

HOWARD UNIVERSITY

**Social Inequality, Criminal Justice, and Race  
in Tennessee, 1960-2014**

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**Doctor of Philosophy**

Department of Political Science

By

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## **DEDICATION**

This study is dedicated to the late Mr. Kelly Holmes. As Master Electrician, Mr. Holmes was a successful entrepreneur and the business owner of AC Power Inc. He succumbed to cancer in Nashville, Tennessee, on February 2, 2013. Mr. Holmes dedicated his life to educating, uplifting, and empowering marginalized young Black men and women, teaching and mentoring to them the importance of character, self-reliance, responsibility and work. He founded Be A Helping Hand Foundation, a non-profit construction trade school whose mission “is to provide affordable housing, free education, job training and job placement assistance in the construction industry.” Mr. Holmes was dedicated to “teaching the tricks of the electrical trade to young Black people, ages 17 to 25, who have work boots, a low level of training and a will to learn.” This study is also dedicated to the men and women rendered a “civil death” due to policy racism, laissez-faire racism, and benign neglect.

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## ABSTRACT

This study examines the national criminal justice system's and the state of Tennessee criminal justice system's policies in terms of how they influence citizens' need for prisons with the private sector's desire for profits and their effects on the incarceration rate of African American males in the state of Tennessee. There is an important, often neglected correlation among prison sentencing, felony disenfranchisement, voting and the continuing problematic issues of race in America, particularly in Tennessee. Tennessee serves as a representative case study for which to examine local, state, and national criminal justice system, disparate outcomes and social inequality. The research therefore investigates ethically questionable public-private business relationships and arrangements that contribute to socially-constructed economic policy instruments used to fulfill Conservatives and Whites supremacists' objectives for White domination in the State. Through mass incarceration and felony disenfranchisement, African Americans—in particular, African American males, have been discriminated against and systematically excluded from political participation, employment, housing, education and other social programs. This dissertation utilizes the Racial Contract Theory and Racial Group Threat Theory (Racial Threat Theory or Group Threat Theory) to investigate the issue. The Racial Contract Theory suggests that racism itself is an intentionally devised institutionalized political arrangement, of official and unofficial rule, of official and unofficial policy, socioeconomic benefit, and norms for the preferential distribution of material wealth and opportunities. The Racial Group Threat Theory suggests that growth in the comparative size of a subordinate group increases that group's capacity to use democratic political and economic institutions for its benefit at the expense of the dominant group.

This dissertation therefore first hypothesizes that race, mass incarceration and felony disenfranchisement are employed to influence election outcomes in Tennessee. The second

hypothesis that profit-seeking motive or other forms of economic incentives contribute to racist policy in the criminal justice system of Tennessee. The secondary data for this study were collected from books, scholarly articles, and online sources using the document analysis technique. The primary data were collected using national, state, local government reports and expert testimonials already conducted.

## PREFACE

This study helps shed light on Black social inequality and analyzes the impact of criminal justice policy on race, region and class in post-Civil Rights Tennessee and the United States. As social equality and related disparities increasingly grow in the United States, governments and institutions are increasingly challenged to pay close attention to the problems that leads to Black communal dysfunction. The inequality gap in the United States confounds many observers. Over the years scholars have tempted to rationalize Black social inequality through different theories. Now many observers are becoming increasingly concerned with the growing social economic disparities. The country is presented as the torch bearer for democratic ideals, stability and development of human capital by the international community. Furthermore, this study of Tennessee's criminal justice system, business public arrangements, civil death, voter suppression, political suppression, economic suppression, and etc. raises important issues such as the real causes of poverty, dysfunction, and growing municipal debts that stifle the true potential of our nation's greatest resource—its citizens. This human capital paradigm holistically impacts the family, neighborhood, and communal fabrics in Tennessee and around the nation—ultimately underpinning and potentially undermining our national stability.

The study revisits the state policy of exclusion and the replacement of the political philosophy of the Social Contract with the Racial Contract's *Herrenvolk* democracy, benign neglect, laissez-faire racism, and policy racism. The aforementioned concepts are scientifically and statistically measurable, facilitating disproportionate social outcome inequality indexes largely through voter suppression and felon and ex-felon disenfranchisement. It also addresses the nation's Civil Rights demonstrations and other forms of protests related to Black self-determination. The study presents the protests and the inability of the national government to



stop the events of segmented disunion. Furthermore, it analyzes the failure of federal, state, and local governments, combined with White conservatives' and White supremacists' sentiments impact of their strategic interposition between the two racial groups to prevent race and class disparities.

The consequences of civil death associated with benign neglect, laissez-faire racism, and policy racism results in an unequal distribution of national, state, and local resources and compound the inequality undermining local, regional and national stability. Since the Civil Rights-era of the 1960's, White conservative obstructionist legislators, policymaking institutions, and special interests groups have been entrenched in federal, state, and local political offices and have had great influence concerning the distribution of state resources.

President Lyndon B. Johnson was the first president of the post-Civil Rights Second Reconstruction era. He was able to navigate the turbulent climate of the 1960's. While in office President Johnson positioned the nation for greater expansion of civil liberties. The effects came at a great sacrifice to many civil rights leaders and demonstrators, many of whom lost their lives or suffered greatly to advance democratic ideals for excluded groups. Many cities across the nation experienced tremendous physical damage in the wake of demonstrations, protests and riots. Similarly to the divisive political climate during President Johnson's tenure in office, the 2008 election of President Barack Obama, the nation's first Black president, has been characterized by obstructionists' pursuits among conservatives opposing liberal policy efforts.

This study seeks to clarify the impact of democratic contraction imposed largely upon specific demographic segment blocs of the American populace, and seeks to better understand democracy in the United States and its relationship to social inequality and functional community development. Furthermore, the study addresses the consequences of the denial of the

United States to identify and allow segment blocs of its blighted populace a reasonable and fair opportunity toward achieving the American dream—the opportunity to obtain full human capital development. Finally, the study presents recommendations that could be applied not uniquely to the United States context, but serve as an instrument from which to examine exclusion and policy racism contexts to other nations.

Gerald Keith Fosten

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## CHAPTER I: INTRODUCTION

The two parties have combined against us to nullify our power by a 'gentleman's agreement' of non-recognition, no matter how we vote.... May God write us down as asses if ever again we are found putting our trust in either the Republican or the Democratic Parties.

—W. E. B. Du Bois (1922)

These Negroes, they're getting pretty uppity these days and that's a problem for us since they've got something now they never had before, the political pull to back up their uppityness. Now we've got to do something about this, we've got to give them a little something, just enough to quiet them down, not enough to make a difference... I'll have them niggers voting Democratic for the next two hundred years.

—Lyndon B. Johnson, 1963 (quoted in Barlett, 2008, p.157)

This study examines how and why the nation's criminal justice system and the state of Tennessee's criminal justice system policies have influenced African American social inequality in Tennessee. Stated another way, this study examines race, mass incarceration, felon disenfranchisement, and lack of political will to address social inequality in post-Civil Rights African American communities in Tennessee. The central thesis of this dissertation is business-public relationship arrangements by using public policy are designed to support a racist conservative agenda by disproportionately incarcerating African Americans. This study tests the hypotheses that (1) the criminal justice system deliberately influences political and economic outcomes in Tennessee, thereby serving as a social control instrument designed to subjugate and disenfranchise Black men to an inferior status; and (2) profit-seeking motives or other forms of economic incentives contribute to racist policy in the criminal justice system in Tennessee.

Using literature from American government, political behavior, Black politics, and other areas of political science, the study examines the relationship among the criminal justice system, the phenomenon of the alarming rise in incarceration of African American men since the Civil Rights Movement, and African American political and socio-economic inequality. In addition,

literature from other disciplines such as sociology will serve to make this a more comprehensive and interdisciplinary research effort. It provides an analysis of the aforementioned cases to illustrate how the criminal justice system impacts African American political inequality.

This chapter is therefore divided into seven interrelated sections to inform the reader about the topic to be examined in this study. Section one consists of the purpose and major objectives of the study. Section two illustrates the statement of the problem. Section three provides a brief background of Tennessee in terms of the issue to be probed. Section four defines the major concepts utilized in this study. Section five discusses the major research questions and hypotheses to be tested. Section six focuses on the importance of the study. Finally, section seven highlights the organization of the study, as well as summary of major findings, conclusions, and recommendations.

### **Statement of the Problem**

The problem investigated in this study is the criminal justice system's policies concerning Tennessee's African American community due to its complexity and potential to destabilize the community and the United States as a whole. There is growing inquiry concerning the way the criminal justice system influences Black inequality in the nation. The dilemma involves how to address issues of public safety and crime control, coupled with the notion that the criminal justice system serves as a conduit for the implementation of social policy as it relates to race and class in the United States. In 21st Century United States, African American social inequality measurement indexes continue to widen, paralleling the rise in the prison industrial complex, a term used to describe the interconnected interests of government and industry that employ surveillance, law enforcement, and incarceration as an answer to political, economic, and social

problems (Herzing, 2005). Federal, state and local governments and policymaking institutions are increasingly challenged to pay close attention to the problems that lead to social disparities.

According to the Bureau of Justice Statistics (BJS), in 2009, African Americans comprised only 13.6 percent of the national population, yet disproportionately made up 39.4 percent of the incarcerated population in the United States (BJS, 2014). According to the Sentencing Project, a nonprofit criminal justice system watchdog group, at any given moment, more than one out of four Black males in the United States, ages 18 through 29, is a ward to the penal system. On any given day, 30 percent of African American males age 20 to 29 are under correctional custody, either in jail or prison or on probation or parole (BJS, 2014). Studies have shown that the larger the percentage of a Black population per locality, the more progressively stricter the criminal justice system legislation and law enforcement governing their behavior and subsequent interactions in society of that particular location (Manza & Uggen, 2008). The variation in law enforcement legislation is determined by the mixture composition of the different racial groups and characterized by geopolitical peculiarities (Manza & Uggen, 2008). In most cases, localities with large percentages of African Americans will have harsher policies and laws targeting their behavior and culture (Manza & Uggen, 2008). One way the tone is more reflective of the harsher stance is in sentencing for breaking the law. Legislation concerning penalties for breaking the law disproportionately impact African American males (Rosich, 2007). According to the American Bar Association, on average, an African American male will serve a nearly 20 percent longer sentence than a White male for the same crime and 25 percent less likely than Whites males to receive a sentence below mandatory sentencing guidelines (Hansen, 2013).

The correlating rise in crime legislation, the prison industry, African American inequality, and the War on Crime legislated by both the Republican Party and Democratic Party has had a scientific and statically measurable impact on social inequality indexes. More specifically the War on Drugs initiatives, call into question whether “Get Tough on Crime,” “Three Strikes,” Rockefeller Drug Laws, and other criminal justice system initiatives promote a social policy agenda other than alleviating and addressing crime control and promoting public safety. Even more egregious, is the fact that Democrats were mostly in charge of Congress during much of the time of significantly important passed criminal justice legislation. The 103<sup>rd</sup> Congress, with a Democrat as president, and Democrats control of both houses of Congress, passed the omnibus Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, 108 Stat. 1796 crime bill which included federal “three strikes” provision, mandating life sentences for criminals convicted of a violent felony after two or more prior convictions, including drug crimes (Merica, 2015). By locking up nonviolent offenders at an unprecedented aggressive level, speaking at a July 2014 NAACP annual meeting in Philadelphia, former President Bill Clinton acknowledged “I signed a bill that made the problem [mass incarceration] worse...” (Merica, 2015). Are such initiatives designed to maintain a status quo of White dominance? Are political outcomes in Tennessee attributable to the criminal justice system’s War on Drugs? As an intended outcome and byproduct by some interest groups, do mass incarceration and felony disenfranchisement contributes to inequality in Tennessee’s African American community? Marc Mauer (2006) assesses how the United States has come to rely on the use of imprisonment and dramatic increases in prison construction as a national approach to addressing the problem of crime. He emphasizes that other responses would be both more humane and more effective. President Obama commented “Mass incarceration makes our

country worse off and we need to do something about it...” (Merica, 2015). In her bid to become president in 2016, Hillary Clinton, wife of former President Bill Clinton while speaking at an earlier engagement in New York, Hillary Clinton acknowledged, “Keeping them [low level nonviolent offenders] behind bars does little to reduce crime, but it does a lot to tear apart families...” (Merica, 2015). More importantly, and should not be lost in the three pillars of Democratic Party acknowledgements is the implicit understanding that government policy potentially aids or hampers human capital development.

The root causal factors for African American inequality are complicated and are not readily traceable. Some widely-held views point to economics and culture as driving forces determining crime and incarceration rates (Rosich, 2007). Some argue that what underlie the ability to build wealth and therefore minimize disparities, are not personal attributes and behavioral choices. Rather, these examiners state that policy and the configuration of both opportunities and barriers in workplaces, schools, and communities that reinforce deeply entrenched racial dynamics are how wealth is accumulated (Shapiro, Meschede, & Osoro, 2013). This is primarily driven by homeownership, household income, unemployment, college education, and financial support/inheritance (Shapiro et al., 2013).

The commonly held view that law enforcement officials are biased is not supported by all researchers. Supporters of this view contend that the criminal justice system generally treats offenders of different races equally (Russell-Brown, 2006). Higher arrest and incarceration rates for African Americans and Latinos in comparison to lower rates for Whites and Asians reflect differences in crime rates, not law enforcement or criminal justice system bias (Russell-Brown, 2006). Their research fail to take into account that white collar crimes are not prosecuted in the same manner as non-violent crack and cocaine drug offenses are prosecuted. Critics oftentimes

fail to take into account that African Americans males generally serve 20 percent longer sentences for the same crimes committed by White males (Hansen, 2013).

Racial Group Threat (also referred as Racial Threat or Group Threat) posits that growth in the relative size of a subordinate group increases that group's capability to use democratic political institutions for its benefit and to the detriment of the dominant group (Manza & Uggen, 2008, p. 60). The passage of the Voting Rights Act of 1965 created the ever present possibility for African Americans to disrupt the existing power structures in a race-based social order. Usage of formal and informal measures to block or inhibit members of subordinate groups from voting creates opportunities to neutralize perceived racial threats and preserve the status quo (Manza & Uggen, 2008, p. 60).

### **Purpose and Major Objectives of the Study**

The purpose of this research is to employ relevant theories and concepts (discussed later) in order to identify and explain the harmful criminal justice policies of Tennessee and the nation towards Tennessee's African American communities. The study is conducted with the foundational principle that a functionally healthy and vibrant self-determined and self-reliant African American community is in the best interests of the state of Tennessee and the United States. This study is analytical in its nature and seeks to provide insights into how and why the nation's criminal justice system and the state of Tennessee's criminal justice system policies have used mass incarceration and felon disenfranchisement to influence African American social inequality in Tennessee. According to Michelle Alexander (2010), the true well-being and condition of the African American community is inaccurately reported. People behind bars are not counted in statistics measuring economics, poverty, unemployment and many other social

indexes (Western, 2004). African American men were the only demographic group to experience a steep increase in joblessness between 1980 and 2000 (Alexander, 2010, p. 216). One of the objectives of this study seeks to gain more insight into the values and thought processes of those influential in the decision-making process. Policymakers, researchers, practitioners and activists have to continually ask the basic questions—How has the criminal justice system debate been framed? Who has been influencing public policy and how (Mauer, 2006)?

Another objective of this study is to provide evidence that will help policymakers to reduce government outlays, expenditures, and taxpayer burdens stemming from political manipulation of race, class, region, and religious differences. The purpose is to identify criminal justice system policies facilitating African American social inequality in Tennessee, and propose recommendations to promote positive community development in African American communities in Tennessee through fiscally responsible political, economic, and criminal justice policies. In essence, this research seeks to suggest policy instruments to prevent Black social inequality disparities based on racist policy and a concept that I have termed “peculiar economics.”

The following represents a working definition of the concept of peculiar economics. Peculiar economics is the merging and implementing of public sector social policy with private sector economic interests to engineer and produce social policy objectives and outcomes similar to Southern peculiar institution social and economic practices during the slavery antebellum period. More specifically, this entails the merging and implementing of state-endorsed policy and legislation, specifically designed to impact one or more group of peoples with the objective of subjugating and relegating them to an inferior status to the benefit of one or more groups’ interests. This serves two purposes. The first purpose is to enrich the participant investor(s). The

second purpose is to maintain the status quo of White dominance over non-White groups, in particular, but not limited to, African Americans.

Consequently, the study examines the interconnectedness and beneficiaries of criminal justice system policies as they relate to African Americans and social inequality in Tennessee. This study recognizes that approaches to social science research oftentimes have a tendency to compartmentalize interconnected causal factors, isolating them without drawing the big picture that connects interrelated phenomena. As Michelle Alexander (2010) explains, a major social movement, complimented by traditional litigation and policy reforms, is necessary to break the neo-Jim Crow system (Alexander, 2010, p. 11).

### **Brief Background of the State of Tennessee**

Tennessee represents a unique case in relation to other states for studying and examining the phenomenon of the privatization of government correctional service deliverables to the privately-managed companies. According to the Sentencing Project, in 2010, 19% of Tennessee's African American male voting age population was disenfranchised (Uggen, Shannon, & Manza, 2012). The state is a reliable example to examine the transformation of what were once solely public goods and services delivered by government institutions, and its convergence with private profit-seeking market-based economic institutions and interest groups. The following characteristics show why Tennessee represents a trustworthy state for examining the criminal justice system and privatization of government correctional services and the prison industrial complex:

1. a long history of discrimination against African Americans;
2. its high incarceration and felony disenfranchisement rates of African Americans;
3. the state's four largest cities all ranking in the Top 50 "2014's Metro Areas that Most Resemble the U.S." (Bernardo, 2015);



4. its consistent rankings as one the “Most Corrupt States in the Nation”;
5. 2013 FBI ranking as “Most Violent/Dangerous State in the United States” (Kent & Frohlich, 2015);
6. location of headquarters of Corrections Corporation of America (CCA) in Nashville; and
7. a secret gerrymandering process with no transparency or accountability to the public.

Tennessee represents an example of the relationships among political will, criminal justice system legislation, prison industrial complex, mass incarceration, and felony disenfranchisement with its impact on social inequality in the African American community. African Americans comprise 16.7 percent of Tennessee’s population, similar to the nation’s 13.1 percent (U.S. Census Bureau, 2010). According to the Prison Policy Initiative (PPI), a nonprofit organization that monitors the correctional industry and prison-based gerrymandering, in 2010, while only 17 percent of the state population, African American males made up 44 percent of the incarcerated population (PPI, 2014).

Memphis has a 62.6 percent Black population. Nashville has a sizable 28.4 percent Black population (U.S. Census Bureau, 2010). A recent 2014 study conducted by WalletHub, a personal finance site database, ranked the demographics of Nashville as the number one “most American city” in the nation (Bernardo, 2015). The site also concluded that of the 366 largest metropolitan areas in the United States, Chattanooga ranked 38th, Memphis ranked 45th, and Knoxville ranked 48<sup>th</sup> (Bernardo, 2015). In summation, Tennessee’s four largest cities all placed in the top 50 metropolitan areas as being the most reflective of mainstream American values.

Tennessee’s land area stretches over 440 miles from east to west (Carpenter & Provorse, 1998). Known as the Mid-South region of the United States, Tennessee’s three geographical regions are divided into what are known as three Grand Divisions. They are oftentimes classified by regional inhabitants as East Tennessee, Middle Tennessee, and West Tennessee. The three regions represent different competitive mixtures of moderate and conservative bases. As one

travels east to west, s/he will discover a transitional base of the GOP in the east; as one travels west, the state becomes more supportive of the Democratic Party. Encompassing Knoxville and Chattanooga, East Tennessee is staunchly GOP. Middle Tennessee, represented by the rapidly growing city of Nashville, is a purple largely Democratic Party urban core stronghold surrounded by outlying red GOP counties. West Tennessee, represented by Memphis, is considered an important center of commerce and culture. Located on the Mississippi River, Memphis has traditionally been largely Democratic. The city has been painstakingly slow progress in its recovery from the Great Recession (Brookings Institution, 2015). In contrast, Nashville is noted for its strong business economy, ranking in the 10<sup>th</sup> spot on Forbes' magazine "The Best Cities for Jobs 2014" list (Kotkin & Shires, 2014).

Tennessee Department of Economic and Community Development (TNECD) office is aggressive in its efforts to attract and grow new and existing businesses, offering taxpayer-funded economic incentives to recruit new businesses and expand new ones. Tennessee is recognized for its pro-business climate, consistently ranking among the top states in the nation for conducting business (TNECD, 2015). Many of the incentives come in the form of property tax breaks, taxes breaks for new job training and recruitment, and infrastructure improvements (TNECD, 2015). In 2011 and 2012, the state was ranked as the number one state in the nation for automotive manufacturing strength for its recruitment of numerous automobile manufacturing plants, offices and related automotive-related parts and suppliers (TNECD, 2015). Tennessee was named 2014 and 2013 "State of the Year" for economic development (Flessner, 2015). Representing health care and corrections industries (Breslow, 2014), two of the fastest growth industries over the past four decades, Hospital Corporation of America (HCA) and Corrections Corporation of America (CCA) are both headquartered in Nashville.

This study examines the connection between public and private efforts and the usage of criminal justice system legislation, law enforcement and related policies and systems and their efforts to maintain white dominance. Tennessee's political importance and influence can be witnessed as far back as the nation's Civil War. The state was the last to leave the Union and the first to return following the Civil War (Barry, 2011). The always armed guarded statute of former Civil War Confederate Army General and first Grand Wizard of the Ku Klux Klan, Nathan B. Forrest, is located approximately five miles from Corrections Corporation of America's headquarters (Graham, 2009). Located approximately one hour south of Nashville, just north of the Alabama state line, the Ku Klux Klan was founded in Pulaski, TN in 1865 just after the Civil War (Gonzalez, 2014). In 2009, Nashville held one of the nation's first Tea Party convention rallies. The rallies were largely opposing the election of President Barack Obama, the nation's first African American president and his administration's stimulus package (Berger, 2010).

CCA is the world's largest for-profit prison management chain (Hale, 2014). Tennessee's relatively high incarceration rates and subsequently related 19% rate of African American disenfranchisement results in reduced African American voting power and political participation in state politics. Even with a sizeable Black population, the city of Nashville has never elected an African American as mayor. This can largely be attributed to the political activities of the 1960s Civil Rights era Nashville Mayor Ben West's administration. Under his administration, the city of Nashville consolidated itself with the surrounding Davidson County's government (Houston, 2012). This action further effectively diluted the city's African American voting power immediately following the post-Civil Rights era (Houston, 2012).

Around the nation, other midsize cities of similar population sizes and similar percentages of African American demographics have followed Nashville's lead and consolidated their city governments with their respectful county governments in efforts to reduce African American voting power. Jacksonville, Florida; Louisville, Kentucky; and Indianapolis, Indiana are three examples evidencing Nashville's influence in regional and national political outcomes (Garrison, 2012). With its headquarters in Nashville, CCA's leaders share close political ties to state government officials in Tennessee's halls of power and in other states' capital (Open Secrets, 2014<sup>1</sup>; Source Watch, 2014<sup>2</sup>). Observers can now begin to better understand the connection among the fast-growing prison industrial complex, public officials, and African American incarceration and disenfranchisement rates. At annual business meetings, which establish the business agenda and model for its short and long term futures, the CEO of CCA, Damon T. Hininger, often gives favorable future business forecasts for the corrections industries in Tennessee and around the nation (CCA 10-K, 2013). Future research that includes other cases expands research opportunities and new ways to examine business-public relationships.

### **Definitions of the Major Concepts**

The major concepts utilized within this study are (1) Social Inequality, (2) Prison Industrial Complex, (3) Political Will, (4) Rapid Privatization of Government Correctional Services, (5) and Racism. These concepts are defined as follows:

Social Inequality: Ashley Crossman (2014), Sociology Professor at Arizona State University, defines social inequality as the continuation of unequal conditions, opportunities, and

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<sup>1</sup> <https://www.opensecrets.org/lobby/clientsum.php?id=D000021940>

<sup>2</sup> [http://www.sourcewatch.org/index.php/GEO\\_Group](http://www.sourcewatch.org/index.php/GEO_Group)

rewards for different social positions or statuses within comparable demographic groups or segments of society. It contains controlled and repeated patterns of unequal distributions of resources, services, goods, wealth, opportunities, rewards, and punishments. Race, class, and gender are three primary factors that impact distribution and access to conditions and opportunities. For this study, the focus is on race, mass incarceration, and felony disenfranchisement.

**Prison Industrial Complex:** Rachel Herzing (2005) defines the prison industrial complex as a term we use to describe the overlapping culmination of interconnected public and private institutions such as courts, lawyers, prisons, and related service providers that collectively administer justice, law and order, crime suppression, and the likes thereof. It continually evolves, forming our nation's self-perpetuating justice system, promoting criminology, and perceived criminology in order to achieve social control objectives, particularly in relationship to communities of color as it contributes to the securing of, and maintaining of power and economic interests of people, groups and entities who derive their power through racial, economic, and other power structures.

In the United States, the prison industrial complex is an intersection and convergence of public safety, criminal justice, government institutions, government affiliated institutions and private investors to administer public and social policy objectives, private economic and capitalistic interests, and the maintaining of White dominance (Davis, 1997). Some components and aspects of the prison industrial complex include policing, prisons, surveillance, courts, criminalization of a group or groups of people, and media perpetuation of criminology.

**Political Will:** is commonly used as an abstract catch-all concept in many regards and oftentimes difficult to narrow in its definition. In order to make it a useful analytical tool,

understanding of the political and policy processes is necessary. Derick W. Brinkerhoff (2010) of the Chr. Michelsen Institute-Research for Development and Justice (CMI) provides a shorthand definition of political will as the commitment of actors to undertake actions to achieve a set of objectives, for example, reduced corruption and to sustain the costs of those actions over time (Brinkerhoff, 2010). The basic prevailing explanation is the determination of an individual and/or political actor(s) to do and say things that which will produce a desired outcome (Brinkerhoff, 2010). This explanation is predicated on the real desire by politicians to tackling social problems when they are possibly not be in the best competitive political interests of a political actor remaining in power or the governing of future power.

Political will refers to the associated political costs when passing (or proposing to pass) a law(s) as the law(s) could displease some people and please others (United Kingdom's Department for International Development, [DfID], 1997). In a given political system, political will refers to that collective amount of political benefits and costs associated with the passage of a law(s) at a given point in time (DfID, 1997). When a political actor's enthusiasm to commit valuable time, energy, money, resources and political capital to accomplish change—when s/he is prepared to take risks and to incur opportunity costs to that end (DfID, 1997). Politicians evaluate political will based on how it impacts his or her influence and reputation. If s/he believes that constructive reform serves those purposes, s/he is likely to pursue it. If reform appears not to serve those ends, s/he will do little or nothing to engage and pursue it (DfID, 1997).

Craig Charney (2009), President of Charney Research in New York, defines political will as the combination of three factors: (1) opinion, (2) intensity, and (3) salience. Opinion is shaped by how issues are framed. An issue's intensity determines the commitment that will be devoted.

Salience can be observed both subjectively and objectively. Subjective observance involves asking people directly how an issue impacts them. Objective measurement includes how an issue connects to voting, legislative decisions, etc. These measures allow for evaluation of political will—and therefore to assess how far advocacy efforts have succeeded and how they might potentially build it or make use of it.

Rapid Privatization of Government Correctional Services: for all intent and purposes of this study is defined as the business-public partnerships, outsourcing, and contracting out of correctional service arrangements traditionally been characterized and delivered by governmental agencies. Since the 1960s, neoliberalism has been a significant policy trend as many corrections deliverables have been parceled out to the private sector. According to Professor Ruthie Gilmore, ‘*military Keynesianism*’ is giving way to, or complemented by ‘*carceral Keynesianism*’ (Gilmore, 1998, p. 174; Lichtenstein, 2015). The notion that private enterprises undertake the delivery of government corrections deliverables creates ethical dilemmas. Do private interests, in particular, Conservatives, neo-Conservatives and White supremacists seek to incorporate their agenda under the guise of smaller government? According to Ta-Nehisi Coates, the criminal justice system in this nation has become an \$80 billion social program, replacing Progressive’s War on Poverty community development programs with Conservative’s War on Crime suppression-oriented initiatives (Coates, 2015). According to social activist Angela Davis’ lecture, The Prison Industrial Complex, “imprisonment has become the response of first resort to far too many of the social problems that burden people who are ensconced in poverty” (Davis, 1997). She continues, “These problems often are veiled by being conveniently grouped together under the category “crime” and by the automatic attribution of criminal behavior to people of color. Homelessness, unemployment, drug addiction, mental

illness, and illiteracy are only a few of the problems that disappear from public view when the human beings contending with them are relegated to cages” (Davis, 1997).

Racism: Taken from Robert C. Smith’s *Conservatism and Racism* is defined using Stokley Carmichael and Charles Hamilton’s *Black Power: Politics of Liberation in America* characterized as “the predication of decisions and policies on considerations of race for the purpose of subordinating a racial group and maintaining control over it” (Smith, 2010, p. 11). Racism has traditionally been practiced in the system of capitalism and it permeates every institution in the United States, including the criminal justice system.

### **Major Research Questions, Hypotheses and General Thesis**

In order to ascertain the role of the prison industrial complex in Black social inequality in Tennessee, the following two major research questions guide this study:

Q<sub>1</sub>: Are race, mass incarceration and felony disenfranchisement collectively used to influence election outcomes in Tennessee?

Q<sub>2</sub>: Did profit-seeking motives or other forms of economic incentives contribute to racist policy in the criminal justice system of Tennessee?

Given these major research questions, the following hypotheses and sub-hypotheses are suggested for systematic testing:

H<sub>1</sub>: Social inequality is employed to influence election outcomes in Tennessee.

H<sub>1a</sub>: Race is used to influence election outcomes in that state.

H<sub>1b</sub>: Mass incarceration is used to influence election outcomes in that state.

H<sub>1c</sub>: Felony disenfranchisement is used to influence election outcomes in that state.



H<sub>2</sub>: Lack of political will due to profit-seeking motives and or other forms of economic incentives contribute to racist policy in the criminal justice system of Tennessee.

Thus, the general thesis of this study is that racism, mass incarceration, felony disenfranchisement and lack of political will lead to the failure to address social inequality in Tennessee.

### **Importance of the Study**

This study is important and needed for several reasons. First, a gap exists in the literature in terms of how the criminal justice system influences disparate outcomes politically, economically, and socially. Remarkably, little systematic research has been conducted that asks how public policies shape and frame inequality's social and political effects. What differentiates this study from other studies is that this research provides policymakers with a recent advanced report detailing threats to local and national community development, human capital development, and stability as a result of criminal justice policy. In relation, are election outcomes engineered through implementation of criminal justice system policy, in particularly felony disenfranchisement? By probing this question, this study seeks to contribute to micro level and macro level determinations of whether the United States is experiencing democratization or de-democratization.

The second goal addresses the issue of whether fiscal policy in the form of tax dollars are being implemented most cost effectively. This study adds new knowledge to this neglected area after investigating this question. Are prisons the most effective rehabilitation method? Comparing criminal justice policy regarding methamphetamine and heroin epidemics with that

of the crack epidemic will help to provide answers to this question and inspire policy alternatives.

Thus, the third goal of this study is the focus on qualitative findings in order to gain an in-depth understanding of African American inequality in Tennessee through the use of government documents and secondary sources such as books and articles. Are there two societies within Tennessee, one African American, and the other non-African American? By probing this question, this study helps to determine if criminal justice system policies are creating a permanent criminal class element at the expense of other cheaper and more cost-effective alternatives. This helps to determine what role, if any, the criminal justice system plays in the creation of social inequality and poverty. This study assists in understanding if mass incarceration, felony convictions and disenfranchisement represent the principal barriers and threats to upward social mobility of Black males. This study recognizes Black females are also impacted disproportionately. However, based upon statistical numbers and empirical data, Black women are not relatively impacted with mass incarceration as are Black males. In comparison to Black men, Black women have only recently begun to experience increasingly alarming incarceration rates. This suggests that data is more limited for the purposes of this study. This study focuses on the alarming disproportionate number Black males and seeks to provide a more holistic assessment of Black male incarceration.

African Americans collective political power is transitioning. Post-Civil Rights integrated and gentrified population patterns will impact election outcomes in urban areas that were historically African American. With the recent gentrification phenomenon sweeping across the nation, redistricting, gerrymandering, prison-based gerrymandering, political boundaries, political outcomes, etc. will be more important to watch more than ever before. To aid in

establishing unified African American political interests at the local, state and national levels, this study adds new knowledge to this neglected area. Its objective is to provide information to social scientists, practitioners, social activists and policymakers to better understand how felony disenfranchisement is instrumental in political representation. This research is significant to theory, practice, and literature; and represents a scholarly piece providing contributions to the fields of Public Policy, Criminal Justice, Public Administration, and Black Politics.

