcing the law were the smallest portion of the sample (3.8 percent). Those who reported having very little confidence in the police were 16.5 percent of the sample, and another 17.9 percent reported having just some confidence. The largest percentage (31.3 percent) of respondents reported having a fair amount of confidence in the police to not use excessive force on suspects. Respondents seemed to have slightly less confidence in the police when it came to not using excessive force on suspects than they did to do a good job of enforcing the law. In this category, 30.6 percent of respondents said they had a great deal of confidence in the police.

Equal Treatment Finally, while those who reported no confidence in the police once again comprised the smallest portion of respondents (4.9 percent), there were a higher proportion of respondents answering in such a manner on this variable than on any of the other variables measuring confidence in the police. Respondents who reported having just some confidence were 14.7 percent of the sample, while nineteen percent claimed to have very little confidence. Those who reported having a fair amount of confidence in the police to treat races equally were 30.2 percent of the sample. The greatest proportion of respondents (31.2 percent) reported having a great deal of confidence in the police to treat blacks and whites equally.

Table 7: Percent Distributions for Variables Constituting the Confidence Index

Law Enforcement

None (%)	2.4%
Very little confidence (%)	12.4%
Just some (%)	14.0%
A fair amount (%)	33.7%
A great deal (%)	37.5%

100.0%
N=3033

Excessive Force

None (%)	3.8%
Very little confidence (%)	17.9%
Just some (%)	16.5%
A fair amount (%)	31.3%
A great deal (%)	30.6%

100.0%
N=2880

Equal Treatment

None (%)	4.9%
Very little confidence (%)	19.0%
Just some (%)	14.7%
A fair amount (%)	30.2%
A great deal (%)	31.2%

100.0%
N=2871

Multiple Regression (Main Effects)

Table 8 contains the results of the first three models of multiple regression analysis.

Law Enforcement. This analysis reports the regression of confidence in the police to do a good job of enforcing the law on race, gender, education, income, ideology, and racial view ($R^2 = 10.1$). A total of 10.1 percent of the variation in confidence was explained by these variables. Each of the following variables was significant in explaining levels of confidence in police to do a good job of enforcing the law: race, education, ideology, and racial view. Gender and income and gender, however, were not significant indicators of confidence in the police to do a good job of enforcing the law.

Black respondents tended to have less confidence in the police to do a good job of enforcing the law ($-.232^{**}$). Furthermore, respondents with less education tended to be less confident in the police to do a good job of enforcing the law. The relationship was a weak positive one, with a standardized coefficient of $.076^*$. Liberal respondents also tended to be less confident in the police do a good job of enforcing the law ($-.087^{**}$). This relationship was over two times stronger than that of any of the other independent variables with this dependent variable. Finally, respondents who felt that racial discrimination is the main reason that blacks cannot get ahead tended to have less confidence in the police to do a good job of enforcing the law. This relationship yielded a standardized coefficient of $.092^{**}$.

Excessive Force. This analysis reports the regression of confidence in the police to not use excessive force on suspects on race, gender, education, income, ideology, and racial view ($R^2 = 17.7$). A total of 17.7 percent of the variation in confidence was explained. The following variables were significant in explaining levels of confidence in the police to not use excessive force on suspects: race, income, ideology, and racial view. Gender and education, on the other hand, were not significant indicators of confidence in the police to not use excessive force on suspects.

Black respondents tended to be less confident that the police would not use excessive force on suspects. This relationship was the strongest of the variables, with a negative beta coefficient of $-.311^{**}$. Respondents with lower incomes tended to be less confident that the police would not use excessive force on suspects. This relationship was a weak positive one, with a beta coefficient of $.132^{**}$. In addition, respondents who identified themselves as being liberal tended to be less confident that the police would not use excessive force on suspects. This relationship was a weak negative one ($-.065^*$). Finally, respondents who felt that racial discrimination is the main reason that blacks cannot get ahead tended to be less confident that the police would not use excessive force on suspects. This relationship yielded a standardized coefficient of $.119^{**}$.

Equal Treatment. This analysis reports the regression of confidence in the police to treat races equally on race, gender, education, income, ideology, and racial view ($R^2 = 21.1$). A total of 21.1 percent of the variation in confidence was explained

by these variables. The following variables were significant in explaining levels of confidence in the police to treat blacks and whites equally: race, income, ideology, and racial view. However, gender and education were not significant indicators of confidence in the police to treat blacks and whites equally.

Black respondents tended to be less confident in the police to treat blacks and whites equally. This relationship was the strongest of the variables, with a negative beta coefficient of $-.340^{**}$. Once again, race was the most important predictor of the dependent variable. With regards to equal treatment, the relationship between race and the dependent variable was nearly two times stronger than the relationship found between any of the other independent variables and the dependent variable.

Respondents with lower incomes tended to be less confident in the police to treat blacks and whites equally. This relationship was a weak positive one, with a beta coefficient of $.069^*$. In addition, respondents who identified themselves as being more liberal tended to be less confident that the police treat blacks and whites equally. This was a weak negative relationship, with a beta coefficient of $-.082^{**}$.

Lastly, respondents who felt that racial discrimination is the main reason that blacks cannot get ahead tended to be less confident in the police to treat blacks and whites equally. This relationship yielded a positive beta coefficient of $.189^{**}$.

