

The Biography of an Institution:  
The Cultural Formation of Mass Incarceration

Thesis

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By

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## Abstract

It may be hard for some to justify how the United States imprisons over two million people when it is hailed ‘the land of the free,’ but this thesis argues that there are very real social, economic and political drivers behind this growing trend having nothing to do with crime. While mass incarceration has its roots in other older forms of racialized social control, it exists in its current form due to an array of cultural conditions which foster its existence. Utilizing the cultural studies tool known as the *circuit of culture*, this thesis aims to provide a holistic understanding of the articulation of social factors contributing to the existence of mass incarceration. In order to do this, mass incarceration is assessed with the use of the 5 processes of the circuit of culture (production, regulation, representation, consumption and identity) and a specific look at its relation to the Black community over time is considered.

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## **Chapter 1: Introduction**

The United States now imprisons over two million people making it the country with the highest incarceration rate in the world. While it may be hard to justify how this is possible in ‘the land of the free,’ this paper argues that there are very real social, economic and political drivers behind this growing trend having nothing to do with crime. A number of commentators (Goldberg 2002; Wacquant 2001; Williams, 1994) have argued that issues of race and class have been two key motivational forces driving state legal and penal policy as well as action in the United States since the beginning of chattel slavery. The forms of brute social control that defined chattel slavery have now been superseded by modern discourses and systems of social control resulting in the contemporary institution of mass incarceration. Contrary to a common misconception, mass incarceration is not a product of rising crime rates but is instead motivated by capitalist interests. Mass incarceration is a huge business industry characterized by profit, privatization and cheap labor extraction. The prison industrial complex (PIC) is a term which was coined to describe “an array of relationships linking corporations, government, correctional communities, and media” (Davis 2003, p. 84) that function to foster and profit from mass incarceration. This paper argues that although mass incarceration has its roots in other older forms of racialized social control, it exists in its current form due to the cultural conditions which foster its existence.

This paper will advance this argument in two key ways. First, it will provide the theoretical analysis and framework crucial to understanding mass incarceration as it stands today. It will then go on to explore how mass incarceration circulates within the context of the *circuit of culture*. Formulated originally in 1997 (du Gay et al., 2013), the concept of the circuit of culture was created to be used in the analysis or exploration of cultural artifacts. The authors of *Doing Cultural Studies* (du Gay et al., 2013) posit that when completing a study of a cultural artifact, it is important to examine it in the context of five cultural processes: production, regulation, representation, consumption and identity. These processes are used in conjunction with each other to provide a holistic look at cultural practices which make a cultural construct what it is.

Mass incarceration, which this paper argues is a construct existing in its current formation because of cultural conditions, should be examined through the processes that make up the circuit of culture in order to better understand the articulation of social factors contributing to its existence. The widespread acceptance of mass incarceration by U. S. citizens can only be understood by examining mass incarceration as a cultural phenomenon, not merely a social institution. To make this argument I use the model of the circuit of culture along with other social, political and economic processes to provide a holistic analysis of the processes through which a social institution becomes socially and culturally constructed.

## **Theoretical Framework**

The circuit of culture is a cultural studies theoretical and methodological framework developed to explore the processes through which the meanings of cultural artifacts and formations are socially constructed. When originated, it was used to explore

the Sony Walkman as a cultural product of its time (du Gay et al., 2013). The circuit is a theoretical and methodological model made up of 5 cultural processes: production, regulation, representation, consumption and identity. Production includes the examination of the cultural, political and economic contexts that led to the development of mass incarceration. Regulation is the examination of formal and informal rules which impact or are impacted by mass incarceration. Regulation also considers the enforcement of these rules. Representation identifies the significance and meaning mass incarceration has been given. In order to analyze mass incarceration's representation completely, the way it is portrayed today and how that shapes the meaning and significance given to mass incarceration is analyzed. Consumption is the reception or utilization of mass incarceration as a cultural phenomenon. This will involve examining how individuals within and outside of the PIC utilize the cultural meanings associated with the PIC in their daily lives and how its meanings are transformed through everyday consumption practices of individuals and groups. Finally, identity is an exploration of the role of mass incarceration and the PIC in relation to social identities, and the cultural politics of identity. It is here in particular that this paper will explore the role of mass incarceration of POC in the politics of race and Black representation in the USA. It is important to examine a cultural development in the context of the circuit of culture because it is useful in understanding the articulation of multiple variables within society. In the interest of organization, the presentation of information is split into separate sections—each dedicated to exploring the prison industrial complex in the context of one of the circuit of culture processes.

Undergirding the circuit of culture and therefore this paper is the concept of articulation. Articulation refers to the linkages between multiple and varying elements under specific and shifting circumstances (Hall & Grossberg, 1996; Du Gay et al., 2013). In quoting Foster-Carter (1978), Stuart Hall says articulation “is a metaphor used to ‘indicate relations of linkage and effectivity between different levels of all sorts of things’” (Hall, 1980, p. 325). Articulation is a complex structure connecting variables whose relation, whether through similarity or difference, is dependent upon conditions within which they are situated. Studying these linkages can assist in identifying the conditions of existence that make a particular set of articulations possible. So, in the context of this paper that means identifying the conditions of possibility which play an important role in fostering the existence of mass incarceration. This paper uses critical theoretical perspectives to argue that the mass incarceration of men of color and the PIC articulate the cultural logics of the USA as a racial state, and neoliberal capitalism to reproduce new and old forms of racialized social control.

Conditions comprising today’s modern era have contributed to the formulation and fortification of mass incarceration because, as this paper will show, changes in culture and society led to transformations of racialized modes of social control. Modes of social control that function to subordinate and subjugate Black people have been integral for state power throughout the history of the United States and continues today. In their book *Racial Formations in the United States*, Michael Omi and Howard Winant (1986) posit that race has a fundamental role in the social formation of American society—one which they acknowledge is identified and signified on one hand but also routinized and standardized by institutional forms on the other. They argue that this routinization and

standardization are political mechanisms used by dominant groups to consolidate and maintain power which can be understood by looking to Gramsci's concept of hegemony. Gramsci believed that "in order to consolidate their hegemony, ruling groups must elaborate and maintain a popular system of ideas and practices – through education, the media, religion, folk wisdom, etc. - which he called common sense" (Omi and Winant 1986, p. 130). Hegemony plays a major role in understanding why mass incarceration has been so successfully promulgated and why it continues to thrive because it underlies components like race and class domination. What leads from this, then, is that although there have been some shifts, hegemonic ideology in the United States has continued to center around racial domination and oppression.

Like Omi and Winant (1986), David Theo Goldberg classifies the United States a "racial state," but he goes further by insisting that mainstream political theories of the modern nation-state commonly omit racial considerations. He says it is actually more accurate to speak of modern states as inherently and routinely racial states because "race is integral to the emergence, development, and transformations (conceptually, philosophically, materially) of the modern nation-state" (2002, p. 234). He argues that through a "complex, nuanced and subtle entanglement of identity processes, cultural and commodity flows, and state institutions, apparatuses, and functions," (Goldberg, 2002, p. 235) modern nation-states are racially configured. Goldberg posits "states are racial more deeply because of the structural position they occupy in producing and reproducing, constituting and effecting racially shaped spaces and places, groups and events, life worlds and possibilities, accesses and restrictions, inclusions and exclusions, conceptions and modes of representation" (Goldberg, 2002, p. 239). Michel Foucault's concept of

governmentality informs Goldberg's assertion by explaining the way power and governance are executed in modern society (1991). Governmentality refers to the interface between strategies and logics of state governance where power and control are executed through production of knowledge, mentalities, and rationalities. The resulting governance is one which disciplines citizens to act and think in accordance with ways the bio-political government deems appropriate. Though this governance is done by the state, it is also internalized and thereby executed by individuals—resulting in an illusion of agency and liberty of individuals. In neoliberal societies, the false sense of agency and liberty is more prevalent due to the decentralization of the state and state power. Citizens are still disciplined and governed, however, and in racial states the governance varies.

In Goldberg's racial state theory, he identifies what he calls 'racial governmentalities' where he says racial classifications are imposed on populations and are used to define, regulate, govern, economically manage and thereby treat people in society. It is important to recognize that over time, the governing logics and tactics of governmentality transform in response to changing imperatives and conditions of rule. Throughout the course of United States history, we see these iterations play out.<sup>1</sup> The role race has played in the United States extends beyond racial classification to delineate and shape particular practices of racial rule. In *Racial Contract* by Charles W. Mills (1997), one can see how racial governmentality is central the concept of the liberal social contract.

Mills' stance is that the Social Contract has been used for centuries to understand the workings of society but has left out dominance, group power and ultimately race.

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<sup>1</sup> Loic Wacquant (2010) offers an example of Goldberg's idea of racial governmentalities in his analysis of "race making" institutions in American society.

“What is needed” he said in response to this, “is a recognition that racism is *itself* a political system, a particular power structure of formal or informal rule, socioeconomic privilege, and norms for the differential distribution of material wealth and opportunities, benefits and burdens, rights and duties” (Mills, 1997, p. 3). The Racial Contract is a theory he developed to fill this void and understand society more accurately by indicating that race, interest, group power and dominance have underscored political and economic motivations in the Western world. Like Goldberg’s racial state theory, the Racial Contract underlines the centrality—not exception—of race in the ruling of modern nation-states. Mills identifies that the Racial Contract appropriately highlights the benefits that white people within western nations are given through privileging them and upholding white supremacy.

The Racial Contract establishes a racial polity, a racial state, and a racial juridical system, where the status of whites and nonwhites is clearly demarcated, whether by law or custom. And the purpose of this state, by contrast with the neutral state of classic contractarianism, is, *inter alia*, specifically to maintain and reproduce this racial order, securing the privileges and advantages of the full white citizens and maintaining the subordination of nonwhites. (Mills, 1997, p. 13)

He states that while not all whites are signatories to the Racial Contract, all whites are *beneficiaries* of it. Mills identifies that the benefits include political influence, access to privileged spaces, and cultural hegemony but the most important is economic and material advantage. In so far as the racial contract in democratic societies, also assigns rights and liberties to non-white citizens, even as it privileges white citizenship, we can think of the racial contract as a technology of racial governmentality.

According to writer Meyer Weinberg (2002), “economic power is a central component of the capitalist system” (p. 8). Capitalism has played an undeniable role in

the economic advantage of wealthy whites to the detriment of nonwhites and has been an important economic system in Western nation-states including the United States for roughly 150 years (Spector, 2014). Mills states that though the Racial Contract is political and moral in nature, it is also fundamentally economic in that politics is essentially “who gets what and why.” Spector (2014) posits that capitalism’s primary motivating factor in its subjugation of people, particularly people of color, is exploitation not oppression (2014). Though it is impossible to say that oppression is not a byproduct of capitalism, the exploitation of people for profit is most important. Ellen Wood (2002) defines capitalism as “a system in which goods and services, down to the most basic necessities of life, are produced for profitable exchange, where even human labour power is a commodity for sale in the market, and where all economic actors are dependent on the market” (p. 2). Weinberg (2002) adds that conditioning elements for capitalism include a division of labor, institutional arrangements that ensure a dependable supply of wage labor, commercial organization of the market, conditions where economic power can translate to governmental policy, the protection of private property and “a certain toleration—at least—of new ways of making a living” (p. 1). One such new way is the profitization from an institution fueled by the disproportionate incarceration of African American men.

The global economy, Mills points out, is dominated by former colonial powers and their offshoots—like the Euro-United States—resulting in the fact that whites and western nations own a grossly disproportionate percentage of the world’s wealth (Mills, 1997). Because profit takes priority in a capitalist economy, the prison industrial complex—an institution which provides a wealth of opportunities for individuals to earn

money off of mass incarceration—is able to thrive. The PIC exemplifies how white economic advancement comes at the cost of African Americans and other nonwhite populations.

Neoliberalism operates within the system of capitalism and is characterized by reduced state power, freedom of the market, freedom of the individual and economic globalization (Robbins, 1999; Hilgers, 2010; Harvey, 2005). Put another way, market value trumped social value and individualism took precedence over the common or social good. Beginning in the 1970s, in western economies critiques of the role and power of the state began to take precedence and subsequently there was a drawback in state government. This drawback led to the privatization of previously public responsibilities and a significant decrease in social welfare programming and an allowance for the market to set the agenda. In addition economic liberalism, neoliberalism also emphasizes individual freedom. The elimination of social welfare, market prioritization and a push for individualism “has gone hand in hand with the idea that personal failings are simply that, personal. The particular obstacles and threats experienced by certain communities (communities of color and indigenous communities for example) have been relegated and dismissed as “canards,” while suggesting that their collective failures to achieve success are due to individual, moral failings” (Riofrio, 2012, p. 141). Unfortunately, as will be discussed later, this mentality has made its way into popular sentiment and discourse.

Neoliberalism plays a key role in understanding the predominance of incarceration today, because in addition to a set of economic and political ideas, neoliberalism must also be understood as a system. Professor Mathieu Hilgers (2010) gives meaning to this assertion by saying neoliberalism is “a system or structure

constituting a network of relations between different positions in the social space” (p. 355). The utilization of the framework of the circuit of culture functions in this paper to highlight and analyze the structures, networks and relations through which different levels of society articulate the system of neoliberalism and its cultural implications in the reproduction of the racial capitalist ideology and the discourses and practices of mass incarceration.

## **Literature Review**

There is a significant body of literature on the contemporary issue of mass incarceration. Much of the existing research explores different facets of incarceration without communicating with each other which presents a fragmented understanding of the institution.

When a social institution faces internal and external contradictions within society it will transform in order to sustain itself (Foucault, 1975; Wacquant, 2001). A close look at the history of institutions of social control governing racial rule in the United States reveals this pattern holds true. Loïc Wacquant argues that each of the institutions of racialized social control in the United States “would in time be undermined by the weight of internal contradictions as well as by mounting black resistance and external opposition, to be replaced by its successor regime” (Wacquant, 2001). Further, each institution which emerges is crafted by conditions and circumstances of its time. Utilizing the circuit of culture to situate mass incarceration will help to assess the currently existing conditions which have fostered its existence.

Over the course of history in the United States, beginning with the institution of chattel slavery, racialized social control has transformed to fortify its existence, taking

the form of Black Codes, convict leasing, Jim Crow, de facto and de jure segregation and most contemporarily incarceration (Davis, 1998; Alexander, 2010; Wacquant, 2001). In this last transition, new legislation was passed due to the Civil Rights Movement, however, it was a false illusion of progress. This time an important aspect in the transformation of racial rule took the form of the purported race-neutral system of mass-incarceration. In his book *Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in the United States* (2005), Eduardo Bonilla-Silva asserts “that contemporary racial inequality is reproduced through ‘New Racism’ practices that are subtle, institutional, and apparently nonracial” (2006, p. 3). New Racism explains racial inequality as a result of nonracial dynamics and is fortified by a hegemonic ideology which purports racism is a thing of the past. A thorough analysis of race in the United States coupled with a critical understanding New Racism reveals that racism and its iterations have merely transformed.

