

THE COLOR OF MARGINALIZATION:
PAINTING THE PICTURE OF RACE AND PUBLIC POLICY
IN AMERICAN STATES

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ABSTRACT

Building on the conceptual lens of Hero and Tolbert (1999), this study examines differences between policy restrictiveness in states with high minority populations and states with low minority populations for three policies areas: felony voting policies, Unemployment Insurance (UI) and the State Children's Health Insurance Program (SCHIP). This study examines whether states with minority populations greater than the national average have public policies that are more restrictive than states with minority populations at or below their national average and the patterns that emerged. Overall, I found higher levels of restrictive policies for states with high minority populations in the instances of felony voting policies and the Unemployment Insurance program. The findings imply a need for accountability and uniformity from the state to improve the outcomes for racial and ethnic minorities.

Dedication

This dissertation is dedicated to my mother.

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CHAPTER ONE
INTRODUCTION

CHAPTER ONE: INTRODUCTION

Over the last 20 years, studies on social inequality have moved towards minimizing the significance of race. The influx of diversity-centered discourse has shifted the emphasis from racial and ethnic equality to a multifaceted view of differences. Some authors have assigned such deficiencies to alternative theories of social progress or class inequality (Wilson 1980; Thernstrom 1999). Others have gone as far as to identify problems, which appear by all accounts to be instances of racial oppression, as self-inflicted within particular minority communities (Sowell, 1983; 1990; 1994; D'Souza, 1995; Steele, 1995, 1999; Connerly, 2000; McWhorter, 2000). Some scholars are critical of this approach and contend that race does indeed still have influence in present-day society and in fact may be more harmful today because of its clandestine status (Pettigrew, 1979; Omi and Winant, 1994; Guinier, 1995; West, 2001). These various approaches have been used to examine the way in which race collides with social institutions. The evidence is usually contradictory, suggesting the need for more research on the specific connections between race and ethnicity and social institutions.

Only a handful of studies (Hero and Tolbert, 1996; Hero, 2000) have examined the specific connection between race and ethnicity and state public policy. Studies involving state policy have used several variables mostly centered on economics and politics, ignoring race. The lack of emphasis on race and state public policy is problematic because of the recent trend to devolve policy responsibility from the federal government to the states. Reassigning responsibility for policies that predict life chances with limited federal oversight raises concern. States have a history of biased action

toward racial and ethnic minorities. Many historic examples show states' reluctance to set up policies that reflected racial and ethnic equality without federal intervention. The recent state-launched assault on race conscious policies such as affirmative action, chiefly through referendums, shows evidence of state hostility in avoiding problems associated with race and ethnicity. States such as California and Washington have been successful in removing race from consideration in areas such as education and employment. Other states such as Florida, Louisiana, Maine, Massachusetts, Michigan, Mississippi, New Hampshire, Rhode Island and Virginia have also led their own campaigns, some more successful than others, in the same direction. The lack of race supportive agendas and the shifting tide in American public policy development prompts interrogation into the link between race and policy.

The primary objective of this dissertation is to consider the role that race and ethnicity play in developing state public policy. This study will identify patterns that emerge about a state's racial and ethnic composition and its public policy development and what these policies mean for individuals who live in these states. The general questions that this study will address are:

- 1) Do states with high minority populations have public policies that are more restrictive (politically, economically, and socially)?
- 2) If so, what patterns emerge?

Public administrators, policy analysts and policy decision makers have not adequately analyzed the racial influences on American public policy (Hero & Tolbert, 1996, Myers, 2002). Race is something that is rarely interrogated comparatively (Marable, 2002). This research will make an important contribution by bridging the gaps

in an understudied area between race and public policy. Understanding race as a direct stimulus of more or less restrictive public policies, this dissertation uncovers a broader, richer and fundamentally racial context of contemporary American policy. It will broaden the scope of policy analysis considered in previous studies and examine more thoroughly how race influences policy outcomes. Incorporating the tensions between race and politics, the overarching structure of the dissertation will show how public policy continues to be a real means of marginalization. This study will be instrumental in establishing a model to use in other policy areas. Racial inequality is a matter of public institutions and practices. Disparate policies act as filters that impede the progress of many Americans. As a result, effective participation by historically disadvantaged groups continues to be hindered. Since institutional racism refers to inequality that is due to a cumulative process within and across all or most important institutional areas, these interrelationships should be examined in a comprehensive analysis (Benokraitis & Feagin, 1977). Also, this 50 state assessment will provide insight into the quality of life for minorities in specific states. The dissertation will conclude by reflecting on the individual and cumulative outcomes of state public policies and the impact on the quality of life for racial and ethnic minorities.

Statement of the Problem

According to the United States Census Bureau, projections show that by 2050, Whites will become a smaller part of the total population and their numbers will begin to decrease (Bergman, 2004). The White population will see an increase of 7 percent until 2040 (from 195.7 million to 210.3 million). These population figures will begin to recede to just over 50 percent by 2050. While the African-American population will continue to

grow slowly to 14.6 percent of the national population by 2050, the proportion of Hispanics/Latinos more than doubles from 12.6 percent to 24.4 percent of the population during the same time frame. The proportion of Asians will also double. If, as premised, the restrictiveness of policy and the presence of racial and ethnic populations in a given proximity are linked, such concerns are likely to worsen as groups increase. Thus, it is with great urgency that we begin to deal with the matter of race in America.

Regardless of policymakers' intents, public policies sometimes have unequal effects on citizens of different races. Many public policies repeatedly protect the advantages of Whites by marginalizing minority groups. Rules that seem neutral are often used to exclude certain groups from meaningful participation (Guinier, 1995). Institutional structure plays an important part in determining patterns of racial inclusion and exclusion in American social policy (Lieberman, 1995b). The institutional apparatuses under which they perform influence the racial results of social policy. "Racial [non]discrimination policies are enforced, administered and encoded in law, organizing racial identities by means of education, family law, and the procedures for punishment, treatment and surveillance of the criminal, deviant and ill" (Omi & Winant, 1994). While many public policies can be explained and justified without regard to race, further examination of policies such as welfare (Quadagno, 1994; Gooden, 1998), economics (Carnoy, 1994), education (see Wightman, 1997), employment (Jones, 1998) and healthcare (Council of Economic Advisers, 1998) continue to provide evidence that race still matters in public policy.

Challenging Race

Confronting race relations in America has become secondary to alternative arguments now promoted in its place. There are two essential arguments posed by this debate: 1) race is no longer a significant impediment in American society; or 2) the burdens experienced by a minority group are based overwhelmingly on their own pathology. According to these arguments, race does not garner present-day significant social redress. Presentation of advances made by racial and ethnic minorities in many arenas explain race away. In addition, blame is consistently placed on the groups that find themselves in inferior positions.

Structural Impediment

In 1980, William Julius Wilson argued that race has declined in significance and that class was replacing its importance. According to Wilson, class has become more important than race in determining Black life chances in the modern industrial period (Wilson 1980, p.150). Race relations have undergone great change “so much so that now life chances of individual Blacks have more to do with their economic class position than their day-to-day encounters” (p.1). Those better off economically experience racial disadvantages differently. The polarization between the Black middle class and under class undermines racial solidarity; as a result, support is sought for economics instead race. Wilson’s primary conclusion is that the sole concentration on policy programs dealing with racial bias makes it difficult for Blacks to recognize how their fortune is inextricably linked with the structure of the modern American economy. As a result, programs such as Affirmative Action are not equipped to deal with the causes other than race that afflict Blacks, other minorities and Whites. Wilson’s text served as a

forerunner for many contemporary scholars who argue that race no longer holds significant bearing on the way America functions.

Continuing the theme of the declining significance of race, Abigail Thernstrom and Stephen Thernstrom (1999) chart a course for Blacks¹ in America that tells the story, not of race, but of the advances that Blacks in America have made since the 1950s and 60s. Responding to Hacker's *Two Nations, Black and White: Separate Hostile and Unequal*, Thernstrom and Thernstrom argue that Blacks have made significant progress; despite nagging difficulties still yet to overcome, "the serious inequality that remains is less a problem of White racism than of the racial gap in educational attainment, the structure of the Black family and the rise of Black crime" (p. 534). Their reconstruction of historical race relations leads the authors to conclude that Blacks in particular have all but overcome the problems of life associated with being Black in America. The authors hail the success of the civil rights movement through an analysis of economic, political and social conditions suggesting signs of significant progress. Finally, they caution of the harm of race-based policies. The dissolution of White racist attitudes and the advances of Blacks make such policies pointless. Instead, the authors believe to promote race blind agendas encourages racial equality and continue the nation on the path of solidarity.

Minority Pathology

Ward Connerly, a major proponent of a colorblind society, argues that race is essentially obsolete in modern America. A successful campaigner for the elimination of

¹ The terms Negro, Black (Americans) or African-American are used to refer to Americans of African descent. To maintain consistency with the language asserted by the literature, the author has chosen to adopt the language in use by the cited resource. Reference to "Negro" and Black" are used as the primary identifier in Chapters 1 and 2. Use of these terms is replaced with African-American in Chapters 3 forward.

race considerations in the University of California system and across the states of California (Proposition 209) and Washington (I-200), Connerly (1997) argues that racial, gender, and ethnic preferences are morally wrong and endanger democracy. Connerly promotes minimizing identity politics that he believes have come to define how we live our lives. In his own admission, Connerly cites race preference as an obstacle to freedom and equality (p. 137). Policies like affirmative action “are at best a diversion and at worst a giant step backward in creating equal as the only category that counts”(p.137). His argument brings public policy into line with the reality that race categories are essentially obsolete.

Other scholars such as John McWhorter pose similar assaults on the discussion of race significance. In his text, *Losing the Race: Self-Sabotage in Black America*, McWhorter asserts three main ideas, which underscore underachievement: victimization, separatism and Black anti-intellectualism. McWhorter (2000) contends that Black America is caught in certain ideological holding patterns—“chief among them being the ideology of permanent victimhood” – and that these today are “much more serious barriers to Black well-being than is White racism” (p. x). Unabashedly he blames the lag experienced by Blacks in America as a direct result of their own self-sabotage as opposed to any direct institutional oppression. As a result, a well-meaning program such as affirmative action reinforces this mind-set of inferiority.

Steele (1990) places the responsibility of racism mainly in the corner of the Black population. Steele’s claim is that Blacks suffer mainly from a collective self-image that prefers victimization to success and imposes a suffocating racial conformity that ostracizes individual identity. According to Steele, historic racism is no longer Black

America's main problem. Today the problem is the failure of inadequate development to embrace individuality (p.165). Racial struggle in America has chiefly been a struggle for innocence—White need for innocence and Black need for victimization. Black power today is essentially “victimization power” rooted in a sense of entitlement for past wrongs suffered at the hands of Whites. Alternatively, White innocence has served as the root for racism and a sense of right (p. 6). Thus, both races have a hidden investment in racism. Steele argues that a lack of acknowledgment by the Black community of victimization allows the community to continue to carry out a façade of innocence—somehow if one is not responsible for his/her own inferior status, then s/he is not culpable for it either. Steel argues that power can only surmount when Blacks begin to take responsibility for their own development.

Thomas Sowell (1983) addresses his doubt that racial disparities exist solely as a matter of racial discrimination. Sowell finds fallacy in what he defines as the civil rights vision, which holds statistical disparities by themselves prove discrimination; statistical disparities are attributed to discrimination; and statistical disparities necessitate political solutions. Like Steele, Sowell finds problems with associating too closely to group identity. The efforts to protect these identities often lead to further exclusion from the center of society. For instance, in his text *Ethnic America* (1983) Sowell tries to convince Blacks that they are in the mainstream of society and that liberal solutions do not meet their needs or act in their best interest. He urges depressed groups to work hard to accrue the economic benefits that their immigrant counterparts have been able to gain. Sowell argues that placing faith in the free market and cultivating attitudes of self-reliance, work skills, education and business experience will in fact lift groups out of

poverty—not government subsidies and affirmative action policies. Existing intergroup cultural values play a predominate role in social status. Sowell contends that playing it safe economically and educationally is the real culprit of disparity between those groups that are successful and those that are not (Sowell, 1994). Most often, he cites, the groups that persistently find themselves near the bottom of success bear substantial blame for their inferior positions. Preferential policies create a web of illusion that foster depression among minority groups. Sowell concludes the economic and social condition of many minorities lies not in the agendas advanced by such preferential policies, but in the internal cultural values of the group.

D'Souza's work *The End of Racism* (1995) also promotes the theme of racial pathology. Recognizing the existence of racism (largely individual behaviors), D'Souza denies that it serves as the primary existence for Black failure. D'Souza argues that genuine White racism has been in steep decline for decades. The works of racism today are no longer comprehensive but rather selective in scope. D'Souza argues the significance of Black pathology and its role in degrading the Black community—what he identifies as *rational discrimination*. Rational discrimination is discrimination “based on accurate group generalizations that may nevertheless be unfair to particular members of a group” (p. 24). As a result, fewer Blacks, if any, are direct recipients of any racism that can cause significant harm, “for a minority like Blacks, discrimination is only catastrophic when virtually everyone colludes to enforce it” (539). Racism according to him no longer has the power to thwart any group in achieving their political, social or economic goals (p. 525). D'Souza questions the legitimacy of the claim of racism against Blacks citing the advancement of one segment of Blacks who have witnessed

prosperous times. D'Souza points the finger at liberal antiracism, which he argues prevents Blacks from living up to their full potential.

Noticing Race

Contrary to the previous arguments, race continues to be a central organizing principle of American society. Many of the previous theorists fail to recognize many of the central principles that separate most third world minorities from those who voluntarily immigrated to the country in search of the American dream. One's mode of incorporation² plays a significant role in the possibility of successful navigation for American ethnic minorities. Suggesting that Blacks or other groups take a page from the chapters of their voluntarily immigrant counterparts degrades their experiences.

Race is embedded in American institutions and is significant in the daily actions and politics of society. Despite improved relations over the past several decades, race continues to occupy a central position in American life. Racism as a political issue in America has not disappeared. Instead, it has taken on a different form, "more indirect, more subtle, more procedural, more ostensibly non-racial" (Pettigrew, 1979). Despite better conditions, members of racial and ethnic minority groups continue to fare worse than White citizens in America.

By noticing race we begin to challenge racism, the state, institutions of civil society and individuals to combat unequal and unjust legacies. Much of the emphasis placed on ideas of diversity, multiculturalism and colorblind society plays a significant role in minimizing America's race problem. Opposing and eradicating racism requires

² *Modes of incorporation* refers to the patterns of immigration and adaptation determined by the *reception* provided immigrants in the country of their destination. See Richard Shingles (forthcoming) *Aztlán Lost: the Mexican-American experience, and the legacy of conquest and race for colonized minorities* for a further discussion.

that we notice race, not ignore it, afford it the recognition it deserves and the subtlety it embodies (Omi & Winant, 1994, p. 159). Ignoring race and favoring a "color-blind" approach means doing nothing to change the institutionalized way in which it still pervades America.

Transformation is not located in changes of daily interactions among people. For powell (2002) the eradication of ill formed policies will only come about when institutions are transformed. Race in America has been a component of social structures and plays a significant role in shaping public policy. Significant in both the development and implementation of public policy, race serves as a suitable tool for analysis that can provide insight into public policy variations. According to powell (2002) the connection between policy and race is directly linked through *structural racism*. Structural racism exists irrespective of ill will or animosity; instead, it is built into the fabrics of institutions thus establishing itself as a preeminent part of society. Racial disparities are deep seated in laws and policies that disadvantage people of color and over-advantage Whites; thus it cannot be easily explained away.

Even Wilson (1990) concedes his previous argument that persistence of urban poverty cannot be explained without reference to race. In *The Truly Disadvantaged*, Wilson presents theoretical arguments inspired by the debate over his previous work that social problems of urban life are largely the result of racial inequality, but he warns that such inequality is not caused simply by racism. Public policy plays an important role in the political, economic and social marginalization of racial and ethnic minorities. Processes, which result in the continued exclusion of a minority group, are suspect and must be continually scrutinized.

This dissertation is based on the observation that racial and ethnic diversity influences state development of public policy. This dissertation seeks to identify the role that race plays in state public policy development in the U.S. and will explore the hypothesis that the more minorities a state has, the more likely it is to develop restrictive public policies.

Context

The impetus for this research is the work done by Hero and Tolbert (1996) and Hero (2000). These authors hold the position that race and ethnicity are central to state characteristics. In an attempt to further advance Daniel Elazar's notion of political culture, Hero and Tolbert continue that not only has political culture played a key role in developing public policies in American states, but it is the very essence of that political culture or the racial and ethnic cultures that form the foundations of these distinct political cultures that play a significant role in the policies that American cities and states develop. Hero and Tolbert assert that a state's racial and ethnic diversity often dictates how advantaged or disadvantaged a minority group is in a given area when compared with Whites in the same state. The authors argue that race and ethnicity are essential to understanding public policy; however, the concepts have not been developed and incorporated extensively into a full-fledged interpretation of state politics and policy. To study the association between race and state policy, the authors developed three measures of state diversity: homogeneous, heterogeneous and bifurcated. States with large White populations and moderately sized minorities populations have a heterogeneous social structure. States with low minority populations and low White populations are homogeneous. States with large minority populations and large White

populations are classified as bifurcated. The authors found that policies that target minority groups are more likely to be adopted in states with large minority populations and large White populations. States with large minority populations and large White populations produced lower overall education and social policy outcomes. When the policies are disaggregated by race the authors found that policies for minorities are especially poor in homogeneous states.

Hero and Tolbert's findings are consistent with previous research that examines the link between racial composition and inequality. Based mainly in employment issues, early studies on racial composition and inequality discussed the effect of the relative size of minority population and outcomes. These studies suggest that the motivation of the majority to discriminate is a function of the perceived threat the minority group poses to its privileged position (Williams, 1947; Allport, 1954). Clearly stated, the perception of minority threat is a positive function of its size.

According to Key, size was a significant factor in the determination of Negro political status. Writing in 1949, Key contended that the presence of large numbers of non-voting Negroes was concerning and played a significant role in political divisions based on race and diverted voter attention from non-racial issues. Democrats of the South established an elaborate system of control over the electorate in order to restrict the political influence of those working in the interest of the Negro race. Southern democrats viewed the Negro-Republican connection as dangerous to the current system of politics and set to relegate the Republicans to local political status if any at all.

This "concern" was extended in 1956 by Blalock's "visibility-discrimination" hypothesis, which assumed that immigration of a new minority group into an area leads

to conflict and competition. The hypothesis predicts a positive relationship between representations of a subordinate group and discrimination because of heightened competition over scarce resources. As the minority group increases, so too does the degree of discrimination.

Several researchers have examined the concentration of Black populations and its impact on local industry involvement. These studies have found an association between racial composition and inequality based on competition. These authors have consistently found that higher populations of Blacks positively correlate with higher levels of Black-White inequality (Burr, Galle & Fossett 1991; Beggs, Villemez & Arnold 1997; Huffman & Cohen, 2004). Positive associations were stressed in research of White racial attitudes (Fossett & Kiecolt, 1989; Olzak, Shanahan and West, 1994; Quillian, 1996) and behavior (Pettigrew, 1957; Heer, 1959; Reed 1972; Tolnay & Beck, 1995; Deane & Beck, 1996; Olzak, Shanahan & McEneaney, 1996). Lieberman (1980) argues that perceived levels of threat increase, as the minority group becomes a larger share of the population. Alternatively, Glenn (1963) argues that differences in the distribution of Blacks among communities of different size account for variation in Whites' status because of potential gains from exploitation. This concept known as "White gains," implies that the impetus behind discrimination is higher in areas where the proportion of Blacks is higher, thus reflecting greater payoffs. Thus, these results point to a benefit accrued by Whites based on anti-Black discrimination. Persistence of discrimination exists based on the gains that Whites obtain from it and seemingly, the perception of threat based on population size or density.

Theoretical Framework: Critical Race Theory

Scholarship about race and public policy is most often grounded in Critical Race Theory (CRT). Finding its origin in the discourse of critical legal studies and radical feminism, Critical Race Theory understands social facts as being influenced by race and ethnicity. Within this perspective, race and ethnicity are treated as central to U.S. law and policy (Delgado, 2001, p. xx). A discourse primarily centered on the Black experience, Critical Race Theory places emphasis on the relationship among race, racism and power and examines the way that allegedly “race-neutral” laws and institutional policies perpetuate racial subordination (Villalpando, 2003). It examines issues of race in a broad context placing emphasis on transforming the current realities of racial and ethnic minorities. According to CRT, race is entrenched within social, political, economic and legal institutions. Race, according to critical race theorists, is a constitutive element, “not simply- or even primarily a product of biased decision-making, but instead the sum total of the pervasive ways in which laws shape and is shaped by race relations across the social plane” (Crenshaw, Gotand, Peller & Thomas, 1995, p. xxv). Critical Race Theorists question the foundation of equality theory, legal reasoning, enlightenment rationalism and neutral principles of constitutional law (Delgado, 2001, p. 3). Their approach addresses present-day issues through a historical and cultural context.

Critical Race Theory focuses on power and the construction of social roles. It embraces the ideas of group empowerment and redressing historical wrongs. There is a great deal of diversity among critical race theorists. Six general principles characterize CRT: the difficulty to cure and address racism; interest convergence; social construction

of race; racialization between groups; intersectionality; and voice of color as authority. Two common interests unify these principles (Crenshaw, Gotand, Peller & Thomas, 1995). The first examines the contradiction between ideals of the rule of law and equal protection and the continued existence of White supremacy and racial oppression. The second stresses understanding and changing our social situations. Critical Race Theory aims to confront existing scholarship that embraces “color-blind” efforts by reexamining the terms in which American consciousness negotiates race and racism. The expectation is to rejuvenate a discourse of tradition reminiscent of preintegration.

Critical Race Theory has led to a number of movements outside the Black discourse. Asian-Americans, Latinos and Native Americans are all employing CRT to interpret and theoretically navigate their own existence through an oppressive society. This dissertation continues this tradition by exploring the connection between race and state public policy. In an attempt to expose the contradiction of non-race based state policy, it is the author’s intent to bring recognition to an institutional problem that continues. Critical Race Theory has provided the basis for a significant amount of empirical work in law and education. By incorporating this theory into this dissertation, I hope to influence the use of this discourse within the disciplines of public administration and public policy.

Significance

In response to the gaps in information and identified problems, this study offers an empirically grounded account of the significance of race in state public policy. There is a strong racial element to many public policy issues (Rueter, 1995, p.353). This dissertation enriches the literature on public policy by examining how race is embedded

in political, economic and social infrastructures. State public policy serves as a vehicle for exploring the question, “what role does race play in contemporary American public policy?” This research adds to the limited discourse developed in the study of public administration and public policy surrounding the significance of race. Alternatively, it complements the information already available in other disciplines. A review of the empirical studies of race and public policy suggests that an important association between the two exist. Such links are likely to rely on explanations that are deep-seated in elaborated institutions. The motivations for this study reflect both my personal interest and my desire to enrich and extend our current understanding of the significance of race in the policy arena. To do so, I analyze policy restrictiveness in several areas. In the context of explaining race differences, I examine a set of policies that can be classified as political (felony voting policies), economic (unemployment compensation), and social (child health care).

Overview of Subsequent Sections

This study is divided into seven chapters. In this chapter, I presented the research problem and summarized relevant literature on which the problem is based. Chapter 2 presents a review of related research on the significance of race. In addition, the chapter highlights the state’s role in marginalization of minorities calling into question the implications of devolution. Chapter 3 details the method used in this study. Emphasis is placed on the research design, methods and procedures of data collection and analysis. The research findings and analysis of three public policies are presented in Chapters 4, 5 and 6. Chapter 4 highlights the results of the convergence of race and felony voting policies. Chapter 5 provides the results of the analysis of race and

unemployment insurance programs. The results of comparing race and State Children's Health Insurance Programs (SCHIP) are presented in Chapter 6. The final chapter summarizes and discusses the research findings in relationship to the literature, conclusions and recommendations for further practice and research.

CHAPTER TWO
LITERATURE REVIEW

CHAPTER TWO: LITERATURE REVIEW

*In order to get beyond racism, we must first take account of race. There is no other way.
And in order to treat some persons equally, we must treat them differently.*

-Harry A. Blackmun

Introduction

This study is designed to explain the extent to which race can be credited for variances in public policies across the American states. This chapter addresses the following topics: a) institutional racism; b) comparative state policy analysis; c) biased state legislation; and d) devolution. This chapter examines the contributions of scholars advancing our knowledge about institutional racism. This literature review contributes to the existing literature first by providing a review of the theoretical foundations and empirical evidence that have influenced the development of institutional racism. Next, this chapter discusses the ways in which prior approaches to comparative state policy analysis have neglected the significance of race, emphasizing the models and variables that have traditionally been analyzed in state comparative politics. Then, the chapter focuses on a specific form of institutional racism that has played out at the state level- racially biased legislation. This section emphasizes the historic pattern of legislation developed by states that promote inequalities among the races. This will entail a discussion of laws set up by states to derail racial and ethnic minority inclusion. Recounting the history of race legislation in American states offers insight into the current circumstances surrounding race. Relying on these literatures will help to establish a pattern of state enmity. Finally, this chapter ends with a discussion of the implication of state devolution. This section will provide a review of the literature that has informed this area of study. It highlights some of the problems associated with

devolution, specifically the transfer of power and responsibility, underscoring the conclusion that state devolution is not a positive experience for minorities in American states.

Institutional Racism

We live in a condition where racism thrives absent of racists (Bonilla-Silva, 2003). Racism is most recently portrayed to exist within the confines of American institutions. No longer are hardships and discriminatory practices credited to individual people; instead structures and foundations of society are being identified as perpetrators. The lack of enforcement of laws designed to protect and promote social justice pushes racism from the realm of individual motivations into the realm of institutional subjugation (Lipsitz, 1998). This shift in focus from indiscretions at the micro level to occurrences at the macro level conceals one essential element of racism—individual indiscretion. Individuals have been socially absolved from personal responsibility and accountability. Unless rendered in the most blatant fashion, individual racism is rarely acknowledged and most often mitigated by explanations other than race. The collective histories of people of color and their experiences with the White majority have largely been defined around a series of oppressive institutions and practices (Marable, 2002) that have left people of color fighting a battle with an obscured opponent. Conscious and deliberate actions have institutionalized group identity in the United States through systematic efforts from colonial times to the present to create advantages through a possessive investment in whiteness for European Americans (Lipsitz, 1998, p.2). The presence of systemic inequities and privilege based on race is backed up by a system that denies communities of color opportunities for accumulation and upward mobility (p.vii).

