Risking Race: Risk Assessment and the Policing of Blackness in the United States

by

Brett Scott

A dissertation accepted and approved in partial fulfillment of the

requirements for the degree of

Doctor of Philosophy

in Political Science

Dissertation Committee:

Joseph Lowndes, Chair

Debra Thompson, Core Member

Alison Gash, Core Member

Colin Koopman, Institutional Representative

University of Oregon

Summer 2024

© 2024 Brett Scott

This work is openly licensed via CC BY 4.0



DISSERTATION ABSTRACT

Brett Donald Scott

Doctor of Philosophy in Political Science

Title: Risking Race: Risk Assessment and the Policing of Blackness in the United States

This dissertation explores how risk governance produces racial inequality in the US. It is particularly focused on understanding how race informs the ways that risk is defined, assessed, experienced and policed. I argue that risk is a condition of Blackness in the United States because Black people are necessarily and always connected to risk. Anti-Black racism is often mediated through the distinct relationship that Black populations have with risk, risk assessment and risk governance. Black Americans are subjected to structural violences that are often justified because under the guise of risk prevention. Black folk have been socially constructed as risky and therefore in need of control and domination. However, it isn't simply that Black people are viewed as risks to others, but that there is a feedback loop to designation which puts Blacks at risk for harm because of their status as risky people. The dual position that Black people hold as both the bearers and bringers of risk remains an under-theorized form of racial inequality because society tends to view risk from a lens of colorblind objectivity. Nevertheless, inequalities in how risk is defined, assessed, and police continue to widen the gap between Black and white Americans and, as this study show, these inequalities exist in a multitude of institutions including the insurance market, housing industry and the criminal justice system. This dissertation takes seriously the problem of risk inequality as it plays out along racial lines in the United States. This work is a welcome addition to political science because critically engaging with the racial inequalities of risk governance allows for an analysis of racial inequality that is often overlooked by policy makers

and academics alike. I hope is that this study is a springboard for future research that seeks to understand the complexities of racial inequalities in a modern world that is increasingly focused on risk prevention and mitigation.

ACKNOWLEDGMENTS

It is difficult to express how grateful I am to the members of this committee for the support shown to me throughout the years as I worked to complete this project. But it is safe to say that without the thoughtful feedback, constant encouragement, and patience that each of you have shown, I would not have been able to grow into the academic that I am today. I am truly indebted to my committee co-chairs, mentors and friends Joe Lowndes and Deb Thompson, not only for the countless hours that they spent meeting with me to discussing my work or for helping me deepen my understand of Black political thought and American racial politics, but also for instilling in me the belief that I could make a small contribution to the rich history of the Black Radical Tradition, like the many Black academics who came before me.

I would also like to extend my deepest thanks Alison Gash and Colin Koopman for lending their time and insights to this project. Alison, I am thankful for the kindness, care and consideration that you showed when I seemed at my lowest as well as for the gentle shoves that were given out when I needed them most. Colin, although you entered this project later than your colleagues, I want to thank you for giving me my first opportunity to grow as a professional by pushing me to participate in academic conferences. I am truly grateful to have been able to work with each one of you.

On a personal note, I would also like to thank my family and friends for reminding me that I will always have someone in my corner no matter the circumstances. Graduate school can be a somewhat isolating experience but knowing that I always had people who I could laugh and reminisce with is a truly wonderful thing. A special thanks goes to my sister Brittany Scott who truly was the tether that connected me to the rest of my family when I lived so far away. If I remember anything about my graduate school experience it will be the seemingly daily phone calls

and text messages filling me in on what was happening back at home or reminding me that I was capable of finishing this project.

Above all, I would like to thank my girlfriend, partner and best friend Paige Henker, who has been by my side throughout this whole journey. There are not enough words to describe what your encouragement, support and love has meant to me these past two decades. You have always been in my corner cheering me on with joy, care and love in ways only a true partner can. Thank you for never letting me quit on myself even when completing this program felt impossible. Thank you for sitting through what I can only imagine was an absurd number of brainstorming sessions, rants and the many more sacrifices that you made to help me complete this massive project. But, more than anything, thank you for being you. My life, and work for that matter, would be incomplete without you. So, wherever life takes us, just know that this dissertation, and all the work that is to come, is possible because I have you.

DEDICATION

For Paige.

Table Of Contents

Dissertation Abstract 3

Acknowledgments 5

Dedication 7

Preface 9

THE BEGINNING OF A PROJECT: 9

Chapter 1 – Introducing Risk & Race 16

INTRODUCTION: 16
RESEARCH QUESTIONS: 23
THEORETICAL FRAMEWORK: 28
LITERATURE REVIEW: 28
CONNECTING THE DOTS: 33
POLICING RACIAL THREATS: 35
CHAPTER OUTLINE: 39

Chapter 2 – Housing Risk 41

INTRODUCTION: 41
CHAPTER OUTLINE: 46
THE NEW DEAL ERA: RISK AS RACIAL EXCLUSION 47
CIVIL RIGHTS ERA: RISK AS PREDATION 55
THE GREAT RECESSION: RISK AS EXPLOITATION 60
AUTOMATING LIVING: RISK AS ALGORITHMIC VIOLENCE 67
CONCLUSION: 73

Chapter 3 – Policing Risk 78

INTRODUCTION: 78
ASSESSING RISK: 82
RISK ASSESSMENT EVOLUTION: 85
RISK ASSESSMENT: (UN)BIASED PREDICTIONS? 87
BAIL REFORM: THE POLITICS OF THE BAIL REFORM ACT 95
PREDICTIVE POLICING: TECHNO PUBLIC SAFETY 99
CONCLUSION: 101

Chapter 4 – Insuring Race 103

INTRODUCTION: 103
UP FROM SLAVERY: INSURING LIFE & PROPERTY 108
INSURING AGAINST BLACK LIVES MATTER: 112
CONCLUSION: 115

Ch. 5 – Conclusion: 118

INTRODUCTION: 118
CONCLUSION: 125

Bibliography 128

PREFACE

The Beginning of a Project:

In 2016, I began working with the City of Eugene Municipal Court to help implement a diversion program within the local court system. This program attempted to connect those who had been cited for infractions related to homelessness, mental health and substance abuse issues with community organizations capable of addressing the needs of people experiencing housing and health crisis. My duties with the program were twofold; first, run background checks on defendants prior to them entering the program; and second, conducted an interview with each participant once they have agreed to participate. While conducting the background check I was charged with tracking the number of interactions that an individual had with law enforcement as well as the types of crimes that had been committed. This process was the first step in determining a participant's risk for recidivism. Participants were scored as either low-risk, moderate-risk or high-risk. Naturally, the higher the risk score one received, the higher their perceived risk level. The higher the risk level, the longer a participate was mandated to engage with the program.

After the initial background check screening, I then moved on to the interview stage where I found myself speaking with participants to evaluate the types of social services one may be needing. Each interview was guided by a needs and risk assessment. This assessment was an extensive questionnaire that detailed a participant's history with substance use, employment, housing, as well as other demographic information like age, race and gender. The idea behind the need and risk assessment was that by gathering as much information as possible about a person's life experiences and criminal histories, the court would be able to direct participants towards community service providers most capable of meeting their specific criminogenic needs. For example, if the biggest issue that one faced was maintaining employment, the court would use the

risk and needs assessment to connect that individual with a community service provider that focused on job placement and retention. If an individual suffered from mental health issues, the assessment was used to connect them with an organization that provided counseling and treatment programs. The goal of the diversion program was to address the needs of those facing housing and health crisis without relying on the prison system to do so. The program was pitched as an attempt at restorative justice as well as rehabilitative approach to public safety.

But as time went by, it became clear to me that some Oregonians faced greater levels of risk than others and that these differences were often racially tinged. And although the number of Black persons in Eugene, Oregon is quite low at just under one percent of the population, I noticed that Black participants in particular, but non-white individuals more broadly, tended to have a more difficult time completing the diversion program (Data USA, 2024). This was not because white participants were simply better at following through with court orders, or that there was something innately wrong with Black people that would hinder their ability to be successful in the program, but because minority participants tended to have longer rap-sheets (criminal histories) when compared to white Oregonians. This observation is consistent with the literature on racial disparities in the criminal justice system which reliably finds that Black people are more likely to be arrested and convicted for crimes and infractions (Pager and Quillian, 2005; Alexander, 2012; Taylor, 2016). It was reasonable, therefore, to surmise that the differences I was noticing in the court program was the result of the continued history of racial profiling and discriminatory policing practices that take place across the nation and throughout the policing and judicial system.

Moreover, as some of my interviewees of color noted, finishing the program was difficult because most of community service providers in Eugene were almost entirely white and that lack of diversity often produced a sense of discomfort for minority participants. As a Black academic

studying at a primarily white institution which happens to be located in the same town, I could sympathize with the difficulty of being the only person of color in the sea of white faces. This is especially true when those white faces have greater access to power within a given interaction. Regrettably, however, this is all antidotal because it did not occur to me at the time that I should be tracking the racial disparities I was noticing in a more scientific manner. Nevertheless, my observation that Black and other minoritized populations had a distinct relationship with the risk assessment stood out as an important political problem that was in need of greater consideration.

My first attempt to address this problem academically came a few years later when I used my master's thesis to examine the political power of background checks and the presumed need for such accountings of the past within the criminal justice system and among hiring practices. This work was heavily influenced by the ban-the-box movement, which began in the early 2000s and sought to reduce the discrimination that previously incarcerated people faced when attempting to enter the housing and job market post incarceration. Literature on the ban-the-box movement has found that Black people suffered discrimination whether they were required to disclose their criminal history or not and this was because employers often simply assumed that Black applicants had criminal histories and this made them unworthy of consideration (Pager and Quillian, 2005). Blackness has been thoroughly criminalized in the United States and this categorization seems to have infiltrated how decisionmakers come to view Black applicants. In the absence of confirmation that one was not a criminal, employers tend to resort to racist heuristics and assumptions of Black criminality. The result of such assumptions is that Black applicants came to be viewed as either already criminals or likely to engage in criminality in the future. Of course, this has no basis in reality because crime is largely the product of poverty, but instead the tendency to connect Black people with crime is informed by racist stereotypes about Black people and their propensity to

engage in criminal behavior. Imagined or not, the perception that African Americans are criminal risks has a material impact not only on the lives of those who actually were previously incarcerated, but on Black Americans more generally. If one is either presumed to be a criminal right now or likely to be one in the future, then all Black applicants regardless of criminal status can be negatively impacted whenever criminal background checks were used to make hiring or housing decisions. The unjust conflation of Black people with crime created space for employers and organization that utilized background checks to deduce that the integration of Black people increased the risk of communal or organizational disruption.

Ban-the-box literature has found that background checks suffer many of the same problems that other colorblind approaches to public policy face because background checks rely on data from a static past and is therefore unable to account for the anti-Blackness that is so often embedded in public policy and social practices. Case in point, part of my job with the court was to track the number of interactions participants had with law enforcement, but there was no way for me to gather information around the circumstances of the interaction between a participant and the court system. What my observation showed, and what is seen in the literature on the ban-the-box movement, ending discrimination against the previously incarcerated was unsuccessful because in the absence of conformation, decision makers merely assumed Black Americans were criminals and thus unworthy of employment or housing. In the end, the movement may have actually resulted in an increase in the risk of discrimination that Black and minority populations faced when seeking employment and housing regardless of criminal status or history.

My master's thesis was similarly influenced by the work of Simone Browne (2015) who has argued that anti-Blackness is a precondition for surveillance practices and technologies. In her seminal work, *Dark Matters: On the Surveillance of Blackness,* Browne chronicles how

surveillance practices have been used to control enslaved Black people, the residue of which continues to inform modern surveillance technologies and techniques such as facial recognition systems, TSA checkpoints and the use of police body-cameras. Racial hierarchies are reified by encasing Black bodies within a field of constant visibility, often under the guise of public safety, social control and economic necessity. As Browne argues, Black bodies simply needed to be surveilled and have their movements restricted or else the entire American economy would plummet into despair. Black freedom was quite literally a risk to the American way of life because controlling Black people, their movements and productive capacities was central to American democracy and economy. The development of surveillance technologies was simply one of the many mechanisms that were, and continue to be, used to prop up the American racial state. The social and political compulsion to control Black people suggested to me that being Black may have always been a risk in the United States and perhaps this is why there seems to be a constant and consistent desire to police Black people across the nation and throughout American history.

Thinking back, it seems clear to me now that my master's thesis was more concerned with the concept of risk than I could register at the time. After all, what is a background check if not an assessment of risk? The problem, however, is that risk is a relatively undefined term that varies depending upon the circumstance in which the term is employed. What it means to be a risk or to be at risk changes depending on one's environment, age, sex, gender, income level, so on and so forth. For instance, elderly people face a higher risk for health complications when compared to younger Americans. Similarly, families with incarcerated loved ones are at a higher risk for living in poverty than those who are further removed from the prison system. The different experiences that an individual or community can have with risk suggested that an investigation into the racial

inequalities of risk as well as the ways that risk is assessed or policed was not only intellectually stimulating but also politically prudent.

Which brings us to the current project of this dissertation. In this study I theorize the racial politics of risk and risk governance from the perspective of Black studies and Black political thought. By this I mean that my interrogation into the political value of risk and risk governance is informed by an intellectual tradition that is rooted in Black feminism, decolonization and anti-capitalism. Moreover, although my study is limited the study of race and politics in the United States, my academic approach to studying risk is influenced by Black liberation and freedom struggles as well as the work of W.E.B. DuBois, Malcolm X, Franz Fanon, Kwame Ture, Cedric Robinson and other brilliant academics that make up the Black Radical Tradition.

This research project provides one of the many potential explanations for why and how it is that Black people continue to face injustice and inequality despite having gained greater access to American liberal democratic practices and its supposed assurances. It is by no means the entire story of American racism, racial discrimination or even the study of risk, but it does provide an account of racial inequality that has gone relatively unnoticed in political science. I argue that risk as a concept and political force is an acute problem for Black Americans. It is a problem because it creates space for oppressive, exploitative and exclusionary policies to be enacted and rationalized under the facade of risk avoidance, risk management and risk governance. A study of how risk influences the racial politics of modern America is a necessary endeavor particularly if the field of political science and public policy wishes to take seriously the numerous problems facing Black Americans and other communities of color.

Ultimately, this dissertation takes seriously the problem of risk inequality as it plays out in the United States. It is geared towards an analysis of racial inequality that is often overlooked by

policy makers and academics in political science. In the chapters that remain, I examine in greater detail how risk prevention and risk governance has produced racial inequalities and reified racial hierarchies by categorizing Black people as either risks that are in need of control and policing or risks that are ripe for exploitation and exclusion. Explicating the nuances of risk inequality is the work of the chapters that follow. But for now, dear comrades, let us move forward in this study with the realization that the road to racial justice and Black freedom is long and brings with it no guarantees of success. Yet, despite the reality of a pursuit of a goal that may never come to pass, I hope that this dissertation and whatever research that may come from it, brings us one step closer on the path towards freedom.

I, too, live in the time of slavery, by which I mean I am living in the future created by it.

---- Saidiya Hartman, 2007

CHAPTER 1 – INTRODUCING RISK & RACE

Introduction:

If I were to ask you to run quick google search of the phrase "risk and race" or, why don't we narrow it down a bit more, try googling "Black and risk" in the search bar, what would you expect to find? It is likely that you would see an almost endless number of stories with titles such as "Why racism, not race, is a risk factor for dying of COVID-19" or "Research suggests racism could put Black people at higher risk of dementia" and of course "Police-related fatalities: Black people most at risk". The narrative that these stories tell is one in which risk is unevenly experienced depending on a person's racial status. Time and time again, African Americans are found to be most at risk for negative social, political and economic life circumstance. Sure, there are steps individual Black persons can take to reduce their risk of hypertension, for instance. But a person can only do so much to avoid risk through their own volution in the face of the structural inequalities that make it difficult if not impossible to stave off the problem of high blood pressure. Moreover, a disproportionate share of Black Americans lives in environments which contain food deserts and as a result, see their access to quality food and nutritional options greatly reduced (Ghosh-Dastiard, 2014). Given the limited set of choices, even the most health-conscious Black resident can only be so risk averse since the paucity of quality food options tends to push Blacks towards high-sodium and low-grade fruits and vegetables if and when produce can be found at the local quickie-mart. But just to drive the point home a bit further, it is important to note that racial discrimination in employment, educational attainment and the healthcare system more generally, increases the risk of African Americans having to live with poor health by constraining access to

preventative care such as health insurance and affordable medication (Macias-Konstantopoulos et. al, 2023).

Clearly, being Black in the United States means having a different relationship to risk, even if there is no singular experience of risk for all Black people. This differences in experiences with risk suggests to me that risk, as a political and social force, is an undertheorized factor in the oppression of nonwhite people. The regularity with which news reports and social media headlines highlight the elevated risk that Black Americans face signifies a pressing need to engage with the racial politics of risk more critically. As I detail more substantially in the chapters below, risk is socially constructed and is therefore defined, assessed and governed within the bounds of the dominant social order, which in the United States and the Global North more broadly, is hereto patriarchal and capitalist white supremacy. To this end, being defined as either at risk for harm or a risk to others is a racialized, gendered and classed political project.

Part of the project of risk inequalities is the institutionalization of racist policies which sustain racial hierarchies by maintaining a hostile relationship between African Americans and risk. An example of this is the long practice of legal discrimination during Jim Crow which epitomized how social customs and judicial mechanisms have been utilized to support consigning Black Americans to high-risk circumstances like dangerous employment and the threat of physical or sexual violence from white mobs. In a similar vein, residential redlining and cuts to the welfare system have blocked millions of Black Americans from accessing the resources needed to protect themselves from the risks of poverty and insecurity. All of these processes and many more not mentioned relied on the combination of local, state, federal and corporate policies which endorsed the brutalization, victimization and domination of Black Americans. Although explicit laws

protecting racial discrimination are now unconstitutional, structural inequalities remain and continue to impact the lives of Black people throughout the United States.

Shifting Risk:

In this dissertation I argue that anti-Blackness is a guiding principle not only in how risk is defined or assessed but in how it is governed as well. Importantly, although there are times when explicit anti-Black racism is the cause for Black suffering or discrimination, as was the case with racist housing policies like restrictive covenants, there are other moments in time where risk mitigation is unintentionally discriminatory. I argue further that the American approach to risk governance centers on increasing risks for Black people in order to minimize risks to non-Black populations, and white Americans in particular. Or, to put it in more general terms, risk governance in the United States coheres around shifting harms and dangers away from some (deserving) Americans, and towards other (undeserving) Americans.

This argument follows the work of Schneider and Ingram (1993) who have argued that public policy from its agenda to its design, to its implementation is shaped by societal perceptions of different groups or, as Schneider and Ingram call them, target populations. Target populations are constructed as either deserving or undeserving and this construction impacts the type of policies (beneficial or punitive) that are directed towards them. There are four target populations according to Schneider and Ingram: advantaged, contenders, dependents and deviants. Target populations that possess social or economic power (advantaged and contenders) or that have been positively constructed (advantaged and dependents) tend to receive beneficial policies, though admittedly to varying degrees. On the other hand, target populations that lack social and political power (dependents and deviants) or who have been negatively constructed (contenders and deviants) are likely to receive less beneficial policies. Deviants are acutely at risk for becoming

the objects of punitive public policies because they (1) lack political and economic power and (2) have been negatively stereotyped as undeserving and therefore unworthy of protection or consideration (Schneider & Ingram, 1993). This construction opens up space for those deviants to be legitimately exploited and punished because a disproportionate amount of the policy burdens can be shifted towards them and away from more deserving groups.

The shifting of burdens from one group to another is the exact problem of risk inequality which sees some, particularly African Americans, more negatively impacted by policies of risk prevention and mitigation than others. Constructing Black populations as risky increases the vulnerability of Black folk to financial predation, discriminatory policing, income inequality and insecurity more generally. An example of the zero-sum tendency of racial shifting of risk can be found in environmental justice literature which has shown that "low-income communities and communities of color bear a disproportionate burden of the nation's pollution problems" (Bell, 2004:291). This occurs by directing environmental risks towards Black communities which allows white spaces to be spared from a similar hazardous fate. For instance, Dimick et al, (2013) found that Black families were 1.7 times more likely to live in homes which contained lead paint, were overcrowded, had poor plumbing and lacked sanitation availability. Meanwhile, Gwynn and Thurston (2001) found that Black families are more likely to live near landfills, medical waste incineration plants and bus depots then their white counterparts. Dean Curran (2017) has referred to the uneven allocation of polluted spaces as the "positional or relational distribution of environmental bads" which recognizes that not only are there inequalities in exposure to environmental hazards, which burden low-income communities of color to a disproportionate amount, but that "these inequalities are relational such that *relative differences in economic resources are the causal factor that decrease the risk of the advantaged and intensify the risks of*

the least advantaged" (299, emphasis added). In much the same way that the law of conservation dictates that matter cannot be destroyed but instead undergoes a physical change, environmental risks undergo a locational change which sees hazards and toxic exposures directed away from enclaves of the socially and politically advantaged and towards environments that have been earmarked for the disadvantaged which include, but are not limited to, racial and ethnic minorities. Environmental risks must go somewhere, and in a society that is rooted in a racialized form of market capitalism, that somewhere is likely to be located in low-income and Black communities.

The unidirectional flow of risk from socially advantaged whites towards deviant Blacks intensifies racial inequalities because the lion share of harms and dangers are reserved for African Americans because as risk is shifted from whites to Blacks, risks to white Americans become less burdensome. This is not to say that white people do not experience risk or harm, because they certainly do, and this is especially true for low-income white Americans and is likely to increase as wealth continues to be concentrated in the hands of a small number of Americans. But it is to say that risks to white people are minimized, at least in part and to varying degrees, when the risk of danger and harm is shifted disproportionately onto Black people.

Echoing Curran (2017), I contend that risk inequities are relational and not gradational because unlike gradational inequalities, which simply show that some have more than others, relational inequalities speak to the realties that some groups have more *because others have less* (see Sen, 1983; Wright, 1985 for more on relationality, emphasis added). But again, this injustice is neither happenstance nor coincidental, it is a deliberate attempt to control the public by minimizing risks for those with power and privilege at the expense of those without. Moreover, it has relied on a public and private partnership to craft and enforce racially discriminatory policies, the effect of which is the continuation of racial inequality.

Racial inequalities in the distribution of risk are a rejection of the Rawlsian theory of justice because instead of society acting as "a cooperative venture for mutual advantage" as Rawls (1999:4) suggest, risk is governed to benefit some and to do so at the peril others. More specifically, the uneven distribution of risk is a denial Rawls' difference principle, which states that inequality is acceptable but only in so far as it improves the conditions of the least advantaged. However, when it comes to risk this does not appear to be happening because, as the literature on environmental justices has articulated, hazards are often located in or near Black neighborhoods and other marginalized communities (Pulido, 2000).

What purpose is served when risky and hazardous environments are reserved for Black families? In the abstract, white supremacy is maintained by the environmental racial risk shift because it makes the march towards death shorter for Black people by exposing them to pollutants, unclean water, heightened levels of stress and other adverse health circumstances. Moreover, the racial risk shift means that white Americans can be protected from environmental harms by keeping their communities clean and ripe for reinvestment. Though the two experiences with risk are not the same, they serve the same purpose: racial inequality.

A key argument of this dissertation is that racial hierarchies are preserved and intensified through the racialization of risk. The process of defining Black and African Americas as the carriers of risk is aided by an American cultural identity that is cloaked in anti-Blackness and through the use of the court system and state institutions to uphold racially discriminatory practices. According to Michael Rogin (1996), American identity is built upon two Declarations of Independence, one that is political and one that is cultural. The political declaration of independence follows the principles of classical liberalism and the belief in the "equity of all men", meanwhile "the declaration of cultural independence emerged not to free oppressed folk but to

constitute national identity out of their subjugation" (Rogin, 1996:13). Stated another way, the cultural identity of America requires the subjugation of Black people since it is the unfreedom of Black bodies that produces the conditions that make American (read, white) freedom possible in the United States.

A cultural identity that is built around Black subjugation justifies not only the use of expressly racist and undemocratic practices like slavery, Jim Crow and disenfranchisement but it also substantiates the uneven distribution of risk, like toxic waste site in or near Black communities, so long as it is done in the name of the second declaration of independence. From this perceptive, risk governance institutionalizes racial inequality by normalizing the idea that being exposed to risk is a necessary condition of being Black in America into law. When risk is governed by this logic, policies and practices are geared towards policing Black people because it is within the Black racial status that risk lies. This creates a feedback loop of inequality in which being exposed to risk in one instance increases the likelihood of being exposed to additional risk in the future.

Importantly, the relationality of risk means that in an effort to mediate risk to some, others will have to be put into harm's way. This is important because determinations of what constitutes a risk and upon whom harm will fall is a political consideration that is informed by power dynamics. When risk is divvied up along racial lines it receives very little pushback not only because African Americans have less access to socio-political power and therefore have less resources to combat unjust risk allocations. Moreover, the presence of a cultural identity that was formed through anti-Black violence and subjugation (Rogin, 1996; Hartman, 1997; Slotkin, 1973;) produces a situation in which it becomes almost sacrilege to question inequalities of risk because inequality seems to be the natural order of things. Stated another way, there is little cause for

concern when Black Americans face the risk of poverty; or disenfranchisement; or police brutality; or underemployment; or being underinsured; or dying during childbirth; or infant mortality; or any other social bads that is possible in modern America, because Black people being in or around danger is simply how the world works.

Although it is true that each person in the United States can expect to experience risk in one form or another regardless of race, age, gender, or sex, it is also true, that the types of risks one is exposed to, the duration of that exposure, and one's ability to remediate those risks is not evenly felt across demographic. It is, as the old adage goes, "when white folk catch a cold, Black folk get pneumonia". Loosely translated into the language of risk, Black folk suffer more severely from risk because Blacks often lack the social, political and economic resources needed to protect against the possibility of harm. Dealing with risk is a difficult endeavor because of the expectation that Black people will carry more than their fair share of risk or harm. The reason for the added burdens of risk placed on African Americans comes down to an approach to risk governance that centers on diverting harms away from the broader white community and onto smaller, less powerful and presumably less deserving of protection populations of Black people.

Research Questions:

Up to this point I have argued that Black and African Americans exist at the intersection of being at risk for harm and being viewed as risks to others and that this dual position has propelled racist policies and governing practices. Examples of this can be seen in the criminal justice system, as is the case with stop-and-frisk policing and other tough on crime policing tactics; in housing policy, as evidenced by the historical use of housing discrimination and segregation; and in the financial market more broadly which has limited access to credit for many Black people because their economic precarity is deemed too risky for securitization or insurance. But despite the

potentially power that risk holds in the lives of Black people, political science has largely ignored this problem of risk inequality and its role in racial politics. This study fills the gap in the field by providing a framework to understand why Black people suffer when risk and risk assessments are used to aid decision making processes as well as what that suffering can look like.

The questions that animate this project are expansive, ranging from questions around the notion of deservingness and un-deservingness, to capitalism and its racist underpinnings, to the application of risk-based technologies, and of course, questions around how risk is governed in modern America. Of particular interest is an examination into the ways race is produced, reinforced and changed by the concept of risk. In order to address this line of inquiry, an additional set of questions are considered. For instance, how do power imbalances impact determinations of risk or threat? Can technological assessments of risk be racially conscious or is their reliance on the past necessarily imbued with racism? How is risk managed when one is seen as at risk for harm in comparison to being seen as a risk to others? What are the elements of the growing risk economy and how is race conceptualized with in it?