### **Limitations of the Study**

One limitation of this study is it relies on secondary sources in the form of expert interviews. Another limitation is time and resources to conduct field research in Tennessee to acquire primary sources. And lastly, resource limitations in terms of funding acted as a constraint. Future researchers can use this research to conduct further investigations about the phenomenon. The assumption is that these public reports provide accurate reports on the subject matter. The authors have used the scientific method and documented sources, providing evidence regarding the value and legitimacy of these statements and we have to assume that what they are saying is true.

### **Organization of the Study**

The study is made up of seven chapters. The first chapter is the introduction, which entails the purpose and major objectives of the study, the statement of the problem, brief backgrounds of Tennessee and the United States in relationship to the issues examined, and the major concepts utilized in this study. In addition, the major research questions and the

hypotheses, the importance of the study, as well as the organization of the remaining chapters within the study, are discussed.

Chapter two discusses threats to White nationalist interests, policy responses, mass incarceration, civil death and African American inequality. A comparative analysis is conducted to examine lost opportunity costs to the state of Tennessee's taxpayers and economy. This chapter therefore provides a brief historical background and contemporary context of African American inequality in the state.

The third chapter consists of the literature review and is conceptual in design. The discussion is divided in the following related themes and concepts: (a) the criminal justice system contributes to Black inequality, (b) contending views on the prison industrial complex, (c) criminal justice system perpetuates the prison industrial complex, and (d) conservatives and White supremacy resurgence produced prison industrial complex and Black social inequality, (e) African Americans' responses to the prison industrial complex, and (f) conclusion. This chapter will also discuss the following: (1) strengths of the literature, (2) limitations of the literature, and (3) and what or how the current study adds to the literature.

The fourth chapter discusses the conceptual framework and research methodology to be utilized, as well as the analytical approach. The information was retrieved through expert interviews retrieved from government documents and secondary data collected through utilization of the document analysis technique. The quantitative data collected includes demographic information in the specific areas of focus: income, poverty levels, employment, education, voting participation, housing, incarceration rates, correctional industry data—number incarcerated, occupancy charge, lobbying efforts, and etc.

Chapter five provides answers to the first research question based upon the findings of the data analysis. The chapter also tests the first hypothesis. The differences and similarities in disenfranchisement among African American males are covered in detail. This examination consists of, but is not limited to, population demographics, region, religious affiliation, social services accessibility, political group affiliation, electoral participation, income levels, and education levels of the study's targeted demographic segments.

Chapter six takes the same approach as chapter five, but focuses on the second research question and hypothesis. Both chapters five and six are geared towards providing the reader with greater insights of the areas assessed and the impact of the criminal justice system and prison industrial complex upon disenfranchised African Americans and social inequality in Tennessee.

Chapter seven summarizes the major aspects of the study. Conclusions are drawn based on the findings of the research. Finally, recommendations for future research and how the study can be expanded are discussed.

## **CHAPTER II: HISTORY AND CONTEXT OF AFRICAN AMERICAN INEQUALITY IN TENNESSEE**

In this chapter, a historical background and contemporary context of African American inequality in Tennessee are provided. For the sake of coherence and cohesion, the chapter is divided into the following five overlapping subsections: (1) threats to Conservatives' and White nationalists' interests, (2) policy responses, (3) mass incarceration of African Americans, (4) civil death of African Americans, and (5) African American inequality. The discussion in each section focuses on a comparative analysis of the lost opportunity costs to Tennessee's taxpayers and economy due to African American social inequality.

### **Threats to Conservatives' and White Nationalists' Interests**

White nationalists' and conservatives' political and economic interests are threatened with the advancement of African American Tennesseans' interests (Uggen & Manza, 2008; Mills, 1997). Racial group interests are conceptual aspects of losing controlling shares of one or both current and future political and economic influences to other racial groups, particularly, and for purposes of this study, limited to the perceived and real threats African American Tennesseans' political and economic advancement potentially impose on White Tennesseans' political and economic interests.

The political contextual arrangement that best describes group interaction in the polity is not a social contract, but rather a Racial Contract (Mills, 1997): i.e. the overwhelmingly dominant model is governance based on universal suffrage and equal representation of the "one man (woman), one vote" democratic principle (Manza & Uggen, 2008). While it is more generally accepted that conservatives protect established institutionalized arrangements, it is lesser regarded and accepted that liberals staunchly defend existing order as well (Smith, 2010).

Congruent with the Racial Contract Theory is that conservatism evolves contextually and situationally as a result of situational racial context, typically localized at either the state or municipal levels. Robert C. Smith's *Conservatism as Racism* argues that in the United States conservatism and racism are identically the same ideological concept (Smith, 2010, p. 4). Understanding and defining situational conservatism requires the examination of political and economic ideologies arising out of a distinct but recurring type of historical situational context in which a fundamental challenge is directed at established institutions, and in which the supporters of those institutions employ conservative ideology as their mode of resistance (Smith, 2010, p. 8). Thus, conservatism is employed to justify any institutionalized liberal, conservative, or Marxist social order, no matter where or when it exists, against any organized or fundamental challenge to an existing social order, social constructs and established structures (Smith, 2010, p. 8). Conservatism is possible in the United States today only if there is a basic challenge to existing American institutions which impel articulate conservative values (Smith, 2010, p. 8).

### **Black Power Movement and Black Self-determination**

Historically, African American political and economic thought has always been predominantly a system of challenge and resistance to the many forms of oppression and inequality characterizing their plight in the American polity (Smith, 2010, p. 10). Conservatism in the post-World War II era was a product of multiple challenges to the existing order—the New Deal, international Communism, and countercultural challenges to traditional values and institutions (Smith, 2010, p. 10). However, African American galvanization into a powerful mass movement was the advent catalyst that stimulated Second Reconstruction post-Civil Rights conservative responses (Smith, 2010, p. 10). The defense of racism was central to growth in the

conservative movement in the 1960s and the 1970s and its rise to presidential power in 1980 (Smith, 2010, p. 2).

Smith uses concepts and the following definition of racism from Stokely Carmichael and Charles Hamilton's *Black Power: Politics of Liberation in America* to explain the race-based subordination of African Americans as "the predication of decisions and policies on considerations of race for the purpose of subordinating a racial group and maintaining control over it" (Smith, 2010, p. 11). Racism can be based on economic or political reasons, not only on perceived racial group inferiority (Smith, 2010). Anti-Black racism in Tennessee and the United States, for intents and purposes of this study, has its origins in economic necessity and concepts of power (Smith, 2010). The basis of conservative, White nationalist and White supremacist ideologies are rooted and rationalized through perceived notions of the inferiority of African-descendent people (Smith, 2010).

The ideas in both the dominant Lockean tradition in the United States and remnants of Burkean tradition have been almost equally hostile to the African American quest for freedom and equality (Smith, 2010). Felon disenfranchisement reflects each of the following three major civic traditions: (1) liberalism, (2) republicanism, and (3) racialized conceptions of identity (Manza & Uggen, 2008). For classical liberalism, disenfranchisement serves to prevent the illegitimate use of the ballot by individuals who break the law; for Republicanism, disenfranchisement screens out individuals; and for racialized conceptions of identity, disenfranchisement laws can be used to restrict "undesirable" racial or ethnic groups and reduce their political influence and power (Manza & Uggen, 2008). Only when the nation has been forced to break with these traditions have African Americans received greater freedom and equality (Smith, 2010).



Racism and racial threat are fluid concepts, and they manifest themselves in different forms over time (Mills, 1997). The histories of the 19th Century and the first half of the 20th Century are replete with examples of open and explicit advocacy of racial segregation and White supremacy. By the time of the Civil Rights era, however, state-sponsored racism such as Jim Crow segregation in Tennessee no longer held any respectability, resulting in its rapid decline and mainstream public support for the idea. Some scholars, activists, political analysts and other observers have argued that racial influence on policymaking in Tennessee continues despite the changes established during the “Second Reconstruction” of the 1960s (Walters, 2003). Structural and economic changes have reduced social acceptance of explicit racial bias, current race-neutral and coded language and policies, remain socially and culturally rooted in the discriminatory actions of the past (Walters, 2003). In contrast to past forms of racism based on phenotypical and biological Black inferiority versus White superiority, a more modern racism founded in notions of Black cultural inferiority evolved to replace the blatant racism of the Jim Crow era (Manza & Uggen, 2008).

### **Case Study: Tennessee**

Race is a plausible explanation of disenfranchisement policy (Preuhs, 2001). A number of Tennessee’s policy provisions are perhaps best explained by their racial composition and that of the racial composition of their correctional institutions (Preuhs, 2001; Behrens, Manza & Uggen, 2003). The most restrictive form of felon disenfranchisement laws and statutes a state can enact is that which disenfranchises ex-felons (Behrens et al., 2003). Current Tennessee disenfranchisement laws are some of the most restrictive in the United States (Tennessee State Advisory Committee [SAC], 2014). According to Tennessee state advisory committee’s report to the U.S. Commission of Civil Rights, Tennessee has one of the strictest restoration of voting

rights laws of any state in the nation (SAC, 2014). The state has presumably the nation's most irrational and perplexing felony disenfranchisement laws (SAC, 2014). For example, in contrast to the size of the majority group, growth in the relative size of a minority group increases the minority group's ability to use democratic political institutions for its benefit and to the detriment of the dominant group (Manza & Uggen, 2008). Ex-felon disenfranchisement is a result of racial politics designed to decrease minority electoral power, particularly that of Blacks and Latinos (Preuhs, 2001).

The entire Civil Rights-era protests were framed during the 1960s by Barry Goldwater and other conservatives as a moral breakdown of society and major factor leading to the increase in crime. Civil Rights marches and protests were viewed as criminal acts rather than being a protest component of the democratic process and political in nature. Conservatives associated and identified the Civil Rights Movement and related protests and philosophy as acts of civil disobedience (Beckett, 1997). Although the vast majority of Civil Rights demonstrations were peaceful and nonviolent, Conservatives were able to manipulate the heightened coverage of some rogue demonstrators looting and rioting in response to the assassination of Dr. Martin L. King, Jr. It was a muted difference that Dr. King led nonviolent marches and protests, and that it was only after his assassination that violent protests, riots and lootings took place, albeit such violent demonstrations were a result of the buildup of collective African American hopelessness and frustration. This political attitude of casting and projecting peaceful civil disobedience assemblies and protests on the part of African Americans as being labeled thugs, rioters, criminal and militant in behavior still dominates the opinions and perceptions of today's conservative leaders who advocate conservative policies for stronger law and order (Beckett, 1997). Draconian criminal justice system laws were issued after Martin Luther King Jr. riots.

Political elites have played a leading role in calling attention to crime-related problems, in defining these problems as the consequence of insufficient punishment and control, and in generating popular support for punitive anticrime policies (Beckett, 1997). Mass incarceration and felony disenfranchisement lie at the intersection of procedural and substantive democracy, embedded in racial politics (Preuhs, 2001; Behrens et al., 2003). The resurgence of White post-Civil Rights backlash in opposition to the advancement of Black rights is being redefined to the advantage of the White majority (Walters, 2003). This aspect is consistent with Mack H. Jones dominant-subordinate group model.

Proposed anticrime efforts would not only compete with the Great Society campaigns for funds, but also with federal allocation of crime-fighting responsibilities. White nationalist conservatives advocating states' rights have been successful in mitigating the effectiveness of federal agendas by issue framing and develop public sentiments to their causes (Beckett, 1997). Capitalizing on White backlash from growing federal intervention (Black & Black, 2002) since Civil Rights, particularly in southern states with the highest concentrations of African Americans, President Ronald Reagan forced the Democratic Party to move from racial liberalism to the adoption of conservatism in many of its policies (Smith, 2010).

The American Legislative Exchange Council (ALEC) is a key organization that has lobbied and benefitted from the implementation of criminal justice system legislation and the institutionalization of ALEC-crafted criminal justice system legislation. In relation, many private investors in the criminal justice system economic interests are also threatened. The elimination of institutionalized barriers that prevents African Americans from political, economic and social progress constitutes direct and indirect threats to conservative and supremacy-oriented White political interests (Walters, 2003). Increased participation represents a direct threat to both White

nationalist and private capital investors in the criminal justice system and the larger prison industrial complex/penal industrial complex (Alexander, 2010).

Reagan's nationalism represented a new institution of conservative public policy versus Civil Rights (Walters, 2003). Conservatives were largely successful in mitigating Democratic Civil Rights policies, implanting a politics of crime based on fear (Beckett, 1997). Rising conviction rates, longer sentences, and a changing mix of offenses (in particular, rising drug-related convictions) placed more Americans than ever before under correctional supervision (Beckett, 1997).

## **Two Reconstructions**

White nationalist politicians have largely succeeded in galvanizing issue frames of crime (Beckett, 1997) and nationalizing negative policies, attitudes and perceptions of African Americans in contemporary America (Walters, 2003; Beckett, 1997). Mack H. Jones' explains that the melting pot theory of American pluralism is unfairly applied to the sociopolitical and socioeconomic experiences of African Americans in the United States (Jones, 2014, p. 66). Through nationalist politicians' efforts, several notions of American historical social constructs are being systematically dismantled: that there exists an oppressed class in America defined by race; American citizens living now had an involvement in oppressing African American and other minorities; and that African Americans and other oppressed minority groups have achieved equal or, in many cases, received extensive legal institutionalized protection under the law (Walters, 2003).

Relegated to an inferior status position in the American polity, African Americans have consistently expressed contempt for America's ideals and symbolism of equality and freedoms,

with realities of racial discrimination and oppression (Smith, 2010). They have, therefore, always been the most leftist, liberal, radical component of the nation's population (Smith, 2010). The post-Civil Rights White conservative base uses political institutions (in this case, the criminal justice system) to concentrate power, while simultaneously targeting and excluding African Americans from mainstream society (Smith, 2010; Beckett, 1997).

*Richardson v. Ramirez* of 1974 Section 2 of the Fourteenth Amendment represents the Supreme Court's landmark decision on felon disenfranchisement which affirm the right of states to disenfranchise felons (SAC, 2014; Manza & Uggen, 2008). In the Supreme Court's opinion in the *Hunter v. Underwood* of 1985, the Court found that the Alabama Constitution's criminal disenfranchisement provision of Section 182 of the Alabama Constitution in 1901 was motivated by discriminatory intent and as a law would not have been enacted at that time without racially discriminatory intent. It therefore, violated the Equal Protection Clause. In *Hunter v. Underwood*, the Court held that irrespective of intervening events since enactment, where a law's original enactment was impermissibly motivated by a desire to discriminate on account of race and continuing the racially discriminatory impact of the laws is demonstrated, equal protection is violated. The Supreme Court's decision in *Hunter v. Underwood* declared that

Without again considering the implicit authorization of Section 2 to deny the vote to citizens "for participation in rebellion, or other crime," we are confident that Section 2 was not designed to permit the purposeful racial discrimination attending the enactment and operation of [the Alabama law] which otherwise violates Section 1 of the Fourteenth Amendment. Nothing in our opinion in *Richardson v. Ramirez* suggests the contrary (Manza & Uggen, 2008).

In 2008, convicted felons Terrence Johnson, Jim Harris, Alexander Friedmann and Joshua Roberts brought suit against state and local officials seeking to invalidate portions of Tennessee Code § 40-29-202 enacted in 2006 that conditioned the restoration of their voting rights on their payment of certain financial obligations, namely restitution and child support

(SAC, 2014). The court held that (1) the ex-felon voting provision was subject to rational-basis review, (2) the provision did not create a suspect classification, (3) the provision did not violate equal protection, (4) the provision did not violate the 24th Amendment (this is the one that outlawed poll taxes), and (5) the provision did not violate the Ex Post Facto Clause. In a two-to-one decision, the Sixth District Circuit Court upheld the ruling by the District Court (SAC, 2014). The Court only addresses intentional racial discrimination, which is generally very difficult to prove in legal proceedings. Disproportionate impact alone has not been enough for courts to decide (Manza & Uggen, 2008). To date, no court has completely abolished a state's practice of disenfranchising convicted felons (Manza & Uggen, 2008).

Since the late 1960s, the convergence of the following four important trends have fundamentally transformed the criminal justice system policy environment: (1) a conservative backlash in response to the policy initiatives of the Great Society and the shifting mood of the mass public; (2) an economic downturn that precipitated a search for reasons, and scapegoats, for social problems after 1973; (3) urban riots signifying decline and disorder, which made urban crime the focus of continuously ongoing intensive media campaigns; and (4) the emerging importance of race in American political life, and the reemergence of a sharp link between race and crime (Smith, 2010; Walters, 2003). Where Republicans dominated state governments, incarceration rates rose the fastest (Manza & Uggen, 2008).

With regards to the greater history and scope of criminal punishment, societies today punish criminals and enact felon disenfranchisement statutes for four basic reasons: (1) to exact justice for the victims, (2) to deter offenders and others from committing crimes, (3) to incapacitate or prevent further crimes, and (4) to rehabilitate or reform those convicted of an offense (Manza & Uggen, 2008).

Most Whites take racial prejudice and domination for granted without publically or consciously acknowledging the connection between historical domination as a result of a political system written and designed by Whites to perpetuate White domination over non-White people (Mills, 1997). The general assumption is that this is just the way things are (Mill, 1997). The overwhelmingly dominant model is democratic governance based on universal suffrage and equal representation (Manza & Uggen, 2008). One of the strongest arguments suggests that having violated the social contract on at least one occasion, criminals cannot be trusted to exercise the franchise responsibly (Uggen & Manza, 2008). Traditional Social Contract Theory provides seemingly straightforward explanations both to factual questions about the origins and workings of society and government and to normative questions about the justification of socioeconomic structures and political institutions (Mills, 1997, p. 4). Charles Mills argues that society is not structured along a Social Contract, but a Racial Contract. In its modern version, the Social Contract had long since given up any pretention to be able to explain the historical origins of society and the state (Mills, 1997, p. 19).

The Racial Contract provides insight into racial domination and how it structures the politics of the Eurocentric dominance (Mills, 1997). The Racial Contract is not a contract to which the non-Whites can be a genuinely willing and consenting party. It is a contract between those classified and categorized as White over the non-Whites who are the objects rather than the subjects of the structured institutional arrangement (Mills, 1997, p.11). The Racial Contract establishes a racial polity, a racial state, and a racial juridical system whereby the statues of Whites and non-Whites are clearly differentiated whether by law or custom (Mills, 1997, p. 13). The purpose of this arrangement is to maintain and reproduce a racial order securing the privileges and advantages of White citizens and maintaining the subordination of non-Whites

(Mills, 1997, p. 14). The color coded morality of the Racial Contract restricts the possession of natural freedom and equality to Whites, especially White males. A partitioned social ontology is, therefore, created: a polity divided into subject races (Mills, 1997, p. 16).

### **Criminals**

Whites set up a two-tiered moral code with one set of rules for Whites and another for African Americans (Mills, 1997). During the post-Reconstruction, laws and penalties for breaking certain laws were legislated. Many of these laws targeted crimes more commonly believed to be committed by African Americans: i.e. Black Codes, vagrancy, domestic abuse, etc. (Alexander, 2010). In this Second Reconstruction period, the War on Drugs/Crime and legislative criminal justice policy sentiments are eerily similar to statutes of the First Reconstruction period (Mills, 1997). The criminal justice system has expanded exponentially since the passage of the Civil Rights Act of 1964 and Voting Rights Act of 1965 (Manza & Uggen, 2008). Felony disenfranchisement, therefore, cannot be separated from the larger dynamics of criminal justice and racial politics in this same period.

### **Localized White Domination**

White domination is a generally assumed and accepted state of affairs in the United States. However, its footprint is minimized to hide White domination (Mills, 1997). White people continue to benefit from the Racial Contract, structured around the racial exploitation of others, consciously or unconsciously, taking the status quo of differential race entitlements as legitimate, and not to be investigated further (Mills, 1997). Mack H. Jones' dominant-subordinate group model (Jones, 2014) posits that conservatives in superordinate positions consistently act in ways to preserve their position of dominance (Jones, 2014, p. 67). According



to Jones, as measured by voting and holding elected office, Civil Rights led to significant gains in African American political participation (Jones, 2014, p. 77). However, as measured by real political power, as evidenced that in no state within in the United States, has black officeholding translated into proportional real political power respectful of black population strength at the local, state and national levels (Jones, 2014, p. 77). The Racial Contract prescribes patterns of localized and global cognitive dissonance which are psychologically and socially functional, producing the ironic outcome that typical Whites themselves will be unable to understand the role they themselves have made and continue to play in the subjugation and facilitation of inequality of African Americans in Tennessee (Mills, 1997). To a significant extent, White signatories live in an invented delusional world, a racial fantasy land (Mills, 1997). White misunderstanding, misrepresentation, evasion, and self-deception on matters related to race are among the most pervasive mental phenomena of the past few hundred years, a cognitive and moral detachment required for conquest, colonization, enslavement, and subjugation (Mills, 1997). This phenomenon is deliberate and prescribed by the terms of the Racial Contract, which requires a certain structured blindness and opacity in order to establish and maintain the White polity (Mills, 1997). Racism and racial threats evolve in nature and scope over time (Behrens et al., 2003) based upon contextual and situational threats perceived by the dominant group (Smith, 2010). The norming of space (and races), demarcating civil spaces is a necessary component of the Racial Contract (Mills, 1997).

### **Coded Language: States' Rights and Big Government**

Current social science literature on the politics of criminal justice has produced contradictory results about the role of race as a determining factor in driving policy change.

Research conducted by Jacobs and Helms (1996) on prison admissions and police strength found minimal racial impact, while the same authors' study of total spending on social control found that criminal justice system expenditures are responsive to racial threats (Behrens, Uggen & Manza et al., 2003, p. 568; Jacobs & Helms, 1996).

The Racial Contract underwrites the Social Contract; it is an invisible or hidden operator that restricts and modifies the scope of this prescription (Mills, 1997, p. 72). But since there are both synchronic and diachronic variations, there are many different versions or local variations and instantiations of the Racial Contract, so that the effective force of the Social Contract evolve over time, that the effective force of the social contract itself changes, and that the kind of cognitive dissonance between the two also changes (Mills, 1997). Whites' struggle to and, for most intent and purposes, are unable to believe that they are participating in a genocidal "civil death" of African Americans that contributes to social inequality. Individual states are entitled to set eligibility criteria, instead of extending a universal guarantee of the right to vote, Tennessee has adopted restrictive policy measures undergirded by criminal behavior (Manza & Uggen, 2008). Justifications of disenfranchisement laws based on the rights of states' to enact peculiar legislation is a central argument and serves as probably the most straightforward defense of restrictive voting legislation (Manza & Uggen, 2008).

Policymakers fail to address the legacy of past policies which result in a de facto White supremacy, when Whites' dominance is, for the most part, no longer constitutionally endorsed but rather a matter of political, economic, social and cultural privilege based on the legacy of the conquest (Mills, 1997). The Racial Contract has to be enforced through violence and ideological conditioning (Mills, 1997). The purpose of the criminal justice system and subsequent enforcement of policies by law enforcement agencies is to maintain the quo.

A number of commentators have hypothesized that racial politics provides the hidden glue to understanding the historical origins and persistence of disenfranchisement laws. Particular states in the post-Reconstruction era, practically those in the South, changed their disenfranchisement laws to exclude African American voters by tying the loss of voting rights to crimes committed primarily by African Americans while excluding those committed by Whites (Manza & Uggen, 2008). The criminal is the *new* second-class citizen (Alexander, 2010) and Tennessee law denies criminals participation in a host of activities essential to self-determination.

A second aspect explored extensively in recent scholarship is how racial attitudes of White Americans have influenced policy and political processes. The link between racial attitudes and the policy preferences of citizens and elites have become one of the most widely studied topics among analysts of political philosophy and public opinion (Beckett, 1997). These studies agree that, to the extent public policies come to be seen as benefiting African Americans, their popularity plummets; “race-neutral” social policies, by contrast, tend to retain much higher levels of popular support (Manza & Uggen, 2008; Walters, 2003).

Race and institution-building, racial attitudes and stereotypes, and race and region provide three points for developing hypotheses about the political power of racial factors and the racial origins of disenfranchisement (Manza & Uggen, 2008). This evidence is strongly supported with the examination of racial disparities in the criminal justice system and race-based stereotypes surrounding crime. Fear of crime appears to be uniquely responsive to mobilization by political leaders (Beckett, 1997; Pager, 2007) and a source of political change. Race-neutral and coded language stirs up public sentiments. Law-makers and law enforcement officers

routinely label African Americans assembled to conduct protest rallies and demonstrations as “animals”, “thugs”, “terrorists,” “rebels,” “mobs,” “criminals,” “hooligans,” “zombies,” etc.

Expert testimonies from Tennessee State Advisory Committee members provide not only insights regarding the political position of the interviewee, but a more insight into prevailing political positions of state policymakers. Interview responses from Lieutenant Governor Ron Ramsey, Senate Minority Leader Jim Kyle, and House Minority Leader Craig Fitzhugh captures prevailing attitudes, sentiments, and ideology which for the most intent and purposes can be extended to Tennessee’s halls of power.

### **Public Officials’ Opinions Regarding Ex-felon Voting Rights**

#### **Lieutenant Governor Ron Ramsey**

When asked about his view of public policy behind the ex-felon voting rights law and whether it is designed to discourage crime, Lieutenant Governor Ron Ramsey stated that he did not think that taking away people’s voting rights serves as a deterrent to crime in any way (SAC, 2014). The Lieutenant Governor generally agreed that reintegration of ex-felons into society has a role to play in considering the issue of voting rights restoration (SAC, 2014). He suggested three or five years before getting back the right to vote and that the “ex-felon has to earn it.” His viewpoint is that “it depends on what you do” (SAC, 2014). He also stated that, “a violent crime using a firearm is clearly one thing; but which specific felonies are or are not applicable to losing the right to vote after the time spent in jail was not on [his] radar screen” (SAC, 2014).

When asked whether politics or race played a role behind taking away felons’ voting rights, the Lieutenant Governor maintained that the current policy has nothing to do with party politics or race. He stressed that “the thought of either playing a role had never entered [his]

mind... Essentially, when all is said and done, the rationale for the current Tennessee law is simply punishment” (SAC 2014).

### **Senate Minority Leader Jim Kyle**

Senate Minority Leader Jim Kyle was informed that the Tennessee State Advisory Committee (SAC) to the U.S. Commission on Civil Rights was examining whether the current ex-felon statute in Tennessee unfairly denies the right to vote on the basis of race, color, religion, gender, national origin or disability. Senator Kyle was also asked about recently sponsored bills that carried a permanent lifetime voting ban for certain felonies (SAC, 2014). He explained that all bills relating to voting laws must go through both the Senate’s and the House’s Committees on State and Local Government. As to recent legislation adding certain crimes to the permanent disenfranchisement list, he surmised that someone had asked the Chairpersons of these committees to sponsor the bills and noted that such a request might well have come from the District Attorney General Conference and the associations of District Attorney’s Offices throughout the State of Tennessee. Speaking on behalf of many of his legislative colleagues, Senator Kyle expressed that, if asked, his legislative colleagues likely would take the position that “some crimes are lifetime events and they should have a lifetime reminder that what they did is wrong, and we should not pretend otherwise.” Senator Kyle indicated that he did not have a view regarding the matter (SAC, 2014).

When asked about the disproportionate impact of ex-felon voting ban on African American males in Tennessee, Senator Kyle said that he is aware of the fact, and he later noted that no one in the legislature ever would say that the issue of ex-felon voting rights is one of race (SAC, 2014). He noted that more than race, it is a cultural discrimination or bias that is in play based on such things as socioeconomic factors and the rural-urban division (SAC, 2014). He

added that the Tennessee State Advisory Committee should think more about the barriers making it difficult to vote rather than the disproportionate number of people being affected (SAC, 2014). He later referred to available statistics on disenfranchisement, stating that in Tennessee 16 percent of the population is African American, while African Americans comprise 40 percent of those Tennesseans who are not allowed to vote. He noted that there is a disparity as to who is in prison as well (SAC, 2014).

Senator Kyle pointed out that in his mind, the fact that there is statistical evidence that the ex-felon provision has a disproportionate impact on minority voters will likely not be sufficiently persuasive in the Tennessee legislature to invoke political will to its address the issues involved. He emphasized instead that the more important question to consider with respect to voting should be the “extraordinary walls” that get created “to prohibit people from obtaining voter restoration” (SAC, 2014). The Lieutenant Governor and Senator are not concerned with how the disproportionate number of African Americans got to be disenfranchised in the first place (SAC, 2014). Rather, their emphasis seems to be on how to restore voting, as if to benignly neglect the catalyst that created the disparate situation in the first place. Kyle noted that “in Memphis there is much discussion of the issue because the law probably affects more people there than elsewhere in the state” (SAC, 2014).

When asked about the policy reasons to extend the loss of voting rights beyond the time served in jail, Senator Kyle explained that “most Tennessee legislators do not believe [felons] have served their time. They believe that felons are simply “let out early due to space constraints”” (SAC, 2014). He indicated that if someone has only served 30 or 40 percent of his/her sentence, people in the Tennessee legislature “don’t think they’ve done their time.” Taking away voting rights continues the punishment (SAC, 2014).

## **House Minority Leader Craig Fitzhugh**

House Minority Leader Craig Fitzhugh informed members of the Tennessee State Advisory Committee that there had been a recent change in Tennessee law regarding expunging certain criminal records in order to enhance an ex-prisoner's ability to obtain gainful employment, thereby facilitating and promoting successful reintegration of released inmates into society as law-abiding and productive citizens (SAC, 2014).

Fitzhugh stated that once a person has served his/her sentence, paid restitution, completed any period of parole, etc., at that point the individual has paid for his/hers crime and should be provided with a process by which to have his/her voting rights restored. He expressed his agreement with the sentiment that "if society is willing to put you back into society, why not let you vote" (SAC, 2014). His position on the current status of ex-felons voting rights in the state, is that it in his view "there should be—as a general rule—no impediments to the restoration of voting rights once a person has paid his or her debt to society and has shown that they wish to be reintegrated into society" (SAC, 2014). He understands there could be exceptional circumstances not conforming to general rules. For example, repeat offenders who, as a practical matter due to repeat convictions, have imposed on them what is tantamount to a lifetime ban (SAC, 2014). Asked about initiatives to reform or amend ex-felon voting rights in the state, House Minority Leader Fitzhugh stated that he did not believe there would be any changes [reform] in this area of the law in Tennessee in the coming legislative sessions (SAC, 2014).

When asked about the ex-felon voting ban issue as it relates to race, Representative Fitzhugh said that in his view race was a factor (SAC, 2014).. He indicated that he thought it was fair to link ex-felon disenfranchisement with political efforts tending toward voter suppression, and he agreed as well with the view that voting on "tough on crime bill" tends to be bipartisan in

nature (SAC, 2014). The leader concluded by emphasizing his view that once one has paid his or her debt to society, he or she should be able to vote, a basic right, and that barring persons from voting treats them as “second class citizens” (SAC, 2014). He concluded that people “should not have to jump through hoops to be able to exercise their right to vote” (SAC, 2014).

In conclusion, both Senate Minority Leader Jim Kyle and House Minority Leader acknowledge disparate outcomes concerning arrests and disenfranchisement rates of African Americans. They acknowledge their skepticism of Tennessee legislators desire to address disparate policy outcomes and social inequality. Contrarily, as evidenced in 2006, it has been Tennessee lawmakers’ pattern to strengthen, by adding new offenses that disenfranchise arrestees, and deny restoration of the voting rights

### **Policy Responses**

Racial Threat Theory and Racial Contract Theory respond to increase potential threats from one or more minority groups. The dominant group receives benefits and mutually share interests for material resources from the power structures. Disenfranchisement denies full citizenship rights. Research findings show correlations demonstrating that minority population size, parity in incarceration rates, and the degree of legislative professionalism are determining factors of felon disenfranchisement policies (Preuhs, 2001). According to the Tennessee State Advisory Committee to the U.S. Commission on Civil Rights report adopted and released on April 21, 2014, the state of Tennessee has some of the most restrictive policies regarding the disenfranchisement of ex-felons in the nation (SAC, 2014). Since 1981, there have been several amendments to Tennessee’s disenfranchisement statute that have tended to expand the scope of ex-felon disenfranchisement. These amendments have been supported by the lawmakers from both major political parties (SAC, 2014). In the past 30 years, a series of amendments to the



state's ex-felon disenfranchisement laws have established a complex statutory scheme for post-1981 convictions. New additional offenses were added in 1986, 1996, and 2006 for which voting rights can never be restored (SAC, 2014). Whether an individual is eligible to seek restoration of voting rights depends not only upon the type of crime, but also on the particular year of the person was convicted, as well as numerous additional requirements added in 2006 (SAC, 2014).