When it came law enforcement, excessive force, and equal treatment, race were by far the most significant predictor of levels of confidence in the police, most often at least two times as strong of a predictor of confidence as even the next strongest predicting variable. However, the predictive abilities of the other variables

were found to be much less stable. For instance, education was only a significant predictor in one of the analyses (law enforcement). Income, on the other hand, was only a significant predictor in the analyses in which education was not significant. Gender, conversely, was significant in none of the multiple regression analyses.

Table 8: Metric and Standardized Coefficients for Regression of Measures of Confidence in the Criminal Justice System on Independent Variables (Main Effects)

	Law Enforcement		Excessive Force		Equal Treatment	
	b	B	b	B	b	B
Intercept	3.852 (.119)		3.503 (.126)		3.809 (.127)	
Race	-.520** (.052)	-.232	-.755** (.055)	-.311	-.843** (.055)	-.340
Gender	.052 (.050)	-.024	-.009 (.052)	-.004	-.086 (.052)	-.035
Education	.069* (.023)	.076	.043 (.024)	.044	-.010 (.024)	-.010
Income	.029 (.012)	.061	.068** (.013)	.132	.036* (.013)	.069
Ideology	-.095** (.025)	-.087	-.077* (.026)	-.065	-.099** (.026)	-.082
Racial View	.222** (.055)	.092	.310** (.058)	.119	.505** (.059)	.189
R ²		.104		.180		.214
Adj. R ²		.101		.177		.211

Standard errors in parentheses.

*p≤.01, **p≤.001.

b= Unstandardized Beta; B= Standardized Beta

Coding: Law Enforcement (1= None; 2= Very Little Confidence; 3= Just Some; 4= A Fair Amount; 5= A Great Deal), Excessive Force (1= None; 2= Very Little Confidence; 3= Just Some; 4= A Fair Amount; 5= A Great Deal), Equal Treatment (1= None; 2= Very Little Confidence; 3= Just Some; 4= A Fair Amount; 5= A Great Deal), (Q29 (0= Unfairly; 1= Fairly), Education (1= Less than High School; 2= High School Graduate; 3= Some College; 4= College Graduate; 5= Post-Graduate Training), Income (1= Under \$10,000; 2= \$10,000-under \$20,000; 3= \$20,000-under \$30,000; 4= \$30,000-under \$40,000; 5= \$40,000-under \$50,000; 6= \$50,000-under \$75,000; 7= \$75,000-under \$100,000; 8= \$100,000-under \$150,000; 9= \$150,000+), Ideology (1= Very Conservative; 2= Conservative; 3= Moderate; 4= Liberal; 5= Very Liberal), Race (0= White; 1= Black), Racial View (0= Racial discrimination is main reason blacks can't get ahead; 0= Blacks are mostly responsible for their own condition), Gender (0= Male; 1= Female)

Multiple Regression (Race and Gender Combinations Included)

Because of the differences found between black and white respondents, the respondents were separated into groups based on their gender in attempt to determine if the racial differences could be better understood. In these multiple regression models, the categories designated to represent White Women, Black Men, and Black Women were included into the analysis in lieu of the original main effect variables of race and gender. White men were treated as the reference group. In each of these models of multiple regression, the relationship between each of the original independent variables used in the previous models of multiple regression and the dependent measure remained virtually unchanged. Therefore, only the results of the new race and gender variables will be included in the discussion. Complete results are revealed in Table 9.

Law Enforcement. This analysis reports the impact of education, income, ideology, racial view, and white women, black men, and black women on confidence in the police to do a good job of enforcing the law. The following variables were significant in explaining levels of confidence in the police to do a good job of enforcing the law: education, ideology, racial view, white women, black men, and black women. Income, however, was not significantly related with confidence in the police to do a good job of enforcing the law.

White women tended to have more confidence in the police to do a good job of enforcing the law than did white men. The relationship (.069*) was weak and positive. Black male respondents tended to have less confidence in the police to do a

good job of enforcing the law than white men did. This relationship was weak and negative, with a beta coefficient of $-.109^{**}$. Finally, black female respondents tended to have less confidence in the police to do a good job of enforcing the law than did white men. This negative relationship ($-.189^{**}$) was the strongest among the variables. Furthermore, with respect to confidence, black women were the farthest removed from white men.

Excessive Force. This analysis reports the impact of education, income, ideology, racial view, white women, black men, and black women on confidence in the police to not use excessive force on suspects. The following variables were significant in explaining levels of confidence in the police to not use excessive force on suspects: income, ideology, racial view, black men, and black women. Education and white women, on the other hand, were not significantly related with confidence in the police to not use excessive force on suspects.

Black male respondents tended to have less confidence in the police to not use excessive force on suspects than did white men. This relationship was approaching the modest level, with a negative beta coefficient of $-.207^{**}$. Black female respondents also tended to have less confidence in the police to not use excessive force on suspects than white men. This relationship was the strongest of the variables, and had a negative beta coefficient of $-.280^{**}$. Once again, being a black female had the strongest predictive power on the dependent measure, and was also the farthest separated from white men with regards to levels of confidence.

Equal Treatment. This analysis reports the impact of education, income, ideology, racial view, white women, black men, and black women on confidence in the police to treat blacks and whites equally. The following variables were significant in explaining levels of confidence in the police to treat blacks and whites equally: income, ideology, racial view, black men, and black women. Education and white women were not significantly related with confidence in the police to treat blacks and whites equally.