Some scholars who appropriately situate incarceration on a timeline of racial inequality in the United States include Angela Davis (1998, 2003) and Michelle Alexander (2010). Angela Davis is a well-known prison abolitionist and once proclaimed that “carceral regulation of black communities has reached crisis proportions” (1998, p. 75). In her article “From the Prison of Slavery to the Slavery of Prison” (1998) Davis focuses on Frederick Douglass’ lack of remark or action against the convict lease system but also makes some connections to today’s prison system. She explores the racialization of crime, citing the loophole in the 13th Amendment that permitted the post-emancipation continuance of unjustified Black criminalization, imprisonment and

exploitation.<sup>2</sup> She also provides a 1911 quote from the National Prison Association which admitted that penal servitude could be considered the last surviving remnant of the old slave system. In another work of hers, *Are Prisons Obsolete?* (2003), Davis asserts that prisons reveal a congealed form of anti-black racism and compares the current institution to historical racist institutions. Davis questions the efficacy of incarceration as a response to crime as well as the corporate interests motivating the prison industrial complex. Ultimately she critiques society's reliance on imprisoning individuals and suggests that prison reform is not the answer. While she considers both racial and economic driving factors for incarceration, her motivation in this book is to expose the problems of the institution and to push for prison abolition; thus, she does not provide an extensive critical review of racism and incarceration, or the economic factors informing its expansion as this paper intends to. This thesis could aid in Davis' argument by providing a better understanding of what is fostering mass incarceration.

Michelle Alexander's work indicts today's criminal justice system for forcing Black Americans into second class citizenship and draws compelling parallels to conditions Black people faced in the Jim Crow Era. Alexander's book examines a wide scope of problems mass incarceration poses and identifies it as the latest racist institution propelling a racial caste. This institution, she says, is a product of the war on Black communities that came in the form of the "War on Drugs". Alexander successfully utilizes empirical data and academic research to convince readers that mass incarceration

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<sup>2</sup> The legal transformation of chattel slavery came when the Thirteenth Amendment was passed which states "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction" (U.S. Const. amend. XIII, § 1). Article two of this amendment states "Congress shall have power to enforce this article by appropriate legislation" (U.S. Const. amend. XIII, § 1). In 1865 this amendment released slaves from one type of bondage; however it did not end slavery in America. The first article legalized slavery as long as it was punishment for a crime, and the second article authorized the system of racist control to make its first transformation by giving Congress the authority to create legislation enforcing the first article.

is “the cyclical rebirth of caste in America” and is a pressing problem which must be corrected. Echoing common sentiment, one book review heralds *The New Jim Crow* as “A powerful analysis of why and how mass incarceration is happening in America...” This is an assertion that must be challenged. In order to understand how and why mass incarceration is happening today, an analysis beyond colorblind racism, the War on Drugs and the racist repercussions of the criminal justice system is needed.

There has also been a lot of work done which asserts that race and white supremacy play an important role in the development and maintenance of mass incarceration. Khalil Gibran Muhammad (2010) is one such scholar. Muhammad’s work takes a different approach to assessing the conditions undergirding the incarceration of Black people today. In his book *The Condemnation of Blackness*, Muhammad contends that the idea of black criminality is an ideology that has been present in the United States since the Progressive Era—though Frederick Douglass saw the criminalization of the Black population as a by-product of slavery (Davis, 1998). He argues that the linking of Blackness and criminality has helped to preserve racial inequality and the subjugation of Black Americans. By providing the origins of these developments, Muhammed lays a foundation for understanding how legalized racial discrimination continues to exist today.

In “Deadly Symbiosis: When Ghetto and Prison Meet and Mesh” (2001), sociologist Loic Wacquant similarly talks about the treatment and classification of Black people in the United States over time. In line with David Theo Goldberg’s (2002) idea of racial governmentalities, he identified four transformations in history which illustrate the changing classifications and forms of subjugation Black people in the US have had to face. He names four institutions and the “social type” in which the Black population has

been categorized. First was the institution of slavery which lasted from 1619-1865 when the Black population was classified as slaves; next came the institution of Jim Crow which lasted from 1865-1965 where the black population was most commonly identified as sharecroppers; after this was the Ghetto 1915-1968 where Black people were looked at as the menial worker; and finally the prison which he identifies as having begun in 1968 where Black people are classified as welfare recipients and criminals. Though his classifications and that of others vary slightly in time frame and description, the general idea of a progression and transformation of subjugating institutions is a predominant idea throughout works. Wacquant's description of the most recent institutional transformation touches on a fact that is both important and also often overlooked.

In the late 1960s and throughout the 1970s the United States moved away from being a welfare state. Frances Fox Piven and Richard Cloward maintain that the state regulates its relief programs to respond to the ups and downs of the economy (1993) and Professor David Harvey notes that there was a decline in the economic power of the upper classes between 1945-1979 (Harvey, 2005). The move away from the welfare state, in the interest of "top down capitalist revolution" is one feature of neoliberalism (Wacquant, 2010). In recent anthropological and sociological works on neoliberalism, there have been brief mentions of how incarceration fits into today's neoliberal society. Hilgers (2010) says that when considering neoliberalism as a system or structure, it is easier to understand the role it plays in maintaining societal equilibrium. He provides an example of the punitive treatment of poverty as a necessary state practice in order to maintain a society whose "existence relies on the inequalities it produces and which it simultaneously suppresses" (2010, p. 355). He goes further to say

Changes in attitudes to illegality, a hardening of policies on the police, judiciary and prisons, the atrophy of the social state and hypertrophy of the penal state are all characteristic of a neoliberal, Neo-Darwinist state that makes competition more fierce, the poorest more vulnerable and fetishizes individual responsibility. Neoliberalism and its expansion thus appear as carceral inflation's keystone. (2010, p. 356)

The rise in state punitive practice and the use of prisons, Wacquant posits, is a premeditated function and core organ of the neoliberal state that molds citizen relations and behavior. Addressing the work of Foucault in *Discipline and Punish*, Wacquant says “In lieu of dressage intended to fashion ‘docile and productive bodies’...the contemporary prison is geared toward brute neutralization, rote retribution and simple warehousing—by default if not by design” (2010, p. 205). Joel Olson concurs by stating that social control, not the punishment of crimes is the primary function of prisons. He says they are “...about social control, about suppressing dissent, [and] about creating a more politically obedient and economically useful population” (Olson, 1996, p. 41). Wacquant and Olson are not the only scholars to call out the neoliberalist nature of the institution of incarceration and also the hegemonic properties that come with the warehousing of mass bodies.

In *Prison Profiteers* (2007), editors Tara Herivel and Paul Wright compile an anthology of works that assess the profits that are being made from mass incarceration. Notably, the “benefits” of private prisons, the use of prison labor, and the for-profit industry are explored in the book. Lichtenstein and Kroll (1996) also explore the fact that a great deal of money is to be made by either supplying items to prisons, using cheap prison labor, or building—or investing in—private prisons. In her book on the boom in prison expansion in California, Ruth Gilmore (2007) described the expansion as a

geographical solution for socio-economic problems. This accusation challenged both the state's treatment of the poor and the prison industrial complex.

The prison industrial complex certainly manifested from the boom in incarceration but also because of the capitalism and neoliberalism that encouraged its existence. "Mass imprisonment," Angela Davis (2003) says, "generates profits as it devours social wealth, and thus it tends to reproduce the very conditions that lead people to prison. There are thus real and often quite complicated connections between the deindustrialization of the economy—a process that reached its peak during the 1980s—and the rise of mass imprisonment, which also began to spiral during the Reagan-Bush era" (p. 16). The existence of mass incarceration and the PIC must be fully interrogated if ever we are to do away with them.

Though the existing body of literature on incarceration is abundant, much of the literature offers an incomplete examination of the issue of mass incarceration today. More specifically, literature aiming to fully interrogate the institution and the conditions fostering it is limited. This thesis contributes to the study of mass incarceration because it will provide a holistic picture of the institution. Arguing that mass incarceration is a construct existing in its current formation because of cultural conditions, this thesis will utilize the circuit of culture to examine the articulation of the many variables within society that foster mass incarceration. It is well established that mass incarceration in the USA—which disproportionately warehouses African Americans—should be contextualized within a timeline of racist social control institutions, however, there are contemporary cultural factors which must also be taken into account.

## **Methodology**

As previously outlined, the primary research methodology in this study is based on the cultural studies model of the circuit of culture. This model functions to provide a holistic understanding of a cultural product and does so by necessitating the use of multidisciplinary and interdisciplinary methods. In order to understand the nuances, which contribute to the manifestation and prevalence of mass incarceration, this paper, will use the five cultural processes as a framework to explore mass incarceration holistically. Each one will constitute a section of this paper and will explore relative subjects pertaining to incarceration. These stages work together to explore facets of an artifact and because this concept operates as a circuit, there is no set order to their exploration. The primary modes of data collection were a cultural analysis of the social construction of mass incarceration and the prison industrial complex using critical discourse analysis of the various ways in which mass incarceration has been represented in a range of social, cultural and political discourses. Content analysis, textual analysis and semiotic analysis to consider media representations were also used.

This research, which utilizes the circuit of culture methodological framework, mainly relies on critical discourse analysis. Critical discourse analysis is used to analyze relationships of social inequalities and is a methodology that allows for the consideration of social, cultural and political discourses. It was instrumental in the construction of this paper because it was inherent that discursive practices be assessed in the most analytical and complete way. It is through discourse that power relations are formed, maintained, challenged and analyzed. Discourse is also fundamentally a window into the social world. Critical discourse analysis was not the only method used, however. The representation

chapter differs from the other circuit of culture chapters because it focuses on how mass incarceration has been represented in news media and, therefore, features a media analysis through additional methodologies.

In the representation section, which includes a media analysis, textual analysis, semiotic analysis and content analysis were used. These methodologies were mainly used in the representation section because it was important to consider how the information in the media clips were being received and interpreted by viewers. Textual analysis is a data gathering method commonly used to interpret information in a wide variety of texts. Textual analysis allowed me to assess the ways in which the media clips may have been interpreted by today's viewers. Semiotic analysis is also a method commonly used in media studies. It is used to identify and analyze signs and the context within which they have meaning. Identifying the signs and signifiers was particularly important in the representation section because they are given meaning in society and that is precisely what needed to be explored. Content analysis was also used in conjunction with other methodologies and on its own. Content analysis is a methodology which summarizes information and identifies trends by comparing different content. It is also valuable for its objective nature and was used to summarize the representation section. Though the media clips included a lot of interactions within them, conversational analysis was not used because those interactions were not the focus of the study. The representation of mass incarceration was assessed through analyzing what information was transmitted and the meaning with which that information was loaded.

In the paper that follows, each chapter pertains to a section of the circuit of culture with a focus on mass incarceration. Since the stages of the circuit of culture work in

conjunction with each other, they are somewhat fluid which results in an overlap of some information. The circuit, like society itself, is not linear and is instead made up of overlapping and intertwining parts.

## **Chapter 2: Production**

The production phase of the circuit of culture functions to explain any aspect that is included in the formation and making of a cultural artifact. The production of mass incarceration can be examined in multiple ways but the focus in this chapter will be the social, economic and political conditions that underwrite the political economy of mass incarceration and how the prison industrial complex first came into existence.

### **Setting the Social Stage: Racial Transformations in the 20th Century**

Racial rule and social control dictated by race and racism has had a long history in the United States dating back to chattel slavery. Since then, institutions of racialized social control have transformed over time (Alexander, 2010). The start of mass incarceration must be historically contextualized. Instead of being simply a phenomena of the 1980s, the extensive and disproportionate warehousing of African Americans in prisons and jails began as a reaction to the social conditions of the decades before (Mauer, 1999). In the 1950s, 1960s and 1970s, racial progress and racial tensions in the United States took on new appearances. With the Civil Rights Movement and later the Black Power Movement, the atmosphere across the country was filled with emotions including hope, resolve, anger and fear. Leading up to these movements, many African Americans moved up to the north and out west to get away from southern racism and take advantage of new job opportunities provided by the industrial production from WWII. Though they still dealt with de facto segregation and racism, African Americans held

industrial jobs which provided a stable source of income. When the war ended, the need for the industrial production industry was negatively impacted and eventually many factories were shut down which exasperated the conditions in African American “ghettos” “which quickly became overcrowded, underserved and blighted by crime, disease, and dilapidation, while the ‘job ceiling’ restricted them to the most hazardous, menial, and underpaid occupations in both industry and personal services” (Wacquant, 2009, p. 202). These conditions were present from the period of the Great Migration starting in the 1910s through the late 1960s. While these conditions were not good, they provided an impetus for the Civil Rights Movement.

The 1950s included a number of successes and challenges for African Americans not limited to the *Brown v. Board of Education* win of 1954, the heinous murder of Emmett Till in 1955, the Montgomery Bus Boycott which spanned from the end of 1955 through 1956, the Little Rock Nine’s integration of Central High School in 1957, and the passing of the Civil Rights Act of 1957 (Gates & Streeter, 2013). A recurring theme highlighted by all of these events is the way African Americans contested societal norms and laws that functioned to keep them subjugated. The Civil Rights Movement continued into the 1960s and the fight for equality continued with it. Within the decade an emergence of varying tactics contributed to the criminalization of African Americans.

The 1960s was a tumultuous decade packed with significant events for African Americans. There were social wins including the Civil Rights Act of 1964, the Voting Rights Act of 1965 and *Loving v. Virginia* in 1967. There was organizational progress like further development of the Southern Christian Leadership Conference, the origin of the Student Nonviolent Coordinating Committee (1960) and, later, the start of the Black

Panther Party for Self Defense (1966) (Gates & Streeter, 2013). Each of the organizations, and countless others, utilized varying tactics and appealed to different segments of the population. Notably, as the decade progressed, tactics and the younger segment of the African American population became more radical. Black Panther Party for Self Defense members, for example, considered themselves “the vanguard of the revolution” and valued armed self-defense (Newton, Hilliard, Weise, 2002). They were tired of the violence inflicted on Black people in America daily. Rage was a motivating factor for this new technique that the Panthers chose to utilize and though it was not a new emotion, this outward expression of rage had not been expressed. Further, the Panthers were considered violent by mainstream society because they opted to carry guns and were said have had an underground violent faction. The Panthers maintained that they were not the violent ones and were merely reacting to the violence imposed on the Black community daily (Newton, Hilliard, Weise, 2002).

Examples of the violence that the Panther Party and countless others referred to include lynching, police brutality and racial invasion of Black spaces—some of which led to historic uprisings (Newton, Hilliard, Weise, 2002). They also include the assassination of influential African American activists like Medgar Evers (1963), Malcolm X (1965), Martin Luther King Jr (1968) and Fred Hampton (1968). African Americans collectively expressed their rage in protests, marches, political demonstrations and rebellions (Cashman, 1991). Historic protests and marches include the 1963 March on Washington and the 1965 Freedom March. Some of the most notorious rebellions include the Watts uprising in 1965 and the Detroit riot in 1967. These visible acts of frustration helped politicians frame the soon-to-come rhetoric about being 'tough on crime' and after the

Civil Rights Movement successfully tackled many legal issues, new legislation would eventually be enacted (Alexander, 2010). Furthermore, the way Black Americans were portrayed in the media contributed significantly to political support by white citizens, who had fled the inner cities in large numbers for decades before—leaving urban areas where Black Americans could be found economically deprived.