Informal barriers exist in organizations and institutions that prevent minority members from reaching higher level positions (Bielby, 1987). These barriers are referred to as institutional racism. Institutional racism most often refers to the systematic pervasion of race within the social, political, economic and legal structures of American institutions. It is asserted that biased practices are instilled in the policies and procedures of daily activities and are the culprit of hardship on members of minority groups. Minorities, in almost every aspect of American life, experience the consequences of oppressive institutions. And, while many are not culpable for the intrusions on the lives of minorities, they still garner the benefits.

Many authors have puzzled over the significance of race in American society. While early literature focused on the acts and motivations of individuals, the concept of institutional racism has taken a more prominent place in the literature since the 1960s. Theoretical accounts of this phenomenon have exceeded the existence of empirical literature. The literature on institutional racism centers largely on six topics: definition, exclusion, outcomes, individuals and attitudes, expanded purview and research (Feagin & Benokraitis, 1997). The following is a brief summary of the literature significant to the development of the theory of institutional racism since the late 1960s.

Theoretical Foundations of Institutional Racism

Defining Institutional Racism

Racism has evolved over time from explicitly sanctioned oppression to a system of obscurity and invisibility. Early writing on institutional racism addressed the obscure nature of institutional racism and clarified the distinction between it and individual

racism. One of the earliest references to institutional racism comes from Carmichael and Hamilton (1967) who supply the anchor for discourse on institutional racism:

Racism is both overt and covert. It takes two, closely related forms: Individual Whites acting against individual Blacks, and acts by the total White community against the Black community. We call these individual racism and institutional racism.... When White terrorists bomb a Black church and kill five Black children that is an act of individual racism, widely deplored by most segments of society. But when in that same city--Birmingham, Alabama--five hundred Black babies die each year because of the lack of proper food, shelter and medical facilities..., that is a function of institutional racism (p. 4).

Carmichael and Hamilton highlight the difference between individual and institutional racism. According to them, institutional racism is less overt and less identifiable in terms of specific individuals committing specific acts. Institutional racism originates in the operation of established and respected forces in the society and thus receives far less public condemnation than individual racism. For these authors, institutional racism is analogous with colonialism. Colonialism refers to exploiting Blacks in America economically, socially and politically by White dominated institutions physically and in theory. Essential to their idea is the understanding of the major distinctions between the colonizer and the colonized. That is, that White superiority is fixed in the system of interactions thus establishing a system of inferiority for Blacks. White dominance has employed political, economic and social mechanisms as a means to continue to subjugate the Black population. This "colonial relationship" relegates Black Americans to a *less than* status in all areas of life. As a result, the expected American dream is not readily accessible for Black Americans. Carmichael and Hamilton describe a reality that is infused with White power and void of any significant stock by Black Americans. The effect of political and economic deprivation and deficiencies in social conditions are directly related to shortfalls in Black existence.

Exclusion from Major Social Institutions

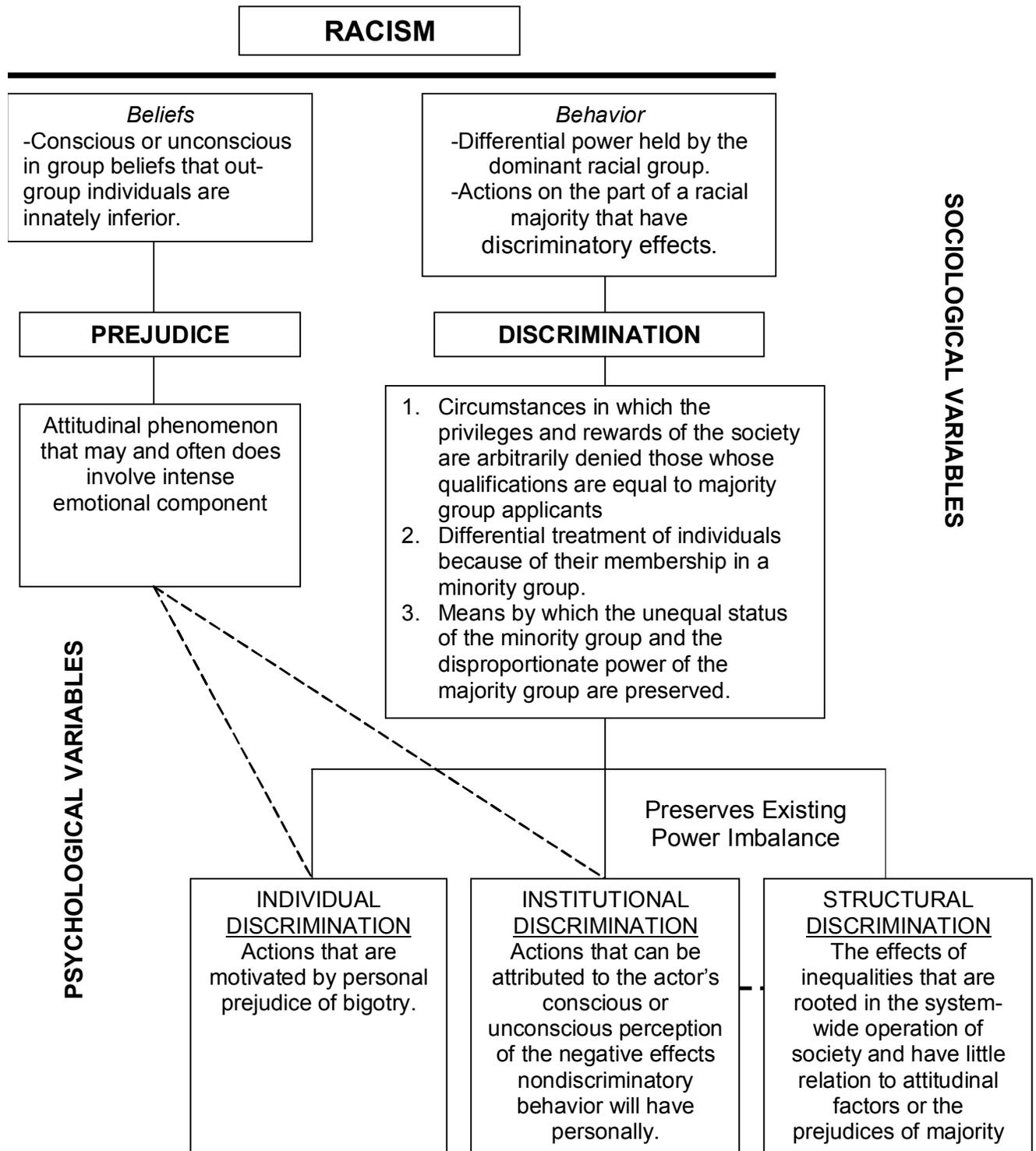
A common theme that emerges in the institutional racism literature is the exclusion of racial and ethnic minorities from major social institutions. Authors such as Knowles and Prewitt (1969) highlight the effects of institutional racism in their text *Institutional Racism in America*. The ideology of superiority sustains institutionally racist practices in America. According to these authors, institutional racism finds its genesis in the religious underpinnings of early settler thought. Ideologies such as *manifest destiny* and *White man's burden* served as mantras, which have nurtured the cultivation of racist policies. Taken together these ideals have continued to sustain the value of institutional racism in American practices. Knowles and Prewitt provide an account of how public structures in American society deliberately or unintentionally perpetrate racism and exclude Blacks from major societal institutions. Using five American institutions as a basis for their analysis, Knowles and Prewitt examine the exclusion of Blacks from education, economic, political, legal and medical institutions. These authors' analysis focuses on ideological patterns, which historically and presently sustain institutionally racist practices in American society. Institutions, according to the authors, have the power to reward and penalize. It is through institutionalized practices that American society legitimizes deliberate racism or unintended racial bias. The result is a society predicated on preserving the status quo.

Outcomes

Yetman and Steele (1972) present a series of work that engages racism and its negative impact on minority populations focused on outcomes. In an attempt to distinguish between psychological and sociological variables of oppression, the authors

address the overarching definition of racism. Figure 1 depicts Yetman and Steele's definition of racism and is useful for three reasons. First, it provides a definition of racism and the parts encompassed within it. Second, the figure highlights the distinction between prejudice and discrimination. Finally, the figure reveals the connection between prejudice and discrimination.

Racism for the authors is both the racially motivated beliefs and the behaviors that perpetuate the continued division between (racial) majority and minority groups. Yetman and Steele contend that use of the term racism encompasses both prejudice and discrimination (p. 360). They attempt to provide clarity on the terms and their uses. According to the authors, the term prejudice implies conscious or unconscious in-group belief system (p. 12). As an alternative, advancing the notion of discrimination isolates those oppressive factors that are considered external to the individual and attributes them to society. The authors use the term discrimination as a description of behavior. Discrimination involves differential treatment of individuals because of their membership in a racial minority group or "unequal treatment of equals" (p.13). This definition focuses on the denial of access to society's rewards. Circumstances in which the privileges and rewards of the society are arbitrarily denied those whose qualifications are equal to majority group applicants are characteristic of this component. As a result, discrimination compromises the means by which the unequal status of the minority group and the disproportionate power of the majority group are preserved.



Source: Yetman & Steele, 1972

Figure 1. Definition of Racism

Yetman and Steele advance three types of discrimination: individual, institutional and structural (p.362). *Individual discrimination* refers to the actions that are motivated by personal bigotry. *Institutional discrimination* is individual actions motivated by cultural pattern and void of personal malice. For Yetman and Steele the effects of inequalities that are rooted in the system-wide operation of a society are what they refer to as *structural discrimination*. Structural discrimination, largely manifested in situations of economics, ascends from the fact that even without prejudice, inequalities rooted in the impersonal and normal operation of existing institutions would still not ensure equal access to society's rewards (p. 363). The authors acknowledge the muddiness of the distinction between institutional and structural discrimination. For them, it is these two components that facilitate the continued existence of racism, "the most important function of institutional and structural and institutionalized discrimination is the preservation of the existing power imbalance between majority and minority" (p. 367). The presence of majority members in the top echelons of major establishments continues to retard the successful navigation by minority members. At the same time, the establishments perpetuate inequality created by other aspects of society.

Individual and Attitudes

In his text *Prejudice and Racism*, Jones (1972) employs a psycho-socio-historical analysis of prejudice and racism, which emphasizes the attitude basis of racism and prejudice and its roots in individual personality. Jones offers two definitions of institutional racism:

First, it is the institutional extensions of individual racist beliefs; this consists primarily of using and manipulating duly constituted institutions so as to maintain a racist advantage over others. Second it is the byproduct of certain institutional

practices [intended or not] which operate to restrict on a racial basis of choices, rights, mobility and access of groups of individual (p.7).

Similar to his predecessors Jones also articulates an intentional and unintentional component to the notion of institutional racism. Jones explores the ways in which racism and prejudice reveal themselves, individually, institutionally and culturally. As Figure 2 shows, institutional racism represents the expansion found between individual racism and cultural racism. Jones uses an expanding telescope as a model for analysis of racism.

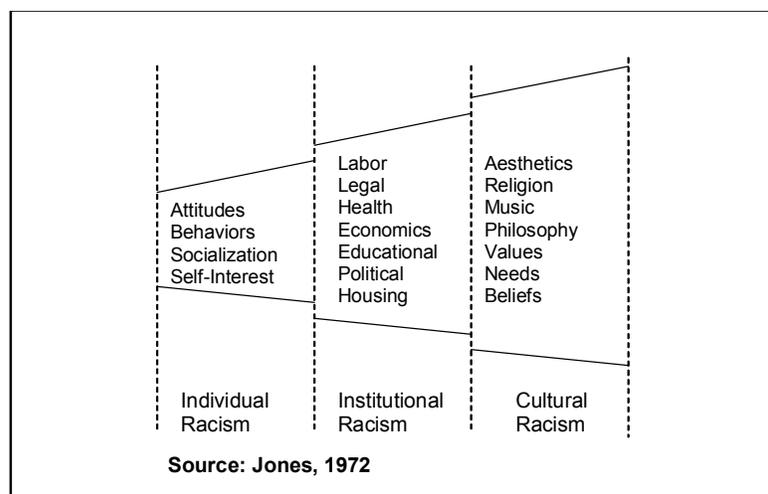


Figure 2. Through a Telescope *Widely*—Model for Analysis of Racism

As the second extension of racism, institutional racism can be identified through examination of the inequities in outcomes (p. 116). Jones examines existing American institutions and concludes that institutional racism can be recognized in most examples. The extensive presence of racism within institutions has origin in the basic beginnings of America. Institutional racism is codified in the laws, customs and practices of society that systematically reflect and produce racial inequities. Institutional racism is significant because of the consistently negative consequences for Blacks and other minorities because institutions consistently socialize generations to be individual racists.

Jones' text condemns many institutions by drawing on their racist consequences and their roots in White supremacy. Jones suggests that either by design or by effect these institutions [economics, education and justice] carry some level of racism. The author concludes that effects of racism can be remedied through a cultural revolution with an ultimate goal of valuing human life.

Expanding the Perspective

The big news in America in the mid 1970s was the consistent challenge to patterns of racial control the oppressed are mounting in every area of society, at least for Robert Blauner (1972, p. 43). Blauner takes a sociological perspective on race relations in America. His view differs with his sociological predecessors in that race bears a significant role for the ailments of society. Theorists like Durkeim, Weber, Marx and Toennies did not place a priority on race and ethnicity. Instead, these theorists focused on class and social stratification, growth of bureaucratic organizations, occupational and professional specialization as central characteristics to social struggles. Blauner alternatively believes that race plays an important role in the struggles that present themselves for third world people.³ In addition, early theorists assumed the decline and eventual elimination of racial significance. Blauner also strays from this presumption. For Blauner, racial oppression is intrinsic to U.S. history. He points to evidence that shows the continued existence of race. Blauner believes that negligence by "mainstream sociological theorists" has had a disparate impact on the foci of analysis of race within sociology discourse. Blauner criticizes the leading sociological approaches of his time because of their assimilation perspective. Like

³ The third world notion points to a basic distinction between immigrants and colonization as the two major processes through which new population groups are incorporated into a nation. It refers to Native Americans, Chicanos, Asians and Blacks. (Blauner, 1972, p.52)

Carmichael and Hamilton, Blauner used a colonial analogy to interpret the Black-White relationship in America. Recognizing the existence of White prejudicial attitudes, he did not call them the essence of racism. This view, he contends, worsens the identification of White people who consider themselves not prejudiced because they have not engaged in specific acts or behaviors believed prejudicial. Racism instead should be thought of in terms of institutions. "Institutional racism involved the exclusion or restriction of racial groups by policies and procedures that have become a conventional part of the bureaucratic system of rules and regulations" (Blauner, p.10). He, too, sees little relevance for the continued existence of prejudice. Blauner's text tries to point out the routine operation of institutions in perpetuating inequality. Blauner reiterates many of the findings and circumstances of earlier works. However, his inclusion of third world groups helps to distinguish his theory from the rest.

Involvement with the McCone Commission in response to the LA riots, the Huey Newton trial, and a position as a full-time university faculty member provide Blauner the bases to target his criticisms of institutional racism. In defining institutional racism, Blauner identifies two critical dimensions within all of these distinct circumstances. First, he acknowledges "the exclusion of people of color from equal participation in the society's institutions" (p.185). Second, he acknowledges "the interaction of the various spheres of social life to maintain an overall pattern of oppression" (p.185).

In 2001, Blauner revisited his previous work. Blauner's work continues to explore the theoretical underpinnings of race relations in America and highlight the ways in which institutional racism still works. Blauner uses this later text to reflect on his previous work relative to his personal and professional growth. His "distrust" of

sociological theory prompted Blauner to abandon his idea of internal colonialism for a theoretical approach guided by real life cultivated by firsthand research and classroom experiences. This pervasiveness of race in America is *Still the Big News*, as highlighted by Blauner's analysis of contemporary events, including the L.A. riots following the Rodney King verdict and the presidential election of 2000.

Research

In order to avert the perceived inaccessibility of data and the unavailability of a sound research theory, Benokraitis and Feagin (1977) developed a model of institutional racism that attempted to address some of the theoretical problems associated with previous works. In their effort to advance the theoretical discourse of institutional racism, Benokraitis and Feagin offered the *Cumulative Interdependence of Modes of Operation and Consequences of Institutional Racism* model to guide institutional racism research. Benokraitis and Feagin identify six broad themes that have played a central role in the institutional racism literature. These include the importance of history, individuals' means and mechanisms of racism, visibility and intent of racism, the significance of bureaucracy, the cumulative affects of racism and consequences as an indication of racism.

While Benokraitis and Feagin note the significance of these themes and the obvious existence of the problems addressed by them, they are not without their criticisms. First, the authors cite the difficulty of establishing a comprehensive definition of institutional racism. This is a problem for two reasons. The first reason involves uncertain boundaries and processes of institutional racism that are still being explored. According to the authors, scholars are burdened with the task of extracting the meaning

of institutional racism from other forms of exclusion. A distinction must be placed on types of inequality-- racism perpetrated by individual prejudice must be made discernible from that considered institutional. The second reason for a lack of a central definition is attributed to the lack of a distinction between institutional racism and racism within institutions.

Another problem area in researching institutional racism is methodology. First, extracting the particular unit of analysis is often difficult. Benokraitis and Feagin contend that discussing institutions but using individual and social level examples contradicts the idea of institutional level analysis by “attributing structurally unequal consequences to intentional and prejudicial attitudes” (Benokraitis and Feagin, 1977, p. 129). Similarly, the authors point out that no clear theoretical direction for isolating variables to be examined or to guide field research has been presented. Most of the previous research has risen from work directed at examining the position of Blacks in various institutional settings. Limited empirical research exists on isolating the details of institutional racism. The authors note incongruence between theory and research. Further, using institutional racism as a framework for field research would serve to advance the perspective as a vital methodological resource. Finally, Benokraitis and Feagin note the ambiguity of the perspective, particularly the capacity to apply it to various racial and ethnic groups. The authors question the cross-cultural and cross-national appeal of the approach. The authors cite that up to the present point most of the research from the institutional racism perspective has focused primarily on Blacks in America.

According to the Benokraitis and Feagin model, institutional racism is comprised of two essential components-- modes of operation and consequences-- essential for advancing the theoretical and methodological perspective of institutional racism. Modes of operation refer to the norms and their application by critical personnel who limit access to resources within one institution. Emphasis is placed on the systematic examination of statutes, bureaucratic regulations and rules of allocation and decisions regarding the distribution of goods and services in all major institutional areas. Consequences are the operations of norms and roles within and cumulatively across institutions that provide a basic system of control over access to resources excluding and underrepresenting large parts of the populations from major institutional areas. Emphasis is placed on representation and participation within one institutional area and the existence of these same consequences in other institutions currently and over time.

The notion of the cumulative and interrelated impact of institutional operations and consequences purports that Black exclusion from any one institution also establishes preconditions for inequality in other institutions. Subordinating Blacks in the economy, for instance, increases the difficulty in catching up in other institutional sectors. Within this model, the authors define institutional racism as:

the structure of inequality: 1) reflected in the racially based differential allocation of status, privilege and material rewards in numerous institutional sectors; and 2) shaped by the historically precipitated and currently persisting process of subordination whose mechanisms primarily involve the routine imposition of conventional norms by often unprejudiced role players in the various institutional sectors in a way that through convert and usually unintentional, produces racially relevant consequences (p. 133).

Using the jury selection process as a vehicle for exploration, the authors apply their model to illustrate the features of institutional racism. In their example, they show how

past legal norms and legal social control agents place significant restraints on Blacks' current ability to navigate in the jury process. Previously, the link between voting and jury selection made it almost impossible for Blacks to serve on juries because of their inability to vote before World War II. Since then, small numbers of eligible voters due to techniques like coercion and voter purges have worsened Black detachment from the jury process. Implementation of federal legislation has curbed the effects of once legally sanctioned exclusion; however, Blacks still found themselves in front of mostly White juries that are not representative of their peers. The effects of these policies are still present today. Consequently, Black criminal defendants suffer the penalty of institutionalized oppression.

Empirical Evidence

The theoretical foundations of institutional racism supplement the development of contemporary empirical literatures. Minorities continue to be behind the curve in many public institutions. Many studies report on the hidden associations between race and education in encounter and outcomes (Darling-Hammond, 1998; Gordon, 2000). The achievement gap also persists between minority children and their White counterparts (Bacharach, Baumeister & Furr, 2003).

In an attempt to expose the hidden dimension of race the Applied Research Center (ARC) (Gordon, 2000) examines five key areas of education: segregation, discipline, funding, curriculum and testing. The ARC found that race among other reasons is a central force in American education. The report notes that since the Brown v. Board of Education decision, school segregation still looms in cities such as Chicago, Detroit and Los Angeles where 94 percent of Blacks and Latinos attend de facto

segregated schools. The report cites that fewer than 40 percent of all schools are racially exclusive, finding less than 10 percent racial and ethnic minority students. Conversely, the report cites that 40 percent of all public schools in large cities are predominantly minority, accounting for 90 percent of the student body. And while children of color constitute roughly 35 percent of the student body, White teachers at 88 percent, dominate the teaching force. The study also reports that minorities received more school discipline than their White counterparts. A cross state comparison reveals that minority students suffer more academic sanctions than non-minority students, with Black students leading in each instance. The report continues to cite similar findings in instances of funding, curriculum and testing—that race plays a central role in the differences experienced among White and minority pupils. Based on the findings, the ARC recommends media analysis that is more comprehensive at interrogating *facts* about American education.

Darling–Hammond (1998) reported similar findings. Countering the arguments asserted by Charles Murray, Stephen Thernstrom, and Abigail Thernstrom, she argues that unequal access to education still restricts non-Asian minorities from achieving adequate educational outcomes. The author points out that school size, class size, curriculum and teacher qualification influence student achievement. Darling–Hammond contends that variation in teacher training, contributes to the miseducation of minority students. Teachers that are more qualified are less likely than their ill-equipped counterparts to teach in disadvantaged, minority public schools. Teachers with master’s degrees or licenses in critical areas such as math and science were more likely to teach in non-minority schools. Unequal opportunity to quality education leaves non-Asian

minorities disadvantaged. Darling–Hammond concludes that providing equal opportunity to education from the outset will have a greater impact on student achievement than reactive measures.

The Urban Institute reported similar findings in areas of education outcomes. A study conducted by the Institute (Swanson, 2004) found that high school graduation rates for American Indian, Hispanic and Blacks were well below the national average. An alarming 25 percent difference is evident when examining the graduation rates between White and Asian students versus Black, Hispanic and American Indian students. The graduation rates for Black, Hispanic and American Indian students were significantly lower in 2001 at just between 50 to 53 percent.

Inadequacies in academia often translate to inequalities in the workforce. Knowles and Prewitt first reported on economic exploitation for Blacks in 1969. Since then, Blacks have continued to experience racial inequality in the job sector (Huffman & Cohen, 2004). They have remained relegated to lower job status (Wiens-Tuers, 1998) or are without jobs in some instances (D’Amico & Maxwell, 1995). The Department of Labor reports that approximately 5.2 percent of Whites were unemployed in 2003. For Latinos, the rates were higher at 7.6 percent. Black unemployment rates were consistently twice that of Whites over a twelve-month period at 10.8 percent.

A study conducted by the Institute for Women’s Policy Research (Werschkul & Williams, 2005) shows a continuation of institutional and structural employment practices that marginalize Blacks. The study found that when comparing Black and White women of similar levels of education and income, Black women were worse off than White women. According to the report, Black women work more and still earn less

when compared to White women (Werschkul & Williams, 2005). Black women with bachelor's degrees on average make about \$2500 less than White women. Seventeen percent of Black women and 10.6 percent of Hispanic women held bachelor degrees in 2004, compared to 24.6 percent of White women. In 2003, 26.5 percent of Black women lived in poverty, as did 24.4 percent of Hispanic women. In contrast, only 9.1 percent of White women lived in impoverished conditions.

In a concentrated study of welfare recipients, Harknett (2001) found differences in work among White, Black and Hispanic recipients. The author reports that White women in the control group worked less than Blacks and the same amount as Hispanics, yet White women were more likely to leave welfare than African-American or Hispanic women. The author explains this as a matter of higher earnings per quarter by White women. In addition, the likelihood of marriage was of greater frequency for White women than for Blacks or Hispanics. Although all groups had low levels of receipt, White women were more likely to receive monetary gifts from family and friends and child support to contribute to greater wealth. The author found that Black and Hispanic women were more likely to remain on welfare after two years versus their White counterparts.

Difficulties in the labor market often translate into other economic disparities, particularly in the consumer market. For example, the rate of homeownership, while growing among minorities, is still low relative to Whites (Deng, Ross and Wachter, 2004; Yin). Blacks and other minorities also saw lower appreciation rates of their properties when compared to Whites (Kim, 2000). Such patterns further the argument that racial and ethnic minorities are impacted by institutional inequality.

Structural factors also contribute to the racism experienced by minorities legally. Minority men and women (particularly Blacks) account for significant proportions of the imprisoned populations and rates of new imprisonments (Roberts, 2004). Death penalties are handed out at a higher rate for racial and ethnic minority defendants (Swarns, 2004). Steffensmeier and Demuth (2000) provide added evidence of racial disparities in the justice system by examining the effect of ethnicity on sentencing outcomes. The authors surveyed sentencing data over a three-year period across 64 federal district courts, placing emphasis on drug and non-drug related cases. The study was limited to male defendants who are U.S. citizens across four racial and ethnic combinations: White defendants, Black defendants, White Hispanic defendants and Black Hispanic defendants. Steffensmeier and Demuth note an overall harsher sentencing of Hispanic defendants over White and Black defendants. In addition, the authors found existence of greater leniency for White defendants in every instance of comparison. According to the research, ethnicity has a small to moderate effect on imprisonment and term length decision that favors White defendants and penalizes Hispanic defendants. Black defendants place in the middle of the continuum of sentence severity. Black-Hispanic defendants were sanctioned more harshly than any other group. Cases in which judges depart from specific sentencing guidelines showed higher and longer imprisoning for Hispanics than for Whites.⁴ Downward departures suggest high disparity between Whites and Hispanics. Hispanic-Black differences are

⁴ Judicial discretion is allowed upon determination of a defendant's final offense level and criminal history. The judges have the discretion to impose a sentence within the applicable range or to depart above (upward departure) or below (downward departure) the range. Below departure are controlled by judges and prosecutors. A judge's downward departure rewards a defendant for actions such as pleading guilty or accepting personal responsibility. Prosecutor downward departure rewards are offered in instances when defendants "substantially assist" in the investigation or prosecution of another person committing a crime (usually associated with drug offenses).

limited to substantial assistance departures in which Hispanics experience harsher treatment. Hispanic drug defendants are most at risk of receiving the harshest penalties because of lack of benefit of departure sentencing options. Based on the findings, the authors recommend further study of race and ethnic disparities particularly those that highlight ethnic differences in the criminal justice.