Perhaps the most poignant set of questions that guide this project revolve around what happens to our social and political understanding of risk, risk assessment and risk governance when we begin to think about risk as a relation of power rather than a natural phenomenon that can, and needs to be defended against? Moreover, how does the concept of risk as a form of *racialized relational power* function within a white supremacist and capitalist society that is seemingly hellbent on the continuation of racial liberalism within the United States? In theory, by looking at risk relationally with a recognition of its political and social power we become better equipped to understand how racial inequality is produced and experienced in a society that

continues to be structured by anti-Blackness and one that has historically use technology to regulate, dominate and exploit racial minorities.

Defining Race & Risk:

Integrating Black political theory into risk studies provides a way to analyze the interaction between risk and inequality and it does so through the inclusion of the concept racial threat. But before we can move forward there, it is important to briefly define a few key terms which will allow for a better understanding how risk and race interact to produce inequalities.

In the following section, I quickly define *race* and *risk* and although it is by no means a full account of either literature it provides a conceptual baseline for a theory of racialized risk governance.

Race:

Throughout the dissertation I have used the term "race" to describe different individual and group experiences in the United States. I have assumed that there is little disagreement or pushback to the claim that race has no biological basis but is instead a contestable social category that is informed by social, temporal and historical processes (Omi & Winant, 2014; Winant, 2000). This is not to say that biology does not inform how race is conceptualized in the United States, but it is to say that any serious theory of race understands it to be historically contingent and socially constructed. W.E.B. DuBois (1903) also rejects the essentialist notion of race, and instead ties racial inequalities as the product of anti-Black laws and policies not the innate inferiority of Black people. Similarly, Charles Mills (2017) has argued that race is not grounded in a natural hierarchy, but instead refer to one's structural location within a racialized social system. People are "raced" with racial identities that then "shape their moral standing, civic status, social world and life chances" (Mills, 2017:4). Race is a conduit of social opportunities that is constantly being

contested and reshaped. Nevertheless, race is "real" in the sense that it has a material impact on one's life changes and access to resources. It is possible, therefore, to talk about white people being "privileged" at the expense of nonwhites within a racialized system without illuding to or supporting a claim of biological determinism because whiteness is the avenue through which rights and privileges are experienced in the Untied Staes.

Risk:

Although there does not appear a consensus of when the term "risk" entered into public consciousness, most scholars link its emergence to early descriptions of the possible perils of maritime travel during the sixteenth and seventeen century (Lupton, 2013). It is unclear where the usage of the term risk began, but the concept of "risk" can be traced back to the French word *risqué*; the Italy phrase *risco*; the Germany word *risiko* and the Latin phrase *riscum* each of which seems to be in reference to uncertainty during maritime voyages (Luhmann, 1993; Zinn, 2008). Nevertheless, the term was used to describe the seemingly random and disruptive events like storms, floods or endemic disease that occurred while at sea (Ewald, 1991). To label something as a risk, therefore, was to describe either a natural disaster or a random act of God that could not be avoided or attributed to human error (Douglas, 1992). As society transitioned into modern age, the meaning of risk changed as well. This is largely due to the new belief that the natural and social world could be calculated, measured, and predicted (Lupton, 2013; Rigakos & Law, 2009). From this new modernist perspective, most of the dangers that one faced was the result of an action they did or did not take and rather than the result of divine intervention.

However, saying that the meaning of risk has changed does not bring us closer to understanding what risk actually is or how a given risk will be defined. The problem with pinning down one definition of risk is that just about anything can be considered a risk; it is really all just

a matter of perspective (Ewald, 1991). Most scholars agree that how a thing becomes a risk is always filtered through sociopolitical and cultural norms and values. To paraphrase Hannah-Moffat and O'Malley (2007), threats and harm do not become risks until they had been interpreted as such, meaning that what is a risk to one person may not be a risk to others. If, for instance, we are thinking about the risk of environmental hazards, wealthy Americans are less likely to designate their homes as risky places to live since they are generally far removed from hazardous environments. Moreover, many white Americans do not feel as though they are at risk for police brutality because police violence is perceived as a threat far removed from white spaces.

The point here is that potential harms or dangers do not become risks until they have been constructed as such. Importantly, the likelihood of harm actually occurring does not have to be high in order for a phenomenon to be considered a risk (Beck, 1992). *What matters is the perception that a threat is present*. Take voter fraud for instance, which was found to be extremely rare, occurring somewhere between 0.0003 and 0.0025 percent of the time (Levitt, 2007). Despite the rarity, nearly 80% of Republican voters believe that voter fraud is a real risk to American democracy (Cassidy & Sanders, 2023) and have taken steps to prevent the threat from coming to pass. Since the *Shelby v. Holder* decision in 2013, which struck down Section 5 of the 1965 Voting Rights Act which mandated federal government preclearance when states that have a history of racial discrimination attempted to change elections laws, nearly 100 states have passed more restrictive voting laws under the premise of stopping voter fraud a move that has had a disproportionately negative effect on Black and minority communities (Singh & Carter, 2023).

Simply believing that fraud could happen, regardless how unlikely it was, can be a motivating political factor and can be used to harm those who do not fit into one's social group. As the Republican party move to mitigate what they perceived to be the risk of voter fraud, Black

voters have seen their access to the ballot box vastly restricted. When read through the framework of racialized risk governance, we can see how a Republican party that is hostile to Black civil rights can use the levers of institutional power to protect against the threat of Black voters.

Theoretical Framework:

Thus far, I have worked to establish a link between risk and inequality by suggesting that risk governance is both relational and racialized. This argument is explored more fully in the following chapters, which focus on the disparate impact of risk governance in the housing market (chapter two), the criminal justice system (chapter three) and the insurance market (chapter four). By focusing in on these three sites of inequality, I show how risk operates as (1) a cultural marker of Black inferiority; (2) a method of racial control; and (3) a market force that produces and is produced by economic inequalities.

But again, that work to be taken up at a later moment in time. For now, the remainder of this chapter focusing on the development of a theory of risk that can account for racial inequalities in a society that is increasingly focused on controlling perceived threats. To do so, I begin by outlining a few of the key theories of risk that are found in the literature. This review includes an introduction to the risk society thesis, governmentality and intersectional risk theory.

Literature Review:

The study of risk has been approached from a few different perspectives, however the three that are instructive to understanding the politics of racialized risk are: the risk society thesis; governmentality; and intersectional risk theory. The remainder of this introductory chapter is dedicated outlining key theoretical claims from these approaches to risk highlighting why a study that focuses specifically on the connection between risk, race and inequality is a necessary inclusion in the field of political science.

Risk Society Thesis:

The most well-known, if not influential, approach to risk is the risk society thesis (often referred to as reflexive modernization theory) which was put forth by Ulrich Beck (1992) and Anthony Giddens (1998). It posits that society is transitioning from its current period of late modernity into a "risk society" (Beck, 1992). The primary concern of a risk society is the protection against increasingly globalized "new hazards", regardless how low the probability of occurrence may be (Giddens, 1998). Problematically, modern institutions are unable to protect against the very dangers that they produce (Giddens, 1991; Beck, 1992; Beck, Giddens, and Lash, 1994). The paradox of the risk society is that the response to these new risks has been "not less, but more modernity" (Beck, 1992:14) and this has meant an increased use of predictive and statistical risk assessment technologies.

Beck (1992) suggests that the movement towards the risk society will bring about a distinctly different social order in which society becomes more concerned with the distribution of individualized risk than it is the distribution of wealth. And although there is an acknowledgment that class inequality can lead to different experiences of risk, it is likely that the importance of social cleavages will diminish over time. Moreover, as Beck (1992) argues, although "pollution follows the poor," the "boomerang effect" of modernity means that even those who own the means of pollution production will begin to feel the effects of diminished air quality, contaminated waters, and ozone depletion. Thus, there should be a democratization of risk, even if it comes about slowly.

Dean Curran (2016) pushes back against the claim, however, arguing instead that there is a social structuration of risk which not only rejects the idea that modernity is leading to an egalitarian fight against harm, but also highlights how risk becomes yet another factor in how inequality is structured. According to him, one's exposure to risk is predicated on the degree to

which they benefit from modern institutions. This last point is important for my characterization of racialized risk since modern institutions are grounded in white supremacy and as a result, the experience of and ability to deal with risks regardless the size, will be dependent on class (Curran, 2016), gender (Giritli-Nygren et. al., 2020) and race.

Case in point, natural disasters, and global pandemics, two things that ought to have democratizing effects, have been and continue to be more costly and more deadly for Black people (Saenz and Sparks, 2020; Price-Haywood, Burton, Fort, and Seoane, 2020). A clear example is Hurricane Katrina which was not only more violently harmful for Black people during the storm but also led to the displacement of large numbers of Black New Orleanians who could not afford to rebuild once redevelopment began. The result was that large amounts of real estate that was once inhabited by Black people slipped into the hands of wealthy whites. White wealth was quite literally bankrolled by the suffering of Black Americans. In a similar fashion, the COVID-19 pandemic has laid bare the special plight of racial minorities during global health scares as African Americans were most likely to occupy low wage jobs as frontline workers where access to health insurance or healthcare is limited and paid sick leave is minimal (Browne et al. 2001; Moss and Tilly, 2001; Wright and Meritt, 2020).

Naomi Klein (2007) speaks directly to the exploitability of natural disasters in her book *The Shock Doctrine: The Rise of Disaster Capitalism* in which she argues that moments of national crises, like Hurricane Katrina or the invasion and occupation of Iraq, provide the disorienting "shocks" necessary to allow for radical pro-market and pro-corporate measures to take place. The disorientation is so strong that radical changes often go unchallenged. The washing away of the Black poor in New Orleans provided the shock needed to push venture capitalism and redevelopment to the forefront in the 9th ward. When we think about the shock doctrine within the

context of the risk society thesis, it is easy to see the errors of reflexive modernization because inequality and the exploitation of marginalized peoples is made easier during moments of crisis. And in fact, it becomes good business to do so. The risk of floods or sickness is not evenly distributed among the public, and neither is the possibility for wealth accumulation during these times. To suggests that at some point in the unknown future all will suffer together more or less evenly is to neglect the real-life experiences of those who are already and necessarily put into harm's way.

On the one hand, Beck is probably correct to suggest that modern societies will intensify their focus on risk since the threat of global war and climate change is unlikely to subside. On the other hand, Beck's assumption that the importance of social positions diminish over time downplays many of the exploitative and predatory practices already at hand as well as how those practices place the burden of risk overwhelmingly on the backs of Black and otherwise marginalized people. Explanations for the perpetuation of racial inequality are largely left wanting according within reflexive moderation theory because they do not account for how living in a white supremacist and capitalist society positions Black people as the receivers of the largest shares of social risk. To overlook these realities is to places Black people at risk for additional risk in the future.

Governmentality:

Governmentality is yet another approach risk studies that is relevant to my investigation into racialized risk. Drawing from the work Michel Foucault and his theory of disciplinary power, this approach highlights how the state uses disciplinary practices (i.e., policing and surveillance) to buttress institutional power (Foucault, 1977, 1991; Castel, 1991; Ewald, 1991; O'Malley, 2001, 2008). From this perspective, risk socially conditions some segments of the pubic to be risk averse,

but more importantly, it normalizes the practice of punishing those who do not submit to societal norms. Risk encompasses the discursive, legal, institutional, administrative, and technological mechanisms of society in the exercise of state power (Lupton, 2013).

There is a natural yet overlooked connection between the mainstream understandings of the governmentality of risk and that of white governmentality as theorized by Barnor Hesse (1997). Under white governmentality is the disciplinary logic of the state is driven by whiteness so that state exercises of power are done to produce and maintain white supremacy. Race is problematized within and beyond the state in two ways: first, through nationalist political realities which utilizes surveillance technologies to bolster the "crushing objecthood" (Fanon, 1967: 106) of the racialized other; and second, through the use of racist governmental programs which attempt to assuage white fears about racialized peoples by limiting "the racial other's spatial mobility, economic status, political participation and social visibility" (Hesse, 1997: 100).

White governmentality valorizes whiteness as the legitimate authority of the state while simultaneously positioning non-whiteness as threats or resource to be regulated and, as I argue, exploited, or preyed upon. When applied to the notion of risk, white governmentality is understood as not only repressive in the sense that Black people are denied access to goods and services through exclusion, but it is also productive because the epidermalization of risk produces a risk subject that is both nonwhite and unprotected from risk domination. This can be done not simply through the spectacle of racist white violence, though that certainly does occur, but also through run of the mill and quotidian assessments of risk.

Intersectional Risk Theory:

Intersectional risk theory falls in line with the cultural approach to risk which has been championed most ardently by anthropologist Mary Douglas, who focused on addressing why it is

that some dangers are considered risks while others are not. For Douglas, individual assessments of risk come down to the ways that social groups attempt to maintain the boundaries between the self and the other. Risk from this perspective is a social construction from which people come to make judgements around uncertainties and unpredictable futures "already primed with culturally learned assumptions" (Douglas, 1992: 58). Culture acts as a "mnemonic system" that helps the community and its members define risks and their potentially harmful outcomes (Douglas, 1985: 81).

Intersectional risk theory builds on the cultural approach to risk by arguing that neither risk nor inequality is naturally occurring, rather that they are mutually constituted through socio-political discourses and practices. This being the case, it seems reasonable to assume that the tools and mechanisms that society uses to make decisions around how risk will be governed and managed will similarly be entangled in the exercise of power as well. More important still, it is likely that there will be disparate impacts on the lives of Black people when risk is used to make socio-political decisions.

Connecting The Dots:

If we can pause for a moment, I'd like to point out a few key pieces of information that stitch together the three approaches to risk outlined above. First, regardless the approach, risk is socially constructed and carries with it material consequences that are unevenly distributed among the public along race and class lines. Second, with the slight exception of the risk society thesis, social inequality is a prominent factor in the determination and experience of risk. Although reflexive modernization posits a societal movement towards a shared experience of catastrophic events like climate change, there is an acknowledgement that those at the top of the social hierarchy people will at least be able to protect themselves from risk for a longer period of time than their

less advantaged counterparts. This concession is nonetheless important because it suggests that social inequality plays a role in the experiences and outcomes of risk. Third, whether stated or not, all three approaches to risk are attempting to address a socially produced phenomena that exists within modern society, meaning that each approach to understanding risk must do so within a social world that is grounded in racial capitalism.

It is also important to note that risk is based on future possibilities and "is calculated through systematic statistical correlations and probabilities based on populations rather than the close observation of individuals" (Lupton, 2013:124). This last point is important in regard to the use of risk to dominate Black populations because although people undergo assessments or risk as individuals, being designated as at risk or a risk is determined by their association with a larger population. That is to say, determinations of risk are the result of one's association with a social group (Castel, 1991). To be defined as either a risk or at risk is to be made a member of a particular social population. The way that risk is subsequently policed will depend on the relative position that one's population holds within the power structure. Risk by association is a specific problem for Black people because white supremacy orders the world in such a way that Black people are normalized as potential cheats, criminals, or bad financial investments and therefore open to excessive policing, predation, exploitation, and violence in under the premise of risk management.

Lastly, a goal of this project is to try and understand how the role of race in the political economy of risk. As such, this project moves forward following the logic of Cedric Robinson (2000) and others who have argued that all capitalism is in fact racial capitalism (Melamed, 2015; Kelley, 2017). This means that I take as a given that capitalist systems are grounded in racial hierarchies and reinforce a system of extraction thereby allowing for the "super-exploitation" of Black people (Kelley, 2017). This is important because risk assessments are used to distribute

access to employment, housing, credit, and other necessary facets of everyday life and consequently, they are invariably tied to the market even if this connection goes unacknowledged.

Policing Racial Threats:

This dissertation takes up the work of exploring how the assumed impartiality of risk minimizes the role that race plays in how risk is defined, assessed, experienced and policed. Like other phenomena in modern society, risk is socially produced and therefore is developed within the confines of racial capitalism. When we assume that risk falls randomly among the public or that misfortune occurs independent of power imbalances, we erase the reality that most Black people are burdened by risk in uniquely terrible ways.

On the one hand, African Americans are at a greater risk for living with the social injuries of living in poverty, facing high incarceration rates, desperate levels of food insecurity, housing precarity and healthcare unaffordability. These inequalities are the inevitable outcomes of the anti-Black racism that has pervaded American institutions and social customs. For most of the nation's history, Black people have been excluded from the opportunities to acquire wealth, status, and power. Then again, it is very difficult to attain wealth, status or power while enslaved. Nevertheless, even after Emancipation and two sets of Civil Rights Amendments, Black people continue to be locked out of full citizenship and in many cases endure being specifically targeted for both harm and exploitation as is the case with racial profiling and predatory policing. It would appear that being at risk for harm is an occupational hazard for most Black Americans.

On the other hand, risk is a distinctly Black problem because of the common belief that African Americans are risks to the financial, political, social wellbeing of the community and therefore must be subjected to regulatory and violence social practices. In the housing market this has played out through the deliberate exclusion of Black borrowers from specific neighborhoods

or by funneling of them into a predatory home loan economy. In the criminal justice system, it has meant implementing punitive policing practices that trap Black people in the carceral system. Although crime is the product of poverty and occurs in all neighborhoods, Black people have come to be the personification of the risk of criminality and economic depreciation. As such, it is they who bear the weight of overzealous policing, economic disinvestment, and environmental hazards. Targeting Black populations because of the apparent dangers that they pose to the economy or public safety creates a situation in which the risky status of Blackness ends up putting Black people at risk for exclusionary, predatory, and violent forms of policing.

The contemporary approach to policing and governing risk is consistent with the nation's legacy of dehumanizing Black people in the production of capitalism. From this perspective, risk as a concept and economic practices has facilitated the cruel practices of slave insurance, convict leasing, predatory lending, and the rise of the financialization of the carceral state more broadly because it binds economic exploitation to racialized domination. But the sinister part is that it does so under the framework of public safety.

The impact that risk has on Black people throughout the United States is formidable because the threats to society, most notably violence, crime, and poverty, are themselves racialized political problems. In much the same way that the criminalization of Blackness justifies excessive uses of police violence, crackdowns and divestment in Black communities, risk is able to further the project of racial repression by giving institution and their actors powerful tools to exclude Blacks from accessing goods, services or opportunities and they can do so with relative impunity.

Of course, exclusion is only part problem because characterizing African Americans as too risky to include ultimately increases their risk of they exploited or preyed upon by other institutions. From segregation to predatory lending, to stop-and-frisk policing, Black people have

been exposed to greater levels of risk because of their risky status tells society that they are unworthy of social protection (as deviants) and open for domination. The assumption that risk is in any way colorblind or that it is randomly felt among the public minimizes the role that anti-Black racism plays in determining which segments of the population can access freedom and which ones will be pushed into perpetual unfreedom.

What I am suggesting here, is that risk is a condition Blackness in the United States since Black people are necessarily and always connected to risk. This is not to say that non-Black populations are free from uncertainty, danger or harm. But it is to say that anti-Black racism is often mediated through the distinctive relationship that Black populations have with risk, risk assessment and risk governance. Black people are subjected to state and corporate violence in a multitude of ways, and this is often justified on the account that Blackness is risky and therefore in need of control or domination.

Much like intersectional risk theory, my contribution to the discourse comes from the incorporation of Black studies into the analysis of risk and risk governance. This is important because Black political theory provides an analytical and conceptual framework that can be used to explain the distinctive relationship that African Americans have with risk, from the way that is or can be defined, assessed and ultimately policed. Moreover, it allows for an articulation of how this distinctive relationship to risk structures racial inequalities in the everyday lives of Black folk.

But unlike intersectional risk theory, which situates risk within in the concept of "ambivalence", my analysis of risk inequalities is anchored in the theory of "racial threat". Racial threat refers to the tendency of dominant racial groups to increase methods of control and policing when minorities come to be perceived as threats to the social, political and economic interests of the dominant group (Blalock, 1967). The concept of racial threat has made its way into mainstream

public discourse in recent years as the Republican Party and Far Right movement outwardly discusses the Great Replacement Theory and the presumed danger of a declining white birthrate and supposed diminished influence of white Christian nationalism in American society. This fear is of course unfounded because white Americans continue to hold the majority of power, access and opportunities in the United States. Thus, the supposed decline in white influence is overstated to say the least. Nevertheless, the perception that undeserving racial others are threatening white interests drive public support for aggressive policing, racial gerrymandering and voter suppression. The rise of Trumpism and the resurgence of neo-Nazi and white nationalist groups are the clearest example of how racial threat drives political persuasions and political participation.

Responding to threats in racist ways was easier during slavery and in the age of Jim Crow segregation because the use of openly racist speech and action, such as lynching or housing discrimination, were not seen as affronts to liberal democratic practices by the majority of Americans. In contemporary America, however, controlling and policing threats in bigoted ways must be done under-the-radar because the successes of the civil right movement have [mostly] reversed societal acceptance of blatant racism and racial violence. This does not mean that bigotry cannot be a driving force behind the response to threat, because it often times is, but it does mean risk governance in the modern age will likely need to be colorblind.

But this too is a problem because although colorblindness does not traffic in the explicit language of racism or white supremacy, its purported neutrality extends inequality by naturalizing racial disparities and minimizing the role that structural racism plays in the everyday lives of Black people (Bonilla-Silva, 2014). The ideology of colorblindness remains appealing and, in many regards, has facilitated the development of racially discriminatory tools including algorithmic and statistical risk assessments. But, as critical race and data scholars have found, outsourcing

decisions to data dependent technologies has not solved the problem of anti-Black racism and in many cases has made racial discrimination more prevalent (Harcourt, 2015, Browne, 2015; Eubanks, 2018; Nobel, 2018; Benjamin, 2020).

The problem then, is that even in the face of supposedly race-neutral and colorblind assessment of risk, Black Americans continue to be on the losing end of risk inequality. It seems to me that the cause for the continual loss that African Americans experience is tied directly to a racialized form of risk governance which uses the concept of risk to graph the threat of loss and harm onto Black bodies which then becomes the justification for the enactment of racial violence, exclusion and exploitation. Stated another way, the threat of Blackness allows discrimination to be seen not as aberrations in an otherwise just and fair liberal democracy, but instead as necessary to the *doing* of American democracy.

The dual position that Black people hold as both the bearers and bringers of risk remains an under-theorized form of Black domination nonetheless because society incorrectly views risk in colorblind terms. This problem has escalated in the recent years because the algorithmic turn in risk assessment shields the ways in which the politics of race impact how risk is governed and policed. Given this reality, any and all discussions regarding risk must include a critical discussion of power, racism, and structural inequality. Failure to do so merely increases the likelihood that risk will continue to be a driving force in the oppression of Black people throughout the United States. This argument becomes legible to the wider literature on risk through the incorporation of Black political theory, which up until this point has been sorely lacking.

Chapter Outline:

In the chapters that follow, I analyze the ways in which risk has been used to deepen racial inequalities. In chapter two, I examine how risk was used in the housing market to exclude, exploit,

and leave behind Black communities across the nation. In this chapter I argue the redlining that was used to exclude Black families from moving into affluent and white communities set the conditions that incentivized a type of predatory inclusion that took place post-Civil Rights Era and into the early 2000s. In chapter three, I examine the connection between risk and race in the criminal justice system. In this chapter I argue that risk and risk assessment are forms of policing which engages in a type of anticipatory policing which is when law enforcement attempts to control the behavior of those considered criminally risky before they have been given the chance to commit a crime. In chapter four, I examine the use of risk in the insurance market and its role in the devaluation of Black life. In this chapter, I argue that under racial capitalism, the insurance market formalized the transfer of financial risk from those with power to racialized minorities. This process began during the transatlantic slave trade, but as continued into the twenty first century. Finally, in chapter five, I end the study with a quick discussion of where a study of racialized risk can go in the future.

"In fact, white flight was a triumph of social engineering, orchestrated by the shared racist presumptions of America's public and private sectors. For should any nonracist white families decide that integration might not be so bad as a matter of principle or practicality, they still had to contend with the hard facts of American housing policy: When the mid-20th-century white homeowner claimed that the presence of a Bill and Daisy Myers decreased his property value, he was not merely engaging in racist dogma—he was accurately observing the impact of federal policy on market prices. Redlining destroyed the possibility of investment wherever Black people lived".

---- Ta-Nehisi Coates, 2014

CHAPTER 2 – HOUSING RISK

Introduction:

The United States has seen a steady increase in the number of poor people living within its borders in the years following the 2008 housing crisis. Making matters worse is the reality that poor Americans are comparatively poorer now than they were in the past. This is especially true among African Americans who have seen their overall wealth steadily decline relative to white Americans. For instance, the average white household has a net worth of roughly $171,000, a number that is eight times larger than the average Latinx household ($21,375) and a staggering ten times larger than the average Black family ($17,000) (Williamson, 2020; Levy, 2022). Though nearly 14% of the population, Black Americans own a meager 4% of the nation's total wealth (Moss, McIntosh, Edelber and Broady, 2020). If, by some miracle, Black families were able to access wealth that was in proportion with their share of the population, the collective net worth of African Americans would increase by over $10 trillion (Williamson, 2020). Disparities of this nature suggest a problem that is far larger than the induvial short comings of Black people. It

instead speaks to a systemic problem of racial inequality that puts Black Americans at risk for housing instability.

Risk in the housing market can take a variety of forms and it often ranges from an individual experience to a societal problem. On the one hand, risks are individualized because it is the individual and their families that must contend with the problems of being unable to secure safe, consistent, and affordable housing. Those who are unhoused face social, economic, and personal risks including the risk of physical and sexual violence, malnutrition, exposure to severe weather conditions and high rates of mortality (Roncarati JS et al., 2018; NHCHC, 2019). These risks increase over time the longer one goes unsheltered (Benston, 2015; Palepu et al., 2013). On the other hand, homeowners, though housed, risk generational wealth when investing in property. For many a change in employment, a medical emergency or even a sudden shift in the financial or housing market can result in an inability to make mortgage payments which increases the risk of foreclosure. At the most basic level, the more precarious the housing situation, the greater the risks that an individual will face.

However, housing risks are collective experiences as well. When large numbers of Americans experience difficulties maintaining safe and quality housing, the result can be catastrophic for entire neighborhoods, institutions, and populations. For instance, the widespread practice of issuing high-risk loans to people who could not afford them was a risk not only for the borrower who gambled against the possibility of foreclosure, but for the housing market as a whole because as default risk grew, the odds that the housing bubble would burst grew as well. When the bubble finally popped, the market tumbled into a recession which cost jobs, homes and in some cases lives. Although it is true that those who were evicted were most directly harmed by the housing crisis, the wider community tended to be impacted as well whether through the general

devaluation of property values in an area, or a rise in poverty related crimes, or even the mere presence of economic instability in places where it had not been previously. The point here is that there is a social impact that housing risk has on the surrounding community, even though the way risk is experienced may not evenly shared.

Housing scholars have understood this reality for quite some time and have long noted that housing inequities and the wealth it does or does not produce plays out along racial lines (DuBois, 2008; Oliver and Shapiro, 1995; Taylor, 2019). The gap in wealth was not coincidental of course, it was created and sustained through a public and private partnership to implement policies aimed at elevating wealthy whites at the expense of Black people. This the crux of racial capitalism and it functions as the backbone of differing experiences with housing risk.