### **Setting the Economic and Political Stage: Getting ‘Tough on Crime’**

In the 1940s and 1950s, there were many actions being taken that contributed to urban decay and the concentration of Black poverty in the inner cities (Wilson, 2009). Firstly, in the years after World War II, the Federal Housing Administration (FHA) underwrote mortgages yet refused to invest in certain urban neighborhoods—a process known as redlining. The FHA cited a likely loss of investment resulting in a restriction of the building and maintenance of quality housing in urban neighborhoods. It also limited the amount of wealth that was brought into urban areas (Wilson, 2009). This also limited wealth in urban areas in addition to promoting white suburbanization. Freeways also contributed to the growth of concentrated poverty for two main reasons. First, it provided access to the suburbs by those who were better-off and could afford to relocate. Second, freeways created barriers that isolated poor and minority neighborhoods (Wilson, 2009). These and other policies that contributed to the concentration of Black poverty made it easy for urban areas to be deprived of resources and for poor Blacks to be stereotyped by those who did not come into contact with them.

The separation and segregation of poor Blacks coupled with the incendiary remarks of politicians and the media resulted in a new transformation. In line with the structural patterns of racist social control, a reaction to African American progress occurred. In the

late 1960s, conservative politicians began using the moral panic associated with the previously mentioned unrest to gain support and touted “law and order” slogans (Alexander, 2010). At the time of his 1964 presidential campaign Barry Goldwater brought “law and order” rhetoric to the national political stage. “While the ‘order’ they were calling for was a broad response to urban unrest and anti-war protest, it also projected a not very subtle message to whites concerned with the supposed rise in black criminal behavior” (Mauer, 1999, p. 56). Politicians did get the support they needed and passed new legislation thus beginning a new era of criminalizing black people. It was at this time that politicians began to push for determinate sentencing (Mauer, 1999, p. 47). Conservatives in this era believed that indeterminate sentencing was too lenient and even put forth that having prisoners serve their full sentence could cut the amount of crime happening in half. Liberals were also in favor of determinate sentencing though they believed in shorter terms and were mainly concerned with the bias that came along with indeterminate sentencing. Additionally, many conservatives and liberals of this time did not believe in—and were not interested in—the rehabilitative properties of the corrections system. Conservatives were advocating for more punitive measures and believed that the correctional system should function to “isolate and punish” while liberals did not believe that rehabilitation could be achieved in the penal setting. As a result, a perception that it was better to just get criminals off the street was developed (Mauer, 1999).

The production of mass incarceration was significantly bolstered in 1982 when President Ronald Reagan declared a war on drugs. An unofficial war on drugs had existed since Nixon was in office but President Reagan’s declaration took government

efforts to a new level and his administration made it a top priority. At this time, budgets for federal welfare programs were cut however funding for government anti-drug programs grew explosively (Lichtenstein & Kroll 1996). At this time incarceration rates began to skyrocket. Between 1980 and 1990 drug offense arrests went from 581,000 to 1,090,000 but these numbers did not reflect rising rates of drug use (Mauer 1999). One would assume that at this time crime rates would be skyrocketing; however, there is a vast amount of literature that proves otherwise (Lichtenstein & Kroll, 1996; Olson, 1996; Davis, 1998; Davis, 2003; Mauer, 1999; Mauer, 2001).

If drug use had been escalating at the rate it was purported, social services would have been a more appropriate solution because studies have shown that treatment, not punishment, is more cost effective. Additionally, many studies have found that drug use is best combatted with treatment not punishment (McVay, Schiraldi & Ziedenberg, 2004; Samuels, 2010). At this time, however, there was a developing shift away from state power and social welfare. Instead, beginning in the 1970s the state drew back from aiding citizens in the interest of promoting individualism (Slater, 1997). Individualism, in line with neoliberal thought, includes the exercise of free personal choice in the private sphere of everyday life (Slater, 1997). A shift in dominant discourse and sentiment in line with individualism contributed to the decrease in state social welfare investment.

Black Americans are largely subject to class inequality and social services are necessary to ameliorate its impact (Omi & Winant, 1986). As previously stated, neoliberalism emphasizes state reduction and individualism which left people who benefitted from state social services largely on their own when the services were no longer offered. Even when the U. S. did offer social welfare, it was considered laggard

due to the fact that “modern social legislation came later than elsewhere, and when it did, it retained an adherence to... modest social benefits” (Myles, 1995, p. 116). Lyndon B. Johnson’s Great Society was a set of domestic programs that he implemented to address poverty. It included programs like Medicaid, federal education funding, Head Start, and food stamps among other things. When Richard Nixon became president in 1968, some slight expansion in welfare programming took place—though much of what he offered impressed neither liberals nor conservatives (Spitzer, 2012). In the mid-1970s there was a shift from “welfare to workfare” which fell in line with neoliberalism’s practice of enforcing individual responsibility (Wacquant, 2010). Instead of state assistance, the onus was placed on individuals to get jobs and provide for themselves. President Ronald Reagan was staunchly against welfare and began welfare reforms while he was in office. It was under his guidance that states began welfare to work policies (23 U.S.C.A. § 125). In 1996, under President Bill Clinton, the culmination of welfare reform came in the form of the Personal Responsibility and Work Opportunity Reconciliation Act. This act limited the amount of time an individual could be on public assistance, regulated work requirements for people who wanted welfare, and made it more difficult for people to get it.

Once welfare was largely reduced, the hardships that many people encountered as a result were increasingly being represented as being a result of personal failings and a failure to do the “easy” and “just” right thing. This ties into the significant increase in incarceration rates because, in line with the previously stated mentality, people failed to do the right thing and how else would society deal with them? Poverty thus began to be dealt with in a punitive way (Pivens & Cloward, 1993) and prisons are used to warehouse

the poor (Wacquant, 2010). With areas deprived of resources, more crime occurred which encouraged the Black criminal stigma that gave way to incarceration. Wacquant (2010) states “Ethnoracial division and the (re)activation of the stigma of blackness as dangerousness are keys to explaining the initial atrophy and accelerating decay of the U. S. social state in the post civil rights epoch, on the one hand, and the astonishing ease and celerity with which the penal state arose on its ruins, on the other” (p. 204). One stigma feeding the other, the boom in mass incarceration gave way to a new business opportunity.

### **The Production of Private Prisons**

As previously stated, there are many factors that contribute to incarceration being the primary mode of racial social control today. Undeniably, one of the biggest motivations in mass incarceration is capitalism (Davis, 2003). The term prison industrial complex comes from the concept of the military industrial complex and identifies the complex relationship between various entities and their interests. The military industrial complex is a phrase that was popularized in 1961 by President Dwight Eisenhower during his farewell address and since then it has been used to analyze the relationship between government agencies and the manufacturers that profited from developing any sort of materials for World War II. Like the military industrial complex, the prison industrial complex encompasses entities that are profiting —though this time from the current institution of mass incarceration. One of the biggest players in this prison industrial complex has been private prisons.

Private prisons provide a particularly unique contribution to the production of the prison industrial complex. “While there are many industries that make money from

prisons, the private prison industry is unique in that it is the only such industry founded solely in order to profit from prisons” (Herivel, 2007, p. x). The first two private prisons were established in 1983 and 1984 which began the business of private profiting from mass incarceration. These two private prison companies, Corrections Corporation of America (CCA) and The GEO Group, Inc., remain the two biggest private prison companies nationally and they have business internationally. CCA credits itself for the invention of the private prison industry. In their history section titled “A Brand New Industry Sparked by One Bright Idea” on their website they proclaim that the 3 co-founders desired to create a public-private partnership which “bring cost savings, design and technology innovations and business agility to government.” (CCA, 2013). This “public-private partnership” was facilitated by the neoliberal shift away from public run governments towards privatization.

## **Conclusion**

It is important for a comprehensive examination of mass incarceration to begin by grounding the social, economic and political factors prevalent leading up to its inception because these factors each had a role in the outcome. The social struggles for civil rights of the 1940s, 1950s and 1960s coupled with the disenfranchisement of Black communities and a racist political agenda set the stage for incarceration to be born. Additionally, after the production of mass incarceration was underway, individuals found a way to capitalize on it by creating a private prison industry. It happened through capitalist and neoliberal motivations due to the prioritization of profit, the reduction of state control, and the prevailing emphasis on privatization. All of these factors together provide the foundation—that is, an understanding of the production—of mass

incarceration but cannot account for the maintenance and continued existence of incarceration.

## **Chapter 3: Regulation**

Regulation is the portion of the circuit of culture in which the rules that affect the cultural construct are interrogated. Regulation considers laws in place that influenced the start of mass incarceration, laws that contribute to the continuation of mass incarceration, and laws that impact or oversee the interaction between entities involved in the prison industrial complex. Additionally, regulation in this paper will also examine the ways mass incarceration contributes to the regulation of those who have been incarcerated after their time has been served.

Legislation and political rhetoric have continuously been the way mass incarceration is regulated. The 1994 Violent Crime Control Act has undeniably contributed to the fortification of mass incarceration in this country though its actual effects on crime are ambiguous. Additionally, with the prevalence of mass incarceration came the development of the prison industrial complex and, within that scope, the private prison. Their very existence thrives off of the existence of mass incarceration, however, their “lock-up quotas” officially require states to keep the prisons full (Kirkham, 2013)—perpetuating the imprisonment of individuals regardless of circumstances. This section will consider how mass incarceration continues to be regulated through examining past and present influential legislation in addition to also considering other forms of social regulation incarceration imparts on individuals.

## **History of Legislation Tied to Incarceration**

As the tough on crime movement grew, politicians began to focus their initiatives on drug policy and drug use. Under the Johnson administration, the Reorganization Plan of 1968 created the Justice Department's Bureau of Narcotics and Dangerous Drugs (BNDD) which consolidated many anti-drug efforts into one entity. A few years later, in 1973, the Reorganization Plan No. 2 created the Drug Enforcement Administration (DEA) under Nixon's direction. Two years earlier he had declared his war on drugs and dubbed drug abuse "public enemy number one" (Vera, 2014). The DEA was created to be the sole federal agency that would focus on enforcing drug laws by consolidating various government drug control agencies. This government entity has been crucial in the execution and expansion of the War on Drugs which has had a direct and significant impact on the increase in incarceration.

The War on Drugs coupled with stringent sentencing legislation set the stage for the success of mass incarceration. The Sentencing Reform Act of 1984 is a section of a bill titled the Comprehensive Crime Control Act of 1984 which was signed by President Ronald Reagan in 1984. According to the United States Sentencing Commission, which was created as a result of this legislation, there were three purposes of the bill. The purposes were to create a coordinated sentencing authority; eliminate sentencing disparity by creating mandatory sentencing guidelines; and create a way to deduce sentencing data through research and education with the hope that this would advance knowledge about criminal behavior (United States Sentencing Commission). In an article entitled "Impact of the Sentencing Reform Act on Prison Management" published by the National

Criminal Justice Reference Service, Luttrell (1991) explains the impact this legislation had on rules of incarceration.

There is now a strong level of predictability in terms of time to be served which assists staff in planning for an inmate's period of incarceration and eventual release. Furthermore, the Bureau's inmate population has changed as a result of longer sentences with virtually no parole terms. These changes have profoundly altered the Bureau's inmate profile. Additionally, they have necessitated an expansion of physical plants as well as prompted the Bureau to develop innovative means of housing inmates. Finally, the Bureau has experienced an unprecedented growth in staffing. (Luttrell, 1991, p. 54)

By expanding the imprisonment of people, lengthening prison terms, and necessitating more plants and employees, this law fortifies mass incarceration and directly improves the prospects for the prison industrial complex. It is also interesting to note that the early 1980s, at the time the legislation was being drafted, experienced a decrease in crime. This fact offers proof that crime was not a primary motivating factor in the development and implementation of this legislation.

Crime had reached its peak in the United States in 1991 (Vera, 2014). Again, however, legislation was developed soon after—revealing that inflated perceptions of crime have more to do with the crafting of new crime legislation and the lack of social welfare investment in addition to media representation (which will be discussed in the representation section).

## **The Violent Crime Control and Law Enforcement Act of 1994**

The Violent Crime Control Act of 1994, also known as the Crime Bill, was signed into law by President Bill Clinton on September 13, 1994. Considered the largest crime

bill in history, the act mandated 100,000 new police officers, \$9.7 billion in prison funding, \$6.1 billion for prevention programs, and \$2.6 billion in additional funding for various Justice Department components (NCJRS). Wacquant (2010) points out that it was Bill Clinton, not Ronald Reagan that is responsible for the biggest increase in incarceration in U. S. history. “This is because the root cause of the punitive turn is not late modernity but neoliberalism, a project that can be indifferently embraced by politicians of the Right or Left” (Wacquant, 2010, p. 209). The bill also provided changes to several criminal provisions, instituted new immigration initiatives and funded numerous grant opportunities for states and localities. A bipartisan initiative, the scope of power it was given is reflective of the time in which it was signed.

One of the conditions that fostered the creation of the Violent Crime Control Act of 1994 is reminiscent of the start of the tough on crime movement in that media coverage inflated the problem—and therefore the perception—of crime. Between 1992 and 1993 television coverage of crime more than doubled although, as previously stated, overall crime had peaked in the United States in 1991 (Vera, 2014). Additionally, appearing tough on crime was still the way for politicians to garner attention with hopes of gaining popularity and votes. “Criminal justice policy was very much driven by public sentiment and a political instinct to appeal to the more negative punitive elements of public sentiment rather than to be driven by the facts,” states Nicholas Turner, president of the Vera Institute (Johnson, 2014). Further, the tough on crime stance helped former President Clinton appeal to conservatives (Johnson, 2014). Prior to this he had been perceived by some as too liberal and the Crime Bill helped alleviate that critique.

President Clinton, at the time, incited a moral panic over crime in his state of the Union address by issuing statements reminiscent of the ones politicians utilized around the start of the War on Drugs. He issued statements like “And so tonight, let us resolve to continue the journey of renewal...and to begin to reclaim our streets from violent crime and drugs and gangs...,” “every day the national peace is shattered by crime” and “Violent crime and the fear it provokes are crippling our society, limiting personal freedom, and fraying the ties that bind us” (Clinton, 1994). He also took a “tough on crime” stance by issuing statements like “Now those who commit crimes should be punished. And those who commit repeated, violent crimes should be told, “When you commit a third violent crime, you will be put away, and put away for good. Three strikes, and you are out” (Clinton, 1994). He also directly referenced the Crime Bill by calling it “a chance to be tough and smart” while conceding that the issue is not a simple thing. Though “not a simple thing,” Clinton moved forward with the toughest and most expansive crime legislation in U. S. history.