Bishop and Frazier (1996) use both qualitative and quantitative measures to assess the race effects of juvenile justice. They reviewed the client information system kept by Florida's Department of Health and Rehabilitative Services. The authors examined a series of decision points in delinquency case processing and sociodemographic characteristics. The authors found that for delinquency offenses minorities are represented at a higher rate than Whites. Minority youths referred for delinquent acts are more likely than comparable White youths to be recommended to be held until trial and received the most formal or most restrictive judicial dispositions. Alternatively, in instances of status offense cases the authors found that Whites are more likely to be referred to formal processing than minorities. In instances of referral of repeat offenses for contempt, Whites are more likely to be imprisoned. In addition to their quantitative component, the authors also interview juvenile justice officials to enhance the race difference that was identified through analysis of client information reports. The feedback received pointed to several possible factors, which included assigning blame first to individuals and less to institutions. However, the authors contend that their findings support a higher presence of the latter. Evidence obtained from the personal interviews provided insight into the institutionally endorsed obstacles:

family support and cooperation, the availability of public resources versus private acquisition of the same or higher standard.

Health is another area that the authors reflect upon, drawing the conclusion that American health institutions are racist. Knowles and Prewitt discuss the distribution of services, the racial aspects of various components of the health care system and the practices of hospitals. The authors show that many social services in 1968 were a “racially distributed commodity.” When considering the medical arenas today, a number of indicators remain consistent primarily professionalism (Romano, 2004) and mortality and morbidity (Liao, Tucker and Giles, 2003; Deaton and Lubotsky, 2003).

Suarez-Balcazar, Orellana-Damacela, Portillo, Rowan and Andrews-Guillen (2003) provide empirical support for a link between discrimination and the individual component of racism. The authors articulate the importance of studying racial and ethnic discrimination incidents on college campuses. They cite that it is important to understand the interplay of psychological and socio-environmental factors [similar to Jones’ analysis] associated with experiences of differential treatment among minority college students (p. 295). Suarez-Balcazar et al. call for expelling racism on college campuses through research, promotion of racial harmony, securing the persons of minority groups and recruitment and retention efforts. The authors purport the need for continued work and research to identify the extent of the problem and contextual variables implicit in experiences of discrimination, if change is the intended result.

Additionally, a study by Jeanquart-Barone and Sekaran (1996) explored whether minority members perceived institutional racism in their organizations and the causes of that racism. The sample consisted of 146 Black members of a national minority

organization employed in various federal agencies throughout the country. Jeanquart-Barone and Sekaran tested a causal model for testing the precursors of institutional racism. They examine the extent to which three independent variables (procedural justice, indoctrination and supervisory support) and two intervening variables (supportive climate and supervisory discrimination) affect their dependent variable (institutional racism). The authors test a) whether the three independent variables together will significantly explain the variance in both supportive climate and perceived supervisory discrimination and b) whether the linkage or significant paths to institutional racism will be through both a supportive climate and perceived supervisory discrimination, when the three independent variables and the two intervening variables are regressed against the dependent variable. Jeanquart-Barone and Sekaran found that the three independent variables did significantly explain the variance in both supportive climate and perceived discrimination. They also noted that the participants in the study perceived institutional racism in their work system. Higher levels of supportive climate decreased this perception, and higher levels of perceived discrimination were instrumental in respondents' perceptions of higher levels of institutional racism. To the dismay of the authors, indoctrination and supervisory support did not affect the supportive culture or perceived discrimination. Jeanquart-Barone and Sekaran conclude that the extent of perceived institutional racism can be reduced by (a) providing an organizational climate that is conducive to the effective functioning of all employees and (b) enforcing nondiscriminatory standards.

Institutional racism provides a sufficient foundation to begin to explore the attack made against minority Americans. Lack of significant engagement by some Americans

within particular institutions prohibits them from making strides elsewhere in their lives. The impetus for change can only come with an unusual approach to *business as usual* in America (Knowles & Prewitt, 1969). This approach entails major revisions of institutional arrangements. The successful examination and exposure of policy areas and their implications for exclusion will aid in depleting the overall picture of racism. The marked decline in personal prejudice will have no significant impact in ameliorating oppression if “discrimination racism” is not eradicated as Yetman and Steele suggest. The contemporary empirical literature presented in this section shows traces of hostility in environments and institutions to the full infiltration American minorities. Thus, absent of personal prejudices, we still continue to exist under a discriminatory system. The removal of discrimination racism would ease the existence of “arbitrary, irrelevant and unfair criteria” (Yetman & Steele, p. 363), continuing to develop the research aspect of institutional racism and understanding the mechanisms within society that contributes to inequality (Pollock, 2004).

Comparative State Policy Analysis

The state government has received limited analysis in regards to institutional racism. Several variables have guided contemporary approaches to the study of state politics. Broadly defined as *comparative state policy analysis*, these techniques try to identify the conditions that influence the adoption of state policies (Gray, 2003). The goal is to identify a policy formulation model with significant predictive capability across various policy topics (Gray, 2003). These approaches have been criticized for producing a narrow conception of state practices. Previous comparative analysis does

not rely on the primacy of links between race and public policy development to assess state policy.

Much of the comparative state policy analysis work is grounded in the work of V. O. Key (1949). In his work, *Southern Politics in State and Nation*, V. O. Key examines the causes and effects of one-party domination in American southern states. Among its contributions are Key's descriptions of the dominance of Black-belt elites in Southern politics; the role of one-party domination in preserving the region's racial apartheid; and the absence of political accountability and responsibility that resulted from a lack of interparty competition. An important aspect of Key's study is his characterization of the region's factions, which he describes in broad strokes as transient, personalistic organizations, unable to transfer support beyond the candidates who created them. Key points out that a situation rarely prevails in southern states where each party has a territorial stronghold where it can control local government and win legislative elections.

Much analysis has continued since Key's work to make up comparative state policy analysis. In 1963, Dawson and Robinson investigated the relation between political processes and the policies adopted by political systems. They use states as the unit of analysis based on the rationale that there are similarities in basic institutional and legal frameworks. These similarities allowed the authors to "hold basic system variables constant" in their study. Using 46 American states in their investigation, Dawson and Robinson raised serious doubts about the relevance of political variables previously believed to be an influential determinant of public policy.⁵ Their goal was to identify

⁵ The authors eliminated Alaska and Hawaii from their analysis because they were not part of the union for the entire twenty year time frame in which the analysis took place. Nebraska is also omitted because it does not have a bicameral legislature and it is elected on a non-partisan basis. Minnesota was also omitted because of a non-partisan legislature.

whether differences in (social welfare) policies are related to particular political processes (interparty competition) within the system. Since the work of V. O. Key and Dawson and Robinson, many scholars have developed a broad range of methods and variables to interrogate state policy development.

Existing studies of state policy variation have centered on a number of themes, which include economics, political culture, political parties and interest groups. The following is a summary of some of the themes found throughout the literature. Economics is the most used to analyze policy in America. A state's economic position depends on three variables: natural resources, national and international economic trends and federal government spending patterns (Gray, 2003). Different economic resources tend to determine where states can concentrate their activities and enjoy prosperity. Economics has also been studied in terms of distribution of wealth (Plotnick and Winters, 1985) and revenue use (McGranahan, 2002).

Political culture has been widely used throughout many disciplines as a tool in the analysis of state public policies. Political culture refers to the pattern of orientation to political action in which each political system is embedded (Elazar, 1966, p. 84). It is rooted in the cumulative historical experiences of particular groups of people. The political culture of states flows from the history of how state policy actors define what is practical and solves problems. Elazar believes the United States is shaped by a dominant culture that is a synthesis of three major political subcultures- individualistic, moralistic, and traditionalistic (Elazar, 1966, p. 184; Gray, 2003). Political culture is of value for explaining and comprehending broad patterns and trends in state public policy. The typology provides a way of making theoretical sense of differences in policies

states enact (see Patterson 1968; Sharkansky 1968; Sharkansky and Hofferbert, 1969). It has provided a genesis for empirical research on state public policies in the instance of abortion (Cook, Jelen, & Wilcox, 1993), welfare (Mead, 2004) and family relations (Zimmerman, 2003). Political culture has explained differences in state lobbyist regulations (Opheim, 1991), institutional behavior (Fitzpatrick and Hero 1988) partisanship and ideology (Erikson, Wright & McIver, 1987), representativeness in state legislatures (Hill, 1981; Baker 1990) and voter turnout (King 1994).

Use of political parties is another means of analyzing state policy. Political parties permeate every aspect of state government. State legislatures are typically organized based on partisanship and governors tend to appoint party members to their administrations (Bibby and Holbrook, 1996). Robert D. Brown (1995) used CBS/New York Times surveys combined over the period of 1976 to 1988 to offer a detailed examination of state party systems, resulting in a description of the dominant social group partisan cleavage in each state. This information is then used to examine the impact of party control on state welfare benefits. Brown's findings show that coalitional bases of the parties vary in important ways, both within and across the states. Specifically, the author found that party control has a significantly greater impact in states where partisan divisions reflect class-based, New Deal-type coalitions. When examined for state partisan environments, party control had a much greater impact on state welfare effort than has been suggested by previous studies.

Another way of examining states is through interest groups. Interest groups play a significant role in American politics and can provide additional insight into state politics. The analyses vary among research examining interest group influence on state

policymaking (Nice, 1984) and state influence on interest group participation (Gray & Lowery, 1993). Thomas and Hrebenar (1996) examine the influence of interest groups in the states. When examining the types of interests and their frequency by state the authors found that a broad range of private and public interests operate. The authors report that as much as 75 percent of time and money is spent in 19 interests that are continually active. In an examination of interest group influence on policymaking in the United States, David C. Nice (1984) found that interest groups play a vital role in American state politics. His study shows that states in which candidates are endorsed by liberal interest groups are more successful at the election polls, have higher AFDC benefits and to enact more consumer protection legislation. In addition, states where interest group endorsed candidates that are more successful at the polls tend to spend more on highways. Nownes & Freeman (1998) surveyed state lobbyists and state organizations to address questions about interest group activity. The authors report little variation across group types. Few groups included in the study display specialization between or within branches of state government. They also found that most groups take an interest in various policy proposals. The authors also found that while groups monitor a large number of policy proposals they are inactive advocates of most of these.

The theoretical underpinnings of state public policy analysis have paid nuanced attention to the significance of race and ethnicity. Mainstream analyses suggest that alternative analysis takes precedence over ethnic analysis. Most of the work in this discourse focuses on a number of alternative factors used to situate states. Race, if considered at all, is usually an afterthought. As a result, the links between factors such

as class and the wider society are privileged, rather than examining what occurs when race is considered as a single legitimate dynamic. It is assumed that, all else being equal, the experiences of racial groups are similar. Yet, these analyses fail to address why, given the unequal social status of racial and ethnic members, the experience is different for minorities and non minorities within and across states. Race analysis suggests a different connection between race and wider society: explanations of inequality. Based on the inequalities evident for minorities it makes sense to examine the connection between race, ethnicity and public policy.

The History of Race Legislation

The relationship between race, the state and public policy has been recognizable throughout American history. Nowhere is this more obvious than in specific policies designed in the late 19th and early 20th century to keep racial and ethnic minorities from achieving the status of White Americans. Race legislation has been one of the major preoccupations of American legislators (Murray, 1953). Before the civil rights movement of the 1960s, racism was legally sanctioned by government policies across the country. Murray (1953) reports that laws on race and color are rooted in the institution of slavery. Prior to the codification of slavery, race based codes were nonexistent because White servants occupied similar positions to Black servants. As early as the 1600s, states have been developing public policy based on race. Most race legislation in various states was either to regulate slavery or to adjust problems arising from it. Murray reports the status of the free Black however was not free from restraint and that by 1860 legislation made it almost impossible to make significant distinctions between free and enslaved Blacks. It was not until after 1661, that states

such as Virginia, Maryland, North Carolina and South Carolina gave statutory recognition to slavery.

Racism took a significant leap in the aftermath of slavery. Despite the fact that Black Americans were freed from bondage, biased laws were developed to reinforce racial segregation (Stephenson, 1909). These laws established an elaborate system of oppression. Jim Crow laws, derived from the minstrel show character, were late 19th-century statutes passed by state legislatures that created a racial caste and deprived Blacks of their civil rights. The term was identified with those racist laws and actions that deprived Blacks of their civil rights by defining Blacks as inferior to Whites, as members of a caste of subordinate people. However, Native Americans, Asians and Hispanics also suffered because of these policies. Florida, Mississippi and Texas imposed the first laws (Stephenson, 1909). Between 1865 and 1967, more than 400 state statutes, constitutional amendments and city ordinances were passed (JimCrowHistory.com, 2005) to reestablish the old master-slave relationship. The consequences associated with race legislation have been thrust on [Black] Americans who have been the subject of more legislation than any other group. Many laws that were written to control Indians and Black Americans were stretched to include Chinese immigrants (Takaki, 1989). These state laws and proclamations restricted the civil rights of the formerly enslaved Blacks that were passed in most southern states at the end of the Civil War. Codes controlled almost all aspects of life and prevented large segments of the American population from the freedoms that were rightfully theirs.

Laws were different in each state, but most embodied the same kinds of limits. While many freed Blacks saw limited restraint by laws in northern states, free Blacks in

the south continued to see substantial deprivation of their freedoms. In addition, western states routinely passed biased legislation against Asian and Native peoples. This legislation included such dealings as apprenticeships, voting, labor contracts and vagrancy (Murray, 1953, p.11) to bind freedmen to the land, limiting their personal freedom and relegating them to a status similar to serfs in Eastern Europe. States passed laws in instances where minorities had the prospect of gaining societal standing. The Jim Crow Gateway website chronicles Black codes across the country from 1856 onward. The statutes dealt with three key areas: miscegenation, segregation and civic participation.⁶

Miscegenation

Miscegenation laws accounted for a significant portion of race based legislation with thirty states forbidding the marriage between White people and non-Whites.⁷ After the demise of slavery, miscegenation laws served to reinforce White supremacy (Pascoe, 1996). The laws went beyond enforcing taboos associated with interracial relations. According to Mumford (1999), marriage signified public jurisdiction as much as private relations. It is the point at which generalized maltreatment of minorities became official racism. The language of most miscegenation was consistent across states. Most states forbid any marriage between Whites and non-Whites. Chiefly designed as a tool to keep the White race from degeneration by Blacks, miscegenation

⁶ Other categories of Jim Crow included adoption, alcohol sales, business licenses, employment, health care, housing, military, land ownership, prisons, race classification, recreation, sports and records (Jimcrowhistory.org, 2005).

⁷ Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wyoming

laws were expanded to include American Indians,⁸ Asian-Americans and Filipinos.⁹ In Nevada in 1912, it was deemed unlawful for a White person to intermarry with any person of "Ethiopian or Black race, Malay or brown race, Mongolian or yellow race, or Indian or red race, within the State." States such as Arizona forbade the marriage between Whites and Blacks, mulattoes and Indians. California, Missouri and Montana included any person of Asian races in their miscegenation statutes (Takaki 1989, Murray, 1951). Legal penalties were imposed on violators of these laws, in states such as Connecticut and Delaware where miscegenation was determined to be a misdemeanor. Other states such as Georgia made it a felony for a White person to marry anyone but another White person. Fines and jail time were also imposed and up to \$1000 and five years in prison. Mississippi for example imposed a life sentence for those violating miscegenation laws in 1865. In some states such as Maryland, the minister who performed the ceremony was held culpable.

Segregation

Segregation laws comprised most of the racist legislation developed by states. Biased legislation was implemented in various areas that further removed minorities from the conveniences of public life. Separate accommodations were maintained for Whites from people of color in rail stations, on streetcars, in residential areas and in public carriers and resorts. Segregation in education far outweighed the emphasis placed in other areas. Separate schoolrooms, facilities and often districts were

⁸ Marriage between White persons and Indians was prohibited in Nevada, North Carolina, Oregon, South Carolina, and Virginia.

⁹ Marriage between a White person and a Mongolian or Oriental was prohibited in Arizona, Georgia, Idaho, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, Oregon, South Dakota, Utah, Virginia and Wyoming.

sanctioned in twenty-one states and the District of Columbia.¹⁰ The specific extent of the segregation varied from state to state. Some states, such as Florida, set up a number of segregation measures that included separation of Black and White students. Others made specific reference to separation of races in reform schools, trade schools and colleges and teacher training facilities. Nevada excluded “Negroes, Asian and Indians,” from attending public schools in 1865.

Legislation instituted for the purposes of separation, surfaced in other areas besides education. Vagrancy laws were passed across many states to further restrict the social integration of minorities. After acquisition of California, the White-dominated state legislature enacted taxes and laws like the 1855 “Greaser Act” which was targeted at preexisting customs of Californians, primarily Mexicans. The “Greaser Act,” an anti-vagrancy act, was designed to restrict bear-baiting, bullfights, and cockfights. The Act excluded “Diggers” (Indians) but included persons of mixed Spanish and Indian blood or “Greasers.” In 1930, under the auspice of the Harris Bill, approximately 800,000 American Hispanics were rounded up, despite U.S citizenship, and sent to Mexico a country that was not theirs.

Taxes also served as a mechanism of removal. In 1851, California counties with high Hispanic populations were taxed at a rate five times greater than any other region in the state. Many Hispanics could not afford another extra tax and left. Chinese immigrants also experienced anti-Chinese legislation. In California, the newness of the Chinese race prompted a great deal of state legislation that was clearly intended to bar the Chinese from the luxuries associated with American life. In 1850, California

¹⁰ Alabama, Arizona, Arkansas, Delaware, DC, Florida, Georgia, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wyoming

legislature passed a law taxing foreign miners \$20 per month, which affected Chinese and Latin American miners (Daniels, 1988; Takaki, 1989). This was replaced in 1852 with a Foreign Miner's License Tax, collecting \$3 a month from every foreign miner who did not desire (or was prohibited by law) to become a citizen. The purpose of this tax was to reduce the number of Chinese immigrating to California as well as to discourage Chinese from mining for gold. A fifty-dollar tax was imposed on immigrant Asians. In 1858, the sentiment against Chinese was broadened, when a ban was placed on further immigration into the state of California (Daniels, 1988). To further exacerbate the exclusion of Chinese from California, March 4, 1881 was declared anti-Chinese demonstration day. Actual enforcement of penalties of violations varied across states but usually concluded with a fine or imprisonment.

Civic Participation

Economic hardship and social exclusion served as precursors to exclusion from civic participation. A number of states prohibited minority groups (most often Blacks) from voting through a number of tactical measures. Most often, reading requirements were prescribed by statute, forcing individuals to be able to read the U.S. constitution in English and write their name.¹¹ North Dakota allowed measures to be implemented to establish educational testing to qualify voters. Poll taxes were implemented in states such as Arkansas, Mississippi, Texas and Washington. Property also factored into voting prerequisites.¹² Native Americans experienced victimization under some of the same legislation as Blacks. In 1923, an Alaskan law was passed that required all voters

¹¹ Maine, Massachusetts, New Hampshire, New York, Oklahoma, Oregon, Washington, Wyoming
Rhode Island

in territorial elections be able to read and write the English language.¹³ Indians were also removed from political participation through the mechanism of taxes. In states such as Idaho, Minnesota and New Hampshire, Indians who had not “severed their tribal relations and adopted the habits of civilization” were excluding from voting. California restricted persons of Chinese descent from voting in 1879. Chinese natives were also ineligible to be electors in Oregon and Idaho. Other means that restricted the participation of minorities in political activities included trials. Mississippi made it illegal for a Black person to testify in court on the same terms as a White person. California enacted a statute that prohibited Blacks and Indians from testifying against Whites in court. This law was extended to include Chinese in 1854. In 1863, the state of Washington passed a similar exclusion.

Racially biased legislation is a contradictory story of American democracy. “The record of race legislation is one facet of the history of efforts of the American people to reconcile opposing principles within the structure of democratic government” (Murray, 1953, p.4). States have a history of biased legislation. History has shown that when public policy decisions are left up to the states, they often have a discriminatory or disparate impact on racial and ethnic minorities. While race has been a national issue, it has been mainly reserved as a matter of the states (Murray, 1953). Allowing the responsibility of race issues to lie with the states has served as a barrier to national solutions of the race problem. “States’ rights” has hindered any interference by the federal government on behalf of minorities in the area of civil rights.

¹³ Stephen W. Haycox http://www.alaskool.org/native_ed/articles/literacy_act/LiteracyTxt.html accessed April 4, 2005.

Devolution- Cause for Concern

The previous existence of race-based legislation shows cause for concern about state devolution. State history of legal discrimination raises doubt about whether states can be trusted in matters of social policy (Ferejohn & Weingast, 2005). Since the 1980s, U.S. public policy has moving away from centralized control of public policy, allocating increased responsibility to states. The federal government has devolved more public policy responsibilities to the states (Nathan & Lago, 1990; Schram & Weissert, 1997; Conlan, 1998; Soss, Schram Vartanian & Obrien, 2001; Warner, 2001) in what has come to be known as the “devolution revolution” (Nathan, 1996). In doing that, more policy control has been left in the hands of state governments where racism can be carried out intentionally or by result. Devolving authority of public policies and programs to the state level is irresponsible, as long as racism is prevalent in American institutions.

Devolution involves the functions of government that are suspended in a federal sense and decentralized without financial assistance (Conlan, 1988). It is the transfer of certain powers or functions from a superior government to a subordinate government surrendering all powers associated with the devolved function and intended to be permanent (Kincaid, 1998).¹⁴ This *revolution* according to Nathan (1996) surrounds state activism and movement toward that center and involves fundamental changes at the core of government. Kincaid (1998) identifies six objectives of devolution: 1) more efficient provision of goods and services; 2) better alignment of the costs and benefits of

¹⁴ Kincaid (1998) presents a challenge to the use of terms such as decentralization, devolution and deregulation. He articulates the inappropriate use of the words individually and interchangeably. In the instance of devolution, it is not devolution that is occurring between the transfer of power between the national and state government its delegation. In order for devolution to occur, it must be of constitutional magnitude, and it must surrender all political, legislative, administrative and fiscal power in the process. However, Kincaid also concedes that the prominence of the use politically, academically and socially prompts the “legitimate use of the phenomenon which describes the shifting of power back to the states.” The author acknowledges this distinction.

government for a diverse citizenry; 3) better fits between public goods and their spatial characteristics; 4) increased competition, experimentation and innovation in the public sector; 5) greater responsiveness to citizen preferences; and 6) more transparent accountability in policymaking.

Moving Toward Devolution

Nathan (1996) situates state resurgence at the junction of five central factors: 1) policies adopted under the Reagan administration; 2) modernization of state government to expand managerial and technical capacity; 3) reduction of the rural-urban political imbalance of state legislatures coupled with increased public support for a stronger state government; 4) the end of southern exceptionalism brought about by the onset of civil rights and integration and 5) the strong recovery of the U.S. economy from the 1981-1982 recession (p. 17).

Peterson (1995) focuses on the price of federalism and discusses the early foundations of federalism and the eventual rise of modern federalism. Peterson's assessment presents two competing perspectives of federalism. The first, functional theory, argues that American federalism identifies the distinct nature of each system of government. Alternatively, legislative theory maintains that a modern federal system is shaped by the political needs of legislators responsible for its design (p. 16). These needs involve shifting benefits and burdens in their interests. The self-interest embedded in this perspective supports the existence of geographically concentrated benefits. According to Peterson, early federalism contains arguments built on the principle of dual sovereignty (Peterson, 1995). The Federalists argued that the best way of preserving liberty was through dividing power. Concentrating power in any one

entity stands to crush individual liberty. Division of power between the national and state government reduces the possibility that any single majority will be able to control all centers of governmental power. Peterson's answer is that the purpose of the even more complex variety of federalism that emerged after the Civil War has been economic development.

Conlan (1988) attributes the contemporary conflict over the role of federal power to the development of the welfare state during the New Deal (Conlan, 1998, p. xiv). Federal intervention into public policy was meant as a mechanism of national strength. Instead, it became a machine of both federal and state operation. The ensuing intergovernmental structure became a primary target of opponents of the welfare state. The fact that accountability could not be totally or definitively assigned to the state or the federal government rendered the federal government vulnerable to criticism. This criticism was confronted by three methods of federal reform- reallocation, consolidation and devolution.

Editors Ferejohn and Weingast (1997) present an analysis of the trustworthiness of states under renewed interest in devolution. Their stated goal for this edited volume is to assess whether the federal government is capable of handling all the problems it takes on, or if some policy areas are better suited for control at the state level. Through use of theoretical and empirical studies, this book provides a succinct source for the argument that devolved policy does not produce a race to the bottom as suggested by so many others.

In their comparative analysis, McKinnon and Nechyba (1997) survey the principal economic theories involved in the debate over federalism. They note the centrality of

budget constraints on realizing true decentralization. They show the problems that arise when federal governments bail out states in financial distress. Having national governments provide revenues to state and local areas breaks the line between local prosperity and local decision-making. Volden (1997) reports further results on this issue using state Temporary Assistance to Needy Families (TANF) programs. He charges that what we are experiencing is not a race to the bottom but a collision of public opinion, interest groups and welfare bureaucracy with governors and legislatures, thus rendering the state constrained at its current mode of operation. Volden finds that state governance is not devoid of compassion as previously alleged. Given the opportunity, they are equipped with information and incentives that allow the possibility for innovation and change. Thus, he concludes that a race to the bottom in the instance of welfare benefits is unlikely.

Revesz's (1997) discussion of environmental regulations also finds an imbalance in the concentration of power. Revesz concludes that the intermingling of state and federal relations under the Clean Air Act leaves room for a number of ineffective policies drafted at the federal level. According to Revesz, the federal government currently performs functions that would better be executed by states and neglects to carry out other objectives for which it is clearly better suited. Finally, Romano's investigation of state competition for corporate charters and concludes that federalism among the states is performing favorably. She views federal intervention as more adverse to corporate governance. Romano's appraisal of Delaware indicates that federalism is working fine as a race to the top. The evidence presented in the text suggests that states may in fact be more trustworthy than the federal government in some instances, and better

equipped to deal with the needs of its citizens. The result is more opportunities for uniformity while at the same time offering resources for innovation and change.

Walker (2000) surveys the development of U.S. intergovernmental relations and concludes that there is not one direction of flow of government but instead many conflicting courses. Federalism according to Walker, “is a constitutional principle involving a distinctive territorial division of powers usually a special approach to representation within the national government and mechanism—both legal and political—to settle interval level disputes” (p.19). Walker advocates for greater confidence in states and in localities.