Even after they have fully completed their sentences, Tennessee is one of 11 states that permanently disenfranchise ex-felons from voting (SAC, 2014). For certain enumerated offenses, ex-felons are banned for life from seeking formal petition for re-enfranchisement. This is in contrast to voting procedures for the vast majority of states, where the right to vote either is restored upon release from incarceration or upon the completion of sentence—generally defined as including all terms of incarceration, probation and parole (SAC, 2014). Tennessee is one of only four states that permanently ban ex-felons from voting. It is only through individual petition or application can voting rights be restored. Voting restoration is dependent on the type of conviction and on the outcome of an individual petition or application for clemency (SAC, 2014).

Tennessee's case-by-case approach is sure to dissuade reentering citizens, as well as inmates in parole proceedings from the restoration process. Absent a specific act of clemency or restoration of civil rights, Tennessee has a lifetime ban on ex-felons, thereby excluding them from exercising their right to vote and participating in the democratic process. Article 1, Section 5 of the Tennessee Constitution reads: "The elections shall be free and equal, and the right of suffrage, as hereinafter declared, shall never be denied to any person entitled thereto, except upon conviction of some infamous crime, previously ascertained and declared by law, and

judgment thereon by court of competent jurisdiction” (SAC, Tennessee Code Annotated, sects. §40-20-112 and §40-29-202, 2014).

Tennessee permanently bans voting rights for certain enumerated offenses. In Tennessee, not only is an ex-felon barred from voting unless he or she successively seeks restoration, but for certain offenses there is a lifetime ineligibility from ever seeking restoration of voting rights. Anyone convicted of specific felony offenses including murder, rape, treason, sexual offenses involving a minor victim, voter fraud, rivalry, misconduct involving public officials at employees, and interference with government operations are permanently ineligible to vote (SAC, 2014).

Tennessee’s Constitution was originally drafted in 1796 by the U.S. Congress. The citizens of the State ratified a second Constitution in 1835. The new constitution separately barred almost all African American citizens from voting, as well as introducing a ban on voting for persons convicted of a felony (SAC, 2014). In 1870, a third constitution was ratified to allow for Tennessee to reenter the Union. This constitution held until 1953. Additional amendments to the constitution followed in 1960, 1966, 1978, 1998, and 2006 (Tennessee Blue Book, 2011-2012). The ex-felon voting restriction provision has remained unchanged through the subsequent amendments following 1835 (SAC 2014).

States are significantly more likely to adopt or extend felon disenfranchisement when African Americans make up a larger proportion of those states’ prison populations (Manza & Uggen, 2008). On a national level, anti-crime measures peaked in the 1994 crime bill, which, among other things, provided revenues to support the nationwide hiring of 100,000 new police officers, new funds for prison construction, and new crimes to be added to the list of offenses punishable by death. These measures were adopted even though America’s prison population

had been growing steadily for two decades and the actual crime rate was trending significantly downward (Manza & Uggen, 2008). By the mid-1970s, a rising chorus of conservative scholars, policy analysts, and politicians were advocating punitive strategies of deterrence and incapacitation, and dismissing the rehabilitated model as an “anachronism” (Manza & Uggen, 2008).

Many scholars, policymakers, community developers, activists, and nonprofit organizations observed systemic and sustained institutionalization (Alexander, 2010) and criminalization of African American (Pager, 2007) men through the nation’s War on Crime, more specifically, the nation’s War on Drugs, with African American males as the primary group targeted; justifying the ideology and political investment consistent with resources devoted to the criminal justice system and the corrections industry. The view that the War on Crime/War on Drugs is a war on the Black community is a prevalent viewpoint held by many concerned the large disparities outcomes and social inequality (Boyd, 2001).

Theories guiding the purpose of this study are to assess the degree to which the integration of Racial Threat Theory and Racial Contract Theory can explain: how the criminal justice system influences Black social inequality, mass incarceration, felon disenfranchisement, and etc. from 1960-2014. In so doing, these analyses show a strong and consistent relationship between racial threats, as measured by the percentage of non-White state prisoners and laws restricting the voting rights of people with felony convictions (Manza & Uggen, 2008) and in ways serve as a social control instrument benefiting the dominant group. The probability that an arrest will lead to a conviction has increased significantly, and convicted felons are now serving a significantly greater portion of their sentences prior to their release (Manza & Uggen, 2008). The number of congressional changes to mandatory minimum statutes rose from 61 in 1983 to

168 in 2000, with Congress tending to escalate mandatory minimum sentencing in the weeks immediately preceding biennial elections (Manza & Uggen, 2008). State laws differ in the types of crimes covered and the percentage of time mandated to be served, and the undeniable effect has been to prolong the length of time under supervision and correctional populations (Manza & Uggen, 2008).

### **Findings and Recommendations by the U.S. Commission on Civil Rights**

The following findings and recommendations made by the United States Commission on Civil Rights to state and local officials are submitted in accordance with the provisions of Section 703.2(e) of the Commission's regulations calling upon the Advisory Committees to "initiate and forward advice and recommendations to the Commission on matters which the State Committee has studied":

1. Current Tennessee disenfranchisement law is one of the most restrictive in the United States (SAC, 2014, p. 18).
2. Since 1981, there have been several amendments to the Tennessee disenfranchisement statute that have tended to expand the scope of ex-felon disenfranchisement. These amendments have been supported by lawmakers from both major political parties (SAC, 2014, p. 18).
3. While reportedly there is evidence that in the early 20th Century felon disenfranchisement laws were motivated by a desire to keep African Americans from voting, the Committee is not in position to make any findings regarding motivation for the several recent changes to the ex-felon disenfranchisement statutes. The Committee only notes that while considerations of race, socio-economic status, and the rural-urban cultural divide were mentioned, the more common suggestion was that such laws seek to impose additional punishment for committee crimes. Any consideration of motive would need further study, and as such is not part of this report (SAC, 2014, p. 18).
4. The Committee finds evidence of disparate impact on African Americans as a result of the state's ex-felon voting rights ban. As African Americans make up nearly one-half of the prison population but only about 17 percent of the state's

population, the operation of the Tennessee statute tends to have a disproportionate impact on African Americans vis-à-vis other races (SAC, 2014, p. 18).

5. The Committee also learned of concerns regarding procedural and other obstacles to re-enfranchisement, including, among others, the lack of access to court records necessary to establish compliance with restitution requirements and those relating to financial hardship in having to pay accumulated child support prior to seeking re-enfranchisement (SAC, 2014, p. 18).

### **Mass Incarceration of African Americans and Inequality**

According to Harvard Sociologist Devon Pager, crime activity flourishes in a social contexts starting in youth and persisting into early adulthood (Pager, 2007). The revolving door of crime is facilitated by impoverished neighborhoods, limited opportunities, broken families, and inadequate schools (Pager, 2007). Incarceration is associated with limited future employment opportunities and earnings potential, the strongest predictors of desistance from crime (Pager, 2007, p. 3) Nationally, approximately 12 percent of all African American men between the ages of twenty-five through twenty-nine are incarcerated, compared to less than two percent for white men (Pager, 2007). Roughly one in three African American men will spend some time in prison (Pager, 2007). The stereotype of African Americans as criminals is deeply embedded in the collective consciousness of white Americans, irrespective of the perceiver's level of prejudice or personal beliefs (Pager, 2007). Black males have been branded as the poster child of crime (Alexander, 2010).

### **Criminalization of Young Black Men**

According to Harvard Sociologist, Devon Pager, “a 1973 report issued by the National Advisory Commission on Criminal Justice Standards and Goals took a strong stand against the use of incarceration: “The prison, the reformatory, and the jail have achieved only a shocking record of failure. There is overwhelming evidence that these institutions create crime rather than

prevent it”” (Pager, 2007, p. 1). Following the report, the commission recommended no new construction of adult correctional institutions and for the closure of existing juvenile institutions (Pager, 2007). According to Pager, nearly two-thirds of inmates released from prison will be charged with new crimes and 40 percent will return to prison within three years. Offender management does not end upon an inmate’s release (Pager, 2007). In 2014, there were approximately 71,000 felons and ex-felons under Tennessee Department of Correction’s (TNDOC) parole and probation supervision (TN DOC, 2014), with another 20,476 incarcerated in TNDOC facilities, and approximately 8,238 private-prison beds with contracts guaranteeing 90 percent bed occupancy in Tennessee (American Civil Liberties Union (ACLU), 2012). This fact serves as positive revenue stream for private prison management companies. Tennessee taxpayers have paid CCA approximately \$66 million dollars to run just one of its Silverdale Detention Facilities over the last five years (Brogdon, 2014), and owns or manages seven others in Tennessee, with a 2,552 Trousdale facility scheduled to open in late 2015.

The combined combination of prison and jail guards, administrators, service workers, and other personnel represent a potentially powerful political opposition to any scaling down of the correctional system (Alexander, 2010, p. 14). Concerning private correctional facilities, judges, prosecutors, and other law enforcement personnel have more incentive and motivation to incarcerate if prison-bed rate of occupancy level(s) reach below breakeven revenue and/or profit levels (ACLU, 2011). According to a 2014 Department of Justice (DOJ), State Corrections, Expenditures, FY 1982-2010 report, Tennessee’s correctional expenditures represents a functional area in which Tennessee outspends the Southeast’s average in a regional comparison of other states (Bureau of Justice Statistics, 2014). In *The Public Interest* (ITPI), a Washington, D.C. based research center critical of government correctional privatization efforts released a

report calling private prisons' minimum prison-bed occupancy quotas a "low-crime tax" that penalizes taxpayers for having fewer felons (ITPI, 2013). According to the ACLU, CCA operates 8,238 beds in Tennessee's prisons and jails (ACLU, 2012). CCA has spent nearly five years litigating to shield its prisons from being subject to the Tennessee Public Records Act (ALCU, 2012). FBI and DOJ statistics show that Tennessee's violent crime rate is in a downward trend. In 2007, the violent crime rate in the state was 753.3 per 100,000 residents. In 2002, it was 716.9 per capita. Both are higher than the 2012 rate.

### **Facts and Figures: Tennessee Department of Correction**

According to TNDOC's 2013 report, its annual budget is \$899,270,500 with average annual cost per inmate totaling \$24,532. TNDOC's 14 correctional institutions active staff personnel totaled 6,912. In 2013, a total of 20,476 inmates were incarcerated under TNDOC's jurisdiction. Average length of sentence equaled just over six years. Average time served was just over four years. There were approximately 13, 546 parolees and 57,234 felons on probation. According to TNDOC's projections, prison overcrowding in Tennessee is not expected to decrease in the foreseeable future. Over the next 12 years, Tennessee's incarcerated population is projected to increase by approximately 12 percent, while operational capacity is expected to increase by nine percent. In 2007, all of Tennessee's facilities were operating at over 90% capacity. Average daily inmate population increased by four percent between FY2004 and FY 2013. Unmet bed demand is projected to almost double over the next five years from 2013 to 2018. With 90% minimum prison bed occupancy rates, contract guarantees lobbied by privately-managed correctional corporation for tougher sentencing legislation, overcrowding is a byproduct outcome that should be routinely expected in the state's correctional system. According to a 2015 report released by the Tennessee Bureau of Investigation (TBI), in 2014,

African Americans made up approximately 39 percent of arrestees, compared to 59 percent arrest rate for Whites (TBI, 2015).

### **Civil Death of African Americans**

Voting is a powerful symbol of political equality. Each vote counts the same, and each voter gets one, and *only* one vote (Manza & Uggen, 2008). Participating in elections gives voters a stake in election outcomes (Manza & Uggen, 2008) and governance concerning the distribution of material resources in the polity. Voting is a cost-effective way of making a civic contribution and provides a basis for citizens to assume the legitimacy of the political system as a whole (Manza & Uggen, 2008). What does it require for a second-class citizen to assert himself/herself politically or civically engage in matters of his/her interests? For disenfranchised felons in Tennessee, it involves reasserting individual civil rights and human rights and the rights of citizenship. So it means challenging the White-constructed polity that has historically considered African Americans “body impolitic,” an entity not entitled to claim its rights of citizenship and full inclusion into the polity (Mills, 1997). Estimates of Tennessee’s felon disenfranchisement population rates vary. In 2010, the number ranged from the ACLU’s low estimate of approximately 94,000 ex-felons disenfranchised to a high estimate of 247,808 by the Sentencing Project. SAC estimates the number of disenfranchised ex-felons at approximately 161,361 (SAC, 2014).

According to the Tennessee State Advisory Committee (SAC) to the U.S. Commission on Civil Rights, Tennessee is one of five states nationwide that makes ex-felons convicted of certain offenses permanently ineligible from ever seeking to have his/her voting rights restored and is one of three states nationwide that apply such permanent bans against restoration to a wide



variety of offenses (SAC, 2014). For these individuals, the return to society is without the opportunity or hope of ever being eligible to obtain restoration in the right to vote (SAC, 2014). Under the current statutes, a felony conviction suspends the right to vote, to hold public office, to serve on a jury, and to possess a firearm (SAC, 2014). State statutes allow certain felony offenders to apply to the Board of Probation and Parole for voting restoration upon completion of their sentences. All convicted felony offenders are ineligible to vote while incarcerated, on parole, or on probation. Individuals convicted of a felony since 1981 must apply to the Board of Probation and Parole to have their voting rights restored once their sentences are completed (SAC, 2014). The likelihood of a low-income offender meeting such criteria is extraordinarily difficult. Rules governing re-enfranchisement are complex enough to require individualized legal assistance in many cases (Manza & Uggen, 2008; Beckett, 1997). African Americans were especially likely to be ineligible because they owed money to the state (Beckett, 1997).

An offender who breaks the laws forfeits nearly all his/her political and civic rights. Offenders are treated, at best, as partial citizens (Manza & Uggen, 2008). The state of Tennessee has thus far decided that perpetrators of serious crimes shall not take part in electing legislators who make the laws, the executives who enforce the laws, the prosecutors who must try them for additional violations, or the judges who are to consider their cases (Manza & Uggen, 2008). African Americans are significantly less likely to have their rights restored, as are those of lower socioeconomic status, those who are not married, and those who do not own their homes (Uggen and Manza, 2008).

## **State Procedures for Restoring Voting Rights**

Whenever a citizen must overcome a set of burdensome, confusing, or invasive prerequisites, his/her political participation, and desire to participate, is likely to decline (Manza & Uggen, 2008). Tennessee laws governing the restoration of voting rights are extremely complicated and burdensome to nearly all applicants (SAC, 2014). In the last 30 years, a series of amendments to the state felony disenfranchisement laws have established different restrictions on several occasions for post-1981 convictions (SAC, 2014). As mentioned earlier, Tennessee law creates a three-step process to vote for ex-offenders who do not automatically regain their rights: restoration, registration, voting (SAC, 2014).

Liken to a poll tax and literacy tests during the First Reconstruction, it is clear that these procedures operate as a de facto institutional barrier to participating in voting in the restoration process in the larger context of voting rights in the United States (Uggen and Manza, 2008). Generally characterized as low-income and uneducated, this demographic segment's socioeconomic and sociopolitical conditions are blamed on poor decision-making and culture. Hence, Personal Responsibilities Act, Welfare to Work and other conservative policies are hailed (Beckett, 1997) and are manipulated.

These state statutes allow certain felony offenders to apply to the Board of Probation and Parole for voting restoration upon completion of their sentences. In Tennessee, all convicted felony offenders are ineligible to vote while incarcerated, on parole, or on probation. Individuals convicted of a felony since 1981 must apply to the Board of Probation and Parole to have their voting rights restored once their sentence is completed (SAC, 2014).

Tennessee's institutions such as the police and the penal system serve a role in enforcing conservative, White nationalists and White supremacists objectives. Both operate as a tandem to

keep the peace and prevent crime among the White citizens, and to maintain the racial order and to check and destroy challenges to it (Mills, 1997). It is difficult, if not nearly impossible, for African American males to assemble or unite in political or economic blocs. African Americans are met with militarized police presence if they protest politically. Unlike other racial counterparts, African Americans males are harassed if they collectively stand at neighborhood home improvement stores soliciting for daily labor work. For conservative, White nationalists and White supremacists, it is necessary to keep an eternally vigilant eye on them for possible signs of dissembling, in keeping with the sentiment that constant surveillance is necessary to maintain freedom, more accurately domination (Mills, 1997). Surveillance for African American resistance and a corresponding readiness to employ massively disproportionate retaliatory response are central to the fabric of the racial polity in a way different from the response to protest gatherings, and crimes of White citizens (Mills, 1997).

Men and racial minorities are vastly overrepresented in the prison population relative to the general population (Manza & Uggen, 2008). In her book, *Forcing Black Men Out of Society* (2015), Harvard University Sociology Professor Devah Pager argues that 1.5 million African American males—more than one in every six Black men in the 24-to-54 age group has disappeared from civic life, largely because Black males died young or are incarcerated in jails or prisons.

Laws that promote the reintegration of ex-felons into society further advance important public policies of discouraging recidivism and encouraging ex-felons to become productive citizens of society—benefits that accrue to all Tennesseans. The Tennessee State Advisory Committee suggests that the Tennessee General Assembly and Governor consider the experiences of other states that have ex-felon disenfranchisement statutes that are less restrictive

in their application and the removal of unnecessary barriers to voting rights restoration in order to promote the reintegration of ex-felons into society after they have served their sentences (SAC, 2014).

In 2006, Public Acts Chapter No. 860 was enacted into law after targeted legislative advocacy and broad organizational and bipartisan support. The intent of the new legislation is to require administrators of elections to enter persons on the voter rolls upon verification of their Certificate of Restoration, and also to require the person receiving a Certificate of Restoration to pay all costs associated with the restoration process. An additional intent of the legislation is to encourage sentencing courts, the Department of Corrections, and the Board of Probation and Parole to require their officials to explain citizenship restoration procedures to non-violent offenders who are being released or discharged (SAC, 2014). If determined to be eligible, ex-felons then are allowed to initiate a multi-step process to regain their right to vote. The steps include the following (SAC, 2014):

1. Secure a *Certificate of Restoration* form;
2. have the *Certificate of Restoration* signed by his/her probation or parole officer (or other incarcerating or pardoning authority) certifying that all probation or parole requirements have been completed;
3. the *Certificate of Restoration* must be signed by the Circuit or Criminal Court Clerk, or his or her agent, certifying that all court ordered restitution has been paid in full; and
4. return the completed *Certificate of Restoration* to the local election commission.

The *Certificate of Restoration* is then forwarded to the local election commission. Subsequently, local and state election officials then take three actions on each presented and signed *Certificate of Restoration* (SAC, 2014):

1. The local election commission sends the *Certificate of Restoration* to the state Election Commission office to certify that all court ordered child support payments are current and that the *Certificate of Restoration* has been completed fully and correctly;

2. The state election commission office in turn sends notice to the local election commission office certifying that the *Certificate of Restoration* has been approved or denied; and
3. The local election commission sends a letter to the individual that informs ex-felon that his or her *Certificate of Restoration* has been approved or denied.

Once all these steps are completed, only then can the ex-felon complete a voter registration form (SAC, 2014). The rigorous process intimidates reentering citizens' efforts to reintegrate back into mainstream society. Many African American offenders are hesitant to pursue voting rights restoration for fear that seeking restoration of voting rights could hurt their chances of release (SAC, 2014).

### **African American Inequality**

The struggle to bridge the inequality gap between Whites and African Americans has been the unacknowledged political history of the past few hundred years, the "battle of the color line," in the words of W.E.B. Dubois, and is likely to continue being in the foreseeable future, as racial divisions continue to fester, the United States moves demographically from a White-majority to a non-White majority society, the gap between a largely White prosperous and largely impoverished Black community continues to deepen (Mills, 1997). The following subsections address some of the major factors for this situation in Tennessee.

### **Political and Economic Castration**

Approximately 90 percent of Tennessee's African Americans reside in Memphis and Nashville metropolitan regions. A 2010 U.S. Census Bureau report of the nation's 51 largest metropolitan areas classified Memphis as number one in terms of the percentage of residents living below the poverty line. The report stated that 19.1 percent, or nearly one in five residents

lived in poverty (U.S. Census Bureau, 2011). The poverty rate for African Americans within the Memphis city limits is estimated at 28.3 percent, while 33.6 percent of African Americans in the Memphis and Shelby County areas live below the poverty line (Rufener, 2014; Charlier, 2013). Research conducted by University of Memphis Sociology Professor Elena Delavega, showed that in 2013, Memphis had the highest poverty rate among large metro areas with populations greater than 1,000,000 (Delavega, 2014). Delavega stated Memphis' future is linked to the economic well-being of African-Americans and the city could be much more successful if African Americans obtained more opportunities like that enjoyed by Whites (Charlier, 2013). Research done by Associate Professor Jeff Wallace at the Sparks Bureau of Business and Economic Research at the University of Memphis showed that the local poverty crisis is largely a result of long-term under-education of Memphis' labor force. SAC committee's findings indicates that Tennessee's ex-felon disenfranchisement statutes tend to have a disparate impact on African Americans, who make up nearly one-half of the state's prison population but only approximately 17 percent of the state's population (SAC, 2014).

In a 2012 study conducted by Marc V. Levine at the University of Wisconsin-Milwaukee's Center for Economic Development titled *Race and Male Employment in the Wake of the Great Recession: Black Male Employment Rates in Milwaukee And the Nation's Largest Metro Areas* (2010), it is stated that between post-Civil Rights 1970 through 2010, Memphis and Nashville ranked among 40 of the nation's cities employing the fewest African American males between 16-64 years of age, with 53.2 percent and 58.3 percent, respectively (Levine, 2012). In comparison, in 1970, African American males in Memphis employment level stood at 67.9 percent, while 68 percent of African American males in Nashville were employed. In 2010,

White males in Memphis and Nashville levels of employment stood at 75.9 percent and 72.9, respectively (Levine, 2012).

African American males in Tennessee are politically and economically marginalized. Male African American Tennesseans' political and economic opportunities are greatly diminished as a result of their current marginalized status. Lost opportunity costs occurs both to the state in the form of forgone potential fiscal revenue and to its male African American citizens in the form of neglected and underdeveloped human capital; ultimately ensuring that the state does not reach maximum fiscal cost efficiency of taxpayer expenditures and optimal human development of its citizenry—many of whom are incarcerated (an *expense* to Tennessee and federal taxpayers), as opposed to proportionately participating in the state's politics and the economy through full-employment (potentially creating more taxpayer revenue streams). The cities of Memphis and Nashville provide more information for the marginalization of African American males. Figure 1 lists all Tennessee's 95 counties.

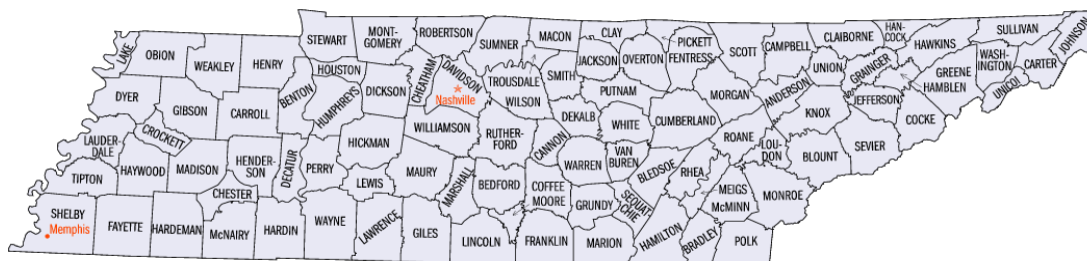


Figure 1: Tennessee County Map, (cities Memphis and Nashville)<sup>3</sup>

<sup>3</sup> Source: U.S. Census Bureau. 2015. Tennessee County Selection Map State and County QuickFacts

Incarcerated Offender Demographics:

Number of Incarcerated, 2014	29,885
Number of Incarcerated, African Americans:	13,149
Number of Incarcerated, Whites:	16,138
Number of Incarcerated, Male	26,896
Number of Incarcerated, Female	2,989

Source: Statistical Abstract (Systemwide) at tn.gov available at <http://www.tn.gov/correction/topic/tdoc-annual-reports6> (Accessed July 30, 2015)

**Memphis:**

Pockets of poverty exist in Memphis and Nashville and other relatively large municipalities in Tennessee (SAC, 2014). The slow recovery of the Memphis region from the Great Recession, in part, can be attributed to the large number of African American males who had been marginalized due to historical oppression, benign and malign neglects, felon disenfranchisement, and conservative policies that have been hostile to their political, economic, and social development.

Memphis was one of only two of the nation's largest strong-mayor cities with an African American population exceeding 40 percent that had failed to elect an African American as mayor (Ross & Levine, 2001). The city elected its first African American mayor, Dr. Willie W. Herenton (D), in 1991. A. C. Wharton, Jr. (D) served as the second elected African American in the city of Memphis. Shelby County, the county in which the city of Memphis is located, elected A. C. Wharton, Jr. (D) as its first African American Shelby County Mayor in 2002. He is serving his second term as Mayor of Memphis. It is worth noting that the city of Memphis has had two other African American mayors: Bishop J.O. Patterson, Jr. (served as interim mayor in Memphis in 1982 for 20 days total) and Myron Lowery (served as interim Mayor Pro Tem from July 31, 2009 to October 26, 2009 after Mayor Dr. Willie W. Herenton (D) served five terms in office).



Since the states founding in 1796, White males have had a virtual monopoly on political power in Tennessee, as well as economic power. As of 2015, other cities in Tennessee with a population of 100,000 or more (Nashville, Knoxville, Chattanooga, Clarksville, and Murfreesboro) have yet to have an African American as first-leader in a mayoral or city-manager position. In 2010 and 2015 respectively, the cities of Clarksville and Nashville elected their first woman mayors of any Tennessee city with more than 100,000 residents. In 2015, Nashville elected its first woman mayor. A fundamental question has to be asked regarding Tennessee's political landscape: Why is it that African Americans have not assumed mayoral (except Memphis) or gubernatorial roles in the state of Tennessee?

Figure 2 show Shelby County's municipal districts. Figure 3 shows 2012 Presidential Election Results for Shelby County. The largely African American city of Memphis voted staunchly for the Democratic Party, while mostly white outlying municipalities favored the Republican Party.

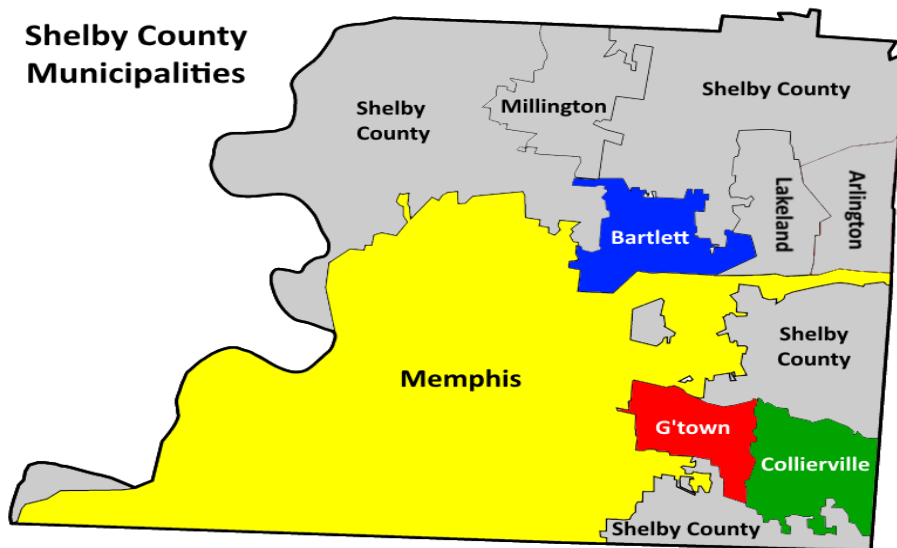


Figure 2: Shelby County, Tennessee Municipal Districts<sup>4</sup>

<sup>4</sup> Source: memphisweather.net, <http://blog.memphisweather.net>, (accessed on March 03, 2015.)

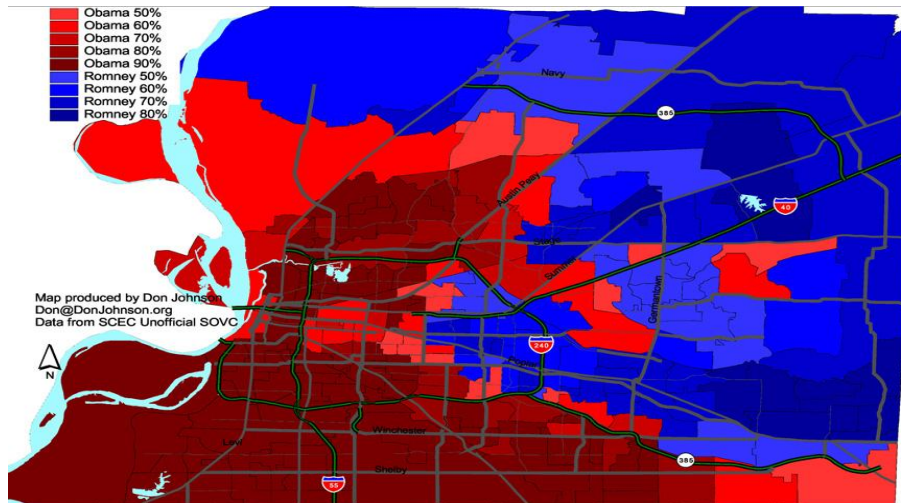


Figure 3: Shelby County, Tennessee: Presidential Election Results, 2012<sup>5</sup>

Historically, Memphis has had strong ties to machine politics (Ross & Levine, 2001). This presence in Memphis may partially explain some of the inequality and poverty (Ross & Levine, 2001). According to Ross and Levine, machine-based politics once were important structures that helped facilitate benefits (oftentimes federal programs) to the urban poor (Ross & Levine, 2001). As a traditional hub of the Democratic Party nestled in a ‘state rights’ conservative Republican dominated state, historical ties and alliances of machine politics and limited federal programs are sure to meet staunch backlash in Tennessee’s ‘state rights’ environment.

### Nashville

Metropolitan Nashville-Davidson County city-county consolidation in 1962 as the Civil Rights-era reached its peak led many political analysts and other observers to believe that such city and county government consolidation was a pre-calculated conservative political response to what was then perceived to be African American advancements in voting rights and other civil

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<sup>5</sup> Source: us election atlas, <http://uselectionatlas.org>, (accessed on March 03, 2015).

liberties. Metropolitan governments take away many decision-making powers from the existing local governments and give those powers to a centralized, regional body capable of acting in the interest of the metropolis as a whole (Ross & Levine, 2001). Racial minorities, as well as suburbanites and municipal officers, oftentimes adamantly resist ceding power to new regional governing bodies (Ross & Levine, 2001). Proponents of the metropolitan government touted it as a move to save taxpayer expenditures by streamlining overlapping city and county municipal services. However, according to Ross and Levine, suburbanite Nashvillians were the immediate beneficiaries of the new metropolitan restructuring (Ross & Levine, 2001). Virtually overnight, the proportion of the city's African American population decreased from 37.8 percent of Nashville's population in 1960 to approximately 20 percent in 1970 (Ross & Levine, 2001). As a result of the metropolitan consolidation, the political power of African American Nashvillians, especially inner-city residents, was diluted over a broader geographical region and population base (Ross & Levine, 2001). African Americans and Latinos are unlikely to win control of much influence in a metropolitan government with a White majority (Ross & Levine, 2001). In 2014, African Americans comprised 28.4 percent of the Nashville's population (U.S. Census Bureau, 2014). Figure 4 shows higher concentrations of poverty in Nashville's urban core.