The gap in housing risk reflects who the nation expects to be the subjects of insecurity, uncertainty, and danger. Historically, this has been reserved for racial minorities and especially African Americans. But, as income inequality stretches even further still, it can be expected that the troubles of housing risk will begin to fall upon a larger share of the white population, chief among them poor white Americans. This theory fits into a larger story of the continual racial formation in the United States. More specifically, the United States appears to be undergoing a process of racial transposition in which past constructions of nonwhites as governmental parasites is being transposed onto white populations who were previously immune to such designations (HoSang & Lowndes, 2019). It stands to reason to think that racialized conceptions of risk will similarly be transposed onto poor whites in the coming years as the gap between rich and poor continues to grow. Expanding the anti-Blackness of risk to include whites does not denigrate the political project of risk inequalities, it simply means that in the pursuit of Black subordination,

vulnerable whites will be exposed to greater levels of risk as well and that their potential suffering is justifiable because they are associated with risky Black people.

Broadly speaking however, being white comes with an expectation of protection from risk because the possession of a white racial status means gaining access to privileges that will improve one's material conditions and overall chances for survival. As Cheryl Harris (1993) points out, "becoming white increased the possibility of controlling critical aspects of one's life", since the laws and policies that were enacted both affirmed and legitimized whiteness as a racial status worthy of protection. Discrimination in the housing market protects the property value of whiteness by offloading (shifting) housing risk onto Black people. This is not to say that white people are not at risk for poverty, homelessness, malnutrition, or eviction. But it is to say that there is an expectation that Black people ought to be the first harmed and least protected within the housing market. This expectation has justified the manufacturing of housing policies that suppresses Black prosperity by the making of housing risk into a uniquely bad experience for most Black Americans. White families owning ten times as much wealth as the average Black family is the product of housing policies such as redlining, restrictive covenants and subprime lending, which kept Black Americans from gaining the resources needed to build generational wealth (Conley, 2010). Differing expectations of how housing risk should operate and upon whom it should fall has guided housing policy since at least the late 1800s and continues to do so today.

This chapter examines the connection between race and housing inequality, and it argues that the application of risk management in the housing market produced racial disparities that play out as systematic exclusion, predatory inclusion, and algorithmic violence. As the chapter details, the attempt to standardize housing risk by the Federal Housing Administration (FHA) and lending institutions formalized the notion that Black people were inherently risky, and this designation was

used to justify excluding African Americans from New Deal housing programs. Once established, the connection between Blackness and housing risk was difficult to dislodge and continued to steer housing decisions long after legal discrimination was overturned (Taylor, 2019). Civil Rights legislation was successful at opening the housing market to Black Americans; however, it did not substantially improve housing conditions for most Black families. This is because at the exact moment that Black Americans were claiming their rights as citizens, banks and other mortgage lenders began prey upon the newly incorporated Black folk and used their presumed riskiness as an excuse to trap them in predatory home loans. This began a process in which Black borrowers were funneled into a secondary housing market which viewed risk not as a phenomenon to be avoided, but a goldmine for profit in which risky Black borrowers were ripe for exploitation.

Attempts to quantify housing risk began in the 1930s but have increased exponentially as data-driven risk assessment began taking center stage in the early 1900s. It was argued that statistical analysis in the housing market would reduce human error by letting the objectivity of data "speak for itself" when it comes to deciding who is worthy of a loan, being accepted for a rental unit or receiving housing subsidies from the government. The problem, as critical data and race scholars point out, is that data cannot be removed from the socio-political conditions in which it is created or calculated (Browne, 2015; Eubanks, 2018; Nobel, 2018; Benjamin, 2020). This has meant that even when seemingly unbiased algorithms are used to make housing decisions, they are likely to substantiate existing racial inequalities. But, because data is viewed as racially neutral, the disparities created by algorithms largely goes unchallenged. The point here is that risk impacts people differently depending on where they fall within the social hierarchy but assuming that data is unincumbered by the legacy of discrimination denies the history or Black people being intentionally kept out of the housing market, and then punished because of the exclusion that they

were subjected to in the first place. Failure to attend to the differing experience of risk renders a key component of racial inequality invisible and unavailable for correction.

Chapter Outline:

This chapter provides a comparative historical analysis of the connection between race and risk, and it is particularly focused on how risk has been defined and employed in the housing market across three moments in time: the New Deal Era; the 1960s Civil Rights Movement; and the 2008 housing crisis of the Great Recession. How risk is defined, assessed, and policed is both a response to, and producer of an American economy that is predicated on Black exclusion and exploitation. The commitment of public and private actors to deploy housing risk in an anti-Black manner continued across time and this has made housing especially precarious for most Black Americans. As will be made clear throughout this and the coming chapters, is risk an ontological condition of both Blackness and capitalism, and the ways in which it has played out in the housing market have only strengthen these connections.

In the sections that follow, I analyze how Black people came to be associated with housing risk during the New Deal Era and how that designation set the conditions under which predatory and exploitative housing practices could take place just after Civil Rights Movement and into the early aughts. It is important to note that, the racialization of risk has not been a linear process. There has been a repeated shaping and reshaping of what it means to be at risk or a risk which has fastened the ties that binds Black people to an outsized share of housing risk. The point here is that the concept of risk has been both fungible and political and this has allowed for the continuous suppression of Black opportunities within and outside of the housing market.

The New Deal Era: Risk As Racial Exclusion

Prior to the 1930s, racial segregation was enforced primarily through the combination of *de jure* and *de facto* housing practices which helped construct an existence of social exclusion between Black and non-Black Americans. State and private actors worked together to maintain the racial hierarchy by upholding laws that excluded Blacks from white communities and overlooked when violence was used to do so.

One of the most efficient methods for ensuring the separation of the races was the use of racially restrictive deed covenants, which first entered onto the housing landscape in the late 19th century in both California and Massachusetts (Jones-Correa, 2000; Rothstein, 2017). Racially restrictive covenants were agreements between white homeowners, buyers, and renters that a home or piece of property would not be sold, rented, or leased to a non-white person (Welsh, 2018). These promises were written directly into housing deeds which allowed individuals to exclude Black Americans from moving into white communities. Restrictive covenants began as a localized practice that did not necessarily require the heavy hand of government intervention. Then, as the first quarter of the century came to a close, real estate and mortgage lenders across the country began pushing white sellers to include racially restrictive covenants to boost profit when selling homes (Gotham, 2000). This practice was protected by the federal government after the Supreme Court ruled in *Corrigan v. Buckley (1926)* that restrictive covenants were constitutional since Blacks could also exclude people from their communities if they chose to do so. The ruling echoes the logic of *Plessy v. Ferguson (1896)* which said that segregation was legal under the separate but equal doctrine. The court revised the Corrigan decision in *Shelley v. Kraemer (1946)* by ruling that even though restrictive covenants based on race are constitutional, they cannot be enforced because that would require explicit action from the state and federal government. While an important

change to the law, the Shelley ruling did little to reverse the years of housing discrimination that had already taken place.

Restrictive covenants were tools used to defend against the presumed dangers that came when Black people moved into white spaces and although they successfully shut Blacks out of the housing market, their individualized nature rendered housing segregation largely as a local issue. For the racial order to truly be protected on a national scale, there needed to be a more universal way of excluding Black people from accessing housing in white neighborhoods in ways that did not require proactive deed construction or explicit forms of white violence. This universal mechanism took the shape of a new housing appraisal technique known as redlining which allowed financial and social risks to be assessed through objective analysis. The purpose of this assessment was to help sellers be more efficient in their racism by dispassionately singling out which people and areas would be worthy of mortgage loans and which ones ought to be excluded.

Redlining fully "institutionalized the notion that racial homogeneity is a natural characteristic of residential neighborhoods" (Gotham, 2000: 621) by explicitly connecting race to neighborhood safety and property values (Rothstein, 2017; Taylor, 2019; Wiggins 2020). The legacy of redlining continued across time and entrenched a standard of systematic exclusion, the remnants of which can be found in predatory inclusion, subprime lending and reverse redlining that has taken place well into the twenty-first century. These modern systems of housing discrimination will be addressed at a later point in the chapter, but for now, it is important to consider the racial politics of early-stage redlining, and in particular, how redlining put the housing industry down a path towards racial exclusion that was predicated on a racialized understanding of risk and uncertainty.

At the same time that the real estate industry was endorsing restrictive covenants to keep property white, the United States was facing an unprecedented housing crisis. Foreclosures were on the rise, nearly doubling between 1926 and 1929 (Wiggins, 2020) and yet again between 1929 and 1933 (Jackson, 1985). The rapid foreclosure boom caused confidence in the housing market to markedly decline. With faith in the American dollar at an all-time low and unemployment rate steadily increasing, opportunities for mortgage credit had all but disappeared. The calamity caused by the Great Depression was devastating to the housing market, but it also signaled a turning point in the public's attitude toward governmental intervention in their pocketbooks as well as the government's role in the housing market.

In a bid to ease the suffering of poverty-stricken citizens, the Roosevelt administration implemented a series of New Deal legislation which empowered the federal government to exert greater control over the housing industry (Jackson, 1985; Massey and Denton, 1993). By 1933 the number of foreclosures was at hit an all-time high and this prompted Congress to create the Home Owner's Loan Corporation (HOLC) which was tasked with the responsibility of protecting lending institutions from further financial risks. HOLC was the first government-sponsored program and was a prominent player in the housing industry until it closed its doors in 1954. To complete this mission, HOLC began offering high-risk homeowners low-interest rate refinance loans to help them retain their property. Doing so would theoretically help the average American move into a new home and protect lenders from loss by reducing the financial risks of providing loans to low-income and high-risk home seekers.

One of the most impactful contributions that HOLC made to the housing industry was its restructuring of the mortgage system which changed from short-term loans that needed to be renewed every 5 to 7 years, to the 30-year amortized system that we have today (Jackson, 1985).

Amortized loans allowed borrowers to spread out their payments over the entirety of the loan, which lowered the probability that a borrower would be hurt by frequently changing interest rates and ultimately lowed the risk of homeownership. HOLC's policy of granting low-interest and amortized loans represented a fundamental change in the housing industry because it provided a breath of stability into a traditionally volatile market by expanding the role of the federal government in securing property ownership for everyday Americans (Rothstein, 2017; Michell & Franco, 2018).

The establishment of long-term amortized loans was just the first step in stabilizing the market however because HOLC also developed residential security maps which were used to help appraisers predict the viability of the homes and the borrowers that they financed. This conclusively changed the American housing market. Backed by the power of the federal government, appraisers began dividing cites into color coded maps according to calculable risk levels. Risk was determined through a questionnaire which operated under the assumption that gathering information about a borrower's employment, income, ethnicity, and other characteristics would help appraisers more efficiently segregate the public according to the community's risk level. In addition to the individual characteristics of the borrower, appraisers also considered the physical construction of the neighborhood to help them determine the appropriateness of government backed loans. By looking at the age and type of construction in the area, appraisers believed that they could establish the general state of disrepair in the community which they thought would help them gage how risky it would be to provide a loan in the neighborhood (Jackson, 1985).

Trying to assess the riskiness of a mortgage loan was not a new process, appraisers and lenders had already been using informal methods to determine the risks associated with extending

a loan. These assessments of risk were conducted on a case-by-case basis in which appraisers subjectively evaluated an individual's trustworthiness and creditworthiness. Nevertheless, the attempt to systematically predict housing risk was a paradigm shift in the housing market and it marked a change in the role that race could play in the spatial composition of the Unite States.

The belief in statistical forecasting was upheld by the same racist claims that justified Black exclusion in other financial markets as well, namely insurance policies (Wiggins, 2020). The apparent inferiority of Black people was written directly into New Deal housing legislation, superficially the Federal Housing Administration Underwriting Manual, which standardized the valuation process for loan approvals. This manual required any lending institutions seeking a government backed loan to abide by a standardized application process and required that they gather specific information about potential borrowers and the communities in which they were attempting to purchase a home. On its face, homogenizing the loan process allows for consistency across lending institutions and takes away some of the arbitrariness that subjectivity can present. The problem, however, was that the consistency that was created was one that consistently defined Black people and Black spaces as riskier to and less profitable for lenders and government backed securities. In the end, the *FHA Underwriting Manual* reinforced the idea that Black borrowers were riskier than whites by implicitly and explicitly encouraging lenders to push for neighborhood racial homogeneity.

HOLC security maps systematized the risk assessment process by rating each neighborhood by using a category system which rated neighborhoods from least risky to most risky. Risk levels were represented with a letter (A, B, C or D) and a color (green, blue, yellow, or red). Areas that earned the highest grade (A and green zones) were considered the least risky and most desirable places to live and lend. Homes in the green zone had newer construction, were

racially homogenous and were populated by people from the professional and business class. Racial composition was a key indicator in a neighborhood's rating. All white neighborhoods were far more likely to be rated as green, even when controlling for other factors such as income level. A tier below green zones were the neighborhoods outlined in blue. A blue zone was "still desirable" but had "reached its peak" in expected value (Jackson, 1985:196). Blue zones had a ceiling of desirability because they were too close in proximity to lower rated zones (yellow and red) and this closeness to Black spaces could not convince appraisers that the community was not at risk for falling into disrepair at some point in the future. In other words, the presence of Black people was a risk to housing value.

Appraisers tended to view blue zones as riskier because there was no guarantee that Black Americans and other poor people would be kept from moving into the community. HOLC was essentially asking appraisers to systematically predict the future and the probability that Black families and other undesirable populations would infiltrate the area. Erring on the side of caution, appraisers viewed the possibility that at some point in the infinite future Black families may come to resided in the area and thus ruin the value and safety of the neighborhood. As outlined in the *Underwriters Manual*, Black populations were better suited for neighborhoods that were outlined in yellow or red because these were the areas that were "definitely declining", or where the decline had "already happened" (Jackson, 1985:196). The threat of Blackness at some point in the future was enough to disqualify entire neighborhoods and potential borrowers from loan approvals by the FHA; a move that disproportionately harmed Black communities. Despite being spun as a wholly objective measure of risk; redlined maps reflected the subjective assumptions appraisers already possessed about the riskiness of Black people.

The blue zones are the most interesting of the HOLC creations because it is the clearest depiction of the racialization of risk. Appraisers believed that these communities were primed for integration because they were not far enough removed from Black spaces (Wiggins, 2020), thereby making the area appear to be riskier to finance or secure. Theoretically, blue zones should have been attainable for the small number of Black families with a little bit of money. At least the market was truly free from intervention. However, instead of looking favorably at the prospect of racial integration, appraisers chose to view the accessibility of blue zones as at-risk for community backsliding and thus not worthy of full protection from state subsidies unless Black families were actively barred from entering the neighborhood. In the end, HOLC formalized racial segregation by steering the vast majority of Black borrowers into yellow (third) and red (fourth) zones; the very same communities that HOLC claimed were undesirable and unfit for securitization to begin with (Rothstein, 2017).

To mitigate the problem of racial integration, HOLC prevented lenders from subsidizing loans for Black families in green and blue zones citing the risk of property devaluation as the justification for exclusion. Under this logic, it was the market's aversion to risk and not Black people that motivated housing segregation. Setting aside the reality that decisions around what or who is considered risky was already dependent on race, the belief that financial markets could operate unencumbered by racial hierarchies does not hold up to even the slightest bit of scrutiny because capitalism in the United States was made possible through colonialism, slavery and genocide (Robinson, 2000; Leong, 2013; Melamed, 2015; Dawson & Francis, 2015). The decision to push Black borrowers into less desirable communities or to outright reject them from FHA backed loans was seen as a prudent market decision, but in reality, the exclusionary tendencies of

data driven risk assessment rested on an already held belief about the inferiority, dangerousness, and criminality of Black people.

It did not take much to convince lenders to exclude Blacks from entire neighborhoods since racial exclusion had already been commonplace prior to the New Deal with most lenders already believing that Black folk were financial and community risks. The need to preserve the racial order was the driving force behind formal and informal housing risk prevention techniques as it operated through the localized efforts of restrictive covenants and the systematic exclusion of redlining. Baltimore Mayor Barry Mahool exemplifies this belief perfectly as he argues in favor of segregation laws, claiming that "Blacks should be quarantined in isolated slums in order to reduce the incidents of civil disturbance, to prevent the spread of communicable disease into the nearby White neighborhoods, and to protect property values among the White majority" (Rothstein, 2017:42). Evident in Mahool's rant is the long-held belief that Black people were dangerous criminals that risked the safety and wealth of innocent whites.

The Great Depression was a moment in which the federal government could have pushed the nation towards greater housing justice. Had HOLC not been so committed to racial homogeneity, or had it been able to push back more forcefully against the presumption of innate and quantifiable Black risk, it is likely that the racial wealth gap would not be as wide as it is today. The integration of Black families into white spaces could have afforded Blacks the opportunity to use their homes to produce wealth for themselves and future generations. Instead, HOLC cemented systemic housing inequality by redlining Black borrowers into the least desirable neighborhoods and then punished them for being there. This ultimately put the nation down the path towards ever growing racial inequalities.

Risk takes on an explicitly racial tone within the FHA Underwriting Manual and the HOLC residential security maps, but it is difficult to know for sure what came first, exclusion or ghettoization; it is likely that the two produced one another. Nevertheless, it is clear that the two housing experiences worked hand-in-hand to deny and then penalize Black borrowers. Redlined maps pushed Blacks into high-risk and over crowed environments and claimed that it was just good business to do so. The insidiousness of the residential rating system was that not only did it reinforce racial segregation in places where it already existed, it produced segregation in areas where it had not previously existed (Rothstein, 2017).

In the end, redlining expanded the reach of racial segregation and legitimized racial inequality throughout the country by incentivizing lenders to privilege racial homogeneity at the expense of Black prosperity under the guise of risk avoidance. The combination of a growing reliance on risk-based lending practices standardized by the FHA and the desire to maintain racial purity as demonstrated by redlining meant that Black people were defined as risks that were not worth taking and as a problem that needed to be policed before given the chance to wreak havoc on valuable white communities. This produced a distinctly Black experience of risk which was defined by exclusion and, as the next section discusses, financial predation throughout the housing market.

Civil Rights Era: Risk As Predation

Although HOLC closed its doors in 1954, the decades long practice of Black exclusion and white suburb creation entrenched housing inequalities which proved difficult to reverse. Redlining formalized the connection between Black people and negative housing risks specifically the risk of declining property values. This left the ability to use one's home to accumulate wealth almost exclusively in the hands of white Americans. Redlining normalized the devaluation of Black

neighborhoods, and as it did so, it simultaneously put Black people into harm's way by funneling them into underfunded and depressed communities. The lack of strong economic and educational opportunities found in yellow and red neighborhoods became objective measures of Black riskiness. The important thing to consider here is that the creation of the white middle class came at the expense of Black people whose seclusion in the inner city and low-income rural areas made their homes, business, schools, and institutions far less valuable, and thus riskier to public and private investment.

Not unsurprisingly, appraisers viewed the circumstances of living in overcrowded and run-down neighborhoods as a causal relationship between Black people and depressed housing values, rather than being the consequence of racialized ghettoization which pushed minorities into lower-graded and high-risk housing. In the same vein, appraisers viewed the tendency for whites to live in redlined green zones as evidence that white suburbia was desirable and the least risky to secure. This produced a feedback loop in which lower-risk areas brought on more investment, which in turn lowered housing risks once again. The opposite was true for Black communities. Appraisers either did not care, or more generously, did not notice that they and the FHA had created the conditions that lowered housing risks for whites and increased risk for Black people.

The New Deal had successfully broadened governmental powers to intrude upon the housing market and most Americans were grateful for the steps that the federal government had taken to increase homeownership. This makes sense because by the time the nation made its way into the 1950s, the conflation of owning a home with full citizenship had been well established (Taylor, 2019). Nevertheless, Black Americans had an amazingly difficult time securing this right.

As the United States moved into the 1960s it became glaringly obvious to Black community leaders that housing inequality was an issue that the government had a responsibility

to address. The successes of the New Deal showed that if nothing else, the government had the power to reduce housing insecurity if it chose to do so. Black activist began leveraging this point to push for new civil rights legislation that specifically addressed the needs of low-income and Black Americans. In the face of mounting pressure for Civil Rights activist the government eventually gave in and implemented a series of new policies specifically aimed at easing Black suffering in the housing market. The most important piece of housing legislation to come out of the tumult of the 1960s was the Fair Housing Act which was signed into law under the Civil Rights Act of 1968. This act prohibited racial discrimination up and down the housing industry by outlawing the use of race when making rental and financing decisions (US Department of Justice, 2023). Furthermore, the Fair Housing Act empowered the newly created Department of Housing and Urban Development (HUD) to investigate claims of racial discrimination to ensure that lenders and landlords were following the law. The problem, however, was that HUD had neither strong enforcement powers, nor a robust budget to effectively protect Black Americans from discrimination through litigation. This meant that most Black families, though perceived as risky, remained themselves at risk for discrimination, all the while possessing few if any options to seek redress for the injustice from the federal government.

The crux of the Fair Housing Act rested on the notion that Black Americans cannot be kept from engaging in the housing market if they are financially able to do so. To help bring this to fruition, the government formally ended the decades long policy of redlining Black neighborhoods and borrowers. Black Americans were now able to purchase homes across the country but this transition from exclusion to inclusion was not the remedy many had hoped for because the lack of federal oversight meant that Black families were open to a new form of domination which, ironically, was only possible because exclusion had occurred in the past.

Although the New Deal insulated Blacks in urban spaces with little opportunity for homeownership, the Fair Housing Act of 1968 signaled a change in the housing market. It was now possible for those who were once viewed as financial risks to be seen as new sources of revenue (Thurston, 2021). Black neighborhoods became "golden ghetto[s]" of sorts, which provided endless profits for banks and lenders who could engage in a form of predatory inclusion to exploit newly incorporated Black people (Taylor, 2019). Predatory inclusion uses the integration of those who were previously pushed to the margins as a way to charge exorbitant rates for mortgage loans (Seamster and Charron-Chenier, 2017). Past discrimination was no longer a risk to the profit of mortgage lenders because lenders correctly determined that the wealth that was being created through homeownership was a one-way street whose traffic flowed in their direction. Black borrowers continued to be viewed as high-risk by conventional lender, but instead of using that status as a reason to omit, Blacks were granted access but only if they were willing to take accept predatory loans that were more expensive and came under far less favorable terms. This precarious position was an ouroboros of Black suffering wherein the perception of being risky justified Black exclusion and exclusion justified the perception that Black people were in fact risky. This circular deprivation of Black opportunities in the housing market was a self-fulfilling prophesy that set the conditions under which predatory and punishment; a process that continued well into the twenty-first century.

The Civil Rights Movement of the 1960s was successful at codifying the rights of Black Americans, nevertheless housing inequalities remain a key issue across the nation. The inability of the federal government to protect Black borrowers is to blame because the lack of protection produced a gap in the market that was filled by ruthless institutions willing to engage in the conditionality of predatory inclusion. The Fair Housing Act did not end the problem of risk for

Black borrowers. It simply updated the relationship between housing risk and Black Americans to incorporate the growing sentiment that the United States had truly become a colorblind and post racial society.

The downstream effects of redlining were a splintered housing market which classified Black people as highly risky and therefore excludible and now exploitable. During the New Deal the choice was to exclude, but the colorblind regime that was born out of the Civil Rights Movement made inclusion a profitable endeavor for those institutions willing to prey upon Blacks. The segmentation of the housing market due to predatory inclusion reflects what Fourcade and Healy (2013) refer to this as "classification situations" which speaks to the cumulative patterns of advantages and disadvantages that exist depending on the type of market that one has available to them. The history of categorizing Black people as risks to property values structured the housing markets that was available to them around exploitation and not wealth creation.

The introduction of predatory lending practices into the housing market meant that risk would play two distinct roles in the production of racial inequality. On the one hand, risk was a vehicle for exclusion since redlining ensured that Blacks remained in impoverished areas that were removed from middle income and affluent white communities. On the other hand, the success of labeling of Blacks as risky meant that their inclusion could be profitable for lenders since inclusion would be accepted even at extremely high costs (Faber 2013; Rugh, Albright, and Massey 2015). In both cases, risk is a distinctly Black problem because African Americans have either been left out of the market entirely or be included for the purpose of financial abuse.

Being excluded from quality housing put Black people at risk for other environmental hazards such as homelessness or a lack of educational opportunities. This is of course a problem in need of redress. But including Black people under unjust condition has been equally problematic

since it too puts African Americans in precarious and potentially hazardous relationship with housing risk. To put this a slightly different way, the harms of exclusion and inclusion have similarly hinged on the notion that Blacks were risks to property value and community safety. Because of this, Black people experience risk in ways that are different from and likely more costly than most white Americans regardless of their class. This uniquely Black way of relating to housing risk was an ever-present experience for Black communities throughout the latter half of the twentieth century. As the following section examines, the lopsided effects of a housing market that is predicated on Black exclusion and exploitation was clearly borne out during the 2008 housing crisis and the Great Recession.

The Great Recession: Risk As Exploitation

The financial crisis of 2008 was an inflection point in the housing industry. The economic downturn was caused by the bursting of the housing bubble which led to increased mortgage delinquencies, foreclosures, and an overall devaluation in housing values. Popular explanations for the crash tended to paint low-income homeowners as unsophisticated and irresponsible simpletons who knowingly took out loans they could not afford. This was an unfair characterization however, because redlining was well established and colorblind neoliberalism ensured that predatory inclusion in market went unchallenged. Black families were pushed into the high-risk subprime loans because they had already been categorized as being high-risk through redlined maps.

In simple terms, subprime lending is the process of providing mortgage loans to people who are likely to have difficulty keeping up with the monthly payments within the traditional mortgage markets. It is also understood that subprime lending comes with an increased risk of financial loss because credit is being given to those who fall outside the bounds of the conventional

lending market. Since these borrowers are expected to be at a higher risk for delinquency, it is standard practice to offer loans that contain higher and often adjustable, interest rates. This allows mortgage credit to be extended to people with low credit scores, poor financial histories and less than stable employment.

One way to mitigate the risk of lending to poor people is by packaging subprime mortgage loans into mortgage-backed securities (MBS). These securities allow individual mortgages to be pooled together and sold as bonds to wall street investors and other financial institutions. In theory, aggregating mortgage loans into an MBS reduces the risk of default on individual loans because the delinquency of one loan will be covered by the profit of the others. This means that even high-risk borrowers can be treated as safe investments so long as they are combined with other loans. This is the process of subprime securitization, which allows mortgage companies to approve riskier borrowers by freeing the institution from having to be dependent on their own funds to dull out loans. The housing risk of default is mitigated by pooling and risk among a larger set of people. Securing mortgage loans has historically been within the purview of the Government-Sponsored Enterprises (GSEs) like the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, known more commonly as Fannie Mae and Freddie Mac respectively (Federal Housing Finance Agency, 2024). Fannie Mae and Freddie Mac were developed to inject liquidity, stability, and affordability into the housing market. Fannie Mae monopolized the housing market for much of the twentieth century, but deregulation in the 1980s and 1990s opened space for private companies to play a larger role in purchasing mortgage securities.

Homeownership is positively associated with better education, employment, and access to public goods (Squires and Kubrin 2006; Correa 2009), but despite this reality, political support for housing programs have drastically declined since the heyday of the 1960s. The combination of

budget cuts to HUD and the lack of governmental oversight has made it easier for lenders, banks, and realtors to slap borrowers with high fees, weakened credit standards and implement predatory loan terms with little state intervention. A problem that has been particularly detrimental for low-income Black Americans especially leading into the mid-2000s.