Black male respondents tended to have less confidence in the police to treat blacks and whites equally than did white men. This relationship was approaching the moderate level, with a negative beta coefficient of $-.241^{**}$. Finally, black female respondents also tended to be less confident in the police to treat blacks and whites equally than did white men. This relationship was the strongest of all variables, with a negative beta coefficient of $-.331^{**}$. Yet again, this variable was the one most strongly related to the dependent measure, and black women were found to have a level of confidence most different from white men.

Like the first models of multiple regression results, there were several similarities worth noting in each of these three models of multiple regression. Certain variables were significant predictors of confidence in each of the models. In all three models, two of the original variables (ideology and racial view) were important predictors of confidence. Two of the other original variables, however, were, just as in the first models, less stable predictors of confidence. Education was only

significant in Model #1, and income was significant in the other models where education was not significant.

Moreover, the new variables added to these models of multiple regression analysis yielded some very notable differences in confidence among certain race/gender groups, but not among others. For instance, being a white woman was significantly related to confidence in the police to do a good job of enforcing the law, but was not significantly related to confidence in the police to not use excessive force on suspects or to treat blacks and whites equally. However, being a black male or a black female was a significant predictor of confidence in the police in each of the models, with black females being the most significant variable in each model. That is, with regards to law enforcement, excessive force, and equal treatment, black women were found to have the least amount of confidence in the police, relative to white men.

Table 9: Metric and Standardized Coefficients for Regression of Measures of Confidence in the Criminal Justice System on Independent Variables (Race and Gender Combinations Included)

	Law Enforcement		Excessive Force		Equal Treatment	
	b	B	b	B	b	B
Intercept	3.801 (.120)		3.489 (.127)		3.806 (.128)	
Education .072*	-.080 (.023)		.044 (.024)	.045	-.010 (.024)	-.010
Income	.028 (.012)	.059	.067** (.013)	.131	.036* (.013)	.069
Ideology	-.099** (.025)	-.091	-.078* (.026)	-.066	-.099** (.026)	-.082
Racial View	.223** (.055)	.093	.310** (.058)	.119	.505** (.059)	.189
White Women	.161* (.062)	.069	.022 (.065)	.008	-.079 (.066)	-.030
Black Men	-.344** (.080)	-.109	-.706** (.084)	-.207	-.832** (.084)	-.241
Black Women	-.480** (.068)	-.189	-.767** (.072)	-.280	-.929** (.072)	-.331
R ²		.108		.180		.214
Adj. R ²		.105		.177		.211

Standard errors in parentheses.

*p≤.01, **p≤.001

b= Unstandardized Beta; B= Standardized Beta

Coding: Law Enforcement (1= None; 2= Very Little Confidence; 3= Just Some; 4= A Fair Amount; 5= A Great Deal), Excessive Force (1= None; 2= Very Little Confidence; 3= Just Some; 4= A Fair Amount; 5= A Great Deal), (Q29 (0= Unfairly; 1= Fairly), Education (1= Less than High School; 2= High School Graduate; 3= Some College; 4= College Graduate; 5= Post-Graduate Training), Income (1= Under \$10,000; 2= \$10,000-under \$20,000; 3= \$20,000-under \$30,000; 4= \$30,000-under \$40,000; 5= \$40,000-under \$50,000; 6= \$50,000-under \$75,000; 7= \$75,000-under \$100,000; 8= \$100,000-under \$150,000; 9= \$150,000+), Ideology (1= Very Conservative; 2= Conservative; 3= Moderate; 4= Liberal; 5= Very Liberal), Race (0= White; 1= Black), Racial View (0= Racial discrimination is main reason blacks can't get ahead; 0= Blacks are mostly responsible for their own condition), Gender (0= Male; 1= Female), White Men (0= No; 1= Yes), White Women (0= No; 1= Yes), Black Men (0= No; 1= Yes), Black Women (0= No; 1= Yes)

APPENDIX D

BIVARIATE ANALYSES OF RACE AND THE DEPENDENT VARIABLES

The crosstabulation percentages presented in the next four tables present the number of blacks and whites who reported having a great deal, a fair amount, just some, very little, or no confidence in the police to do a good job of enforcing the law (Table 10), to not use excessive force on suspects (Table 11), to treat races equally (Table 12), and also, the percentage of whites and blacks who believed that the death penalty is applied fairly or unfairly (Table 13). Some very important differences between blacks and whites can be noted.

While the largest portion of white respondents (46.6 percent) had a great deal of confidence in the police to do a good job of enforcing the law, less than half that many black respondents held such a view (22.9 percent). In this category, the largest portion of black respondents (37.0 percent) claimed to have a fair amount of confidence, compared to 31.8 percent of whites. Further, while only 1 percent of whites said they had no confidence in the police to do a good job of enforcing the law, five times that many (5.0 percent) blacks claimed such a view.