In all, the bill was a \$30.2 billion dollar package (Seelye, 1994) and had a broad scope of revisions for the American criminal justice system. This scope included criminal provisions having to do with assault weapon manufacturing, firearms licensing, fraud, domestic violence, sexual offenses, immigration, the death penalty, community programming and juvenile prosecution, among other things (NCJRS). The bill also significantly provided stiffer penalties for certain crimes committed by gang members and allowed prosecution of juveniles 13 and older as adults for certain violent offenders. The bill’s biggest detriment to the criminal justice system is arguably the way it widened the scope for things that would be cause for incarceration.

It is important to note that, while the impact the bill made is debatable, it also attempted to implement programming and opportunities that would deter crime. Grants were provided to states for increase in-school and afterschool community programming for at-risk youth, shelters and a hotline for battered women, and crime and drug courts and drug treatment programs. There were also grants provided for states to implement law enforcement reforms. The Byrne Grant, for example, gave states money for increases in law enforcement efforts like ramping up drug task force efforts and the Police Corps Grant which attempted to diversify police forces by offering scholarships and other incentives. Grants that arguably increased incentives to incarcerate include the SCAAP grants and which reimbursed states for the costs they incurred for imprisoning “criminal aliens” (NCJRS) and the funds allotted for states to build and operate correctional facilities and boot camps. Half of the funds in the last grant were put aside for states which would implement the truth-in-sentencing law which required that those incarcerated must serve at least 85% of their sentence.

In 2015 former President Clinton came forward to admit to the American public that this crime bill contributed to the mass incarceration problem. In his 1995 speech “Remarks on Signing the Violent Crime Control and Law Enforcement Act of 1994” (1995) he incensed “In the last twenty-five years, half a million Americans have been killed by other Americans... [and] crime has been a hot political issue...”. By the end of his time in office, “the number of people in America’s prisons rose by nearly 60%” (Levitz, 2015). Eleven years later, he admitted “I signed a bill that made the problem worse... and I want to admit it” (Levitz, 2015). Clinton maintains that the bill contributed

to the decrease in crime in the 1990s (Levitz, 2015) however, the fact is the decline in crime had begun before the Crime Bill was in place (Johnson, 2014).

Now, 21 years after the bill went into effect, what it has done for the United States can be considered. It has most notably “accelerated over-incarceration, growth of spending on prisons, and harm to communities, particularly to poor communities of color” (Vera, 2014). The Crime Bill is one of the most poignant examples of mass incarceration’s regulation. Through inflammatory statements capitalizing on the ignorance of white citizens, policies that disproportionately affected Black citizens, and financial incentives encouraging incarceration, former President Clinton’s statements and his Crime Bill helped to regulate and maintain mass incarceration. Further, it is all reminiscent of the 1970s and 1980s when politicians were directly contributing to the production of mass incarceration.

Additionally, there is a general acknowledgement that mandatory minimums are problematic and drug offense punishment needs to be reconsidered. The preemptive decision to build facilities that will incarcerate violent offenders is cause for concern because in order for the money to have been spent wisely, the onus was then on states to ensure they filled the facilities they built. This concern is directly related to the private prison development and the legislation they have with states that require them to keep the beds at a 90% occupancy rate.

## **Private Prison Lock Up Quotas**

Private prison lock up quotas are stipulations in contracts that private prisons have with state and local governments that require states to keep the prison beds at a certain

occupancy (Kirkham, 2013). Required occupancies range from 70% to 100% depending on the state and private prison company, yet they all ensure that private prisons maintain profits and require states to be devoted to filling prisons. If states are unable or unwilling to keep the agreed upon occupancy, states then have to pay the private prisons for their empty beds (ITPI, 2013). Commonly known as “low-crime taxes,” taxpayers are the ones that are forced to pay in the end. In the Public Interest (ITPI), a public advocacy group, did a report in 2013 where they analyzed 62 contracts from a variety of county and state-level private facilities across the country. Of the contracts they reviewed, 65% contained lock-up quotas. Private prison lock-up quotas actually make it a requirement for state and local governments to lock people up to fulfill a certain occupancy rate regardless of the rates or prevalence of crime. Further, state and local governments, as well as citizens, are prompted to be invested in keeping the prisons full because it will cost money in the form of taxes if the prisons aren’t kept at the agreed upon capacity.

Private prison opponents maintain that no good can come from a business that stands to profit from detaining people (Herivel, 2007; Davis, 2003). Arguably, if any good were to come from private prisons, it would surely be outweighed by the clear conflicts of interest. It is common knowledge that private prisons do value their profit and some companies are even traded publically. Private prison companies acknowledge that they have an investment in making money. They do not, however, advertise this fact as widely as they do their purported interest in providing better prison services than public prisons can. Their true priorities, though, can be seen in how they conduct business. “In a 2010 Annual Report filed with the Securities and Exchange Commission, Corrections 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...” (ACLU, 2011). An admission such as this one clearly indicates the inherent contradictions of a prison model based on profits. Further, it exemplifies the investment CCA, and more broadly other private prisons, have in the perpetuation of mass incarceration.

## **Habitual Offender Laws**

States like California, Arizona and North Carolina have a ‘Habitual Offender’ law, which is also known as the “Three-Strikes” law. This law and laws like it require a minimum sentence for people who have been charged for crimes on more than one occasion. In some states, like California, the law mandates imprisoning someone for at least 20 years before they can be put on parole. Rather than reducing violent crime, however, this law has simply drastically increased the prison population. People are put in prison under this statute and are then required to serve anywhere from 20 years to life in prison even if their third crime was as minor as stealing a slice of pizza (Leonard, 2010).

These habitual offender laws lock people out of society and research shows that African Americans are most likely to be affected (Krikorian, 1996). Only two years after the law was passed in California, 43% of the 1,200 people the law locked up for life were Black (Krikorian, 1996). The ACLU provides evidence that states the disproportionate effect habitual offender laws have on Black men is almost intuitive.

Racial bias in the criminal justice system is rampant. African American men, in particular, are overrepresented in all criminal justice statistics: arrests, victimizations, incarceration and executions... Although studies show that drug use among blacks and whites is comparable, many more

blacks than whites are arrested on drug charges. Because many of these laws include drug offenses as prior "strikes," more black than white offenders will be subject to life sentences under a "3 Strikes" law. (ACLU, 2015)

Although much of the literature on the habitual offender tariff deals with California's 'three strikes' law and the racial discrepancies this has produced, broader studies find that these racial discrepancies hold true elsewhere (Kansal, 2005).

Like lock up quotas, habitual offender laws help to solidify prison population rates. As a result of this, the prison industrial complex is allowed to thrive. There are also penalties that individuals must face after being released from prison which hinder their successful reentry—contributing to some people's recidivism and re-incarceration.

## **Collateral Consequences**

Once an individual has been convicted of a crime, there are regulations that result in a plethora of long-term ramifications that they may then face. Called collateral consequences, these penalties severely restrict a person from successful reentry once released from prison (Berson, 2013). The sanctions they are given can vary depending on factors like the jurisdiction of the offense, the history of the offender, and the severity of the offense, however, they all similarly complicate reentry for people who have to deal with them. Examples of collateral consequences include the loss of the right to vote, serve on a jury, hold federal office, enlist in the armed forces, employment in certain sectors, possess firearms, and immigrate to the United States (U.S. Department of Justice, 2006). Additionally, due to what is known as felony disenfranchisement, the consequences are often more punitive for felony offenses. Felony convictions can result in the loss of federal benefits like grants, welfare, public housing, and disability. Barriers

like these contribute to the recidivism of individuals which results in the prison industrial complex constantly having bodies incarcerated. This assured renewal of incarcerated individuals only helps to fuel the system.

In addition to collateral consequences which are legally imposed, there are ramifications that are collateral byproducts of incarceration. One of the most salient byproducts of incarceration is the impact it has on an individual's opportunities and capacities for economic advancement. When adults return home from prison, they are met with financial responsibilities that everyone faces. In addition to basic financial responsibilities, though, they may also have court related fees, restitution and other repercussions from their incarceration. Further complicating their situation, they may have damaged their social networks while being in jail and they have fewer job prospects than before their incarceration—due to stigma, a competitive job market, and laws that restrict them from certain occupations. Additionally, research has shown that individuals who have been incarcerated earn approximately 11% less per hour and 40% less per year than those who were never incarcerated (U. S. Department of Education, 2012).

As a result of the many factors already majored, collateral consequences are disproportionately likely to impact Black men due to their disproportionate rate of incarceration. Additionally, even before Black men are incarcerated, their prospects of qualifying for government assistance or getting a job are poor. In “Discrimination in a Low-Wage Labor Market: A Field Experiment” researchers conducted a field experiment in order to prove racial discrimination in hiring exists (Pager, Western, Bonikowski, 2009). They trained and sent job applicants of different races who matched in a variety of factors like verbal skills, demeanor, physical attractiveness, and high school backgrounds

to hundreds of entry-level jobs in New York City. One of the results revealed that in applications to 171 employers, the white applicants received a call back or job offer 31% of the time whereas Latino applicants had a response rate of 25.2% and Black applicants got a call back in 15.2% of the cases. Pager, Western and Bonikowski (2009) also addressed the ex-offender stigma and found that 17.2% of whites, 15.4% of Latinos and 13.0% of blacks got call backs revealing that white offenders have a better chance of getting a call back than Black applicants with no records. This study highlights the inequities Black Americans have to face while searching for jobs and takes its analysis a step further by assessing the impact of incarceration on a job search.

## **Conclusion**

Understanding the regulation of mass incarceration and the prison industrial complex necessitates the need to look at laws and rules that influence its continuity. An analysis of the maintenance of incarceration undoubtedly includes the laws that have propelled the increase in incarceration rates as well as agreements that ensure bodies will be made available to be incarcerated. Rules that almost guarantee available bodies feeding the system include lock-up quotas but also the habitual offender laws and the formal and informal collateral consequences. This system could not exist without massive support or acceptance from most citizens in the U.S. The required acceptance of this system by masses of American citizens also helps in the maintenance and fortification of mass incarceration and next, this paper will explore how it is that citizens tacitly accept such a problematic institution.

## **Chapter 4: Representation**

In the circuit of culture, representation is the exploration of the way a cultural artifact is depicted in society. Examining the representation of a cultural product's necessitates a look at how different agents in society portray it. In the United States, mass incarceration is portrayed by various agents but there is a common theme throughout the dominant narratives. Thorough analysis of messaging made available through mass media shows that mass incarceration and, further, the prison industrial complex have been fortified by representations that are riddled with fallacies and omissions.

Common mass media narratives about prison include admissions that the United States incarcerates more people than any country in the world, criticisms of harsh sentencing and debates about non-violent drug terms. Mass media narratives do not fully interrogate the effectiveness of prisons today, the motivations for imprisoning such an enormous amount of people, and the disproportionate number of African Americans who are incarcerated. Entities that make up the prison industrial complex commonly talk about how beneficial they are for prisoners, the ways they increase safety, and the economic benefits they bring to taxpayers and investors. These entities rarely discuss their own profits and the market that has been created due to the current imprisonment of over 2,000,000 individuals in the United States. Although the mass media and entities that are included in the prison industrial complex have different intentions for doing so, they both perpetuate an inaccurate understanding of mass incarceration. Because it fails

to represent mass incarceration as an institution fueled by racism, classism and capitalism and this incomplete assessment, it in turn fosters the existence of mass incarceration.

It is a common misconception that prisons are a benefit to society because they detain criminals. Studies have found there is no correlation between decreasing crime rates and prisons. Instead, prisons have been found to be counterproductive and prisoners are more likely to reoffend after being incarcerated. One study found that approximately 2 out of 3 prisoners are likely to reoffend after being released from prison.<sup>3</sup> In the 1970s and 1980s when the prison population began increasing at exponential rates, the justification for this was a reported increase in crime. It is now understood that crime rates were not increasing at this time (Lichtenstein & Kroll, 1996). In fact, the increase in incarceration came from new mandatory sentencing, harsher legislation, and the War on Drugs. Thus it is important to find ways to account for the public perception that prisons are an effective response to crime. This section on representation examines the power and role of the media in creating the public perception and climate of public opinion that incarceration is an effective solution to America's crime problem.

## **Mass Media: Representation and Meaning-making**

Stanley Cohen writes “the mass media are the primary source of the public’s knowledge about deviance and social problems” (Cohen, 1972, p. xxiii). He adds they play a role in setting the agenda, transmitting the claims and even making the claim. “The mass media, in fact, devote a great deal of space to deviance: sensational crimes, scandals, bizarre happenings and strange goings on” (Cohen, 1972, p. 8). Because mass

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<sup>3</sup> These findings are based on a study that was done in 2005 by Bureau of Justice Statistics. The study tracked the progress of 404,638 prisoners in 30 states across the United States (‘Recidivism’, <http://www.nij.gov/>). This is one of the most current and expansive studies on the national recidivism rate in the United States.

media focuses on the spectacular, Potter and Kappeler point out that this tendency “diverts public attention from politics, policies, and social structures which are the hearts of those stories” (1972, p. 8). The stories fail to delve into what would contribute to a greater understanding of mass incarceration as a pervasive and problematic institution, for example. Instead, in line with Cohen’s moral panic concept, the media plays an important role in sensationalizing crime and identifying criminals which in turn facilitates the public’s consent to ever more stringent forms of social rule—especially the ruling and control over those which have been classified as criminals. He says a moral panic occurs when a “condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests” (Cohen, 1972). Once crime and those identified as criminals are portrayed in a way that creates a moral panic, it is easy to see how public perception can be manipulated.

Adding to the conversation, PBS’s Frontline highlights that there are 5 media giants controlling what information is disseminated. Indicating a near monopoly Frontline indicates “[the] wave of media mergers has produced a complex web of business relationships that now defines America's media and popular culture. These relationships offer a massive opportunity for cross promotion and selling of talent and products among different companies owned by the same powerful parent corporation” (Goodman & Dretzin, 2001). Noam Chomsky writes that the mass media functions to divert people’s attention so they are not focused on the “serious stuff” (1997). He rightly asserts that there are powerful people and structures in society who maintain their status by subjugating the masses and controlling their thoughts and the information they receive. The news often fails to provide meaningful information and Pierre Bourdieu

critiques it for its tendency to treat news as entertainment. John Riofrio quotes Bourdieu saying “events are reduced to the level of the absurd because we see only those elements that can be shown on television at a given moment, cut off from their antecedents and consequences... This inattention to nuance both repeats and reinforces the structural amnesia induced by day-to-day thinking...” (2012, p. 140). Thus, priority is placed on providing a quick and entertaining clip instead of a complete and unbiased report of substance. “Bourdieu's contention is that television's "de facto monopoly on what goes into the heads of a significant part of the population" means that the images they represent matter” (Riofrio, 2012, p. 140). There is a significant responsibility that comes with the influence the media has but reporting continues to be compromised.

Bias is an important concept to consider when doing media studies. Robert Entman (2007) says there are three different types of bias: distortion bias, content bias and decision making bias. With these biases, a specific, systemic agenda is set by news outlets. Entman also says “Framing works to shape and alter audience members’ interpretations and preferences through *priming*. That is, frames introduce or raise the salience or apparent importance of certain ideas, activating schemas that encourage target audiences to think, feel, and decide in a particular way” and framing occurs in its advanced stage through “problem definition, causal analysis, moral judgement and remedy promotion” (2007, p. 164). Through the way information is framed, audiences also retain biases.