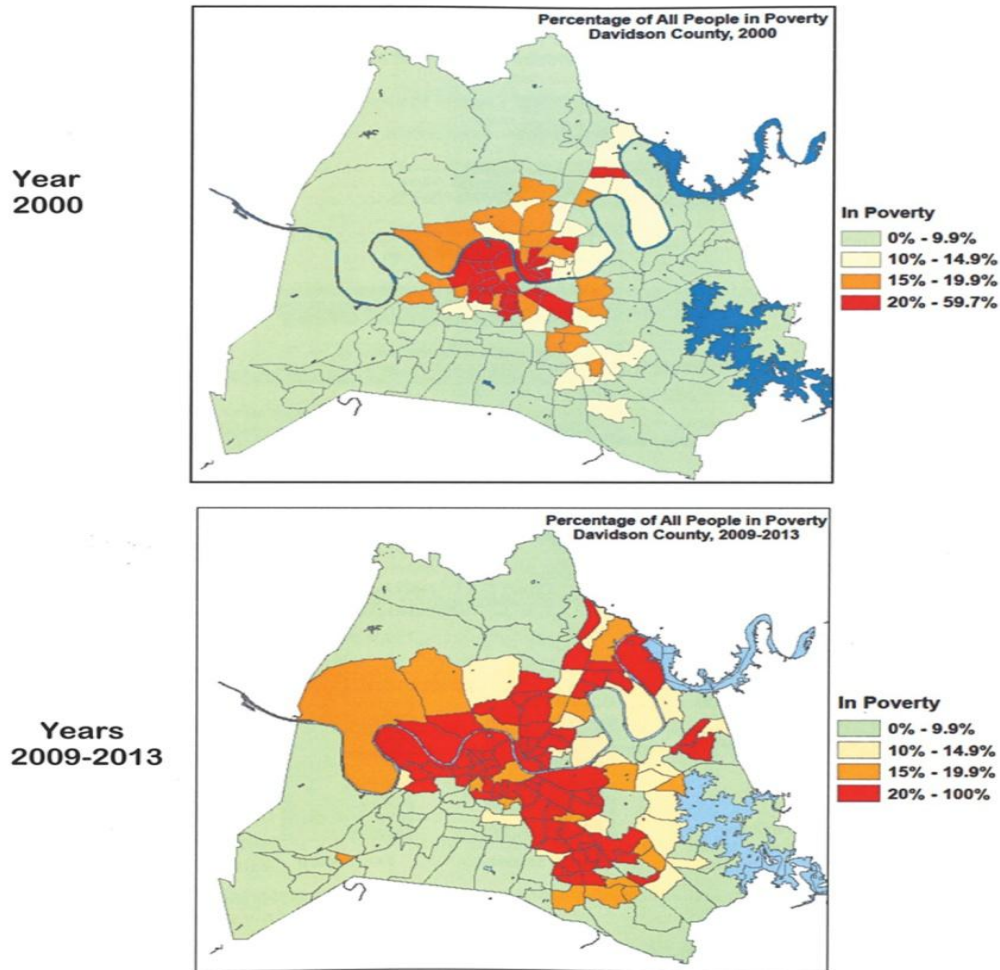


Figure 4: Metropolitan Nashville- Davidson County Poverty Rates, 2000 and 2009-2013<sup>6</sup>

Public Choice Theory critics argue that metropolitan fragmentation occurs as many suburban governments in the polycentric metropolis serve to restrict the choice of racial minorities, the poor, and younger workers (Ross & Levine, 2001). Urbanists argue that metropolitan governments are in the best long-term interests of racial minorities residing in declining urban centers characterized with a population that possesses many needs and severely limited tax base (Ross & Levine, 2001). Thus, racial minorities are confronted with two options

<sup>6</sup> Source: nashville.gov (Accessed on May 16, 2015)  
<http://www.nashville.gov/Social-Services/Planning-And-Coordination/Maps.aspx>

of a fragmented metropolis. They can resist metropolitan government structures and preserve political and cultural control over areas that are blighted and starved of economic resources; or racial minorities can accept regionalism and risk marginalization. It is evident from the preceding analysis that African American males in Tennessee have selected to resist metropolitan government structures and seek to preserve the political and cultural control over their communities, albeit they face strong resistance from Whites.

### **CHAPTER III: LITERATURE REVIEW**

This review of literature is thematic in nature. Taking into consideration the extensive amount of research that has already been done on the effects the criminal justice system has on Black inequality, the thematic approach provides a more efficient method of review. The themes covered by the review are the following: (a) the criminal justice system contributes to Black inequality; (b) contending views on the criminal justice system (prison industrial complex); (c) criminal justice system perpetuates the prison industrial complex; (d) conservatives and White supremacy resurgence produced prison industrial complex and Black social inequality; and (e) African Americans' responses to the prison industrial complex. In the conclusion, the general strengths and limitations of the literature reviewed and what this study contributes to it are delineated.

#### **The Criminal Justice System Contributes to Black Inequality**

This section discusses the literature on the relationship between criminal justice system policy and legislation and socially engineered Black inequality outcomes. Research on whether or not the criminal justice system contributes to Black inequality provides opportunities for African Americans to engage in collective action are also highlighted. In addition, both sides of the criminal justice system contributes to Black inequality debate that persists within academia and the arguments utilized are also discussed.

Jeff Manza and Christopher Uggen (2008) explain that “civil death” (Latin: *civilliter mortuus*) and contemporary modern day variants of disenfranchisement laws are rooted in medieval Europe, evolving from ancient Greece's *atimia* and ancient Rome's *infamia* (Stanley & Weaver, 2014; Levine, 2009). These were a series of punishments and penalties imposed upon convicted criminals that entailed losing the right to participate in politics, as well as losing

many other rights associated with full citizenship and engagement in the polity. This is significant when considering that Manza and Uggen's (2008, p. 140) survey findings show that contrary to popular belief, convicted felons and other returning citizens are oftentimes politically informed and engaged (Manza & Uggen, 2008, p. 165). Historically, topics and questions involving the criminal justice system and its impact on undesirable political and economic outcomes in African American communities were discussed by social science theorists in the fields of American Government and Political Behavior. The use of the criminal justice system and inequality has been examined in related research. Thus critiquing of the manner in which African Americans with a felony conviction engage and negotiate their inferior status in matters that relate to their ability to participate in their own self-determined interests needs to be addressed by further investigation (Alexander, 2010).

Jason Stanley and Vesla Weaver (2014) differentiate democratic political ideals from a state that is a 'racial democracy' as compared to a model democratic state free of racially imposed institutionalized norms. They suggest that the United States' criminal justice system intentionally administers law, order, and justice in a racially-biased and unbalanced manner, while assumingly operating under false guises of democratic political ideals and principles (Stanley & Weaver, 2014). The marginalization of one race by the unfair application of laws governing the access (and denial thereof) of democratic freedoms and notions of liberty to African American citizens to the benefit Whites and other races characterizes the United States as a 'racial democracy' (Stanley & Weaver, 2014). This parallels the principles found in the Racial Contract's *Herrenvolk*, democracy, which is defined by 2011 Fifth Edition American Heritage Dictionary of the English Language, "as a governmental system in which the majority

ethnic group has a say in the government, and has the right to partake in voting, while the minority races are disenfranchised.”

The connections among criminal justice system policy, mass incarceration and the privatization of prison services serve as one of the primary contributing factors for social inequality because full-citizenship rights, political and economic engagements are curtailed as a result of felon disenfranchisement acting as a barrier to access the following: employment, income, housing, education, social programs and other opportunities (Alexander, 2010; Manza & Uggen, 2008). For numerous ethical reasons, some public services should be administered solely through the public sector (Moyers et al., 2012). Violation of low-level drug offenses has been an underlining cause of the phenomenal increase in prison population in Tennessee and around the nation (Boyd, 2001). Generations of Black men have been lost to the criminal justice system and are continuing to be exploited by the larger prison industrial complex (Muwakkil, 2005; Lotke & Wagner, 2004). According to Graham Boyd (2001), the drug war has been a deliberate and disguised war on the Black community and to a lesser extent other communities of color.

In efforts to marginalize a subordinate group and continue the established social structure, the preponderance of evidence shows that the dominant group using its influence to shrink the potential size of the minority’s electorate, thereby undermining the political power of subordinate groups (Alexander, 2010; Manza & Uggen, 2008). Legal barriers are enacted upon the subordinate group, such as Jim Crow laws, and other types of racially discriminatory policies, statues, and practices. Whites, for instance, implement political restrictions if they perceive that minority groups can organize and increase their political power (Manza & Uggen, 2008).



Consistent with this literature, it is argued that geography and racial demographics, dominant group's size relative to the size of the subordinate group, civic participation, cultural norms, and public attitudes are important indicators determining the dominant group's perceived threats from, and its response to, subordinate groups' ability(s) to participate in the electorate and economy (Manza & Uggen, 2008). The racial demographics of a state's prisons could possibly expose a direct relationship to voting restrictions when analyzing the comparative size of the non-White population and the subordinate group's potential to alter the quo (Manza & Uggen, 2008; Stanley & Weaver, 2014).

Research is growing regarding the criminal justice system (prison industrial complex) and mass incarceration's roles in the exploitive transferring and extrapolation of wealth out of African American and urban communities and into mostly rural poor white communities; and the significant negative outcomes felony convictions and prison histories have on future wages, earnings and employment opportunities for African Americans pipelined into prison towns for purposes that largely serve political gerrymandering, special interests groups and economic interests (Street, 2005; Lotke & Wagner, 2004; Boyd, 2001).

### **Contending Views on the Prison Industrial Complex**

Significant debate to be anticipated raises the question whether the criminal justice system and related ex-felon disenfranchisement facilitates and contributes to African American social inequality. In their book, *Locked Out* (2008), Jeff Manza and Christopher Uggen affirm that the analysis and interpretation of disenfranchisement laws in the United States are shaped by the examination of democracy, race, and citizenship. Manza and Uggen classify the stance of each position of the debate over the substance and purpose of political, economic, and social

participation based upon the three racial threat theories utilized: (1) group threat, (2) political threat, and (3) and economic threat (Manza & Uggen, 2008).

The right to exercise the franchise is essential to the engagement of active citizenship as an original component of the basis for democratic principles (Levine, 2009; Manza & Uggen, 2008). The center of the contemporary disenfranchisement debate primarily focuses on whether or not convicted criminals and returning citizens should possess legal rights that other American citizens take for granted (Manza & Uggen, 2008). According to Jeffrey Reiman's article, "Liberal and Republican Arguments Against the Disenfranchisement of Felons" (2005), those arguing more from the sociological perspective of disenfranchisement assert that the Social Contract Theory implies that it is principally unethical and immoral to deny the franchise to felons who have completed their punitive obligations to society (Reiman, 2005; Manza & Uggen, 2002). Proponents for the extermination of felon disenfranchisement argue that disenfranchisement undermines support for the criminal justice system (Manza & Uggen, 2008).

Justification arguments of felon disenfranchisement laws based on states' rights are typically the most utilized defense of felon disenfranchisement supporters (Manza & Uggen, 2008; Alexander, 2010). A foundational argument made by supporters for felon disenfranchisement is that law violators cannot and should not be allowed to participate in making law for those who adhere to the rule of law (Reiman, 2005, p. 12). Those arguing from this viewpoint oftentimes point to the fact that children, the mentally challenged, and noncitizens are also excluded from voting (Reiman, 2005).

Racist criminal justice system policies and legislation are incongruent to sustaining a more perfect democratic process (Rottinghaus, C. Manatt, & K. Manatt, 2003). In her article, "White Man's Justice, Black Man's Grief: Voting Disenfranchisement and the Failure of the

Social Contract,” (2008), Geneva Brown express the notion that the trouble with felon disenfranchisement laws is that such laws have played a role in the nation’s racially polarized history and in recent election outcomes. Disenfranchising criminal offenders is also linked to mass incarceration, and the practice represents a larger set of collateral penalties that follow a felony conviction (Lotke & Wagner, 2004). However, it is quite complicated to get to the source of this dilemma. The conservative estimate of 700,000 to 1,000,000 prison industrial complex personnel consisting of police officers, judges, district attorney prosecutors, courts, juries, penal administrators, legislators, service contract providers, members of the executive branches of both federal and state governments, etc. are all interconnected and involved in the criminal justice system and each plays an essential and self-perpetuating role in the existence and growth of the prison industrial complex (Alexander, 2010).

Supporters of prison privatization billed it as a way to ease overcrowding and lower costs to taxpayers (Joel, 1988). In her article, “Demystifying Community Corrections: Educating the Public” (2000), Margot C. Lindsay express the view that most often, community correctional approaches such as intergovernmental collaborations and community partnership offer the best alternative and public good to mass incarceration policies and legislation (Lindsay, 2000, p. 14; Lindsay & Shilton, 2001). Other advocates for alternative sentencing approaches believe that the nation’s criminal justice system is better served through more community-oriented alternatives to incarceration approaches for low level nonviolent drug offenders (Unze, 2007).

Opponents to mass incarceration and felon disenfranchisement view drug addiction as an illness, not a crime (Alexander, 2010). They argue that physical relocation due to imprisonment away from a convicted felon’s respective community is counterproductive to rehabilitation (Rottinghaus, 2003). Opponents to disenfranchisement argue the following: (1) felon

disenfranchisement disregards John Locke's Social Contract 'principle of proportionality', (2) it does not promote rehabilitation, and (3) nor does it act as a deterrent to committing future crime (Hull, 2003). According to the American Bar Association (ABA), contrary to returning citizens' rehabilitation objectives, some researchers suggest that the United States sends the message that it is a nation that does not grant second chances (ABA, 2007).

Supporters of current criminal justice approaches to illegal drugs view it as a crime and argue that breaking the social contract forfeits offenders' rights to engage in democratic political participation (Rottinghaus, 2003). The supporters of criminal legislation for low level crimes committed due to drug addiction predicate their belief on the notion that large numbers of African American men have voluntarily chosen a life of crime and thus deserve to be incarcerated. The argument is that due to their culture, poor work ethic, and family dynamics, African American men have to accept the idea that high rates of incarceration are a consequence of their own poor decision making (Alexander, 2010). What supporters fail to effectively justify and explain is the alarming increase in the incarceration rates of African American males when African American males' drug usage is nearly identical to that of Whites (Western, Kleykamp, & Rosenfeld, 2004).

### **Criminal Justice System Perpetuates the Prison Industrial Complex**

The United States has the highest incarceration rates in the world (Sentencing Project, 2014). The prison industrial complex is a collaborative partnership between private sector business and public sector government interests (Davis, 1997). At the same time that the nation has engaged in its current criminal justice system social control policies, funding to alleviate the circumstances and conditions that contribute to criminal behavior and activity has declined (Mauer, 1990). The prison industrial complex twofold objectives are profit and social control

(Goldberg & Evans, 2001). The failure of the state policy to promote optimal human capital development in the form of social policy contrasts economic policy. National and state governments invest approximately \$80 billion or more annually to the criminal justice system to address what critics consider as being a social problem.

National policy and states such as Tennessee have taken a law enforcement approach to a social problem (Alexander, 2010). Racial Threat Theory's political, economic, and racial composition models incorporating race better explain for rising levels of criminal punishment in the United States (Manza & Uggen, 2008). Partly as a result, as a conditioned response to declining economic and job opportunities, a generation of young Black men has turned to crime (Western et al., 2004). Evidence suggests that disenfranchisement denies ex-felons access to mainstream society by facilitating cycles of induced poverty and dysfunction (Lawrence, 2011). A systematic range of civil punishments and informal stigmas imposed with a criminal conviction successfully deny citizens the rights of citizenship. This denial makes performing the duties of citizenship difficult (Manza & Uggen, 2008). In contemporary United States today, it is completely legal to discriminate against convicted felons in just about all the ways that it was once previously legal to discriminate against African Americans (Alexander, 2010). Historical forms of discrimination include employment discrimination, housing discrimination, denial of the right to vote, denial of educational opportunity, denial of public benefits and social programs, and elimination from jury duty (Alexander, 2010).

According to the Substance Abuse and Mental Health Services Administration (Fellner, 2009), White Americans engage in more illegal drug use than African Americans. The passage of the 1986 Anti-Drug Abuse Act created a 100:1 sentencing disparity ratio for crack cocaine compared to sentencing for possession of powder cocaine (Vagins & McCurd, 2006). According

to a 2013 report, African Americans are almost four times more likely to be arrested for marijuana possession than a White person (ACLU, 2013). At its height, the GOP led War on Drugs incarcerated African American males at a rate approximately four times that of South Africa during apartheid (Boyd, 2001). Brad Heath's study (2014) of 1,581 locations around the nation shows that Blacks are arrested at a rate three or more times greater than Whites. In at least 70 locations nationwide Blacks are arrested more than ten times that of other races (Heath, 2014). This situation results in a rapid increase in the incarceration of African Americans and Hispanics (Dunnaville, 2000). These facts argue against notions and assertions that criminal justice system is colorblind and characterized by race-neutral sentencing legislation. Crack sentencing guidelines, while race-neutral in appearance, were knowingly applied in a race specific manner targeting African Americans (Boyd, 2001). The same is true for the many urban sentencing enhancement zones establishing tougher drug conviction penalties for possession of illegal drugs within a certain distance of schools (Prison Policy Initiative, 2013). In major metropolitan communities impacted by the drug war, as many as 80 percent of young African American men now possess criminal records and are thus subject to legally recognized discrimination for the rest of their lives (Alexander, 2010, p. 7). Locked out from fully participating in mainstream society politics and economy, these young men live a caste-like underclass and super-underclass existence (Alexander, 2010, p. 12).

The criminal justice system administers separate, unequal standards of justice for African Americans through unequal treatment at every stage of the criminal justice process (Dunnaville, 2000). When African Americans make up a large proportion of a state's population, that state is significantly more likely to adopt or extend felon disenfranchisement laws (Manza & Uggen, 2008, p. 61). African Americans are disproportionately prosecuted by targeting and unfair

treatment by police and other frontline law enforcement officials, by racially skewed charging and plea bargaining decisions of prosecutors, by discriminatory sentencing practices, and by failure of judges, elected officials and other criminal justice policy makers to remedy the inequities (Dunnville, 2000). Absent in the public debate concerning the plight of contemporary African Americans is that a huge percentage of them are not sufficiently liberated to properly pursue social mobility. They lack economic opportunity, attend deprived schools, and are overwhelmed by poverty and dysfunction (Manza & Uggen, 2008). They are barred by disenfranchisement laws from assimilating into the mainstream. All major institutions with which they come into contact are designed to place barriers to prevent their social mobility (Alexander, 2010:p. 13).

In his article, “How Speculating on Prisons Leads to Mass Incarceration” (2012), Christopher Petrella argues that mandatory minimum sentencing structures, “three-strike” laws, and “truth-in-sentencing” laws that drive up African American incarceration rates are derived from motivations rooted in capitalists’ pursuit of profits (Petrella, 2012; Shammass, 2014). The loss of liberty for vulnerable urban lower-class African Americans in Tennessee translates into earned revenue streams for stakeholders that profit and benefit from the prison industrial complex to the benefit of corporate interests and many demographical segments of the White populace (Lichtenstein, 2015). This factor provides relatively no incentive on the part of privately managed correctional management companies to provide adequate and sufficient offender rehabilitation and reentry programs designed to acclimate and assimilate returning citizens back into mainstream society (Alexander, 2010). Moreover, studies have uncovered various capitalist schemes on the part of judges, prosecutors, and other prison industrial complex related entities designed to assure a sufficient number of incarcerated offenders necessary to

ensure breakeven and/or profit return margins on bottom-line financial statements of privately run companies (Shapiro, 2011). Conversely, many state and local police agencies now implement property forfeiture legislation designed to raise departmental revenue and/or reduce operating costs associated with conducting criminal justice system activities (Moore & Sumner, 2013; Boyd, 2001). Law enforcement agencies now approach law enforcement objectives not with the goal of maximizing public safety, but more frequently with the goal of raising funds to support and continue their own department's operations. 'Policing for profit' has become a modus operandi of Tennessee's drug interdiction units. In such departments, law enforcement agencies possess direct incentives and motivation to conduct traffic stops, raid properties, and etc in efforts to seize as much property from citizens as possible (Balko, 2014).

As they perform the role expected of productive, responsible and active citizens, law abiding citizens' likelihood of desisting from crime should correspondingly increase (Manza & Uggen, 2008). Stigma associated with serving prison time represents the most challenging barrier to making a living (Alexander, 2010; Pager, 2007). In their article "Wisconsin's Mass Incarceration of African American Males: Workforce Challenges of 2013", overcoming employers reluctance or refusal to hire them, obtaining stable employment, restrictions on the types of jobs they can hold, and limited social networks combine to make returning citizens and ex-offender populations the most difficult to place and sustain in full-time employment (Pawasarat & Quinn, 2013; Alexander, 2010; Uggen & Manza, 2008).

### **Conservatives and White Supremacy Resurgence Produced Prison Industrial Complex and Contributes to Black Social Inequality**

There exists continued need for more research on mass incarceration in the United States to provide us a better understanding of the real causes of inequality, civil death and dysfunction



which destabilize the African American community in Tennessee and in the United States. Limited research has been conducted exploring the relationship among conservative public officials, private correctional management companies, profit motives, White supremacists' interests, and African American social outcomes (Alexander, 2010). Researchers have attempted to gain insight into foundational factors leading to Black social inequality in the United States in order to assist policymaking at both governmental and institutional levels (Mauer, 2006). Coinciding with the Racial Group Threat Theory and Racial Contract Theory's predicament that force and violence are necessary in order to maintain the dominant group's interests, research is growing suggesting that the law enforcement and the criminal justice system in the United States are moving from the role of 'protecting and serving' to one which consists primarily of a more militarized-oriented 'command and control' role (Adams, 2014). The criminal justice system's War on Crime and War on Drugs masquerade as two of the primary political strategies and initiatives playbooks for conservatives' exploitation of race, class, region and religion representing the declaration of an unofficially declared but relatively effective war on voting and political participation impacting the African American community (Boyd, 2001).

The Republican Party's Southern Strategy and its resurgence involve implementation of factors such as the manipulation of race, class, regional and religious differences, in combination with special interests and conservative political ideology, contribute to the problem (Berman, 2012; Powell, n.d). Politicians who skillfully marginalize certain minority groups accumulate wealth from state resources and minimize the benefits of a racial group that can activate and instigate the insecurity of the dominant group (Manza & Uggen, 2008). Dedication to ending discrimination and bettering the living standards of the lower class has long since ended, resulting in virtually little change in African American poverty rates from 1969 to 1981 (NUL,

2009). Robert C. Smith's *Conservatism and Racism: And Why In America They Are The Same* (2010) estimates that 35 percent of the Republican Party's power base is attributable to segments of conservative Whites responding to their interests being threatened by real or perceived African American political and economic advancements, as well as their ability to participate in and determine mainstream contemporary politics.

President Reagan incorrectly framed and blamed failed liberal policies concerning the War on Poverty for the failure to increase African American living standards in those years (NUL, 2009). Moreover, evidence shows that the conservative Reagan Administration was incorrect in its assessment. The Kennedy-Johnson Administration and President Johnson's War on Poverty initiatives were significantly effective in reducing poverty levels and had created a period when both upper-income and lower-income standards of living improved (NUL, 2009). Liberals lost the ideological battle and the War on Poverty ended, replaced by sustained conservative initiatives that engaged in a war on poor African American communities (NUL, 2009). Many programs that were perceived to largely or moderately benefit African Americans were eliminated due to White backlash (Smith, 2010; Walters, 2003; Manza & Uggen, 2008; Alexander, 2010). In his 1972 reelection, President Nixon, announced his administration would return to policy promoting work ethic and self-reliance (Jones, 2014, p. 90). His administration cut progressive and liberal social welfare programs (Jones, 2014, p. 90), while simultaneously promoting conservative law and order policy initiatives (Walters, 2003, p. 172), as well as, class and racial preserving 'trickle down economics' and corporate welfare and subsidy policies.

The Reagan Administration expanded the federal government's role in law enforcements' abilities to control crime through federal crime policy legislation devoted to the War on Drugs (Mauer, 2006). Utilizing political and media manipulation, the drug war became a top initiative

of the Reagan Administration. Reflective of the success of the Reagan Administration's political initiatives, the size of the increase in drug prosecutions during the 1980s was significantly larger than any real rise in drug offenses (Mauer, 2006). Republican controlled state governments' incarceration rates rose the fastest (Manza & Uggen, 2008). By 1984, the Black unemployment rate had nearly quadrupled, while the White rate had increased only marginally. This was not the result of a significant change in Black values or culture, but the consequence of the nation's deindustrialization, globalization, and technological advancement (Western et al., 2004). Urban factories closed as the nation transitioned to a service-oriented economy. African Americans were suddenly trapped in jobless communities with little or no economic opportunities (Western et al., 2004). Mass incarceration and felony disenfranchisement became a deliberate social policy instrument designed to manipulate political and economic outcomes (Manza & Uggen, 2010). Such new stealthy and coordinated policy schemes had been developed and put into practice quickly (Alexander, 2010). Mass incarceration and the prison industrial complex in the United States emerged in scope as strikingly effective and well planned systems of racialized social control that function in a manner parallel to Jim Crow (Alexander, 2010; Blackmon, 2008). A pattern emerged concerning African American inequality and African American rate of incarceration. Between the years 1980 and 2006, the African American incarceration rate increased four times as much as the increase in the White incarceration rate (Stanley and Weaver, 2014). Not surprisingly, the disparity between Black and White household wealth quadrupled from 1984 to 2007 (Ford, 2010). The Social Science Research Council's "The Measure of America 2013-2014" American Human Development Report measuring disparities, found African Americans consistently lagged behind other racial groups in the following human

well-being indexes: (1) long and healthy life, (2) access to knowledge, and (3) a decent standard of living (Lewis & Burd-Sharps, 2013).

Michelle Alexander expresses the belief that the continued economic disintegration of inner city African American communities could and should have stirred national and localized attention, debate, and focus, thereby creating political will among politicians to address urban social disparities. Policymakers lack political will and have missed opportunities to extend economic stimulus packages, human capital development incentives and bail out plans for ensnared underclass and super-underclass citizens hardest hit due to the transition of the American economy from one based on manufacturing to a service-sector dominated economy. Political will and public sentiments could have been manipulated to launch new initiatives and approaches to alleviate social inequality. Educational opportunities, job placement and career training, public transportation, and relocation assistance would aid African Americans in Tennessee transitioning to a new global economy and aid their participation in mainstream society. Instead, resources were mobilized to fight the largely Conservative manufactured War on Drugs (Alexander, 2010). A benign neglect and laissez-faire racism, race-neutral, policy racism approach characterized political strategy to address urban decline in the African American community. Resources were deployed that effectively ensured that the nation and the two races would continue to be ‘separate and unequal.’ Community and economic development has give way to “prisonomics” and “carceral Keynesianism” (Street, 2005).

### **African Americans’ Responses to the Prison Industrial Complex**

Many post-Civil Rights integrated African Americans, as well as other racial groups harbor unrealized notions about racial progress (Alexander, 2010; Ford, 2010). Until recently, the African American community’s distrust in the nation’s criminal justice system had largely

been confined to the sentiments of the African American community. Lack of outrage and protests in the African American community against the criminal justice system has surprised many observers of the mass incarceration of African American males (Mauer, 2006; Alexander, 2010).

Resistance has been low key. Black leadership has been largely ineffective. Disturbingly, Black officeholders have been unsuccessful in reordering priorities and initiatives directed at promoting equality and more equitable distribution of resources and opportunities. What has become clearer is the need for broader and comprehensive analyses regarding the criminal justice system's role in facilitating African American social inequality (Alexander, 2010). There has been a significant and growing awareness of the criminal justice system in the wake of the August 9, 2014 shooting of Michael Brown in Ferguson, Missouri and Eric Garner in New York City (Ghandnoosh, 2015). However, emphasis of the protests movements initiated since the death of Michael Brown have primarily focused on the alarming number of African American male fatalities, directly from or while in the custody of law enforcement, with lesser emphasis given to larger structural and institutionalized racism issues that exist within the criminal justice system. According to researchers, there needs to be more attention focused on racist policies and sentiments of the criminal justice system that give rise to the expanding prison industrial complex as it relates to African Americans, particularly the relationship and interaction of law enforcement institutions with African American males (Alexander, 2010).

Black Civil Rights leaders in the post-Civil Rights era, organizations and institutions such as the National Association for the Advancement of Colored People (NAACP), National Urban League (NUL) and other Black community development institutions have been largely ineffective in their efforts to develop congenial theories, strategies and responses to post-Civil

Rights opportunities and challenges. The Lawyer's Committee on Civil Rights Under Law and other similar organizations largely focus on disenfranchisement laws from a voter suppression legislation perspective, such as repealing voter ID laws on a per state basis. Largely as a result of faith-based initiatives, by offering reentry programs African American institutions of faith have taken on a larger role in rehabilitating and reintegrating returning citizens.

In 2014, under the leadership of Attorney General Eric Holder, the Department of Justice called for the re-enfranchisement of disenfranchised felons (Flatow, 2014). In relation, the Obama administration has began releasing low-level non-violent offenders from federal prisons whom were recipients of unfair sentencing structures. These guidelines promote fairer sentencing structures and represent a shift away from mandatory minimum sentences (Flatow, 2014). Through its Smart on Crime initiative, the U.S. Department of Justice (DOJ) has instituted efforts on reforming sentencing bills, improving reentry policies, and minimizing collateral consequences (DOJ, 2014). The Department of Justice has partnered with the Congressional Black Congress (CBC) advocating for sentencing reform efforts. The CBC also advocates the interests of Native Americans and victims of immigration-related disenfranchisement. African American organizations such as the CBC utilize a case approach to the issue of felon disenfranchisement and voter restriction legislation. Their efforts have yet proved to be monumental in dismantling felon disenfranchisement laws. Generally, the matter has been consistently addressed at the state level of government. Each state has responded to the issue of felon disenfranchisement in a manner peculiarly considerate of its own interests (Key, 2006).

More efforts are needed to combat felon disenfranchisement from a national policy standpoint. Post-Civil Rights Second Reconstruction African American convicted felons now have to try to reintegrate into integrated and gentrified communities. Due to the nature that

disenfranchisement laws are instituted at the discretion of the state, considerable resources would have to be expended to eradicate felon disenfranchisement in every state. It will take a landmark ruling from the Supreme Court and/or a congressional amendment to the Constitution in order for the complete eradication of felony disenfranchisement, voter suppression, and restriction laws to occur. In 2013, the Supreme Court's rejected Section 4 of the Voter Rights Act of 1965. This provides an indication that voting rights issues in this nation remain fluid and those institutions such as the courts 'legislating from the bench' and state legislative assembly rulings and legislation based upon both real and perceived progress of African Americans and minorities. The Racial Group Threat Theory informs us that Whites will grow more conservative in their sentiments in accordance to real and perceived African American voting rights advancements, and political and economic progress. As a result of all the aforementioned factors, if historical and contemporary patterns persist, one could expect in the foreseeable future that the plight of African Americans in Tennessee will be one characterized by newer and even stealthier 'race-neutral' criminal justice system legal restrictions that results in continued disparate outcomes and social inequality.

### **Conclusion**

The works discussed within this literature review offer a general as well as in-depth understanding of the relationship between criminal justice system contributes to Black inequality and the prison industrial complex. The fundamental features of criminal justice system contributes to Black inequality and social policy, their use to regulate African American political and economic participation, and the challenges facing the African American community as a result of disproportionate state and national African American male incarceration rates of those

who attempt to engage in the fight for full rights of citizenship are also represented. In addition, the role of the criminal justice system in strengthening or marginalizing political and economic participation is shown to be significant to understanding racial disparities and the stance of the researcher.

The study outline attitudes, opinions and perceptions held, and most of them use empirical evidence to support and/or rebut them. In efforts to effectively engage in political and economic participation, one must gain an understanding of the outcomes of felony disenfranchisement in the criminal justice system contributes to Black inequality and prison industrial complex and how these outcomes influence elections, social policy, and private sector and corporate interests. Without this understanding, one cannot possibly identify the process, or lack thereof, of expanding political and economic democratic principles to all the nation's citizens. Similar to the varying conservative, moderate and liberal ideologies regarding the criminal justice system's role in social policy, advocates' views on the influence of criminal justice system contributes to Black inequality and prison industrial complex seem to diverge. This creates room for doubt and warrants further examination concerning the validity of their analyses and expands opportunities for future research regarding the issue of felony disenfranchised contributes to inequality.

This study therefore seeks to add to these works by examining the political, economic, social, and cultural impacts of Tennessee's African Americans and the criminal justice system's contribution to social inequality in efforts to minimize inequality in African American communities. This work will be beneficial to scholars and activists in learning the concepts related to the effective use of the criminal justice system in facilitating political and economic inequality. By understanding the role that the criminal justice system plays in influencing



political mobilization and political and economic participation, African Americans will be assured greater political legitimacy.

Moreover, this study will be helpful to public officials, non-profit organizations, and voters by informing them about political mobilization, objectives and strategies. It will also serve as a future reference for researchers on the subject of social inequality and political and economic participation. More importantly, this study will inform those African Americans who are conscious of institutionalized forms of discrimination and its relationship to African American social inequality.

## **CHAPTER IV: CONCEPTUAL FRAMEWORK AND RESEARCH METHODOLOGY**

This chapter discusses the conceptual framework and research methodology used to guide the study. The research is grounded on the theories of racial threat (racial group threat) and racial contract and the concepts of political and economic well-being. Each of these paradigms is briefly defined in this chapter. The data collection techniques and sources, as well as the analytical techniques employed are also highlighted.