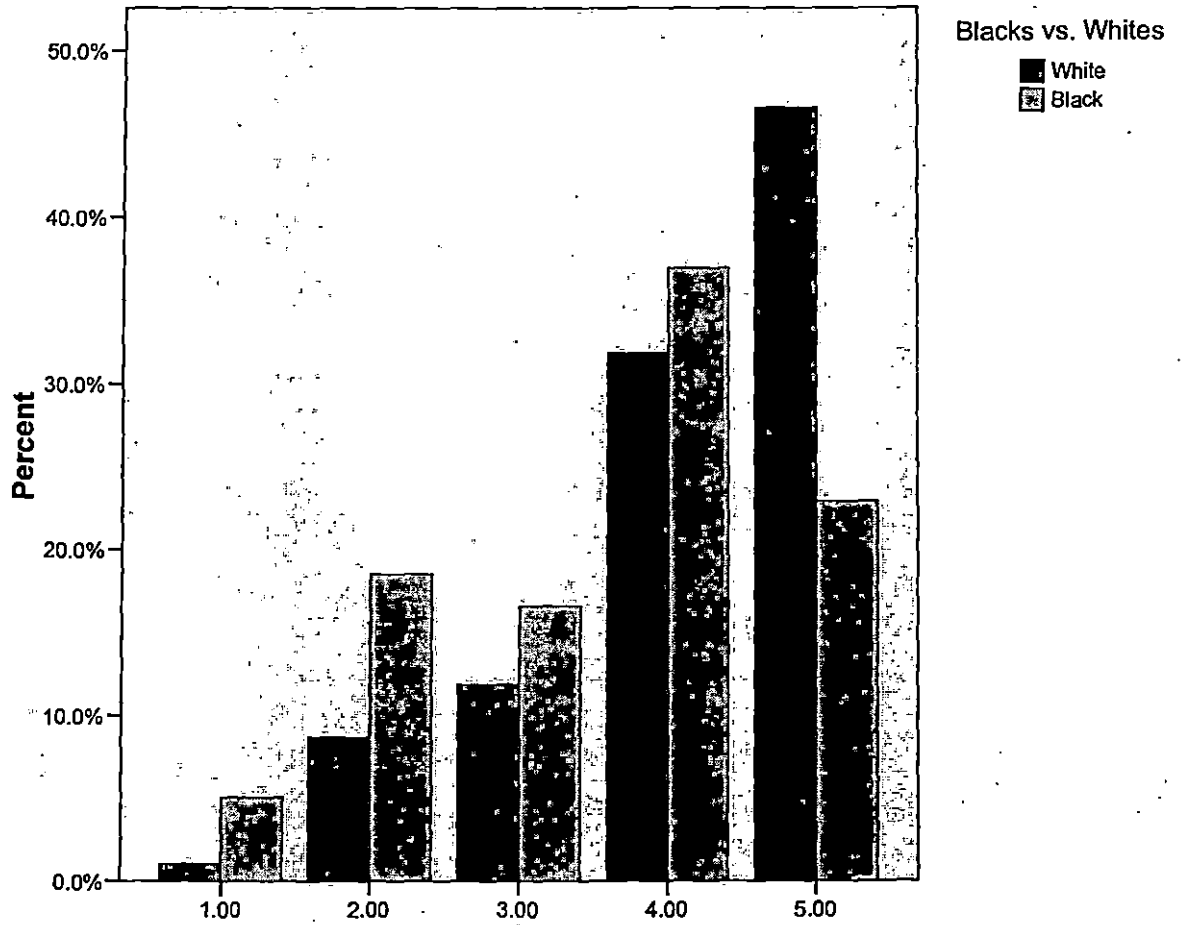
With regards to confidence in the police to not use excessive force on suspects, racial differences became even more pronounced. While the largest group of white respondents (41.5 percent) reported having a great deal of confidence, less than a third that many black respondents (12.5 percent) held such a view. Moreover, while only a minuscule number of whites (1.6 percent) reported having no confidence

in the police to not use excessive force on suspects, close to five times that many blacks (7.6 percent) held similar views.

Racial differences continued to be very pronounced when examining confidence in the police to treat blacks and whites equally. Once again, most white respondents (42.9 percent) had a great deal of confidence, less than a third that many blacks (12.5 percent) held the same view. The largest group of blacks (31.7 percent), on the other hand, reported having very little confidence. This was almost three times the number of whites (10.9 percent) who held such a view. Furthermore, while only 2.0 percent of whites claimed to have no confidence in the police to treat blacks and whites equally, nearly five times that many blacks (9.4 percent) claimed to hold such a view.

Finally, views of the fairness in the application of the death penalty were found to vary greatly between the races. While a solid majority of respondents (60.5 percent) believed that the death penalty is applied fairly, less than a third of blacks (26.2 percent) held a similar view. On the other hand, nearly three quarters (73.8 percent) of black respondents believed that the death penalty is unfairly, while well less than one half of white respondents (39.5 percent) reported holding such a view.