Jerry Kang (2005) points out modes of information like local news are where people inherit their implicit biases. He specifically points out that the media continuously features racial minorities as violent criminals. Kang also says “the racial meanings

embedded within the racial schema influence interaction” (2005, p. 1503) which explains mass media’s role in incarceration. Not only is the media sensational and biased in their reporting, the media creates knowledge that impacts the public’s perceptions which controls what they support in society and what they perceive as problematic. Relative to race and mass incarceration, the media helps to create an understanding of black criminality.

Gary Potter and Victor Kappeler offer a potential incentive for mass media to report the way they do by writing “the mass media are in fact corporate entities in a profit-seeking capitalist economy. Media corporations seek to improve profitability, try to mollify corporate advertisers, and are governed by boards of directors...” (Potter and Kappeler, 2012, p. 14). This statement provides an explanation for why reporting of some topics can appear sensationalized. Sensational news and ratings can lead to increased profitability whereas the truth may not be as exciting. Additionally, if profitability and increasing audience numbers are primary motivation then objectivity may in some instances become secondary. Similarly, many of the businesses involved in the prison industrial complex are profit-seeking entities and this illustrates the prevalence of capitalistic values existing in today’s society. Noam Chomsky adds nuance to this assertion about profit-seeking media entities by considering that power and control—through profitable corporations—drive what media information is dispersed. “Corporations are basically tyrannies, hierarchic, controlled from above. If you don’t like what they are doing you get out. The major media are just part of that system” (1997, p. 4). By identifying mainstream media as part of the larger system where its role is

controlling narratives—by way of being controlled by money—Chomsky grounds the media’s role in perpetuating the state-run cultural product that is mass incarceration.

## **A Look at Six Media Clips**

In order to examine the dominant narratives that represent mass incarceration, it is necessary to examine the ways in which different agents in society portray mass incarceration. Mass media has contributed significantly to an understanding of mass incarceration that many people not directly involved in the prison system hold.

Mass media is a term used to encompass various modes of communication. These modes include television, radio, periodicals, and film. To assess media portrayals of mass incarceration, this paper examines six news clips which discuss mass incarceration. The six clips derive from three different prominent news stations—Fox News, MSNBC, and CNN. These news stations were chosen because they are the three biggest cable news providers and their audiences have varying age and ideology make-ups.<sup>4</sup> Two clips from each of the news stations were selected after doing a general search of the website for videos about “mass incarceration.”<sup>5</sup> The news clips were selected according to their title and relevance to general mass incarceration information in the United States. They all

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<sup>4</sup> According to a survey done by Pew Research Center in 2012, 19% of Fox News viewers are between the ages of 18-29, 27% are between the ages of 30-49, 29% are between the ages of 50-64 and 24% are 56 years old or above. 60% of Fox News viewers identify as conservative, 23% identify as moderate and 10% identify as liberal. 16% of MSNBC viewers are between the ages of 18-29, 25% are between the ages of 30-49, 34% are between the ages of 50-64 and 23% are 65 or above. 32% of MSNBC viewers identify as conservative, 23% identify as moderate and 36% identify as liberal. 21% of CNN viewers are between the ages of 18 and 29, 33% are between the ages of 30-49, 28% are between the ages of 50-64 and 15% are 65 years old or above. 32% of CNN viewers identify as conservative, 30% identify as moderate and 30% identify as liberal.

<sup>5</sup> The second clip from Fox News, titled “New York to Raise Age for Criminal Responsibility” was selected after doing a search for “prison rates” because videos about general U.S. incarceration did not yield sufficient results.

aired within the last 3 years and vary in length from 3-6 minutes.<sup>6</sup> In order to explore what is discussed in these segments, a media content analysis methodology is used.

Analysis of these modes of information will utilize the sender-message-receiver model of communication through semiotic analysis. This model is commonly used to assess the transfer of information by decoding the messaging. Because the circuit of culture is a cultural assessment tool, it is important to interrogate the cultural signs and signifiers which can be identified through examination of messages. The paper will conclude with an assessment of what these media clips are relaying to viewers and how they fit into the dominant narrative. Coding through content analysis, and the incorporation of textual analysis, will be used to assess patterns in the information that has been transmitted through the videos. It will also provide information to fortify or negate the claims made in the videos.

## **Media Clip Assessment**

The first clip from Fox News is a segment from the O'Reilly Factor which aired on May 27, 2014. The clip, titled "NY Times: End Mass Incarceration Now," is a reaction piece in which Bill O'Reilly is addressing a news editorial the New York Times published a few days prior to the show. The article asserts that mass incarceration is a crisis in the United States which cannot be justified by claims of social benefit. Citing the fact that the prison population has quadrupled since 1970, the overwhelming number of violent offenders that are now incarcerated and "the astounding economic cost" as

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<sup>6</sup> The second clip from MSNBC, titled "Are Private Prisons Using Presumption of Guilt as a Business Model" consisted of two parts making it 9 minutes in length. This paper analyzes the first segment of the clip.

problematic, the article charges that changes in the system need to be made to bring an end to mass incarceration.

The O'Reilly Factor clip features television show host Bill O'Reilly and two Fox analysts, Kirsten Powers and Monica Crowley, discussing whether or not they believe there are currently issues with mass incarceration. O'Reilly opens the segment by introducing criminal justice system reform as one of the newest liberal causes. He states that the New York Times claims that the U. S. is putting too many people in prison and points out that the article does not mention the victims of crime. "Times believes that people who sell hard drugs are nonviolent criminals, some of them should be given rehab instead of prison time, Times also believes the justice system is biased against people of color and finally Times says spending 80 billion dollars a year in corrections expenses is a scandal." He briefly identified these main points of argument from the editorial before stressing that the article left out that violent crime has dropped "a whopping 49%" over the past 20 years which he says has saved the country money and human suffering. He then introduces the two correspondents and invites Kirsten Powers to respond first.

Kirsten Powers, who is also a USA Today columnist, first insists that mass incarceration is not a liberal concern and then declares that mass incarceration is, in fact, a problem in this country. Next she faults O'Reilly for citing a drop in violent crime rates as evidence that the United States does not have an incarceration problem. O'Reilly disagrees with her example of people having to serve 15 to 20 years for 2 ounces of marijuana to which she attempts to explain it happens under 3 strike laws and Rockefeller laws. Part of his response before letting her finish includes him saying "it's almost impossible to become incarcerated here" and he says that most people plead down

their cases and must be repeat offenders to even get to court. Next he asks Monica Crowley for her thoughts.

Monica Crowley, a Fox News analyst, agrees that there are also conservative groups that are in favor of mass incarceration reform. She also states that she credits the drop in violent crime to the aggressive policing and aggressive reform. She speaks briefly about education, training and drug treatment programs that are available in some facilities which she and O'Reilly agree are important. They also agree that drug culture is a problem that needs addressing and O'Reilly states "you have to want to get off the drugs and many, many people don't."

As O'Reilly tries to sum the segment up, he restates his opinion that violent crime is correlated to this tough sentencing. In opposition to this, Powers uses California as an example because it has different counties that abide by different sentencing regulations. She states that they found there was no difference found in violent crime across the counties. In his closing point, O'Reilly utilizes the broken windows theory to make his point which is "the more people you take off the street, the less crime there is and that," he says "is irrefutable."

This O'Reilly clip barely mentions race and does not mention class or capitalism at all. Race is only mentioned in the very beginning where, when summarizing the New York Times clip, O'Reilly dismissively recounts the argument that the New York Times clip made. He talks about the \$80 billion being spent on incarceration as if that is not a lot of money and says incarceration is still saving the country money yet he does not touch on the huge business venture that incarceration has become. Additionally, what O'Reilly

and the commentators say throughout the clip does not paint a holistic or accurate picture of the mass incarceration issue. O'Reilly asserts that mass incarceration is beneficial and offers violent crime statistics when studies have proven that there is no correlation between violent crime and mass incarceration. Also to this point is the fact that mass incarceration is fueled by low-level drug dealers which is a point that Powers tries to bring up. Crowley points out that people who are in prison are getting training and drug treatment programs while incarcerated but this also offers a false picture. While there are programs in prison, many of them are underfunded and ineffective and this is most evident in the concerning recidivism rate. O'Reilly and Crowley agree on the point that offenders who do or sell drugs need to want help which, to audiences watching the clip, puts the onus on people doing the offending as if people doing and selling drugs do not suffer from socioeconomic issues which could contribute to their actions. O'Reilly's final point about taking people off the street to eliminate crime reinforces mass incarceration without addressing who gets taken off the street and getting to the root of why taking people off the street, not solving issues that lead to crime, is the action the government chooses to take.

The second clip from Fox is from a show titled "Fox & Friends". This clip titled "New York to Raise Age for Criminal Responsibility" aired on January 21, 2015 and features host Elizabeth Hasselbeck speaking with two criminal defense attorneys Heather Hansen and Rebecca Rose Woodland about a new New York statute which would raise the age for criminal responsibility from 16 to 18. Hansen weighs in in favor of this statute while the Woodland protests it. In the introduction to the segment, Hasselbeck says that the new statute would keep a majority of nonviolent young offenders out of adult prison

by sending them to family court but says it is getting criticism because it seems more like a get out of jail free card which does not serve as a deterrent against crime.

Hansen begins by advocating for changing the age for 3 reasons. She lists compassionate reasons: kids brains aren't fully formed, they're more likely to be abused in jail; practical reasons: kids should have to answer to their parents not be treated as adults; and financial reasons: kids that go to prison are 80% more likely to commit more crimes and return to the system. In addition, she adds that most of the crimes are misdemeanors and that if the youth are unable to pay the fines it leads to bad credit and unemployment which impacts our economy negatively.

Woodland argues that raising the age for criminal responsibility will eliminate the deterrent in cases where youth are handling themselves as an adult, acting as an adult, or committing violent crimes. In a further attempt to make her point in opposition to raising the age, she identifies systemic problems with prisons and the education system as things that need to be addressed—not the age for criminal responsibility. She says “the adult criminals also return to jails. I think we have an issue with the jails, we have an issue with the educational system rather than the age” as a rebuttal to Hansen's point about kids recidivating after going to an adult jail.

Hasselbeck then asks about whether or not there are psychological or emotional effects for reform when charging a youth offender with an adult crime or sending them to prison at 16 versus 18 years of age. Hansen says that because of the psychological fact that brains do not fully develop until 25, “they're more likely to be rehabilitated in a juvenile system and if their brains are plastic enough for that to happen then we should let

it happen in the juvenile system.” The host then interjects that she has a 5 year old child who already knows that stealing is wrong and to which Hansen says that three quarters of arrests in New York City in 2011-2013 were misdemeanors. She says we should put them in a system that can help them instead of putting them at risk for abuse. Woodland counters this statement by pointing out that judges have the discretion to place youth offenders in juvenile facilities and continues by saying that violent crimes and felonies are what should give pause to raising the age of criminal responsibility. On the screen while the two correspondents are talking, a few headlines with facts come across the screen. They read “Plan could reduce cases by 2,400 every 5 years,” “Cutting juvenile crime could save society \$ 6 million dollars,” and “critics say law promotes culture of leniency.”

This news clip also did not talk about race, class or capitalism. The people who would be impacted the most through changing the age for criminal responsibility were not discussed. This clip does not directly talk about mass incarceration but talks about its manifestations indirectly. One way the incarceration issue as a whole is brought up is when Woodland points out that jails need to be reformed. Further, mass incarceration was born out of an era of “tough on crime” legislation and remnants of this can be seen and heard in the clip. One of the headlines on screen said “critics say law promotes culture of leniency” which implies favor of a tough on crime stance. This clip perpetuates the stereotype that prison is supposed to be punitive instead of rehabilitative. Woodland constantly says that raising the age would eliminate the deterrent of going to adult prison. In any case, as previously mentioned, prisons are not rehabilitating and they instead encourage recidivism. Hansen touched on recidivism but she does not contribute statistics

or delve into how pervasive the issue is. Hansen, in favor of raising the age of criminal responsibility, advocates for keeping kids in juvenile facilities for the financial reason that individuals would be more likely to return. Though she implies it has financial repercussions, outside of saying that the youth may not be able to afford their fines, she does not explicitly state that it costs thousands of dollars to incarcerate individuals and that it continues to cost taxpayers when a returning citizen has to rely on financial assistance because of the lack of opportunities afforded to them.

The first clip from MSNBC is a segment from the television show *The Cycle* titled “The Effects of Mass Incarceration on Society” which aired on April 29, 2014. Touré begins the report by introducing prisons as criminogenic—indicating that they turn people into worse criminals—and says prisons release former inmates into a world with limited opportunities for them. Touré asks “what does it do to our society that after people have served time, they have a very hard time rejoining society?”

The clip features an excerpt of what was a new Frontline documentary by filmmaker Daniel Edge where an incarcerated black male explains the hardships he will face when he is released from prison. The individual talks about a hypothetical situation where upon release, individuals are instructed to do any number of things but do not have clothes or transportation among other things. When asked what will happen to him, his response is “I don’t know...Right now I don’t really care” as he sheds a tear. The filmmaker indicates that mass incarceration is a cycle that is almost impossible to get out of and says that in the production of the documentary, they found that the cycle starts very young. In a second excerpt from the documentary, the story of a young black female, Demetria, is focused on. A judge in her case is interviewed and she says she does

not want to lock youth up but will do it as a last resort if she cannot get them to come to court, stop committing crimes, or get them what they need to be doing. A co-host on The Cycle points out that the judge is participating in the system, sees how wrong it is and is powerless to do anything about it. Edge says that incarceration has become an answer for all social problems. He names bad behavior in school and skipping school as examples which have increasingly become answered by incarceration. He also says “Huge amounts of money are being spent (and this is what we examine in the film) on incarceration far more in this neighborhood that we focused on than is spent on education.”

This clip incorporates race and class though it does not interrogate the issues as motivators for incarceration as a whole. Race and class are talked about as the director talks about his filming in certain neighborhoods and how incarceration has impacted them. The clip generally talks about the faults in the prison system and money allocation rather than the numbers that are currently incarcerated in this country. Touré opens the clip by exposing the audience to the important fact that prisons are counterproductive and do not help prisoners become better functioning citizens upon release. The clip does not delve into this assertion and how it is possible if prisons are supposed to exist as a solution for crime. The director of the featured documentary points out issues like recidivism and the punishment not being suitable for the crime and the disproportionate allocation of funds from education to incarceration. When speaking of the faulty allocation of money, he does not provide enough contextualization to inform views about how pervasive the issue it. The clip overall gives viewers a better look although capitalist motivations for having so many people incarcerated was not mentioned. Additionally, the clip shows a judge who is featured in the documentary who says she understands the

implications of sending a youth to prison but does it when the youth chooses to commit more crimes. The judge's analysis gives an incomplete look at people in living conditions who may not be *choosing* to continue to commit crimes or are criminalized unfairly. The judge's input, though, was valuable because it shows that the system is feeding itself and even judges have less autonomy contemporarily.