Proponent of subprime lending have argued that this secondary market is a way for underserved communities to enter the housing market and the promises of homeownership which allowed Blacks and other underserved populations to work around some of the more challenging aspects of purchasing a home. They did have to accept higher levels of risk in the process, however. Lenders protected themselves from financial risk by using Adjustable-Rate Mortgages (ARMs) which permits the interest rate to change over the lifespan of the loan. Sometimes called "floating rate mortgages" and "variable rate mortgages", ARMs reduce interest risk to the lender because when interest rates increase, lenders can simply adjust the rate on the loan to help protects the value of the asset (Singh and Bruning, 2011). ARMs were increasingly used in the lead up to the 2008 housing crisis in which nearly 80% of American subprime loans contained variable interest rates (Singh and Bruning, 2011).

In addition to mitigating interest risks, ARMs can be used to increase the overall loan principal because increasing interest rates means increasing monthly payment. Increasing payments leaves poor and working-class people with two equally undesirable options; either pay more each month or risk falling into foreclosure. Unfortunately, for many between 2007 and 2009, the inability to pay inflating mortgages meant that foreclosure was the only real option. Having a subprime mortgage that ended in foreclosure essentially reduced homeowners to mere renters because they were unable to build wealth through homeownership since payments were not being put towards building home equity that one could draw on in the future. Instead, subprime lending

shifted the financial risk from lenders to low-income families who had to deal with changing interest rates, prepayment penalties, high fees, and foreclosures. All of this was happening at a time when the federal government was washing its hands clean of a responsibility to regulate the housing market or protect poor Americans.

The collapse of the housing market resulted in a quick increase in the number of homes that fell into foreclosures. Although it is hard to know exactly how many people lost their homes during the Great Recession, Bocian, Li and Ernst (2010) have estimated that at the height of the recession between 2007 and 2009, nearly 7 million homes were put into foreclosure with roughly 2.5 million foreclosures fully completed. White Americans made up the bulk of foreclosed households since access to both conventional and subprime loans was more readily available for whites. Nevertheless, the foreclosure crisis was particularly difficult for Black families because not only were African Americans more likely to have subprime loans, but even among those in the subprime market, Black people faced more exploitative loan terms including having higher fees, harsher prepayment penalties and balloon payments, all of which substantially increased their risk of default and foreclosure (Bocian and Zhai, 2005).

Racism within the subprime market made it so that Black borrowers were 75% more likely to have lost their homes than white Americans (Bocian, Li and Ernst, 2010), the consequences of which were devastating and long-lasting. In the immediate sense, there is the obvious outcome of people who were forced to relocate, often with little to no preparation time to deal with the aftermath of an eviction (Immergluck, 2015). Strapped with debt and limited opportunities, many Black families were pushed into the renter's market and unless they were fortunate enough to have help from relatives or friends, they were often pushed into less desirable, and otherwise riskier, environments than before.

If eviction was not bad enough, foreclosure strips borrowers of the supposed wealth that homeownership had promised to create. Household net worth dropped precipitously during the Great Recession, with Black and Latinx borrowers most impacted by the decline. Pfeiffer, Danziger, and Schoeni (2013) estimated that the net worth of white and Asian households dropped 38% between 2007 and 2011. Though certainly troubling, losses from foreclosure was far worse for Black and Latinx families, who saw their net worth decline by nearly 71% over that same period (Pfeiffer, Danziger, and Schoeni, 2013). Importantly, foreclosure does not simply reduce one's wealth, it also has a significant impact on a person's future risk, mainly creditworthiness. Creditors use credit scores as a numerical shorthand to determine a borrower's merit for credit and their risk of default. Prior to the housing boom in the late 1990s and early 2000s, people with credit scores below 600 were largely excluded from homeownership. But deregulation and the rise of subprime lending made it easier for borrowers with poor credit histories to purchase homes. Although access to subprime loans made it easier for Black people to become homeowners, it also expanded the number of interactions that Black families had with the foreclosure process. This was a problem because given the financial precarity of being a high-risk borrower, Black people had a much harder time staving off loan default and saw a disproportionate drop in credit scores. Credit scores can drop 170-200 points for people who gone through foreclosure (Brevoort and Cooper, 2010). Since Black borrowers on average have lower credit scores to begin with (Bhutta, Hizmo and Ringo, 2022), a drop of this magnitude is particularly painful not only because it is more difficult to acquire quality housing down the line, but also because other agencies that use credit scores to make decisions are less inclined to extend credit to Black borrowers. This is important because any firm that delivers a good or service before payment has been received is

considered a creditor under the Fair Credit Reporting Act (FCRA), which means that almost any entity can access a client's credit histories if they wish (Immergluck, 2015).

This may not seem like much of a problem at first glance, but foreclosure does not simply mean losing ones' home, it also means being at risk for being denied access to employment, credit cards, healthcare coverage, car insurance and other necessary conditions of modern life. The compounding disadvantages of having poor credit, that is to say being a credit risk, is yet another barrier standing in the way of racial justice. Subprime lenders targeted Black people for high-risk loans because they knew that the history of employment, education and credit discrimination increased the odds that Black borrowers would be excluded from conventional loans. Once excluded, it became very easy to fall prey to exploitation. It did not seem to matter that Black families were being set up for failure. What mattered was that lenders could extract wealth from suffering African Americans because the history of exclusion and discrimination defined Blacks as risky and thus open for predatory domination.

It is undeniable that the foreclosure crisis was a cataclysmic life experience for the family that loses their homes who faced the risk of homelessness and the problems that poverty present. But the problem does not stop with the individual family because the "spill-over" effects of foreclosures ensures that surrounding neighborhoods will be impacted as well. The surge of foreclosures in Black communities is a problem because the value of one home directly impacts the value of the surrounding properties. The interdependence of home equity poses a collective risk to Black neighborhoods because as individual homes lose their value, the adjoining homes start to lose their value as well. This means that even among the families that can avoid foreclosure are put into harm's way because redlining and residential segregation did the necessary work of guaranteeing that Black people would be confined to their own ethnic enclaves and removed from

white spaces. Redlining and segregation ensured that Black people live in proximity to other Black people and since poor Blacks are most suspectable to subprime lending, their communities are risk for the spill-over effect of the housing crisis. The increase in foreclosures during the Great Recession resulted in a massive loss of wealth for Black communities, which in 2010, totaled nearly $194 billion in depreciated property values (Bocian, Li & Ernst, 2010). The number is sure to have grown a decade and a half later.

A lack of transparency in the subprime market eased the exploitation of Black families because lenders could hide behind the notion of risk to rationalize charging poor Blacks more for their homes because after all, it was their risk level and not their race that caused the high rates. Moreover, apparent colorblindness of opening the housing market after the Civil Rights Movement meant that risk could be understood purely on economic and potentially racially conscious terms since Black people of all incomes can finally enter the housing market. Subprime loans, adjustable mortgage rates and mortgaged backed securities and other unconventional lending practices eased the process of homeownership should not be seen as a moment of racial justice because Blacks continued to be equated with exploitable risks. Redlining intentionally designed Black neighborhood to be high risk environments and then used that designation as a rational for withholding mortgage and redevelopment funds. Once excluded, the problems of being labeled high-risk compounded over time, reifying the perception that African Americans were social and financial risks.

The repeated devaluation of Black people and communities became such common practice that housing risk came to be seen as the innate problem of Black people as individuals, not the result of widespread discrimination in employment, education, healthcare, and other socio-political domains. This designation saw little change even after the 1968 Fair Housing Act because

the federal housing administration did not possess sufficient power to hold lender and renters accountable for engaging in discriminatory housing practices. Moreover, since most New Deal programs were reserved for white Americans, white families were able to amass resources to build wealth and in so doing, lower their risk level in the eyes of lending institutions. Weak government protections coupled with increasing market deregulating incentivized a secondary racialized housing economy that was propped up by predatory lending. The Great Recession was a continuation of this problem. But exploiting poor Blacks under the guise of risk was aided by the increased use of predictive algorithms and forecasting procedures.

Automating Living: Risk As Algorithmic Violence

The New Deal and the Civil Rights Movement signified a marked change in the housing industry as well as the meaning that risk would hold within it. This changing definition of risk put Black people in the position of being defined both as a risk to the market and as at risk for exclusion and exploitation. Though initially used as a tool for shutting Blacks out of the market, risk came to be used as a way to impose predacious conditions that were directed specially towards Black people wishing to become homeowners. The race tax imposed on Black people was done in the name of risk mitigation but allowed for profit maximization among lending institutions. Exclusion and predation are not a mutually exclusive process, rather they coexist and perpetually reinforce one another. As recent work from Faber (2019) notes, racially redlined areas tend to be the areas with higher concentrations of subprime loans when compared to non-redlined communities. This makes sense under a framework that understands risk as a racializing force of social separation in which segregated communities simultaneously produce the conditions under which predatory lending was able to take place.

The tendency towards a subprime apartheid falls in line with other theories of segregation, particularly those that examine the economics of racial separation. Segregated spaces produce financial markets that can be easily avoided or exploited depending on what is needed at the moment. Conventional lenders could reasonably forego risky communities with a clear conscious while alternative financial institutions like payday lenders, check cashing operations and of course, subprime lenders could move in to fill the gap (Been et al. 2008; Faber 2018; Hwang et al. 2015; Hyra et al. 2013). The status of Black people as financial and social risks rationalizes the concentration of rapacious alternative institutions in minority communities. Racial disparities in the outcomes of risk assessment are not a symptom or unfortunate outcome of risk-based decision-making, but rather a precondition of racial capitalism which cannot be avoided so long as racial logics continue to inform the data assessment tools and algorithms used to determine risk levels.

I contend that using risk to dull out housing opportunities is a form of racialized violence that it is structural (Crenshaw, 1991), quiet (Baradaran, 2017), digital (Browne, 2015) and algorithmic (Onuoha, 2018; Safransky, 2019). The result of which such risk produced inequality has reinforced housing disparities across time, place, and space. Redlining, blockbusting, loan denials, zoning laws and racist assumptions about the inferiority of Black people has systematically pushed African Americans into high-risk, underserved and over policed communities. These policies are undeniably loud as well as quiet in their pursuit for Black subjugation. Loud displays of racism in the housing market are somewhat easier to spot because they tend to occur out in the open. For instance, there was no hiding the racism of the racially restrictive covenants which barred the sale of a home to Black families. Neither was there any doubt about the racial meaning behind clichéd racist signs stating that “we want white tannates in

our community", as was commonplace throughout the South. The anti-Blackness of these instances is self-evident.

Quiet racism, on the other hand, is more difficult to identify but is no less destructive to Black people (Baradaran, 2017). The noiselessness of covert racism is reflected in the use of automated risk assessment which are increasingly being utilized to determine who is worthy of accessing loans, rental agreements, or other important aspect of quality housing. Far from being neutral predictors of actual risk levels, data-based assessments of risk mirror racialized and politicized logics of worth and value. As critical data and technology theorists have recently argued, anti-Black discrimination is encoded in technological and data-driven systems. Ruha Benjamin (2020) refers to these racist encodings as the New Jim Code which she defines as "the employment of new technologies that reflect and reproduce existing inequities but that are promoted and perceived as more objective or progressive than the discriminatory systems of a previous era" (Benjamin, 2020: 8). Importantly, although many of the technological advances of the New Jim Code are produced with the expectation that data will save institutions from bias, the encoding of racism in algorithmic systems facilitates hierarchical and racist social orders.

The primary difference between the racism of the New Jim Code of today and the racism of Jim Crow in the past is that automated racism is hidden within a Black box of objectivity instead of outward displays of bigotry. The automation of racism is in line with the broader push towards privatization and profit maximization as a way to solve social problems. Since technology is viewed as objective, algorithmic profit exploitation has been able to rebrand itself as a method of bias minimization (Benjamin, 2020) despite actually reinforcing racial disparities. In the housing market this meant using data to single out supposedly riskier borrowers to trap them in high-risk

and predatory subprime loans. These riskier borrowers have historically been coded as African Americans whose status as risky presents problems that are been reinforcing and compounding.

Echoing the problems of technological approaches to social problems, Eubanks (2018) points out that the turn to automation in decision making can have profound effects on one's ability to access public goods. When looking at welfare eligibility systems, Eubanks found that automation increased the marginalization of poor peoples they attempted to access social welfare benefits. Data-driven eligibility technologies produce what Eubanks calls the "digital poorhouse", which acts as a "shadow institution" of marginalization because it cements inequalities by making it easier for agencies to divert public resources away from some, say those deemed at risk for committing welfare fraud, and towards others. Far from helping the most impoverished Americans, the automation of social services ends up pushing poor people deeper into poverty by redirecting public resources away from the undeserving masses and towards the truly deserving few. Eubanks' notion of the digital poorhouse is instructive for how we can understand the problems of housing inequalities that are tied to risk because in both cases, automation is used to objectively sort the public into classes of those who are deserving and those who are undeserving of government protection. Racial differences exist in both instances with Black people facing a higher risk for having their benefits severely cut or experiencing outright rejection (Eubanks, 2018) as well as being denied a mortgage loan (Bartlett et. al., 2022). Rather than being an avenue for social mobility, systematized assessments of risk harm people of color because racism is encoding in the systems. As a result, Black Americans are labeled as unworthy of state protection or investment. This played out first with redlining practices which pushed Blacks out of the housing market, as well as during the post-Civil Rights boom in which Black homeownership case came at the cause of racial exploitation.

The New Jim Code exemplifies soft, more subtle forms of racial domination because it "allows racist habits and logics to enter through the backdoor of tech design", all the while leaving the humans who create the algorithms shielded from view or responsibility for discrimination (Benjamin, 2020). The conscious cleansing and accountability blocking nature of algorithmic decision-making systems gives weight to a particular type of racial domination that Onuoha (2018) and Safransky (2019) refer to as algorithmic violence which "operates behind the scenes" and is "perpetrated by an assemblage of people, institutions, and technologies" (Safransky, 2019: 202). There is nothing spectacular about algorithmic violence other than the fact that is repetitive, regimented, and standardized.

Safransky's work on the City of Detroit and its use of the Market Value Assessment (MVA) is useful in highlighting how the interaction between race, place and information technologies produce violent interactions with the public. The MVA is risk assessment software which is used to identify high-risk areas that are unworthy of investment and like earlier risk-rating systems like HOLC's Residential Security Maps, the algorithms of the MVA use data that is already racialized. This risk factors include building code violations, credit scores, education levels of the community, employment opportunities, housing vacancies, number of prime or subprime loans in the area, and the neighborhood's racial composition (Koshy, Chacho, Byrd & Jefferson, 2022). In other words, the MVA does not challenge the deeply entrenched merging of property, racial value, and anti-Black violence (Harris, 1993) because the connection between race, value and violence is rearticulated to fit the language of risk (Safransky, 2019). The City of Detroit used the MVA to determine which areas would be invested in or divested from. This assessment effectively produced divestment maps that bore a striking resemblance to the redlined maps that were produced in the 1930s by the Home Owners' Loan Corporation during the New Deal.

Algorithmic risk assessments like the MVA risk engaging in a new form of redlining, which Safransky terms municipal redlining, because entire neighborhoods were assessed for their value and risk level, and this assessment determined if and how much private investment a community should get and, in some cases, it determined if, how much and what type of public services will be available to the community. Divestment of funds is one thing, but the possibility of divestment of public support is a particular type of violence that is disproportionally imposed on Black communities. Using risk to determine if investment is warranted results in those who are already most vulnerable being subjected to more vulnerability. It effectively puts those who have been constructed as risky due to past discrimination at risk for further harm because divestment of Black spaces tends to bring with it an increased police presence, diminished economic and education opportunities and overall greater housing risks.

As noted previously, the use of risk to doll out housing opportunities has led to a bifurcated housing market that excludes Black Americans on the one hand and exploits them on the other. However, the violence of racialized risk in housing does not stop with exclusion or predation. Eubanks (2018) and Safransky (2017) in particular speak to the ways data technologies have the ability to disconnect communities from public services, which signifies that there is a leaving behind component of risk inequality. And, as Katharyne Mitchell (2010) has argued elsewhere, certain of bodies become vessels for risk, and these bodies usually come in a darker shade. Risk assessments like the HOLC Residential Security Maps or the Market Value Assessment (MVA) that was used in Detroit did not force people out of their home, they simply use data to quantify Black space as high-risk, and then left those communities out of public considerations for protection or investment. Profit maximization is the rationale behind using risk assessment and racial inequality is the outcome.

It is clear that risk is more than a signifier of uncertainty, it is a tool of racial capitalism that violently affixes harm, which for the purposes of this chapter represented as housing risk, onto Black populations to facilitate the value of whiteness. Whiteness is constituted, at least in part, by one's ability to manage future risk (Mitchell, 2010), that management process is easier when risk is shifted towards Black people. Inequalities in the housing market demonstrate how racialized conceptions of risk and value are used to sort the public along racial lines and then bestows punishments or privileges depending on where one falls in the racial order. Automated housing decision have made this process more efficient, but due to the tendency to perceive data and automation as objective, the violence of housing risk is often hidden from view.

Conclusion:

A central argument of this chapter is that the risk and risk assessment engage in racial violence that is hidden from view. This is particularly true among the risk assessments that rely on data and algorithms to aid decision-making because data is imbued with social and political markers that allows race to be read into fragments of information. Black political theorists have long contested the Eurocentricity of western epistemologies and the presumed rightness of whiteness. This chapter extends that critique of the unquestioned impartiality and hidden whiteness of data assessment to provide and analysis of how a housing market that is committed to risk avoidance can act as a producer of racial inequality. The New Deal structured housing access around risk which not only institutionalized racial exclusion but also set the conditions under which racial exploitation came to be normalized in the wake of the Civil Rights Movement as well as with the algorithmic turn that took place in the early 2000s.

In a very broad sense, algorithms set of rules that can be used to accomplish a particular goal (Ames, 2018), or to solve a particular problem (Hasan, Brown & Davidovic, 2022). W.E.B.

DuBois (2008) wisely situated the problem of the American state as the problem of the color line, and with this in mind, it is easy to see how algorithms have been able to address that problem under the auspices of risk avoidance. The *Underwriter's Manual* was an early example of data being used to police Black housing opportunities by equating risk with race. Rudimentary as it may have been, systematic and systematic redlining practices showed that an algorithmic approach to racial oppression was not only viable, but also morally defensible and economically profitable.

Housing inequality did not evaporate simply by integrating more people or data into the decision-making process. What did change, however, was the ease at which data could be used to suppress opportunities for African Americans in the housing market. Algorithmic risk assessments are perceived as wholly objective, and this reputation makes decisions that are based on data an appealing alternative for institutions and companies since it frees them from accusations of racial discrimination even in cases where clearly racist practices are taking place. Racism was the cornerstone of residential redlining, but because housing decisions cohered around a racialized conception of risk determined thorough presumably objective means, housing segregation was not only reinforced but manufactured in places where it has not previously existed.

In a similar vein, the legacy of the datafication of housing discrimination opened a space for of predatory lenders to use past designations of high-risk to single out and exploit poor Black people. Quantifying risk made racial exploitation an efficient process because the FHA and the real estate industry had supplied the market with nearly 50 years of data that indicated which Americans were denied loans and under what conditions. The backlog of data that was created with the automation of underwriting practices in the 1930s helped foster a bifurcated housing market post-civil rights legislation and this splintering of the industry transformed the risk of Blackness from a cause for exclusion into a tool for profit maximization.

Black and white Americans were ultimately confined to their own segment of the market, but Black people were expected to pay a race-tax as a condition of their inclusion (Taylor, 2019). The conditionality of housing opportunities for Black people is to be expected when housing systems are built to be predatorily inclusive. The powerful thing to consider here is that housing inequalities are the creation of a public and private partnership which relied on the systematic categorization of Black Americans as risky to deny support through government backed home loans and other public services.

Reading Black people as risky was a tool in Black exclusion and the attempt to mitigate risk by excluding African Americans was the dominant principle of housing policy throughout the first half of the twentieth century and set the stage for massive wealth inequality between whites and Blacks. Housing risk for most Black Americans transitioned from one of exclusion to one of inclusion after the passage of the Fair Housing Act in 1968. Lenders came to realize that including Black folk into the housing industry could be a lucrative endeavor since the decades long practice of exclusion left most Black Americans with little to no options to own homes without the help of predatory and otherwise exploitative mortgage loans. This is important because the precarious status of being high-risk which was thrusts upon Black people has long lasting effects that are more likely to compound over time rather than abate without implementing institutional protections for Black people. The problem, however, is that the neoliberal turn of American governance has resulted in decreased governmental regulations and protections for poor people. The lack of protections combined with the relative ease at which subprime lenders could target Black Americans spurred the housing crisis of 2008. Risk within the Great Recession was highly racialized with Black families most at risk for taking on punitive mortgage loans, foreclosures, and a general loss of familial wealth.

Algorithmic risk assessments are signifiers of social relations that both reflect and produce racial inequalities. When tied to the housing market, algorithmic assessments have the power to shape the spatial composition of entire communities and neighborhoods as well as how the government and other institutions will interact with the public. Decisions that are based on risk have the power to orders the world in such a way that Black people can be entirely removed from public spaces, blocked from opportunities, denied environmental safety, disconnected from public services, and exploited.

Race has been, and continues to be, a crucial component of the determination and assessment of risk and has often worked to placate anti-Black racial regimes by placing Black people into harm's way and then punishing them for their proximity to risk. I have argued here that equating Black people with risk has allowed public and private institutions to engage in racist housing policies behind a veil of objectivity. In practice, this has meant that affixing race to risk produced material realities that were exclusionary and predatory and directed at racial minorities, especially Black people. Risk has been used to sustain a racial order that labels Blackness as high-risk and therefore open for domination. Political scientists as well as policy makers must begin to investigate the ways risk is racialized throughout the housing market's past, present, and future. The quotidian uses of risk to enforce racial hierarchies needs to be understood not only the housing market, but in other areas of modern life as well.

The following chapters take up this work by examining the connection between risk and race in the criminal justice system. In this chapter, argue that risk as a concept and risk assessment as a policing practice engages in what I have termed anticipatory policing which seeks to control the behavior of those that have been deemed high-risk for criminality before they have been given the chance to commit a crime. Anticipatory policing is a future-facing form of social control that

attempts to stop crime before it is committed. However, it does not approach public safety from a perspective that an expanded welfare state is needed to combat poverty and the problems that poverty produces. Instead, attempts to police risk have resulted in punitive forms of policing and the buildup of the carceral state. Race is extremely important to this process because when risks are coded as Black, the response from law enforcement has been violent and predatory. In the end, risk and the ways that it is assessed deepen racial inequality by exposing Black people to violent, punitive, and predacious forms of policing.

"How is that purpose met under the present system? The defendant with means can afford to pay bail. He can afford to buy his freedom. But the poorer defendant cannot pay the price. He languishes in jail weeks, months, and perhaps even years before trial. He does not stay in jail because he is guilty. He does not stay in jail because any sentence has been passed."

---- President Lyndon B. Johnson, 1966

CHAPTER 3 – POLICING RISK

Introduction:

In 2014, then Attorney General Eric Holder spoke at the 57th annual meeting of the National Association of Criminal Defense Lawyers and in this speech, he warns that using risk assessments in sentencing decisions may inadvertently "exacerbate unwarranted and unjust disparities" within the criminal justice system (Holder, 2014). Holder's concern was that although they have been successful at reducing government costs, risk assessments tend to focus on static and immutable factors, like one's education level, socioeconomic status or neighborhood, and this tendency runs the risk of reducing sentencing consistency across the nation as well as reinforcing racial inequalities already in existence. Holder's warning shot about the potential problems of statistical risk assessment was notable because it came at a time when the number of states that were turning to risk assessment instruments to inform their sentencing decisions was quickly growing throughout the country.

In an important, yet often overlooked moment of his speech, the former Attorney General states that in addition to foregoing the use of static risk factors, sentencing should not be based "on the probability of a future crime that has not taken place". This declaration is particularly interesting because it points to a potential problem of policing risk through data-systems which is

the idea that punishment should be handed out before would-be criminals have had the chance to commit a crime. This inversion of the "innocent until proven guilty" ethos that is supposed to undergird the criminal justice system provides an opportunity for law enforcement to engage in what I call anticipatory policing in which those deemed high-risk for criminal behavior are held accountable for actions they have not yet taken. Anticipatory policing operates with the expectation that those who commit crime will inevitably commit more crimes in the future. Mitchell (2010) refers to the presumed inevitability of future criminal behavior as when/then scenarios, which presumes that "certain events cannot be avoided" (241). Since the future cannot be stopped, law enforcement and other justices of the peace attempt to use risk assessments to predict what will happen in the future so they may be more prepared to respond to criminal activity and, hopefully exert greater control over the actions of those who are likely to engage in criminal behavior.

Anticipatory policing exists in the space of carceral governance in which the societal push to regulate and control undesirable and deviant target populations is conducted through incarceration, detention, surveillance, and otherwise punitive means. Against this backdrop, the racialization of poverty, crime and punishment puts Black Americans at risk for anticipatory policing since structural racism pushes a disproportionate share of the Black population into environments that are highly surveilled and over-policed. Responses to the supposed high-risk status of Black communities – which was created and substantiated by redlining and housing discrimination – has been police violence and state repression. This creates a reality for many African Americans that it is not if they will have a run-in with the law, but when that run-in will occur.

Many Black families attempt to reduce the risk of police violence during these unavoidable interactions by giving their children "the talk" so they may avoid being murdered by police when, not if, they are stopped. Likewise, nationwide initiatives like the Know Your Rights Campaign have been created to help Black and brown people understand what their constitutional rights are during interactions with law enforcement, so they are not unlawfully detained or brutalized by the police (ACLU NorCal, 2020). The dos and don'ts of appropriate Black action that are outlined "the talk" and Know Your Rights does not stop Blacks from interacting with the police, however, but they do exist as the flip side of anticipatory policing in which the objects of state violence attempt to defend against the risk that law enforcement poses to racial minorities and poor people more broadly. Knowing the future through criminal risk assessments effectively pre-criminalizes African Americans, but especially the Black poor since minority populations are at a higher risk of living in depressed communities.

As discussed in chapter two, housing discrimination uses racialized notions of risk to not only exclude and exploit racial minorities, but to leave them behind as well. Those who are or have been incarcerated are similarly excluded, exploited, and left behind within the criminal justice system and risk assessments have expanded this process as a growing number of states have turned to data-systems to make sentencing recommendations. The preemptive and anticipatory policing opportunities that are given to law enforcement when risk is used in the name of public safety indicates that modern America is, as Zedner (2007) states, "on the cusp of a shift from a past-to precrime society" (262).

Undoubtedly, precrime does not mean no crime. Instead, it means that public safety will be geared towards predicting where and by whom crime will be committed so that anticipatory action can be taken to ensure that criminal environments and people are more efficiently policed.

The concern that some civil rights organizations have over the intensified focus on predictive policing is echoed by risk scholars, many of whom have warned that society is disproportionately attuned to addressing risks and social hazards even if there is a low probability that the danger will occur (Giddens, 1991; Beck, 1992; Beck, Giddens, and Lash, 1994; Giddens 1998). Though, accounts in risk literature do not often concern themselves with the specific problems that risk management has on Black and marginalized populations, they do share the concern that there will be an increase in state expenditures, efforts and laws put towards mitigating public risk and presumably, those who are believed to engage in risky behavior.