### **Conceptual Framework**

As stated above, the conceptual framework used to direct this study consists of Racial Threat Theory (Group Threat Theory), Racial Contract Theory, and the concepts of political participation and economic well-being. According to Hubert Blalock's Power Threat hypothesis (1967) and Racial Threat Theory (Manza & Uggen, 2008) posits that dominant groups respond to increased threats and perceived potential threats from growing minority populations. Racial Threat Theory further acknowledges the fact that the dominant group receives specific benefits and display mutually shared interests for material resources that are disseminated from power structures. Some scholars argue that racial threat characterizes the criminal justice system's biased treatment towards African Americans and serves as a method of social control (Dollar, 2014; Manza & Uggen, 2008; Blalock, 1967). Racial Threat provides insights and clarity into the role of institutionalized racism, existing cultural norms, and how African American inequality is reciprocal and dependent based on African American population growth or contraction (Manza & Uggen, 2008). With the influence and power the criminal justice system has in producing political and economic inequality among African Americans in Tennessee, it is necessary to

examine the role and impact of the criminal justice system on African American inequality and political participation and economic well-being (Alexander, 2010; Davis, 1997).

Disenfranchisement stresses the process of denying full citizenship rights to promote legitimate self-determination (Alexander, 2010). This conceptual approach emphasizes the use of the criminal justice system for several designs, such as social control, profiting from African American inequality, and the promotion of White dominance. Conservative's War on Crime initiatives acts as a political instrument through which the criminal justice system uses its institutional authority to project White power. These mechanisms include sentencing legislation, incarceration, police brutality and harassment, and the failure to indict law enforcement officers who use illegal and excessive force.

In addition, the concept of ex-felon disenfranchisement helps to highlight the role of criminal justice system and provides an innovative way to examine criminal justice policy, and a way to determine the goal of criminal justice system reform. This approach is also useful for assessing how African Americans in Tennessee respond to state and national criminal justice system legislation. As a result, the employment of this theoretical construct will assist me in explaining various factors impacting African Americans' responses in the form of political and economic mobilization and participation. The connections among criminal justice system, racial threat, and responses from African Americans are therefore tenable for operationalizing the factors that are essential to examine the role and impact of mass incarceration and felon disenfranchisement of African Americans in Tennessee in terms of state and national criminal justice system policies and legislation.

The concept further provides for clarification and understanding regarding the interrelationship present among institutionalized racism, existing cultural norms, and African

American inequality. Political and economic well-being brings balance by using the criminal justice system as an instrument of re-enfranchisement reform and its relationship to African American social inequality. The empowerment of disenfranchised and returning citizens provides state policy makers with the obligation to divert short-term criminal justice system policy to long-term public good in the best interests of Tennessee, one which promotes optimal human capital development and public good. Mass incarceration and felon disenfranchisement and their impacts on political and economic well-being are imperative in this study because the criminal justice system has played a key role in polarizing racial groups in Tennessee, thereby warranting their assessment in this study. African American communities in Tennessee under investigation are affected by criminal justice system policies and felon disenfranchisement-related political and economic reforms.

Racial Contract Theory is equally important to this study because elements present in this theory are critical for understanding how felon disenfranchisement and Black inequality arise through the use of the criminal justice system. Racial Contract Theory by Charles Mills (1997) posits that institutionalization based on racial differentiation exists among the races for the meting out of and distribution of material resources. This study therefore also assesses the historical and cultural perspectives and values preferences that influence how White Americans use the criminal justice system as a means of social control. Considering how many African Americans, in particularly low-income African American males, experience racial injustice and the denial to engage in political and economic self-determination, the concepts of racial polarization and stratification would provide clarity on how, as a result of the theory and concepts guiding this study, the criminal justice system affects African American political and economic well-being.

As a result of the preceding theories and concepts guiding this study, the conceptual framework utilized illustrates the environment within which institutionalized racism, existing cultural norms, and African American inequality operate. Figure 1 illustrates the conceptual framework. The proposition here is that racial group threat, racial contract, political participation, and economic well-being influence Black disenfranchisement and Black inequality, which in turn influence inequality in the form of mass incarceration, felony disenfranchisement and economic incentives in terms of race and profit. It shows the environment within which Black disenfranchisement and subsequently related inequality occurs. All aspects of the process take place within this environment, which consists of the disparities and inequality from the criminal justice system and prison industrial complex related disenfranchisement, inputs, legislation, media, public opinion, and outputs.

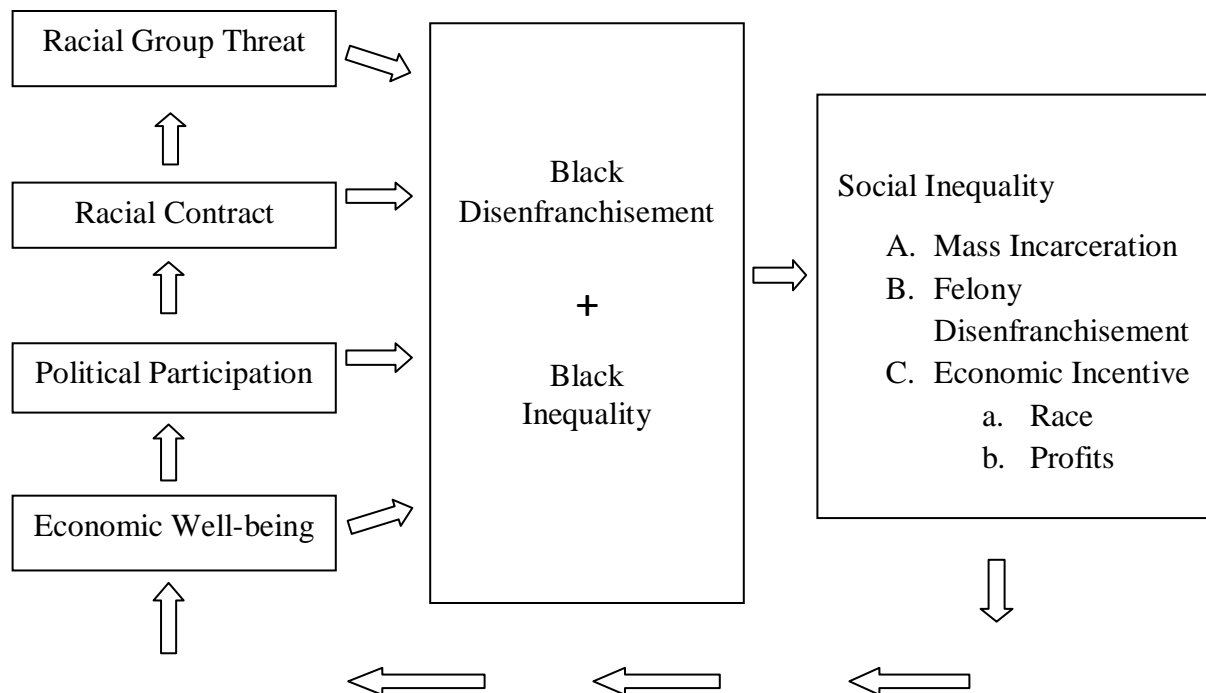


Figure 5: Conceptual Framework  
Source: Developed by the Author

A system is a set of elements that are interacting collectively to form a complete entity. The system becomes a self-perpetuating entity with salient and implicit relationships—see Figure 5. The actors in the process include African Americans, in particularly African American males, whose presence (from a paradigm of material and resource scarcity perspectives) represents both threats (politically and economically), and cheap labor pool to White conservatives. This demographic segment is vulnerable to intentionally biased and inequitable policies and legislation. Legislators also are actors, as they should muster the political will to remedy the political and economic injustice created by criminal justice system policy and legislation. For the purpose of this study, the group examined comprise of African Americans in general, African American males in particular, and experts and policymakers dealing with issues pertaining to the criminal justice system. Their submission of information is referred to as inputs within the model. The purpose of the input is to make scholars, policymakers, and activists become aware of the outcomes of the group to use criminal justice system contributes to Black inequality for intentional and oppressive outcomes, either as result of profit motivation and/or race. In addition, social inequality of African American males due to disproportionate felon disenfranchisement rates helps to facilitate awareness of the potential of the criminal justice system contribution to political and economic disparity.

In reference to the conceptual framework, these outcomes fall under the method by which African American convicted felons and returning citizens engage in mainstream participation in response to national and state legislation. This is a direct attempt to divert their political and economic power participation to self-determine their respectful communities in a manner that provides them with a voice necessary for political efficacy. The inputs are considered along with any information present within existing research: e.g., Manza and Uggen (2008); Alexander

(2010); Mauer (2006); Western, Kleykamp and Rosenfeld (2004). In addition, views already held by African Americans about the criminal justice system in Tennessee would be solicited.

The analysis, which takes place within contemporary and contentious politics, leads to inputs from experts and African American males, which are referred to as decisions and actions. These decisions and actions are a direct result of the information that has already been gathered from relevant information and data published by government agencies, civic organizations, and researchers. The influence of legislators' political will is supposed to aid an agenda to promote equitable policy in response to criminal justice system legislation.

The outputs consist of criminal justice system based felon disenfranchisement and inequality for Blacks in Tennessee. These outputs are returned to researchers and activists in the form of feedback. Researchers and activists can either look at this feedback positively or negatively. The types of responses received from experts, convicted felons and returning citizens will therefore depend upon whether or not the feedback supports the disparities traded by the criminal justice system created equality in response to Tennessean's African American community. This feedback serves as a reforming part of the process as it is used for the disenfranchisement of African American males. The findings from this study recommend conclusions for current and future policymakers, practitioners and researchers.

### **Research Methodology**

This study utilizes a triangulative transformative approach. Both quantitative and qualitative methodological approaches will therefore be incorporated in order to examine the significance of individual and group disenfranchisement processes, the political and economic well-being of African American Tennesseans in response to the criminal justice system

contributes to social inequality, and the prison industrial complex's profit motive incentives. The triangulative based transformative mixed-methods researcher, according to John W. Creswell (2009), "uses a theoretical lens as an overarching perspective within a design that contains both quantitative and qualitative data. This lens provides a framework for topics of interest, methods for collecting data, and outcomes or changes anticipated in the study. Within this lens could be a data collection method that involves a sequential method or a concurrent method" (Creswell, 2009, p. 15).

This triangulative analysis approach means that a convergence across qualitative and quantitative methods will be utilized. The qualitative and quantitative methods can be merged side by side to validate each other (Creswell, 2009). Professor Donna M. Mertens asserts that such a "transformative paradigm provides an overarching framework for addressing issues of social justice and consequent methodological decisions" (Mertens, 2007, p. 212). The transformative paradigm provides a framework for investigating the assumptions that inevitably deal with matters of power structures, social justice, cultural dynamics and peculiarities throughout the research process (Mertens, 2007). The transformative mixed-methods then allow the researcher to use various quantitative and qualitative methods to determine the research focused on power issues (Mertens, 2007). This theoretical lens direct the researcher to what issues are important (e.g., marginalization, empowerment) and the demographics that need to be examined (e.g., disabled, transient population, minority groups) (Creswell, 2009).

In addition, this lens signifies how the researcher positions himself or herself in the qualitative study (e.g., direct or indirect, unbiased or biased from personal, cultural or historical context) and how the final written accounts need to be documented (Creswell, 2009). Creswell argues that the qualitative "lens becomes an advocacy perspective that shapes the types of



questions asked, informs how data are collected and analyzed, and provides a call for action or change” (Creswell, 2009, p. 62). The researcher is likely to have the knowledge and interest to design and conduct a qualitative study, which allows the researcher to utilize and work with a flexible and open research design process (Creswell, 2009). Creswell (2009) also asserts that the quantitative approach is a deductive theoretical model applied to test and verify a theory or hypothesis, rather than develop it. A primary disadvantage of the quantitative design is that “it decontextualizes human behavior in a way that removes the event from its real world setting and ignores the effects of variables that have not been included in the model” (Weinreich, 2006).

Thus, Tennessee is investigated in this case study because it allows what Robert K. Yin says “A case study is an empirical inquiry that investigates a contemporary phenomenon (the “case”) in depth and within its real-world context, especially when the boundaries between phenomenon and context may not be clearly evident” (Yin, 2014, p. 16). In the case of Tennessee, empirical data were collected for of Eligible Black and White Voters that Voted, Number of African Americans and Whites Incarcerated, Number of Votes Received by both Democratic and Republican Presidential Candidates, and State Spending on Private Prisons.

The statistical model that undergirds this study is diagrammatically presented in Figure 6. The operationalizations of variables are discussed in the subsections that follow.

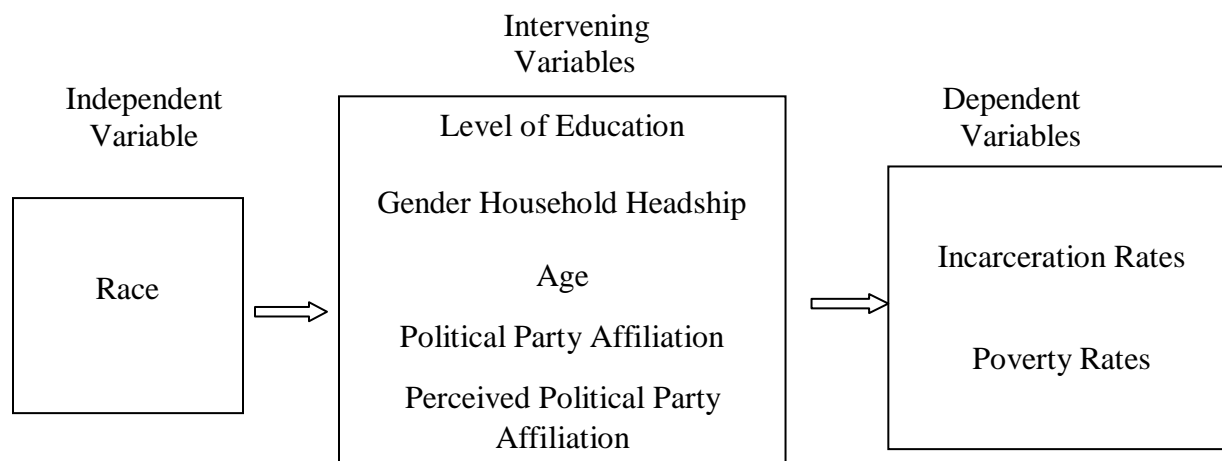


Figure 6: Statistical Model

### **Operationalizations of Variables**

The operationalization of the independent, intervening, and dependent variables are discussed in this section. The measurements of these variables are shown individually for the purpose of clarity.

#### **Independent Variable**

Race represents the independent variable for this study. Race is defined as a group (or groups) of people who have similarities and phenotypical traits judged by society to be socially significant, meaning that people treat other people without similar traits different than those who have similar traits. The operationalizations of race in this study focuses on Blacks (African Americans) and Whites.

#### **Intervening Variables**

Level of education, gender household headship, age, political party affiliation, and perceived political party affiliation represents the intervening variables for this study. Level of education is

defined as the wealth of knowledge or skills acquired by an individual through a learning process. For this study, the operationalization of education level primarily focuses on individuals with less than a high school education. Gender household headship refers to the sex of the household head.

Operationalization of this variable compares female-headed households versus traditional two-parent households. Age is defined as the length of time during which a human being or thing has existed. The 18-29 age group is the primary demographic segment most impacted; therefore, it represents the target population for this study. Political party affiliation is best described as a membership or association with a particular political party. The operationalization of this variable takes into account the numbers of Blacks and Whites in the two major political parties: (1) Republican Party, and (2) Democratic Party. Perceived political party affiliation represents another variable. The notion that African Americans are unconditionally wedded to the Democratic Party represents a false perception regarding African Americans' political literacy, and is counter to the reality that African Americans are not receptive to ideals of the Republican Party. Historically, since the First Reconstruction, African Americans have vacillated between the two political parties, gravitating to the party that is representative of their best interests at a given point in time in our nation's journey of the pursuit of a more perfect democracy.

### **Dependent Variables**

The dependent variables in the statistical model of this study are disenfranchisement rates and poverty rates. Disenfranchisement rates refer to the act of taking away voting rights, of depriving the right to send representatives to an elected body, to deprive people of some franchise, privilege, and/or right. The poverty rates refer to the number of people (or families) that are

below the poverty threshold, which the U.S. Census Bureau uses a set of money income thresholds that vary by family size and composition to determine who is in poverty. If a family's total income is less than the family's threshold which ranges from \$11,670 for household of one person to \$40,090 for a household of eight persons for the year 2014. The official poverty thresholds do not vary geographically, but they are updated for inflation using the Consumer Price Index (CPI-U). The official poverty definition uses money income before taxes and does not include capital gains or non-cash benefits (such as public housing, Medicaid, and food stamps).

### **Data Collection and Sampling Techniques**

The data collected for this research came from primary and secondary sources. The primary data sources comprised of Tennessee state government reports, memoranda by Tennessee lawmakers, and policy briefs by civil liberty organizations. Secondary data were collected using the document analysis technique. The technique allows the researcher to draw upon multiple (at least two) sources of evidence; that is, to seek convergence and corroboration through the use of different data sources and methods (Bowen, 2009, p. 28). The sources consisted of books, scholarly articles, newspapers, periodicals, Internet sources, magazines, and other publications to juxtapose what other writers have written about the topic.

### **Data Analytical Techniques**

The data collected for this research were analyzed using two techniques: (1) quantitative, through path analysis, and the t-test; and (2) qualitative, using the descriptive case study approach to reflect the major research questions of this study. The results of the t-test enables researchers to ascertain whether there are significant differences among the groups being

examined, which the correlation technique shows whether or not there are significant co-relationships among the variables. The case study method is utilized. The data can not be extrapolated and is only valid for the state of Tennessee.

According to a Harvard University's article, "Research Methods: Some Notes to Orient You" (n.d.)<sup>7</sup>, policy-oriented research requires explanatory levels of research to support it in a more conclusive manner. Policy-oriented research requires a theoretical foundation. The researcher has to avoid the mistake of defining a policy when looking for evidence to support it.

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<sup>7</sup> Harvard University, *Research Methods: Some Notes to Orient You*  
[http://isites.harvard.edu/fs/docs/icb.topic851950.files/Research%20Methods\\_Some%20Notes.pdf](http://isites.harvard.edu/fs/docs/icb.topic851950.files/Research%20Methods_Some%20Notes.pdf)

## **CHAPTER V: AFRICAN AMERICAN DISENFRANCHISEMENT IN TENNESSEE**

In this chapter, the results dealing with the first major research question of the study are analyzed. To restate the question: Are race, mass incarceration and felony disenfranchisement used to collectively influence election outcomes in Tennessee? Due to the fact that this study is triangulative, the rest of the chapter is divided into three interrelated sections. The first section discusses the qualitative results, the second section presents the quantitative results, and the third section synthesizes the results from both sections and determines the validity of the hypothesis of the major research question investigated in this chapter.

As noted in Chapter 1, social inequality for this study encompasses race, mass incarceration, and felony disenfranchisement. Race is operationalized as the percentage of Black voters; mass incarceration is operationalized as the number of Blacks and Whites that are serving prison sentences.

### **Qualitative Results**

In 1973, the Arlington, Virginia based organization American Legislative Exchange Council (ALEC) was co-founded by conservative activist Paul Weyrich, who also co-founded the staunchly conservative Washington, D.C. based think-tank, The Heritage Foundation. Funded by corporate special interests, ALEC is part of a national conservative movement involved in all 50 states that secretly proposes and introduces legislation at the state level of government (Moyers et al., 2012). In a 1980 convention speech in Dallas, Texas, Mr. Weyrich told a group of approximately 15,000 conservatives the following:

Now many of our Christians have what I call the “goo goo” syndrome. Good Government. They want everybody to vote. I don’t want everybody to vote. Elections are not won by a majority of people. They never have been from the beginning of our country, and they are not now. As a matter of fact, our

[Conservatives and White nationalists] leverage in the elections quite candidly goes up as the voting populace goes down.

Paul Weyrich, ALEC co-founder, Dallas, 1980  
[Emphasis added]

ALEC is characterized as an organization that gives corporate interests outside influence (Moyers et al., 2012). This began the accelerated phenomenon of prison privatization and coincided with mass incarceration. ALEC has a strong presence in Tennessee (Moyers et al., 2012). When observers take into account that Tennessee continually ranks as one of the most corrupt states in the nation, one of the least transparent, never had an African American as Governor or Mayor of any large city over 100,000 population (except Memphis), serious suspicion is raised, and many questions can be asked with regards to the fact that Tennessee governmental statistical agencies do not collect and analyze critical data concerning race, voting, incarceration, and their impact on social inequality as it relates to racial inequality.



Figure 7: 2012 Presidential Votes by Party

Source: nbcnews.com, available at <http://elections.nbcnews.com>, (Accessed on May 10, 2014)

The 2012 Presidential Votes by Party election outcomes is illustrated in Figure 7. In 2015, 85 percent of the General Assembly or 28 of 33 Tennessee's Senate state legislators are Republican. Within the General Assembly, nearly 74 percent of House of Representatives members are Republican. According to Manza and Uggen, where Republicans dominated state governments, incarceration rates rose fastest (Manza & Uggen, 2008, p. 106). In 2015, three

members, or nine percent of the Tennessee's Senate, are African American. Fourteen members, or 15 percent of the House of Representatives, are African American.

Many of ALEC's board members and upper management are ex-government officials. From 1977 to 1981, Tom Beasley was Chairman of the Tennessee Republican Party (Center for Media and Democracy [CMD], 2015). Henry Hyde, who later became a U.S. congressman, and Lou Barnett, who later became national political director of Ronald Reagan's Political Action Committee were ALEC cofounders or instrumental in its earliest beginnings. Early members included a number of state and local politicians who went on to hold statewide office positions, including Governor Scott Walker of Wisconsin (CMD, 2015). Speaking of the War on Drugs, then Attorney General John Ashcroft stated "I want to renew it" (ACLU, 2001). Attorney General Ashcroft addressed an ALEC delegation in New York City in August of 2001. Seven Tennessee senators and 22 Tennessee legislators attended the 2015 ALEC Annual Meeting "policy summit" in Washington, D.C. Tennessee's delegation attendees represented the most from any state (CMD, 2015). Although Tennessee State lawmakers may not directly participate on the General Assembly committee that crafts criminal justice system and corrections legislation, they would have to politically compromise and cooperate with conservative lawmakers and support conservative criminal justice legislation if they are to expect reciprocal compromise and support of any bill they propose to Tennessee House and Senate floors.

### **Prison-based Gerrymandering**

The Supreme Court's Voting Rights Acts of 1965 ruling of "one person, one vote" principle establish that democracy requires that all citizens and recognizable groups have equal opportunities to seek representation and influence election outcomes (Uggen & Manza, 2008). The official constitutional purpose of the decennial census is political apportionment (Lotke &



Wagner, 2004). Ex-felon disenfranchisement poses a threat to political equality (Uggen & Manza, 2008) and impacts decennial political apportionment. Conservatives and White nationalists fear that criminals could unite as collective voting blocs to vote in a manner that dismantles criminal justice legislation, undermining the status quo (Uggen & Manza, 2008) and the apportionment of decennial census related funds (Lotke & Wagner, 2004). Disenfranchised individuals were also much less likely to express confidence in the criminal justice system. Another tactic employed by conservatives against legislative proposals to enfranchise some or all felons is the charge of partisanship favor—that enfranchisement is a blatant political move by the Democratic Party to gain votes (Uggen and Manza, 2008, p. 14). This is not a totally unexpected result and can be viewed as consistent with some concerns raised by proponents of felon disenfranchisement that enfranchisement would potentially undermine support for the criminal justice system (Uggen and Manza, 2008).

It is particularly important to note that felon disenfranchisement constitutes an unusual issue in the post-Voting Rights Act era in which the question of group impacts becomes a relevant consideration (Uggen & Manza, 2008). Members of groups overrepresented in the disenfranchised population suffer a measurable loss of representation (Uggen & Manza, 2008). Broader political impacts of prisoner enumeration in the Census suggest that disenfranchised ex-felons would likely have made a pivotal difference in a small number of national election outcomes (Uggen & Manza, 2008). Equally important is that ex-felon disenfranchisement impacts the allocation of nearly \$400 billion annually for planning and implementation of federal programs and service. Prisoners are counted for enumeration purposes as residing in the jurisdictions in which they are incarcerated rather than in their home communities' where they are legitimate members (Behrens, Manza & Uggen, 2003, p. 568; Uggen & Manza, 2008).

Although felon disenfranchisement laws are “race-neutral” on the surface, underneath this surface is the overwhelming evidence of criminal punishment being closely associated with race in Tennessee and the nation (Lotke & Wagner, 2004). African American males in Tennessee are almost four more times likely to be incarcerated than their White male counterparts (Prison Policy Initiative, 2010). Whereas structural and economic changes have reduced the social acceptability of explicit racial bias, current “race-neutral” language and policies remain socially and culturally embedded in the discriminatory actions of the past (Behrens et al., 2003, p. 568). The practice of prison-based gerrymandering results in a small but measurable transfer of political power and money from urban centers to rural towns (Lotke & Wagner, 2004). According to Lotke and Wagner, whether prisoners can or do vote is beside the point; their physical bodies still count in the prison district. The preceding fact has modest impact in U.S. Congressional Districts, but its impact within state legislative districts is more significant (Lotke & Wagner, 2004).

The disproportionate share of the disenfranchised felon population is African American. In 2011, according to Drug Policy Alliance, a criminal justice watchdog agency specializing in drug policy, Whites accounted for 62.8% of drug arrests in Tennessee, compared to 36.6% for African Americans. Many convicted felons come from poor or working class urban districts with low incomes, few job prospects, and low levels of formal education. The combination of these factors tends to push the “average” felon toward the Democratic Party in any given electoral contest (Uggen & Manza, 2008, p. 183). For purposes of apportionment schemes, politicians at different levels count prisoners in legally and morally inconsistent manners (Lotke & Wagner, 2004). Representational equality is diminished with the practice of felon disenfranchisement (Lotke & Wagner, 2004). When any group has its ballots denied, all citizens with similar

preferences are negatively impacted (Uggen & Manza, 2008; Lotke & Wagner, 2004). The outcome of the 2000 presidential race thus hinged on the narrower question of ex-felon disenfranchisement rather than on the broader question of voting restrictions on felons under supervision (Uggen and Manza, 2008: 192).

In their article, “Prisoners of the Census: Electoral and Financial Consequences of Counting Prisoners Where They Go, Not Where They Come From” (2004), Eric Lotke and Peter Wagner provide evidence of low-level distortions in both voting and funding as a result of how the Census Bureau counts dislocated prisoners (Lotke & Wagner, 2004). They do not benefit from the enhanced political power that prisons bring to rural jurisdictions (Lotke & Wagner, 2004; Hartney & Glesmann, 2012). Federal and state poverty-directed dollars (Street, 2005) are being redirected to benefit small town municipality coffers. Prison-based gerrymandering results in the transfer of federal tax outlays from largely urban locales, where the majority of African American inmates originally reside, to mostly conservative rural counties (Lotke & Wagner, 2004). Physically removing inmates from their communities shifts the electorate away from the inmate’s respectful communities, transferring the electorate, as well as federal funds associated with the census count to mostly rural conservative communities hostile to the interests of urban-dwelling African American males in Tennessee (Lotke & Wagner, 2004). Not only is the community electorate negatively altered, but potential opportunities for community development through federal outlays of much needed funds are transplanted from already economically marginalized communities starved for development opportunities (Lotke & Wagner, 2004).

As shown in Table 1, based upon levels of interests in employment opportunities available at newly constructed prisons, capitalistic private sector economic interests and public sentiments have mutually embraced, without any substantive critical public debate concerned

with public policy and social policy phenomenon of prison building. It is most probable that the average citizen in Tennessee lacks adequate short-term versus long-term cost-to-benefits Accounting knowledge to make a more objective and less biased judgment of the strong conservative ‘law and order’ corrections approach as compared to other policy alternatives. Many rural poor and economically distressed regions of the state welcome construction of new prisons as a means of increasing their employment opportunity prospects (Lotke & Wagner, 2004; Alexander, 2010). Local leaders also welcome new prison construction and related corrections provider and suppliers as a way to grow and augment their local tax base. In efforts to secure census-decennial federal funds, local leaders also manipulate the counting of prisoners to their local census population (Lotke & Wagner, 2004). Table 1 provides evidence of prison gerrymandering. By classifying inmates, most from urban areas, as residents of the municipality in which the prison is located, economically challenged rural areas siphon off federal funds that would otherwise have been distributed to the community in which the inmate resides (Lotke & Wagner, 2004).

**Table 1: Prison Policy Initiative Findings: Tennessee**

County	Most distorted district	Prison in district	Prison population (2000)	Vote enhancement	How do votes compare to votes in other districts in the county?
Bledsoe	District 1	Southeastern Tennessee State Regional Correctional Facility	969	34.70%	Every 13 residents in district 1 have as much power as 20 residents elsewhere.
Davidson	District	Middle Tennessee Correctional Complex (now called the Charles Bass Correctional Complex),	2,569	15.40%	Every 17 residents in district 20

	20	Riverbend Maximum Security Institution, and Lois M. DeBerry Special Needs Facility			have as much power as 20 residents elsewhere.
Hardeman	District 3	Whiteville Correctional Facility- CCA and Hardeman County Correctional Center -	3,377	58.70%	Every 41 residents in district 3 have as much power as 100 residents elsewhere.
Hickman	District 1	Turney Center Industrial Prison and Farm	1,106	33.40%	Every 67 residents in district 1 have as much power as 100 residents elsewhere.
Johnson	District 5	Northeastern Correctional Complex	1,299	38.30%	Every 31 residents in district 5 have as much power as 50 residents elsewhere.
Lake	District 1	Northwest Correctional Complex	1,799	87.60%	Every 3 residents in district 1 have as much power as 25 residents elsewhere.
Lauderdale	District 5	Western Tennessee State Penitentiary	2,346	69.30%	Every 31 residents in district 5 have as much power as 100 residents elsewhere.
Morgan	N/A	Brushy Mountain Correctional Complex	1,536	47.00%	Every 53 residents in the district that includes the Brushy Mountain Correctional Complex have as much power as 100 residents elsewhere.
Tipton	District 7	Tipton County Western Tennessee Detention Facility	527	9.50%	Every 9 residents in district 7 have as much power as 10 residents elsewhere.

Wayne	District 2	South Central Correctional Facility and Wayne County Boot Camp	1,894	78.90%	Every 21 residents in district 2 have as much power as 100 residents elsewhere.
Trousdale	District 18	Trousdale Turner Correctional Facility (opens late 2015)	*2297-2424 *(estimate at 90-95% capacity)	Open late 2015 or early 2016	Open late 2015 or early 2016

The Ten Most Dramatic Cases of Vote Dilution in Tennessee Caused by Relying on Census Bureau Prison Counts When Drawing Board of County Commissioners Districts After the 2000 Census<sup>8</sup>

\*(Includes Estimate of New Trousdale Facility to Open in Late 2015)

In 2015, Tennessee Republican Governor Bill Haslam allocated nearly \$31 million in recurring money to keep open a privately-run prison in West Tennessee while making deep cuts to other budget items such as TennCare health insurance and higher education. In contrary relation, former Democratic Governor Phil Bredesen sought to close the Hardeman County Correctional Facility at Whiteville, Tennessee. However, Tennessee legislators added the money needed to run the prison temporarily. According to citizen watchdog group KnoxViews, in 2014 the Federal Bureau of Investigation (FBI) launched an investigation concerning dealings of Governor Haslam and his connection with \$32,375 CCA donated to his campaign (Neal, 2014; Hale, 2014). In his budget, Governor Haslam addressed plans to restore permanent funding for the Corrections Corporation of American (CCA) operated facility (Hale, 2014). As Haslam stated, “We went back and weren’t certain that we would adequately be able to take care of the prison population that we needed to and do it at a cost that would make sense... We could have saved some money by closing that, but in the end we didn’t think it was the right thing to do for

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<sup>8</sup> Source: Prison Policy Initiative, 2011

the corrections system” (Hale, 2014). Haslam’s conclusion stand in contrast to former Governor Bredesen’s outlook which expressed that keeping the prison open was “not really justified.” Scheduled to open in late 2015 is CCA’s \$140 million, 2552 medium-security-bed facility (CCA, 2014) located in Trousdale County, Tennessee. According to the Census Bureau, in 2010, the population of Trousdale County was 7,870 residents (Census Bureau, 2015). Governor Haslam’s Task Force on Sentencing and Recidivism is considering recommendations for longer prison terms (Wilemon, 2015). Ethics concerns and questions are raised when state officials receive lobbying funds and other forms of incentives from corporate interests, and related officials introduce and pass legislation in the best economic interests of corporate donors such as CCA (Sanchez, 2011)..