Challenges to Devolution

Devolution has been ascribed as the solution for American social problems. Donahue (1997) critically evaluates the current trend of devolution from the federal government to the state, and argues that the shift in responsibility will create an uneven and competitive landscape between state and localities. Donahue believes that devolution will “prove to be a detour, a disappointment, or a misstep toward engaging... fundamental problems” (p.53). Donahue advocates that the increasingly global market economy and its potential threats to "America's future as a middle-class culture" should be focusing our efforts more on enhancing the effectiveness of the national government than on devolving powers to the state governments. Donahue cites a number of shortcomings with devolution. He agrees that traditional state or local functions should remain the province of subnational governments with some degree of federal standards or judicial oversight. However, Donahue argues forcefully that relegating environmental enforcement to the states would undercut advances made in legislation. Among

Donahue's conclusions, he recommends a "new balance" between the national government and the states.

Differences in state settings generate differences in political, economic and social conditions that affect the quality of life for all individuals. In many key policy areas such as Temporary Assistance to Needy Families (TANF) or in the case of No Child Left Behind (NCLB), states are responsible for the development and implementation of many areas no longer addressed by the federal government. As a result, states are left with large responsibilities, with limited oversight, for influencing outcomes for millions of people. States are charged with the task of creating innovative programs and policies. As well, states are able to control requirements of beneficiaries. These differences take a dramatic turn when considered in light of racial and ethnic diversity.

There is evidence that consequences of state devolution underscore the significance of race. Institutional fragmentation and the decentralized nature of many social policies influence the racial consequences of advances in social policy (Lieberman, 1995a). Kennedy (1987), and Tarr and Katz (1996) report that inequality of rights at the state and local level has existed throughout U.S. history. Alesine, Baquir & Easterly (1999) argue that certain public goods are related to ethnic composition. Brown (2003) supports these assertions and argues that state sponsored racial inequality was increased with the passage of such policies as the Social Security Act, the Wagner Act and the Federal Housing Act (p. 27). These policies set a trend in motion of White accumulation of which Blacks and Latinos are still feeling the negative effects. Domestic and agricultural workers were explicitly excluded from the Social Security Act effecting almost three-fifths of the Black population. Groups like Black

sharecroppers, and Black women domestic workers were excluded from receiving Social Security benefits because of state imposed eligibility requirements. The Wagner Act relegated Black workers to lower wage positions. Federal housing polices were also used to sustain Black-White inequality. Federal policies underwrote segregated neighborhoods and disinvestments in the Black communities, leaving many Black Americans out of the benefits of home owning today. Today, Blacks still feel the impact through of high Social Security withholdings from income and receipt of lower benefits and wages.

A common contemporary discussion that surrounds state devolution and its impact on race is welfare policy. Soss, Schram, Vartanian & O'Brien (2001) provide evidence that suggests that the racial composition of families who rely on program benefits has had significant influence on state welfare policies. Soss et al. investigate the factors that shaped state level policy choices under TANF and use this analysis as a basis to evaluate general theories of welfare politics. Under their racial-disparity hypothesis, the authors investigated whether a) tougher TANF policies are adopted in states that had higher percentages of Black caseloads under AFDC and b) tougher TANF policies are adopted in states that had higher percentages of Latinos. The authors found a number of interesting outcomes. First, TANF sanction policies appear to be a consequence of racial composition. In addition, time-limits and family cap policies showed clear indication of racial impact. Tougher conditions for aid is also acknowledged by the authors as well as the use of program rules to punish those who had violated racially biased norms of social conduct.

Winston (2002) continues this discussion in her text. The devolution of welfare down to the state was motivated by two factors—social and political change. Winston comparatively examines welfare policymaking, particularly cash provisions, federally and at the state level. Using a Neo Madisonian-theory, her analysis examines the involvement of interest groups in the policymaking process and considers the long run impact of devolution on the direction of welfare politics and the future well being of poor families. She speculates that greater interest group activity is likely to lead to more liberal policies favoring the interests of poor people. With primary emphasis on the testimony of interest groups in legislative records as evidence of political participation, Winston examines the policy process leading to welfare reform in Maryland, North Dakota and Texas and compares her findings with federal patterns. Results showed that policymaking within states is different in important ways from that in the nation's capital and across states. First, Winston found greater involvement by interest groups at the federal level in contrast to activity at the state level. Second, the strength of advocacy groups within each state plays a significant role in policy differences between the states. Based on her findings Winston purports that state policymaking fails to amplify the voices of the poor in policy debates that affect them directly. In addition, differences in implementation across states lead to differences in outcomes for poor families based on place of residence.

Education is another area where devolution of power to the states has been a disadvantage for minorities. According to Walters (2001), in instances where states have significant control over the delivery of education, public or private, some groups have access to more or better resources. According to her, state policies have provided

opportunities for [Whites] to galvanize their private resources to evade the intent of state educational policies that are conditioned in often-unexpected ways by the legacies of earlier state policies. These circumstances force Walters to question the distributional processes of the states. She views reliance on local taxes as a primary source of school funding and the sanctity of local school-district boundaries as linked to state efforts to establish/permit educational inequality. She argues that once state policy shifted in the direction of greater racial equality, these mechanisms became the main institutional obstacles to reducing or eliminating racial inequality in education. Thus, education policies established in a historical era, have transferred racial inequality into public educational opportunities and outcomes for minorities in contemporary times.

Considering the current landscape of devolved public policy from the federal to state governments and state governments' history of biased legislation, it is not a great stretch to assert that bias in state public policy may still be present.

Implications

Several distinct themes emerge from the literature that undergirds the question: is state policy still essentially racist in its application? First, the literature reveals the persistent nature of institutional racism in American society. Second, and related to the first, race-based state legislation points to an obvious predisposing history of state behavior in the instance of racial and ethnic minorities. Third, comparative state policy analysis neglects the significance of race, making research in this area necessary. Finally, the increased devolution of public policy responsibilities from the national government to the state level shows warning signs of (re)creating state sanctioned

caste systems. Considering these themes, further examination of the implications of race is essential.

Reexamining issues previously determined to be fact about American institutions through a racial lens may reveal significant differences in opportunities and outcomes for racial and ethnic American students. Previous authors' attempts to bring to light the mechanisms that socially sustain inequality still are prominent in empirical literature found today. The literature has shown evidence that states have a history of establishing public policy systems in which racial and ethnic minorities are not granted the same chance at outcomes as White populations. As suggested by the literature review, state-laws could be scoured across decades to find many directives that sanctioned state inflicted racism. These laws and their connection to any one group shows cause for concern regarding the manner in which race has been treated at the state level.

Present-day racism has hidden itself within state public policy reform (Lipsitz, 1998). The fact that racism is not overt in present-day public policy allows states to continue to subjugate racial and ethnic minorities under the radar of American consciousness. As a result, the racialized nature of outcomes in the United States persists. The institutionalization of racism within the states prevents them from adequately meeting the needs of racial and ethnic minorities. As a result, any authority left solely to the states in regards to the advancement of racial and ethnic agendas may be less than promising, leaving us with little hope for change.

The only thing that may have changed between racial subordination of today and that of yesterday is the way in which it is preserved. This dissertation aims to untangle

the racial processes of state public policy in contemporary society. The significance of this study lies in understanding how racism is embedded in ostensibly race neutral public policy. The methodology is derived from the review of the literature and implemented in this study of state public policy and race.

CHAPTER THREE
METHODOLOGY

CHAPTER THREE: METHODOLOGY

*The significant problems we have cannot be solved
at the same level of awareness with which we created them.*
- Albert Einstein

Introduction

The connection between race and public policy has been explained in various ways. States have taken a number of approaches in developing public policies. However, the literature does not comprehensively explain the direct nature of the relationship. Limited research (Hero & Tolbert, 1996; Hero 2000) has attempted to fill the void. The purpose of this chapter is to build on this foundation and continue the discourse in this arena.

Research Question

The purpose of this study is to offer an empirically grounded account of the significance of race in state public policy. The goal is to link dimensions of state public policy to race in order to understand between group racial disparities. My objective is to examine whether states with high minority populations have public policies that are more restrictive. A review of the empirical studies of race and public policy suggests that an important association between the two exists. Such links are likely to rely on explanations that are deep seated in elaborate institutions. The motivation for this study reflects a desire to enrich and extend our understanding of the significance of race. In the context of explaining racial differences, I examine a set of policies that can be categorized as political (felony voting policies), economic (unemployment compensation) and social (child health care). To conduct this analysis I examined these state policies for all 50 states and the District of Columbia in order to:

a) identify patterns that emerge between a state's racial and ethnic composition and its public policy development and

b) explore what these policies mean for individuals who live in these states.

The policies chosen for this study are based primarily on the researcher's own interest. Analysis of these policies is timely given their presence at the forefront of public discourse. Felony voting policies have emerged to the forefront of the agenda of civil rights (Many blacks are losing the right to vote, 1997; U.S.: Millions losing voting rights across U.S., study finds, 1998; Sengupta 2000; Somini, 2000). In addition, the steady incline in national unemployment rates makes analysis of unemployment insurance programs a suitable policy to analyze. Finally, the reprioritization of social welfare programs and attempts to expand healthcare to children, within the last several years, offers an additional motive for choosing this policy in particular (Number of Uninsured Children Declines But Millions Remain Without Coverage, 2003).

The chosen policies—felony voting, unemployment insurance program and State Children's Health Insurance Program (SCHIP)— offer insight into three realms of policy that have the ability to singly or in conjunction marginalize race and ethnic minorities. The relationship of public policy across spheres is acknowledged thus increasing the awareness of the interconnectedness of public policy. These policies are consistent with documented historical institutional deficits that racial and ethnic minorities encountered as described by Carmicheal and Hamilton (1967). In addition these policies fall under the auspices of three categories of inequities (health, income and poverty, and civic participation) dramatically evident in the U.S. as documented by the National Academy

of Public Administration's (NAPA) Social Equity in Governance Panel (Standing Panel on Social Equity in Governance, Research Committee, 2005).

The era in which the selected policies were developed adds another dimension to this analysis. Felony voting policies and Unemployment Insurance program policies are older policies, advanced during a period of social hostility targeted specifically towards race and ethnic minorities. Alternatively, the SCHIP program was developed during a time arguably free of legally sanctioned racism. While analysis of these policies in light of this time differential may have some bearing on the outcome of this analysis, it is important not to lose the focus of what these policies might implicate. Importantly, all three policies regardless of their age are still current public policies that have distributive implications.

Method

Secondary Data Analysis

The research methods employed in this study involve the use of secondary data. Kiecolt and Nathan (1985) describe secondary data analysis as a research endeavor that uses existing materials and requires the application of the relevant analytical techniques to data that have been amassed by others. All secondary data are originally collected for another purpose from a number of resources intended to answer some other research question. Because many studies contain more data than the principal investigators can analyze, a variety of research projects can be conducted using pre-existing data (Kiecolt & Nathan, 1985). Reanalysis takes advantage of analytical techniques to test hypotheses and answer research questions not posed in the original or primary study (Hakim, 1982; Kiecolt & Nathan, 1985). Studies that use secondary

data analysis force researchers to think more about theoretical aims and substantive issues rather than methodological problems of collecting new data. The researcher can avoid data problems that can arise during the collection phase. Relying on previously collected data allow the author to focus more on the dynamics of relationships and less on the individual methods. In addition, secondary analysis can shed new light on an old problem and provide an abundance of information on new topics, issues and policy concerns (Hakim, 1982).

Secondary analysis provides a number of benefits for a researcher (Dale, 1988). To begin, secondary analysis serves as a catalyst in the reanalysis of data. Most data collected in the first instance are used for specific purposes. When the researcher uses data sets for different purposes, it facilitates the examinations of new questions and analysis. Understanding state public policy in a racial context will broaden the scope through which we interpret, analyze and evaluate public policy. Next, analysis of secondary data also provides an opportunity to establish relationships that might not otherwise be identified (Kiecolt & Nathan, 1985; Blake, 2003). This research will contribute to already existing literature and provide additional contributions to arguments of institutional racism. Secondary data analysis allows me to examine the relationship between state public policy and racial composition more carefully. Existing data can be used in combination with other data to investigate the magnitude of a particular problem area (Kiecolt & Nathan, 1985). The link between race and state public policy development is not an area that has been adequately explored, particularly in public administration discourse. Highlighting the racial impact on public policies may stimulate further investigation into other arenas and change.

Unit of Analysis

This study concentrates on the variations between racial groups in all fifty states and the District of Columbia.¹⁵ States are significant units of political, social and economic phenomena (Gray, 2003). The variation in states provides a suitable canvas for an in-depth understanding of the mechanisms behind public policy. State roles have significantly strengthened as the federal government has turned to them to implement a decentralized policy agenda. They have provided the genesis for a number of policy initiatives and have become the vehicle through which federal policies are transmitted. A variety of policies pass at the state level with some states adopting restrictive laws and others adopting laws that are more lenient. When deciding whether to adopt certain kinds of laws, state legislators are obviously influenced by external factors. This influence prompts an examination into the racial dimension of these decisions.

Data Collection and Processes

This research relies upon policy data publicly available in January 2005 from four sources: The Sentencing Project, the U.S. Department of Labor, the U.S. Department of Health and Human Services and the U.S. Census Bureau. Use of these data facilitates a comprehensive analysis for each of the selected policy areas by race. I selected data from these resources because they offer insight into my research question without the difficulties normally associated with primary collection. They provide a relatively easy mechanism to examine a number of policies across multiple racial and ethnic groups. The availability and standardization of data for all states made these sources suitable avenues for data collection.

¹⁵ For ease of language, reference to “states” for the remainder of the document also acknowledges inclusion of the District of Columbia.

Data Sources

The Sentencing Project

Data for felony voting policies were obtained from The Sentencing Project. The Sentencing Project is a national leader in the development of alternative sentencing programs and in research and advocacy on criminal justice policy with a particular emphasis on race, gender and poverty issues. The Sentencing Project is widely known for its research highlighting inequities in criminal justice. Using data supplied by The Sentencing Project is useful because the agency serves as a gatekeeper on issues associated with criminal justice. In addition, the agency's interest in race furnishes the availability of additional data that might not otherwise be available. While it is the only non-government agency used as a data source, The Sentencing Project provides data that are not readily available from a government source.

The Department of Labor

The Department of Labor administers a variety of federal labor laws that serve to foster and promote the interests of the job seekers, wage earners and retirees in the United States. In addition, it tracks changes in employment, prices and other national economic measurements. Selected unemployment policies for each state were obtained from the Department of Labor's "Comparison of State Unemployment Insurance Law" for 2005. The Comparison is an annually published resource that provides state-by-state information on workers covered, benefit eligibility, methods of financing and other areas of interest in the Unemployment Insurance (UI) program.

The Department of Health and Human Services

The Center for Medicare and Medicaid Services (CMS) administers the Medicare program and works in partnership with the States to administer Medicaid, the State Children's Health Insurance Program (SCHIP) and health insurance portability standards. It operates as a clearinghouse for state administered health care programs. States are required to submit their child specific health plans to CMS for approval. The CMS data are collected for each state and reflect the most current policy initiatives. The regular availability of CMS data is of particular value because of the rapid rate of change of state health insurance programs. The data used for this study were collected from State Annual Reports submitted to CMS for the year 2003. Each state is required to submit an annual report in each fiscal year. Its purpose is to provide a brief report of the operation of the State SCHIP plan for the given year. After obtaining policy information for each state, the data were cross-referenced with the 2004 Fact Sheets, which provide summary plan information. In addition, state program websites were examined when up to date information was not found in either source.

U.S. Census

The Census Bureau (Habermann, 2003) is a federal government statistical agency that serves as a clearinghouse for data about the nation's people and economy. The Department of Commerce conducts the decennial census, which measures changing individual and household demographics and the economic condition of the nation. Census data are considered the most comprehensive and reliable resource for calculating race information. The Bureau offers data on topics either not covered or partially covered by other sources of social data (Hakim, 1982). The size of the census

allows for greater attention to detail on covered topics and offers opportunities for detailed cross tabulations that provide the researcher with additional opportunities for analysis.

Relying on racial and ethnic data provided by the U.S. Census Bureau raises important concerns. While the census is a government-sanctioned tool for standard collection of data concerning race, it is not without its critics. There is considerable debate regarding the use of racial and ethnic groups, including which groups are included, the ability to select more than one racial group, and consolidation within groups. Undercounts are also a common criticism of census data. Since racial and ethnic minority groups are disproportionately affected by undercounts, disparities found in this study may be underestimated. Appendix A provides an overview of common census data criticism.

Examination of Race and Ethnicity Data by State

This study began with a detailed analysis of race and ethnicity by states. This required the identification of each state's racial/ethnic composition. Table 1 uses population data from the 2000 U.S. Census to calculate the racial demographics of each state's population. The groups in this study are White, African-American, Asian, American Indian/Alaskan Native and Native Hawaiian/Other Pacific islander. Data on ethnicity are reported separately- Hispanics or not Hispanic who may be of any race. When examining the United States population in terms of race and ethnicity, the White (W) population accounts for 75.1 percent of the country's population. The total minority (M) population accounts for 24.9 percent of the population. African-Americans (AA) are the largest racial group, accounting for 12.3 percent of the population. Asian-Americans

(A) are the next highest population, accounting for 3.9 percent of the population. American Indian/ Alaskan Native (AI/AN) account for 0.9 percent of America's population. For Native Hawaiian/ Pacific Islanders (NH/PI) the population is 0.1 percent. The Hispanic/Latino (H/L) group is the only ethnic population counted in the census. They are 12.5 percent of the nation's population.

Table 1
Race and Ethnic Population by State (%)

State	W	M	H/L	AA	A	AI/AN	NH/PI
Alabama	71.1	28.9	1.7	26.0	0.7	0.5	0.0
Alaska	69.3	30.7	4.1	3.5	4.0	15.6	0.5
Arizona	75.5	24.5	25.3	3.1	1.8	5.0	0.1
Arkansas	80.0	20.0	3.2	15.7	0.8	0.7	0.1
California	59.5	40.5	32.4	6.7	10.9	1.0	0.3
Colorado	82.8	17.2	17.1	3.8	2.2	1.0	0.1
Connecticut	81.6	18.4	9.4	9.1	2.4	0.3	0.0
Delaware	74.6	25.4	4.8	19.2	2.1	0.3	0.0
District of Columbia	30.8	69.2	7.9	60.0	2.7	0.3	0.1
Florida	78.0	22.0	16.8	14.6	1.7	0.3	0.1
Georgia	65.1	34.9	5.3	28.7	2.1	0.3	0.1
Hawaii	24.3	75.7	7.2	1.8	41.6	0.3	9.4
Idaho	91.0	9.0	7.9	0.4	0.9	1.4	0.1
Illinois	73.5	26.5	12.3	15.1	3.4	0.2	0.0
Indiana	87.5	12.5	3.5	8.4	1.0	0.3	0.0
Iowa	93.9	6.1	2.8	2.1	1.3	0.3	0.0
Kansas	86.1	13.9	7.0	5.7	1.7	0.9	0.0
Kentucky	90.1	9.9	1.5	7.3	0.7	0.2	0.0
Louisiana	63.9	36.1	2.4	32.5	1.2	0.6	0.0
Maine	96.9	3.1	0.7	0.5	0.7	0.6	0.0
Maryland	64.0	36.0	4.3	27.9	4.0	0.3	0.0
Massachusetts	84.5	15.5	6.8	5.4	3.8	0.2	0.0
Michigan	80.2	19.8	3.3	14.2	1.8	0.6	0.0
Minnesota	89.4	10.6	2.9	3.5	2.9	1.1	0.0
Mississippi	61.4	38.6	1.4	36.3	0.7	0.4	0.0
Missouri	84.9	15.1	2.1	11.2	1.1	0.4	0.1
Montana	90.6	9.4	2.0	0.3	0.5	6.2	0.1
Nebraska	89.6	10.4	5.5	4.0	1.3	0.9	0.0
Nevada	75.2	24.8	19.7	6.8	4.5	1.3	0.4
New Hampshire	96.0	4.0	1.7	0.7	1.3	0.2	0.0
New Jersey	72.6	27.4	13.3	13.6	5.7	0.2	0.0
New Mexico	66.8	33.2	42.1	1.9	1.1	9.5	0.1
New York	67.9	32.1	15.1	15.9	5.5	0.4	0.0
North Carolina	72.1	27.9	4.7	21.6	1.4	1.2	0.0
North Dakota	92.4	7.6	1.2	0.6	0.6	4.9	0.0
Ohio	85.0	15.0	1.9	11.5	1.2	0.2	0.0
Oklahoma	76.2	23.8	5.2	7.6	1.4	7.9	0.1
Oregon	86.6	13.4	8.0	1.6	3.0	1.3	0.2
Pennsylvania	85.4	14.6	3.2	10.0	1.8	0.1	0.0
Rhode Island	85.0	15.0	8.7	4.5	2.3	0.5	0.1
South Carolina	67.2	32.8	2.4	29.5	0.9	0.3	0.0
South Dakota	88.7	11.3	1.4	0.6	0.6	8.3	0.0
Tennessee	80.2	19.8	2.2	16.4	1.0	0.3	0.0
Texas	71.0	29.0	32.0	11.5	2.7	0.6	0.1
Utah	89.2	10.8	9.0	0.8	1.7	1.3	0.7
Vermont	96.8	3.2	0.9	0.5	0.9	0.4	0.0
Virginia	72.3	27.7	4.7	19.6	3.7	0.3	0.1
Washington	81.8	18.2	7.5	3.2	5.5	1.6	0.4
West Virginia	95.0	5.0	0.7	3.2	0.5	0.2	0.0
Wisconsin	88.9	11.1	3.6	5.7	1.7	0.9	0.0
Wyoming	92.1	7.9	6.4	0.8	0.6	2.3	0.1
Total	75.1	24.9	12.5	12.3	3.6	0.9	0.1

Source: US Census, 2000

Note: W= White, M= Minority, H/L= Hispanic/Latino, AA= African American, A= Asian, AI/AN= American Indian/Alaskan Native, NH/PI=Native Hawaiian/Other Pacific Islander

The second step involved categorizing each state based on its racial/ethnic composition. After obtaining national population data for each state, I created two state groups based on their racial and ethnic composition (Box 1). For each state, the term “high” is employed when a state’s racial or ethnic population exceeds the mean percentage population nationally for each group examined.¹⁶ States that have racial or ethnic populations below the national averages are classified as “low” states.

Box 1. Defining high and low states
<p>“High” population states</p> <ul style="list-style-type: none"> • Any state that has a racial or ethnic population that exceeds the national mean for that population <ul style="list-style-type: none"> ○ The national Black population mean is 12.3%. ○ Mississippi is coded as a high African-American population state because African-Americans constitute 36.3 percent of its population, exceeding the national African-American population mean. <p>“Low” population states</p> <ul style="list-style-type: none"> • Any state that has a racial or ethnic population that meets or falls below its national mean <ul style="list-style-type: none"> ○ The national Hispanic population average is 12.5%. ○ Minnesota is coded as a low Hispanic population state because Hispanics constitute 2.3 percent of its population. This is below the national Hispanic population mean.

Table 2 presents the number of states with *high* racial and ethnic populations. Thirty-three states have White populations higher than the national average of 75.1 percent.¹⁷ Alternatively, 18 states have a high minority population.¹⁸ Nine states have Hispanic populations that are at least 12.5 percent of the population.¹⁹ Seventeen

¹⁶ Use of the national average as a baseline is consistent with other social science studies.

¹⁷ Arizona, Arkansas, Colorado, Connecticut, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming

¹⁸ Alabama, Alaska, California, Delaware, District of Columbia, Georgia, Hawaii, Illinois, Louisiana, Maryland, Mississippi, New Jersey, New Mexico, New York, North Carolina, South Carolina, Texas, Virginia

¹⁹ Arizona, California, Colorado, Florida Nevada, New Jersey, New Mexico, New York, Texas

states have a high African-American population.²⁰ Ten states have high Asian populations.²¹ Eighteen states have high American Indian/Alaskan Native populations.²² High Native Hawaiian/Other Pacific Islander Populations are present in seven states.²³

²⁰ Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Illinois, Louisiana, Maryland, Michigan, Mississippi, New Jersey, New York, North Carolina, South Carolina, Tennessee, Virginia

²¹ Alaska, California, Hawaii, Maryland, Massachusetts, Nevada, New Jersey, New York, Virginia, Washington

²² Alaska, Arizona, California, Colorado, Idaho, Kansas, Minnesota, Montana, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wyoming

²³ Alaska, California, Hawaii, Nevada, Oregon, Utah, Washington

Table 2
High Race and Ethnic Population by State

State	W	M	H/L	AA	A	AI/AN	NH/PI	
Alabama		√		√				
Alaska		√			√	√	√	
Arizona	√		√			√		
Arkansas	√			√				
California		√	√		√	√	√	
Colorado	√		√			√		
Connecticut	√							
Delaware		√		√				
District of Columbia		√		√				
Florida	√		√	√				
Georgia		√		√				
Hawaii		√			√		√	
Idaho	√					√		
Illinois		√		√				
Indiana	√							
Iowa	√							
Kansas	√					√		
Kentucky	√							
Louisiana		√		√				
Maine	√							
Maryland		√		√	√			
Massachusetts	√				√			
Michigan	√			√				
Minnesota	√					√		
Mississippi		√		√				
Missouri	√							
Montana	√					√		
Nebraska	√							
Nevada	√		√		√	√	√	
New Hampshire	√							
New Jersey		√	√	√	√			
New Mexico		√	√			√		
New York		√	√	√	√			
North Carolina		√		√		√		
North Dakota	√					√		
Ohio	√							
Oklahoma	√					√		
Oregon	√					√	√	
Pennsylvania	√							
Rhode Island	√							
South Carolina		√		√				
South Dakota	√					√		
Tennessee	√			√				
Texas		√	√					
Utah	√					√	√	
Vermont	√							
Virginia		√		√	√			
Washington	√				√	√	√	
West Virginia	√							
Wisconsin	√							
Wyoming	√					√		
Total States	n	33	18	9	17	10	18	7
	(%)	(64.7%)	(35.3%)	(17.6%)	(33.3%)	(19.6%)	(35.3%)	(13.7%)

Source: US Census 2000

Note: a "√" indicates the state has a high population

Table 3 presents racial and ethnic populations below the national averages. White populations are low in 18 states.²⁴ Thirty-three states have minority populations that are lower than the 24.9 percent national average.²⁵ Hispanic populations are low in forty-two states.²⁶ African-American populations are lower than the national average in thirty-four states.²⁷ American Indian/Alaskan Native have populations lower than the national average in thirty-three states.²⁸ Asian populations are low in forty states.²⁹ Forty-four states have low Native Hawaiian/ Pacific Islander populations.³⁰

²⁴ Alabama, Alaska, California, Delaware, District of Columbia, Georgia, Hawaii, Illinois, Louisiana, Maryland, Mississippi, New Jersey, New Mexico, New York, North Carolina, South Carolina, Texas, Virginia

²⁵ Arizona, Arkansas, Colorado, Connecticut, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming

²⁶ Alabama, Alaska, Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming

²⁷ Alaska, Arizona, California, Colorado, Connecticut, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming

²⁸ Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin

²⁹ Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, Wisconsin, Wyoming

³⁰ Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming

Table 3.
Low Race and Ethnic Population By State

State	W	M	H/L	AA	A	AI/AN	NH/PI	
Alabama	√		√		√	√	√	
Alaska	√		√	√				
Arizona		√		√	√		√	
Arkansas		√	√		√	√	√	
California	√			√				
Colorado		√		√	√		√	
Connecticut		√	√	√	√	√	√	
Delaware	√		√		√	√	√	
District of Columbia	√		√		√	√	√	
Florida		√			√	√	√	
Georgia	√		√		√		√	
Hawaii	√		√	√		√		
Idaho		√	√	√	√		√	
Illinois	√		√		√	√	√	
Indiana		√	√	√	√	√	√	
Iowa		√	√	√	√	√	√	
Kansas		√	√	√	√		√	
Kentucky		√	√	√	√	√	√	
Louisiana	√		√		√	√	√	
Maine		√	√	√	√	√	√	
Maryland	√		√			√	√	
Massachusetts		√	√	√		√	√	
Michigan		√	√		√	√	√	
Minnesota		√	√	√	√	√	√	
Mississippi	√		√		√	√	√	
Missouri		√	√	√	√	√	√	
Montana		√	√	√	√		√	
Nebraska		√	√	√	√	√	√	
Nevada		√		√				
New Hampshire		√	√	√	√	√	√	
New Jersey	√					√	√	
New Mexico	√			√	√		√	
New York	√					√	√	
North Carolina	√		√		√		√	
North Dakota		√	√	√	√		√	
Ohio		√	√	√	√	√	√	
Oklahoma		√	√	√	√		√	
Oregon		√	√	√	√			
Pennsylvania		√	√	√	√	√	√	
Rhode Island		√	√	√	√	√	√	
South Carolina	√		√		√	√	√	
South Dakota		√	√	√	√		√	
Tennessee		√	√		√	√	√	
Texas	√			√	√	√	√	
Utah		√	√	√	√			
Vermont		√	√	√	√	√	√	
Virginia	√		√			√	√	
Washington		√	√	√				
West Virginia		√	√	√	√	√	√	
Wisconsin		√	√	√	√	√	√	
Wyoming		√	√	√	√		√	
Total States	n	18	33	42	34	41	33	44
	(%)	(35.3%)	(64.7)	(82.4%)	(66.6%)	(80.4%)	(64.7%)	(86.3%)

Source: US Census 2000

Note: a "√" indicates the state has a race or ethnic population at or below its national average

Analysis of Policy Data by State

The purpose of this dissertation is to analyze racial patterns by state in three public policy areas: felony-voting policies, unemployment insurance program and the State Children’s Health Insurance Program. After obtaining policy information for each state in all three policy areas, I created two state groups based on their level of policy restriction. The general approach for coding all of the policy areas is to code a state as “non-restrictive” if it has no restrictions or has fewer restrictions than the federal government. Alternatively, a state is coded as “restrictive” if the state imposes maximum limits at or above the federal requirement. Box 2 provides an example of this coding structure. Emphasizing these distinctions broadens the readers’ ability to draw conclusions based on specific racial and ethnic groups. This method is useful for guiding the development of assessment strategies that evaluate the impact of public policy on racial and ethnic groups. The measures are intended to highlight the variations found in states among different groups.