As Page and Soss (2021) point out, however, the criminal justice system is a site of social relations and practices which operates by defining and isolating target populations for the purpose of making them vulnerable to resource extraction and dispossession. Risk assessments run the risk of easing this process by singling out the candidates who, due to their apparent high-risk level, are most suited for state observation, control, and dispossession. To complicate matters even further, since risk is thought to be determined though objective data-systems, the possibility of policing risk to reinforce racial and social orders is hidden from public view or discussion, making it difficult to hold anyone accountable for racial the biases that exist in the justice system. This is an obvious problem for marginalized communities, especially Black people because they continue to be the targets of police and state repression. Those committed to racial justice, whether they be academics, activists, or policy makers, must engage more meaningfully with the racialized component of risk and risk assessment moving forward if their goal is to produce a more just society.

In the sections that follow, I examine how the concept of risk is used in the criminal justice system with a particular focus on the impact that risk assessment has on Black populations.

Importantly, the process of risk assessment incorporates both discretionary and algorithmic determinations of risk. Considering this, I begin with a brief introduction into the practice of risk assessment and its evolution from a subjective to statistical process. I then discuss the political appeal of criminal risk assessment, detailing the key debates around the presumed objectivity and effectiveness of such systems. From there, I move into a quick discussion of the money bail system and the attempts to reform the pretrial detention process. Money bail, often referred to as cash bail, is one of the most common conditions for pretrial release and it often relies on the use of pretrial risk assessments to make recommendations on whether a defendant should be detained or released while waiting to stand trial. As is the case with other areas of the carceral system, pretrial detention and the money bail system tends to have disproportionate impacts Black defendants. The main takeaway from this section is that Black Americans are exposed to an uneven share of risk even when attempts to decrease racial inequalities have been taken. In the final section I draw connections between predicative and predatory policing to argue that risk assessment feeds into the larger structure of carceral governance by using technologies of public safety regulate minoritized populations.

Assessing Risk:

Risk assessments are mechanisms for identifying potential risks and they are often used to help make decisions around if and when governmental action is necessary. Broadly speaking, they attempt to answer five questions: (1) what can happen and why; (2) what are the consequences of the potential dangers; (3) what is the probability that danger will take place; (4) what factors can be used to reduce or mitigate risk; and (5) is the risk level tolerable or does it require intervention? The growth of big data has facilitated the possibility for risk to be assessed empirically on a much wider scale and to do so with a projection of objectively. The political appeal of using algorithmic

and probabilistic risk assessments is that they are believed to allow for the management of "institutional resources by *identifying in advance* events considered to be dangerous, costly, or otherwise undesirable" (Silver & Miller, 2002:138, emphasis added). In the context of the justice system more specifically, criminal risk assessments are used to predict the likelihood that a defendant will miss a court date or commit a crime while on bail, probation, or parole (Green, 2020) by analyze historical data to find patterns and correlations between specific risk factors or and arrest rates or conviction records to make this determination.

The use of criminal risk assessments has been on the rise in the United States with many jurisdictions opting to employ automated and algorithmic assessments to aid in the decision-making process at one point or another. For instance, between 2013 and 2017, the number of Americans living in jurisdictions with pretrial risk assessments increased from 10% of the population in 2013 to over 25% just four years later (Pretrial Justice Institute, 2017). The rapid rise in risk assessments follows the broader trend of predictive policing and the idea that prediction will lead to greater public safety. Criminal risk assessments are generally used to make decisions regarding pretrial detention, sentencing lengths and parole possibilities and although the justice system has always attempted to assess risk, today's tools are able to incorporate larger numbers of data than it has in the past (Green, 2020; Andrews & Bonta, 2007; Kehl, Guo & Kessler, 2017). Given that risk assessments are focused on stopping crime before it happens, they engage in anticipatory policing, they have a propensity to view detention as the default answer for stopping future harms (Green, 2020) because by removing the would-be criminal entirely, they cannot be a risk to public safety.

As critical criminologist and race scholars have pointed out, however, most prominent indicators of criminality are racially coded, which means that their use creates situations in which

Black people come to be overrepresented in jails and prisons (Harcourt, 2015; Alexander, 2012). Equally as important to the overvaluation of incarceration, risk assessments use aggregated data that is based on broader populations to inform police and court determinations of whether an individual is a flight risk or if they will act unlawfully when released from jail or while out on bail. This is important because not only does one's individual criminal history play a role in whether bail or jail will be imposed, but so too do the criminal histories of others with similar risk factors or life circumstances (Buskey and Woods, 2018). This being the case, risk assessments are more about assessing the risk level of particular populations than they are about assessing the individual. This suggests that risk scores do not actually provide information about how a specific person will act if released. Instead, they sort defendants into target populations based around risk with a specific score simply indicating what someone with a similar set of circumstances has done in the past. In otherwards, it does not predict how you will act, only that on average, someone like you has interacted with the justice system in a particular way at some point in the past. This algorithmic stereotyping is largely disregarded because of the belief that "criminals will criminal" and therefore if one is associated with criminality, it is because they too will commit crimes if given the opportunity or enough time.

The problem of lumping people into a population that is based on risk is that risk factors are unevenly distributed among the public and often highly correlated with race. Meaning that some populations, specifically poor Black populations, will be more adversely affected by risk assessment generalizations. Algorithmic and technology driven risk assessments have attracted greater attention in recent years following an increase in the stories warning of racist robots and their inability to distinguish Black faces, or the tendency for AI-generated images to oversexualized Black women when prompted to create images of Black girls (Noble, 2018).

Despite the recent attention, the uneven experience of technology and risk assessment has a long history in the United States. In the section that follows, I discuss the transition from subjective accounts of risk to contemporary algorithmic based risk assessment.

Risk Assessment Evolution:

Contemporary data-driven assessment tools share a common ancestry with past policing interventions, namely the idea that some people are more inclined to commit crimes than others. The goal, therefore, is to determine who those people are so that resources can be directed towards policing would-be criminals and not innocent Americans. The difference in approaches is that past determination of risk relied on subjective interpretations of uncertainty and danger whereas modern assessments use data to reach their conclusions about an individual's criminal risk level.

Throughout the early years of the twentieth century the assessment of risk was a subjective process with evaluations of a defendant's deservedness for freedom or incarceration relying on factors as ephemeral as "the look in the prisoner's eye", or the personal experiences that the evaluator shared with the defendant being evaluated (Solow-Niderman, Choi & Broeck, 2019). Subjective crime predictions continued to guide sentencing, bail, and parole decisions for much of the recent past and in many cases remains a staple of crime prevention. For instance, it is not uncommon for police officers to justify their action by saying that they needed to make quick and intuitive evaluations of risk to keep the public safe. These snap decisions tend not to be based in careful statistical analysis of risk, but rather often reflect the implicit biases of police officers and other street-level bureaucrats. For this reason, Green (2020) argues that subjective judgements of risk are likely to remain even when data is incorporated because "rather than removing discretion to create neutral and objective decision, risk assessments shift discretion toward other people and decision points" (2). The point here is that although the justice system has moved away from

exclusively using subjective crime prediction, individual discretion continues to play a role in how crime and risk are assessed even as law enforcement moves towards a greater emphasis on statistical analysis.

The subjective risk assessments that dominated the criminal justice system in the first half of the twentieth century were replaced by second generation assessment instruments beginning in the 1960s and 1970s. This shift from subjective to statistical coincided with the Civil Rights Movement and the movement's success in showcasing the rampant anti-Blackness of crime prevention and policing tactics. The response to the critique that subjectivity lead to racial discrimination in policing was a datafication of public safety (Solow-Niderman, Choi & Broeck, 2019) which attempted to "assign a quantitative risk score to an offender by assessing unalterable (e.g., static) individual factors (i.e., history of substance abuse and age at first offense) that have been statistically linked to the risk of recidivism" (Hannah-Moffat, 2013:274). Second generation risk assessment began with the *Burgess Method* developed by Sociologist Ernest Burgess with the hope that utilizing an actuarial approach to risk assessment will help the Illinois Parole Board predict the success or failure of inmates on parole. Though a rudimentary scoring system the Burgess Method kickstarted the practice of using actuarial risk assessment to predict criminal behavior.

Third generation risk assessments followed the path set by second generation tools but began incorporating dynamic risk factors, such as educational status or employment, into the evaluative process. Dynamic risk factors are thought to be changeable and so a good assessment of risk will try and locate the dynamic factors that push people towards crime so an intervention plan that addressing those factors can be designed and implemented. Fourth generation assessments evolved out of this logic but placed and even greater emphasis on evaluating the

individual needs of the offender (i.e. do they need help with substance abuse, are they unhoused?) to craft a response that is fitted to their individual needs. Fifth generation assessments are working their way into the justice system as we speak, and these new systems incorporate machine learning to provide up-to-date predictions around crime (Garrett & Monahan, 2020). Though relatively new, there is a growing body of research that is seeking to understand how artificial intelligence (AI) and machine learning are impacting the criminal justice system. Notwithstanding the transition from subjective predictions of criminal behavior to the data-systems that drive risk assessment today, civil rights, digital justice and community organization including the NAACP, the ACLU, the Movement for Black Lives and Data for Black Lives have strenuously objected to the claim that predictive and actuarial methods have the ability to make race-neutral decision of justice. Unfortunately, the debate continues even in the face of growing literature on the racially biased and discriminatory outcomes of statistical assessments of risk.

Risk Assessment: (Un)Biased Predictions?

In 2020 the Pretrial Justice Institute (PJI) reversed its position on pretrial risk assessments in the justice system, stating that the organization could no longer support the practice because the tools cannot accurately predict the behavior of those who are released pretrial. Instead, they reasoned, risk assessments "simply add a veneer of scientific objectivity and mathematical precision to what are very weak guesses about the future, based on information gathered from within a structurally racist and unequal system of law, policy, and practice (Pretrial Justice Institute, 2020). PJI's change in heart echoes other critics of pretrial risk assessments who argue that risk assessment instruments are inaccurate; target Black Americans and other marginalized persons; and that when used they serve only to exacerbate racial disparities in the legal system (Angwin et al., 2016; Barabas et al., 2019; Clayton, 2020; Pretrial Justice Institute, 2020).

These accusations are not without pushback, however. Advocates of data-driven-risk systems like pretrial risk assessments argue that the statistical prediction of future behavior is more accurate than human judgments alone (Andrews et al., 2007; Grove, Zald, Lebow, Snitz, & Nelson, 2000). This has especially been the case when it comes to predicting violent criminal behavior (Ægisdóttir et al., 2006; Grove et al., 2000; Grove & Meehl, 1996; Hilton et al., 2006; Meehl, 1954; Jung et al., 2020; Lin et al., 2020). In an analysis of several studies around risk and recidivism, Desmarais, Johnson and Singh (2016) found that there was "overwhelming evidence" that the predictive accuracy risk assessment instruments were superior when compared to the predictive accuracy of human judgement (Brennan, Dieterich, & Ehret, 2009; Desmarais et al., 2016).

However, despite their importance, there does not appear to be a consensus on how beneficial contemporary risk assessments are at handing crime nor is there clear evidence that they reduce racial bias in the criminal justice system. Advocates, for one, continue to call for their use claiming that risk assessments will promote neutrality and fairness through the removal of the implicit biases of individual decision makers (i.e., judges and prosecutors) whose human subjectivity is replaced with scientific objectivity (Harcourt, 2007; Harcourt, 2015). Whereas opponents on the other hand, argue that risk assessments cannot accurately predict future behavior because they rely on static and often racialized dataset that cannot account for the legacy of racial discrimination in the policing system. As a result, risk assessments are likely to deepen racial inequalities in the carceral system.

This concern is not unfounded as was shown in 2016 when ProPublica published an investigative report chronicling the effects of the assessment tool COMPAS as it was used in Broward County, Florida. The report found that not only was the assessment "remarkably

unreliable in forecasting violent crime", but it was also racially biased against Black Americans (Angwin et. al, 2016). For example, when forecasting who would reoffend, COMPAS incorrectly labeled both Black and white defendants, but it did so in opposing ways. Black defendants were incorrectly label as high-risk for reoffending at nearly twice the rate of whites. White defendants, on the other hand, were far more likely to be incorrectly labeled low risk when compared to their Black counterparts (Angwin et. al, 2016).

ProPublica's report is illustrative because it suggests that the risk assessment was actually helping produce the conditions that leads to an overrepresentation of Black people in the criminal system while simultaneously underestimating the number of white people who were risks to public safety. To put it another way, COMPAS was not accurately predicting who would commit crimes in the future, but it was providing both evidence and a justification for punishing Black people more harshly since it predicted that they were likely to engage in criminal behavior if released form police custody.

The finding that risk assessments may produce racial inequalities was not an epistemic outlier. As early as 2007, Bernard Harcourt was warning that predictive analysis can have a disproportionate effect on racialized populations. As he put it, "the fact is, risk today has collapsed into prior criminal history, and prior criminal history has become a proxy for race" (2007:237). In particular, Harcourt argues against the actuarial shift in the criminal justice system because predictive risk assessments do not reduce crime but instead tend to produce racially distorted carceral populations by overinflating the criminality racial minorities. This is precisely what happened with the use of COMPAS in Broward County, Florida. Moreover, using risk assessments a justification for the inflated number of incarcerated Black persons biases societal conceptions of fairness, justice, and punishment because the supposed objectivity of risk assessment primes the

public into believing that only those who are truly risky to public safety will be singled out and punished by assessment tools.

The same year that ProPublica published its report on COMPAS, Cathy O'Neil (2017) was arguing that mathematical models which use data to predict human behavior such as like COMPAS and other risk assessment systems, ultimately fuel racism, social inequality, and structural violence because past injustices come to be codified within the statistical models. O'Neil does not see these systems as aids to public safety, but rather as *weapons of math destruction* (WMD) in which these use data prolong, and you might say deepen and intensify, existing social inequalities. Recent work in critical race and data studies has supported this claim as well as O'Neil's assertion that WMDs do not simply predict the future but generate it as well (Eubanks, 2017; Noble, 2018; Benjamin, 2019). The reason, according to O'Neil, is that WMDs cannot imagine a future that is not informed by the historical data that is fed into them. This is the problem of using the past to predict the future, because injustices from long ago spillover into the present and future moments. The spillover effect of past wrongs is vital when trying to understand how it is that Black people continue to be overrepresented in the criminal justice system. Racial disparities in the face of such biased objectivity does not compute within the dominant understanding of data which believes data and the assessments that use data are racially neutral representants of reality. From this perspective, any difference between whites and nonwhites come down to individual failures or the culture of poverty and criminality that is thought to infiltrate Black communities. At least that is the assumption.

The problem, of course, is that Black people have been criminalized throughout American history and the lingering effect of such criminalization is lost among the public. Forgetting the trauma and repeated racial violence and terrorism that has been inflicted on racial minorities is a

central and necessary component of the criminal justice system because it grants racism the opportunity to continue to direct the carceral state even when using supposedly race neutral tools like risk assessments. Moreover, the selective incapacitation of only the truly dangerous presumes that most of the crime will be committed by a small number of people, and thus a majority of institutional efforts ought to be centered on reducing crime by predicting where crime will occur and by whom, in order to lock up that small criminal population (Greenwood & Abrahamse, 1982).

As Harcourt (2015) has previously argued, risk is a proxy for race and so it can reasonably be suspected that "using risk-assessment tools is going to significantly exacerbate the unacceptable racial disparities in our criminal justice system" (237). Harcourt correctly points out the problems that risk assessment present for minority populations, but this recognition only takes us part of the way in understanding the racial politics of risk and risk assessment. Risk, like race, is socially constructed and thus must contend with power imbalances, social hierarchies, and moments of contestation. Risk assessment tools give legitimacy to racial inequities in the criminal justice system because they can "objectively" tie criminal risk actions and seemingly arbitrary life circumstances, despite those circumstances being anything but arbitrary.

But, Where The Money At?

In a money bail system, defendants are required to pay a fee to the court as a guarantee that they are not flight risks and that they will be present for a future court hearing. Being offered bail is not a given, but for most low-level charges, bail will be granted, and this is done in an effort to keep jails and prisons from overcrowding. When bail is offered by the court, defendants are left with three choices; (1) pay the full amount due either out of their own pocket or by a loved one; (2) secure a bail bond from a private lender if they do not personally have the funds to cover the cost; or (3) pay nothing and remain behind bars until the charges are dropped or they are found

innocent of the crime (The Marshall Project, 2020). Even with the quickest of glances it is easy to see that the poorest Americans will be least able to avoid detention due to the general lack of disposable income. Data on crime and income supports this normative assumption. For instance, the median bail amount hoovers around $10,000 (Sawyer, 2019), which is a problem for most people because the majority of Americans cannot cover emergency expenses over $400 (Federal Reserve Board, 2023) at any given time. The result is a huge number of low-income defendants are essentially forced to choose between staying in jail, draining their or their family's bank accounts or taking on debt from high-cost lenders to finance their freedom. To make matters worse, this is all before they have even been convicted of a crime. Although bail payments are refunded if the defendant is found not guilty or if the charges are dropped, the requirement of a payment on the front end of the criminal justice system is a serious impediment for poor and working class Black defendants because it means either spending time behind bars when it may not be necessary or paying money that they do not have to avoid detention.

These limited options weigh heavy on low-income individuals in general, but the weight is especially crushing for Black families who bear the brunt of the American policing system. Black Americans are more likely to be stopped, searched, arrested, and incarcerated and this is largely due to the reality that Black people are most at risk for living in depressed and overpoliced environments, making it more likely that one's partner, sibling, parent, or friend will be involved with the prison system. It is not surprising to learn therefore, that nearly half (43%) of those in jail awaiting trial are African Americans, with young Black men being those who are most at risk for enduring pre-trial detention (Sawyer, 2019). But these racial inequalities do not stop at the beginning of the carceral timeline because although bail amounts vary from court to court and from case to case, Blacks are often charged twice as much as whites facing similar charges (Rabuy

and Kopf, 2016). In real dollars and cents, this means that on average, Black defendants are required to pay roughly $7,300 more than their white counterparts for the same charge (Arnold, Dobbie, and Yang, 2018). This means that Black people face a higher risk of pretrial incarceration not only because of Black communities are over policed and therefore tend to interact with the police state more often, but also because the higher fees they receive increases the risk that they will be unable to pay for their freedom.

The problem of the money bail system extends beyond the fact that Black people are detained at higher rates or that their bail is more costly. The point here is that even when release is an option, the barrier to freedom is far higher for most African Americans. Ironically, the very system that was designed to free up space in jails and prisons, ultimately guarantees that a disproportionate number of the spots behind bars will be reserved for marginalized Americans, namely low-income Black people. This is an example of the risk shift which directs harms and dangers away from advantaged target populations, such as white Americans, and towards deviant and disadvantaged target populations like African Americans.

The costs associated with the money bail system leads to negative financial, physical, and even temporal consequences for pretrial detainees. It is financially burdensome because defendants and their families either must pay out of pocket or take on a loan to cover the cost of freedom. As is the case with mortgage lending (chapter two), Black people are generally considered too risky in the eyes of lending institutions, and for this reason, Black defendants in need of financial support are often funneled toward private bail lenders who exploit their position as the only game in town to charge high, some might say predatory, rates and fees. This reliance on for-profit bail bondsmen to fill the gaps of the perceived risk of African Americans effectively traps poor Black people in a cycle of debt, poverty, and incarceration.

The bail system also comes with physical consequences because being incarcerated, even for a short period of time, means being subjected to the cruelties and violence associated with life behind bars. This includes a greater risk for physical and emotional violence, depression, anxiety, and other mental health problem. Since pretrial detainees have not been sentenced the amount of time spent that they can spend in detention is often unknown with the average person spending 26 days waiting to stand trial (Human Impact Partners, 2020). Like the financial burdens of pretrial detention, the physical toll of incarceration has a disparate impact on Black communities.

Lastly, the money bail system impacts the temporal realities of those who are incarcerated because the individual misses out on the time that they could be spending with family and friends, at work or school and perhaps most importantly, preparing for their case. The injustice of the temporal cost of pretrial detention is that not only do poor people miss out on freedom in the present moment, but the consequences of time behind bars bleeds into the outside world and is experienced as a heightened risk of losing one's job, failing out of school, getting kicked out of one's home and even death. We cannot forget that Sandra Bland was murdered while in jail as she waited to stand before a judge simply because she could not afford to pay the $500 that was needed to post bail. Had she been able to pay out of pocket, or have a friend cover the cost, or even be able to access a bail bondsman, it is possible that she would still be alive today. The fact of the matter is that she and countless other Black Americans could not get around the high cost of freedom, which is a problem that exists throughout the United States.

The disparities of the money bail system have profound effects on minoritized populations, and these effects are felt inside and outside of the jail gates. The purpose of the bail system is to allow those who are considered low risk to be able to go home while they await trial. But being low risk is not enough to secure one's freedom because there is a financial barrier that most poor

people in the United States have difficulty overcoming. The point here is that the money bail system puts Black people at risk for physical, emotional, and financial harm because they are already at risk to being arrested, incarcerated, and living in poverty.

The precarity of one's environment and life chances are anything but arbitrary. Race plays a critical role in how risk is defined, regulated, and policed and so the presumption that risk exists outside of the influence of racial logics or that race is not saturated with unequal access to risk deepens the very same inequalities that risk assessments are believed to prevent. And in the end, it gives space for the preemptive policing of Black people, not for what they have done but for what they are thought to inevitably do. Risk is always forward looking and for a disproportionate share of Black American that future is going to include the presence of law enforcement, not necessarily because they will commit crimes, but because they are expected to; a reality that seems to have remained even in the face of reforms to the criminal justice system as the following section discusses.

Bail Reform: The Politics Of The Bail Reform Act

At the height of the Civil Rights Movement, Congress passed the 1966 Bail Reform Act (BRA) which granted defendants the statutory right of pretrial release without being required to pay a monetary fine. Just before signing the legislation into law, President Lyndon B. Johnson remarked that the bill was necessary because although defendants with means are able to await their trial in the comfort of their own home, the poor defendant "languishes in jail weeks, months, and perhaps even years before trial. He does not stay in jail because he is guilty… He does not stay in jail because he is any more likely to flee before trial. He stays in jail for one reason only—he is in jail because he is poor" (Smith, 2018).

President Johnson's statement made a clear connection between economic inequality and racial disparities in the criminal justice system, and although these words were uttered nearly 70 years ago, they are just as true today as they were in the past. Access to wealth continues to be an impediment for many Americans because of the pretrial and money bail system. As a recent study by the Prison Policy Initiative found, of the roughly 469,000 people who spend time behind bars on any given day in the United States, 70-80% of those have not been convicted of a crime (Sawyer & Wagner, 2024). Instead, most people in jail are there because they cannot afford to pay their bail requirement.

The cost of freedom continues to be a high bar for many poor and working-class Americans because the 1966 Bail Reform Act (BRA) was unable to weather the storm of rising concerns over crime and the growing support for the tough-on-crime movement, both of which occurred in response to the Civil Rights Movement of the 1960s. By the 1980s, public anxieties over drugs and criminality boiled over, compelling Congress to repeal the BRA of 1966 and replace it with the revamped Bail Reform Act of 1984. Unlike its predecessor, the 1984 Act granted judges the discretion to impose pretrial detention on defendants when they posed a concern about public safety (Smith, 2018). To put it in the language of risk, the updated BRA permitted pretrial detention in cases when the defendant was perceived to be a danger or risk to public safety. President Ronald Reagan strikes a completely different tone than his fellow Commander in Chief Lyndon B. Johnson, while remarking on the new BRA, stating that the law was needed to prevent dangerous criminals from "returning to the street to prey once again on innocent citizens" (Kalhous & Meringolo, 2012). President Reagan's remarks signified a change in the public's approach to bail reform as it signaled a shift away from its past attempts to expand rights for poor Americans

accused of a crime and towards an approach to public safety that was centered on preemptively punishing the unsafe.

Three short years after the BRA of 1984 was passed the Supreme Court strengthened its constitutionality when it ruled in *United States v. Salerno (1987)* that an arrestee could be held in pretrial detention so long as the government proves that the individual is a danger to society (Eason, 1988). The "dangerousness" loophole of the Salerno decision does a lot of the heavy lifting for how risk and risk assessment can reinforce racial inequalities because the process for determining who or what actions are dangerous is an open-ended question. For many state and local courts, the answer could be found through more systematic and algorithmic risk assessments. This was especially appealing since the success of the Civil Rights Movement pushed blatant displays of racism and bigotry out of favor. But as discussed previously, assessment tools are not necessarily objective representations of danger and risk but instead often represent what is has been socially constructed as risky by those in power. In the face of this ambiguity, racial minorities are disproportionately subjected to anticipatory policing actions because the factors used to determine risk such as one's neighborhood, education level, employment, and criminal histories have become signifiers for race with race becoming a signifier of risk and danger (Harcourt, 2015).

The anticipatory policing that is produced through risk assessment is an individual and collective problem for those who have been socially and politically constructed as risky, or in the words of Schneider and Ingram (1993) those who have been constructed as deviant**.** Deviants are left unprotected from preemptive and exploitative policing practices, and this is because "there are strong pressures for public officials to provide beneficial policy to powerful, positively constructed target populations and to devise punitive, punishment-oriented policy for negatively constructed groups" (Schneider & Ingram, 1993:334). Pretrial detention based on dangerousness is an

extension of a broader orientation towards carceral governance because it seems to be less concerned with ensuring that a defendant shows up for court and more about punishing those believed to be deviant risks to the public.

Group association is key in the racialization of risk because it suggests that risk assessments are not simply judging one's risk level based on their own characteristics or particularities, but rather they are assessing a defendant based on their association with a larger and likely racialized group. Connection to a deviant group will be reflected in a risk score. This is why risk assessments like COMPAS were able to incorrectly label Black defendants as high risk far more often than it did with whites because Blacks are already and always socially deviant and therefore more susceptible to being labeled high-risk even when they should not have been. White Americans on the other hand, are the advantaged class and therefore probably low risk. The result of this construction of group-based risk is a ratcheting up of inequality which sees risk assessment harm not only the individual who is preemptively detained, but the community as a whole is penalized through the loss of a father, sister, auntie, employee, and others, even if their removal is only temporary.

This ratcheting up of risk from the individual to the community contributes to the already established association between Blackness and criminality within public imagination (Harcourt, 2015). The combination of Black people having already been constructed as deviant mixed with the general belief of the objectivity in data and technology justifies the anticipatory policing of Black spaces. But it also opens a space for other punitive mechanism of carceral governance to take place as well. As discussed below, predatory policing practices occur, at least in part, because predictive risk assessment directs law enforcement towards Black neighborhoods behind the

assumption that that is where crime happens. Once there, police officers can prey upon and financially exploit the eventual criminals that make up the apparently high-risk community.

Predictive Policing: Techno Public Safety

The American legal system has largely been centered around protecting public safety and it has used a combination of technology and brute force to squash perceived threats to the public. This emphasis on safety is helped by predicative policing technologies, which in theory make it easier for law enforcement to root out potential hazards, surveil dangerous people, and police those who have been deemed risky (Browne, 2015). Far from being tools of liberation, technologies of public safety have made Black populations unsafe.