The second MSNBC clip is titled "Are Private Prisons Using Presumption of Guilt as a Business Model" and it aired on August 19, 2013 on MSNBC Live. The host, Ari, opens by stating that former Attorney General Eric Holder's new efforts to refrain from seeking mandatory minimum sentences from some nonviolent offenses could reduce the prison population significantly. Mandatory minimums, he says, have packed public prisons and created a new industry due to the massive population.

The clip goes to a shot of Holder giving a speech at the American Bar Association about the fact that "too many Americans go to too many prisons for far too long and for no truly good law enforcement reason." Ari's voiceover informs viewers that mandatory minimums and harsh sentencing have caused a 700% increase in the prison population over the last 30 years. He says Holder has identified that these policies impact the poor and minorities disproportionately. Then he says that as the government runs out of places to put prisoners they increasingly rely on corporations to 'pick up the slack.'

Next a clip of Michael Skolnik is inserted where he is identified as an advocate for criminal justice reform and speaks about prisons as an issue. He asserts that the War on Drugs was a war on black and brown people and not a war on drugs and over the past 20 years the war has become a means for profit for private prisons. Ari's voiceover then

reveals that for-profit prisons began getting contracts to run facilities in the 1980s when the prison population was increasing. He says “from 1990-2009 the prison industry ballooned 1600% according to the ACLU.” Skolnik says for-profit prisons now have contracts with states saying “Guarantee that our prisons will be filled, guarantee that we’ll make a profit and how do you guarantee that? You create drug laws...” Ari’s voiceover continues by saying that companies that run these prisons say they are meeting a need that existed before their business model. CCA, he describes, was founded in 1983 has 80,000 in 16 states which makes it the largest private prison group in the country. CCA says it provides “the cost savings of business... with the oversight of government.” Ari also reveals that CCA spent nearly \$15 million lobbying between 2003 and 2010 in 32 states. CCA says they do not lobby for longer prison terms but a report from the SEC reveals that CCA admitted that it’s business could be hurt from “leniency in conviction or parole standards and sentencing practices.” Ari summarizes “The war on drugs has spawned a powerful business model that needs more crime and more jail time to survive—a system that presumes guilt as a business model and recidivism as a business model.” His assessment and the information provided in this clip gives a broader picture than most representations of mass incarceration.

Of the six clips that were analyzed in this study, this video offered the most sustained assessment of the relationship between race, class and capitalism as motivators for mass incarceration the best. Skolnik’s analysis, Ari’s facts and the clips that were taken from Holder’s speech provide information that is not commonly shared and analyzed. Holder and Skolnik address how incarceration and the War on Drugs have impacted poor people and people of color at disproportionate rates. Skolnik and Ari also

talk about the profiteering which occurs from these prisons which are full. Ari provides some contradictory information in saying that for-profit prisons ‘pick up the slack’ for full government prisons while the overall tone of the clip accurately infers that profit is the motive for private prisons. The clip talks about how the War on Drugs has become a means for profit but the clip does not talk about more than the facility being paid to hold bodies. Another way private prisons are profiting is through being publically traded, for example. Viewers should be provided a holistic picture of the for-profit prisons. Overall the clip does a good job of informing viewers about motivators of the War on Drugs and incarceration but it could have provided a better scope to assess how pervasive mass incarceration is.

The first clip from CNN is a segment which aired on March 23, 2015 on Anderson Cooper 360. The clip is titled “Sheriff: We Are Just Dumping People in Prison” and it is primarily an interview that takes place in a prison where Anderson Cooper is interviewing Sheriff Tom Dart of Cook County, IL. The rest of the time in this video clip is made up of Cooper’s voiceovers and video footage of the Cook County Prison.

Sheriff Dart starts out the segment by asserting that there needs to be a more thoughtful method of handling low-level crimes and crimes that may be committed out of necessity. One example he gives include individuals breaking into places or trespassing because they need somewhere to sleep. Cooper’s voiceover comes in next, stating that “the U.S. has one of the highest rates of incarceration of any industrialized country. Nationwide there are 2.2 million inmates. The prison population here increased by 500% over the past 30 years.” He continues by explaining that the rise is due to laws that

increase sentencing and that almost half of federal prisoners are drug offenders and says that Sheriff Dart says the laws “have not made us safer” He explains the hardships low level offenders run into when they are released which causes them to reoffend. Sheriff Dart and Cooper continue the conversation about being released. Cooper lists fewer ties to the community, no place to stay, strained relationships as issues which impede successful reentry. Sheriff Dart’s response includes a critique of the fact that prisons, in his view, round people up and hold them without reason or a plan.

Anderson Cooper’s voice-over is heard again and he explains a situation which transpired with a mental health patient that occurred at the facility a day after CNN cameras were at Cooks County Prison for filming. He quotes Sheriff Dart as saying these prisoners “need treatment not time behind bars” and says prisons have become “a defacto asylum.” When asked by Cooper about the number of people who come to Cook’s County Prison with mental health issues, Sheriff Dart’s position was that the widespread issue of incarcerating individuals with mental health issues “[is] staggering and underreported.” He says at Cooks County, about 30% of individuals have been diagnosed with a serious mental illness. Cooper’s voice-over explains that individuals diagnosed with mental health issues do get the treatment and medication at Cooks County and says that Sheriff Dart believes part of the problem is that most of the individuals do not have access to the medication they need on the outside of prison and therefore self-medicate with illegal drugs. Sheriff Dart says “If you peel apart the case that brought them here, well the underlying reason is an illness it’s not a criminal [reason] but yet the system does not seem to care...”and indicates that prison has become a dumping ground for people with mental illness and poor people.

The last minute of the news clip is devoted to speaking with a prisoner named Carzell who is a black male in the minimum security section of the jail. Carzell is characterized as a shy, chronic heroin user who has been arrested 83 times for non-violent offenses. While in jail, Carzell says he has lost his home and his girlfriend due to being in jail. Viewers learn that he is serving 4 months in prison for simple possession of a bag of heroin; a bid that Cooper says will cost taxpayers more than \$18,000 dollars.

Class is addressed briefly in this clip. It is significant that Dart points out that people with mental illness and suffering from poverty are being warehoused in prisons but race should also have been included, if not by him then by Cooper. Race is only insinuated through the visual clips because a majority of the prisoners that can be seen throughout the segment are Black. Carzell, who is interviewed at the end of the clip, is also black so viewers may be receiving messaging about race as a factor in mass incarceration without the issue being addressed. Part of Carzell's story is the fact that he is being imprisoned from simple possession of heroin but the charge will cost taxpayers \$18,000. Though money is a significant factor in conversations about incarceration, there was no contextualization for this fact and there was also nothing to tie this back into the topics that were discussed earlier in the clip about the problems of incarceration. Viewers also learn about recidivism and the hardships that returning citizens face which is important because it contradicts a narrative that claims that individuals simply choose to make bad decisions upon release which sends them back to jail.

The second CNN news clip aired on April 3, 2015 on Fareed Zakaria's GPS. The segment, titled "What in the World: Global Lessons on Prisons", compares the way the United States has utilized prisons to countries around the world. Zakaria then takes an in-

depth look at Norway, a country he reports has been successful in rehabilitating offenders.

“We’re always looking for things where USA is number one, right? Well this, alas, is the best or really the worst case. America imprisons the most people worldwide by far...Nearly 1 in 4 of the world’s inmates are locked up in America and the United States has only one-twentieth of the world’s population” Zakaria says. He situates the mass incarceration issue in context by comparing the prisoner population per 100,000 people in the United States (707) to other countries. First he compares the rate to other developed countries—France (98), Italy (87) and Japan (50)—and then compares the U.S. rate to less developed countries—Russia (467), Brazil (289) and Mexico (214).

Zakaria insists that the United States could learn about better uses of prisons from countries around the world and uses Norway as an example. Norway’s longest sentence is 21 years, with the exception of crimes against humanity. Anders Breivik, who murdered 77 people in 2011, received a sentence of 21 years. Zakaria reports that 8 months is the average length of stay for offenders there and that focus of time served is reintegration into society rather than punishment. Zakaria quotes Norway Correctional Service as saying “Life inside prisons will resemble life outside as much as possible...A sentence should be aimed as much as possible at retuning an inmate to the community.”

Detailing Norway’s Halden Prison, he explores the approach officials have taken to treating criminals. Halden Prison, which does not have the appearance or feeling of a conventional prison, houses both non-violent and violent offenders. Inmates are free to travel outside and correctional officers share coffee or meals with the offenders. This

approach appears to work at reducing crime. Norway, he says, has an incarceration rate 10 times lower than the United States and it also has a lower recidivism rate. Denmark is another example of a country where their approach to incarceration appears to work. Calling the method normalization, Zakaria says Denmark allows its prisoners to travel off prison grounds to work, gain wages, and get sick pay. Denmark also has lower incarceration and recidivism rates than the United States.

Zakaria ends the segment by stating that the United States uses prisons as a source of punishment and that petty offenders are treated inhumanely. He says that when they are released, “[offenders] lack the skills, ability or psychological capacity to integrate back into society”. As a result, he says recidivism is inevitable. “It is a dark, unforgiving and extremely expensive cycle.”

Though the focus of this clip is mainly on other countries’ incarceration practices, it touches on important points which are relevant to understanding incarceration in the United States. This clip starts out by explaining mass incarceration as a problem in the United States but notably does not talk about how race and class heavily factor into who is incarcerated. Additionally, there is no mention of the motivations behind this country’s high level of incarceration. Zakaria does focus on recidivism being a problem here and mentions mistakes the U. S. system is making by way of identifying what Norway and Denmark are doing. In the concluding moments of the segment Zakaria also mentions that this level of recidivism is expensive but does not provide any contextualization which would educate viewers on how their tax dollars are being spent and who is being paid.

## **Conclusion**

Three of the greatest motivators for mass incarceration are race, class, and capitalism. After doing an analysis of 6 media clips which address mass incarceration and prison rates, it is clear that different news outlets are failing to adequately interrogate the causes of mass incarceration. This in turn contributes to the general public's partial understanding and lack of awareness of the contemporary issues of incarceration in this country. Topics integral to accurate reporting of the institution of mass incarceration as a problem in the United States include race, class, capitalism. Of the six clips presented, two clips discussed race, three clips talked about class and, though none of the clips directly identified capitalism, one clip talks about the capitalistic motivations of incarceration by talking about for-profit prisons.

This assessment of news clips evaluated how well information about incarceration was being shared with viewers. Since the argument is that mass media needs to do a better job of providing viewers with an accurate picture of mass incarceration, the clips have been categorized into favorable, unfavorable, balanced, and neutral. The Fox News clip titled "NY Times: End Mass Incarceration Now" was rated as favorable, or supported the previously stated argument, because it failed to even mention race, class or capitalism. "New York to Raise Age for Criminal Responsibility" which was the other Fox clip was also rated favorable for failing to raise the above mentioned points. The first clip from MSNBC was titled "The Effects of Mass Incarceration on Society" and it was rated neutral because it does mention race and class although it does not interrogate these two factors as it should. The second MSNBC clip, "Are Private Prisons Using Presumption of Guilt as a Business Model," was rated unfavorable because it does not

fortify the argument being made by this paper. The first CNN clip, “Sheriff: We Are Just Dumping People in Prison,” has been rated favorable for failing to include race and capitalism and for failing to interrogate all three factors. The last clip, “What in the World: Global Lessons on Prisons,” has also been rated favorable for its lack of contextualizing the problem in the introduction as it should have. Mass media, as represented by the six clips analyzed in this video have failed to interrogate race, class and capitalism as factors fortifying mass incarceration.

## **Chapter 5: Consumption**

To evaluate mass incarceration as a cultural artifact, looking at its consumption by the masses is fundamental. In the circuit of culture, consumption is the stage where any utilization of mass incarceration can be assessed. This examination also entails decoding the meanings a cultural artifact is encoded with in the production stage. This section will make the argument that mass incarceration is a social and cultural commodity and that citizens who are not directly involved in it (through imprisonment) or the prison industrial complex (through economic benefits) are still engrossed by its social, cultural and economic effects. Angela Davis (2003) asserts that the public has been able to take prisons for granted because of how often we have been able to consume them and she thus asserts that they have become a key ingredient of our “common sense.” Prisons as a commodity takes form in variety of ways today. One key way in which this happens is through the public’s role in decoding the meanings given to prisons and incarceration. The mainstream American public has also embraced prison culture which, again, contributes to prisons being part of mainstream society’s “common sense.” Wacquant (2010) asserts that there is an intentionality behind the display of penal activity and says crime-and-punishment shows have inundated television. He says the “theatricalization of penalty has migrated from the state to the commercial media...” (2010, p. 206) functioning to reaffirm the political relevance and power of the state.

## **The State's Use of Prisons**

Wacquant adds nuance to the understanding of the state's use of incarceration by saying that the penal apparatus functions as an integral part of the neoliberal state (2010). Evident in its sovereignty, reach and priority, prisons and the rest of the penal sector clearly holds significant importance to the neoliberal state today. Dominant discourse reveals the stated purpose of prisons to be for deterring people from committing crimes and increasing public safety (BOP, 2015). This encoded meaning is purported through dominant narrative and, though not necessarily inaccurate, does not provide a full explanation of the role the penal sector plays in society today.

The state largely utilizes prisons to warehouse Black men, the poor and those who have lost their production value (Lichtenstein & Kroll, 1996). Lichtenstein and Kroll infer that this finding can be taken to mean prisons warehouse "people who [are considered to] have no place in the economic order" (1996, p. 23). Like Spector (2014) points out, in a capitalist society, economic exploitation takes precedence over social oppression. This is not to say that both exploitation and oppression do not occur and, in the case of Black Americans, the two have historically been intertwined.

## **Mass Incarceration in Popular Culture**

As a cultural product, mass incarceration has also been imbedded into popular culture and popular consumption. Its dispersion into popular culture creates a cyclical effect by both perpetuating the acceptance of incarceration and also informing cultural production through its use as entertainment. Professor Gina Dent asserts "the history of visibility linked to the prison is also a main reinforcement of the institution of the prison

as a naturalized part of our social landscape” (Davis, 2003, p. 17). As a cultural commodity, prison has most notably been worked into popular culture by way of television and web shows. Shows that air in the United States like *Oz*, *Prison Break*, *Lock Up*, *Alcatraz*, *The Big House*, *Behind Bars*, *Prison Planet* and *Orange is the New Black* are all examples. Prison-themed shows are aired all over the world. *Prisoner* is an Australian soap opera which also airs in Canada, the United States and the United Kingdom; *Banged Up Abroad* originated in the U.K and also airs in Hungary, Canada, India, the United States and various other countries; *Tomorrow is Another Day* is a Chinese drama and *Hinter Gittern – Der Frauenknast* (translated as *Behind Bars - The Women's Prison*) is a German soap opera are all examples of global prison consumption through TV. The increase of visibility in this way contributes to the prison industrial complex being hidden in plain sight (Davis, 2003).