Box 2. Defining Restrictive and Non-Restrictive states

“Restrictive” states

- Any state that imposes maximum limits at or above the federal requirement.
 - One who resides in a family with income below 200% of the Federal Poverty Level (FPL) or whose family has an income 50% higher than the state's Medicaid *eligibility threshold* is eligible for SCHIP.
 - North Dakota is coded as a “restrictive” state because North Dakota’s SCHIP eligibility threshold is 140% of the federal poverty level.

“Non-Restrictive” states

- Any state that has no restrictions or has fewer restrictions than the federal government.
 - Under Unemployment Insurance, *dependent allowances* are granted partially or wholly in some states for those individuals supported by, living with or receiving regular support from the worker
 - Maine is coded as a “non-restrictive” state because it offers unemployment recipients a dependent benefit allowance

Convergence of Race and Policy

The final step in the data analysis consisted of comparing the variations and commonalities among states. These comparisons were made by focusing on the level of state racial and/or ethnic composition and the level of state policy restrictiveness. The analysis searched for distinctions between states with high White populations, states with high minority populations and states with high populations of specific minority groups. The variations between states with high and low racial and ethnic populations were analyzed across policy areas. The analysis, probes the extent of joint variation between state race and policy restrictiveness and the *patterns* that emerge.³¹

Limitations of Methodological Approach

The research design of this study poses a number of limitations. First, there are the general limitations of secondary data analysis. Data quality is a concern when using secondary data, since the researcher conducting secondary analysis may be unaware of errors and measurement problems or initial data collection (Kiecolt & Nathan, 1985). In this study, data were obtained from data sources that are nationally recognized for work in their corresponding policy. This minimizes the effect of this limitation.

Secondly, there is an element of subjectivity employed in the data coding. A matrix to compare federal government policies was developed to mitigate this effect. Although the codes had high face validity, the decision to polarize state public policy into two categories—restrictive and not restrictive— does not account for the policy variation and multiple interpretations. Instead, it facilitates a study of the dichotomy

³¹ Given the small n , measures of statistical significance and measures of association were not used to examine the relationship between a state's racial composition and its policy restrictiveness. Since the data cover all 50 states and D.C., the analysis is of an entire population, making statistical significance tests unnecessary.

between those states with connections to race with those without. The matrix presents the details of each policy and offers an indication as to how the policy categories were developed.

Thirdly, this study does not speak directly to causation. The approach of this study is to determine whether there is a relationship between race, ethnicity and public policy. The analysis, then, probes the extent of *joint* variation between race and policy restrictiveness. The outcomes for those affected are the same, even though the cause may vary. The outcomes alone are worthy of examination. Arguably, a focus on the cause (and the seemingly limitless attempts to isolate a specific cause) distracts from the equally important focus that elected officials, public administrators and public policy researchers should also have on outcomes. The results of this study can set the stage to conduct further research on state public policy, including but not limited to, causal studies.

In addition, this study does not examine the relationship between local policies and racial disparities. Under second order devolution, local governments and administrators play an increasingly important role in the implementation of social policies. Although an examination of public policies at the local level would also be very informative, it is beyond the scope of this analysis.

Finally, the results of this study are not applicable to all policy areas and therefore are not generalizable. This study is limited to the examination of only a snapshot view of three public policies. There are thousands of policy topics one could examine. In addition, an analysis of policy trends over time might also prove significant. Yet, providing an in-depth examination of these three policy areas makes a significant

contribution to our understanding of the relationship between race and public policy in the United States. Despite these limitations, this study will make significant contributions to the public policy literature.

Conclusion

This chapter discussed the methodology used in this study. Chapters 4, 5 and 6 introduce and assess the three policies chosen for this research investigation and their relationship to race and ethnicity. Chapter 4 begins with an overview of state felony voting policies. It shows how race is connected to more severe felony voting policies. An assessment of selected state unemployment insurance policies is presented in Chapter 5. The chapter sketches the historical connection and identifies contemporary associations of race and unemployment insurance. Chapter 6 describes the state children's health insurance programs and explores its connection to race. Finally, Chapter 7 discusses the results and demonstrates the relationship of the results to the original research question across the three chosen policy areas.

CHAPTER FOUR
FELONY VOTING

CHAPTER FOUR: FELONY VOTING

If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost.

-Aristotle

Introduction

The ability to register and to cast a ballot is the most fundamental aspect of civic participation. It is perhaps the most important right bestowed upon citizens. The ballot box is the central means for influencing government in the United States. If democracy is to be meaningful then the opportunity for participation must be provided to all citizens. Citizen participation and influence on electoral policy-making drastically vary among individuals and groups, calling into question the existence of a system open to all individuals (Kourvetaris & Dobra, 1982). Guinier (1994) asserts that fair play is about giving everyone the opportunity to participate. "If equal participation is barred either by law or by informal political obstacles, then inactivity is not the result of free choice and democracy is compromised" (Verba, Schlozman, Brady & Nie, 1993). Sustaining a viable democracy rests on the guarantee of full citizen participation. Equal consideration of the needs and preferences of the people is the basis for democracy (Verba et al., 1993). Symbolic of equality, voting enables individuals to play an active role in the political system.

While a substantial number of Americans forego this right by choice, millions of America's citizens are denied this right due to laws that disenfranchise those convicted of felonies. The arrangement of felony voting policies is summarized in Table 4. States are the primary deciders of felony voting policies for both federal and state elections. Some states have chosen to fully restrict the voting rights of felons, while felons in other

states continue to maintain their voting status. Felony voting policies involve those policies that dictate the ability of individuals who have been convicted under state or federal law of a crime that carries a sentence of more than one year of imprisonment or the death penalty. Today, there are more than 4.7 million individuals disenfranchised in 48 states across the country as well as the District of Columbia (The Sentencing Project, 2005).

Table 4
Categories of Felony Voting Restrictions by State

State	Incarcerated	Probation	Parole	Indefinitely
Alabama	√	√	√	√
Alaska	√	√	√	
Arizona	√	√	√	√
Arkansas	√	√	√	
California	√		√	
Colorado	√		√	
Connecticut	√		√	
Delaware	√	√	√	√
District of Columbia	√			
Florida	√	√	√	√
Georgia	√	√	√	
Hawaii	√			
Idaho	√	√	√	
Illinois	√			
Indiana	√			
Iowa	√	√	√	
Kansas	√		√	
Kentucky	√	√	√	√
Louisiana	√	√	√	
Maine				
Maryland	√	√	√	√
Massachusetts	√			
Michigan	√			
Minnesota	√	√	√	
Mississippi	√	√	√	√
Missouri	√	√	√	
Montana	√			
Nebraska	√	√	√	√
Nevada	√	√	√	√
New Hampshire	√			
New Jersey	√	√	√	
New Mexico	√	√	√	
New York	√		√	
North Carolina	√	√	√	
North Dakota	√			
Ohio	√			
Oklahoma	√	√	√	
Oregon	√			
Pennsylvania	√			
Rhode Island	√	√	√	
South Carolina	√	√	√	
South Dakota	√			
Tennessee	√	√	√	√
Texas	√	√	√	
Utah	√			
Vermont				
Virginia	√	√	√	√
Washington	√	√	√	√
West Virginia	√	√	√	
Wisconsin	√	√	√	
Wyoming	√	√	√	√

Source: The Sentencing Project 2005

The racially disproportionate effects of the criminal justice system may have clear implications for felony disenfranchisement policies. While African-Americans and Hispanic populations are each less than thirteen percent of the general population, African-Americans account for 45 percent of the prison population and Hispanics account for 18 percent. An examination of the confined populations shows that one in sixty-three White males aged twenty-five through twenty-nine was incarcerated in 2001, compared with one in twenty-three Hispanic men and one in eight African-American men (The Sentencing Project, 2003). Given the high representation of minorities in the criminal justice system, there is a particular need to assess measures, which might impede their lack of involvement in the political arena. This chapter assesses whether there is a relationship between the minority population of a state and the restrictiveness of its felony voting policies.

The Historical Relationship between Race and Voting

The relationship between race and voting has been important since the establishment of this country. Felony voting provisions were incorporated by states as early as the 18th century (Keyssar, 2000). Finding its genesis in European and Roman law, disenfranchisement attached the commission of crimes to civil disability. Either by expression in state constitution or by act of state legislation, more than a dozen states since 1776 have barred some felons from voting. The absence of basic suffrage requirements, land ownership or payment of taxes set forth one's ineptitude and unworthiness of political participation (p.5). Prior to the ratification of the Fifteenth Amendment, White men without property, women and people of color were denied the

right to vote. Particularly, freedmen of African, Amerindian, Asian and Mexican descent were denied the vote based simply on circumstances of social membership (p. 6).

Post ratification witnessed the initiation of additional measures to deny the right to vote through property requirements, economic pressures, hiding the polls, and condoning of physical violence. Several states implemented qualifying measures to restrict voters from political activity by specifically barring ex-slaves from voting (Lawson, 1976; Shapiro, 1993; Fellner & Mauer, 1998). While forbidden to restrict voting on the basis of race, states such as Alabama, Louisiana, Mississippi, North Carolina, South Carolina and Virginia put into practice such measures that required Blacks to be able to read excerpts from the state or federal constitution (Van Deusen, 1936). This was particularly troubling considering it was at a time when most Blacks were illiterate due to the effects of slavery. Literacy requirements proved unsuccessful because they also kept many Whites from voting. Voter registration had to be in one's own handwriting. Residency requirements, property qualifications, poll taxes and other taxes were often established to deter Black voters from the polls. Mexican Americans were subjected to similar measures in states such as Arizona, California, Nevada, New Mexico and Texas.

Crimes considered "Black" crimes, such as thievery, adultery, arson, wife beating, deserting a plantation, vagrancy and rape, were specifically added to the disenfranchisement laws to further disengage and undermine the political power of ex-slaves (Van Deusen, 1936; Davidson & Grofman, 1994). Controls such as "the Grandfather Clause" exacerbated the problem created by these measures by exempting from current qualifying measures only those individuals whose grandfathers had been

allowed to vote. Many Asian Americans did not vote until after 1965, subsequent to changes in immigration and naturalization laws. Although today literacy tests, poll taxes and the Grandfather Clause are prohibited, criminal disenfranchisement provisions still exist. The Voting Rights Act, adopted initially in 1965 and extended in 1970, 1975, and 1982, was enacted to ensure that voting rights would be afforded to all United States citizens regardless of their race (U.S. DOJ, n.d.). Adopted at a time when Blacks were substantially disenfranchised in many Southern states, the Act employed measures to restore the right to vote preempting authority in areas previously under the jurisdiction of the individual states (Fellner & Mauer, 1998; Davidson & Grofman, 1994; U.S. DOJ, 2001).

Today, state legislation still determines the characteristics of disenfranchisement. The United States Supreme Court's decision in Richardson v. Ramirez (1974) held that states possess broad constitutional authority to disenfranchise persons convicted of crimes (Shapiro, 1993). The Court based its decision on section two of the Fourteenth Amendment, which allows states to deny citizens the right to vote as part of the punishment "for participation in rebellion, or other crime," broadly justifying permanent disenfranchisement of convicted persons. Felony conviction is a significant obstacle to voting that not only curtails the democratic rights of individuals but also of the groups to which they belong.

Contemporary Issues

Described as a form of *civil death* (Hill, 2000), felony disenfranchisement plays a substantial role in the marginalization of millions of Americans. One of the major consequences of felony voting is vote dilution, particularly in minority communities

(Davidson & Grofman, 1994). Disenfranchisement of the voting rights of not only those felons incarcerated, but also of felons within communities has implications beyond those for individual felons. Felony voting policies have the impact of singly or in conjunction combining with systematic bloc voting among identifiable groups to diminish the voting strength of other groups. Manza and Uggen (2001) hypothesize that laws denying convicted felons the right to vote, combined with the rapid growth in the disfranchised population, might have given the advantage to Republican Senate candidates and presidential candidates. This makes a difference since Blacks have traditionally been more likely to vote for Democratic candidates. Using National Election Study data from 1972 to 2000, Manza and Uggen predicted turnout rates for convicted felons as roughly 31 percent in presidential elections, 29 percent for Senate elections in a presidential year, and 17 percent for Senate elections in non-presidential election years.³² The authors indicate a likely change in the results of at least seven Senate elections since 1978 incorporating the vote of felons impacted by disenfranchisement policies. In addition, the Republican presidential victory of 2000 would have been reversed in favor of the Democratic candidate had felons been allowed to vote. Felony voting policies have very real effects on election outcomes. Manza and Uggen push the purview of this analysis farther back, and apply today's rates of disenfranchisement to close presidential elections in which democrats have won. The authors found that in applying these disenfranchisement rates to the Kennedy-Nixon presidential election of 1960, it is

³² Manza and Uggen (2001) based their estimate of felon voter turnout on models of political behavior traditionally used in voting research specifically turnout and voter choice. This information was then analyzed against regional rates of felons under states supervision and estimates of felons outside of corrections. The felon population is then matched to the rest of the voting age population to derive the estimates.

likely that Nixon would have edged out Kennedy by almost twice the margin of popular votes.

Tensions exist for Democrats over this issue (Manza & Uggen, 2001). On the one hand, Democrats do not want to appear soft on crime. On the other hand, the Democratic Party has come to increasingly depend upon African-American and Hispanic voters for its success, thus reflecting a multiracial set of policy preferences (Giles & Hertz, 1994). Blacks and Hispanics³³ have traditionally voted for Democrats in elections. Attachment to the Democratic Party is enhanced by the Party's sympathetic response to the Civil Rights movement and support for minority concerns (Barker & Jansiewicz, 1976, p. 216). The Joint Center for Political and Economic Studies estimated that about 80 percent of Blacks identify themselves as Democrats (Bositis, 1996). Giles and Hertz (1994) cite an increase in political participation among Blacks directed almost entirely to the Democratic Party. The Democrats could stand to gain a significant portion of the votes of the 1.4 million individuals disenfranchised by these policies.

Felony disenfranchisement poses a silent assault on the economic power of racial and ethnic communities. Federal funding is shifted from minority communities to White communities as a result of these policies (Dowdy, 2002). Many prison systems are established in White rural areas where population counts include non-resident felons. Creating what is referred to as a "phantom population" enables communities to capitalize on majority rule. The presence of prisons in these White communities allows

³³ Recently Hispanic support has also coalesced around the Republican Party. A study conducted by Penn, Schoen & Berland and Edelman Worldwide found that even though 47 percent of Hispanics said they felt the Democratic Party reaches out to them and 62 percent felt Democrats represented their views, many still identify with traditional Republican positions on issues such as crime, violence, family values and the quest for economic opportunity (Cisneros, 1999).

these areas to take advantage of gains that might not otherwise be an option if not for the increase in population. The result is a swelling population with constituents who cannot vote. Most of America's huge prison population is Black and many of America's prisons are located in very White rural areas, so counting prisoners where they are incarcerated effectively redistributes power away from African-American communities. The result is increased federal spending in schools, public services and community development in White communities.³⁴

Political and economic consequences of felony disenfranchisement resemble those of the three-fifths clause. The "three-fifths" clause in the Constitution required that Black slaves count as three-fifths of a person for purposes of determining a state's representation in Congress, giving the South an advantage that often provided a margin of victory over the North. The stipulation that slaves were to be counted as three-fifths of free persons in apportioning direct taxes and seats in the House of Representatives resembles the lack of representation experienced by felons and the community from which they exit. Like the three-fifths clause, felony disenfranchisement denies economic autonomy and political equality. In both circumstances, Blacks have an influence that ultimately derails their own power base. They are counted for representation without the ability to exert power. For felons in states that

³⁴ To illustrate this point, nearly half of New York state correctional facilities are located in overwhelmingly White, rural upstate districts represented by Republican state senators (Tilove, 2002). The census counts prison inmates as residents of the counties where they are incarcerated, thus shifting thousands of residents into the population of upstate districts. The enhancement to the population data has a direct influence on federal, state and local funding formulas and the business strategies of private enterprises. Although they are barred from voting, their presence in these regions boosts the population figures. This has led to the assignment of new seats to those districts that would otherwise have been assigned elsewhere. This, while the inmates cannot vote, their numbers count as population for redistricting and increase the advantage of the politicians in whose districts they are incarcerated. The loss associated with displacement detracts from resources that could be of benefit to a prisoner's home community or for his/her home community to gain a political edge.

disenfranchise, their presence has significant bearing on the elections, redistricting and funding. Similar to the historical South, minority communities of today reap fewer fiscal and political benefits than their population alone would warrant.

Assessing Restrictiveness

In order to understand the racial connection to this policy, I conducted an assessment of restrictiveness based on state felony policies. States were categorized into five tiers of felony disenfranchisement, from least restrictive to most restrictive: Tier 1 includes states without any felony voting restrictions (least restrictive); Tier 2 includes states that restrict only while incarcerated; Tier 3 includes states that restrict while incarcerated and on probation or parole; Tier 4 includes states that restrict felons from voting while incarcerated, probation and parole; and Tier 5 includes states that restrict voting rights of ex-felons indefinitely (most restrictive). Table 5 summarizes felony voting restrictions by state. Tier 1 includes two states that do not restrict felony-voting policies. There are 14 states included in Tier 2, which involves states that restrict voting while felons are incarcerated. Tier 3 states restrict voting while felons are incarcerated and on probation. There are only five states in this category. States that restrict voting while felons are incarcerated, on parole and on probation make up Tier 4. Seventeen states operate in this group. Tier 5 states restrict the vote of all ex-felons and felons incarcerated, on parole or probation. This category includes 13 states.

Table 5
 Felony Voting Restrictions By State

States without voting restrictions			(n=2) 3.9%
Maine	Vermont		
States that restrict voting while felons are incarcerated			(n=14) 27.5
District of Columbia	Massachusetts	North Dakota	South Dakota
Hawaii	Michigan	Ohio	Utah
Illinois	Montana	Oregon	
Indiana	New Hampshire	Pennsylvania	
States that restrict voting while felons are incarcerated and on probation or parole			(n=5) 9.8
California	Connecticut	Kansas	New York
Colorado			
States that restrict voting while felons are incarcerated, on parole and on probation			(n=17) 33.3
Alaska	Louisiana	New Mexico	South Carolina
Arkansas	Minnesota	North Carolina	Texas
Georgia	Missouri	Oklahoma	West Virginia
Idaho	New Jersey	Rhode Island	Wisconsin
Iowa			
States that restrict the vote of all ex-felons indefinitely			(n=13) 25.4
Alabama	Kentucky	Nebraska	Virginia
Arizona	Maryland	Nevada	Washington
Delaware	Mississippi	Tennessee	Wyoming
Florida			

After identifying the policy composition of each state among the five measures and categorizing each state's level of restriction, I assessed the association between race and the policy dimensions. Using the population data calculated in Chapter 3 (Tables 2 and Table 3), felony voting policies were compared with state racial composition. Table 6 presents the results of the relationship between a state's racial composition (White, minority, Hispanic, African-American, Asian, American Indian/Alaskan Native and Native Hawaiian/Pacific Islander) and a state's felony voting restrictions (no restriction, incarceration, incarceration and probation or parole, incarceration, parole and probation and indefinitely). The data are reported from the least restrictive policy dimension (Tier 1) to the most restrictive policy dimension (Tier 5). The results show that a state's racial composition makes an important difference in the intensity of policy restrictiveness of state felony voting policies. The principal finding is that states with high minority populations are much more likely to have restrictive felony policies than states with low minority populations.

Analysis of the top panel of Table 6 reveals connections between states with high White populations and states with high minority populations.³⁵ The investigation shows that states with high minority populations are more likely than states with high White populations to have restrictive felony voting policies. States with high minority populations are stricter than states with high White populations in four out of five tiers. A review of the most lenient category (Tier 1) shows that *only* states with high White populations have no felony voting restrictions. Only two states (Maine and Vermont), both of which have high White populations, do not restrict the rights of persons

³⁵ Supplemental tables are included in Appendix B to assist with the interpretation of Table 6. Table 6a and Table 6b report the row percents and the column percents, respectively, of the connection between state race and ethnic groups and state felony voting policies.

convicted of felonies ever. Stated differently, no states with a high minority population—of any minority group—has a lenient approach to felony voting. All high minority population states have some sort of restrictive felony voting policy.

As the tiers increase in restrictiveness so does the percent of states with high minority populations. When the purview is expanded to include Tier 2, 13 out of 16 high White population states are in this tier. This compares with 3 high minority population states. The racial patterns reverse in Tiers 3, 4 and 5 states that have the most restrictive felony voting policies. There were also observable differences in Tier 3—*incarceration and parole or probation*—between states with high White populations and states with high minority populations. It is from this point that minority states begin to have a higher level of restriction than White states. Eighty-three percent of high minority states are in Tiers 3 through 5 as compared to only 60 percent of high White states. High minority population states continue to outnumber high White states in Tier 4 and Tier 5, the most restrictive tiers.

Comparing the two least restrictive categories with the two most restrictive categories, more high White population states are present in the former than in the latter, while high minority population states are the exact opposite. When examining states with high White populations I found that almost 40 percent (13 out of 33) are in the two least restrictive categories as compared to about 51 percent (17 out of 33) in the two most restrictive categories. In contrast, this analysis points out that only 16.7 percent (3 out of 18) of states with high minority populations are in the two least restrictive categories as compared with the 72.2 percent (13 out of 18) in the two most restrictive categories of voting.

Specific minority differences are also important in the results of this study as indicated by a review of the second panel of the table. First, analysis of the most lenient category reveals no presence of high minority groups. Analysis at the opposite end of the spectrum shows that with the exception of high American Indian/Alaskan Native population states, states with high minority groups are more restrictive than states with high White populations. High African-American population states are the most restrictive states in Tier 5 with 7 out of 17 (41.2 percent) of its states denying voting rights to felons indefinitely. High Asian population states rank closely behind with 4 out of 10 (40%) restrictive states. High Hispanic population states are also stricter than high White states at 33.3 percent (3 out of 9). Twenty-eight percent of states with high Native Hawaiian/Pacific Islander populations have restrictive states in this tier.

The data point out a heavy concentration, at least 70 percent, of states with high Hispanics, African-Americans, Asians and American Indian/Alaskan Natives populations in the most restrictive categories, Tiers 3 through 5. I found 100 percent of high Hispanic population states are concentrated here. This figure drops to 66.6 percent when examining the two most restrictive categories. I found similar patterns when examining other groups. An examination of high African-American population states reveals that 82 percent (13 out of 17) of high African-American states are concentrated in Tiers 3, 4 and 5. Narrowing the view does not change this figure drastically as I found that 76 percent (13 out of 17) of states with high African-American populations are still concentrated in Tiers 4 and 5. Eighty percent of states with high Asian populations are found in Tiers 3 through 5. This number drops to 60 percent in Tiers 4 and 5 combined. Seventy-two percent of all high minority races American Indian/

Alaskan Native states were most likely to reside in states with less generous felony voting policies. I found that states with high Native Hawaiians/ Pacific Islanders were just as likely have less restrictive felony voting policies as they were to have more restrictive policies. There were 42 percent of high states in Tier 1 and 2 as compared to 42.9 percent in Tiers 4 and 5.