Many of Tennessee State Senators are members or are affiliated with ALEC. CCA was a member of the ALEC for over two decades and reportedly left the organization in 2010 (Center for Media and Democracy, 2011). While CCA was an ALEC member, across Tennessee and the rest of the nation, ALEC pushed legislation to privatize prisons, advanced harsh sentencing bills to put more people in prison for more time, particularly “truth-in-sentencing” legislation calling for all violent offenders to serve 85 percent of their sentences before being eligible for release, and “three strikes you’re out” bills requiring mandatory life imprisonment for a third felony conviction. These bills became law in a majority of states during the 1990s and early 2000s (Pager, 2007).

### **Follow the Money**

According to the Justice Policy Institute (JPI), “While private prison companies may try to present themselves as just meeting existing “demand” for prison beds and responding to

current “market” conditions, in fact they have worked hard over the past decade to create markets for their product” (Ashton, 2011). JPI released its “Private Prisons Spend Millions On Lobbying To Put More People In Jail” report chronicling the political strategies of private prison companies “working to make money through harsh policies and longer sentences” (JPI, 2011). The private industry hasn’t merely responded to the nation’s incarceration woes, it has also actively sought to create the market conditions (i.e. more prisoners) necessary to expand its business (JPI, 2011). ALEC shares strong affiliation to the Koch Brothers and the national right-wing network of funders (CMD, 2015). Other elected conservative leaders that have gone on record and openly endorsed ALEC include, but are not limited to, the following: President Ronald Reagan, President George H. W. Bush, Newt Gingrich, and former Speaker of the United States House of Representatives John A. Boehner (Moyers et al., 2012).

According to the Center for Media and Democracy, “Although it claims that it has not lobbied for bills that extend or increase sentences for prisoners, for nearly two decades CCA participated in and even led the task force of the ALEC committee that pushed bills like “truth-in-sentencing” and “three strikes” bills, statutes, and legislation as models for states to adopt across the nation. CCA and its hired lobbying firms have spent about \$21.1 million lobbying Congress and federal agencies from 1998 to August 2014 on bills relating to immigration, detention, and private prisons” (CMD, 2015). CCA has spent an untold sum lobbying for states to privatize or outsource incarceration responsibilities and, over that same period, it has steadily increased its share of both state and federal prisoners and detainees over the years to 128,195 prisoners (CMD, 2015).

CCA has become a multi-billion-dollar corporation that has been strongly criticized for many aspects of its operations. According to Center for Media and Democracy, two primary



criticisms concern: (1) CCA's lobbying and campaign donations have led to federal and state policies and government contracts that fatten its bottom line, often at the expense of the public's interest; and (2) CCA's profit-increasing strategies constitute a vicious cycle where lower wages and benefits for workers, high employee turnover, insufficient training, and chronic understaffing can lead to mistreatment of inmates, increased violence, security concerns, and riots (CMD, 2015). Profit-focused measures that affect the well-being of inmates', such as withholding medical care or inadequate nutrition, add to the volatility of the situation (CMD, 2015). This has led to dangerous working conditions for correctional staff (CMD, 2015). CCA's history also includes allegations of falsifying records, fraudulently billing Medicaid, violation of labor laws, and all around "cutting-corners" (CMD, 2015).

In April of 2012, in a public relations strategy to protect its image, ALEC dropped Public Safety and Elections Task Force (formerly known as the "Criminal Justice & Homeland Security Task Force"). ALEC announced it was dropping the task force committee in the wake of the controversy over the tragic shooting death of Trayvon Martin and the so-called Stand Your Ground laws it crafted in the Florida legislature (CMD, 2015). However, the co-leader of that task force, Rep. Jerry Madden (R-TX), revealed ALEC's announcement that it was dropping the task force to be a public relations maneuver when he reassured *The Christian Post* that his task force's work would continue through other ALEC task forces. As he put it, "ALEC's decision won't impact the important issues we've worked on." Madden also told *The Christian Post*: "But I will say this, these groups are targeting ALEC because when conservatives get together, we influence state and federal policy in a major way and these groups are scared of us—and should be" (CMD, 2015).

According to a 2013 In The Public Interest (ITPI) report, although no states took CCA up on its January 2012 offer to manage its prison system, many private prison operators have successfully inserted occupancy quota provisions into prison privatization contracts (ITPI, 2013). According to Center for Media and Democracy, over half of the state and local level contracts analyzed by ITPI contained bed guarantee provisions; the occupancy requirements were between 80 and 100 percent, including a controversial guarantee that the governments maintain a 90% occupancy rate for at least 20 years (CMD, 2013; Johnson, 2013; Hartney & Glesmann, 2012).

### **Related Findings**

But does CCA sit idly by as bills related to criminal law, enforcement and sentencing, all of which the corporation openly admits could have a direct effect on its profits and financial margins are being proposed and debated? And for a lawmaker, if thousands of dollars and hundreds of jobs are coming from CCA to your campaign coffers and your district, might that at least create friendlier conditions for a bill that's tough on crime—and as it happens, good for the private prison industry? Although CCA formerly claims that its lobbying efforts do not influence or interfere with the crafting and drafting of criminal justice legislation in Tennessee, in an investigative piece, the *Nashville Scene* put the questions to a state legislative staffer, who agreed to answer on condition of anonymity. He revealed: “In my time up here...they [CCA] have lobbied for every single criminal enhancement that has come before the general assembly” (Hale, 2014).

A confidential *Nashville Scene* staffer and investigative reporter recalls that Tom Beasley (Former Chairman of the Tennessee Republican Party) and former Tennessee Governor Don Sundquist had been partners in Red, Hot & Blue, a barbecue restaurant chain they opened in the

late 1980s (Hale, 2014). But the corporation's influence ran deep on both Republicans and Democrats' sides of the aisle. A decade later, the Democratic House Speaker at the time, Jimmy Naifeh, was married to Betty Andrews, then CCA's chief lobbyist (Hale, 2014). According to its own 2012 political activity report, which it makes available to the public, "CCA and its political action committee spent a combined \$956,135.86 on contributions to candidates, parties, or PACs at the federal, state and local levels in 2012" (Hale, 2014). The corporation spent more money on Tennessee than on any other state that year except for California, spending a total of \$75,850 on state and local candidates of both the Democratic and Republican parties and their affiliated committees" (Hale, 2014).

### **More Findings from Corporate Watchdog Groups**

Private prison companies and other major private corrections providers and suppliers with lobbyists discreetly push for the type of get-tough policies needed to ensure their continued growth (Silverstein, 2000). In 2014, CCA had eight lobbyists employed on Tennessee's Capitol Hill (Hale, 2014). According to a 2000 CorpWatch investigation, "CCA has been especially adept at expansion via political payoffs. The first prison the company managed was the Silverdale Workhouse in Hamilton County, Tennessee. After Commissioner Bob Long voted to accept CCA's bid for the project, the company awarded Long's pest control firm a lucrative contract (Hale, 2000). When Commissioner Long decided the time was right to quit public life, CCA hired him to lobby on its behalf. CCA has been a major financial supporter of Lamar Alexander, the former Tennessee Republican Governor, U.S. Secretary of Education and unsuccessful presidential candidate (Hale, 2000). In one of a number of sweetheart deals, Lamar's wife, Honey Alexander, made more than \$130,000 on a \$5,000 investment in CCA

(Hale, 2000). Former Tennessee Democratic Governor Ned McWherter is another CCA stockholder and is quoted in the company's 1995 annual report as saying that "the federal government would be well served to privatize all of their corrections" (Hale, 2000).

According to CorpWatch, "In another ominous development, the revolving door between the public and private sector has led to the type of company boards that are typical of those found in the military-industrial complex" (Hale, 2000; Gilmore, 1998). CCA co-founders were T. Don Hutto, an ex-corrections commissioner in Virginia, and Tom Beasley, former chairman of the Tennessee Republican Party. A top company official is Michael Quinlan, once a director at the Federal Bureau of Prisons. The board of The GEO Group (formerly Wackenhut) is graced by a former Marine Corps commander, two retired Air Force generals and a former under-secretary of the Air Force, as well as James Thompson, ex-governor of Illinois, Stuart Gerson, a former Assistant U.S. Attorney General and Richard Staley, who previously worked with the Immigration and Naturalization Services" (Hale, 2000).

CCA spent almost as much in 2013, racking up nearly \$60,000 in contributions to a wide array of state legislators. Its contributions went largely, but not entirely to Republicans. In recent years, it has written checks to most of the state's most powerful officials or their affiliated PACs, if not both. According to *Nashville Scene* investigative reporter Steve Hale, since 2010, it has contributed at least the following:

- \$27,400 to Governor Bill Haslam
- \$5,000 to the Republicans Achieving a Majority PAC, founded by Lt. Gov. Ron Ramsey, but no contributions to Ramsey himself
- \$7,500 to House Speaker Beth Harwell and Harwell PAC
- \$3,500 to House Majority Leader Gerald McCormick
- \$1,500 to House Republican Caucus Chairman Glen Casada, and \$500 to CAS PAC,

which he founded

- \$2,000 to House Minority Leader Craig Fitzhugh
- \$1,000 to Senate Majority Leader Mark Norris (Hale, 2014)

CCA stated in its Form 10-K annual report filed in 2012 with the U.S. Securities and Exchange Commission, that “it does not engage in lobbying or advocacy efforts that would influence enforcement efforts, parole standards, criminal laws, and sentencing policies” (Brogdon, 2008). Contrarily, Carl Takei, a staff attorney for the ACLU National Prison Project, reported that, “The company spends heavily on both campaign contributions and lobbying” (Brogdon, 2008). In 2011, Takei wrote, “CCA gave \$710,300 in political contributions to candidates for federal or state office, political parties, and 527 groups (political action campaigns and super-political action campaigns). In 2011, CCA spent \$1.07 million lobbying federal officials and an undisclosed amount lobbying state officials” (Brogdon, 2008). The ACLU organization reported the following Tennessee politicians receiving the following donations starting as early as 1993 through 2013:

- U.S. Sen. Lamar Alexander, \$63,450
- U.S. Sen. Bob Corker, \$51,450
- Gov. Bill Haslam, \$43,575
- Former U.S. Rep. Zach Wamp, \$26,000
- Former U.S. Sen. Fred Thompson, \$25,400 (Brogdon, 2014).

At the federal level, CCA has spent \$131,900 on political contributions since the start of 2013. Tennessee politicians received some of the contributions (Brogdon, 2014). Rep. Chuck Fleischmann, R-Tenn., was given \$5,000; Rep. Steve Fincher, R-Tenn., got \$1,500; Rep. Diane Black, R-Tenn., accepted \$1,250; and Rep. Marsha Blackburn, R-Tenn., received \$1,000 (Brogdon, 2014).

The Center for Media and Democracy publishes *SourceWatch* to track corporations' public relations campaigns, corporate front groups, and people who front for corporate campaigns, and public relations operations. The following is a partial list from The Center for Media and Democracy of Tennessee politicians, including House of Representatives and Senate members and respectful committees on which they serve, or have served, as well as former legislators with past or current ALEC connections:

#### *House of Representatives*

- Rep. Joseph Armstrong (D-15), ALEC Health and Human Services Task Force Member
- Rep. Harry R. Brooks, Jr. (R-19), ALEC Education Task Force Member
- Rep. Kevin D. Brooks (R-24), ALEC Education Task Force Alternate
- Rep. Joe Carr (R-48), ALEC Public Safety and Elections Task Force Member
- Rep. Vince Dean (R-30), ALEC Public Safety and Elections Task Force Alternate
- Rep. Vance Dennis (R-71), ALEC Civil Justice Task Force Member
- Rep. Jimmy Eldridge (R-73), ALEC Health and Human Services Task Force Member
- Rep. Joshua G. Evans (R-66), ALEC Public Safety and Elections Task Force Member
- Rep. Mike T. Harrison (R-9), ALEC Tax and Fiscal Policy Task Force Member
- Rep. David Hawk (R-5), ALEC Energy, Environment and Agriculture Task Force Alternate
- Rep. Ryan A. Haynes (R-14), ALEC International Relations Task Force Member
- Rep. Curtis G. Johnson (R-68), ALEC Tax and Fiscal Policy Task Force Alternate
- Rep. Kelly Keisling (R-38), ALEC Civil Justice Task Force Member
- Rep. Jon C. Lundberg (R-1), ALEC Public Safety and Elections Task Force Member
- Rep. Susan Lynn (R-57)
- Rep. Gerald McCormick (R-26), ALEC Tax and Fiscal Policy Task Force Alternate
- Rep. Steve K. McDaniel (R-72), ALEC Communications and Technology Task Force Member
- Rep. Stephen McManus (R-96), ALEC Commerce, Insurance and Economic Development Task Force Member
- Rep. John D. Ragan (R-33), ALEC Education Task Force Alternate
- Rep. Bob Ramsey, (R-20) ALEC Health and Human Services Task Force and Communications and Technology Task Force Alternate
- Rep. Barrett W. Rich (R-94), ALEC Civil Justice Task Force Member
- Rep. Charles Michael Sargent, Jr. (R-61), ALEC Commerce, Insurance and Economic Development Task Force Member
- Rep. David Shepard (D-69), ALEC Health and Human Services Task Force Member
- Rep. Tony Shipley (R-2), ALEC Public Safety and Elections Task Force Alternate
- Rep. Curry Todd (R-95), State Chairman,<sup>[12]</sup> Member of ALEC Board of Directors and Communications and Technology Task Force Member, attended the 2015 ALEC annual conference

- Rep. Mark White (R-83), ALEC International Relations Task Force Member.

#### *Senate*

- Sen. Mike Bell (R-9), ALEC Health and Human Services Task Force Member
- Sen. Ophelia Ford (D-29)
- Sen. Dolores R. Gresham (R-26), ALEC Education Task Force Alternate
- Sen. Brian K. Kelsey (R-31), ALEC Civil Justice Task Force Member
- Sen. Bill Ketron (R-13), ALEC State Chair, ALEC Energy, Environment and Agriculture Task Force and Tax and Fiscal Policy Task Force member, attended 2011 and 2015 ALEC Annual Meetings. Sen. Ketron told *The Tennessean* that 6 other senators and 22 Tennessee legislators attended the 2015 ALEC meeting.
- Sen. Jim Kyle (D-28)
- Sen. Frank Niceley (R-8), ALEC Energy, Environment and Agriculture Task Force Member
- Sen. Mark S. Norris (R-32), ALEC Civil Justice Task Force Member
- Sen. Steve Southerland (R-1), ALEC Tax and Fiscal Policy Task Force Alternate
- Sen. Reginald Tate (D-33), ALEC Tax and Fiscal Policy Task Force Member
- Sen. Jim Tracy (R-16), ALEC Education Task Force Member
- Sen. Ken Yager (R-12), ALEC Commerce, Insurance and Economic Development Task Force Alternate.

#### *Former Legislators*

- Former Rep. Dale Ford (R-6)
- Former Rep. Julia Hurley (R-32), ALEC Health and Human Services Task Force Member
- Rep. Phillip Max Johnson (R-78), ALEC International Relations Task Force Member
- Former Rep. Debra Young Maggart (R-45), ALEC Commerce, Insurance and Economic Development Task Force Member
- Former Rep. Joe McCard (R-Maryville; chief clerk of the state House as of 2011)
- Rep. Joe McCord (R-8), ALEC Energy, Environment and Agriculture Task Force Member
- Former Rep. Johnny Richard Montgomery (R-12), ALEC Communications and Technology Task Force Member
- Former Rep. Randall H. Stamps (R) ran for TN SOS in 2009; Source: (CMD, 2011).

### **Quantitative Results**

To begin with, it is relevant for me to mention here that the quantitative analyses for this and the following chapter deal with data covering from 1972 to 2014. This is because as Christopher Uggen and Jeff Manza also correctly point out, "...estimates of the expected vote

choice of disenfranchised felons are developed using National Election Study (NES) data for 1972 to 2000” (Uggen and Manza, 2012, p. 784). Next, it must be stated that data paucity on felony disenfranchisement limits the testing of sub-hypothesis H<sub>1c</sub>, Felony disenfranchisement is used to influence election outcomes in that state, to the qualitative analysis.

As shown in Table 2, the total number of Whites eligible to vote is far greater than that for Blacks. The variation of total White eligible voters over time is also greater than that for Blacks. Nonetheless, these findings seem to mirror their population percentages. The total number of African Americans incarcerated is less than that of Whites. The variation among African Americans incarcerated over the years for this period is also less than that for Whites. However, since the African American population comprises 17% of Tennessee, African Americans are proportionally overrepresented in the prison population. Also, the number of total votes received for Republican presidential candidates is larger than that received by Democratic presidential candidates. The variation over time for those votes for Republican presidential candidates is also greater than that for the Democratic presidential candidates. This explains why more Republicans have won presidential elections than Democrats in Tennessee. Significant variation over the years in the state is also reflective of the disproportionate representation of the number of African Americans incarcerated.



**Table 2: Descriptive Statistics**

	Mean	Std. Deviation
POEBVTV	460499.25	127238.989
POEWVTV	2206153.08	637257.319
NOAAI	12800.25	412.202
NOWAI	14277.00	1114.688
NOVRDPC	804648.33	242273.495
NOVRRPC	940599.50	346787.335
TSSOPP	87572487.00	24244884.022
Valid N (listwise)		

The early years are represented by N = 1 through 3 (1-3). The middle years are represented by N = 4 through 7 (4-7). The later years are represented by N = 8 through 10 (8-10). We see significant statistical growth of eligible Black voters in the early years at 0.05 level. Table 3 shows the number of eligible Black voters significantly increased at early years (1972-1990). In the middle years (1991-2000), the growth is not statistically significant. In the later years (2001-2014), we see a decline that is statistically significant.

**Table 3: Autocorrelations for POEBVTV**

Lag	Autocorrelation	Std. Error <sup>a</sup>	Box-Ljung Statistic		
			Value	df	Sig. <sup>b</sup>
1	.639	.256	6.229	1	.013
2	.354	.244	8.338	2	.015

3	.278	.231	9.777	3	.021
4	.088	.218	9.940	4	.041
5	-.077	.204	10.082	5	.073
6	-.202	.189	11.226	6	.082
7	-.280	.173	13.860	7	.054
8	-.339	.154	18.694	8	.017
9	-.325	.134	24.615	9	.003
10	-.395	.109	37.721	10	.000

Percentages of Eligible Black Voters that Voted (POEBVTV)

a. The underlying process assumed is independence (white noise)

b. Based on the asymptotic chi-square approximation.

It is evident that the number of Black eligible voters declined from the earlier years (1972-1990). It began to grow again upwards in the later years (2001-2014), but it is not statistically significant (see Figure 8).

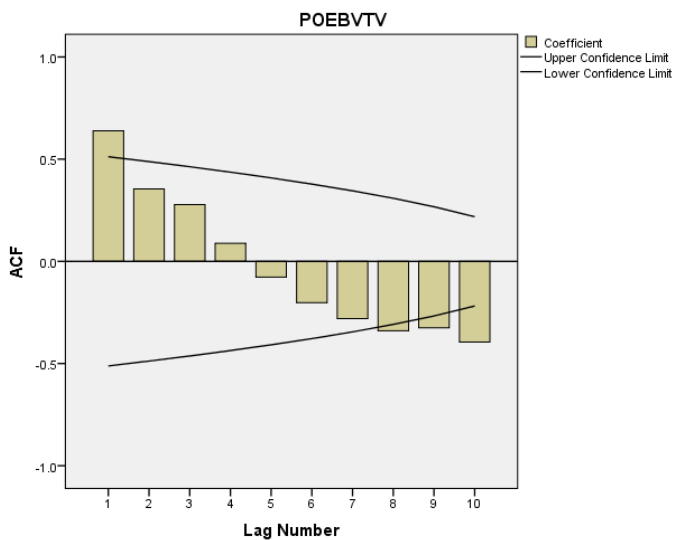


Figure 8: Time Series for POEBVTV

According to Table 4, the number of White eligible voters grew significantly in the early years. However, the number decreased from the middle years to the later years, and this decline is significant at the 0.05 level.

**Table 4:** Autocorrelations for POEWVTV

Lag	Autocorrelation	Std. Error <sup>a</sup>	Box-Ljung Statistic		
			Value	df	Sig. <sup>b</sup>
1	.697	.256	7.417	1	.006
2	.381	.244	9.860	2	.007
3	.157	.231	10.318	3	.016
4	.057	.218	10.386	4	.034
5	-.062	.204	10.478	5	.063
6	-.172	.189	11.305	6	.079
7	-.234	.173	13.143	7	.069
8	-.310	.154	17.175	8	.028
9	-.445	.134	28.255	9	.001
10	-.374	.109	40.021	10	.000

Percentages of Eligible White Voters that Voted (POEWVTV)

a. The underlying process assumed is independence (white noise)

b. Based on the asymptotic chi-square approximation.

Figure 9 supports the findings on Table 3, as it shows that the decline was not rapid and the reversal was very slow.

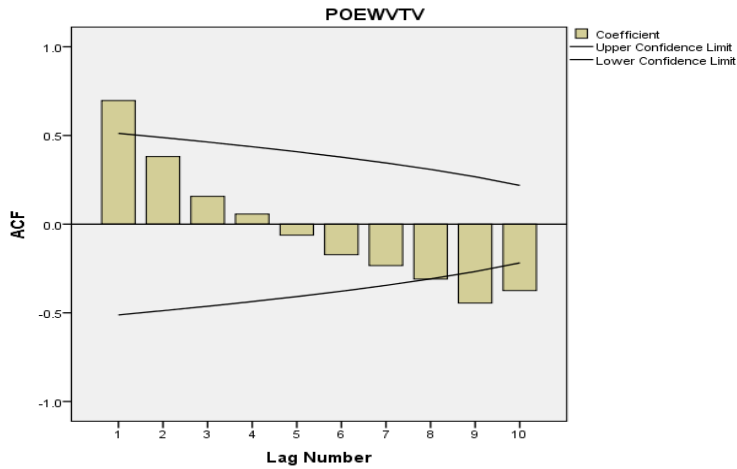


Figure 9: Time Series for POEWTV

In Table 5, the number of incarcerated African Americans increased significantly over the earlier period. It decreased from the middle to the later periods, but the decrease was not statistically significant at the 0.05 level.

**Table 5:** Autocorrelations NOAAI

Lag	Autocorrelation	Std. Error <sup>a</sup>	Box-Ljung Statistic		
			Value	df	Sig. <sup>b</sup>
1	.620	.256	5.869	1	.015
2	.443	.244	9.161	2	.010
3	.196	.231	9.881	3	.020
4	-.030	.218	9.900	4	.042
5	-.207	.204	10.927	5	.053
6	-.253	.189	12.720	6	.048
7	-.396	.173	17.980	7	.012
8	-.356	.154	23.310	8	.003
9	-.326	.134	29.274	9	.001

10	-.125	.109	30.593	10	.001
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Number of African Americans Incarcerated (NOAAI)

- a. The underlying process assumed is independence (white noise)
- b. Based on the asymptotic chi-square approximation.

Figure 10 shows that the decrease was not precipitous. It also shows that an increase was emerging but was not that significant.

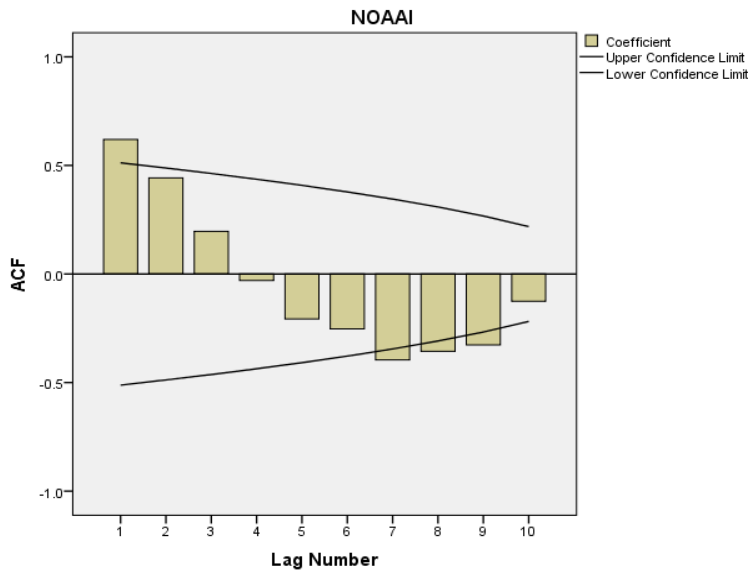


Figure 10: Time Series for NOAAI

Table 6 reveals that the growth for incarcerated Whites increased significantly in the early years, a decrease in the middle years, albeit not statistically significant at the 0.05 level. It started increasing very slowly in the later years.

**Table 6:** Autocorrelations for NOWAI

Lag	Autocorrelation	Std. Error <sup>a</sup>	Box-Ljung Statistic		
			Value	df	Sig. <sup>b</sup>
1	.712	.256	7.738	1	.005

2	.352	.244	9.819	2	.007
3	.075	.231	9.925	3	.019
4	-.045	.218	9.968	4	.041
5	-.050	.204	10.029	5	.074
6	-.103	.189	10.328	6	.112
7	-.175	.173	11.356	7	.124
8	-.310	.154	15.399	8	.052
9	-.420	.134	25.280	9	.003
10	-.355	.109	35.853	10	.000

Number of White Americans Incarcerated (NOWAI)

- a. The underlying process assumed is independence (white noise)
- b. Based on the asymptotic chi-square approximation.

As shown in Figure 11, the increase slowed down significantly in the early years, and then it started decreasing slightly in the middle and rapidly in the later years.

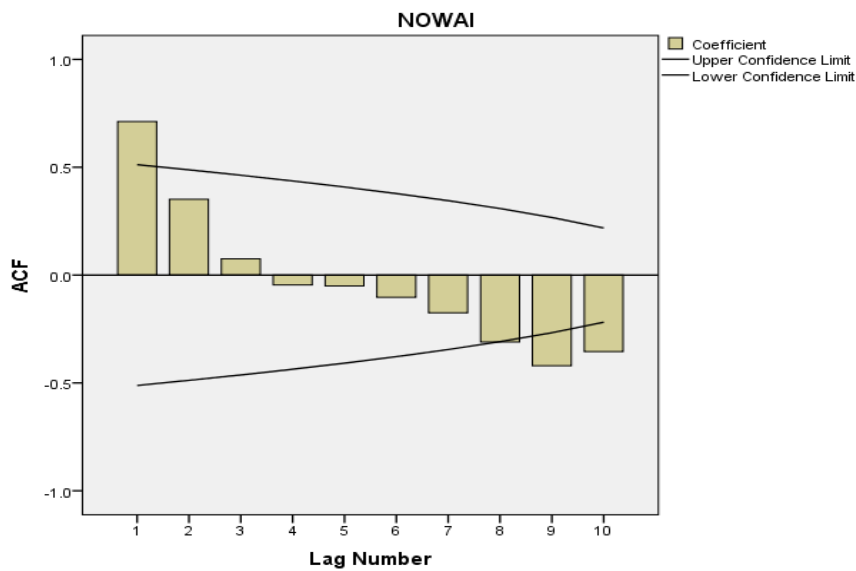


Figure 11: Time Series for NOWAI

For the number of votes received by a Democratic presidential candidate, there was growth in the early years which was statistically significant at the 0.05 level. There was a significant decline during the mid years on to the early part of the late years, but this decline is not statistically significant at the 0.05 level. Nonetheless, towards the end of the later years, the decline is significant at the 0.05 level (see Table 7).

**Table 7:** Autocorrelations for NOVRDPC

Lag	Autocorrelation	Std. Error <sup>a</sup>	Box-Ljung Statistic		
			Value	df	Sig. <sup>b</sup>
1	.673	.256	6.916	1	.009
2	.297	.244	8.395	2	.015
3	.037	.231	8.420	3	.038
4	-.038	.218	8.451	4	.076
5	-.037	.204	8.483	5	.132
6	-.144	.189	9.067	6	.170
7	-.295	.173	12.000	7	.101
8	-.399	.154	18.694	8	.017
9	-.367	.134	26.249	9	.002
10	-.184	.109	29.091	10	.001

Number of Votes Received by a Democratic Presidential Candidate (NOVRDPC)

a. The underlying process assumed is independence (white noise).

b. Based on the asymptotic chi-square approximation.

Figure 12 is in line with the findings in Table 7. Once the sharp decline in the votes received by the Democratic presidential candidate in the earlier years and the mid years continued, the trend to reverse this decline was not significant.

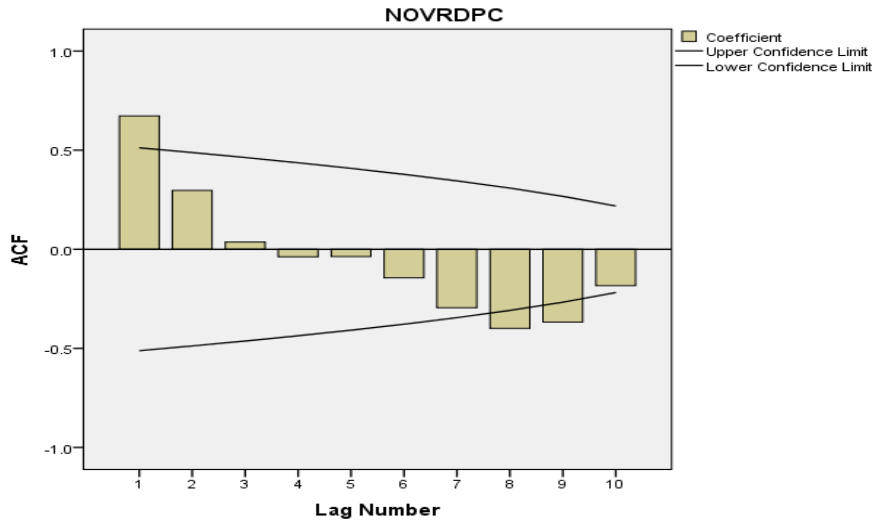


Figure 12: Time Series for NOVRDPC

According to Table 8, the number of votes received by Republican presidential candidates increased significantly during the early years and at the beginning of mid years. The number decreased from the later part of the mid years to the later years and statistically significant at the 0.05 level.

**Table 8:** Autocorrelations for NOVRRPC

Lag	Autocorrelation	Std. Error <sup>a</sup>	Box-Ljung Statistic		
			Value	df	Sig. <sup>b</sup>
1	.705	.256	7.598	1	.006
2	.404	.244	10.338	2	.006
3	.193	.231	11.030	3	.012
4	.030	.218	11.049	4	.026



5	-.085	.204	11.221	5	.047
6	-.202	.189	12.366	6	.054
7	-.260	.173	14.645	7	.041
8	-.369	.154	20.365	8	.009
9	-.385	.134	28.677	9	.001
10	-.360	.109	39.582	10	.000

Number of Votes Received by a Republican Presidential Candidate (NOVRRPC)

- a. The underlying process assumed is independence (white noise)
- b. Based on the asymptotic chi-square approximation.

As revealed in Figure 13, the number who voted for Republican presidential candidates declined from the later part of the mid years and continued to decline through the later years. The decline is statistically significant at the 0.05 level.

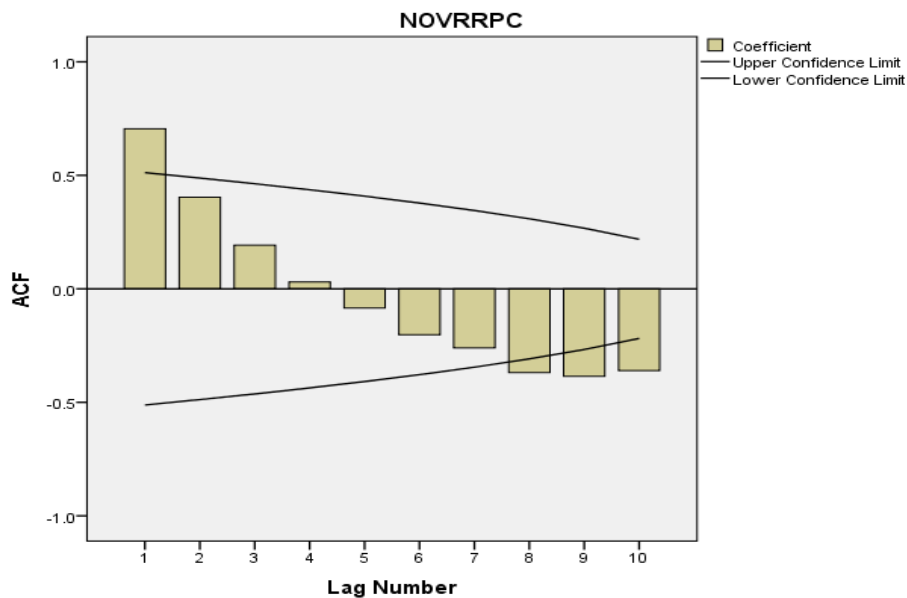


Figure 13: Time Series for NOVRRPC

Table 9 reveals that there are statistically significant correlations between the number of eligible Black voters and the number of votes received by a Republican presidential candidate

and Democratic presidential candidate. The number of White eligible voters is also statistically correlated with the dependent variables. All of these correlations are statistically significant at the 0.05 level. In essence, as eligible Black voters turn out to vote, so do more White voters turn out to vote. It can also be noted that the correlations between the number of Whites eligible to vote and the number of votes received by both Republican and Democratic candidates are stronger than the correlations between the number of eligible Black voters and the dependent (Incarceration and Poverty) variables.