**Table 10: Confidence in the Police to do a Good Job of Enforcing the Law
(by Race)**



**Table 11: Confidence in the Police to not Use Excessive Force on Suspects
(by Race)**

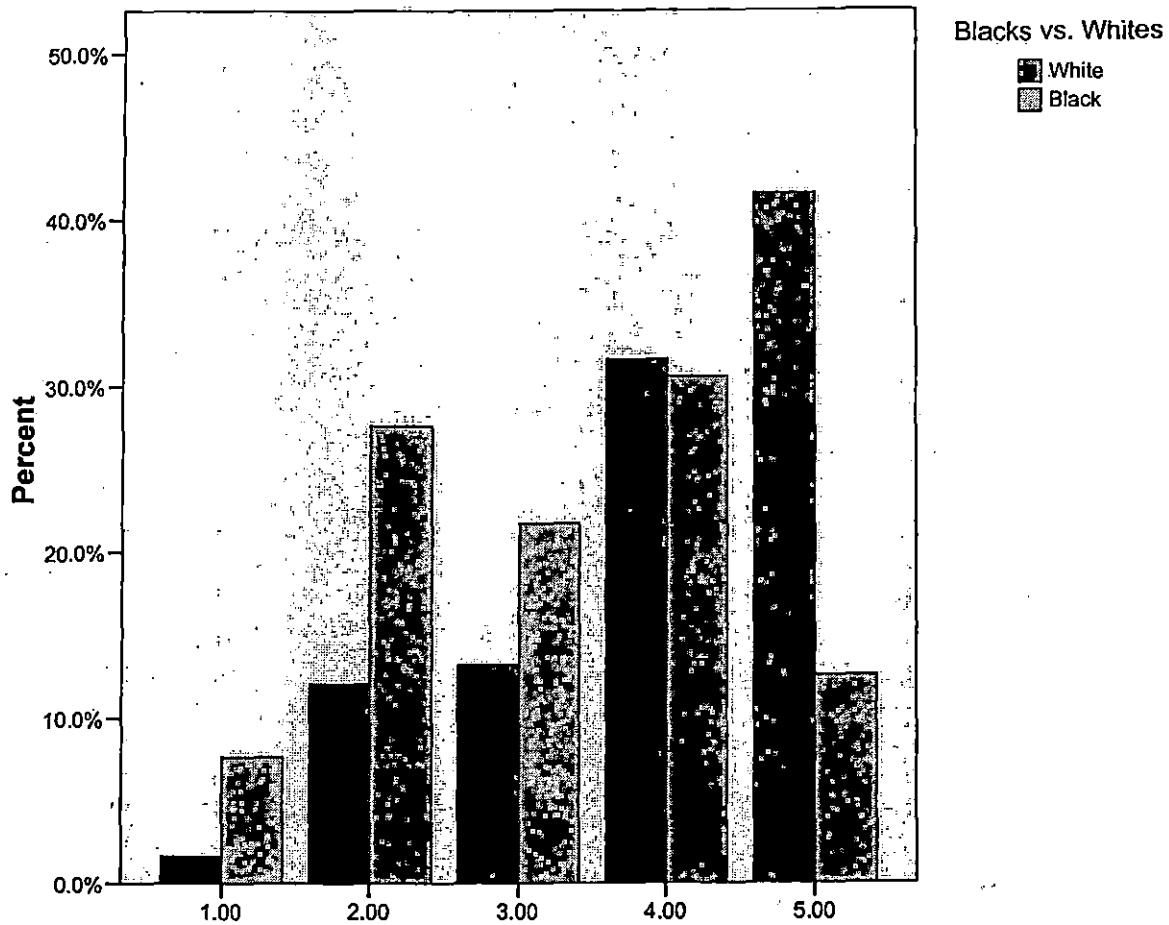


Table 12: Confidence in the Police to Treat Races Equally (by Race)