The argument that the vote should be restored after punishment offers another dimension through which to view the data. Taking this position requires a grouping of Tier 2, 3 and 4 states. Since Tier 1 states have no restrictions and Tier 5 states restrict felons indefinitely, states in these tiers can reasonably be excluded from this group. While this grouping shows less variation than examining the policies as polarized categories, some important distinctions do emerge. Considering this combination still indicates a higher concentration of states with high minority populations as compared to states with high White populations. Seventy-two percent (13 out of 18) of states with high minority populations are in Tiers 2, 3, or 4 compared to 69 percent (23 out of 33) of states with high White populations. States with high American Indian/Alaskan Native populations and states with high Native Hawaiian/Pacific Islander populations also indicate more levels of restriction than states with low populations of the same race. Seventy-eight percent (14 out of 18) of states with high American Indian/Alaskan Native populations are restrictive as compared to 67 percent of states with low American Indian/Alaskan Native populations. Similarly, 71 percent (5 out of 7) of states with high Native Hawaiian/Pacific Islander populations are restrictive as compared to 70 percent (31 out of 44) of states with low Native Hawaiian/Pacific Islander populations.

Table 6
High and Low Race and Ethnic States with Restrictive Felony Voting Policies

	Tier 1 No voting restrictions (2)	Tier 2 Incarceration (14)	Tier 3 Incarceration & parole (5)	Tier 4 Incarceration, parole, and probation (17)	Tier 5 Indefinitely (13)
WHITE (33)	2	11	3	9	8
MINORITY (18)	0	3	2	8	5
HISPANIC					
High (9)	0	0	3	3	3
Low (42)	2	14	2	14	10
AFRICAN AMERICAN					
High (17)	0	3	1	6	7
Low (34)	2	11	4	11	6
ASIAN					
High (10)	0	2	2	2	4
Low (41)	2	12	3	15	9
AMERICAN INDIAN/ ALASKAN NATIVE					
High (18)	0	5	3	6	4
Low (33)	2	9	2	11	9
NATIVE HAWAIIAN/ PACIFIC ISLANDER					
High (7)	0	3	1	1	2
Low (44)	2	11	4	16	11

Note: Values enclosed in parentheses represent total number of states included in the category. For example, 33 states have high White populations. A review of the top panel shows that there are 2 states in Tier 1 with no felony voting policies.

Summary

This chapter examined the connection between race and felony voting policies. Specifically the consideration of the relationship between race and felony voting policy restriction reveals a connection between high levels of felony voting restrictions and high concentrations of minorities. Whites experience felony-voting policies differently than most racial and ethnic minorities, particularly African-American and Hispanic populations. States in which White populations are high are more likely to have lenient felony voting policies while minorities are more likely to experience more severe policies. The lesser encounter of felony voting restrictions for Whites than for minorities, suggest that these policies may be more race conscious than previously considered.

CHAPTER FIVE
UNEMPLOYMENT COMPENSATION

CHAPTER FIVE: UNEMPLOYMENT COMPENSATION

The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.

-Franklin D. Roosevelt

Introduction

It is estimated that 5.5 percent of the U.S. civil labor force was unemployed in 2004. White Americans ranked highest among unemployment compensation recipients at 59.6 percent. Black Americans had the second highest rate of receipt at 17 percent. For Hispanic populations 14.5 percent received unemployment insurance. Asian Americans, Alaskan Natives/ American Indians and Native Hawaii/ Pacific Islanders all had unemployment rates below 5 percent, with 2.7 percent, 1.3 percent and .3 percent respectively. The unemployment rate was highest in the District of Columbia; with 8.2 percent of its labor force out of work. Hawaii had the lowest unemployment rates among all states in the U.S. at 3.3 percent (Bureau of Labor Statistics, 2004).

This Unemployment Insurance Program finds its genesis in Title III, IX and Title XII³⁶ of the Social Security Act of 1935. It is a social insurance program designed to provide temporary and partial wage replacement to individuals out of work, through no fault of their own and to help stabilize the economy during recession (U.S. House Committee on Ways and Means, 2004). Its purpose, evolved over time, is to ensure the basic necessities of life directly to the individual unemployed worker on a week-to-week basis. Unemployment Insurance (UI) is a joint venture between the federal and state government jointly financed through employer payroll taxes (federal/state UI tax) (Office

³⁶ Title III authorizes federal grants to the states for administration of State UC laws. Title IX authorizes the federal Unemployment trust fund components. Title XII authorizes loans to state UC Programs.

of Workforce Security, 2005).³⁷ While federal laws determine certain requirements of the program, states have considerable discretion to establish their own set of unemployment compensation standards. Federal law establishes broad coverage provisions, limited coverage provisions, the federal tax base rate and administrative requirements. Alternatively, state statutes set forth such provisions as eligibility/disqualification provisions, benefit amounts and state tax base rates. The joint venture has five main goals: 1) to provide temporary partial wage replacement during involuntary unemployment, (2) to prevent dispersal of employers' workforce, (3) to promote rapid return to work, (4) to limit business downturns by maintaining aggregate purchasing power, and (5) to encourage stabilization of employment in enterprises through experience rating.

Box 3 shows the federal guidelines and state statute areas under the unemployment compensation program. Federal revenue finances the administration of the UI program through collection of taxes levied on employers. The Federal Unemployment Tax Act (FUTA) authorizes the Internal Revenue Service to collect the tax annually. The tax is used to fund state workforce agencies and cover the costs of administering the UI and Job Service programs in all states. In addition, FUTA pays one-half of the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.

³⁷ Employee contributions finance unemployment insurance programs in Alaska, New Jersey and Pennsylvania.

Box 3. Primary functions under the Unemployment Compensation Program

Federal Functions

- Ensure conformity and substantial compliance of state law, regulations, rules, and operations with federal law;
- Determine administrative fund requirements and provide money to states for proper and efficient administration;
- Set broad overall policy for administration of the program, monitor state performance, and provide technical assistance as necessary; and
- Hold and invest all money in the unemployment trust fund until drawn down by states for the payment of compensation.

State Functions

- Determine operation methods and directly administer the program;
- Take claims from individuals, determine eligibility, and insure timely payment of benefits to workers; and
- Determine employer liability, and assess and collect contributions.

Source: U.S. Department of Labor, Office of Workforce Security Division of Legislation, 24

State benefit programs are financed through use of the state Unemployment Tax, paid to state workforce agencies. If an employer pays wages to employees totaling \$1500 or more, in any quarter of a calendar year, or if they had at least one employee during any day of a week during 20 weeks in a calendar year, regardless of whether or not the weeks were consecutive, then the employer must pay both state and federal unemployment taxes.

The History of State Unemployment Insurance

The impetus for the national Unemployment Insurance program was based on a number of foreign systems, chiefly in Europe. In addition, existing state programs, such as workers' compensation, that were maintained with some success in states like Wisconsin and Ohio also served as a model (Rodick, 1999). A number of states previously conducted their own state run unemployment compensation programs prior to the issue of joblessness reaching the national agenda. However, the modest nature

of these approaches left much to be desired. Massachusetts and New York introduced unemployment bills in their respective states with little success.³⁸ The first unemployment insurance program was passed in Wisconsin in 1932. It was intended to ensure steady workflow (Burhop, 1932). The idea was that if an employer endured some of the “social cost” by contributing to employees’ unemployment pay, the employer might be more inclined to circumvent unemployment in the first place. The Wisconsin program was characteristic of an employer fund held on reserve at the state level, which would be used when one’s own employees went unemployed (Nelson, 1969). The employer contribution rate was dependent upon the duration of service and previous wages. The employer was responsible for contributions totaling \$75 per employee. Once this goal was achieved, no further contributions were required unless benefits were paid. Program beneficiaries received 10 weeks of benefits for 50 percent of one’s average weekly wage, not to exceed \$10 in any week. Distribution of benefits did not commence in Wisconsin for another four years.

Ohio had a different approach to unemployment compensation and advocated for a statewide-pooled insurance fund. State reformers were interested in drawing an alternative program, which used pooled resources from employers and employees as subsidies. In a report by the Ohio Commission on Unemployment Insurance (1933), the commission faulted the Wisconsin program with failing to live up to the standard of an insurance program. The philosophy behind the Ohio plan was that a large insurance fund provided for the “pooling of risks” meant to cover the unemployed in addition to those laid off. The Ohio Commission charged Wisconsin’s program with disregarding

³⁸ During the 1920s, New York introduced five bills prior to the adoption of its final unemployment insurance program.

the necessity of all those at risk to pay premiums into the system and those who suffer risks to be compensated by the program. Ohio worked under the contention that the ability to accumulate an insurance fund in years of prosperity would allow for greater stability in times of hardship and depression. Ohio would not see such a plan come into fruition; instead its plan developed like all other programs, without employee contributions, and became law in December of 1936.

In the 1930s state relief programs would take a turn for the worse and the number of unemployed Americans reached an all time high (Nelson, 1969). The federal government felt compelled to get involved based on an assumption of responsibility for the general welfare of the national population. To preempt federal response, California, New Hampshire, Utah, and Washington also developed programs to compensate the unemployed.³⁹ New York and Massachusetts would again pen legislation, that would time pass in anticipation of federal interference.^{40,41} These policies would later be amended to coincide with the implementation of the new Social Security Act.

Social Security Act and Race

Most analysis surrounding the Social Security Act and its resulting policies have centered on the underdevelopment and dual operative nature of the policy decisions and the resulting infrastructure (Skocpol, 1992; 1995; Orloff, 1993). Emsellem, Goldberg, McHugh, Primus Smith and Wenger (2002) have examined the failures of unemployment insurance policies by states and report that the highly decentralized

³⁹ The legislation passed by Utah and Washington would later be declared unconstitutional. Utah passed legislation that was found constitutional in August 1936. Washington would pass such legislation in March of 1937.

⁴⁰ New York passed its unemployment compensation program on April 7, 1935, making it the second state to pass such act.

⁴¹ August 12, 1935

nature of unemployment compensation programs has led to failure in a number of areas. Based on the study, findings indicate a substandard effort on the part of states at promoting insurance access.

Few scholars of the American welfare state have broadened the scope of analysis to include race. According to the literature, this exclusion is anything but coincidental. Studies by Abramovitz (1988), Gordon (1994) and Mink (1995), emphasize programmatic flaws of the Social Security Act that deal with gender and race. These and other scholars attribute the structural impediments associated with unemployment insurance to the program's establishment as a White male-oriented subsidy. Whites dominated pre and post development of the unemployment compensation program (Sundstrom, 1994). White workers were more likely to hold professional service, trade, transportation and manufacturing positions. In contrast, minorities were more likely to hold positions in agriculture, domestic and personal services (U.S. Census Bureau, 1930). The blue-collar nature of these latter positions relegated them to automatic inferiority among the White-dominated population of the time and became automatic outcasts of the future policy. For Poole (2000), the exclusion of African-Americans from social insurance programs was not a benign consequence of policy development. Instead, it was a calculated means to reproduce the economic hierarchy that left African-Americans at the bottom rungs.

Lieberman (1995b) recognizes the impact of race on social policy development under the Social Security Act. Race was not an incidental factor in the role of policy development. The structural impediments of the Act reinforced racial divisions (Lieberman, 1995a). Whether conscious or unconscious, the racial structure of

American society and politics in the 1930s rendered the enactment of racially inclusive nationally administered policies impossible (p. 161). The likelihood that race played a role in the structures of policy more so than in the differential product of legislation, renders the possibility of immalleable institutions. The devolved process of Social Security Act programs left behind policies that reinforced racial division. Organization of programs in decentralized venues led to an inability to establish a comprehensive coordinated program under the Social Security Act. Thus, local level administration became an important battleground in the development of social policy.

Jill Quadagno (1988, 1994) locates race at the center of the social policy agenda in the New Deal era. For Quadagno, racial inequalities are a significant component of New Deal policies and the social force driving welfare policies. Quadagno argues that the Social Security Act of 1935 created two tiers of racially segregated benefits. A compromise reached with southern Democrats over the structure of the welfare states led to the intentional exclusion of workers from unemployment compensation in addition to the lack of national standards (Quadagno, 1994, p. 20).⁴² The voluntary nature of unemployment insurance programs was rewarded with generous tax credits that offset most of the payroll tax-provided incentives to employers to participate. In lieu of cash payments to displaced workers directly, Congressmen opted for social assistance programs in which benefit levels and eligibility standards could be decided by local welfare authorities. Agriculture and domestic workers were left out of core Social Security Act programs due to southern opposition. Two-thirds of Black employment was excluded from the legislation (Kirby, 1980). The minority experience with

⁴² The motivations of Roosevelt and the northern Whites have been contested. The research points to the desire of northern Whites and Roosevelt to help African-Americans to curtail the political mess that would affect their own interest.

unemployment insurance was exacerbated by the lack of solidarity among states and the emphasis on benefits in lieu of job placement (Weiss, 1983). Nationalized policy had the potential for racial fairness. However, the inability or unwillingness to directly engage race led to either an indirect or no consideration of race through decisions about the locus of government (Davies & Derthick, 1997, p. 233).

Tracing the contemporary relationship between race and unemployment policies, researchers have found a number of structural inequities built into the social insurance program in terms of coverage and qualifications for benefits (Lattimer, 2005). Lattimer (2005) found results documenting racial disparities [among others] as a consequence of unemployment insurance disqualifications. The results indicate that people of color (1) have the most difficult time meeting the monetary requirement for UI benefits, (2) are the most likely to be disqualified from UI benefits because of a separation issue, and (3) are the most likely to have a nonseparation issue disqualification of UI benefits.⁴³

This chapter will explore the patterns that exist among and between Census identified race and ethnic groups and five measures of unemployment insurance programs alternate base periods, waiting periods, part time worker eligibility, additional dependence allowance and maximum weekly benefit. More specifically, this chapter will examine the outcome of two research questions:

- What is the relationship between race and unemployment insurance?
- Does this relationship differ between race and ethnic group?

Qualifying for Unemployment Compensation

Table 7 shows the selected characteristics of state unemployment programs. The first column in the table displays the minimum wages needed to qualify for

⁴³

unemployment insurance. All states require a worker to have earned a certain amount of wages, to have worked for a certain period of time or both within the base period to be monetarily eligible to receive any UI benefits (Employment and Training Administration, 2005). States use a variety of methods to determine monetary eligibility for unemployment insurance. All states require a qualifying amount based on base period earnings or high quarter earnings. Qualifying requirements restrict benefits to workers attached to the labor force. The base period is the time period during which wages earned and/or hours/weeks worked are examined to determine a worker's monetary entitlement to unemployment insurance. Almost all states use the first four of the last five completed calendar quarters preceding the filing of the claim as their base period.⁴⁴ Four key components comprise the regular Unemployment Insurance program: coverage, eligibility, benefits and duration (McMurrer & Chasnov, 1995).

Coverage. Unemployment compensation covers most wage and salary workers. While unemployment compensation is almost universal today, unemployment compensation does not cover certain occupations. States may cover certain employment not covered by Federal Unemployment Tax Act (FUTA); most do not. As a result, employment in the following areas is generally not covered: self-employment; certain agricultural⁴⁵ and domestic service; service for relatives; service of patients in

⁴⁴ Although Nebraska has no law on this matter, its regulations establish its base period as the first four of the last five completed calendar quarters. Massachusetts uses the four completed calendar quarters preceding the first day of the benefit year.

⁴⁵ At the onset of the UI program, all agricultural labor was excluded from the definition of employment regardless of the size of the agricultural employer (Employment and Training Administration, 2005). Excluded labor included all services on a farm in the raising and harvesting of any agricultural produce and services in some processing and marketing activities if performed for the farmer who raised the crop and as an incident to primary farming operations. In 1939, some services performed in the employ of someone other than the farmer and services in the management and operation of a farm (if they were performed for the farm owner or operator) were also excluded. Amendments made in 1970 and 1976 to

hospitals; certain student interns; certain alien farm workers; certain seasonal camp workers; and railroad workers (who have their own unemployment program).

Eligibility Requirements

Eligibility requirements differ in almost all states. In order to be eligible for benefits a worker must (1) be able to work and available for work, (2) be free from disqualification for such acts as voluntary leaving without good cause and discharge for misconduct connected with work and (3) not refuse offers of suitable work⁴⁶ (Office of Workforce Security, 2005). Certain circumstances allow for additional consideration when determining eligibility for unemployment insurance. These additional considerations make the process accessible to more claimants. This study focuses on alternate base periods, waiting periods and part-time work.

Alternative base periods (ABP). A base period, or base year, is typically four calendar periods. A base period consisting of the first four of the last five completed calendar quarters results in a lag of up to six months between the end of the base period and the date a worker becomes unemployed/files a claim. As a result, the worker's most recent work history is not used when making an eligibility determination. Several states use an ABP for workers failing to qualify under the regular base period. Alternative base periods allow more workers to qualify for unemployment insurance. For example, if the worker fails to qualify using wages and employment in the first four

the FUTA narrowed the definition of agricultural labor, effectively extending coverage to some marginal agricultural activities and adding the current dollar/employment thresholds that resulted in coverage of services performed on large farms.

⁴⁶ The expectation is that one who is a likely recipient of UI benefits is ready, willing and able to work. Hindrance of any sort by the individual (placing substantial restrictions on terms of employment) to accept suitable offers of employment violates eligibility requirements.

of the last five completed calendar quarters, then the state will use wages and employment in the last four completed calendar quarters.

Waiting periods. Most states do not compensate workers the first week of insured unemployment in a benefit year (Office of Workforce Security, 2005). A trend toward elimination of the waiting period existed between the late 1940s and the 1980s (Blaustein, Cohen & Haber, 1993). However, program cost shifted this tide, and many states began to reinstitute waiting periods in the late eighties. Workers who are otherwise eligible for unemployment insurance must serve a waiting period in most states (U.S.DOL, 2005). In most states, the waiting period requirement is the same for partial and total unemployment. Waiting periods are served in a particular benefit year.

Part-time work eligibility. Most states require that workers be available for full-time work (Office of Workforce Security, 2005). Alternatively, thirty states and the District of Columbia offer eligibility to part-time workers under certain conditions. Most states in which employees have a history of part-time work allow claimants to seek work under some description.⁴⁷ Other states require medical or disability conditions in order to qualify.⁴⁸ One state (New Mexico) only allows part-time eligibility in the instance of school attendance, provided that this attendance was not a factor in separation from work. An additional state (Illinois) only allows part-time work if it is beyond the claimant's control.

⁴⁷ Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Hawaii, Iowa, Kansas, Louisiana, Maine, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Dakota, Vermont, Wisconsin, Wyoming

⁴⁸ Montana, Nevada, New Hampshire, Oregon, Utah

Benefits

Benefit resources indicate the level at which an individual can continue to exist on a daily basis. Once eligibility has been determined, an individual is offered a number of benefits as an unemployment resource. Unemployment insurance coverage is based on an employee's last year of employment—the base period. The time period during which the weekly rate and the duration of benefits determined for a given worker apply to such worker is called the benefit year. All states determine an amount payable for a week of total unemployment as defined in the state law. Usually a week of total unemployment is a week in which the claimant performs no work and receives no pay. In most states a worker is partially unemployed in a week of less than full-time work when he/she earns less than his/her weekly benefit amount. The benefit payment for such a week is the difference between the weekly benefit amount and the part-time earnings, usually with a small disregard as a financial inducement to take part-time work. Most states require a waiting period before a claimant can receive benefits. Most states pay benefits up to 26 weeks.⁴⁹ The qualifying wage or employment provisions attempt to measure the worker's attachment to the labor force. This study focuses on two benefit components: additional dependence allowance and weekly benefit allowance.

Dependents' Allowance. Base period earnings are the primary determinant of an individual's unemployment insurance payment. In addition to such determinant, the presence of dependents prompts payment of additional allowances in some states. Dependents' allowances are granted partially or wholly in some states for those supported by, living with or receiving regular support from the worker (Office of

⁴⁹ Massachusetts and Washington pay 30 weeks.

workforce security, 2005). This includes children that the worker is “morally obligated to support.” Allowances are also payable in most states under this category for older children unable to work due to mental or physical disability. In addition, some states support dependents’ allowances for spouses, parents and siblings. Thirteen states provide additional benefits for individuals with dependents.

Weekly benefit amount. Unemployment insurance is intended to provide partial wage replacement. On average 50 percent of a worker’s wages are replaced under the UI program. States use a variety of methods to compute an individual’s weekly compensation: high-quarter method; multi-quarter method; annual-wage method and average weekly-wage method. States were considered restrictive in this study if its weekly maximum benefit did not exceed \$292.67. Restriction for this dimension was based on the poverty threshold for a household of three in 2004. The poverty threshold for a household of three⁵⁰ in 2004 was \$15,219 annually. The poverty threshold was divided by the number of possible annual workweeks (52 per year) to derive a weekly pay rate of \$292.67. A person receiving unemployment insurance would need to receive a minimum of \$292.67 per week to reach the estimated poverty threshold in 2004.

⁵⁰ The average household size in America is 2.94. U.S. Census Bureau, 2000

Table 7
Selected Unemployment Insurance Program Policies by State

State	Minimum Wages Needed to Qualify		Eligibility Requirements			Benefits	
	High Quarter	Base Period	Alternate Base Period	Waiting period	Part-Time Workers Eligible*	Additional Dependents Allowance	Maximum Weekly Benefit Amount
Alabama	\$ 1,057.00	\$ 2,114.00					\$ 220.00
Alaska		\$ 1,000.00		√		√	\$ 248.00
Arizona	\$ 1,500.00	\$ 2,250.00		√			\$ 240.00
Arkansas	\$ 1,690.00	\$ 1,755.00		√	√		\$ 345.00
California	\$ 900.00	\$ 1,125.00		√	√		\$ 450.00
Colorado	\$ 1,084.00	\$ 2,500.00		√	√		\$ 370.00
Connecticut	\$ 390.00	\$ 780.00	√			√	\$ 447.00
Delaware		\$ 920.00			√		\$ 330.00
District of Columbia	\$ 1,300.00	\$ 1,950.00	√	√	√		\$ 359.00
Florida	\$ 832.00	\$ 3,400.00		√	√		\$ 275.00
Georgia	\$ 920.00	\$ 1,600.00	√				\$ 300.00
Hawaii	\$ 85.00	\$ 130.00	√	√	√		\$ 436.00
Idaho	\$ 1,326.00	\$ 1,658.00		√			\$ 325.00
Illinois	\$ 1,160.00	\$ 1,600.00		√	√	√	\$ 336.00
Indiana	\$ 1,000.00	\$ 2,750.00		√			\$ 369.00
Iowa	\$ 1,058.00	\$ 1,323.00			√	√	\$ 310.00
Kansas	\$ 1,978.00	\$ 2,670.00		√	√		\$ 359.00
Kentucky	\$ 750.00	\$ 2,945.00					\$ 365.00
Louisiana	\$ 800.00	\$ 1,200.00		√	√		\$ 258.00
Maine	\$ 1,163.00	\$ 3,487.00	√	√	√	√	\$ 302.00
Maryland	\$ 576.00	\$ 900.00				√	\$ 310.00
Massachusetts		\$ 3,000.00	√	√	√	√	\$ 528.00
Michigan	\$ 1,976.00	\$ 2,964.00	√			√	\$ 362.00
Minnesota	\$ 1,000.00	\$ 1,250.00		√	√		\$ 493.00
Mississippi	\$ 780.00	\$ 1,200.00		√			\$ 210.00
Missouri	\$ 1,200.00	\$ 1,800.00		√			\$ 250.00
Montana	\$ 2,632.00	\$ 3,948.00		√	√		\$ 335.00
Nebraska	\$ 800.00	\$ 1,600.00		√	√		\$ 288.00
Nevada	\$ 400.00	\$ 600.00					\$ 329.00
New Hampshire	\$ 1,400.00	\$ 2,800.00	√		√		\$ 372.00
New Jersey		\$ 2,060.00	√	√	√	√	\$ 503.00
New Mexico	\$ 1,482.00		√	√	√	√	\$ 300.00
New York	\$ 1,600.00	\$ 2,400.00	√	√			\$ 405.00
North Carolina	\$ 936.00	\$ 3,749.00	√	√	√		\$ 426.00
North Dakota	\$ 1,864.00	\$ 2,795.00		√	√		\$ 324.00
Ohio		\$ 3,720.00	√	√		√	\$ 331.00
Oklahoma	\$ 1,000.00	\$ 1,500.00		√	√		\$ 292.00
Oregon	\$ 5,227.00	\$ 7,840.00		√	√		\$ 419.00
Pennsylvania	\$ 800.00	\$ 1,320.00		√	√	√	\$ 478.00
Rhode Island	\$ 1,341.00	\$ 2,013.00	√	√		√	\$ 462.00
South Carolina	\$ 540.00	\$ 900.00		√			\$ 292.00
South Dakota	\$ 728.00	\$ 1,288.00		√	√		\$ 256.00
Tennessee	\$ 780.00	\$ 1,560.00		√			\$ 275.00
Texas	\$ 1,326.00	\$ 1,998.00		√			\$ 336.00
Utah	\$ 1,667.00	\$ 2,500.00		√	√		\$ 371.00
Vermont	\$ 1,707.00	\$ 2,390.00	√		√		\$ 371.00
Virginia		\$ 2,500.00	√	√			\$ 326.00
Washington		\$ 11,100.00	√	√			\$ 496.00
West Virginia		\$ 2,200.00		√			\$ 366.00
Wisconsin	\$ 1,225.00	\$ 1,470.00	√		√		\$ 329.00
Wyoming	\$ 1,760.00	\$ 2,200.00		√	√		\$ 316.00

Source: US Department of Labor, 2005

Required per week to prevent a 3 person household from living in poverty

* part-time workers eligible under certain conditions

Note: A √ indicates the state offers the specific policy dimension

Assessing the Restrictiveness

In order to understand the connection between race and unemployment compensation, I conducted an assessment of state restrictiveness based on the selected unemployment policies. Table 8 reports the policy variables that were used to inform this study under the programs' eligibility and benefit components.

The first three panels of the table report findings for alternate base periods, waiting periods and part-time worker eligibility. Examining policies under eligibility, states that do not consider alternate base periods in determining monetary eligibility are "restrictive" in this analysis. Because base period employment and/or earnings are an imperfect proxy for labor market attachment, there are instances when workers with labor market attachment are ineligible for UI benefits. To address this, some states developed expanded definitions of the base period. Studies show that institution of ABPs allows individuals who might otherwise be ineligible to qualify for unemployment insurance (National Employment Law Project, 2003). A majority (64.7 percent) of states do not have alternate base periods. Thirty-nine states have restrictive waiting periods. The analysis considers all states that impose any variation of a waiting period. The requirement of a waiting period is not sufficiently established. Its presence creates an otherwise unnecessary hardship on a population that is already overburdened (Emsellem, et. al, 2003).

Table 8 also reports the states in which part-time workers are ineligible for benefits. (This includes those states that make extra specifications for condition of part-time eligibility based on circumstances other than prior level of work). Although part-time work has increased significantly since the inception of the UI program,

approximately 17 percent of the workforce is currently working part-time (Chasanov, 2004). Part-time workers are half as likely to receive UI benefits as full-time workers (NELP, 2004). Denying UI benefits among very low waged workers based on part-time status adds additional burdens to an already disadvantaged group. There are twenty-six states (50.9 percent) in this category.