**Table 9:** Correlations of NOVRRPC and NOVRDPC

		NOVRRPC	NOVRDPC
POEBVTV	Pearson Correlation	.922**	.742**
	Sig. (2-tailed)	.000	.006
	N	12	12
POEWVTV	Pearson Correlation	.961**	.780**
	Sig. (2-tailed)	.000	.003
	N	12	12

\*\* Correlation is significant at the 0.01 level (2-tailed).

Table 10 also shows that the numbers of African Americans and Whites incarcerated are significantly correlated to the number of votes received by either a Democratic presidential candidate or a Republican presidential candidate. The correlations are likewise statistically significant at the 0.05 level. Again, just as in the preceding discussions, the correlations between the number of Whites incarcerated and the dependent variables are stronger than those for African Americans.

**Table 10:** Correlations Between NOVRDPC and NOVRRPC

		NOVRDPC	NOVRRPC
NOAAI	Pearson Correlation	.766**	.832**
	Sig. (2-tailed)	.004	.001
	N	12	12
NOWAI	Pearson Correlation	.781**	.951**
	Sig. (2-tailed)	.003	.000
	N	12	12

\*\* Correlation is significant at the 0.01 level (2-tailed).

### **Synthesis of the Findings and Assessment of Hypotheses**

There are a lot of missing data and variation in the real numbers for those residents living with criminal histories. Many convicted criminals in Tennessee do not have access to adequate employment and social services. The 2014 Tennessee State Advisory Committee Report generated by the U.S. Commission on Civil Rights is influential in gauging the plight of those with criminal convictions in Tennessee. If the data, as stated, are foundational, how then can Tennessee’s taxpayers be assured that they are receiving the most short-term and long-term cost-effective fiscal policy strategies maximizing public good and public safety from economic, fiscal, and social policy perspectives? How can criminal justice legislation be implemented and what is its impact on election outcomes, general fund expenditures, and federal fund outlays?

Much of the data collected vary from report to report. The elected officials at the federal, state and local levels contribute to the implementation of criminal justice legislation. Regarding disenfranchisement, the experts from various agencies appeared to disagree that the real numbers

are not accurate for those living with felony convictions in Tennessee. The total numbers reported by each agency are just estimations of the number of people who are incarcerated or under criminal justice supervision. Few elected leaders expressed importance in addressing the real numbers. Neither are they concerned with the collateral consequences that disproportionately results in disparate outcomes in social indexes measuring African American social inequality in Tennessee. It was during SAC's interview with elected leaders in Tennessee that I realized my conceptual framework and hypothesis are of value. The central thesis of this study, as suggested in chapter one is business-public relations by using public policy to support a conservative racist agenda by either unintentional or intentionally disproportionately incarcerating and disenfranchising African American males. In relation, as evidenced in the gross disparate outcomes are that race, mass incarceration, and felony disenfranchisement from the criminal justice system represents major factors that contribute to the inequality in Tennessee. In 2014 the population in Tennessee is greater than 6,500,000 according to national census data. African Americans make up the largest percentage per capita of the population that is incarcerated or under criminal justice system supervision. This suggests correlation that a criminal justice system conviction contributes to social and racial inequality.

To gauge the impact of disenfranchisement on elections and voting, the study estimated how many in the disenfranchised population would have voted and how they would have voted, on the basis of the voting patterns observed in very similar segments of the eligible population (Uggen & Manza, 2008). Using data from the Census Bureau's *Survey of State Prison Inmates* data series provides useful information about characteristics of the ex-felon population to estimate the proportion of ex-felons and how they most likely would have voted in elections if they had been granted the right to vote. It is essential to note, however, one significant limitation

related to the use of inmate survey data and other characteristics influencing political behavior. It is doubtful to believe that all felons, or ex-felons, would turn out to vote if so permitted (Uggen & Manza, 2008). The averages discussed reflect what are known about *currently* incarcerated felons. Only a quarter of these felons are incarcerated. Remaining proportions of disenfranchised felons are not incarcerated (Uggen & Manza, 2008). A significant portion of the disenfranchised population consists of individuals who were sentenced to probation and, thus, never went to prison (Uggen & Manza, 2008). In 2010, 18.92 percent of African American males were disenfranchised in Tennessee (The Sentencing Project, 2012).

Current Population Survey (CPS), National Election Study (NES), and Survey of Inmates of State Correctional Facilities Series, 1974-2004 (USDOJ, 2000b) data suggest that Democratic candidates would have received about 7 of every 10 votes cast by felons in 14 of the last 15 U.S. Senate years (Uggen & Manza, 2008). Again, a wider range of political impacts of prisoner enumeration in the decennial census suggest that disenfranchised felons would likely have made a pivotal difference in a small number of national election outcomes (Uggen & Manza, 2008), with the potential to impact state elections being far greater (Lotke & Wagner, 2004), particularly, in communities with large African American populations. Inmates are counted for enumeration purposes as residing in the jurisdictions in which they are incarcerated rather than in their home communities (Uggen & Manza, 2008).

Thus, this study fails to reject the first hypothesis,  $H_1$ : Social Inequality is employed to influence election outcomes in Tennessee, with its attendant sub-hypotheses, is accepted based upon the counterfactual analysis and both the Current Population Survey and National Election Survey, hinging on key assumptions that the political behavior of disenfranchised felons statistically trends parallel with approximate that of non-felons matched to them in terms of age,

race, gender, education, income, and marital status. In relation, another significant limitation to note is it does not address the possibility that other characteristics of individual felons, such as low citizenship norms, might be influencing their propensity to both commit crime and participate in politics (Uggen & Manza, 2008). This supports similar sociologists and practitioners' research findings. Data from the Prison Policy Initiative and The Sentencing Project suggests that as a result of mass incarceration and related felon disenfranchisement, African Americans do not have equal access to employment opportunities and social services. Other research findings from aforementioned and other organizations show that challenges related to criminal stigma can lead to ex-incarceration reintegration challenges. Based upon data findings it is further accepted that the criminal justice system serves as a control system to subjugate and disenfranchise African Americans. Again, research suggests that presidential elections are influenced by mass incarceration and felon disenfranchisement. Mayoral and gubernatorial elections are more susceptible to manipulative influence as a result of mass incarceration and felon disenfranchisement.

## **CHAPTER VI: PROFIT-SEEKING MOTIVES AND RACIST POLICY IN TENNESSEE**

As was done in chapter five, the discussion here pertains to the results dealing with the second major research question of the study: Did profit-seeking motives or other forms of economic incentives contribute to racist policy in the criminal justice system in Tennessee? Again, since the three-pronged study is triangulative, it is necessary to divide the rest of the chapter into three interrelated sections. As was also done in chapter five, the first section entails a discussion of the qualitative results, the second section analyzes the quantitative results, and the third section synthesizes the results from both sections and determines whether or not the hypothesis of the major research question probed in this chapter is acceptable.

Profit-seeking motive and other forms of economic incentives are operationalized as Tennessee's state spending on private prisons. Racist policy in the criminal justice system is operationalized as the number of African Americans incarcerated compared to Whites.

### **Qualitative Results**

The path to build and develop viable and continuously sustainable African American communities in Tennessee represents a complex examination of public policy. Tennessee has constructed an elaborate correctional industrial complex over the past several decades. In 2014, according to TNDOC, Tennessee had nearly 30,000 of its citizens in prisons and jails, and 71,000 people under the supervision of the criminal justice system (TNDOC, 2014). According to TNDOC, of those in prisons and jails, 44 percent are African American, while African Americans make up only 17 percent of the Tennessee's population.

Tennessee's public policy concerning corrections does not appear to be in the best interest of the state's taxpayers. In late 2015 or early 2016, CCA anticipates the opening of a new

\$140-million maximum security prison in economically distressed Hartsville, Tennessee, located approximately one hour east of Nashville (CCA, 2014). In Tennessee's efforts to maintain law and order and public safety, policies and legislation resulting in mass incarceration of large numbers of the state's citizens contribute, and in some cases create more problems than they potentially alleviate and/or eradicate. Thus far, largely at the expense of social services and resources devoted to human capital development, more of the state's overwhelming policy responses have been to allocate more and more of the state's fiscal resources to the corrections industry. According to FBI reports, despite a steady decrease in the crime rate, Tennessee is still consistently ranked as one of the most violent states in the nation. Why does Tennessee's incarceration rate continue to rise and the state continually invests more money and resources in the prison industrial complex if the crime rate continually increases? With cuts to social programs, coupled with budget sacrifices favoring appropriation of the state's fiscal resources to corrections, as evidenced by qualitative and quantitative findings, it should become obvious to policymakers that current policies regarding law and order and public safety are neither cost-effective, nor significantly impactful in reducing crime or promotion of optimal human capital development.

### **Conservative Politicization of Crime and the Institutionalization of Law and Order**

Conservative policy makers, the media, and interest groups repeatedly convey to the American public that our nation is soft on crime. Their rhetoric regarding 'War on Crime' efforts have been largely successful, so much so that elected officials, policymakers or potential policymakers risks political suicide if s/he is perceived to be lenient on crime. As a result, by successfully branding and framing the crime issue as a national benchmark political issue and threat in the post-Civil Rights era, conservatives implement and further utilize an effective



branding litmus test that almost certainly impacts their political fate, one that ensures conservatives' and White nationalists' interests are advanced, as well as represent a great business model approach ensuring that steady flow of inmates into the prison industrial complex continue. As a result, crime control in Tennessee and the nation have evolved to become mainstay American industries. In relation, criminal justice degrees are now a mainstay academic discipline in many of the nation's higher learning institutions.

As mentioned earlier, crime rates and the causes of crime are very complex issues. Criminologists agree that crime is related to many factors and variables. While incapacitation of criminals through incarceration have some impact on the crime rate, stronger legislation such as "Get Tough on Crime," "The War on Drugs," "Three Strikes," "Abolishing Parole," etc., as evidenced by the growing crime rates, supports the idea that such measures are overly simplistic to explain complex social problems and ineffective from economic, fiscal, and social cost-benefit analysis approaches. The institutionalization of "entrepreneurial government" in the prison industrial complex meshes well with smaller government, states' rights, and pro-business platforms touted by conservatives. What constitutes a statistically-measurable crime is a highly subjective process determined by policymakers and subsequent legislation adopted. Legislation decides and legislates what act is regarded as a crime. Stated another way, what becomes law is determined by legislation passed by policymakers, each with their own unique motivation and interests at stake regarding passage of specific legislation. Various means can be deployed to manipulate statistical crime rate measurements. Crime legislation can be manipulated to serve any combination of political, economic or social agendas (Shapiro, 2011; Baird, 1993). New definitions of what constitutes a crime, and related classifications of crime are routinely crafted by policymakers, as well as new ways of measuring, collecting, and reporting of crime data.

Passage of crime legislation greatly influences crime rates and perceptions of whether crime is actually increasing or decreasing. The significant increase in the size of the penal industrial complex, combined with the application of private sector business models into federal, state and local corrections programs created an entirely new academic discipline in many of the nation's colleges and universities—managerial criminology, also referred to as *new penology* (Beckett, 1997). The academic disciplines devote only marginal intent to crime prevention and rehabilitation. According to Professor Katherine Beckett, “This “*administrative*” or “*managerial*” criminology—sometimes called the “*new penology*”—is technocratic, behaviorist, and “*realist*” in tone and is primarily oriented toward devising new and better techniques for managing the crime problem (Beckett, 1997, p. 9)

### **ALEC, CCA, and Private Prisons**

Crime control and criminal justice in Tennessee represents an important sector to the state's economy. According to TNDoc projections, Tennessee's inmate population is expected to increase 11.7 percent in the next twelve years. The size of the correctional industrial complex in Tennessee and the nation are largely determined by federal, state and local governments. All three levels of government collaborate in the criminal justice policymaking process to produce public policy and private interest outcomes deemed acceptable in the face of a “group threat” posed by African Americans' political and economic advancements as one that threatens conservatives' and White nationalists' political ideologies and economic interests (Manza & Uggen, 2008). If past and current trends serve as guiding indicators, future criminal justice legislation and levels of influence regarding criminal justice system and related public policy will be determined by both perceived and real threat levels conservatives have of minority threats to the existing political establishments.

Privately-managed corrections providers now collaborate with government institutions to engineer public policy and subsequently become de facto institutions contributing to the social engineering of American society. Rather than working with all stakeholders and actors concerned with maximizing public good in Tennessee at the least short-term and long-term financial and social costs to Tennessee's taxpayers, ALEC, CCA, and other private correctional service providers and suppliers enter into economic partnership agreements with state and local municipalities to craft and adopt criminal justice system legislation that serve private conservatives' and White nationalists' strategic interests, agendas, and objectives; all the while as deep cuts are made to more humane social programs advocated by progressives. Spending approximately \$80 billion in 2010, some argue that the irony is that mass incarceration is itself a social program under the guise of a different name and represents the most thoroughly implemented social-service program in recent American history (Coates, 2015; Davis, 1997). Due to privatization and corporate influence, many observers are skeptical that significant criminal justice system reforms are the will of policymakers in the foreseeable future (Hartmann & Glesmann, 2012; Alexander, 2010). The African American male has become the 'picture of crime' (Alexander, 2010), and the relationship associated with controlling crime and maintaining 'law and order' is associated with the control African American males (Boyd, 2001). One can effectively argue that the criminal justice system's public policies serve as a social control institution (Shannon & Uggen, 2012). A pattern of social control evidently emerges when consideration is given to the relationship correlation of disparate social outcomes as referenced by varying statistical indexes and the combination of 'tough on crime' legislation, mass incarceration, felon disenfranchisement, bed occupancy rates, correctional supervision, laissez-faire racism, and benign neglect.

Public and private interests converge and result in both conservatives and White nationalists as beneficiaries of criminal justice system legislation. The public and private sectors collaborate to design processes that promote the outsourcing of goods and services of what were once traditionally delivered nearly solo by government agencies. Promotion of cost efficiency business models have been an essential selling mantra policymakers, political candidates, and other advocates of privatization use to introduce many aspects of the privatization of the corrections industry. Juxtaposing the notion of federal intrusion into local and regional affairs, state's rights oftentimes accompany supporters' arguments of privatization and more cost efficiency business models.

Spinoff industries provide goods and support services ranging from health care to prisoner transportation, food preparation, security fencing, cameras, weapons, and etc. Newer income generating instruments are continually devised and implemented. For instance, publications of new arrestees with mugshot photographs, and the crime(s) for which the arrestees have been charged, are now published in weekly *Face It* and *Just Busted* tabloids and distributed to local convenience stores and displayed for sale throughout Tennessee (Fox, 2013). Although arrested and booked, these individuals have yet to be tried in a court of law and convicted of their alleged crimes. To the detriment of an arrestee, these publications harm his/her employment prospects and other potential access to social services, thereby placing added burden on an alleged offender's efforts, or citizens only accused of a crime, to integrate or maintain existing level of political and economic participation into his/her respectful community. The tabloid magazines issue not only hardcopy publications, but offer online, Facebook, and other social media publication platforms.

## **From CIA to ALEC/CCA**

Privately managed companies utilize business models such as accounting balance sheets, income statements, profit/loss statements, cost and managerial accounting, and other data to analyze and forecast what brings the greatest revenue returns to the many financial investors in the prison industrial complex through the privatization of government correctional services. Post-Cold War military industrial complex resources and technology have been transferred to the post-Civil Rights 'law and order' prison industrial complex capacity-building. Such phenomenon occurs paralleling the institutionalization of crime as representing one of the nation's greatest domestic threats. The correctional industrial complex shares structural similarities with the military industrial complex. Similar in nature to the military industrial complex, the correctional industrial complex has evolved to become a mainstream capitalistic segment of the American economy and is a continually self-perpetuating entity in search of new economic markets (Beckett, 1997).

With the end of the Cold War, the elaborate and expansive military industrial complex had two options: (1) decrease in scope, size and importance; or (2) turn its focus, energy and resources to other agenda. As mentioned earlier, it is important to note that maintenance off law and order is closely associated with suppression of African Americans. Law enforcement responses in Ferguson, Missouri, Black Lives Matter, and numerous other civil disobedience protests marches and assemblies are frequently militaristic in nature. As a result of the politicalization of crime, combating crime and the need to maintain law and order are now promoted as the most important threats to national security (Beckett, 1997). The dissipation of an external threat resulted in the mobilization of government resources (Gilmore, 1998). As a consequence, Conservatives' and White nationalists' interests converge in unison to deal with potential domestic threats to Whites' future political, economic and social dominance. In

capitalistic quests to generate profits by utilizing managerial criminology, CCA and other privately managed correctional service providers and suppliers have vested interests in seeing to it that Tennessee and the nation have, and continually to have for the foreseeable future, a criminal class for which to exploit the public's perception of crime, public safety, law and order, and the privatization of government services.

In Tennessee and the rest of the nation there is growing concern regarding the private sector's convergence with federal and state governments to administer criminal justice (CMD, 2011). Both CCA and GEO Group, Inc., the two largest operators of private facilities, have been large contributors to ALEC, which lobbies for policies that would increase incarceration, such as "three-strike" laws and "truth-in-sentencing" legislation (PRWatch, 2011). In a 2010 Annual Report filed with the Securities and Exchange Commission, Correction Corporation of America (CCA), the largest private prison company, stated: "The demand for our facilities and services could be adversely affected by . . . leniency in conviction or parole standards and sentencing practices . . . ." (Shapiro, 2011, p. 5).

The prison industrial complex is the convergence of ideological, bureaucratic and economic forces intertwined with political, economic and social interests (Leon, 2004). Organized private interest groups' influence on public policy as it relates to the criminal justice system is consistent with interest-group liberalism and the pluralist model of power discussed by Theodore Lowi<sup>9</sup>. Lowi surmises that interest-group liberalism and pluralism sounds feasible in theory; however, it fails in practical implementation (Lowi, 1969). Power, influence and control

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<sup>9</sup> Theodore Lowi's influential book, first published in 1969, was titled *The End of Liberalism*, and presented a critique of the role of interest groups in American government, arguing that 'any group representing anything at all, is dealt with and judged according to the political resources it brings to the table and not for the moral or rationalist strength of its interest (Woolley, 2002: pp 174).

over institutions that influence criminal justice policy and other public policy areas are widely disseminated between government and interests groups (Lowi, 1969). Pluralist theory adopts the notion that various sources of power, influence and control operate other than the state and provides competition and a necessary democratic link between people and government (Hunter & Dahl, 1962). There are high costs associated with the implementation of interest-group liberalism and pluralism. There is a transferring of political power from government and people to respectful interest groups. This makes it extraordinarily difficult to hold groups politically accountable and responsible for intended and unintended policy outcomes (Lowi, 1969). Another issue is that transparency is diminished as the policymaking process is oftentimes conducted with a veil of secrecy. This is an extremely important aspect as public participation, input, concerns and ideas are prevented from entering the policymaking process, leaving the interest group to pursue its agenda(s) without the democratic process as the Founding Fathers of this nation had originally envisioned.

Interest group liberalism and organized private interests play an influential role in the development of criminal justice system legislation in Tennessee and the United States. Unions representing law enforcement personnel, correctional guards, financial institutions and other profiteers have teamed up and routinely collaborate with correctional management and supplier corporations such as CCA and The GEO Group, Inc. (formerly Wackenhut). In their private meetings, public officials craft criminal justice legislation, mostly without transparency and accountability to the general public, to ensure economic feasibility, sustainability and future growth of criminal justice legislation from private capitalist investors' perspectives (Shapiro, 2011; Hartney & Glesmann, 2012).

## **Benefits and Criticisms of Private Correctional Facilities**

In a 2008 privately-managed CCA funded and summarized study conducted by James Blumstein, Director of the Health Policy Center at the Vanderbilt Institute for Public Policy Studies, in conjunction with Professor Mark A. Cohen and Suman Seth found that states that used private prisons could save up to \$15 million a year. The U.S. Department of Justice's National Institute of Justice found that private prisons had a higher quality of services than traditional prisons. While some studies have demonstrated that private prisons save governments money, other studies have found just the opposite (Shapiro, 2011; Baird, 1993). A study by the U.S. Bureau of Justice Statistics found no such cost-savings when it compared public and private prisons. This is in part due to the fact that simple numbers don't tell the whole story. For instance, privately run prisons can and often refuse to accept certain expensive inmates with existing medical conditions (Hartney & Glesmann, 2012). Not only does this have the effect of superficially deflating costs associated with running a private correctional facility, it also provides evidence of the sparse commitment to inmates' wellbeing.

Perhaps the most perverse incentives in privately-run correctional facilities are that the more prisoners a facility houses, the more revenue it generates. There are fundamental public policy and philosophical problems when you begin turning over administration and operations of correctional facilities to people who have vested economic interests and profit-seeking motivations in keeping people locked up (ACLU, 2011). This leads to a conflict of interest on the part of privately-run correctional facilities where they, in theory, are incentivized to not rehabilitate prisoners. Moreover, if private prisons worked to reduce the number of repeat offenders, they would be in effect reducing the supply of profit-producing inmates, thereby reducing their revenues.



To be profitable enough for investors, private prison firms must guarantee that prison beds are filled. Industry analysts say a 90-95 percent prison bed occupancy rate is needed to guarantee the robust rates of return necessary to attract investors (Hartney & Glesmann, 2014). At CCA's annual meetings, and in the annual reports, CEO Damon Hininger lets investors know that keeping bed occupancy rates at sufficient level is necessary to generate profits (ACLU, 2011). Relieving prison bed overcrowding and improving cost-efficiencies are major selling points private providers and suppliers pitch to legislative officials and Tennessee's taxpayers. Improving cost-efficiency proponents and opponents both argue their positions. However, more consensus points to little, or only marginal, costs savings through correctional privatization (Hartney & Glesmann, 2014).

Entrepreneurial government in Tennessee's criminal justice system has evolved into a self-perpetuating business model to generate profitable revenue streams. This includes civil asset forfeitures and restitution fees placed upon inmates as one or more conditions for the restoration of their respectful voting rights; and in many cases, a necessary condition requirement for ex-felons to successfully complete probation and parole supervision. Drug interdiction units in Tennessee are under increased scrutiny for their legalized confiscation of cash and property from motorists along busy Interstate 40. Drug interdiction units in Tennessee are known to compete with one another in efforts to raise the most revenue. The federal 1984 Comprehensive Crime Control Act allows Tennessee agencies to keep up to 95% of profits and proceeds seized in their own discretionary funds, as well as permits federal agents in states such as Tennessee to seize goods valued up to \$100,000 without a full-scale reporting (Beckett, 1997). Policing for profit has become an institutionalized law enforcement tactical strategy used to generate revenue necessary to run Tennessee's law enforcement agencies (Moore & Sumner, 2013). The vast

majority of drug interdiction units traffic stops involves minorities, in particular, African Americans and Latinos. Reports provide evidence which shows that the 23<sup>rd</sup> Judicial District Drug Task Force and Dickson Interdiction Criminal Enforcement (DICE) made ten times as many stops in the westbound lanes of I-40 compared to the eastbound lanes (Moore & Sumner, 2013). The eastbound lanes are where most of the drugs enter the state; the westbound lanes are, in theory, where most of the drug money exits the state. Scott Bullock, Senior Attorney for the Institute of Justice, stated that “it shows the police are really focusing, not on trying to get the drugs ....they’re focused on getting the money” (Williams, 2011). In many correctional facilities, inmates produce goods and services for companies for a fraction of the labor costs incurred by companies in comparison to the same goods and services produced by the general labor force (Blackmon, 2008). Exploitation of convict labor has been labeled modern day slavery (Blackmon, 2008). According to Dave Hodges, the highest-paying private prison run by CCA pays 50 cents per hour for “highly skilled positions” to produce a range of products and services for Kmart, JC Penney, Eddie Bauer, and etc (Hodges, 2013).

### **Conservative Policies in Tennessee and Wisconsin**

While data for the state of Tennessee are more limited, in part due to issues of transparency, the state of Wisconsin provides a another good example of conservative policymaking regarding criminal justice system legislation and its impact on broader social outcomes in the African American community. Wisconsin’s criminal justice system outcomes relating to the African American community and inequality provide a template to expand sound deductive reasoning applicable to racially targeted criminal justice system policy legislation in Tennessee. According to the Center for Community Alternatives and the Legal Action Center’s

2008 joint research study, *Unchaining Civil Rights: Overcoming Criminalized Inequality*, criminal justice policies developed in Tennessee and the nation over the past three decades resulted in mass arrests and incarceration that has disproportionately impacted communities of color, and the increase of collateral consequences—which prohibit people from employment, housing and social services because of a criminal conviction—making it very difficult for people with criminal records, who are most often impoverished minorities, to become full and productive members in their communities (CCALAC, 2008). If private prison lobbying efforts have been a major catalyst for the advancement of tougher criminal justice legislation, practical observation shows a relationship associated with conservative ALEC lobbying efforts and campaign funding, proposed and passed criminal justice legislation, and African American inequality in Tennessee and Wisconsin.

The Governor of Wisconsin, Scott Walker, has ties to ALEC (Fischer, 2012). From 2008 through 2012, Governor Walker received \$406,558 from ALEC in campaign funds (Fischer, 2012). According to Member of Congress and former Wisconsin Representative Mark Pocan, (D) Madison-78<sup>th</sup> District, approximately one out of three of Wisconsin's state representatives are current or were previous members of ALEC (Moyers et al., 2012). Wisconsin's incarceration rate of African American males is the highest in the nation (Corley, 2013). In 2013, Wisconsin's African American poverty rate was 38.4%, compared to non-Hispanic Whites. From social inequality and disparate outcomes perspectives concerning African American males, the cities of Memphis and Milwaukee share mirror characteristics. In 2013, Wisconsin fell to 44th in private sector job growth under Walker's administration. In 2013, Republican Rep. Paul Ryan of Wisconsin released a 204-page report, called "The War on Poverty: 50 Years Later." The report presents a scathing evaluation of 93 federal programs enacted since the Civil Rights Movement

(Resnikoff, 2014). Consistent with conservatives’ benign neglect, his committee report makes little mention of race. The report offers no new proposal recommendations on how to combat poverty and inequality (Resnikoff, 2014). In the report’s first section, race and racial inequality are referenced only two times (Resnikoff, 2014).

### Quantitative Results

Table 11 reveals that the spending on private prisons was significant in the earlier years. The spending began to decline in the mid-earlier years. It is evident, however, that the decrease is not statistically significant at the 0.05 level.

**Table 11:** Autocorrelations for TSSOPP

Lag	Autocorrelation	Std. Error <sup>a</sup>	Box-Ljung Statistic		
			Value	df	Sig. <sup>b</sup>
1	.001	.256	.000	1	.997
2	-.044	.244	.032	2	.984
3	-.128	.231	.340	3	.952
4	-.075	.218	.457	4	.978
5	-.040	.204	.496	5	.992
6	-.060	.189	.595	6	.996
7	-.129	.173	1.150	7	.992
8	-.251	.154	3.786	8	.876
9	-.009	.134	3.791	9	.925
10	.005	.109	3.793	10	.956

Tennessee: State Spending on Private Prisons

a. The underlying process assumed is independence (white noise)

b. Based on the asymptotic chi-square approximation.

Figure 14 shows the decrease in the spending on private prisons. As can be noted, the decrease fluctuated over time. In essence, as a decrease is made, it is followed by several increases, although not consistent.

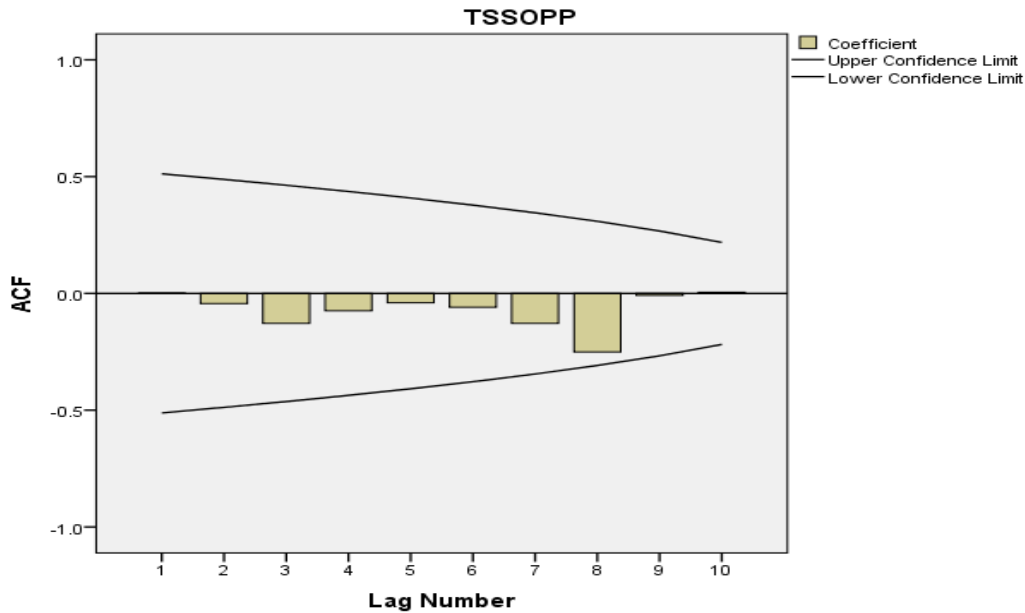


Figure 14: Time Series for TSSOPP

In Table 12 it can be seen that there is no significant statistical correlation between the number of incarcerated African Americans and the spending on private prisons at the 0.05 level. Also, there is no significant correlation between the number of Whites incarcerated and the spending on private prisons at the 0.05 level. Nonetheless, as the table further shows, the correlation between African Americans incarcerated and spending on private prisons is stronger than that for incarcerated Whites. In short, African Americans are bearing much of the brunt than White Americans.

**Table 12: Correlations for NOAAI, NOWAI & TSSOPP**

		TSSOPP
NOAAI	Pearson Correlation	.203
	Sig. (2-tailed)	.527
	N	12
NOWAI	Pearson Correlation	.171
	Sig. (2-tailed)	.596
	N	12

\*\*Correlation is significant at the 0.01 level (2-tailed).

## **Synthesis of the Findings and Assessment of Hypotheses**

Data collected from the Center for Media and Democracy (CMD), Prison Policy Initiative, The Sentencing Project, The Pew Charitable Trust, Center for Responsible Politics (OpenSecrets), CorpWatch, etc. estimated that in 2007, there were 117,428 Tennesseans incarcerated, on probation, or on parole. This estimation suggested that 2% of Tennessee's residents were under some form of criminal justice supervision. Approximately 65% were between the ages of 20-39, 50% were 34 years old or less, and about 46% percent were African Americans, 52% Whites, and 2% Other (TNDOC, 2007). The most frequently reported categories among politicians and private institutions are the number of inmates incarcerated, on probation, or on parole. In addition, lobbying dollars, campaign contributions, legislature voting outcomes, and general fund correctional expenditures represents important factors taken into consideration.

Of the known politicians receiving lobby and campaign donations from private correctional providers and suppliers, the vast majority were Republicans and ALEC-affiliated (CMD, 2015). In 2015, the GOP in Tennessee controlled 63 of 99 House seats, 28 of 33 Senate seats, the governor's office, seven of nine congressional seats, and both of the U.S. Senate posts (Stockard, 2015).

In order to generate levels of profitability industry experts claim CCA and other privately managed corrections facilities must negotiate 90-95 percent prison-bed occupancy contract guarantees with the state of Tennessee (Silverstein, 2000). TNDOC's Annual Report and a 2013 ALEC report projected unmet bed demand to almost double over the next five years (from 2013 to 2018). Former Democratic Governor Phil Bredesen saw little need to keep the CCA's Whiteville, Hardeman County, Tennessee facility operating. However, faced with an extremely limited budget, Republican Governor Bill Haslam cut social programs and located \$31 million in

the state budget to temporarily fund the Whiteville facility for the fiscal year (Schelzig, 2011). Governor Haslam's budget is a good example evidencing conservative and GOP implementation of corrections industries at the expense of social programs. In addition, his administration committed to keep funding the Whiteville facility into the foreseeable future, as well as providing necessary funding for CCA's new 2,552-bed Trousdale facility scheduled to open in late 2015. In the past five fiscal years (2014-2010), Governor Haslam's administration has committed approximately \$460 million of Tennessee's General Fund Expenditures to CCA. Based upon past political behavior, General Fund expenditures to CCA should be expected to grow in Tennessee's largely Republican dominated political landscape. In relation, the closing of the state operated 358-bed Charles Bass Correctional Complex-Annex, located in Nashville, is part of a larger prison complex including Riverbend Maximum Security Institution and Lois M. DeBerry Special Needs Facility. In the year 2000, the Prison Policy Initiative stated that the three facilities had an inmate population of 2,569. With privatization trends, private donations to elected officials, and Republican dominated policymaking institutions, it can be highly speculated that the new private Trousdale facility will divert from government-run facilities to capture private industry accounting business models, forecasting profit-driven unmet prison bed needs created by the closure of state-run facilities (Schelzig, 2000).