Functioning as entertainment, a significant number of shows that have worked their way into popular culture normalize not only prisons but also the linking of Black males and criminality. This linkage will be further analyzed in the identity section of this paper but it is important to identify it as part of cultural consumption because mainstream America has become inundated with loaded representations of incarceration and Black men. Shows like *Lock Up*, *Behind Bars* and *Lockdown: America's Toughest Prisons* are deemed documentary series but they all blur the line between news and entertainment. Like many of the news clips discussed in the representation section, these shows commonly sensationalize prisoners and their behavior for ratings—making a spectacle of incarceration. This is ironic, Riofrio (2012) says, because it makes visible the same valueless and disposable bodies that neoliberalism seeks to disappear. “The paradox,

though, is that the process of rendering disposable bodies invisible has become so rewarding both commercially and politically that it is now rendered highly visible” (2012, p. 147). This visibility only helps to propel the system.

Riofrio (2012) also highlights that these shows successfully function to convince viewers that instead of an oppressive system, it is a result of individuals and their individual choices that put them where they are.

Spectacles of incarceration actively construct notions of criminality as *individual* choice, effectively casting the eventual exclusion that results from criminality as a product of that ‘choice.’ The protagonists in these shows thus play the unwitting role of drawing audiences further away from conceptualizing even the possibility that crime and criminality are intricately connected to structural systems of inequality. (2012, p. 149)

He goes on to say that spectacles of incarceration are so popular because while providing “factual documentary evidence,” they reassure their viewers of the prisoners’ guilt and criminality. “Ultimately,” he says, “what these spectacles of incarceration share is a deep investment in neoliberal notions of individuality, autonomy, and meritocracy. They implicitly argue that those that succeed do so because of their initiative and personal decisions. Those that fail do so because of a lack of these qualities” (Riofrio, 2012, p. 150). The prisoners on the show are dehumanized and shamed—commoditized and portrayed in the worst light for a profit. Ofelia Cuevas, in an article about the television show COPS, shows that much has not changed in the representation of Black “criminals” though now visibility has reached inside the prison. “Although the precise mechanisms through which the criminalized Black and Brown body is targeted, displayed and then visually consumed, have changed drastically over the past eighty years, the practice of public punishment and its ramifications remain remarkably similar” (2008, p. 45).

Relating back to Bourdieu's critique of the news for the power it holds in shaping the opinions of mainstream America, Riofrio says "the criminals on television are perceived unquestionably as criminals precisely because they appear on television as criminals. Their culpability, as Cuevas indicates, is self-evident" (2012, p. 147). Thus, it is clear that viewers' consumption of prison documentaries results not only in their entertainment but also in their receiving messaging about the use-value of prisons. This in turn complicates popular conception and support of mass incarceration

Another way prison is commoditized, capitalized on, and consumed culturally is through the development of prison themed museums and "prison experience" attractions. There are over 100 prison museums in the world. While some of these museums are non-profit, they help to support the prison industrial complex by marketing themselves as tourist attractions and desensitizing citizens to the oppressive realities of prison. Through these "attractions" prisons and the culture of mass incarceration become normalized to citizens who do not have an immediate connection to the oppressive nature of the institution and are then willfully consumed. In addition to museums, there are other attractions that are advertised as providing a prison experience. In the 1990s The Academy Experience sold "the prison experience" to men who paid nearly \$2,000 to spend a weekend in prison in Alpharetta, Georgia (Wright, 1999). This attraction featured real police officers and prison guards as well as abuse and mistreatment in attempts of portraying authenticity. Paul Wright also talks about an event in Flint, Michigan where "the city's well-to-do citizens paid hundreds of dollars each to spend the night in the new jail, with champagne and hors d'oeuvres" (Wright, 1999, p. 101). He insists that this is a phenomenon which happens throughout the country.

## **Consuming Economic Investment in Prisons**

Another way in which the culture of mass incarceration is consumed is through the economic and social investments that many communities that house private prisons may have in them. Through a process of decoding, and essentially a process of recoding, many citizens also ‘buy into’ the prison industrial complex economically in a way that varies from those who are directly engaged in it. Citizens endorse the prison industrial complex by consuming prisons economically in two key ways. First, citizens vie for prisons to be located in their communities and second, they invest stock in private prisons. Prisons have been produced and encoded with meanings that make them invaluable to small towns. “Over the past two decades, prison hosting has been advertised as a surefire catalyst for economic recovery and growth, particularly for economically depressed rural areas that have seen a loss in primary industry jobs” (Mosher, Hooks, and Wood 2005, p. 90). Purported economic benefits include more employment for the town, an organization which is big on community service, revenue that stays within the community and more ‘bodies’ in a particular place which would lead to more government representatives. In the 1980s with the rapid increase of incarceration, prison hosting “emerged as a potential catalyst for economic growth... [and] local officials began to consider prisons as an economic development tool” (King, Mauer, and Huling 2003, p. 1). Further, though prisoners are restricted from voting while they’re incarcerated in 48 states, the Census Bureau counts incarcerated people where they are imprisoned (Alexander, 2010). Known as prison-based gerrymandering, consideration of community populations in this way leads to a problematic distortion of local and state representation.

Further, prisons are often located in rural areas, yet prisoners tend to hail from urban areas which leaves urban areas with less political clout.

Because the biggest private prison companies are publicly traded, it is important to note that individuals and corporations literally buy into the prison industrial complex through investing in these corporations. Prisons have been deemed a “recession proof” investment (Sudbury, 2005) and private prisons convey that they are popular publicly traded companies on their websites. Not only are these corporations publically traded, but their websites indicate that they function to make their investors happy which further shows the role consumption plays in the perpetuation of the prison industrial complex. For example, in a 2015 company release made available on their website, The Geo Group’s Chairman and CEO stated “We are pleased to declare our quarterly cash dividend of \$0.62 per share, or \$2.48 per share annualized, which is indicative of our continued commitment to return value to our shareholders” (The Geo Group, 2015). Their commitment indicates a significant conflict of interest because the stated use-value of prisons for the state is the benefit of society by reducing crime and a public-private partnership should reflect just that. Instead, those that are poor, disenfranchised, and disproportionately locked out of society are essentially left to fend for themselves.

## **Conclusion**

When considering consumer culture, there is both a cultural dimension of the economy and the economy of cultural production to focus on. Put in another way, “the symbolization and use of material goods as ‘communicators’ not just the utilities... [and] the market principles of supply, demand, capital accumulation, competition, and monopolization which operate within the sphere of lifestyles, cultural goods and

commodities” (Featherstone, 1987, p. 57). It is important, then, to understand that the consumption of signs, not the consumption of use-values, takes precedence (Featherstone, 1987). Relating back to the production and representation sections of this paper, it is necessary to assess how mass incarceration has been encoded with meaning in order to successfully analyze how it is being consumed. The mass production of prisons and its representation and visibility all over society can be consumed in different ways. It has been well established that the “intended” or “stated” purpose of prisons—a deterrent to or punishment as a result of crime—is not what makes them most important to the state (Lichenstein & Kroll, 1996). This paper approaches mass incarceration as both a social institution, and a cultural product or cultural formation. This means it is necessary to consider how mass incarceration as a cultural sign and a cultural product is consumed by a range of different social actors.

The United States has 5% of the world’s population but 25% of the world’s prison population which makes it the country with the highest incarceration rate in the world. Instead of focusing on addressing the wide-spread issue of incarceration, shows and experiences embrace the issue and focus on other aspects which are likely to resonate with viewers. Culture industries have been able to capitalize on prisons but instead of presenting them as a problem, they embrace them and use the newly formed prison culture for entertainment and profit. Further, there are now avenues to make significant financial gains off of this racist and oppressive institution. By being incorporated into the mainstream American psyche and being a site for economic investment, incarceration has become not only culturally acceptable but valuable. The next chapter, which explores the theme of identity, will extend this argument by showing how the penetration of a culture

of incarceration and the discourse of Black male criminality has impacted the cultural identities and subject formations of Black men and in particular Black poor men.

## **Chapter 6: Identity**

In the circuit of culture, the theme of identity explores the processes and structures through which the production of social and cultural identities are implicated or by the ways in which a cultural formation circulates and accrues meaning in society. It invites us to consider the role of the cultural artifact in producing, regulating and representing specific identities and subject positions as well as how consumption practices are part of these processes. Since mass incarceration disproportionately imprisons Black males (and females), it is important to assess the cultural impact of mass incarceration on Black communities and individuals. With the alarming rate of incarceration in the United States comes an equally disturbing rate of Black male incarceration. “Whereas Black men constitute 8 percent of the U. S. population, they comprise approximately 50 percent of the prison population” (Collins, 2004, p. 169). This fact lends an explanation to the popularized association of Black masculinity with criminality and prisons. It also goes some way to explaining how the penetration and prevalence of the cultural consumption and subcultural production of prison culture within impoverished Black communities and within Black popular culture.

### **Black Masculinities and Criminality**

Criminality and Blackness have a close association in the minds of many Americans. This has a long history extending back from Jim Crow to the present. African American men, especially poor men, have been systematically subjected to excessive

levels of social scrutiny, containment and criminalization (Howard, 2013; Reese, 2014; Yosso, 2005; Spector, 2014). Black women, too, have experienced stigma and criminalization but as Patricia Hill Collins discusses in her book *Black Sexual Politics* (2004), there are gender specific contours of racism that must be acknowledged so as not to treat all experiences of racism the same way. It is important to identify the significance of the intersections of systems of power like race and sex (in addition to class, sexual orientation, age, citizenship status, ethnicity and a host of other considerations).<sup>7</sup> The structural forces that have contributed to the mass incarceration of Black men have been discussed earlier in this paper. In this next section I take the argument forward by positing that the structural marginalization of African Americans has constructed Black male identity as ‘deviant’ and that this has come to shape mainstream white social attitudes about Black men and Black masculinity, contributing to the widespread social acceptability of mass incarceration by the majority of white Americans.

Researchers Unnever and Cullen found that after testing three theories to explain public ‘punitiveness,’ racial animus was consistently seen and a deciding factor in public sentiment (Unnever & Cullen, 2010). Their study found that racial and ethnic intolerance were salient factors in predicting public opinion about certain “tough on crime” sentiments and support of punitive policy and note that they are not the first authors to come to this conclusion. Additionally, they highlight

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<sup>7</sup> African American experience with racism is not a monolith and this paper focuses on the Black male criminal pathology, yet, some of the information provided will appropriately include experiences and statistics that both men and women share. Though the experiences Black women face are not the subject of this paper, it is important to note the gross and disproportionate rate at which they have also been criminalized. Women are now the fastest growing segment of the incarcerated population and Black women are 3 times more likely to be incarcerated than their white counterparts (The Sentencing Project, 2007).

In racialized societies, the public views crime through a jaundiced racial lens often associating crime with “others”—marginalized groups who are disliked by dominant members within a society...This defining shift from the “other” to the “criminal-other” legitimates an already ubiquitous dislike of criminals and an insidious dislike of “others.” Thus, the “criminal other” becomes a polarizing force in public opinion about crime and its control. (2010, p. 119)

In America—due to the racist history and underpinnings of the country—Black people have been economically and socially marginalized. Further, Black people have been “othered” and there are long-standing ideological linkages between this “othering” and “criminality.” Due to this tendency, citizens who hold biased or racist views about African Americans and Black identity have their perceptions bolstered by the common but problematic connection to the “criminal” classification.

Author Khalil Gibran Muhammad attempts to explain how the linkage in Blackness and criminality came to be by looking to the period of Reconstruction in his book *The Condemnation of Blackness* (2010). He makes the assertion that at this time—in which white people had little choice but to accept newly freed Black people as citizens in the country—white social scientists ‘statistically proved’ that Black people had a predisposition to crime. He makes the case that this information, backed by ‘proof’ of Black inferiority and white society’s eagerness to accept it, laid the foundation for the black criminal pathology. He points out that, like today, flawed research and data coupled with no real investment in discovering a deeper stimulus for criminal activity when it actually occurred contributed to the fortification of the pathology. Though the case could be made that the link between the two began even earlier than Reconstruction, it is important to understand that the ties are rooted in history and have continued to manifest

over time. Black bodies have historically and contemporarily been sites of manipulation for racist exploitation and subjugation; however, the manifestations have been different for Black men and women. Outside of entertainment consumption, the Black male body has been a symbol of fear. “Historical representations of Black men as beasts...center on Black male bodies, namely, Black men as inherently violent, hyper-heterosexual, and in need of discipline. The controlling image of Black men as criminals or as deviant beings encapsulates this perception...and links this representation to poor and/or working class African American men” (Collins, 2004, p. 169). Though race-based social control and racial governmentality have shifted over time, criminality and deviance are continually linked to Black males.

The argument can be made that Black men are seen as more deserving of the “criminal” status. In 2010, the U. S. Sentencing Commission found that “the average sentence during 2008 and 2009 was 55 months for whites and 90 months for Blacks” (Starr & Rehavi, 2012, p. 1). While it is possible that the discrepancy is the result of Black people committing harsher crimes, that is not the case. Delving into where the disparities in the criminal justice system actually exist, a study was done in 2012 on federal criminal charging and sentencing disparities by looking at cases from the point of arrest to the point of sentencing. Researchers of this study found that holding conditions like arrest offense as well as age and location constant, Black men were on average more than twice as likely to face a mandatory minimum charge as white men (Starr and Rehavi, 2012). Their report also touched on the important role prosecutors have and the often unchecked discretion they are allotted. In the end, after analyzing a number of recent federal cases, Starr and Rehavi report that prosecutors are twice as likely to file

“mandatory minimum” sentences against Black defendants in the initial charging stage. While this statistic applies to both males and females, it naturally includes the biased sentencing that Black males get—which happens to be 10% longer than those of white males on average (2012).

Though prosecutors have an immense amount of power and are able to act on their biases, they are not the only ones who display or act on this Black criminality bias. This equating of Blackness to criminality can be seen on smaller scales regularly. One example can be seen in a study which found that, to white people, Black males are perceived to be older than they are and appear guilty. According to a series of psychology studies published in 2014, Black males are more likely to be mistaken as older, be perceived as guilty, and face police violence if accused of a crime (Goff, Jackson, Di, Culotta, and DiTomaso, 2014). This study was completed using over 100 police officers and 100 students and the results were consistent across the board. This problematic perception pervades school systems and continues throughout the duration of a lifetime--impeding success and capital attainment later in life.

## **Hip Hop and Subcultural Capital**

Tyrone Howard offers, “Black males find themselves in perpetual negotiation as they seek to reconcile their own individual lived experiences with prescribed societal expectations and limitations” (2014, p. 40). Pierre Bourdieu (1986) explains capital as a force that “takes times to accumulate and which, has a potential capacity to produce profits and to reproduce itself in identical or expanded form, [and] contains a tendency to persist in its being...” and it takes three forms—cultural, social and economic (p. 242). Cultural capital, he says, entails physical and symbolic elements that one attains through

social class and social capital essentially describes social networks and relationships and the resources they are able to provide. These two have the potential to translate into economic capital which, he says, can then be translated to money or property rights.