The last two panels show states with restrictive benefit policies. States that do not offer additional dependent allowances are identified as “restrictive” in Table 8. Restriction for this policy is based on the basic benefit amount. Most benefits are not enough to keep a family out of poverty. The additional financial burden of supporting dependents on substandard insurance places additional burdens on the claimant (Emsellem, et. al, 2003). Thirty-eight (74.5 percent) states appear in this group. Thirteen states do not provide a maximum weekly benefit amount of at least \$292.67. These states were coded as restrictive because they do not offer enough in weekly benefits to keep a family of three above the poverty limit.

Table 8
Unemployment Insurance Program Restrictions By State

States without alternate base periods				(n=33) 64.7%
Alabama	Illinois	Mississippi	Pennsylvania	
Alaska	Indiana	Missouri	South Carolina	
Arizona	Iowa	Montana	South Dakota	
Arkansas	Kansas	Nebraska	Tennessee	
California	Kentucky	Nevada	Texas	
Colorado	Louisiana	North Dakota	Utah	
Delaware	Maryland	Oklahoma	West Virginia	
Florida	Minnesota	Oregon	Wyoming	
Idaho				
States that impose waiting periods				(n=39) 76.5%
Alaska	Indiana	New Jersey	South Carolina	
Arizona	Kansas	New Mexico	South Dakota	
Arkansas	Louisiana	New York	Tennessee	
California	Maine	North Carolina	Texas	
Colorado	Massachusetts	North Dakota	Utah	
District of Columbia	Minnesota	Ohio	Virginia	
Florida	Mississippi	Oklahoma	Washington	
Hawaii	Missouri	Oregon	West Virginia	
Idaho	Montana	Pennsylvania	Wyoming	
Illinois	Nebraska	Rhode Island		
States in which part-time workers are not eligible for benefits				(n=26) 50.9%
Alabama	Indiana	New Hampshire	Texas	
Alaska	Kentucky	New Mexico	Utah	
Arizona	Maryland	Ohio	Virginia	
Connecticut	Michigan	Oregon	Washington	
Georgia	Mississippi	Rhode Island	West Virginia	
Idaho	Missouri	South Carolina		
Illinois	Nevada	Tennessee		
No additional dependent allowance				(n=38) 74.5%
Alabama	Idaho	Nevada	Texas	
Arizona	Indiana	New Hampshire	Utah	
Arkansas	Kansas	New York	Vermont	
California	Kentucky	North Carolina	Virginia	
Colorado	Louisiana	North Dakota	Washington	
Delaware	Minnesota	Oklahoma	West Virginia	
District of Columbia	Mississippi	Oregon	Wisconsin	
Florida	Missouri	South Carolina	Wyoming	
Georgia	Montana	South Dakota		
Hawaii	Nebraska	Tennessee		
Maximum weekly benefit less than \$292.67				(n=13) 25.5%
Alabama	Louisiana	Nebraska	South Carolina	
Alaska	Mississippi	Nevada	South Dakota	
Arizona	Missouri	Oklahoma	Tennessee	
Florida				

Source: U.S. Department of Labor, 2005

Understanding the Racial Impact

After identifying the policy composition of each state among five measures and categorizing each state's level of restriction, I assessed the association between the policy dimensions and race. Using the population data calculated in Chapter 3 (Tables 1-3) select unemployment insurance program policies were cross-referenced with the states identified as restrictive (see Table 8).

Table 9 presents a summary of the connection between race and unemployment insurance (alternate base periods, waiting periods, part-time worker eligibility, additional dependents allowance and maximum weekly benefit allowance).⁵¹ According to the table, there is some connection between race and unemployment insurance policy. The table shows that high minority population states are more restrictive than high White population states in 3 out of 5 dimensions. As shown, states with high minority populations encounter more restrictive policies (3 out of 5) than states with high White populations (2 out of 5). Among states with specific minority groups, states with high Native Hawaiian/ Pacific Islander populations encounter the most amounts of restrictive policies. States with high Asian-Americans were the least likely (1 out of 5) to encounter restrictive unemployment policies. Four out of 5 dimensions have high American Indian/Alaskan Native population states that are restrictive. States with high African-Americans or Hispanics encounter restrictive policies at the same rate (3 out of 5).

Overall, it appears that states with high minority populations were more likely to encounter restrictive policies as it relates to receipt of benefits rather than eligibility. A

⁵¹ Supplemental tables are included in Appendix B to assist with the interpretation of Table 9. Table 9a and Table 9b report the row percents and the column percents, respectively, of the connection between state race and ethnic groups and restrictive state Unemployment Insurance program policies.

review of benefit policies shows that states with high White populations and high minority populations have similar encounters with restrictive policies. Twenty-five out of 33 (75.8 percent) states with high White populations have restrictive dependence allowance policies. This compares with 13 out of 18 (72.2 percent) states with high minority populations. The reverse is true when examining weekly benefit amounts. In this case, states with high minority populations encounter more restrictive policies with 5 out of 18 (27.8 percent) states restrictive. In contrast, 8 out of 33 (24.2 percent) states with high White populations are restrictive. An analysis of the second panel of the table reveals that states with high Hispanic, African-American, American Indian/Alaskan Native or Native Hawaiian/ Pacific Islander groups were stricter than states with low populations of the same race. Of all state groupings, states with high American Indian/Alaskan Native populations were the least likely to receive additional dependent benefits. Sixteen out of 18 (88.9 percent) states with high minority populations have restrictive policies in this area. States with high African-American populations were the most likely to have restrictive weekly benefits. Six out of 17 (35.3 percent) states with high African-American populations are not likely to receive \$292.67. States with high Asian populations were least likely to have restrictive policies of any type.

While less obvious, analysis of the eligibility policies shows a number of additional patterns. States with high minority populations overall have more restrictive states than their White counterpart in two of the three dimensions studied. A review of eligibility policies by specific state race and ethnic groupings shows that states with high Hispanic, African-Americans and Asian-Americans populations have similar experiences with eligibility policies. Each is more restrictive than its low population

counterpart in only one of the three dimensions. American Indian/Native Alaskan Native and Native Hawaiian/Pacific Islander population states experienced a higher rate of restrictive eligibility policies. States with high American Indian populations were restrictive in 2 out of 3 dimensions, while states with high Native Hawaiian populations were restrictive in 3 out of 3 policies. The table reveals that states with high minority populations were more likely to have restrictive waiting period policies and part-time work eligibility policies. Fourteen out of 18 (77.8 percent) states with high minority populations had restrictive waiting periods. Fifty-six percent (10 out of 18) of high minority population states have stricter part-time eligibility policies than high White population states (48.5 percent). States without alternate base periods were more likely to have high White populations. Twenty-three out of 33 (69.7 percent) states with high White population states show states without alternate base policies. This is compared to 10 out of 18 (55.6 percent) states with high minority populations.

Hispanic, Asian, American Indian/Alaskan Native and Native Hawaiian/ Pacific Islander high population states were more likely to encounter waiting periods than states with low populations of the same race or ethnicity. The data show that states with high American Indian/Alaskan Native population states have the highest incidence of restrictive states with 17 out of 18 (94.4 percent) restrictive states. Alternatively, high African-American population states have the lowest incidence of restrictive states with 12 out of 17 (70.6 percent) restrictive states.

States with high American Indian/Alaskan Native populations and high Native Hawaiian/Pacific Islander population impose more restrictive alternate base period policies than their low counterpart does. Five out of 7 (71.4 percent) states with high

Native Hawaiian/Pacific Islander populations have restrictive part-time eligibility policies as compared to 28 out of 44 (63.6 percent). Fifteen out of 18 (83.3 percent) states with high American Indian/ Alaskan Native populations are restrictive as compared to 18 out of 33 (54.5 percent) low American Indian/ Alaskan Native populations states. States with high American Indian/ Alaskan Native populations impose a higher rate of restrictive policies than any other group. The least amount of restrictive states is found among states with high Asian populations. Four out of 10 (40 percent) states of high Asian states are restrictive.

States with high African-American populations and high Native Hawaiian/Pacific Islander populations impose more restrictive part-time work eligibility policies than their low counterparts. Nine out of 17 (52.9 percent) states with high African-American populations are restrictive as compared to 17 out of 34 (50.0 percent) low African-American populations states. Five out of 7 (71.4 percent) states with high Native Hawaiian/Pacific Islander populations have restrictive part-time eligibility policies as compared to 33 out of 44 (47.7 percent). States with high Native Hawaiian/Pacific Islander populations impose a higher rate of restrictive policies than any other group. High Hispanic population states and high American Indian/ Alaskan Native population states have the least amount of restrictive states at 44.4 percent.

*Table 9
High and Low Race and Ethnic States with Restrictive Unemployment Insurance Program
Policies*

	Eligibility			Benefits	
	No alternate base period (33)	Waiting periods (39)	Part-time workers ineligible (26)	No additional dependant allowance (38)	Weekly benefit less than \$292.67 (13)
WHITE (33)					
	23	14	16	25	8
MINORITY (18)					
	10	25	10	13	5
HISPANIC					
High (9)	6	8	4	7	3
Low (42)	27	31	22	31	10
AFRICAN AMERICAN					
High (17)	10	12	9	13	6
Low (34)	23	27	17	25	7
ASIAN					
High (10)	4	8	5	6	2
Low (41)	29	31	21	32	11
AMERICAN INDIAN/ ALASKAN NATIVE					
High (18)	15	17	8	16	5
Low (33)	18	22	18	22	8
NATIVE HAWAIIAN/ PACIFIC ISLANDER					
High (7)	5	6	5	6	2
Low (44)	28	33	21	32	11

Note: All figures in parenthesis represent the number of states within each category. For example, 33 states have high White populations. A review of the top panel shows that there are 33 states that do not have alternate base periods.

Summary

This chapter examined the connection between race and unemployment insurance policies. Specifically the consideration of the relationship between race and unemployment insurance policy restriction reveals a connection between high levels of unemployment insurance policy restrictions and high concentrations of minorities. States in which White populations are high are more likely to have more lenient unemployment insurance policies while states with high minorities are more likely to experience more severe policies, particularly states with high American Indian/Alaskan Native and Native Hawaiian/ Pacific Islander populations. The lesser encounter of restrictions for high White population states than for high minority population states, suggest that these policies may be more race conscious than previously considered.

CHAPTER 6
STATE SPONSORED HEALTH INSURANCE FOR CHILDREN

CHAPTER 6: STATE SPONSORED HEALTH INSURANCE FOR CHILDREN

*The question is not can we afford to invest in every child;
it is whether we can afford not to*
-Marian Wright Edelman

Introduction

There is compelling evidence that race and ethnicity correlate with health disparities among U.S. populations. This may be in part due to the high incidence of individuals without health insurance. According to the U.S. Census Bureau (Weinberg, 2004), White individuals have the lowest incidence of people without health insurance, at a rate of 11.1 percent. Asian Americans have an uninsured rate of 18.6 percent. African-Americans, on the other hand, have an uninsured rate of 19.4 percent. Hispanics have the highest uninsured rate at 32.7 percent. For children, the variation among the rates is similar. White children have the lowest incidence of uninsured at 7.4 percent. Asian children are next at 11.8 percent. African-American children are at a rate of 14 percent. For Hispanic children the rate is 21 percent. In order to reduce the growing health insurance problem as it relates to children, the 1997 Balance Budget Act implemented the State Children's Health Insurance Program (SCHIP),⁵² appropriating \$40 billion in federal funds over 10 years (Centers for Medicare & Medicaid Services, 2004). SCHIP was designed to change the service delivery of state sponsored health care and provide a means of coverage for millions of American children who have thus far gone without. By the end of 1999 close to 2 million children were enrolled in the new state programs. Today, as many as 6 million children have received benefits from state SCHIP programs.

⁵² SCHIP- refers to the overall state children's health insurance program. S-CHIP refers to the separate child health program designed by states.

Understanding Medicaid and SCHIP

In order to understand the existence of SCHIP it is necessary to highlight Medicaid. Established in 1965 under Title XIX of the Social Security Act, Medicaid is a federal/ state entitlement program responsible for medical assistance for individuals and families with very low incomes and limited resources. Medicaid is a means-tested entitlement program jointly financed by federal and state funds. Under the auspices of national guidelines, each state (1) establishes its own eligibility standards; (2) determines the type, amount, duration and scope of services; (3) sets the rate of payment for services; and (4) administers its own program (Center for Medicare and Medicaid Services, 2004). Medicaid policies for eligibility, services and payment are complex and vary considerably by state. To be eligible for federal funds, states are required to meet certain standards.

The federal government defines a number of populations that are potentially eligible for Medicaid programs. Eligibility is determined through consideration of specific income and other resources based on a combination of federal guidelines and state definitions (U.S. House Committee on Ways and Means, 2004). Some groups considered for eligibility are families, pregnant women and children, aged and persons with disabilities, medically needy, certain immigrants and otherwise ineligible children and families under certain circumstances.

Title XXI of the Social Security Act, SCHIP, is designed as a federal/state partnership, similar to Medicaid, with the goal of expanding health insurance to children whose families earn too much money to be eligible for Medicaid, but not enough money to purchase private insurance “in an effective and efficient manner that is coordinated

with other sources of health benefits coverage for children.”⁵³ Like its predecessor, SCHIP is a federal-state matching program. There is no guarantee to medical coverage under SCHIP. States with approved SCHIP plans are entitled to pre-determined federal allotments based on a distribution formula. When its plans are approved, then a state can define the group of targeted very low-income children who may enroll in SCHIP.⁵⁴

SCHIP is a state-administered program and each state sets its own guidelines regarding eligibility and services. Under Title XXI, states are afforded three options when designing a program (Richardson, 1997). The state can either:

- use SCHIP funds to expand Medicaid eligibility to children who previously did not qualify for the program;
- design a state children's health insurance program entirely separate from Medicaid; or,
- combine both the Medicaid and separate program options.

Medicaid Expansion Child Health Insurance Programs (M-CHIP). States may elect to use funding provided under Title XXI as a means to extend the resources of their current Medicaid programs. The expansion program allows the states to cover “targeted very low-income”⁵⁵ children that might otherwise be ineligible. Under this option, current Medicaid rules apply. At the time of this study, seventeen states have chosen to expand their Medicaid programs.⁵⁶

⁵³ Title XXI appears in the United States Code as §§1397aa-1397jj, subchapter XXI, chapter 7, Title 42.

⁵⁴ States are allowed to consider the following in determining eligibility: geography, age, income and resources, residency, disability status, access to other health insurance, and duration of S-CHIP enrollment.

⁵⁵ “Targeted very low- income” children are defined as very low-income children, age 19 and under, with family incomes below 200% of the federal poverty line, who would not qualify for Medicaid based on the plan that was in effect on April 15, 1997. Children below the poverty level who were born after September 30, 1983, are not included in this category because they age onto Medicaid under current law.

⁵⁶ Alaska, Arkansas, Connecticut, District of Columbia, Hawaii, Idaho, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Wisconsin (2003 State Annual Report, CMS, 2005)

Separate State Child Health Insurance Programs (S-CHIP). Separate state child health insurance programs operate directly under the federal guidelines. States in this category are subject to cost sharing and benefit rules and must establish enrollment systems that are coordinated with Medicaid and other sources of health coverage for children. States are required to screen children for eligibility in both Medicaid and SCHIP. If a child is deemed Medicaid eligible, then they must be enrolled into the state's Medicaid program. Currently, fifteen states have child health insurance programs separate from Medicaid.⁵⁷

Combination Child Health Insurance Programs (C-CHIP). Title XXI allows states to combine both Medicaid and separate state program options to increase health coverage for children. For example, a state may cover children up to 133 percent of poverty through Medicaid and a targeted group of children above that level through a separate program. For the children the state chooses to cover under Medicaid, the description provided under Medicaid expansion programs would apply. Similarly, for children the state chooses to cover under a separate program, the provisions outlined in the separate state child health insurance programs would apply. Combination programs are present in nineteen states.⁵⁸

The flexibility afforded to states in insurance program development, permits variation in specific policy areas. Table 10 reports the plan chosen by each state. An evaluation conducted by Mathematica Policy Research, Inc (Rosenbach, Ellwood, Irvin,

⁵⁷ Alabama, Arizona, Colorado, Georgia, Kansas, Montana, Nevada, North Carolina, Pennsylvania, Texas, Utah, Vermont, Washington, West Virginia, Wyoming (2003 State Annual Report, CMS, 2005)

⁵⁸ California, Delaware, Florida, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Rhode Island, South Dakota, Virginia (2003 State Annual Report, CMS, 2005)

Young, Conroy, Quinn & Kell, 2003) reports that states that opted for the Medicaid expansion program did so primarily due to cost effectiveness. Investment in existing health insurance programs would allow states to concentrate on outreach and enrollment systems already in place. Maintaining the current program would avoid burdens often associated with new program implementation such as delays, breaks in coverage and confusion among providers and recipients. Alternatively, states that implemented a separate state child health insurance program were interested in the flexibility afforded to states by Title XXI. Simulating group health plans and individual plans of private insurance, the separation of the S-CHIP program from the M-CHIP program, affords states more flexibility in enrollment procedures including caps and waitlists.

This chapter will undertake an examination of state policies enacted since the development of the state children's health insurance program in order to determine what if any association exists between state policy variation and race and ethnic populations. The questions of value in this section are:

- What is the relationship between race and state children's health insurance policies?
- Does this relationship differ between race and ethnic groups?

Six Measures of State Insurance Programs

The categories of comparison for this policy are centered on six measures of the state insurance programs: eligibility thresholds, presumptive eligibility, retroactive eligibility, cost sharing, "crowd out", and continuous eligibility.⁵⁹ Table 10 reports each state's approach in these measures.

⁵⁹ The newness of this program prompts continuous program modification as states gain insight. This analysis is based on a snapshot in time of data collected from CMS on June 11, 2005.

Table 10

Selected State Children's Health Insurance Program Policies by State

State	Program Type	Maximum Eligibility Threshold*	Cost Sharing			Waiting Period (MTHS)	Continuous Eligibility (MTHS)	Presumptive Eligibility	Retroactive Eligibility
			Premium	Copay	Deductible				
Alabama	S-CHIP	200	✓	✓		3	12		✓
Alaska	M-CHIP	175				12	6		✓
Arizona	S-CHIP	200	✓			3	12		
Arkansas	M-CHIP	200		✓		6	12		✓
California	COMBO	300	✓	✓		3	12	✓	✓
Colorado	S-CHIP	185		✓		3	12		✓
Connecticut	M-CHIP	300	✓	✓		2			✓
Delaware	COMBO	200	✓	✓		6	12		✓
District of Columbia	M-CHIP	200				TOA	6b	✓	✓
Florida	COMBO	200	✓	✓					✓
Georgia	S-CHIP	235	✓	✓		6			✓
Hawaii	M-CHIP	200	✓	✓		3			✓
Idaho	M-CHIP	185	✓	✓		6	12		✓
Illinois	COMBO	200	✓	✓		12	12		✓
Indiana	COMBO	200	✓	✓		3	3a		✓
Iowa	COMBO	200	✓	✓			12		✓
Kansas	S-CHIP	200	✓	✓			12		✓
Kentucky	COMBO	200	✓	✓		6			✓
Louisiana	M-CHIP	200		✓			12		✓
Maine	COMBO	200	✓	✓		3	12	✓	✓
Maryland	COMBO	300	✓	✓	✓	6	6		✓
Massachusetts	COMBO	225	✓					✓	✓
Michigan	COMBO	200	✓	✓		6	12	✓	✓
Minnesota	COMBO	280					10		✓
Mississippi	M-CHIP	200					12		✓
Missouri	M-CHIP	300	✓	✓				✓	✓
Montana	S-CHIP	150		✓		3	12		✓
Nebraska	M-CHIP	185		✓			6		✓
Nevada	S-CHIP	200	✓	✓		6	12		✓
New Hampshire	COMBO	300	✓	✓		6	0	✓	✓
New Jersey	COMBO	350	✓	✓		6	0	✓	✓
New Mexico	M-CHIP	235	✓	✓		6	12	✓	✓
New York	COMBO	250	✓	✓			12	✓	✓
North Carolina	S-CHIP	200		✓			12		✓
North Dakota	COMBO	140		✓		6	12		✓
Ohio	M-CHIP	200					0		✓
Oklahoma	M-CHIP	185					0		✓
Oregon	M-CHIP	185				6	6		✓
Pennsylvania	S-CHIP	200					12		✓
Rhode Island	COMBO	300	✓			4	0		✓
South Carolina	M-CHIP	150					12		✓
South Dakota	COMBO	200				3	0		✓
Tennessee	M-CHIP	100					12		✓
Texas	S-CHIP	200	✓	✓		3	6		✓
Utah	S-CHIP	200	✓	✓		3	12		✓
Vermont	S-CHIP	300	✓			1	0		✓
Virginia	COMBO	200	✓	✓		6	12		✓
Washington	S-CHIP	250	✓			4	0		✓
West Virginia	S-CHIP	200		✓		6	12		✓
Wisconsin	M-CHIP	185	✓			3	0		✓
Wyoming	S-CHIP	185		✓		1	12		✓

Source: Center for Medicare and Medicaid State Fact Sheets, 2004; State Annual Reports, 2003

Note: A ✓ indicates state presence of the policy

* The level of income thresholds reflects the magnitude of expansion across any age category for any plan

a- if the child is enrolled in S-CHIP then the enrollment is every 12 months any other program requires 3-6 month redetermination

b- 6 months for Medicaid/ 12 months for S-CHIP

Eligibility Thresholds

SCHIP is designed to provide coverage to "targeted very low-income children"-- one who reside in a family with income below 200% of the Federal Poverty Level (FPL) or whose family has an income 50% higher than the state's Medicaid eligibility threshold. Some states have expanded SCHIP eligibility beyond the 200% FPL limit. Others are covering entire families and not just children. I define a "restrictive" state as any state imposing a maximum eligibility threshold for any of its chosen programs at or below 200% FPL (Table 11). Receiving a restrictive code was based on the Federal guidelines for implementing new state standards at 200% FPL. Thirty-seven states (72.5 percent) have restrictive eligibility thresholds.

Presumptive Eligibility

States have the option of establishing presumptive eligibility procedures to facilitate the enrollment of children. This entails enrollment of children into state projects on an ad hoc basis by "qualified entities" for the receipt of immediate health care.⁶⁰ The intent of this provision is to target children of families who are not receiving welfare and whose parents are employed at very low-wage jobs that do not offer health insurance coverage. This mechanism was initially established as a cost imposed on state CHIP allotments. In 1998, however, this measure changed to provide greater incentive and to increase the attractiveness of the option for states. In lieu of the original plan, costs are now matched as a regular Medicaid State plan option. In addition to this change, broader interpretation of qualified entities was established to

⁶⁰ Qualified entities that may temporarily enroll children include: providers of health care items and services under the Medicaid State plan (including IHS, Tribal and urban Indian health care providers that participate in a Medicaid State plan) and entities that determine eligibility for Head Start, WIC and child care subsidies under the Child Care and Development Block Grant.

offer more flexibility in extended coverage. Qualified entities now include schools, child care resource and referral centers, child support enforcement agencies and CHIP eligibility workers. Any state not implementing presumptive eligibility is considered a restrictive state in this category. A restrictive categorization was based on the benefits associated with presumptive eligibility. Presumptive eligibility allows immediate access to care for those who might otherwise not come into contact with such programs. It is a good mechanism for outreach, and enrollment which has the ability to ease disparities associated with application processing (Klein, 2003). Forty-one states do not have presumptive eligibility measures.

Retroactive Eligibility

Retroactive eligibility is mainly a policy applied to Medicaid although a few SCHIP states do offer such provisions.⁶¹ While all states are required to implement retroactive eligibility as a part of their Medicaid programs, it is not a requirement under SCHIP programming. Medicaid requires states to provide up to three months of retroactive eligibility (Rosenbach et. al, 2003). Under this principle, once eligibility has been determined, the state also determines whether the recipient would have been eligible in the three months preceding the date of application. If the recipient appears to have been eligible, coverage may start retroactive to any or all of the 3 months prior to application. Under the auspice of this policy not only are the unpaid bills for Medicaid-covered services paid, but retroactive eligibility also affords protection to providers against uncompensated care provided to uninsured, low-income children. A state that

⁶¹ Kentucky, Massachusetts, Nevada, Washington, and Wyoming offer retroactive eligibility under their S-SCHIP components.

imposes a retroactive eligibility is considered least restrictive because of the benefit afforded to the public. There are 14 restrictive states in this category.

Crowd Out

In order to prevent substitution of coverage, or “crowd out”, states have implemented a number of mechanisms for health care if children have had privately funded insurance within a specified period of time (Richardson, 1998b). “Crowd out” is a mechanism put into effect to avoid individual substitution, employer substitution and state substitution at the expense of the federal government. The execution of “crowd out” policies places emphasis on covering uninsured children, not lowering the cost of those already covered. States providing direct insurance coverage are required to describe the procedures in their SCHIP plan that reduce the potential for “crowd out,” particularly when coverage is provided to children with family income at higher poverty levels (above 150 percent of the Federal Poverty Level). States providing *employer-sponsored group health plans* are required to incorporate some variation of the following provisions aimed at preventing “crowd out”:

- Waiting periods
- Cost sharing
- Subsidizing employer based coverage
- Verification of insurance status
- Employer/Insurer obligations
- Procedures to collect and analyze substitution data and its impact on access to the program

Emphasis for this particular study is placed on state waiting periods. Most states reported having waiting periods from one month to 12 months prior to enrollment. Only one state reported having a waiting period of at least a year; other states most often reported having at least a six-month waiting period. Three-month waiting periods were the next most common time an individual had to wait between ending private insurance

and beginning public. States that did not report a specific period did report that they were monitoring “crowd out” as part of their new plans for any indication of “crowd out” effects, in which case a new course of action would be determined. The lack of sufficient evidence to support the impact of “crowd outs” makes this policy suspect. Implementing a waiting period has not yet proven to be an adequate response for avoiding “crowd out” (Davidson, Blewett & Call, 2004). In addition, the burden placed on children without health insurance may be a greater long-term expense than the projected expense of scarce resources. Eighteen states impose “crowd out” policies and are coded as restrictive in this study.

Cost Sharing

Cost sharing refers to the out-of-pocket expenses incurred by health insurance beneficiaries (U.S. Ways and Means Committee, 2004). Cost sharing (Richardson, 1998a) comes in the form of premiums, co-payments, deductibles and enrollment fees. States may vary premiums, deductibles, coinsurance and other cost sharing based on family income, provided that lower income families pay less than higher income families. However, states are prohibited from imposing deductibles, coinsurance or other cost sharing on well-baby and well-child care, including age-appropriate immunizations. Additional restrictions are placed on cost sharing under S-CHIP that differs based on whether the income of the child's family is above or below 150 percent of the Federal Poverty Line.