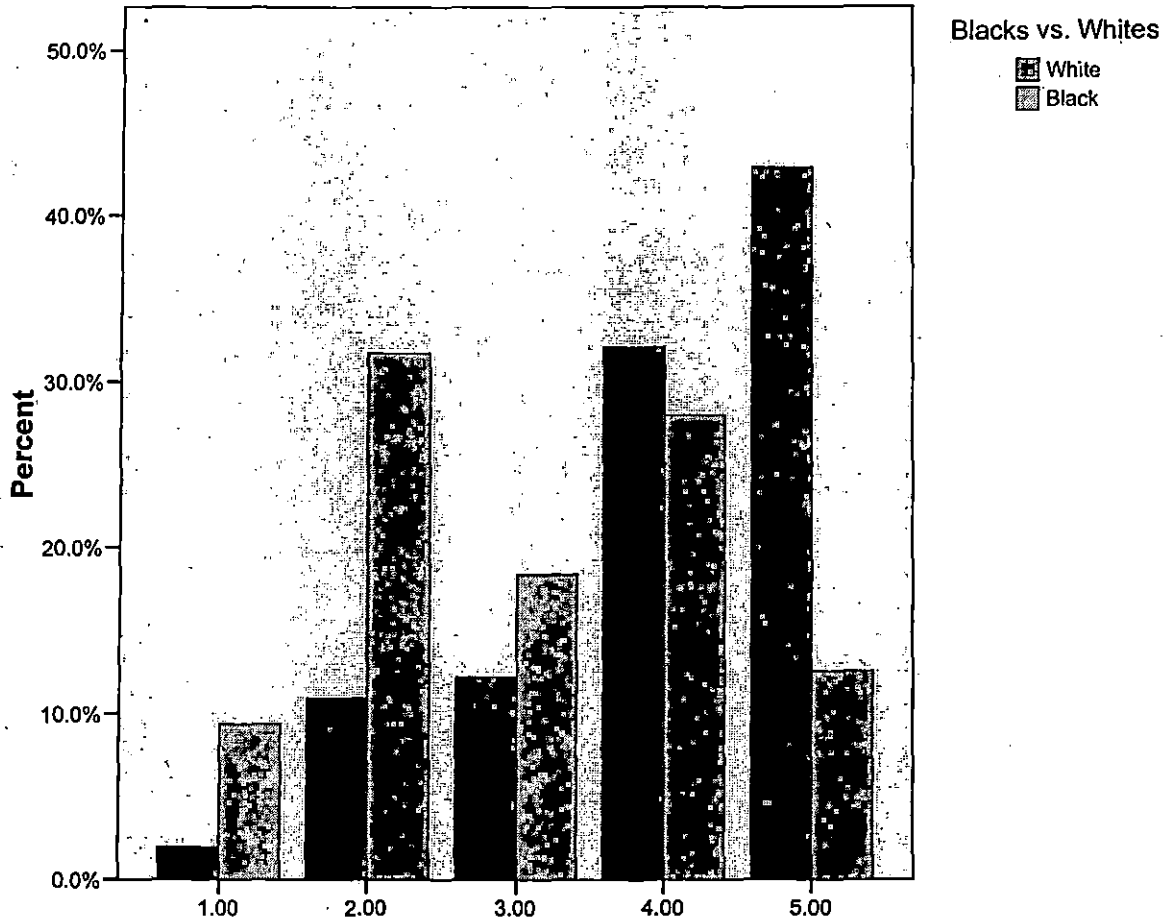
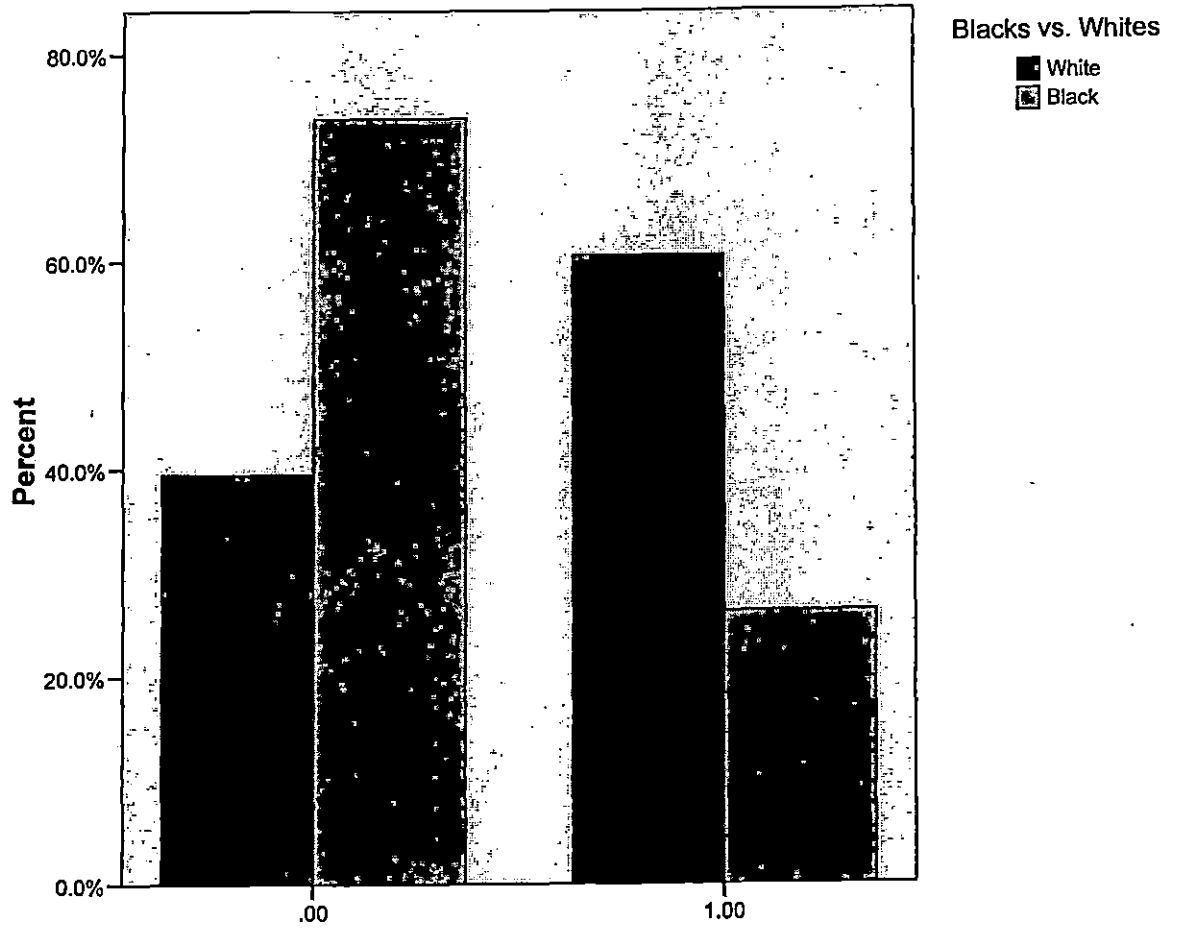


Table 13: Views of Fairness in the Application of the Death Penalty (by Race)



APPENDIX E

FOOTNOTES

1. For additional history on slavery, the Black Codes, the convict lease system, and lynching, see Appendix A.
2. Consequently, the enormous rate of African American incarceration has been referred to by some as “The New American Apartheid (Brown and Shelden 2003: 277)”.
3. This was the year that the *Brown v. Board of Education* decision was rendered.
4. As a result, some researchers have argued that prison time has “become a normal part of the early adulthood for black men in poor urban neighborhoods” (Pettit and Western 2004: 151). Likewise, Austin and Irwin (1997) argued that: “For many young males, especially African Americans and Hispanics, the threat of going to prison or jail is no threat at all but rather an expected or accepted part of life” (Pettit and Western 2004: 156).
5. This translates into an increase of 1613 percent for black males and 477 percent (for white males).
6. The corresponding rate for white males is 502 of every 100,000.
7. In at least 15 states, black men are sentenced to prison for drug charges at rates that are between 20 and 57 times the rates of whites (Smiley 2006).