It is no surprise, therefore, that the criminal justice system has taken an increasingly technocratic approach to the problem of mass incarceration in the United States. Facial recognition systems, DNA sampling, police surveillance drones, license plate readers (LPR) and other new wave technologies are being implemented across the country to help in the advancement of public safety. Police body cameras are perhaps the most well-known examples of technological policing and are largely supported by the public (Clare et al., 2019; Crow et al., 2017; Culhane et al., 2016; Owens & Finn, 2018; White et al., 2017), despite their inability to reduce police misconduct (Yokum, Ravishankar & Coppock, 2017; Lum, Koper, Wilson et al., 2020).

Technologies of public safety make Black people less safe. During the summer of 2020, the LAPD requested that Amazon grant them access to Ring recordings that may have captured Black Lives Matter protests. The goal of the Los Angeles Police Department (LAPD) was to investigate supposed anti-police violence in the hopes of stopping it from happening in the future (Guariglia and Maass, 2021). Although Ring cameras are sold as at-home surveillance systems that are intended to protect individual homes, the LAPD was attempting to deputize the

surveillance technology to police Black movements. Similarly, just up I-5, the San Francisco Police Department (SFPD) often used private surveillance cameras to monitor Black protests by using the Union Square Business Improvement District's camera network to view real-time footage of BLM protest (Maass and Guariglia, 2020). In both case technology was used to police Black people and their actions under the premise of public safety. Surveillance systems pose serious privacy concerns to all Americans, but it is especially so for Black Americans who are disproportionally the object of state observation. But aside from the obvious privacy concerns, the increased use of surveillance tech to control Black life transform technological public safety, like the at-home surveillance systems, into actual risks that threaten the safety of Black people.

It is evident that neither policing nor technology is natural and neutral. They are instead the product of human action and subjectivity, and therefore cannot escape the sociopolitical dynamics of the times in which they are created or exist. Pretrial risk assessments keep poor Black American in jail unnecessarily, thereby exposing them the harms of incarceration. In these cases, and others, the belief that when, where and by whom crime can be predicted produces a type of governances that functions to control Black and marginalized people.

It is within the imagined *techno-utopia* (Neills, 2013) built around predictive safety that we can situate the broader use of risk assessment in the carceral system. Risk assessments come in a variety of forms, but the overall goal of these tools is to forecast the likelihood that an individual will engage in criminality or will otherwise be risk to the public. For risk assessments and other tools of public safety, the purpose of the criminal justice system is less about rehabilitating those who have been or might be incarcerated and more about punishing those who commit criminal acts. Data and technological systems do the work of singling out the dangerous, removing the antisocial and surveilling the risky. The criminalization of Black people and Black spaces has

conditioned the public to view Blackness as risks to society in need of policing. With this as its guiding principle, is it any wonder why safety technologies single out Black Americans for brutalization or exploitation? The answer of course is no. The fact that there are racial disparities in the outcomes of risk assessment or predictive policing practices is neither a coincidence nor a signal that there is a glitch in the system (Benjamin, 2019). The systems are working exactly as intended.

Conclusion:

According to Buskey and Woods (2018), predictive risk assessments do in fact predict behavior, but it is the behavior of law enforcement and not the defendant that is predicted. The reason, they suggest, risk scores are actually reflections of the probability that an officer will make an arrest and not the probably that a particular person will commit a crime. From this perspective, risk assessment falls within the prevue of what Roberts (2018) refers to as the digitized carceral state in which law enforcement uses data and algorithms to regulate, surveil and punish poor and minority population. Predictive tools push law enforcement in to particular communities with the expectation that that is where the crime happens. Armed with this criminal expectation, police officers act accordingly and finds crime and, if necessary, creates criminal.

Risk assessments, therefore, seem to quantify the capacity of the state to enact violence on marginalized populations not the criminality of those who make up the population. Digital forecasting through risk assessment is the enactment of a punitive risk governance in which digital systems become necessary in the structuring and maintenance of an unjust racial and class hierarchy (Roberts, 2018). Racial disparities, however, are hidden from view not only because criminality is racialized as an attribute of Black people that will inevitably manifest through their actions but also because there is a presumption that data is an objective representation of reality.

It is clear that the assessment of risk, subjective and statistical, play an integral role in public safety in the United States and the boom in data analysis has only expanded that role.

The concept of risk and the use of risk assessments to predict criminal behavior are important components in the continued oppression of Black people in the United States. By lending support to the long-held belief that African Americans are risks in need of state control, risk assessment allows for a type of preemptive and anticipatory policing of Black bodies and are increasingly being facilitated by using technology to single out supposedly risky people and environments. Even new attempts to remedy racially discriminatory policing practices like reforms to the money bail system fail to account for the imbalanced impact that risk has on Black people. The loophole of threats to public safety coupled with the political points that are scored when politicians take hardline law and order stances means that risk remains an impediment to racial equality under the banner of public safety and information driven carceral governance. In the end, the policing of risk produces the anticipatory policing of Black and poor people because they remain constructed as deviants who are in need of control and regulation.

"Our society ensures that large numbers of people, in the United States and out of it, will be simultaneously put at risk for disease and denied access to care. In fact, the spectacular successes of biomedicine [technologies] have in many instances further entrenched medical inequalities."

---- Paul Farmer, 2001

CHAPTER 4 – INSURING RACE

Introduction:

The modern insurance market developed alongside the American racial state and this mutual growth has produced a political and economic system that has centered around the valuation of Black lives. This is not to say that African Americans have been highly regarded as human beings who are worthy of political or moral considerations in their own right. Instead, it has meant that the value of Black people and other nonwhites has been linked to the profit that they produce for a racialized political economy. Evidenced clearly in the dispossession of indigenous land, the system of chattel slavery, forced prison labor, convict leasing, sharecropping and the disproportionate number of minorities that are funneled into low-wage and domestic occupations.

The devaluation of nonwhites has spurred economic possibilities in capitalist systems by producing a class of people whose labor can be repeatedly exploited and lives dispossessed. This certainly was the case for the United States during its infancy and remains the case in contemporary America which uses the terms of inclusion and multiculturalism to, in the words of Jodi Melamed "value and devalue forms of humanity differentially to fit the needs of the reigning state-capital order" (2015:77). The reigning order within the United States being, of course, white supremacy.

The ability to extract value from nonwhites, and in particular Black bodies, is a fundamental aspect of racial capitalism and it operates behind the circular logic that the economic

Black people shares and inverse relationship with Black social value; as the social value of Blackness diminishes, the economic value of Black people goes up (Cephas, 2022). This process is unavoidably and always a violent social practice that is enacted through the uneven and unjust distribution of physical harm, economic and political exploitation, disease, and premature death (Kleinman, 2000). Black people are at risk for social violence because anti-Black racism enshrines the unequal demarcations of human value that are necessary for capitalism to function (Melamed, 2015). Melamed's concept of *antirelatonality* is instructive here because it calls attention to the reality that racism is built upon the dehumanization of nonwhites for the purpose of exploitation. Black peoples' vulnerability to the violence of exploitation is predicated on the degree to which they can be made into objects because to extract value from Black people, they must be separated from their humanity. African Americans are always at risk for violence because anti-Black violence is central to the economic system. Nowhere has this been more evident than in during slavery which existed through a patristic relationship between those who can extract value (whites) and those who produce value to be extracted by others (enslaved Black folk).

The important thing to note here is that the dehumanization of Black people is necessary in the attempt to protect against economic risks. Risk is intrinsic to capitalism because the risk for financial losses always present. Prudent capitalist attempts to protect against loss by shifting those burdens onto others. Insurance allows for risks to be pooled or shared by a larger population, thereby minimizing the risk to the individual. Stated another way, insurance transfers risk from a smaller population to a larger one and if not done in a racially conscious way, it provides an opportunity for risk to be pushed onto those in the racial undercaste. This was certainly the case in the United States.

From Slave Insurance to Life Insurance: Making an Industry

The life insurance market can trace its lineage back to the transatlantic slave trade which saw roughly four million enslaved Black Africans transported to the United States in chains. Unsafe living conditions coupled with a lack of access to basic nourishment and bodily care resulted in an extremely high Black mortality rate with an estimated 15% of the enslaved cargo dying while at sea (Mancke and Shammas, 2005). The dangers of the Middle Passage were intensified at the hands of the white racists who controlled the movement of enslaved people through physical violence and torture all of which further exposed Blacks to the risk of mortality. Given the harshness of the trip and the economic risk that slavers faced should something bad happen to the stolen captives, slave traders and the companies that owned the ships began looking for ways to mitigate the possibility that their human property would expire before reaching the New World. Their solution was a reliance on a form of maritime insurance which centered around securing the lives of enslaved property while at sea. In particular, maritime insurance functioned under the premise that enslaved Africans were classified as cargo and this allowed them to be claimed under insurance policies (Oldham, 2007).

Disputes about what was and what was not covered were adjudicated by the courts with the most notorious case being that of *Gregson vs. Gilbert (1783)* which was an insurance claim dispute that centered on the British slave ship *Zong* as it made its way from Liverpool to Jamaica. In November of 1781, Zong set sail carrying 470 enslaved Africans and although the trip was supposed to last between six to nine weeks, a series of navigational mistakes caused the ship to overshoot its destination, stretching the trip to nearly four months in total (Philip, 2008). As the voyage stretched on, concerns about the viability of completing the trip with at least *some* sellable property grew.

Ship captain Luke Collingwood feared that the owners of the ship would take the hit if slaves were to die while on board, however, if they were "thrown alive into the sea, it would be the loss of the underwriters" instead (Great Britain Parliament, 1806). And that is precisely what he did by ordering his crew to jettison some of the ship's cargo which equated to the crew throwing as few as 132 (Walvin, 2011) but as many as 150 (Philip, 2008) enslaved Africans overboard to lighten the load. Jettisoning cargo, even when human, was a common practice in maritime trade. And given that the transatlantic salve trade hinged on defining Black people as cargo, the reality that killing Africans may be necessary to fend off financial loss was more or less an open secret. It was not surprising therefore, that the William Gregson slave-trading syndicate, which owned and operated the Zong ship, argued in court that the massacre of upwards of 150 Black Africans was necessary because it ensured the completion of the trip and therefore protected against total loss. From Gregson's point of view, the insurance claim of £30 per head must be paid out since it was common knowledge that sometimes mass killings were financially necessary. As John Wesket pointed out:

> *"the insurer takes upon himself the risk of the loss, capture, and death of slaves, or any other unavoidable accident to them: but natural death is always understood to be excepted: – by natural death is meant, not only when it happens by disease or sickness, but also when the captive destroys himself though despair, which often happens: but when slaves are killed, or thrown into the sea in order to quell an insurrection on their part, then the insurers must answer"* (Cartaya, 2017:525).

In short, there were times when Black people simply had to die or be sacrificed in order to protect the financial investment in the transatlantic slave trade.

Interestingly, enslaved Blacks existed in an odd and perhaps liminal space in which they were not quite human since they were property, but they were just human enough that they posed a significant risk to the viability of the voyage because there was always the possibility that the enslaved would take their own life. Or more worrisome, slavers feared that enslaved Blacks would rise up and rebel against their captors. The risk of rebellion and the possibility that fatal violence may be necessary to stop the threat pushed many early maritime insurance policies to carry with them "insurrection coverage" to protect slavers should they need to kill Black property to put down a Black rebellion. Insurrection coverage essentially distinguished between acceptable deaths and needless murder because when the enslaved were killed in the attempt to stop a rebellion, that loss of life was deemed necessary to protect the ship from unnecessary losses (Walvin, 2011). Negligence, or simply killing the Black people for the fun of it was not covered under these or other insurance policies. Although Gregson was initially successful, the company eventually lost its case on appeal after new evidence was discovered that the crew was at fault for the navigational mistakes (Walvin, 2011).

It is important to note, however, that the case was neither about the brutality of the slave trade nor was it about the sheer inhumanity of enslaving human beings. Rather, the case was addressing the question of whether or not the crew needlessly destroyed company property or if the crew had done so fraudulently. The implication here is that the loss of Black life was to be expected and was, in fact, acceptable up to a certain point. The Zong incident highlights how the value of Black people was predicated on the economic value that they held within the capitalist system as well as what whites could extract from them. Moreover, the risk of death that Blacks experienced was treated as an economic risk that threatened the economic life of white capitalists rather than being a risk of physical harm that befell enslaved Black people. Risk was defined along

racial lines which not only disregarded the risk of harm to Black folk but put Blacks at risk for harm so long as that harm was needed to decrease financial risks to white slavers.

While shocking, the Zong massacre was not a unique experience. Enslaved Blacks often had their deaths secured through a mixture of property and life insurance policies. Zong is spectacular however, because it shows how insurance practices and insurance policies began as a tool of racial oppression and economic exploitation. As the next section details, slave insurance continued to play a role in the development of the modern life insurance market in the United States even after the formal ending of chattel slavery.

Up From Slavery: Insuring Life & Property

Speculating on the value of an individual's life was a radical concept into the 1800s. Nevertheless, assessing human life through the lens of risk has been a common occurrence. The earliest form of life insurance practices consisted of rudimentary gambling game such as placing bets on the life changes of periphery peoples, the mortality of members from the aristocracy or the outcomes of capital punishment cases (Clark, 1999). The British Gambling Act of 1774 (also known as the Assurance Act of 1774) outlawed speculating on the lives of others except in cases where the person insuring has "an interest in the life or death" of the person being insured (Sealy and Hooley, 2008). This Act stipulated that only those who had a vested interest in the life or death of the insured person could legally take out an insurance policy on another person. This effectively barred people from taking out policies on free persons but it did nothing to prevent people from insuring the lives of enslaved people (Ralph, 2018). Slave insurance rose in popularity in the United States in the decades following the criminalization of slave trade in 1808. Looking for a new stream of revenue, slavers figured out they could repeatedly loan their enslaved property to

others. This was a risky proposition, however, and slave insurance policies were used to reduce this risk.

Though initially leery to the idea of placing a monetary value on one's life, white Americans began taking out life insurance policies to help cover the cost of their burials once they died. Policies covering free citizens were valued by using life tables, which calculated the average lifespan of a person against their life risks, which included their employment status, age, physical condition and even the state in which they lived. Life tables, sometimes called mortality tables, were early actuarial risk assessment tools used to gage one's life expectancy. Life tables engage in the forensics of capital (Ralph 2018) since they take a scientific approach to determining the cause of death and who is at fault. Life tables were reserved for free citizens, the policies that covered enslaved Blacks on the other hand, did not use mortality tables since slaves were legally considered property (Ralph, 2018).

Independent of the legal status of the insured person, life insurance policies were used to protect against potential losses that resulted from a fatal accident, or some other hazardous circumstance. The main difference between the two was where the security fell; free whites could expect some form of protection under life insurance policies, while enslaved Blacks could not. Instead, the securitization of a slave's life was reserved for their white owners. This distinction is important because it speaks to the problem of racialized risk within the life insurance industry, mainly the problem that it was Black people who took on the risk of physical harm which allowed the capitalist class to profit from slave labor but be protected from death.

According to Ralph (2018), the rise of insuring against death was critical to capitalism because it framed, organized, and structured individual productive potential which is necessary for growth within capitalist societies. Under the framework of racial capitalism, we can see how the

early and racially distinct forms of life insurance ensured that those who's production was most expropriated was that of enslaved Black people. Here we see clearly how the value of Black people was tethered to their productive capacity which ensured that value could be extracted from even in death. The specific risks that enslaved Blacks faced was not heavily discussed in most studies of life insurance throughout the nineteenth century. Most of the attention was placed on why insurance companies were reluctant to secure enslaved property or how slave insurance differed from life insurance for free whites.

Slave insurance was widely used throughout the South and ticked up dramatically in the three decades leading up to the Civil War as labor costs increased and as tobacco profits started to fall. Industrialization in Northern States opened a new avenue for profit for Southern slavers who began leasing out enslaved laborers to Northern factories. This was especially the case when there was a need for workers to complete particularly dangerous tasks such as iron manufacturing, on steamboats, and railroad construction. Work in industrial coal mines was particularly dangerous and many Northern coal companies turned to slave labor to prop up the industry. Mining was not only risky to the capitalists who owned the mines and the profit that was produced, but for enslaved workers as well who risked inhaling poisonous gas and succumbing to accidental death. Industrialists and slavers using insurance to protect their Black investments was so commonplace that enslaved coal miners rarely entered the depths of the mine without first being insured. Regardless the situation, racial status dictated the type of relationship one could have with risk and insurance policies. Slave insurance was a crucial component of the industrial economy which ultimately was a mechanism of racialized and capitalist domination because it ensured the risk was a one-way street which flowed away from white slavers and towards subjugated Black peoples.

Historians note that white Americans began using life insurance during the 1840s as industrialization pushed scores of Americans from rural homestead to urban cities as they searched for greater employment opportunities. The rise of industrialization coincided with a diminishing belief that the church was the primary arbiter charged with judging commercial matters (Ralph, 2018). By the 1840s the number of enslaved people that were insured paralleled that of free white workers with both parties regularly being insured by the same companies. A number of these companies still exist today such as American International Group (AIG) and New York Life Insurance Company. The market for slave insurance was robust, however, and included other companies such as Aetna, Baltimore Life Insurance Company, North Carolina Mutual, the Mutual Benefit Life and Fire of Louisiana, Greensboro Mutual Life, and the Virginia Life Insurance Company. All of these companies had their hands in the slave insurance market to some degree or another and each one profited from the suffering of enslaved Blacks who were largely unprotected from risk and harm.

Black Americans became the beneficiaries of life insurance policies for a short period after the Civil War when a small number of mostly Black insurance firms started selling policies to newly freed Black citizens. This was not done out of some benevolent desire for racial equality but because there was a gap in the market that could be exploited. Insurance companies had substantiated the claim that Black Americans were higher risks than non-Blacks largely because Black people tended to work jobs that were exceedingly risky. The precarity of Black life made them prime candidates to be exploited within the insurance market through predatory insurance policies which offered low grade security at higher rates. Insurance firms justified the disparity on the belief that Black Americans were sicklier, had higher mortality rates and were more likely to be living in poverty. Despite these conditions being an expected outcome of spending over 250

years in bondage, insurance companies regularly used the outcomes of systemic racism as evidence that overcharging Black citizens was both morally and financially prudent.

The end of Reconstruction brought with it a recommitment to racial exclusion as the federal government and insurance companies conspired to mandate Black Americans be excluded from the insurance market all together. Discriminatory insurance practices were the law of the land until the Civil Rights Act of 1964 and 1968, which formally ended the legal discrimination against Black Americans as they attempted to access insurance policies. Nevertheless, racial disparities remain between Black and white Americans, and this is due to the simultaneous appraisal and devaluation of Black people under racial capitalism. Most Black people are placed at risk for harm although the "fact" that Black people were financial risks to was contrived because of racism, this reality was unimportant because once established, it became very difficult to disprove the belief that Black people were economic risks.

Insuring Against Black Lives Matter:

In the fall of 2000, the California State Legislature passed SB2199 as a response to the up-and-coming reparations movement of the late 1990s. The law is more commonly known as the Slave Era Insurance Act, and it required that insurance companies wishing to do business in the state disclose whether the company had a history of issuing policies to cover enslaved Black Americans. The law was intended to make transparent the role that insurance companies played in the slave economy, and it stipulated that all life insurance as well as property and casualty insurers provide a detailed report outlining the types of policies that were used to secure the enslaved, the name of the enslaved person and the name of the slaveholder that profited from the policy. Although most of the companies reported that they were not yet in operation during that time, a few did report that their organizations issued slave insurance policies during the slave era.

One such company was the New York Life Insurance Company which reported that under its previous name, Nautilus Mutual Life Insurance, 508 policies were issued to mitigate the risk of owning enslaved laborers (Swarns, 2016). The Royal & Sun Alliance was another insurance company that engaged in the slave system and reported that one of its founding companies, London Assurance, profited from issuing maritime policies which secured the lives of human cargo as it traversed the Middle Passage (Rupprecht, 2007). California's Slave Era Insurance Act was quickly followed by other states and municipalities who similarly required reports from insurers operating within its borders. Examples of these laws include: the City of Chicago Business, Corporate and Slave Era Insurance Ordinance of 2002; the State of Illinois Public Act of 2003; House Bill 691 from the North Carolina General Assembly in 2009; and the San Francisco Slavery Disclosure Ordinance of 2006. These are just a few of the many newly minted slave insurance laws that popped up across the nation in the early aughts.

The forced disclosure of one's involvement in the slave system placed a spotlight on insurance companies, causing several CEO's and company spokespeople to apologize for their complicity in the slave economy. Fred Laberge, the spokesman for the largest health insurance company in the US, Aetna Inc., issued an apology in early 2000 and stated that the company had "deep regret over any participation at all in this deplorable practice" (Democracy Now, 2000). New York Life was also publicly regretful for its role in the slave trade, posted on its website that the company "is deeply sorry for this period of our history" in which it "sold policies on the lives of enslaved people" (New York Life, 2024). Slave insurance laws were largely information gathering ventures and although some firms felt compelled to apologize for their past transgressions, the laws did not come with a requirement of recompence or that reparations will be paid out to the decedents of enslaved person. The goal of these laws was to increase

transparency around the role that race played in the insurance market with the hope that doing so would make Black reparations a more salient political issue in public discourse. The law was not about providing reparations to Black people despite being created in responses to the growing reparations movement.

The connection between insurance and race was pushed to the forefront of public consciousness once again in 2020 when millions of Americans took to the streets to protest the unjust killing of George Floyd and other Black Americans who face violence at the hands of law enforcement. Despite the anger that compelled many to join the movement and the aggressive push back from counter protesters, Black Lives Matter (BLM) demonstrations were primarily peaceful displays of public action. A 2021 study by the data analysis non-profit Armed Conflict Location & Event Data Project (ACLED) found that only 6% of the BLM protests resulted in some form of violence, vandalism, looing, or clashes with the police (Kishi et al, 2021). However, the study notes that it is unclear who was the cause of the violence. It was possible that violence was incited by pro-BLM demonstrators, but it is also possible that violence was driven by anti-Black counter-protestors or law enforcement officials as well. Despite the overall peacefulness of the movement, news coverage repeatedly focused on the small number of violent interaction and in so doing, it painted a picture of the BLM uprising as an unruly mob of Black people determined to deface public and private property. The apparent risks of BLM demonstrations were not lost on business owners who filed property insurance claims to protect their businesses during the summer of protest (Barlyn, 2020). Axios reported that insurance companies paid out as much as $2 billion in insurance claims to cover the events of 2020, making the summer one of the costliest instances of civil unrest in American history (Kingson, 2020). Not since the 1992 Los Angeles riots had mass protest reached an insurance catastrophe on this level and even then, the cost was just over $1

billion in total losses. Ironically, the LA riots similarly began in response to police brutality and the acquittal of the LAPD officers who were caught on camera beating unarmed Black motorist, Rodney King.

What is noteworthy about the contemporary use of property insurance in response to BLM protest is that it mirrors how slave insurance policies were used to fend off the financial risk of transporting and contracting out enslaved Blacks. In both cases, Black agency was a threat that needed to be secured against because Black people reclaiming their humanity might mean the loss of one's property and future wealth. During the 2020 uprising, this meant relying on property insurance claims to make up for potential losses that incurred as Black Americans demand for equal protection under the law. During slavery, this meant using a blend of property and life insurance policies to protect the investment of slave owners who risked slaves running away, take their own lives or rebelling against owners and traders. Though separated by more than 150 years, Black agency remains a risky financial proposition within racialized capitalist systems.

Conclusion:

Overall, insurance as a practice formalizes the transference of risk from those with power to those without and this one-way transaction has historically allowed for the justifiable disregard, devaluation and policing of Black people and their bodies. Early insurance policies functioned not only as a form of economic security for those who can exploit the productive capacities of others, but also a form of structural violence that was inflicted upon Black people in the name of racial capitalism. Racism is at the heart of this problems of insurance inequality and have played out in the real world through the widespread use of slave insurance policies prior to the Civil War, the cruelty of Jim Crow exclusion which kept Blacks out of the insurance market, and discriminatory underwriting practices employed today, all of which promote racial inequalities by categorizing

Black people as insurance risks unworthy of protection. The material consequences of insurance inequality are experienced as being exposed to a higher risk of premature death, elevated rates of poverty and insecurity and diminished political power just to name a few. While important, unequal access to insurance is simply one of the many strands of risks produced inequality.

Life insurance, for all intents and purpose, is a form of property insurance but it operates on Black and white Americans in divergent ways. Insurance for Black Americans began as a mechanism to protect their brutalization and dispossession during slavery. Secured first as property and second as people only after emancipation, Black people have historically had a different experience with risk and insurance security than their white counterparts. This relationship was built through the dehumanization of Black people to sustain racial capitalism. In order for slavers to secure human property, a new category of property had to be created. Since only Blacks could be enslaved, the insurance impacting them was distinct from that of whites whose relationship with insurance was first based on securing the lives of others as property and second upon themselves and their family.

Risk has operated in distinctly racialized ways throughout American history. Black people were risks because their agency made them more than mere inanimate objects, however, their lack of rights put them at risk for the violence and exploitation of slavery and the slave insurance market. Whites on the other hand were not risks themselves, but instead were subjects of risky financial ventures, such as slave trading, and thus used insurance to secure against potentially lost wealth; they themselves were not risks in a literal sense, only more or less risky than other whites.

This chapter, while light in robustness, has attempted to make a connection between the necessary dehumanization of Black people that takes place in racial capitalism and the rise of the insurance market. I have argued that under capitalism, insurance as a political practice formalized

the shifting of financial risk from those with power to racialized minorities. This process began during the transatlantic slave trade in which early maritime property insurance practices transform to meet the needs of securing the lives of human property. Attempts to reduce financial risks associated with the transpiration of enslaved Blacks to the United States puts Black people at risk for dehumanization, exploitation, and dispossession. Despite being at risk for harm themselves, Black people were risks to the slave system because they were not inanimate object, but rather human beings who had the capacity to act with self-agency should they choose to do so. Slave insurance and insurrection policies were used to secure against the risk of Black humanity.

The important thing to consider here is that the American insurance market was development for the specific purpose to maintaining racial capitalism and anti-Black exploitation. Black Americans had to be put at risk for extreme forms of violence and dehumanization for this to happen. This suggests that even within the insurance market, the concept of risk continues to play out in repressive and regulatory ways.

"Zeros and ones, if we are not careful, could deepen the divides between haves and have-nots, between the deserving and the undeserving – rusty value judgments embedded in shiny new systems."

---- Ruha Benjamin, 2019

CH. 5 – CONCLUSION:

Introduction:

This dissertation has explored how the assumed impartiality of risk minimizes the role that race plays in how risk is defined, assessed, experienced and ultimately governed. Risk, like other phenomena in modern society, is socially produced and therefore is developed and exists within the confines of both global capitalism and white supremacy. When risk is believed to fall randomly among the public or that misfortune occurs independent of power imbalances, we erase the reality that most Black people are burdened by risk in uniquely terrible ways.

On the one hand, African Americans are at a greater risk for living with the social injuries of living in poverty, facing high incarceration rates, desperate levels of food insecurity, housing precarity and healthcare unaffordability. These inequalities are the inevitable outcomes of the anti-Black racism that has pervaded American institutions, social customs and cultural identity since its founding. For most of the nation's history, Black people have been excluded from the opportunities to acquire wealth, status and power. But of course, it is very difficult to attain wealth and power while enslaved, murdered, imprisoned or dispossessed of one's land. Nevertheless, even after Emancipation and despite two sets of Civil Rights Amendments, Black people continue to be locked out of full citizenship and in many cases are specifically targeted for both harm and exploitation as is the case with racial profiling and unjust lending practices. It would appear, that being at risk for harm seems to be an occupational hazard for Black Americans.