Consistent with America's hierarchical nature, different forms of cultural capital are valued over others. Pierre Bourdieu theorized that in a hierarchical society the knowledge of the upper and middle classes are considered more valuable (Yasso, 2005). Connecting Bourdieu's theory to the experiences of people of color, Tara Yasso says it "...has often been interpreted as a way to explain why the academic and social outcomes of People of Color are significantly lower than the outcomes of Whites. The assumption follows that People of Color 'lack' the social and cultural capital required for social mobility" (Yasso, 2005, p. 70). It is important that Yasso comments on capital and social mobility instead of positing it in terms such as 'success' because success will vary depending on the vantage point of the commentator. The expression exhibited through hip hop provides a good site to explore the values and negotiations of poor Black men in urban America<sup>8</sup>.

Hip hop has become one of the foremost recognized expressions of Black culture, Black political voice and Black subcultural or oppositional capital (Rose, 1994; Kitwana, 1994). It was forged, in the 1980s, in Black urban communities amidst the cusp of American economic restructuring. "In the postindustrial urban context of dwindling low-income housing, a trickle of meaningless jobs for young people, mounting police brutality, and increasingly draconian depictions of young inner city residents, hop is

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<sup>8</sup> The Black male experience in America is varied and the analysis in this paper does not intend to assert that it is. Further, hip hop's rise to prominence has changed its representation and it is no longer solely the site of Black urban expression.

black urban renewal” (Rose, 1994, p. 61). Speaking on rap, one of hip hop’s central components, Michael Eric Dyson contributes, “its subversive cultural didacticism aimed at addressing racism, classism, social neglect and urban pain...” (2004, p. 62). Used as a way to exhibit their talents, cultures and disdain for their treatment by white America, it has continued to thrive today.

Criminality, as has been discussed throughout this paper, has had a long history of being associated with Black Americans and hip hop has provided some with another avenue to make that association contemporarily. However, exemplifying agency in today’s era of hip hop, there has been an acceptance and shift in meaning of this criminality enforced upon Black men. “In the current context of commoditized Black popular culture, the value attached to physical strength, sexuality, and violence becomes reconfigured in the context of the new racism. In some cases, the physical strength, aggressiveness, and sexuality thought to reside in Black men’s bodies generate admiration, whereas in others, these qualities garner fear” (Collins, 2004, p. 153) A significant amount of Black men in America have deployed prison culture and signifiers of criminality to negotiate their way through hostile economic and social environments of America’s inner cities. This contestation of the way society hoped to categorize and subjugate Black men is not all that surprising with an understanding of hip hop’s origins of subverting power.

Instead of shying away from socially-imposed negative stereotypes, hip hop provides a space for some Black men and women to embrace and even valorize the conditions and personas that may be found in their urban areas. The gangsta persona is one example that was adapted by hip hop and Mark Fisher (2009) points out that films

like the Godfather trilogy, Goodfellas and a host of other gangster movies projected generalized betrayal, distrust and exploitation which could be seen in the resulting neoliberal-informed environment the Black community was forced into. Further, Collins says the “trappings of gangstas” are not something which must be consciously assumed because lack of access to housing, education, health care, and jobs needed for upward social mobility leaves some Black youth feeling like they have nothing to lose. The alternative economy is one of the most salient examples and is a direct result of this. It can be seen in illicit drug sales which are a commonly featured topic in rap music. For some, a deficit in opportunities for economic and social upward mobility resulted in a reliance on the informal economy of the drug industry which for money and also social organization in the form of gangs. The rise in imprisonment of Black men included the arrests of street gang members and because of this, the line between street and prison gangs blurred. Prison culture, street culture, and Black youth culture also blurred at this time (Collins, 2004).

There is an essence of social consciousness and social responsibility that should be understood about hip hop. Born from “increasing social isolation, economic hardship, political demoralization and cultural exploitation endured by most ghetto poor communities in the past few decades,” (Dyson, 2004, p. 63) hip hop expresses both a social awareness and a demand for change fueled by lived experience. Hip hop provides a global stage for Black men to share their views and experiences with the world. “Raps about drugs, crime, prison, prostitution, child abandonment, and early death may seem fabricated, but these social problems are also a way of life for far too many Black youth” (Collins, 2004, p. 159). The oppositional culture of hip hop is one way that Black men

continue to navigate spaces in America. Sites of contestation can be seen in hip hop yet “ironically, the protests of Black boys are circulated in mass media within a celebrated global hip-hop culture, yet the substance of that protest continues to be ignored” (Collins, 2004, p. 4). Hip hop, for this reason, should be considered to have a complex relationship with the Black community.

Dick Hebdige (1979), in an assessment of subculture and style, says that one main way subculture gets incorporated into dominant culture is through its commoditization. According to Hebdige, this change happens when subcultural signs become mass produced objects. Speaking of these signs, he says “once removed from their private contexts by the small entrepreneurs and big fashion interests who produce them on a mass scale, they become codified, made comprehensible, rendered at once public property and profitable merchandise” (Hebdige 1979, p. 132). His observation can be directly applied to understanding the links between hip-hop as Black self-representation and racial capitalism's cultural appropriation of hip-hop and the commodification of mass incarceration. Although it was created by Black Americans as a creative self-expression of values and political power, hip hop has now been commodified often at the expense of Black people and communities. As previously stated, hip hop was a result of a contestation of social conditions which perpetually marginalized the Black community. “In hip-hop, as in neoliberalism, economics bullied politics out of the picture” (Fisher, 2009). As commoditization began taking place, the messaging and critical social commentary which was prevalent in hip hop became less popular.

Black individuals and their cultural production— hip hop—has been commoditized for the use, benefit and consumption of mainstream America. As a result,

hip hop transcended from the urban communities that they originated in and appeared on mainstream America's stage. "What was the price of this remarkable breakthrough in the visibility of young Blacks in the mainstream culture?" Batari Kitwana (1994, p. 344) asks. The increased visibility that has been brought on by the commercialization of hip hop has resulted in another avenue of economic exploitation of the Black community. Highlighting the fact that the hip hop industry is now important and a vast business that is extremely profitable off of the backs of Blacks but not to their benefit, Kalamu Ya Salaam says "The music business is one of the few segments of the modern American economy in which [African Americans] have any sign of leverage...We are the creative laborers of a significant portion of the music industry. Now is the time to become the controllers of the fruit of our labor...We make the music. Now, let's make the money" (1994, p. 350). Black people have a right to the money that is made from a culture massively based on their own and a movement that asserts such a stance is needed. The various sites of exploitation and contestation that Black people endure in the United States must be acknowledged.

Fashion and style happen to be central components of hip hop. In the case of hip-hop style, the Journal of Business Research said "hip hop culture influences styles of behavior and dress: from sagging pants to oversized tees, hip hop style is an important business venture for not only the recording industry, but also clothing, fashion, accessories and beauty industries worldwide" (Motley & Henderson, 2008, p. 243). Once rap and hip hop became popularized, it became a site of potential economic activity, commercial marketing, technological advances and cultural production (Rose, 1994). Hip hop style is often also characterized by individualism, competition and the attainment of

wealth. Much of this can be seen in the braggadocio common in lyrics, the lavish portrayals of lifestyle. Notably, these are also common manifestations characteristic of today's neoliberal era. Mass marketing of hip hop style and music, while in line with neoliberalism, has aided in the prominence of mass incarceration and does not do enough to alleviate social issues highlighted in hip hop. "Mass media marketing of thug life to African American youth diverts attention away from social policies that deny Black youth education and jobs" (Collins, 2004, p. 159). Hip hop has allowed the voices of Black communities to be heard all around the world, yet it does not help the majority of Black men and women cultural or economic capital useful for social mobility.

## **Conclusion**

Identity is the section in the circuit of culture which functions to assess how the production, regulation, representation and consumption of a cultural artifact creates social and cultural identities. Throughout the course of history in the United States, Black populations have been subjected to racism which has disproportionately disenfranchised them. The experiences of Black people have varied along some planes due to the intersectional nature of social categories like sex, class, age and others. The Black male experience with criminalization, hip hop and capital accumulation has been explored in this chapter.

The Black male identity in the United States is a complex one to situate because though criminalized and devalued, Black males also have a unique position of informing mainstream popular culture in a way many segments do not. They took the circumstances they were placed in and forged globally influential hip hop out of it. Black men continue

to be disenfranchised by mass incarceration and are deprived of the benefits of an industry they are needed to maintain.

## **Chapter 7: Conclusion**

After careful analysis of mass incarceration, it becomes clear that it would not exist in its current iteration without the many cultural and social influences perpetuating its existence and without widespread public acceptance. This thesis aimed to prove that mass incarceration should be understood as the most contemporary form of a racialized social control institution which exists as it does due to current cultural conditions fostering its existence. In the many works which have come to explore this recent phenomenon, there has not been a thorough and holistic analysis of the conditions fostering this institution, or the processes by which its existence became normal and the disproportionate incarceration of Black men, routine and unremarkable. This paper utilized the circuit of culture to provide said thorough analysis by acknowledging that the various articulations of variables in society play a key role in the formation, fortification and cultural hegemony of mass incarceration.

In order to understand the institution of mass incarceration in the United States it has been necessary to look at the foundational social, economic and political changes which came before the actual development of mass incarceration. Racial progress and tension paired with a changing political and economic climate and ever-present white supremacy set the stage for the manifestation of mass incarceration. Next, to fully understand how mass incarceration is fortified, an analysis of the formal and informal rules that pertained to its start and maintenance had to be considered. The stigma attached

to prison and individualism characteristic of the neoliberal state perpetuates the system of incarceration's existence and a constant feed of people cycling in and out of it. Assessing the ways in which mass incarceration has been represented through a range of dominant narratives has been central to understanding it. We have seen that in what little news representation of incarceration does exist, there is a lack of substantive reporting on the problems and true motivators of incarceration. Leading from its representation, a look at the consumption of mass incarceration revealed that there is a severe lack of critical awareness of the problems of mass incarceration. Instead, mainstream American society (and societies abroad) has embraced the existence of incarceration because it has become normalized in a variety of ways. Finally, the examination of identity revealed the complex negotiations Black males experience in American society. Utilizing hip hop as a form of expression for some Black men, agency in the acceptance and shift of the criminal pathology can be seen through hip hop style and language. Even with the agency and voice hip hop has given the Black community, it also provides another site of economic exploitation and a medium for outsiders to impose criminality on the Black community.

This assessment was done with the intention of providing readers with a holistic understanding of the cultural conditions fostering mass incarceration. Incarceration has become embedded in our cultural landscape and this research was completed with hopes that its information can better inform efforts to deconstruct and dismantle incarceration. Future research should deepen the analysis of the relationship between neoliberalism, mass incarceration and the identity formation of Black people who have been affected. Also, importantly, fragmenting the conversation about the impact that incarceration has

had on different populations could be a key way to bring other marginalized groups to the forefront. This paper focused on Black populations broadly and then narrowed the focus on Black masculinity. As mentioned in the identity section, intersectionality is a very real and relevant concept which should be considered when talking about any group or population. Lastly, it is recommended that research not be the only site for addressing the incarceration issue. Research must inform action and policy. One such way that this can begin is the consideration of educational reform, both K-through 12 and prison education reform.

Despite the tough existing conditions for Black males, criminals and the aggregate of these two identities for Black male “criminal,” the bootstrap ideology of the American Dream and neoliberal individualism, which asserts that if people work hard enough and have the right values they will be able to succeed, is constantly imposed on them. “Among the core beliefs underlying the ideology is to work hard in order to succeed in competition; those who work hard gain success and are rewarded with fame, power, money, and property; since there is equal opportunity, it is claimed, those who fail are guilty of either insufficient effort or character deficiencies” (DeVitis & Rich, 1996, p. 5). This idea, which is a prevalent American value, disregards the conditions a person is in and implies that everyone has the ability to end up achieving success.

Education has been a key source of social mobility in the USA and for many the route to achieving the “American Dream.” The American Dream ideology is constantly referred to and its ideological power lies in its assumption that the USA is a place of equal opportunity, achievement for all, social order, and recognition of capabilities. Underlying all of this is the concept of success and today one of the best ways to attain

this is formal education. Education has been touted as an avenue to opportunities and a way to level playing fields (Cappelli, 2015) yet it has not, however, been afforded to all of America's citizens equally and thus has not been able to level all playing fields. "[Education] both reflects and supports the social inequalities of capitalist culture. The 'education industry' is a significant state apparatus in the reproduction and replication of the capitalist social form necessary for the continuation of 'surplus value' extraction and economic inequality" (Hill & Kumar, 2009, p. 102). Instead, racist and classist inequality pervades the U.S. education system and therefore provides fewer benefits to Black Americans—perpetuating the system of inequality.

Nearly half of all Black males without a high school diploma have a prison record and this impacts "the likelihood for success in marriage, child rearing, and ensuring that the next generation helps to close the achievement gap" (Coley & Barton, 2006, p. 4). It is well established that the likelihood of males, especially Black males, going to prison increases significantly if they do not do well in school (The Pew Charitable Trusts, 2010; Brazzell, Crayton, Mukamal, Solomon, & Lindahl, 2009; Crayton & Neusteter, 2008). In fact, according to The Pew Charitable Trusts, African American men between the ages of 20 and 34 without high school diplomas or a GED are currently behind bars (37 percent) than employed (26 percent) (2010). According to a report titled "From the Classroom to the Community", "Education improves decision making skills and promotes pro-social thinking... Education also increases human capital--improving general cognitive functioning while providing specific skills" (Brazzell et al., 2009, p. 16). Being equipped with formal education in America is one of the best ways to provide opportunity for oneself. The value of education, however, does not level all playing fields and does not

erase the implications and effects that race and racism have in this country—especially for Black males. With the vast number of Black males encountering prison at some point in their life, a serious investment in bettering the prospects of Black males retuning home must be made. Education has been found to be of great benefit to former prisoners, their families and their communities (Brazzell et al., 2009; U.S. Department of Education, 2012). The accessibility of education programs, however, has not reached a point where it meets the needs of the prison population. In 2004, only 20% to 30% of state and federal prisoners had access to high school equivalency courses, and vocational and life skills training (Brazzell et al., 2009). Additionally, there has been a decrease in the amount of spending and resources that go into prison education. One report stated that adult basic education courses was one of the offerings that received a cut-back in addition to high school equivalency courses, and vocational training programs in state prisons between 2000 and 2005 (Brazzell et al., 2009). This cutback coupled with the regulations imposed on people leaving prison makes it very hard to attain an education if it is not offered in prison.

Ideally, addressing the gross mass incarceration issue and its far-reaching effects would help Black men and their communities significantly. In the meantime, education has proven to be one way that alleviates the repercussions of mass incarceration and has the potential to significantly help Black men economically. Additionally, though various forms of capital should be accepted equally in society, this is currently not the case and Black men who do not have social capital valued by mainstream America find it harder to achieve success. A deeper understanding of mass incarceration and a better look at the way Black men in the U. S. continue to be treated can only help in the quest for equality.

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