8. Additional research has established that black men constitute 10 percent of the United States' drug users, but are nearly 80 percent of those incarcerated for related crimes. On the other hand, white men make up 80 percent of America's drug users, but are only about 10 percent of those incarcerated for such crimes (Gordon 2004).
9. A repeat offender charged with a violation of this law could receive a sentence of life in prison without the possibility of parole (Provine 1998).
10. In 2007, in *United States v. Kimbrough*, the U.S. Supreme Court ruled that judges may sentence individuals below the federal sentencing guideline recommendations in crack cocaine cases. Further, the U.S. Sentencing Commission lowered guideline sentencing recommendations for such offenses, resulting in an average 16 month decrease in prison sentences (Drug Policy Alliance Network 2009).
11. In fact, in 1992, the U.S. Sentencing Commission identified 17 states where a white individual had never been prosecuted on a federal crack cocaine charge (Gallagher 2009). Therefore, it has been pointed out that: "... millions of white illicit drug abusers somehow avoided detection, surveillance, arrest and prosecution during the national 'War on Drugs'" (Marable et al. 2007: 5).
12. In 1998, the Substance Abuse and Mental Health Administration determined that 18.5 million whites had used powder cocaine. However, only 2.1 million blacks had ever tried the substance (Marable et al. 2007).

13. Additionally, research has shown that the odds of an African American being sent to prison are also greater than an African American joining the military or even getting married (Simon 2007). Research established that as of 2007, black males born had a 1-in-1,250 chance of becoming a NFL player, a 1-in-4,600 chance of being in the NBA, a 1-in-2,000 chance of earning a Ph.D. in engineering, math, or physical science, a 1-in-548 chance of becoming a medical doctor, and a 1-in-145 chance of becoming a lawyer. That same black male has a 1-in-13 chance of being in prison before age 20, and a one-in-three chance of one day being an ex-felon (Boothe 2007).
14. Being that blacks only comprise 12-13 percent of the United States population, Frank Chapman claimed that such a disparity meant that the justice system was “clearly practicing genocide” (McAdams 1998: 154).
15. This historical disparity was especially evident among defendants convicted of rape. Between 1930 and the 1972, blacks were 89-90 percent of those executed for rape (Bordt 2004; Walker, Spohn, and DeLone 1996; Pierce and Radelet 1985). In fact, it has been determined that a black man accused of raping a white woman was 18 times more likely to be executed than all other racial combination of offenders and victims (Wilson 1983).
16. This number equated to less than .2 percent of all executions.
17. Research shows that if ex-felons had been permitted to vote in these elections, the result would likely have been the Democratic Party attaining

an equal representation in the 1984 Senate, and gaining a majority in the 1986 Senate (Uggen and Manza 2002).

18. This rate was seven times the national average (Hull 2006).
19. Scholars have pointed out that the use of this practice was expanded during the 1980's as a way to target low-level drug couriers (Holbert and Rose 2008).
20. While addressing questions about the large number of African Americans killed at the hands of police (particularly by chokeholds), Los Angeles Police Chief Daryl Gates claimed: "We may be finding that in some blacks when (the carotid chokehold) is applied the veins or arteries do not open up as fast as they do on normal people (Brown and Shelden 2003: 186)."
21. Derrick Bell argues that "innocence offers no insulation against abuse (Nelson 2000: 90)".
22. Similarly, Brown and Shelden (2003) refer to the police in this context, as an "alien force" in "enemy territory" (p. 181).
23. These codes also prohibited slaves from inheriting or owning any property (including pets), prevented them from testifying in any court case involving a white, and forbade slaves from using abusive language toward whites and preaching. These laws also outlawed male slaves from gathering in groups of eight or more, and imposed harsh penalties on whites who taught blacks to read (Daley 2006, Russell-Brown 2006), or tried to help them escape

(Russell-Brown 2006). The codes also deterred slave rebellions and forbade them from marriage (Delgado and Stefancic 1997).

24. African American jurist A. Leon Higginbotham identified ten precepts of American slavery jurisprudence. Higginbotham argues that these laws were based on the notion of black inferiority, their role as property of the whites, black powerlessness, an insistence on maintaining racial purity, limiting of the number of free blacks, recognizing no familial rights of blacks, denying blacks their education and culture, recognizing no religion of the blacks, and limiting black opposition and resistance. There was also a firm belief in securing these laws “by any means possible” (Gabbidon and Greene 2005: 11).
25. As a matter of fact, statistics reveal that African American women constitute the fastest growing segment of the prison population (Johnson, Logan, and Davis 2003).
26. David Cole found that “blacks are more consistently more skeptical of the criminal justice system than whites (Cole 1999: 11)”.
27. In a 1998 Gallup Poll, 61 percent of whites (but only 34 percent of blacks) had confidence in the police, 36 percent of whites (versus 16 percent of blacks) had confidence in the local courts, and 26 percent of whites (compared to 15 percent of blacks) were confident in the prison system (Sherman 2007).