On the other hand, risk is a distinct problem for Black folk because of the common belief that African Americans are threats to the financial, political, social wellbeing of the community and therefore must be subjected to regulatory and violence social practices. In the housing market this has played out through the deliberate exclusion of Black borrowers from specific neighborhoods and through the funneling of Black families into the predatory home loan economy. In the criminal justice system, it has meant implementing punitive policing practices that trap Black people in the carceral system through the combination of predicative policing, extractive fine structures and pretrial incarceration. Although crime is the product of poverty and occurs in all neighborhoods, Black people have come to be the personification of public safety risk, criminality and economic depreciation. As such, it is they who bear the weight of overzealous policing, economic disinvestment and environmental hazards. Targeting Black populations because of the apparent dangers that they pose to the economy or public safety creates a situation in which the risky status of Black people actually results in putting them at a greater risk for exclusion, predation and violent forms of policing.

The American approach to governing risk is consistent with the national legacy of dehumanizing Black people for the maintenance of an economic system and cultural identity built around Black suffering. Risk justified the cruel practices of slave insurance, convict leasing, predatory lending and the rise of the carceral state more broadly because it binds economic exploitation to racialized domination within the framework of public safety. White Americans have been able to use the government to enforce anti-Black laws to protect their vested interest in racial domination and the wealth, or at the opportunity for wealth, that is expected to come with being white. Risk, from the way it is defined, assessed and policed advances racial inequalities and economic exploitation.

However, risk is not only socially produced, but also compounding. Once you have been linked to risk it becomes very difficult to avoid exposure to greater risks in the future. To illustrate this point, consider the fact that racism runs rampant in the criminal justice system. As a result, Black Americans face a high risk of being arrested or incarcerated and almost from the moment one enters the carceral system, their risk for future interactions with law enforcement increases as well as their likelihood of working for lower wages, suffering mental and physical health complications and facing housing insecurity post incarceration.

The impact that risk has on Black people throughout the United States is formidable because perceived threats to society, most notably violence, crime and poverty, are themselves racialized political problems. From segregation, to redlining, to stop-and-frisk policing, Black people have been exposed to greater levels of risk because they have been constructed as risky which tells society that African Americans are unworthy of social protection and are likely in need of control. The assumption that risk is in any way colorblind or that it is randomly felt among the public minimizes the role that anti-Black racism plays in determining which segments of the population can access freedom and protections and which ones will be pushed into perpetual unfreedom and unsafety.

So, yet again, risk seems to be a condition of Blackness at least in the United States. The dual position that Black people hold as both the bearers and bringers of risk remains an under-theorized form of racial domination because society incorrectly thinks about risk in colorblind terms. This problem of colorblindness has escalated in the recent years following the algorithmic turn in risk assessment which shields how the politics of race impact the ways risk is governed and policed. Given this reality, any and all discussions regarding risk must include a critical discussion of power, racism and structural inequality. Failure to do so merely increases the likelihood that

risk will continue to be an imposing force in the oppression of Black people throughout the United States.

American history is filled with examples of Black people being systematically and often violently excluded from political, economic and social spaces. Perhaps this is why much of the fight for Black equality has focused on overturning codified modes of exclusion and racial discrimination. In many respects, concentrating on changing laws and governmental policies has been highly successful because it has led to the downfall of legal segregation, it has expanded access voting for previously excluded populations and ended the formal second-class status citizenship of Black Americans. Perhaps the most important aspect of the legislative focus has been the normalization of the idea that the government has a responsibly to care for Black people to some degree or another, even if the nation does so grudgingly and with trepidation. It cannot be denied, however, that racial inequality is a continued problem in the United States which continues to see African Americans at risk for having their humanity questioned, rights restricted, and lives ended prematurely at the hands of state agents and other vigilantes.

Unfortunately, changing the laws so that they appear less racist has not been enough to bring about racial equality as many had been led to believe. For all the legal victories of the Civil Rights Movement in the 1960s, there has been tenuous successes in liberating Black people from racial oppression. It is true that the average Black person is only marginally fearful of experiencing physical violence at the hands of white racists, which is an important change to be sure. But most Black Americans understand that the threat of racist violence remains since they, their children and their community can be set upon by police at almost any moment. This risk of state violence is dwarfed only by the more subtle violence of having to send one's children to underfunded schools, living in communities with few employment opportunities and high levels of housing and

food insecurity. Black Americans are more likely to live with these conditions than their white counterparts. The paradox of the Civil Rights Movement is that the violence Blacks face today is far more likely to be felt as a lack of opportunities than it is out-right physical harm. If and when physical violence does occur, it is usually far easier to recognize and to condemn. The effects of institutionalized racism are violent nonetheless because they inflict pain on Black people through the psychological and physical strains of poverty, disenfranchisement, suppressed opportunities and exploitation.

It is not my intention to diminish the importance of the Civil Rights Movement to the liberation of Black people in the United States, and neither am I interested in contributing to the egregious whitewashing of white violence against Black people fighting to make legislative changes. I find it important, however, to highlight how the paradox of Civil Rights legislation is that overturning formal modes of Black domination have not led to true racial equality.

Anti-Blackness is foundational to American democracy and is therefore deeply embedded in its institutions and cultural framework. As Joel Olson (2004) has argued, American democracy is better described as a white democracy that is premised on equality for white Americans and tyranny for all nonwhites. Though not all whites experience their whiteness in exactly the same way, the expectation of white power, privilege and protection helps sustain the unjust systems of racial capitalism, mass incarceration, discrimination and overall oppression of nonwhites.

Race is a determining factor in an individual's life, from where one is allowed to live, to where they work and even where they can play or seek pleasure. This makes sense given the fact that under American colonialism race was the determining factor when deciding who was or was not property, who was a citizen and who had rights that would be protected by state and federal governments. Black people were the only group to be defined as property simply because of their

skin color and although their access to the perks of citizenship have greatly expanded over the years because simply scrubbing the books of explicit racism without rectifying past injustices is like using a piece of art to cover a hole in the wall; the structure remains damaged albeit in a prettier, and perhaps less offensive fashion.

From its inception, the nation has been dependent on an economic system that exploits racial minorities. From cattle slavery, to convict leasing, to mass incarceration Black people and their bodies were deemed disposable and exploitable which facilitated the legalized objectification of Black people to boost white prosperity. The racist underpinnings of capitalism have been highly successful at creating generational wealth for white Americans at the expense of Black Americans. Although the Civil War and the Reconstruction Amendments that followed ended the perpetual propertied status of Black people, the amendments were unable to remove the significance of race in American life.

Just as it was in the past, race is an important factor in an individual's life circumstances. It matters in determining where a person is allowed to live. It matters in the type and place of employment that a person can obtain. The inability for the nation to meaningfully engage with its legacy of racial domination, much less strategically work to rectify the continued injustices of white supremacy has deepened the hue of the color-line all the while being hidden behind a veil of colorblind neutrality. Take for example, wealth inequality which underscores the growing divided between Black and white families. In the 1960s the racial wealth gap was such that the average white family owned was about three times wealthier than the average Black family (Oliver and Shapiro, 2019). Though clearly unequal at the time, the gap has increased threefold since then, growing to the point that the average white household now holds nearly ten times the amount of wealth of their Black counterparts (Oliver and Shapiro, 2019). Growing wealth inequality has

cascading effects on Black Americans since wealth and income disparities are experienced generationally and exist in housing, education, health care, employment and criminal justice. The cause for the rapid stratification among white and Black Americans was not accidental, it is the predicable outcome of decades worth of governmental policies that singled out Black families as exploitable and expendable pawns to be used, moved and abused for the good of the white nation.

Wealth inequality aside, incarceration is also racially experienced and disproportionately detrimental for Black communities. Being locked up reduces an individual's chances at finding quality employment and stable housing once they have been released. But incarceration doesn't just impact the life chances of the person behind bars, it effects the entire family and the community as a whole because we know that children with incarcerated parents face higher levels of psychological strain, economic hardships and difficulties at school (Martin, 2019). Over-policing Black communities means that Black residents will have more interactions with law enforcement and the criminal justice system, thereby making it more likely that they and their families will experience the compounding effects of mass incarceration.

High incarceration rates, though troubling across the board regardless of race, hit Black communities especially hard with Black Americans being five times more likely to be arrested than whites (Nellis, 2021). The reality of who gets arrested and for how long is so imbalanced that if Black and Latinx people were jailed at rates equal to that of whites, the prison population would decline by nearly 40% (NCAAP, 2021). If the nation changed nothing else about policing other than arrest rates by race, the nation would be both morally and financially richer. Operating such an extensive prison system is extremely expensive, costing the government and American families roughly $182 billion dollars each year (Wagner and Rabuy, 2017). Imagine what a 40% reduction in the prison populations could do for Black people and the country as a whole? Not only would it

save tax payers billions of dollars — $72.8 billion by some estimates — but it would also mean that millions of Black families would be freed from the despair of losing brothers, sisters, fathers, mothers, cousins, aunties and uncles to the generational violence of the prison system and poverty.

Imagine that instead of spending that $72.8 billion on the construction and operations of prisons and police departments, we used that money to build homes and amenities in Black communities? Or, what if we redistributed that money directly to Black families by finally paying reparations to Black people? How different might life be in the United States, especially for Black Americans? Other than racism, poverty is the largest risk factor that pushes people towards the prison pipeline and paying out reparations is one way of detaching the risk of poverty from millions of Black families across the nation. This does not mean that Black people will not be wrongfully convicted from time to time, but it does mean Black communities will be in a better position to escape the crippling effects of the prison system. This would be a subtle but monumental change.

Conclusion:

In this dissertation I have attempted to tell a story of racial inequality by taking seriously the politics of risk and have argued that risk assessment and technologies work to exploit and police Black people. The key argument that binds the three proceeding empirical chapters together is that the way risk is defined, assessed, and policed has profound effects on Black Americans. This argument hinges on two realities: (1) associating Black people with risk has been necessary to the development of American democracy and its institutions; and (2) the social and economic need to eliminate risk puts Black people at risk for harm. The need to protect housing value in the housing market produced a bifurcated market that first excluded then preyed upon Black borrowers through predatory inclusion (Chapter 2). Moreover, in the criminal justice system, the need to eliminate risks to public safety legitimizes the state's authority to enact violence as well as

anticipatory and predatory policing practices upon Black populations (Chapter 3). Finally, in the insurance market, the need to minimizes financial risks within the confines of racial capitalism puts Black people at risk for dehumanization and exploitation (Chapter 4).

As was made clear by the work of Keeanga-Yamahtta Taylor (2019) and her work on predatory inclusion, the nation's unwillingness to redress past racial injustice exposes Black Americans to new forms of racial domination even in the absence of explicitly racist public and social policy. Residential segregations, disinvestment in Black communities, mass incarceration and flat-out racial violence has located Black people in close proximity to risk and then has used that closeness as a justification to take advantage of those communities. The inability for the United States to atone for the continued sins of the past presents a problem for the possibility of a truly race-conscious risk governance because it means that risk cannot be anything other than a repressive racial practice.

Though there is more work to be done, this project contributes to the study of race and inequality in American politics in two ways. First, by attending to the racializing nature of risk and risk assessment, I am adding to political discourse of racial capitalism by bringing to light the ways assignments of risk transform Black people into racialized risk subjects who are primed for exploitation and domination; a necessary inclusion because risk is so rarely viewed as a dominating phenomenon. Second, by calling attention to the different ways that the state and other political institutions call upon risk to exploit, prey upon, or leave behind Black people, I hope to aid in the production of more just and equitable society where public policy takes more seriously the unequal distribution of risk, danger and harm. To do this, I have worked to put risk studies in greater conversation with the literature of racial inequality carceral governance and risk governance. The reality is that risk intrudes upon the lives of Black people in ways that it does not for the white

population as a whole. And although there have been attempts over the years to address why racial inequality persists, these efforts have not been able to escape the Western Eurocentricity of contemporary understandings of risk. Racist theories of the so-called "culture of poverty" have been bolstered by the myth of American exceptionalism, which attempts to explain away racial inequality as the product of individual shortcomings of Black people.

The perhaps acutely American myth of meritocracy combined with the embrace of colorblind and predicative assessments of risk has successfully conditioned the public to believe that racial inequality is the result of Black people and their unwillingness to put in the work to achieve success as individuals. Under this logic, structural and institutional barriers are at best viewed as secondary impediments that marginalized peoples can and will overcome if only, they play by the rules. The problem with this line of thinking is that it places the blame of oppression on the very backs of those who are oppressed and thus, the system of inequality that springs from white supremacy is left unaccountable for the racist destruction that it leaves in its wake. There is a pressing need to change how society view risk and its approach to risk governance but this shift in mindset is only achievable through a critical analysis of how risk is assessed, distributed, defined, and policed. Failure to do so risks the continuation of an unjust system to targets and exploits Black Americans. If the goal is to produce true equality and justice in the United States, a reconfiguration of risk governance is a necessary step for the nation to take.

BIBLIOGRAPHY

ACLU NorCal. (2020). Know Your Rights: Police Intervention for Black and Brown People. Sep 30, 2020. WEB. https://www.aclunc.org/our-work/know-your-rights/know-your-rights-police-interactions-black-and-brown-people

Ægisdóttir, S., White, M. J., Spengler, P. M., Maugherman, A. S., Anderson, L. A., Cook, R. S., Nichols, C. N., Lampropoulos, G. K., Walker, B. S., Cohen, G., & Rush, J. D. (2006). The Meta-Analysis of Clinical Judgment Project: Fifty-Six Years of Accumulated Research on Clinical Versus Statistical Prediction Stefanía Ægisdóttir. *The Counseling Psychologist*, *34*(3), 341–382. https://doi.org/10.1177/0011000005285875

Alexander, Michelle. (2012) *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. The New Press.

Allen, R. (2011). The Relationship between Residential Foreclosures, Race, Ethnicity, and Nativity Status. Journal of Planning Education and Research, 31(2), 125-142. https://doi.org/10.1177/0739456X11398044Ames, M. (2018) Editorial. Deconstructing the algorithmic sublime. Big Data & Society (January). https://doi. org/10.1177/2053951718779194.

Andrews, D.A. and Bonta, J. (2007) The Risk-Need-Responsivity Model of Assessment and Human Service in Prevention and Corrections: Crime-Prevention Jurisprudence. The Canadian Journal of Criminology and Criminal Justice, 49, 439-464. https://doi.org/10.3138/cjccj.49.4.439

Angwin J., and J Larson. (2016), "Bias in Criminal Risk Scores Is Mathematically Inevitable, Researchers Say," ProPublica, December 30, 2016.

Arnold David, Will Dobbie, Crystal S Yang. (2018). “Racial Bias in Bail Decisions”, The Quarterly Journal of Economics, Volume 133, Issue 4, November 2018, Pages 1885–1932, https://doi.org/10.1093/qje/qjy012

Barabas, C., Dinakar, K., & Doyle, C. (2019). The problems with risk assessment tools. The New York Times. https://www.nytimes.com/2019/07/17/opinion/pretrial-ai.html

Baradaran, M. (2017). *The Color of Money: Black Banks and the Racial Wealth Gap*. Cambridge, MA: Harvard University Press.

Barlyn, S. (2020). U.S. Business Splurge on Insurance to Protect Against Post-Election Chaos. Web. https://www.reuters.com/article/us-usa-insurance-protests/u-s-businesses-splurge-on-insurance-to-protect-against-post-election-chaos-idUSKBN27D1BH/

Bartlett, R., A. Morse, R. Stanton, N. Wallace. (2022). Consumer-lending discrimination in the FinTech Era, Journal of Financial Economics, Volume 143, Issue 1, pages 30-56, ISSN 0304-405X, https://doi.org/10.1016/j.jfineco.2021.05.047.

Beck, U. (1992). *Risk Society*: Towards a New Modernity. London: Sage.

Beck, U., A. Giddens, and S. Lash. (1994). Reflexive modernization: politics, tradition, and aesthetics in the modern social order. Stanford, Calif: Stanford University Press.

Been, Vicki, Ingrid Gould Ellen, and Josiah R. Madar. 2008. “The High Cost of Segregation: Exploring Racial Disparities in High-Cost Lending.” Fordham Urban Law Journal 36(3):361–85.

Bell, D. (2004) Environmental justice and Rawls’ difference principle. Environmental Ethics 26(3):287–306

Benjamin, Ruha. (2019). R*ace after Technology: Abolitionist Tools for the New Jim Code*. Polity. Print.

Benston EA. (2015). Housing programs for homeless individuals with mental illness: Effects on housing and mental health outcomes. *Psychiatric Services.* 2015;66(8):806–816.

Bhutta, N., A Hizmo, and D. Ringo. (2022). How Much Does Racial Bias Affect Mortgage Lending? Evidence from Human and Algorithmic Credit Decisions. From Finance and Economic Discussion Series. Federal Reserve Board, Washington, D.C. ISSN 1936-2854. Print.

Blalock, H. M. (1967). *Toward a Theory of Minority-Group Relations*. Capricorn Books.

Bocian Debbie Gruenstein, Li Wei, Ernst Keith S. (2010). Foreclosures by Race and Ethnicity: The Demographics of a Crisis. Durham, NC, Washington, DC, and Oakland, CA: *Center for Responsible Lending.*

Bocian, D. G., and R. Zhai. (2005). Borrowers in High Minority Areas More Likely to Receive Prepayment Penalties on Subprime Loans. *Center for Responsible Lending.*

Bonilla-Silva, E. (2014). *Racism Without Racists: Color-Blind Racism and The Persistence of Racial Inequality in America* (Fourth edition). Rowman & Littlefield Publishers, Inc.

Brandon G., & J Monahan, (2018). Judging Risk (Univ. of Va. Sch. of Law, Pub. Law & Legal Theory Re-search Paper Series, Paper No. 2018–44), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3190403.

Brandon G., & J. Monahan. (2020.) *Judging Risk*, 108 California Law Review 439-493 (2020)

Brennan, T., Dieterich, W., & Ehret, B. (2009). Evaluating the predictive validity of the COMPAS risk and needs assessment system. Criminal Justice and Behavior, 36(1), 21–40. https://doi.org/10.1177/0093854808326545

Brevoort, Kenneth P. and Cheryl R. Cooper. (2010). "Foreclosure's wake: the credit experiences of individuals following foreclosure," Finance and Economics Discussion Series 2010-59, Board of Governors of the Federal Reserve System (U.S.).

Brian L. Levy. 2022. Wealth, Race, and Place: How Neighborhood (Dis)advantage From Emerging to Middle Adulthood Affects Wealth Inequality and the Racial Wealth Gap

Browne, Irene, Cynthia Hewitt, Leann Tigges, and Gary Green. 2001. "Why Does Job Segregation Lead to Wage Inequality among African Americans? Person, Place, Sector, or Skills?" Social Science Research 30(3): 473–95.

Browne, Simone. (2015). *Dark Matters: On the Surveillance of Blackness*. Paw Prints.

Buskey, B., and A. Woods. (2018). Making Sense of Pretrial Risk Assessments. National Association of Criminal Defense Lawyers. The Champion Issue June 2018. Web. https://www.nacdl.org/Article/June2018-MakingSenseofPretrialRiskAsses

Calabresi, M. (2014). Exclusive: Attorney General Eric Holder to Oppose Data-Driven Sentencing. Time Magazine.

Cartaya, Jorge E. (2017). "Listening/Reading for Disremembered Voices: Additive Archival Representation and the Zong Massacre of 1781". FIU Electronic Theses and Dissertations. 3187. https://digitalcommons.fiu.edu/etd/3187

Cassidy, Christina and Linley Sanders. (2023). "GOP Confidence in 2024 Vote Count Low After Years of False Election Claims, AP-NORC Poll Shows". Associated Press. Online. https://apnews.com/article/2024-election-poll-voting-machines-confidence-trust-8efb007d94c2b37a510f9d866e3c6031

Castel, R. (1991) 'From dangerousness to risk', in G. Burchell, C. Gordon and P. Miller (eds), The Foucault Effect: Studies in Governmentality. London: Harvester Wheatsheaf, pp. 281–98.

Cephas, J. (2022). "Racial Capitalism and the Social Violence of Extraction in Keeanga-Yamahtta Taylor's Race for Profit," in the Avery Review 56 (April 2022), http://averyreview.com/issues/56/racialcapitalism.

Clare, J., Henstock, D., McComb, C., Newland, R., Barnes, G. C., Lee, M., & Taylor, E. (2019). Police, public, and arrestee perceptions of Body-Worn video: a single jurisdictional multiple-perspective analysis. Criminal Justice Review, 44(3), 304–321. https://doi.org/10.1177/0734016819846236

Clark, G. W., (1999). Betting on Lives: The Culture of Life Insurance in England, 1695-1775 (Manchester, UK: Manchester University Press, 1999)/.

Clayton, J. (Producer). (2020). Pretrial risk assessment is biased and indefensible. Law360. https://www.law360.com/articles/1305260/pretrial-risk-assessment-is-biased-and-indefensible

Coates, Ta-Nehisi. (2014). "The Case for Reparations". *The Atlantic*. http://www.atlantic.com.

Conley, D. (2010). Being Black, living in the red: Race, wealth, and social policy in America. Berkeley: University of California Press.

Correa, Vanessa. 2009. "The Housing Downturn and Racial Inequality." Policy Matters 3 (2).

Crenshaw, K. (1991). Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color. Stanford Law Review, 43(6), 1241–1299. https://doi.org/10.2307/1229039.

Crow, M. S., Snyder, J. A., Crichlow, V. J., & Smykla, J. O. (2017). Community perceptions of police Body-Worn Cameras: the impact of views on fairness, fear, performance, and privacy. Criminal Justice and Behavior, 44(4), 589–610. https://doi.org/10.1177/0093854816688037

Culhane, S. E., Boman, J. H., & Schweitzer, K. (2016). Public perceptions of the justifiability of police shootings: the role of Body Cameras in a pre- and post-Ferguson experiment. Police Quarterly, 19(3), 251–274. https://doi.org/10. 1177/1098611116651403

Curran, Dean. (2016). *Risk, power and inequality in the 21st century*. New York: Palgrave Macmillan.

——— (2017). Environmental Justice Meets Risk-Class: The Relational Distribution of Environmental Bads: Environmental Justice Meets Risk-Class. Antipode. 50. 10.1111/anti.12372.

Danielle Kehl, Priscilla Guo, and Samuel Kessler. 2017. Algorithms in the Criminal Justice System: Assessing the Use of Risk Assessments in Sentencing. Responsive Communities Initiative, Berkman Klein Center for Internet & Society (2017).

Data USA. (2024). "Metropolitan Statistical Area (MSA): Eugene, Or" https://datausa.io/profile/geo/eugene-or-31000US21660#demographics

David Arnold, Will Dobbie, Crystal S Yang, Racial Bias in Bail Decisions, The Quarterly Journal of Economics, Volume 133, Issue 4, November 2018, Pages 1885–1932, https://doi.org/10.1093/qje/qjy012

Dawson, Michael and Megan Ming Francis. (2015). "Black Politics and the Neoliberal Racial Order". *Public Culture* 28:1. Duke University Press. doi 10.1215/08992363-3325004.

Debbie Gruenstein Bocian and Richard Zhai Borrowers in High Minority Areas are More Likely to Receive Prepayment Penalties on Subprime Loans (2005), available at http://www.responsiblelending.org/mortgage-lending/research-analysis/rr004-PPP_Minority_Neighborhoods-0105.pdf.

Democracy Now. (2000). “Aetna Acknowledges Issuing Slave Policies During 1850s, Offers Apology, Denies Reparations”. Web. https://www.democracynow.org/2000/3/14/aetna_acknowledges_issuing_slave_policies_during

Desmarais, S. L., Johnson, K. L., & Singh, J. P. (2016). Performance of recidivism risk assessment instruments in U.S. correctional settings. Psychological Services, 13(3), 206–222. https://doi.org/10.1037/ser0000075

Dimick, J., Ruhter, J., Sarrazin, M. V., & Birkmeyer, J. D. (2013). Black Patients More Likely Than Whites to Undergo Surgery at Low-Quality Hospitals in Segregated Regions. *Health Affairs*,

Douglas, M. (1985). *Risk Acceptability According to the Social Sciences*. New York: Russell Sage Foundation.

Douglas, M. (1992). *Risk and blame: Mary Douglas: Collected works* volume 12. London: Routledge.

Doyle, C. (2017). Bail: An Overview of Federal Criminal Law (PDF). Washington, DC: Congressional Research Service. Retrieved 4 September2017.

DuBois, W.E.B. (2008). *The Souls of Black Folk* (B.H. Edwards, Ed.). Oxford University Press.

Eason, M. J. (1988). "Eighth Amendment: Pretrial Detention: What Will Become of the Innocent?". The Journal of Criminal Law and Criminology. **78** (4): 1048–1079. doi:10.2307/1143417

Eitle, D., D'Alessio, S. J., & Stolzenberg, L. (2002). "Racial Threat and Social Control: A Test of the Political, Economic, and Threat of Black Crime Hypotheses." *Social Forces,* 81(2), 557-576.

Eubanks, Virginia. (2018). Auto*mating inequality: how high-tech tools profile, police, and punish the poor*. Print

Ewald, F. (1991) “Insurance and risk”, in G. Burchell, C. Gordon and P. Miller (eds), *The Foucault Effect: Studies in Governmentality*. London: Harvester Wheatsheaf, pp. 197–210.

Faber, J. (2013). Racial Dynamics of Subprime Mortgage Lending at the Peak. Housing Policy Debate, 23(2), 328-349. https://doi.org/10.1080/10511482.2013.771788

——— (2018). “Segregation and the Geography of Creditworthiness: Racial Inequality in a Recovered Mortgage Market.” Housing Policy Debate 28(2):215–47.

——— (2019). Segregation and the Cost of Money: Race, Poverty, and the Prevalence of Alternative Financial Institutions. Social Forces, Volume 98, Issue 2, December 2019, Pages 819–848, https://doi.org/10.1093/sf/soy129

Fanon, Frantz, and Charles L. Markmann. (1967). *Black Skin, White Masks.* Print.

Federal Housing Finance Agency (2024). Fannie Mae and Freddie Mac. https://www.fhfa.gov/about-fannie-mae-freddie-mac#:~:text=Mae%20%26%20Freddie%20Mac-,Fannie%20Mae%20and%20Freddie%20Mac,affordability%20to%20the%20mortgage%20market.

Federal Reserve Board. 2023. Report on the Economic Well-Being of U.S. Households in 2022 – May 2023. https://www.federalreserve.gov/publications/2023-economic-well-being-of-us-households-in-2022-expenses.htm.

Flippen, C. (2004). Unequal returns to housing investments? A study of real housing appreciation among Black, White, and Hispanic households. Social Forces, 82, 1523–1551.

Foucault, Michel. (1977) *Discipline and Punish*: The Birth of the Prison. London: Allen Lane.

——— (1991). "Governmentality", in G. Burchell, C. Gordon and P. Miller (eds), T*he Foucault Effect: Studies in Governmentality.* London: Harvester Wheatsheaf, pp. 87–104.