Consequently, this study fails to reject the second hypothesis, H<sub>2</sub>: Lack of political will due to profit-seeking motives and or other forms of economic incentives contribute to racist policy in the criminal justice system of Tennessee, with the caveat that the number for incarcerated African Americans is not proportionally weighted.<sup>10</sup> However, at the state level, the

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<sup>10</sup> It is important to note that the analysis was conducted examining presidential elections from 1972-2012. Preliminary indicators point to the possibility of a significantly different outcome if more localized government and mayoral elections were examined.

impact of mass incarceration, felony disenfranchisement, private influence, legislative voting patterns, and election outcomes are more significant. Justice is not the primary motive. The criminal justice system in Tennessee is more susceptible motivated by the generation of revenue and profit.



## **CHAPTER VII: SUMMARY, CONCLUSIONS, AND POLICY RECOMMENDATIONS**

In this final chapter, the discussion is divided into three interrelated sections. The first section is a summary of the major findings in the previous chapters. The second section draws some conclusions made possible by the findings in those chapters. The final section entails some policy recommendations.

### **Summary**

The evidence provided in the study supports the theoretical argument that there is an increase in mass incarceration in Tennessee, increasing approximately 400% since 1980. Whites are underrepresented, while African Americans are overrepresented. The findings also provide evidence that disenfranchisement is taking part on a mass scale. According to Bureau of Justice Statistics, in 2010, nearly 146,000, or 18.9% of African American adult voting age population were disenfranchised in Tennessee. According to Zachary Dowdy, “new studies are showing that in a society that drastically increased its criminal penalties to control crime and place offenders out of sight and out of mind, the prison industry has begun to affect the political landscape” (Dowdy, 2002). In possession of political and economic domination in Tennessee, the Republican Party has virtually little if any realistic political and economic incentive to change or weaken disenfranchisement laws and strengthen voter rights and voter registration and restoration laws. The impacts of rising incarceration and denial of the vote to convicted felons in Tennessee have spilled over into critical arenas of political and economic power. The transfer of funds from mostly poor urban minority communities to poor rural white communities and the dilution of minority voting strength create incentives for the misuse of political power to benefit political party and investors’ interests (Dowdy, 2002). The likelihood that an arrest will lead to a conviction has increased significantly, and convicted felons are now serving a significantly

greater portion of their sentences prior to their release (Manza & Uggen, 2008). In sum, a combination of rising conviction rates, longer sentences, and a changing mix of offenses, in particular, rising drug-related and supervision (parole, probation, etc.) place more African Americans than ever before under correctional supervision (Manza & Uggen, 2008).

According to Sociologist Devon Pager, the collateral consequences of mass incarceration extend far beyond individual bodies behind bars. Collateral consequences extend to the families and communities disrupted. Her position is that the criminal justice system legitimizes and reinforces deeply embedded racial stereotypes, contributing to the persistent chasm in this society between Blacks and Whites (Pager, 2007, p. 4). According to Daniel M. Butler, “Elected officials may also engage in bias against a given group (and/or exhibit favoritism toward another group) when creating outputs for strategic reasons or because of their personal biases” (Butler, 2014, p. 19). Indeed, African Americans in Tennessee are in a Catch-22 dilemma. Existing conscience of Conservatives’ and White nationalists’ preach self-reliance and independence. The problem is that a self-determined and self-reliant African American community challenges White dominance. Brenda Wright, managing attorney for the National Voting Rights Institute in Boston states, “We’re seeing a convergence of voting rights and political rights,” “People are understanding that incarceration rates in this country are having a big impact on those issues as well” (Dowdy, 2002).

In order to better understand crime, its causes, and the relationship between incarceration and crime, it is necessary to examine social indexes measuring inequality and access to economic development and community development opportunities, as well as social programs designed to sustain and promote economic development, community development and human development. Some scholars argue that the criminal justice system serves as a subterfuge scapegoat to hide

and/or disguise larger and broader social problems such as unemployment, illiteracy, chemical dependency and drug addiction, homelessness, single-parent households, and other social ills (Pager, 2007; Davis, 1997). Collateral damage as a result of the state's corrections policies and laws has had adverse intended and unintended outcomes. Approximately 90 percent of African Americans in Tennessee reside in its two largest metropolitan areas: Nashville and Memphis. The two cities have been ranked among 40 of the nation's largest cities employing the fewest African American males (Meador, 2012).

The criminal justice system has had devastating consequences on African American families and communities in Tennessee (Dowdy, 2002). African Americans are unfairly and disproportionately the targets of the police and the courts (Stanley & Weaver, 2014). Tennessee consistently ranks low in many social indexes measuring equality (NUL, 2009). Mass incarceration and felon disenfranchisement exacerbate genocidal-like culture pathology in terms of access to social indexes such as employment, education obtainment, unemployment, high school dropout rates, single-parent households, and racial disparity. An encounter with the police or the courts causes people to lose their status as participants in the political process, either officially by incarceration and its consequences or unofficially via the strong correlation that exists between such encounters and withdrawal from political life. According to Michelle Alexander 2010, the true wellbeing of the African American community is inaccurately reported (Alexander, 2010; Davis, 1997). People behind bars are not counted in many vital statistics measuring economics, poverty and unemployment. Ironically, incarcerated people are counted in census figures for purposes of federal fund allocations. Because prisoners are for technical and official reasons removed from the workforce, unemployment and poverty rates are distorted (Lotke & Wagner, 2004).

The absence of large segments of African American males from economic, community, and human development standpoint paradigms should be a source of concern to policymakers (Wolfers, Leonhardt, and Quealy, 2015). This astounding shortfall in Black men translates into lower marriage rates, more out-of-wedlock births, a greater risk of poverty for families and, by extension, less stable and viably sustainable communities (Wolfers, Leonhardt, and Quealy, 2015). From the perspective of policymakers that harbor notions of White supremacy, African American political and economic inequalities are intended outcomes. There has been a subtle shift away from blatant Jim Crow racism to laissez-faire racism (Moore, 2015). For this interest demographic, the removal of African American males from their political participation and respectful communities surely benefits their interests. Post-Civil Rights laissez-faire racism policy disparity outcomes endured by African Americans are perceptually rooted in ideas of cultural inferiority; as opposed to efforts designed to prove evidence of biological inferiority arguments (Behrens et al., 2003) utilized widely during pre-19<sup>th</sup> Century period.

Existing social science literature on the politics of criminal justice contributes to inequality has produced conflicting results about the role of race in driving policy change. As mentioned earlier, research by David Jacobs and Ronald Helms on prison admissions and police strength finds little racial impact, while the same authors' study of overall spending on social controls finds that criminal justice expenditures are responsive to racial threat and Republican Party strength (Behrens et al., 2003, p. 568; Jacobs & Helms, 1996). Cognitive dissonance leads to pathological ignorance and disbelief about White domination (Mills, 1997) and not in the immediate political and economic interests of zero-sum game Conservatives, White nationalists and White supremacists to share political power and economic gains in Tennessee with African Americans. Whites will then act in racist ways while thinking of themselves as acting morally.

Conservatives and White nationalists view their behavior as expedient to racial survival and racial purity, and thus view themselves as doing the right thing (Mills, 1997). In other words, they will experience genuine cognitive difficulties in recognizing certain behavior patterns as racist. They will be morally handicapped simply from the conceptual point of view in seeing and doing the right thing. According to Charles Mills, “The Racial Contract prescribes, as a condition for membership in the polity, an epistemology of ignorance” (Mills, 1997, p. 93).

Stinebrickner-Kauffman says that “There has been systematic suppression and reduction of Black political power in the United States” (Dowdy, 2002). She adds that the quickly-rising incarceration rate of the late 20<sup>th</sup> Century combines with a method of apportioning political power implemented at the nation’s birth to Blacks’ political detriment (Dowdy, 2002). According to her, “This is one of those things that, if it were happening to White people, would be stopped” (Dowdy, 2002). She concludes that “But since it’s happening to minority groups that don’t have [much] political power, it hasn’t been stopped” (Dowdy, 2002). These and the preceding findings lead to some very important conclusions.

### **Conclusions**

Patterns are observed upon analyses of the two major research questions: 1) Q<sub>1</sub>: Are race, mass incarceration and felony disenfranchisement collectively used to influence election outcomes in Tennessee? and 2) Q<sub>2</sub>: Did profit-seeking motives or other forms of economic incentives contribute to racist policy in the criminal justice system of Tennessee? The methodology was useful for this study because it allowed the researcher to emphasize numerical values and words in analyzing Tennessee as a case study. We see the linkages between public-private partnerships. From the counterfactual analysis, the researcher can make inference that the more localized the election, the more susceptible the election outcome can be impacted by mass

incarceration and disenfranchisement. District and mayoral elections are more easily influenced than gubernatorial and presidential elections.

Tennessee State Advisory Committee to the United States Commission on Civil Rights (Committee or SAC) stopped short of indicting Tennessee's lawmakers regarding the right to vote and ex-felon disenfranchisement. SAC's position stated "Any consideration of motive would need further study, and as such is not part of this report" (SAC, 2014, p. 18). The criminal justice system in Tennessee has found many ways to generate revenue and in many instances profit both politically and economically through mass incarceration and felony disenfranchisement. From direct revenue streams associated with contract-negotiated and minimally-guaranteed prison bed-occupancy levels, census-related apportionment allocations associated with prison-based gerrymandering, through 'policing for profit' and through legal fees associated with incarceration, etc., an entire self-perpetuating industry has been created and maintained with extensive ties in deep-rooted associations within Tennessee's political landscape and economic sectors. Conservatives' and White nationalists' political ideology contributes to and exacerbates the expansion of the criminal justice system. Post-Civil Rights conservative policy responses are not likely to change within the near future. Brandeis University's Institute on Assets and Social Policy (IASP) report, "The Roots of the Widening Racial Wealth Gap: Explaining the Black-White Economic Divide," leads many who are concerned with social inequality to believe that in the so-called "race-neutral" post-Civil Rights era, as a collective racial group, African Americans in Tennessee are not likely to reach levels of socio-political and socio-economic parities in the foreseeable future (Shapiro, Meschede, & Osoro, 2013).

Two societies coexist in Tennessee, one empowered, the other marginalized. The evidence suggests that disparate outcomes will continue to be embedded in Tennessee's political

and economic landscapes into the foreseeable future. Group Threat Theory and Racial Contract Theory offer viable explanations for which to describe past and present policy initiatives. Criminal justice system policies designed to alleviate disparate outcomes and social inequality are lacking. Transparency is an issue. Legislation to address unintended consequences is not publically conceptualized when designing criminal justice policy in the state. Addressing collateral damage created by criminal justice is a not a priority of policymakers. With objectives of dominating politically and economically, ultra conservatives and White supremacists have incentives to advance legislation that promotes disparate outcomes and social inequality as an intentional outcome. Given the state's history of racial discrimination, this is not unfathomable. Unless there is a monumental shift, it is most probable that hostile criminal justice system policy towards African Americans will continue, and as a result more collateral damage.

The political and economic playing field has never been equal in Tennessee between Blacks and Whites. Whites in Tennessee enjoy a comparative advantage as a result of historical slavery, Jim Crow and institutional racism. African Americans in Tennessee are at a comparative disadvantage as a result of historical slavery, Jim Crow and institutional racism. The desire to maintain the status quo through law and order legislation, rather than through policies promoting social uplift and empowerment of African Americans will most likely continue. Until the nation and states like Tennessee are committed to minimizing social inequality, and commits to maximizing public good and optimal human development (Shannon & Uggens, 2012) African Americans in Tennessee and the nation will continue to be the recipients of laissez-faire, policy racism, and benign neglect "race-neutral" discriminatory criminal justice policies. Historically, policy racism in Tennessee and related injustices have yet to be truly examined and addressed with regards to uplifting African Americans in Tennessee as a result of past injustices.

All things remaining the same, social inequality will continue to be a by-product of policy and legislation in Tennessee's African American communities. If current laissez-faire racism attitudes and perceptions of African Americans as being innately criminally dispossessed and culturally inferior to other racial groups serve as an indicating guide (Moore, 2015), Tennessee's policymakers display minimum political will to alleviate social inequality in the state's African American communities. African American and other minority groups threats to Conservatives' and White nationalists' political and economic interests are likely to result in more covert and "race-neutral" policy responses, with continued debilitating outcomes in African American communities within the state. Historical injustices, combined with contemporary laissez-faire, policy racism, and benign neglect "race-neutral" policies have resulted in disparate outcomes and generational pathologies within Tennessee's African American communities. As a result, most realistically, leveling the playing field in one generation is an unobtainable goal in the foreseeable future.

Despite the claims of politicians and other proponents that the courts are soft on criminals, and the subsequent call for "tough on crime" law and order criminal justice, the fact remains that Tennessee's lawmakers are committed to strong criminal justice system policies and the subsequent passage of legislation. Mandatory minimum sentencing statutes were evaluated and found to be wanting, both in terms of their impact on crime control and in the distortions they contribute to the criminal justice system (Mauer, 2006). Despite conservatives' and White nationalists' 'issue framing' of the public safety and crime issue, Tennessee's criminal justice policies are not effective in reducing crime. In 2013, the state consistently ranks as one of the four most dangerous (most violent) states in the nation (Kent & Frohlich, 2015; FBI, 2013; TBI, 2014).



If locking up those who violate the law contributed to safer communities, then Tennessee should be the one of the safest states in the nation. Yet despite well-documented and mounting evidence that increased penalties alone cannot reduce crime, Tennessee's conservatives and White nationalists repeatedly advocate for tougher sentencing and more correctional facilities. Although Black crime rates have been stable for years, and in some areas have actually trended downward, the number of African Americans incarcerated in Tennessee's jails and prisons continues at disproportionate and unprecedented levels in comparison to other racial groups.

The trend continues with newly constructed correctional facilities coming online, coupled with Tennessee lawmakers' close affiliation with profit-driven CCA and its influential lobbyists; given the historical disparity in the arrest rates of African Americans, current criminal justice system policies are decimating Tennessee's African American communities and impeding the movement of disadvantaged African Americans into the political, economic, and social mainstreams of present-day Tennessee. Realizing a better future for Tennessee requires not only admitting the ugly truth of the past—and present—but to understand the ways in which these realities were made invisible and acceptable to the White population (Mills, 1997). As Charles Mills puts it, “You want to know—both to describe and to explain the circumstances that actually blocked achievement of the raceless ideals and promoted instead the naturalized nonideal racial ideals. It is necessary to know what went wrong in the past, is going wrong now, and is likely to continue to go wrong in the future if we do not guard against it” (Mills, 1997: 92).

African American leaders in Tennessee, if they perceive injustice is taking place should advocate for reforms in sentencing guidelines, campaign lobby and campaign finance. Implementing smarter sentencing structures is necessary to address disparate sentencing

outcomes. In bad faith, conservatives and White nationalists made a choice not to admit certain uncomfortable truths about their actions and choose not to challenge certain falsehoods about other people (Mills, 1997). In the words of Mills, “Since he has made this choice, he will resist whatever threatens it....The more the racist plays the game of evasion, the more estranged he will make himself from his ‘inferiors’, and the more he will sink himself into the work that is required to maintain its evaluation” (Mills, 1997: 98).

Are Tennessee’s lawmakers committed to social justice and the minimizing of social outcome disparities in a democracy? If so, the system needs to be reformed. Finding other types of modalities to provide alternatives other than long term sentencing better serves the State of Tennessee and its citizens’ interests. Reform must occur regarding mass incarceration and felon disenfranchisement if Tennessee’s policymakers are serious about minimizing collateral damage and unintended consequences that facilitates social inequality. A 2015 United Nations Office on Drugs and Crime (UNODC) World Drug Report stated, “the General Assembly have recognized the need for drug control policies that are balanced, comprehensive and integrated, with a focus on health and carried out with respect for human rights” (UNODC, 2015, p. iv).

A 2014 National Institutes of Health’s (NIH) National Institute on Drug Abuse (NIDA) report highlights that drug addiction should be viewed as a health problem, and not a crime or legal problem (National Institute on Health, 2014). Lawmakers should view addiction to both illegal and legal drugs as a social health problem, not a moral crime problem. Tennessee policymakers should look at other nations’ models for dealing with felon disenfranchisement (SAC, 2014) and drug addiction. Federal law should be enacted to prohibit felon disenfranchisement for possession of small amounts of illegal drugs and non-violent offenses.

Implementation of alternative sentencing for nonviolent low-level drug offenders would be in the best fiscal interest of Tennessee's taxpayers.

Ensuring that Tennesseans enjoy better living wages serve efforts to reduce crime and burgeoning corrections population. Studies have shown that the home environment is more stable with two parents. Public policies should be designed to decrease single-parent households. Decreasing high school dropout rates minimizes crime, as well as other social problems. Passing more legislation granting economic incentives for businesses to locate in economically depressed communities would better aid efforts to reduce many social problems. In 1989, the Committee on the Status of Black Americans of the National Academy of Sciences concluded that, "as long as great disparities in the socioeconomic status of blacks and whites remain, blacks' relative deprivation will continue to involve them disproportionately in the criminal justice system as victims and offenders" (Rosich, 2007, p. 8). Criminal justice legislation that have negative outcomes in Tennessee's African American communities and lack of political will by Tennessee policymakers to address social problems and inequality in Tennessee's African American communities can best be explained by linkages to Conservatives' and White nationalists' policies characteristic of laissez-faire, benign neglect, and policy racism. Reforms are needed in sentencing structures and preparing Tennessee's felon and ex-felon returning citizens for reentry and reintegration into Tennessee's communities.

### **Credentialing of Stigma: The Creation of a Criminal Class**

Tennessee consistently ranks low in many social indexes measuring equality. Mostly perpetuated by criminal convictions as mentioned earlier, racial disparities in the criminal justice system has had devastating consequences on African American communities in Tennessee (Mauer, 2006). Collateral damage as a result of the Tennessee's corrections policies and laws

have had adverse intended and unintended outcomes that has helped facilitate the creation of a permanent underclass and super-underclass. Mass incarceration and felon disenfranchisement exacerbate unemployment, high school dropout rates, single-parent households, etc. The majority of employers will not knowingly hire an applicant with a criminal past (Pager, 2007). According to Sociologist Devon Pager, a past criminal record results in *negative credentials* labeling of ex-felons. Collateral consequences of a criminal conviction include the general public's ability to access police records, available through online repositories and accessible to employers, landlords, creditors and other interested parties (Pager, 2007). According to Pager, "The state in this way serves as a credentialing institution, providing official and public certification of those among us who have been convicted of wrongdoing. The "credential" of a criminal record, like educational or professional credentials, constitutes a formal and enduring classification of social status, which can be used to regulate access and opportunity across numerous social, economic, and political domains" (Pager, 2007, p. 4). Unfortunately, for the vast majority of individuals with a criminal past, particularly men of color, the idea of ever achieving the 'American dream', in reality, becomes a nightmare.

Tennessee's State Election Commission does not collect voter registration data based on race (SAC, 2014). Without official data collection on key statistics, official acknowledgement and accountability for social disparities make it more difficult to hold Tennessee's policymakers responsible. Moreover, policy recommendations are challenged as a result as well. We need to identify and learn to understand the workings of a racialized ethic (Mills, 1997). How are people able consistently to do the wrong thing while thinking that they were doing the right thing? In part, it is a problem of cognition and of White moral cognitive dysfunction (Mills, 1997). The State of Tennessee Elections Coordinator Mark Goins' perception that the voter registration

process (SAC, 2013, p. 11) is not a subjective process should be reconsidered, and in many ways is strikingly similar in characteristics associated with subtle benign neglect policy racism. ACLU of Tennessee claims that the CCA has broken its pledge to run jails better and cheaper than the government (Brogdon, 2014). It also criticizes the company for trying to direct politics through lobbying, litigation and campaign contributions. ACLU's Hedy Weinberg states that "Government has an interest, for a number of reasons, for reducing recidivism, but CCA has interests in ensuring their facilities are full." She admits that "for-profit corporations shouldn't be in the business of limiting people's freedoms, because the business model inherently runs counter to the public's interest" (Brogdon, 2014).

In summation, as mentioned earlier, Tennessee's four largest cities all placed in the top 50 metropolitan areas as being the most reflective of mainstream American values. It is obvious that Tennessee's public-private partnerships can serve as a template to examine linkages between public officials, criminal justice legislation, private-managed correctional providers and suppliers, and social outcomes in other states. ALEC's strong presence in states such as Wisconsin is one example. Florida's high incarceration and ex-felon disenfranchisement rates of African American males, combined with the fact that the GEO Group, Inc. (formerly Wackenhut) is headquartered in Boca Raton, Florida, are additional proofs. What then can be done? The following section addresses this question.

### **Key Recommendations**

Many recommendations in this study borrow key integrated concepts, principles and tenets from the following three public sources: (1) articles of the United Nations International Bill of Human Rights (Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, 1966; and International Covenant on Economic, Social and Cultural

Rights, 1966); (2) Final Study Summary and Policy Recommendations: Participatory Citizenship in the Europe Union; and (3) Tennessee State Advisory Committee to the U.S. Commission on Civil Rights (SAC). The three reports suggests a number of key recommendations concerning policies, practices and effective approaches towards overcoming barriers to political, economic and social participation in Tennessee. Concepts and findings from these three public sources are helpful in establishing collective frameworks for more inclusion and participation in duties required for full citizenship. Recommendations embrace basic human rights principles adopted by the United Nations' General Assembly on December 10, 1948. These principles were adopted as a means of addressing newly independent nation-states that were subject to colonial control by Western nations, based on conducted research analysis, such United Nations Human Rights principles can and perhaps should be extended to descendants of colonial slavery, Jim Crow segregation and institutional racism in Tennessee. Recommendations also borrows findings from the European Union's study in Participatory Citizenship submitted May 10, 2012, in juxtaposition to findings from Tennessee State Advisory Committee to the U.S. Commission on Civil Rights' report adopted on April 21, 2014. These key recommendations are briefly summarized below. The recommendations are as follows:

**R. 1** Establish the United Nations International Bill of Human Rights (Universal Declaration of Human Rights (1948), International Covenant on Civil and Political Rights (1966), International Covenant on Economic, Social and Cultural Rights (1966)) as foundational principles governing universal treatment of humankind. Adopted December 14, 1960, General Assembly resolution 1514 (XV) states "All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Widely accepted and documented in key statistical reports and sources, descendants of slaves in Tennessee are at a comparative disadvantage regarding their status and inability to obtain full-citizenship and the equal obtainment of subsequent rights and access to resources relative to other groups. Members of the Tennessee Black Caucus of State Legislators and other African American leaders in Tennessee should expand upon concepts of colonialization and self-determination contained within the United Nations International Bill of Human Rights. Conceptualized principles of self-determination developed as a result of global

colonialization should be expanded and extended to descendants of colonial slavery and their quests for human rights and civil rights. Expansion should encompass both historical human rights and civil rights struggles of African-ancestry colonial slavery descendants in Tennessee.

- R. 2** Recognize “don’t discriminate” principles established in United Nations’ resolutions and articles that are of particular relevance regarding Tennessee’s felon disenfranchisement and returning citizens policies. Because of credentialing, even after serving their sentence, those who are felony disenfranchised, returning citizens, or with a criminal record experience a societal state of war against them perpetually continues in the form of being denied access to public resources, in particularly many social programs that felony disenfranchised and returning citizens desperately need. These resources include education, housing, welfare and other social service benefits.
- R. 3** Streamline the process for felony disenfranchised, returning citizens and those who have lost their voting rights to regain the right to vote in Tennessee. Those labeled as a criminal by means of having a criminal record are subject to discrimination in many aspects of their lives. Felony disenfranchised and those with criminal records have marginal and disproportionate participation and representation in lawmaking institutions. Their ability to achieve political and economic equality is considerably diminished. Their status is reduced to that of second-class citizenship as a result of credentialing and they are denied legitimate access to policymaking and related institutional processes concerning their well-being. Strong consideration should be given regarding making the restoration process a one-stop portal process.
- R. 4** Provide clarity and balance in the conceptual foundation of citizenship. Citizenship should not only be understood as legal concept but one with a core participatory element; both aspects need to be present and balanced in order to safeguard democratic rights. Using the terminology Participatory Citizenship helps to emphasize this.
- R. 5** Establish a clear policy definition for Participatory Citizenship that is accepted and drafted in Tennessee bylaws. The [European Commission, Europe for Citizens Programme](#) defines Participatory Citizenship as: ‘Participation in civil society, community and/or political life, characterized by mutual respect and non-violence and in accordance with human rights and democracy’. Tennessee’s policymakers should expand upon the European Union definition. Tennessee policymakers could use the following definition: ‘Full participation in economic sectors, civil society, community and/or political life, characterized by mutual respect and non-violence and in accordance with human rights and democracy’.
- R. 6** Recognize the importance of the values base that underpins Participatory Citizenship that will help support democracy and human rights. The promotion of the values of democracy and human rights that underpin Participatory Citizenship should be at the heart of all programs, strategies and activities.

- R. 7** Promote the fact that Participatory Citizenship is primarily a learnt activity and ensure adequate support is given to the learning process in all learning contexts. Participatory Citizenship is primarily a learnt activity and learning should be at the core of strategies designed to facilitate Participatory Citizenship. It is also important that there is adequate support to ensure the quality and consistency of the learning experiences that underpin Participatory Citizenship.
- R. 8** Focus on learning and outreach in order to enhance individuals' quality of engagement. It is important to fund and to monitor the effectiveness of specific citizenship programs (both in schools and in communities) that enhance the knowledge, skills, attitudes and values needed for Participatory Citizenship.
- R. 9** Target strategies at those groups and individuals who engage the least and who are most at risk of unemployment and social exclusion. There needs to be a targeting of strategies on assisting under-resourced, underserved, hard-to-reach and disadvantaged groups, including young people, who are most at risk from unemployment and exclusion. It is crucial for a healthy democracy in Tennessee that all groups engage and it may well improve social cohesion in times of economic difficulties if disadvantaged groups are involved in political decisions and economic governance issues that affect their lives.
- R. 10** Support the use of 'situated learning' approaches that enable young people and adults to engage with and learn how to participate in decision-making in contexts that matter most to them. Projects should be funded that use this approach to enable young people and adults to engage with and learn how to participate in decision making, including in economic governance issues and in contexts that are part of their daily lives and experiences, particularly at local and community levels.
- R. 11** Provide more long-term strategic and sustainable funding for projects, NGOs (non-governmental organizations) and programs on Participatory Citizenship.
- R. 12** Provide funding for projects that form collaborations between different types of partners that have different expertise and resources. These partnerships enable the sharing of expertise, resources and responsibilities and can provide citizens with the opportunities for real and significant participation in their local communities. The partnerships between diverse partners can also facilitate social innovation.
- R. 13** Adopt a flexible, long-term strategic approach to Participatory Citizenship through to 2030 and beyond that is detailed, balanced and targeted. The approach must be sufficiently flexible and long-term to encourage and promote collaborative working between the policy making institutions, municipalities and Tennessee's under-resourced, underserved, hard-to-reach and disadvantaged citizens to address current and future challenges through to 2030. It should be supported by more detailed short- and medium-term actions and activities over the next five to ten years. It must be balanced in promoting both political participation in civic society as well as voluntary and community action in civil society. It must be targeted, in particular, at recognizing and



responding to the impact of economic and political disparities and needs at state and local levels.

- R. 14** Ensure a long-term strategic approach to Participatory Citizenship through to 2030 and beyond that promotes the links between Participatory Citizenship, social cohesion and economic competitiveness as a necessary foundation for building a strong and cohesive Tennessee. It should reinforce and strengthen the values that underpin participatory citizenship at all levels and seek to build trust in politicians and political institutions, particularly juridical proceedings and the administration of the law as it relates to Tennessee's under-resourced and underserved citizens.
- R. 15** Explore the use of a bottom-up grassroots approach where citizens are involved in constructing and developing the programmed activities and Tennessee policy makers use respectful opportunities to listen to citizens and focus on participatory forms of citizenship. It is important that Tennessee's policy makers respond to the needs and interests of citizens as its starting point and includes the underlying values and "Rights" that inform self-determination and citizenship participation. Explain clearly to citizens why it is important that they vote in the Tennessee's state and local elections.
- R. 16** Support a long-term strategic Tennessee designed vision and approach to participatory citizenship through to 2030 and beyond in order to address major issues that face Tennessee's under-resourced and underserved communities in the upcoming decades. This vision and approach should be grounded in the goals of active involvement and participation of Tennessee's citizens in addressing these issues in order to enhance and safeguard the future of participatory citizenship in Tennessee as it relates to political and economic inclusiveness.
- R. 17** Provide more transparency and adequate disclosure of aspects dealing with election-oriented politics and lobbying. Lobby and campaign reform to minimize questionable ethics in the form of political favors, kickbacks, and other related monetary and nonmonetary compensations.
- R. 18** Partner and collaborate in the dissemination of participatory citizenship strategies by African American leaders in Tennessee to mobilize and support Tennessee's under-resourced and underserved communities.
- R. 19** Strategize and partner with non-profit and faith-based organizations to deliver reentry programs, voter restoration, job-training and other programs important to political and economic participation.
- R. 20** Develop annual social indexes, measuring key index variables within in Tennessee's African American community regarding political, economic and social progress. Count prisoners in vital statistics that measure inequality.
- R. 21** Advocate utilization of state and federal resources away from criminal justice system and more toward education and job training programs.

- R. 22** Adopt more policies that promote two-parent households. Crime is facilitated by broken families, impoverished neighborhoods, limited opportunities, and inadequate schools.
- R. 23** Revise current laws and policies that have disparate impacts. Anticipate disparate impacts of new and future criminal justice policies.
- R. 24** Conduct third-party short-term, mid-term, and long-term economic studies detailing cost-benefit analyses of other cost-effective alternatives to mass incarceration and carceral initiatives.
- R. 25** Establish community-oriented drug courts that administer alternative sentencing for small quantities of drugs and other non-violent crimes.
- R. 26** Recognize drug addiction as a public health problem, rather than a criminal problem. Devote more resources to drug addiction treatment programs and away from incarceration facilities.
- R. 27** Adopt federal guidelines of the Smarter Sentencing Act of 2015, applying it to the State of Tennessee. The Smarter Sentencing Act of 2015 amends the federal criminal code to direct the court to impose a sentence for specified controlled substance offenses without regard to any statutory minimum sentence. It authorizes a court that imposed a sentence for a crack cocaine possession or trafficking offense committed before August 3, 2010, on motion of the defendant, the Bureau of Prisons, the attorney for the government, or the court, to impose a reduced sentence as if provisions of the Fair Sentencing Act of 2010 were in effect at the time such offense was committed, provided such sentence was not previously imposed or reduced under such Act or such a motion wasn't previously denied. It amends the Controlled Substances Act (CSA) and the Controlled Substances Import and Export Act (CSIEA). Directs the U.S. Sentencing Commission to review and amend its guidelines and policy statements applicable to persons convicted of such an offense under the CSA and CSIEA to ensure consistency with this Act and to consider specified factors. Lastly, it Requires the Attorney General to: (1) report on how the reduced expenditures on federal corrections and cost savings resulting from this Act will be used to help reduce overcrowding in the Bureau of Prisons, increase investment in law enforcement and crime prevention, and reduce recidivism; (2) report a list of all criminal statutory offenses and the potential criminal penalty, the number of prosecutions brought by the Department of Justice each year for the previous 15 years, and the mens rea requirement for each offense; and (3) establish a publicly accessible index of each criminal statutory offense.
- R. 28** De-privatize the corrections industry. Scale back and eventually eliminate private prison contracts and abolish prison-bed occupancy guarantees. Amend civil and criminal asset forfeiture laws.

- R. 29** Revise Census' "group quarters" rules and "usual residence" rules. Discontinue prison-gerrymandering and distribute federal funds to the community in which the inmate originally resides.
- R. 30** Establish more legislation granting economic incentives for businesses to locate in economically depressed communities would better aid efforts to reduce many social problems. Empowerment zones should be supported and cultivated.

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