28. The five models evaluated were: views on which race is treated most harshly by the criminal justice system, opinions on whether police protected black neighborhoods as adequately as white neighborhoods, how much confidence individuals have in the police to treat blacks and whites equally, whether the individual ever personally felt treated unfairly by the police because of his/ her race, and how widespread the respondent felt that racism against blacks is among police. In each of the models, blacks demonstrated a considerably smaller amount of confidence than did whites.
29. A study conducted by the Bureau of Justice Statistics found similar results. In this survey, 54 percent of whites had a great deal of confidence in the police, while only 38 percent of blacks did so (Walker et al. 1996).
30. Almost one-third of blacks rated the honesty and ethics level of police as “low” or “very low”.
31. Cao et al. (1996) conducted research which indicated that females tend to have more confidence in police than do males. However, their research also suggested that education and income have no significant impact on confidence in the police (Cao et al. 1996).
32. Some research has determined that racial prejudice is the most important predictor of white attitudes about the application of the death penalty (Hurwitz and Peffley 2007). Soss et al. (2003) also found that whites with the highest levels of anti-black prejudice are very likely to indicate strongest support for the death penalty. In all, Soss et al. (2003) found that

- individuals with more negative beliefs about blacks generally endorse more punitive responses to crime.
33. Research conducted by Eisenberg et al. (2001) established that almost two-thirds of white jurors voted to give defendants a death sentence, compared with less than one-third of black jurors.
 34. Referred to as “debt slavery” by Milfred Fierce, “the spawn of slavery” by W.E.B. DuBois, and “slavery by another name” by Douglas Blackmon.
 35. Ruth Frankenberg defines color blindness as: “a mode of thinking about race organized around an effort to not ‘see’, or at any rate not to acknowledge, race differences” (Twine and Warren 2000: 145).
 36. Reiman (2004) terms this “pyrrhic defeat theory”.
 37. Black identifies law as “government social control” (Oneto and Phillips 2003).
 38. Black identifies social status as a person’s position in society relative to others.
 39. Likewise, it could be argued that a member of the dominant race who initiates a complaint against a member of a minority race would attract more law than a minority who would initiate a complaint against a member of the dominant race.
 40. Eduardo Bonilla-Silva (2006) refers to such a practice as “racism lite” (pp. 3). Other scholars refer to it as “color-blind” racism.

41. Consequently, some scholars blame the alleged black criminals, rather than a racist criminal justice system, with the harm that has been done to the African American community. As Juan Williams argues: "Black crime is a cancer that is quietly killing the moral center of black America" (Williams 2006: 114).
42. Steve Perry (2005) argues that: "Let one White police officer kill one black boy who was out running the streets at 2:00 AM on a Tuesday and black people will march, call for reforms, scream racism and spray murals of the slain child on other people's property. But when we kill our own every single day where's the outcry? Sure, we pour out a little liquor, get some iron-on letters to make a R.I.P. t-shirt, then we start back down the road of blaming the white man for bringing weapons and crack back into the black community. What if we began to attack the racist lethal behavior of our boys with the same vigor that we do the racist lethal behavior of cops... Every single day, hour after horrifying hour, black boy after black boy is being killed by friendly fire and we silently understand" (p. 38).
43. Such sentiment is evidenced in the following argument presented by Bill Cosby: "In our own neighborhood, we have men in prison... I'm talking about these people who cry when their son is standing in an orange suit. Where were you when he was twelve? Where were you when he was eighteen, and how come you don't know he had a pistol? And where is his father, and why don't you know where he is? And why don't the father

show up to talk to this boy?... Looking at the incarcerated, these are not political criminals. These are people going around stealing Coca Cola. People getting shot in the back of the head over a piece of pound cake! And then we all run out and we're outraged, 'Ah, the cops shouldn'ta shot him.' What the hell was he doing with the pound cake in his hand?... And when they stand therein an orange suit and you drop to your knees, and say, 'Please, he didn't do anything, he didn't do anything.' Yes, he did do it. And you need to have an orange suit on too... You got to tell me that if there was parenting, help me, that if there was parenting, he wouldn'ta picked up the Coca Cola bottle and walked out with it to get shot in the back of da head. He wouldn't have. Not if he loved his parents. And not if they were parenting! Not if the father would come home. Not if the boy that dropped the sperm inside of da girl and the girl said, 'No, you have to come back here and be the father of this child.' They don't have to" (Dyson 2005: 59-60).

44. Perry (2005) claims that: "The Black community builds thugs. We foster their development when we apologize for, instead of correcting the havoc that they create. We teach thugs to be who they become and then blame the world for the negatively that they bring" (p. 34).
45. Nevertheless, those who argue that the system is unjust point out that disproportionate rates of black crime do not always translate into individual black failure. Rather, they contend that many of these individuals have been

treated unfairly by those in authority---thus, the system has failed, as exemplified in unfair police practices, disproportionate arrest rates, stricter sentences, etc.

46. As Thomas Sowell argued: “Drug dealers and other violent criminals have been the beneficiaries of reduced police activity and of liberal judges throwing out their convictions because of ‘racial profiling.’ These criminals go back to the black community-not the affluent, suburban and often gated communities where journalists, judges, and politicians live” (pp. 403).
47. Original survey questions can be found in Appendix B.
48. For analyses of the original variables before they were combined into the index, see Appendix C.
49. For more information on bivariate relationships between race and the dependent variables, see Appendix D.

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