Fourcade, M and Healy, K. (2013). Classification situations: Life-chances in the neoliberal era. Accounting, Organizations and Society 38 (2014) 559-572.

Garrett, Brandon L. and Monahan, John, Judging Risk (May 3, 2020). 108 California Law Review 439 (2020), Virginia Public Law and Legal Theory Research Paper No. 2018-44: https://ssrn.com/abstract=3190403 or http://dx.doi.org/10.2139/ssrn.3190403

Ghosh-Dastiard, (2014). "Distance to store, food price and obesity in urban food deserts". American Journal of Preventative Medicine. Elsevier Inc. 2014:47(5):587-595

Giddens, A. (1991). *Modernity and Self-Identity*. Cambridge: Polity Press.

——— (1998) *Risk society: the context of British politics*. In Franklin, J. (ed.), The Politics of Risk Society. Cambridge: Polity Press, pp. 23 – 34.

Giritli-Nygren, Katarina, Anna Olofsson, and Susanna Öhman. (2020). A *Framework of Intersectional Risk Theory in the Age of Ambivalence.* Cham: Palgrave Macmillan.

Gotham, Kevin S. (2000). "Urban Space, Restrictive Covenants and the Origins of Racial Residential Segregation in a U.S. City, 1900-50," International Journal of Urban and Regional Research 24, no. 3: 616-33.

Great Britian Parliament. (1806). Substance of the debates on a resolution for abolishing the slave trade: which was moved in the House of Commons on the 10th of June 1806, and in

the House of Lords on the 24th of June 1806: with an appendix, containing notes and illustrations. London: Printed and sold by Phillips and Fardon, George Yard, Lombard Street, sold also by John Hatchard, 190, Piccadilly, 1806. https://babel.hathitrust.org/cgi/pt?id=nyp.33433075970958&seq=11.

Green, B. (2020). The False Promise of Risk Assessments: Epistemic Reform and the Limits of Fairness. In Conference on Fairness, Accountability, and Transparency (FAT* '20), January 27–30, 2020, Barcelona, Spain. ACM, New York, NY, USA, 13 pages. https://doi.org/10.1145/3351095.3372869

Greenwood, P. W., & Abrahamse, A. (1982). Selective incapacitation. Santa Monica, CA: RAND.

Grove, W. M., & Meehl, P. E. (1996). Comparative efficiency of informal (subjective, impressionistic) and formal (mechanical, algorithmic) prediction procedures: The clinical–statistical controversy. Psychology, Public Policy, and Law, 2(2), 293–323. https://doi.org/10.1037/1076-8971.2.2.293

Grove, W. M., Zald, D. H., Lebow, B. S., Snitz, B. E., & Nelson, C. (2000). Clinical versus mechanical prediction: A metanalysis. Psychological Assessment, 12(1), 19–30. https://doi.org/10.1037/1040-3590.12.1.19

Guariglia M. and D. Maass. (2021). LAPD Requested Ring Footage of Black Lives Matter Protests. Electronic Frontier Foundation. Web. https://www.eff.org/deeplinks/2021/02/lapd-requested-ring-footage-black-lives-matter-protests

Gwynn, R. C., & Thurston, G. D. (2001). The burden of air pollution: impacts among racial minorities. *Environmental health perspectives, 109 Suppl 4*(Suppl 4), 501–506. https://doi. org/10.1289/ehp.01109s4501

Hannah-Moffat, Kelly. (2012). Actuarial Sentencing: An "Unsettled" Proposition. Justice Quarterly - JUSTICE Q. 30. 1-27. 10.1080/07418825.2012.682603.

——— (2013). Actuarial Sentencing: An "Unsettled" Proposition, 30 JUST. Q. 270, 274.

Hannah-Moffat, K., & O'Malley, P. (Eds.). (2007). Gendered risks. London: Routledge-Cavendish.

Harcourt, B. E. (2007). Against prediction: Profiling, policing, and punishing in an actuarial age. University of Chicago Press.

——— (2015) "Risk as a proxy for race: The dangers of risk assessment". Federal Sentencing Reporter, 27(4):237{243, April 2015. doi: 10.1525/fsr.2015.27.4.237.

Harris, C. I. (1993). Whiteness as Property. Harvard Law Review, 106(8), 1707–1791. https://doi.org/10.2307/1341787

Hartman, Saidiya. (1997). *Scenes of subjection: terror, slavery, and self-making in nineteenth-century America*. Oxford University Press

——— (2007). *Lose Your Mother: A Journey Along the Atlantic Slave Route*. New York: Farrar, Straus, and Giroux, 133.

Hasan, A., Brown, S., Davidovic, J. et al. Algorithmic Bias and Risk Assessments: Lessons from Practice. DISO 1, 14 (2022). https://doi.org/10.1007/s44206-022-00017-z

Hesse, Barnor. (1997). "White Governmentality". Published in 'Imagining Cities: Scripts, Signs, Memories' eds Sallie Westwood and John Williams, London: Routledge.

Hilton, N. Z., Harris, G. T., & Rice, M. E. (2006). Sixty-six years of research on the clinical versus actuarial prediction of violence. Counseling Psychologist, 34(3), 400–409. https://doi.org/10.1177/0011000005285877

Holder, E. (2014). Attorney General Eric Holder Speaks at the National Association of Criminal Defense Lawyers 57th Annual Meeting and the 13th State Criminal Justice Network Conference. Office of Public Affairs: US Department of Justice. https://www.justice.gov/opa/speech/attorney-general-eric-holder-speaks-national-association-criminal-defense-lawyers-57th

HoSang, D., & Lowndes, J. E. (2019). Producers, parasites, patriots: race and the new right-wing politics of precarity. University Of Minnesota Press. https://nhchc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf

Human Impact Partners. (2020). Liberating Our Health: Ending the Harms of Pretrial Incarceration and Money Bail. https://humanimpact.org/wp-content/uploads/2020/02/HIP_HealthNotBailNationalReport_2020.02_reduced

Hwang, Jackelyn, Michael Hankinson, K. S. Brown, and Steven Kreg Brown. 2015. "Racial and Spatial Targeting: Segregation and Subprime Lending within and across Metropolitan Areas." Social Forces 93(3):1081–1108.

Hyra, Derek S., Gregory D. Squires, Robert N. Renner, and David S. Kirk. 2013. "Metropolitan Segregation and the Subprime Lending Crisis." Housing Policy Debate 23(March):37–41.

Immergluck, D. (2015). Foreclosures and Neighborhoods: The shape and impacts of the U.S. mortgage crisis. In McCarthy, G. and Moody, S. Land, and the city. Cambridge, MA: Lincoln Institute.

Jackson, K. T. (1985). Crabgrass frontier: the suburbanization of the United States. New York, Oxford University Press.

Jacob S. Rugh, Len Albright, Douglas S. Massey, Race, Space, and Cumulative Disadvantage: A Case Study of the Subprime Lending Collapse, Social Problems, Volume 62, Issue 2, May 2015, Pages 186–218, https://doi.org/10.1093/socpro/spv002.

James Bonta and Donald A. Andrews. 2007. Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation. (2007). Public Safety Canada

Jones-Correa, Michel. (2000). "The Origins and Diffusion of Racial Restrictive Covenants," Political Science Quarterly 115 (December 2000): 541, 544.

Jung, J., Concannon, C., Shroff, R., Goel, S., & Goldstein, D. G. (2020). Simple rules to guide expert classifications. Statistics in Society, 183(3), 771–800. https://doi.org/10.1111/rssa.12576

Kalhous, C., & Meringolo, J. (2012). Bail pending trial: Changing interpretations of the bail reform act and the importance of bail from defense attorneys' _perspectives. Pace Law Review, 32, 800.

Kehl, Danielle, Priscilla Guo, and Samuel Kessler. (2017). *Algorithms in the Criminal Justice System: Assessing the Use of Risk Assessments in Sentencing*. Responsive Communities Initiative, Berkman Klein Center for Internet & Society, Harvard Law School.

Kelley, Robin D.G. (2017). "What Did Cedric Robinson Mean by Racial Capitalism?". *Race, Capitalism, Justice Issue.* Boston Review.

Kenneth P. Brevoort & Cheryl R. Cooper, 2010. "Foreclosure's wake: the credit experiences of individuals following foreclosure," Finance and Economics Discussion Series 2010-59, Board of Governors of the Federal Reserve System (U.S.).

Killewald, A., & Bryan, B. (2018). Falling behind: The role of inter- and intragenerational processes in widening racial and ethnic wealth gaps through early and middle adulthood. Social Forces, 97, 705–740.

Killewald, A., Pfeffer, F. T., & Schachner, J. N. (2017). Wealth inequality and accumulation. Annual Review of Sociology, 43, 379–404

King, R. D., & Wheelock, D. (2007). "Group Threat and Social Control: Race, Perceptions of Minorities and the Desire to Punish." *Social Forces*, 85(3), 1255-1280.

Kingson, J. (2020). “Exclusive: $1 billion-plus riot damage is most expensive in insurance history”. Web. https://www.axios.com/2020/09/16/riots-cost-property-damage

Kishi, R., H. Stall, A. Wolfson, and S. Jones. (2021). A Year of Racial Justice Protests: Key Trends in Demonstrations Supporting the BLM Movement. Web. https://acleddata.com/2021/05/25/a-year-of-racial-justice-protests-key-trends-in-demonstrations-supporting-the-blm-movement/#:~:text=Approximately%2094%25%20of%20all%20pro,the%20violent%20or%20destructive%20activity.

Klein, Naomi. (2007). T*he Shock Doctrine: The Rise of Disaster Capitalism.* Toronto: Alfred A. Knopf Canada. Print.

Kleinman, A. (2000), “The Violences of Everyday Life: The Multiple Forms and Dynamics of Social Violence,” in Violence and Subjectivity, ed. Veena Das, Arthur Kleinman, Mamphela Ramphele, and Pamela Reynolds (Berkeley: University of California Press, 2000).

Koshy, S., L. M. Cacho, J. A. Byrd, B. J. Jefferson. (2022). Colonial Racial Capitalism. Duke University Press. Durham and London.

Leong, Nancy. (2013). “Racial Capitalism”. Harvard Law Review, June 2013, Vol. 126, No. 8 (June 2013)), pp. 2151-2226. Web. https://www.jstor.org/stable/23415098.

Levitt, Justin. (2007). “The Truth About Voter Fraud”. Brennan Center for Justice. Online. https://www.brennancenter.org/our-work/research-reports/truth-about-voter-fraud

Levy, Brian. 2022. Wealth, Race, and Place: How Neighborhood (Dis)advantage From Emerging to Middle Adulthood Affects Wealth Inequality and the Racial Wealth Gap

Lin, Z. J., Jung, J., Goel, S., & Skeem, J. (2020). The limits of human predictions of recidivism. Science Advances, 6(7), Article eaaz0652. https://doi.org/10.1126/sciadv.aaz0652

Luhmann, N. (1993) Risk: A Sociological Theory. New York: Aldine de Gruyter

Lum, C, Koper, CS, Wilson, DB, et al. Body-worn cameras’ effects on police officers and citizen behavior: A systematic review. Campbell Systematic Reviews. 2020; 16: e1112. https://doi.org/10.1002/cl2.1112

Lupton, Deborah. (2013). Risk and emotion: Towards an alternative theoretical perspective. Health, Risk & Society, 15(8), 634–647. https://doi.org/10.1080/13698575.2013.848847.

——— (2013). *Risk*. New York: Routledge.

Maass, D. and M. Guariglia. (2020). San Francisco Police Accessed Business District Camera Network to Spy on Protestors. Electronic Frontier Foundation. Web. https://www.eff.org/deeplinks/2020/07/san-francisco-police-accessed-business-district-camera-network-spy-protestors.

Macias-Konstantopoulos, W. L; Collins, K. A; Diaz, R.; Duber, H. C; Edwards, C. D; Hsu, A. P, et al. (2023). Race, Healthcare, and Health Disparities: A Critical Review and Recommendations for Advancing Health Equity. Western Journal of Emergency

Medicine: Integrating Emergency Care with Population Health, 24(5). http://dx.doi.org/10.5811/westjem.58408

Mancke E., and C. Shammas. (2005). The Creation of the British Atlantic World. (Anglo-America in the Transatlantic World.) Baltimore: Johns Hopkins University Press. 2005. Pp. vi, 400

Martin, A. J., & Collie, R. J. (2019). Teacher–student relationships and students' engagement in high school: Does the number of negative and positive relationships with teachers matter? *Journal of Educational Psychology, 111*(5), 861–876. https://doi.org/10.1037/edu0000317

Massey, D. S., & Denton, N. A. (1993). American apartheid: Segregation and the making of the underclass. Harvard University Press.

Meehl, P. E. (1954). Clinical versus statistical prediction. University of Minnesota Press.

Melamed, Jodi. (2015). "Racial Capitalism". Critical Ethnic Studies, Vol. 1 No. 1 (Spring), pp. 76-85.

Michel Jones-Correa, "The Origins and Diffusion of Racial Restrictive Covenants," Political Science Quarterly 115 (December 2000): 541, 544.

Mills, Charles W. (2008). "Racial Liberalism." *PMLA*, 123(5), 1380-1397.

——— (2017). 'Racial Liberalism', *Black Rights/White Wrongs: The Critique of Racial Liberalism*, Transgressing Boundaries: Studies in Black Politics and Black Communities (New York, 2017; Oxford Academic)

Mitchell, B. & Franco, J. (2018). HOLC "Redlining" Maps: The Persistent Structure of Segregation and Economic Inequality. National Community Reinvestment Coalition.

Mitchell, K. (2010). Pre-black futures. Antipode 41.S1, 239–61.

Moss, McIntosh, Edelber and Broady, 2020. [BS1]https://www.brookings.edu/blog/up-front/2020/12/08/the-black-white-wealth-gap-left-black-households-more-vulnerable/#:~:text=In%20the%20second%20quarter%20of,trillion)%20of%20total%20household%20wealth.

Moss, Philip, and Chris Tilly. (2001). *Stories Employers Tell: Race, Skill, and Hiring in America*. New York: Russell Sage Foundation.

National Association for the Advancement of Colored People. (2021). Criminal Justice Fact Sheet: Toolkit. NAACP. Web. https://naacp.org/resources/criminal-justice-fact-sheet#:~:text=Since%201991%20the%20rate%20of,would%20decline%20by%20almost%2040%25.

National Health Care for the Homeless Council. (2019). "Homelessness & Health: What's the Connection?" Fact Sheet. Web. https://nhchc.org/wp-content/uploads/2019/08/homelessness-and-health.pdf.

Nellis, Ashley. (2021). "The Color of Justice: Racial and Ethnic Disparity in State Prisons". The Sentencing Project. Web. https://www.sentencingproject.org/reports/the-color-of-justice-racial-and-ethnic-disparity-in-state-prisons-the-sentencing-project/.

Nellis, Mike. (2013). Techno-Utopianism, Science Fiction and Penal Innovation: The Case of Electronically Monitored Control. In Crime, Critique and Utopia edited by Margaret Malloch and Bill Munor, 164-89. Hampshire, UK: Palgrave Macmillan.

New York Life. (2024). "Acknowledging our past: New York Life and slavery.". Web. https://www.newyorklife.com/newsroom/acknowledging-our-past.

Noble, Safiya. (2018). *Algorithms of Oppression: How Search Engines Reinforce Racism*. New York: NYU Press.

O'Malley, Pat. (2001) 'Risk, crime and prudentialism revisited' in Stenson, K and Sullivan, R (eds), Crime, Risk and Justice, Devon: Willan, pp 89-103.

——— (2008) "Governmentality and risk", in J.O. Zinn (ed.), So*cial Theories of Risk and Uncertainty*. Oxford: Blackwell, pp. 52–75.

O'Neil, C. (2017). *Weapons Of Math Destruction*. Penguin Books.

Oldham, James. (2007). 'Insurance Litigation Involving the Zong and Other British Slave Ships, 1780–1807', Journal of Legal History, vol. 28, no. 3, December 2007.

Oliver, M. L., & Shapiro, T. M. (1995). Black wealth/White wealth: A new perspective on racial inequality. New York, NY: Routledge.

——— (2019). Disrupting the Racial Wealth Gap. Contexts, 18(1), 16-21. https://doi.org/10.1177/1536504219830672.

Olson, Joel. 2004. *The Abolition of White Democracy*. Minneapolis: University of Minnesota Press.

Omi, M., & Winant, H. (2014). Racial Formation in the United States (3rd ed.). Routledge. https://doi.org/10.4324/9780203076804

Onuoha, M. (2018) Notes on algorithmic violence. URL https://github.com/MimiOnuoha/ On-Algorithmic-Violence

Owens, C., & Finn, W. (2018). Body-worn video through the lens of a cluster randomized controlled trial in London: Implications for future research. Policing: A Journal of Policy and Practice, 12(1), 77–82. https://doi.org/10.1093/police/pax014

Page J., and J. Soss. (2021). The predatory dimensions of criminal justice. Science. 2021 Oct 15;374(6565):291-294. doi: 10.1126/science. abj7782. Epub 2021 Oct 14. PMID: 34648321.

Pager, Devah, and Quillian, Lincoln. (2005). "Walking the Talk? What Employers Say Versus What They Do." American Sociological Review, vol. 70, no. 3, June 2005, pp. 355–380.

Palepu A, et al. (2013). Housing first improves residential stability in homeless adults with concurrent substance dependence and mental disorders. Am J Public Health. 2013;103(SUPPL.2): e30-6.

Pfeffer, F. T., Danziger, S., & Schoeni, R. F. (2013). Wealth Disparities Before and After the Great Recession. The ANNALS of the American Academy of Political and Social Science, 650(1), 98–123. https://doi.org/10.1177/0002716213497452

Philip, M. NourbeSe. (2008). *Zong!* Wesleyan University Press. Print.

Pretrial Justice Institute. (2017). The State of Pretrial Justice in America. (2017). https://university.pretrial.org/HigherLogic/System/

——— (2020). Updated Position on Pretrial Risk Assessment Tools. Feb 7, 2020. Web. https://www.pretrial.org/files/resources/pjistatementagainstriskassessments.pdf

Price-Haywood, Burton, Fort and Seoane, (2020). "Social Equity and COVID-19: The Case of African Americans.

Pulido L (2000) Rethinking environmental racism: White privilege and urban development in Southern California. Annals of the Association of American Geographers 90(1):12–40

Rabuy B., and D. Kopf. (2016). Detaining the Poor: How Money Bail Perpetuates an Endless Cycle of Poverty and Jail Time. Prison Policy Initiative. Web. https://www.prisonpolicy.org/reports/incomejails.html

Ralph, M. (2018). Value of Life: Insurance, Slavery, and Expertise from American Capitalism: New Histories. Columbia University Press, New York Chichester, West Sussex.

Rawls J (1999 [1971]) *Theory of Justice* (new edn). Cambridge: Harvard University Press

Rigakos, George and Law, Alexandra. (2009) "Risk, realism and the politics of resistance". Critical Sociology, 35(1), 79–103.

Roberts, D. (2018). Digitizing the Carceral State. Book Review for Automating Inequality: How High-Tech Tools Profile, Police, And Punish the Poor. By Virginia Eubanks. New York, N.Y.: St. Martin's Press. 2018. Pp. 260.

Robinson, Cedric J. (2000). B*lack Marxism: The Making of the Black Radical Tradition*. Chapel Hill: University of North Carolina Press, 2000.

Rogin, M. (1996). The Two Declarations of American Independence. Representations, 55, 13–30. https://doi.org/10.2307/3043733

Roncarati JS, Baggett TP, O'Connell JJ, et al. (2018). Mortality among unsheltered homeless adults in Boston, Massachusetts, 2000–2009. *JAMA Intern Med*. September 1;178(9):1242–8. 10.1001/jamainternmed.2018.2924.

Rothstein, Richard. (2017). *The Color of Law: A Forgotten History of How Our Government Segregated America*. First edition. New York; London: Liveright Publishing Corporation, a division of W.W. Norton & Company.

Rugh, J. S., Albright, L., & Massey, D. S. (2015) Race, space, and cumulative disadvantage: A case study of the subprime lending collapse, Social Problems, 62, pp. 186–218.

Rupprecht, A. (2007). Excessive Memories: Slavery, Insurance and Resistance. History Workshop Journal, 64, 6–28. http://www.jstor.org/stable/25472933

Saenz, Rogelio and Sparks, Corey. (2020). The Inequities of Job Loss and Recovery Amid the COVID-19 Pandemic.

Safransky, S. (2017). "Rethinking Land Struggle in The Postindustrial City". Antipode 49.4: 1079–100.

——— (2019). Geographies of Algorithmic Violence: Redlining the Smart City. International Journal of Urban and Regional Research. DOI:10.1111/1468-2427.12833

Sawyer, W. (2019). How Race Impacts Who is Detained Pretrial. Prison Policy Initiative. Web. https://www.prisonpolicy.org/blog/2019/10/09/pretrial_race/.

Sawyer, W., and P. Wagner. (2024). Mass Incarceration: The Whole Pie 2024. Prison Policy Initiative: Press Release. https://www.prisonpolicy.org/reports/pie2024.html.

Schneider, A., & Ingram, H. (1993). Social Construction of Target Populations: Implications for Politics and Policy. The American Political Science Review, 87(2), 334–347. https://doi.org/10.2307/2939044

Sealy, L.S. and R. J. A. Hooley. (2008). Commercial Law: Text, Cases, and the Materials 4th ed. (Oxford: Oxford University Press, 2008), 1192.

Seamster, L., & Charron-Chénier, R. (2017). Predatory Inclusion and Education Debt: Rethinking the Racial Wealth Gap. Social Currents, 4(3), 199 207. https://doi.org/10.1177/2329496516686620.

Semyonov, M., & Lewin-Epstein, N. (2013). Ways to richness: Determination of household wealth in 16 countries. European Sociological Review, 29, 1134–1148.

Sen A K (1983) Poor, relatively speaking. Oxford Economic Papers 35(2):153–169

Silver, E., and L. Miller. (2002). "A Cautionary Note on the Use of Actuarial Risk Assessment Tools for Social Control". Crime & Delinquency, Vol. 48 No. 1 January 2002, pp. 138-161. Sage Publications.

Singh, Gaurav, and Kelly Bruning. (2011). "The Mortgage Crisis Its Impact and Banking Restructure." Academy of Banking Studies Journal 10 (2): 23-43.

Singh, Jasleen and Sara Carter. (2023). “States Have Added Nearly 100 Restrictive Laws Since SCOTUS Gutted the Voting Rights Act 10 Years Ago”. Brennan Center for Justice. Web. https://www.brennancenter.org/our-work/analysis-opinion/states-have-added-nearly-100-restrictive-laws-scotus-gutted-voting-rights.

Slotkin, R. (1973). *Regeneration through violence: the mythology of the American frontier, 1600-1860.* [1st ed.]. Middletown, Conn., Wesleyan University Press.

Smith, Rachel. (2018). Condemned to Repeat History? Why the Last Movement for Bail Reform Failed, and how This One Can Succeed. Georgetown Journal on Poverty Law and Policy. Vol. XXV, Number 3, Spring 2018.

Solow-Niederman, A., Choi, Y. J., & Van den Broeck, G. (2019). THE INSTITUTIONAL LIFE OF ALGORITHMIC RISK ASSESSMENT. Berkeley Technology Law Journal, 34(3), 705–744. https://www.jstor.org/stable/26954395.

Spilerman, S. (2000). “Wealth and Stratification Processes”. Annual Review of Sociology, 26, 497–524.

Squires, Gregory, and Charis Kubrin. (2006). Privileged Places: Race, Residence, and the Structure of Opportunity. Boulder, CO: Lynne Rienner.

Swarns, R.L (2016). Insurance Policies on Slaves: New York Life's Complicated Past, The New York Times (Dec. 18, 2016).

Taylor, Keeanga-Yamahtta (2016). *From #BlackLivesMatter to Black liberation*.

——— (2019). *Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership*. University of North Carolina Press.

The Marshal Project. (2020). The Ins and Out of Bail. Web. https://www.themarshallproject.org/2020/10/28/the-ins-and-outs-of-bail

Thurston, C. (2021). Racial Inequality, Market Inequality, and the American Political Economy. In J. Hacker, A. Hertel-Fernandez, P. Pierson, & K. Thelen (Eds.), The American Political Economy: Politics, Markets, and Power (Cambridge Studies in Comparative Politics, pp. 133-157). Cambridge: Cambridge University Press. doi:10.1017/9781009029841.005.

Turner, T. M., & Leua, H. (2009). Homeownership, wealth accumulation and income status. Journal of Housing Economics, 18, 104–114.

United States v. Salerno, 481 U.S. 739 (1987). https://supreme.justia.com/cases/federal/us/481/739/. Web.

US Department of Justice. 2023. "The Fair Housing Act". https://www.justice.gov/crt/fair-housing-act-1

Wagner, Peter and Bernadette Rabuy. (2017). *Following the Money of Mass Incarceration.* Prison Pol'y Initiative. http://www.prisonpolicy.org/reports/money.html [https://perma.cc/C7XN-5RUC].

Walker G. K., B. S., Cohen, G., & Rush, J. D. (2006). The meta-analysis of clinical judgment project: Fifty-six years of accumulated research on clinical versus statistical prediction. Counseling Psychologist, 34(3), 341–382. https://doi.org/10.1177/0011000005285875

Walvin, J. (2011). The Zong: A Massacre, the Law, and the End of Slavery. Yale University Press. http://www.jstor.org/stable/j.ctt1npv6v

Welsh, Nancy H., (2018). "Racially Restrictive Covenants in the United States: A Call to Action".

White, M. D., Todak, N., & Gaub, J. E. (2017). Assessing citizen perceptions of body-worn cameras after encounters with police. Policing: An International Journal, 40(4), 689–703.

Wiggins, B. A. (2020). Calculating Race: Racial Discrimination in Risk Assessment. Oxford University Press.

William Gale and John Karl Scholz. (1994). "Intergenerational Transfers and the Accumulation of Wealth." Journal of Economic Perspectives, 8(4): 145-160.

Williamson, (2020). [BS1]https://www.brookings.edu/research/closing-the-racial-wealth-gap-requires-heavy-progressive-taxation-of-wealth/

Winant, H. (2000). Race and Race Theory. *Annual Review of Sociology*, *26*, 169–185. http://www.jstor.org/stable/223441

Wiseman, S. (2009). "Discrimination, Coercion, and the Bail Reform Act of 1984: The Loss of the Core Constitutional Protections of the Excessive Bail Clause. Fordham Urban Law Journal 36.1 (2009): 121–157. Academic Search Complete. Web.

Wright E O (1985) *Classes*. London: Verso

Wright, J.E., II and Merritt, C.C. (2020), Social Equity and COVID-19: The Case of African Americans. Public Admin Rev, 80: 820-826. https://doi.org/10.1111/puar.13251

Yokum, D., A. Ravishankar, A. Coppock. (2017). Evaluating the Effects of Police Body-Worn Cameras: A Randomized Controlled Trial (Working Paper). The LAB@DC. Web. https://bwc.thelab.dc.gov/TheLabDC_MPD_BWC_Working_Paper_10.20.17.pdf

Zedner, L. (2007). Pre-crime and post criminology? Theoretical Criminology 11(2):261–281.

Zinn, J. O. (2008). Risk society and reflexive modernization. In J. O. Zinn (Ed.), Social theories of risk and uncertainty: An introduction. Oxford: Blackwell Publishing Ltd.