If a state has chosen to implement an M-CHIP program, then cost-sharing obligations imposed by the state under Medicaid are applicable. Federal Medicaid rules permit the imposition of enrollment fees, premiums or similar charges on children under

certain circumstances, but prohibit cost sharing in the form of deductibles, coinsurance, copayments, or similar charges on services to children. The specific amount of cost sharing was excluded from consideration in this study; instead, emphasis was placed solely on the existence or non-existence of any cost sharing mechanism for any state program. A state imposing any cost sharing mechanism is coded as restrictive. Research has shown a negative impact between cost sharing and individual use of services (Phillips, 2004), because it has the potential to discourage essential and appropriate care and can create barriers to health care for those in need (KU and Wachino, 2005). Research indicates that very low-income persons are least able to shoulder additional costs associated with state sponsored programs. Thirty-eight states were considered restrictive when it came to cost sharing.

Continuous Eligibility

Another influence on childcare, continuous eligibility, is documented as a determinant of good access to care. Honberg (2005) identifies continuous insurance coverage as a significant goal in ensuring that children receive the care that they require. Kogan, Alexander, Teitelbaum, Jack, Kotelchuck and Pappas (1995) found that continuous coverage provides children with stability in receipt of services that allow for timely and continuous care. Continuous eligibility coverage is one of three new provisions⁶² under Medicaid to increase children's health care coverage (Richardson, 1997). Under Title XXI, states now have the option to offer 12 months of coverage to children enrolled in Medicaid regardless of whether the child experiences changes in

⁶² The Balanced Budget Act offers three new Medicaid options: presumptive eligibility for children; coverage of SSI children; and the option to provide 12 month continuous coverage. States also are now required to continue Medicaid coverage for all disabled children who were receiving SSI on August 22, 1996 but who lost their Medicaid eligibility as a result of the [1996] law restricting the SSI child disability standards.

family income or other circumstances that would render him/her ineligible for Medicaid during the 12-month period. This study considers states with less than 12 months of continuous eligibility as restrictive. Continuous eligibility limits “cycling” of health care; thus it promotes continuity of care and reduces the negative impact of monetary circumstances in a given coverage period. Absence of continuous eligibility often leads to a lapse in preventative care receipt. There were twenty-four such states at the time of this study.

Table 11
 State Children's Health Insurance Program Restrictions By State

States with restrictive eligibility thresholds			(n=37) 72.5%
Alabama	Illinois	Nebraska	Tennessee
Alaska	Indiana	Nevada	Texas
Arizona	Iowa	North Carolina	Utah
Arkansas	Kansas	North Dakota	Virginia
Colorado	Kentucky	Ohio	West Virginia
Delaware	Louisiana	Oklahoma	Wisconsin
District of Columbia	Maine	Oregon	Wyoming
Florida	Michigan	Pennsylvania	
Hawaii	Mississippi	South Carolina	
Idaho	Montana	South Dakota	
States with cost sharing			(n=37) 72.5
Alabama	Illinois	Montana	Utah
Arizona	Indiana	Nevada	Vermont
Arkansas	Iowa	New Hampshire	Virginia
California	Kansas	New Jersey	Washington
Colorado	Kentucky	New Mexico	West Virginia
Connecticut	Maine	New York	Wisconsin
Delaware	Maryland	North Carolina	Wyoming
Florida	Massachusetts	North Dakota	
Georgia	Michigan	Rhode Island	
Idaho	Missouri	Texas	
States that implement waiting period beyond 1 quarter			(n=18) 35.3
Alaska	Kentucky	New Jersey	Rhode Island
Arkansas	Maryland	New Mexico	Virginia
Delaware	Michigan	North Dakota	Washington
Georgia	Nevada	Oregon	West Virginia
Idaho	New Hampshire		
States that have continuous eligibility less than 12 months			(n=24) 47.1
Alaska	Indiana	Nebraska	Rhode Island
Connecticut	Kentucky	New Hampshire	South Dakota
District of Columbia	Maryland	New Jersey	Texas
Florida	Massachusetts	Ohio	Vermont
Georgia	Minnesota	Oklahoma	Washington
Hawaii	Missouri	Oregon	Wisconsin

Table 11. continued

States without presumptive eligibility			(n=41) 80.4
Alabama	Illinois	Nebraska	South Dakota
Alaska	Indiana	Nevada	Tennessee
Arizona	Iowa	North Carolina	Texas
Arkansas	Kansas	North Dakota	Utah
Colorado	Kentucky	Ohio	Vermont
Connecticut	Louisiana	Oklahoma	Virginia
Delaware	Maryland	Oregon	Washington
District of Columbia	Minnesota	Pennsylvania	West Virginia
Georgia	Mississippi	Rhode Island	Wisconsin
Hawaii	Montana	South Carolina	Wyoming
Idaho			
States without retroactive eligibility			(n=14) 27.5
Arizona	Missouri	Oklahoma	Texas
Colorado	Montana	Pennsylvania	Wisconsin
Delaware	Nevada	Rhode Island	
Kansas	North Carolina	Tennessee	

Assessing Restrictiveness

After identifying the policy composition of each state among five measures and categorizing each state's level of restriction, I assessed the association between the policy dimensions and race. Using the population data calculated in Chapter 3 (Tables 2-4) select SCHIP policies were cross-referenced with the states identified as restrictive (see Table 11).

Table 12 presents a summary of the connection between the two variables: race and selected policies from state children's health insurance program (eligibility thresholds, presumptive eligibility, retroactive eligibility, cost sharing, "crowd out", and continuous eligibility).⁶³ The table shows that states with high minority populations encounter less restrictive policies (1 out of 6) than states with high White populations (5 out of 6). Among specific minority groups, states with high American Indian/Alaskan Native populations have the most amount of restrictive policies (4 out of 6). The figure reveals that high Native Hawaiian/Pacific Islander population states and high Asian population states are restrictive on 3 of the 6 selected dimensions. States with high Hispanic Americans and African-Americans were the least likely to encounter restrictive SCHIP policies. Both groups were restrictive in 2 out of 6 dimensions.

The measures included in this chapter have been argued in previous literature to affect the success of SCHIP programs. These measures reflect important aspects of the program that target low-income children without health insurance, who most often are racial and ethnic minorities. A number of patterns are identified when comparing high and low minority population states across all areas.

⁶³ Supplemental tables are included in Appendix B to assist with the interpretation of Table 12. Table 12a and Table 12b report the row percents and the column percents, respectively, of the connection between state race and ethnic groups and restrictive state SCHIP policies.

Generally, it appears that states with high minority populations are less likely to have restrictive SCHIP policies than states with high White populations. States with high White populations show evidence of more restrictive policies than states with high minority populations. However, examining states by specific race and ethnic groups reveals that states with high White populations rank third in all categories except “crowd out” policies in which they tied for the least amount of restrictive states. Expanding the analysis to specific minority populations indicates that for five of the six dimensions, states with high populations of American Indian/ Alaskan Native and high Native Hawaiian/ Pacific Islander populations had stricter policies than states with low populations of the same groups and states with high White populations.

Two important policy patterns warrant attention. First, overall “crowd out” policies had the most pronounced relationship with state race of all of the policies. A review of this policy indicates that states with high minority populations are stricter than states with high White populations. Seven out of 18 (38.9 percent) states with high minority populations are restrictive as compared to 11 out of 33 (33.3 percent) high White population states. An analysis of states in which specific minority groups are high shows that in four out of five cases the states are stricter than states with low populations of the same race. In addition, these are stricter than states with high White populations. When examining each group individually, states with high African-American, Asian, American Indian/ Alaskan Native and Native Hawaiian/Pacific Islander populations showed higher levels of restrictive policies than states with low populations of the same race and states with high White populations. States with high Native Hawaiian/Pacific Islander populations were the strictest among the groups with 4 out of

7 states having restrictive policies. States with high Hispanic populations were the least restrictive in this category. Only 3 out of 9 (33.3 percent) high Hispanic population states imposed restrictive cost sharing policies.

Second, fewer than half of states with high minority populations of any race reported restrictive policies in the area of retroactive eligibility. As column three shows, for retroactive eligibility, fewer than half of all states in each category were likely to be restrictive states. Among states with retroactive policies, high White population states are stricter than high minority population states. Three out of 14 (16.7 percent) high minority population states were restrictive as compared to 11 out of 33 (33.3 percent) high White population states. Among high minority population states, high Hispanic and high American Indian/Alaskan Native population states are the only two states stricter than states with low populations of the same race/ethnicity. High Hispanic population states are the strictest of all state groupings, with 4 out of 9 (44.4 percent) restrictive states. In contrast, 10 out of 42 (23.8 percent) states with low Hispanic populations are restrictive. Seven out of 18 states with American Indian/Alaskan Native populations are restrictive as compared to 7 out of 33 (21.2 percent) states with low populations. High Asian population states are the least restrictive high population states with only 1 (10 percent) high Asian population state restrictive.

Table 12
High and Low Race and Ethnic States with Restrictive SCHIP Policies

	Maximum Eligibility threshold (37)	Presumptive eligibility (41)	Retroactive eligibility (14)	Cost sharing (37)	Crowd out (18)	Continuous eligibility (24)
WHITE (33)	25	27	11	25	11	17
MINORITY (18)	12	14	3	12	7	7
HISPANIC						
High (9)	5	4	4	9	3	3
Low (42)	32	37	10	28	15	21
AFRICAN AMERICAN						
High (17)	13	13	3	12	7	5
Low (34)	24	28	11	25	11	19
ASIAN						
High (10)	4	6	1	8	6	6
Low (41)	33	35	13	29	12	18
AMERICAN INDIAN/ ALASKAN NATIVE						
High (18)	14	16	7	13	7	6
Low (33)	23	25	7	24	11	18
NATIVE HAWAIIAN/ PACIFIC ISLANDER						
High (7)	5	6	1	4	4	4
Low (44)	32	35	13	33	14	20

Summary

It appears that overall race and ethnic groups are experiencing SHCIP policies similarly with two exceptions. First, minorities are more likely to live in states that have restrictive “crowd out” policies. Second, American Indian/Alaskan Native populations experience more restrictive policies even in the presence of guidelines to facilitate greater enrollment. Chapter 7 will discuss the findings to the research questions in greater detail. Furthermore, the chapter will discuss the findings of this policy relative to findings for the other policies studied in this dissertation. In addition, the chapter will discuss the limitations of the findings and suggest implications for further research.

CHAPTER 7
SUMMARY AND CONCLUSION

CHAPTER 7: SUMMARY AND CONCLUSIONS

Introduction

Comparative state policy analysis neglects the significance of race, making research in this area very necessary. Through a comparative approach, the aim of this study was to describe the relationship between race and selected state public policies. Previous literature shows some indication of a positive connection between the two. The primary question guiding this study was what the relationship between race and public policy is. Secondary data were utilized to answer this question by using three public policies as a vehicle of exploration. This study highlighted the characteristics of this relationship to assess whether states with minority populations above their national averages are more likely than states with populations below their national averages to develop policies that are more restrictive. This chapter presents a discussion of this study's findings in connection with existing literature and provides some prescriptions for future research and change.

Connection between Race and Public Policy

The findings of this study question the connection between race and state public policy. The increased devolution of public policy responsibilities from the national government to the state level show warning signs of (re)creating state sanctioned caste systems. The subordination of people of color goes well beyond the marginalization of the individual. The race differentials experienced by those impacted have far-reaching political, economic and social implications that are particularly destructive for racial and ethnic communities. This dissertation does not support the assertion that racial and ethnic minorities participate as co-conspirators in their own economic, political and

social oppression as suggested by some (see Sowell, Connerly, and Loury). Instead, it affirms that policy is a mechanism by which institutions perpetuate a racial hierarchy in a manner that is pervasively biased.

Overall, there was a general relationship between race and policy. This finding is consistent with those of Hero and Tolbert (1996) and Hero (2000). As these authors assert, state racial composition is useful in understanding the variation in state public policy. In this study, as in theirs, greater minority diversity is associated with more restrictive policy outcomes. The results yield that states with high minority group populations are more likely to develop restrictive public policies than states with low minority populations. Among the policies that were connected to race, states with high African-American, Hispanic or American Indian/Alaskan Native populations had more restrictive policies as compared to states with low populations of the same race and states with high White populations. This finding is consistent with previous research. Based on these results, as well as the literature reviewed, it appears that states if left to their own devices will facilitate biased public policy.

Key Insights

The study takes two historical policies (felony voting and unemployment insurance program policies) orchestrated during a time when racism was an overt trend in our society and views them in a contemporary context. This is coupled with an analysis of a more recent policy (SCHIP), designed in a seemingly racism-free era. The results show that SCHIP is less likely than felony voting policies and unemployment insurance program policies to yield negative outcomes for states with high minority populations. There are four likely reasons for this difference: 1) the affected population,

2) the lack of associated pathology, 3) the acknowledgment of race, and 4) federally sanctioned measures of accountability.

Population. The target population of SCHIP is children who exist in the margins between Medicaid and private health coverage. They are more likely to live in a home with college-educated and employed adults. They are “proportionately older, less minority, suburban and rural, and live in better educated and more 2-parent families; they are also in better health and have fewer chronic health conditions and activity limitations” (Byck, 2000). These beneficiaries are not likely to face the stigma associated with other policies. This runs counter to those impacted by felony voting and unemployment. In the case of felony voting, those affected are adults who have committed a crime. This population consists primarily of Black and Hispanic adult males who come from backgrounds battered by generations of poverty. Similarly, the likely beneficiaries of unemployment insurance are single, Black and Hispanic with men slightly edging out women (Bureau of Labor Statistics, 2004).

Lack of associated pathology. The difference between SCHIP policies, on the one hand, and felony-voting policies and unemployment policies on the other, is the deviant references that overshadow the racial implications of the latter. There has been a wedge created between SCHIP and its Medicaid predecessor. SCHIP is an expansion program with the intent to distribute traditionally out of reach health care to millions of children. In contrast, the thought of giving political power to individuals convicted of a felony is unconscionable in most states. The obvious connection between felony voting and the commission of a crime distracts policy makers from the policy’s racial implications. Similarly, although to a lesser extent, the stigmas

associated with being unemployed, keep us from adequately discussing the differences in determinants of eligibility and receipt of benefits among the races. Additional examples of pathology can be examined in a number of other public policies. Most recently, the efforts to “change welfare as we know it,” led to a sweeping overhaul of Aid to Families with Dependent Children (AFDC) policies. The inflicted deviance and stigma associated with the program prompted by social misinterpretation distorted the racial reality that most recipients lived through.

Acknowledgement of race and accountability. The low level of SCHIP policy restriction in states with high minority populations may be a result of the federal government’s effort to target minority children. Federal policy makers have seemingly made the elimination of racial and ethnic disparities in health care a central priority in the administration of SCHIP.⁶⁴ In addition, the federal government’s requirement of quarterly reporting prompts states to be more vigilant about their racial and ethnic outcomes.

Quite the opposite is true when considering felony voting and unemployment insurance. The control of unemployment insurance policies at the federal and state levels affords an opportunity for accountability that has yet to be broached. We see clear racial implications in the designation of the program; however, the current reality of the program has sidestepped any significant acknowledgement of race.

The only regulators in the instance of felony disenfranchisement are the numerous public interest groups and proactive philanthropies that continue to point out the contradictions of this policy. Some states and the federal government have not

⁶⁴ Cost sharing for American Indian/Alaskan native children was absolved in November of 2000. In addition, the Center for Medicare and Medicaid requires quarterly reporting of race and ethnicity and annual reporting of the primary language of enrollees.

been as inclined to address the association between race and felony disenfranchisement. Challenges to such measures in court have led to a number of dismissive decisions that acknowledge a coincidental link to race but not a causal relationship.⁶⁵ Felony voting policies may fare the worse of the three policies because of the federal government's complete absolution of responsibility.

Patterns Among States

As Table 13 displays, a number of important patterns emerge that are worth consideration in this analysis. First, this analysis reveals that when considering all three policies together, Maine ranks first in the nation and is the least restrictive state. Arizona ranks last among all states and is the most restrictive policies. It is important to note that Maine only has a high White population and has a low minority population of any group. In contrast, Arizona has high Hispanic and high American Indian/Alaskan Native populations, in addition to having high White populations. Southern states are highly concentrated among the most restrictive states with 14 out of 15 southern states ranking between 27 and 51. Within the south Washington D.C. is the least restrictive. Alternatively, states in the Northeast are consistently among the least restrictive states. All but one state in the Northeast, Rhode Island, ranked among the top 15 states with the least restrictive policies.

An examination of states with high minority groups reveals that 71 percent of states with high African-American populations have policies that are more restrictive. They are concentrated in the bottom half. Fifty percent of states with high Asian populations ranked in the bottom half. The other 50 percent of states with high Asian populations rank among the 16 states with the least amount of policy restrictions. Fifty

⁶⁵ See Farrakhan v. State of Washington, (D. Wisc.2002) aff'd No. 135032 (9th Cir. 2003)

percent of states with high American Indian/Alaskan Native populations also fall between 25 and 51. Forty-eight percent of states with high White populations rank in the bottom half. For states with high Hispanic populations, 44 percent rank in the bottom 14 states. Forty-three percent of states with high Native Hawaiian/ Pacific Islander populations ranked higher than 25.

Table 13.
Overall Policy Restrictiveness: State Rankings

<u>RANK</u>	<u>STATE</u>	<u>REGION</u>	<u>RANK</u>	<u>STATE</u>	<u>REGION</u>
1	Maine	Northeast	26	Rhode Island	Northeast
2	Massachusetts	Northeast	27	Washington	South
3	Vermont	Northeast	28	Wisconsin	Midwest
4	New York	Northeast	29	Georgia	South
5	California	Northeast	30	North Carolina	South
6	Hawaii	West	31	Alaska	West
7	Connecticut	Northeast	32	Wyoming	West
8	District of Columbia	South	33	Delaware	South
9	Michigan	Midwest	34	Louisiana	South
10	New Hampshire	Northeast	35	Maryland	South
11	Ohio	Midwest	36	Arkansas	South
12	Pennsylvania	Northeast	37	Florida	South
13	Illinois	Midwest	38	Idaho	West
14	New Mexico	West	39	Missouri	Midwest
15	Iowa	Midwest	40	Nebraska	Midwest
16	New Jersey	Northeast	41	Oklahoma	South
17	Minnesota	Midwest	42	West Virginia	South
18	Montana	West	43	South Carolina	South
19	North Dakota	Midwest	44	Virginia	South
20	Oregon	West	45	Texas	South
21	South Dakota	Midwest	46	Kentucky	South
22	Utah	West	47	Alabama	South
23	Colorado	West	48	Mississippi	South
24	Indiana	Midwest	49	Nevada	West
25	Kansas	Midwest	50	Tennessee	South
			51	Arizona	West

Note: The states are ranked from least restrictive to most restrictive based on the sum of restrictions for the selected felony voting policies, Unemployment Insurance program policies and SCHIP policies, in each state.

Critical Race Theory

Consistent with Critical Race Theory, this dissertation embraced a race-conscious approach to the analysis of public policy. The findings of this study support the assertion that race is a central organizing mechanism of society. CRT served as the foundation on which to establish the connection between race and political, economic and social institutions. This study provides additional evidence to strengthen the claim that public policy is an accomplice in sustaining systems of racial oppression.

For Critical Race Theorists, the juxtaposition of race and public policy reveals an inherent contradiction of racial neutrality. Because racism is ingrained in the fabric of America, it looks ordinary and natural to most people. Thus, we buy into racism unwittingly, without consideration of the political, economic or social implications. Accordingly, the system does not offer a shield of protection from the alleged neutrality of policy, which results in injustice in outcomes. The policies chosen for this study by all accounts appear race neutral. However, the disparate impact of these policies lead to the conclusion that race is in fact significant. The review of felony voting policies shows that states with high Black or Hispanic populations are more likely than states with low populations of the same races to have restrictive public policies. Similarly, states with high Black, Hispanic and American Indian/Alaskan Native or Native Hawaiian/Pacific Islander populations were likely to have restrictive unemployment insurance benefit policies as compared to states with low populations of the same races. There is a racial trend associated with SCHIP policies as well, although not as obvious as in the other policy areas. A high incidence of restrictive SCHIP policies is not characteristic among most states with high minority populations individually or collectively. What is apparent

is that given this low level of restriction, the primary benefactors are still more likely to be children from White populations (see Byck, 2000).

According to Critical Race Theory, racial and ethnic minorities are positioned and realigned for purposes that suit the larger establishment (Delgado & Stefanic, 2001). This “differential racialization” may be an explanation for the deviation of minority experiences under SCHIP. Perhaps we have let SCHIP policies go racially unchallenged because of its self-proclaimed preoccupation with race. The fact that this policy poses less threat of restriction may be a smoke screen for its function as a racially subjective policy. If allowed to function under the radar for too long we may find evidence of a negative trend for racial and ethnic minorities.

Institutional Racism

The current study places emphasis on the racial nature of public policy. It shows that policies, irrespective of personal motives and perpetrations, inflict racially biased outcomes on American minorities. The current account does not place blame on the conscious action/ inaction of individuals. Instead, it locates racism at the core of public institutions. Personal motives are often difficult to prove unless blatantly obvious and the increasing savvy of the executor has made it almost undetectable. Institutions, on the other hand, are not crafted with the same finesses and ultimately reveal their true colors (or lack thereof in most instances).

The literature on institutional racism reveals the persistent nature of contradiction in American society. The tribulations of race in America have a long-standing history with policy this country. We continually see evidence of policies constructed to essentially marginalize members of racial and ethnic communities. In 1974, Kammeyer

Yetman and McClendon, found racial motivations for public policy development. In their analysis of family planning services at the local level, Kammeyer et al. conclude that “race may be a crucial latent determinant of policies and programs in which it is generally assumed that such considerations are absent” (p. 689). More than thirty years later, this study draws the same conclusions. These policies reinforce the significance of race in the provision of penalties and benefits. Even more so, it posits whiteness as the common denominator of American identity.

A policy is ineffective if it is not based in the accurate analysis of the nature and severity of the problem it is designed to address (Watson & Smith, 1987). I would also add that it is ineffective if in addition it does not address possible consequences of the policy. This analysis provides continued support that makes it completely impossible to disentangle race from public policy. Racial inequality is a stable fixture in American society for which policy has been utilized as a tool of racial dominance. The connection of the two substantiates continued existence of institutional racism.

Attention to institutional racism allows us to understand how the cumulative effects of exclusion posed by these policies have implications in other areas. Felony disenfranchisement poses an assault on individual political participation. Isolation from one’s own politics further removes him or her from the politics of their communities. Deficiencies in unemployment programs limit one’s ability to gain economic freedom thereby limiting financial mobility. In addition, lack of adequate health benefits leads to shortfalls in the receipt of health care, which has an impact on the overall quality of life. Persistent racial inequalities in public policy leave many critical of America’s

commitment to fair and equal application. These policies point out that even in the context of contemporary times public policy is still a proxy for discrimination.

Adding It All Up

The cumulative and interrelated impact of institutional operations and consequences is important in describing institutional racism (Benokraitis & Feagin, 1977). The policy disparities reported in this dissertation are inexcusable. Individually, each of these policies has the capacity to negatively impact minorities. Considering the consequences of these policies collectively points to a larger issue. Minorities that live in states where minority populations are higher than their national averages are likely to experience restrictive policies on all fronts. This reality makes the incidence of restrictive policies drastic in all instances. The policies individually and collectively have the possibility of altering the lives of individuals and communities. The evidence of negative outcomes in felony voting, unemployment insurance and child health care policies speak volumes to the problem of policies for race and ethnic minorities. Adding the negative consequences of these policies with those that are cited in the literature paints a dismal picture for the successful inclusion of minorities. Not only are minorities experiencing significant disadvantages in these policy areas, but also the cumulative impact of these policies places them at a further disadvantage. The response is usually to dismiss isolated occurrences of racial bias against individual members of minority groups. The identification of multiple restrictions for multiple groups across multiple policies makes this a less likely option. Repeated findings of racially biased outcomes will make it difficult for policy makers to continue to hide behind their colorblind wall.

Sooner or later policy makers will be forced to take notice of the multiple assaults on minority communities.

Prescriptions for the Future

This study has highlighted the continued utility in studying the association between race and public policy. This study underscores the importance of considering the impact of public policy on racial and ethnic minorities. The evidence that I have reviewed suggests that structural reform is necessary to generate change. There are two critical recommendations to which public policy experts should give sufficient emphasis: (1) centralized restructuring of public policies under federal management; and (2) encourage and support state organized initiatives in devising alternatives to current restrictive policies. Generally, states need to establish a system that maximizes outcomes for all citizens. The federal government should oversee this process in order to ensure adequate progress. Recommendations focused on the alterations of public policies can have a substantial impact on the influence that racial and ethnic minorities can have on America's political, economic and social systems. Encouraging the development of less restrictive public policies holds the promise of both improving and empowering minority communities.

Restrictive Policies Should Be Broadly Addressed

At the federal level, alternatives to the current state-by-state policy formation exist that might reduce disparities between states. Federal policy may be the most critical factor in establishing consistency throughout the nation that is the least restrictive. Federal intervention in favor of least restrictive policies is a first attempt at restructuring a decentralized system.

History demonstrates a strong presence of federal regulation in instances where states have implemented policies that have purposefully marginalized particular groups. Reflecting on the federal government's role in the Civil Rights Movement is a significant starting point. In 1954, segregation was largely practiced throughout the United States. The decision of Brown v. Board (1954) struck down such policies. While states were instructed to construct their own methods of integration, the ruling set a precedence that has had lasting impact on the position of Blacks in America stimulating hope and expectations. The recent Supreme Court decision on affirmative action advances the argument in favor of successful federal intervention. While deciding against the consideration of race as the overriding factor in university admission, the Supreme Court ruled in Grutter v. Bollinger (2003), that race could be used as a factor for universities shaping their admissions programs, citing a broad social value of diversity. The current conservative composition of the U.S. Supreme Court did not detract from the recognition that racism in American states is still being perpetrated and there is still a responsibility on the state to ensure that all members of society are represented. Thus, the federal government can be an effective source of intervention for marginalized communities.

Numerous non-profit, think tank and philanthropic organizations report on the inconsistency in public policy outcomes, however government approaches to rectifying these situations has been piecemeal at best. Implementing broad accountability measures in a coordinated manner at the federal level might improve the attention, priority and effort given to these issues.

The No Child Left Behind (NCLB) Act offers an example of a federal model of accountability currently required of states (Department of Education, 2005). The NCLB calls for action in closing gaps among all students leading to academic proficiency. NCLB also requires that states annually report their progress to parents and to the community. Schools not making adequate progress are required to provide supplemental services to close any identified gaps. Systematic change is required in schools not making significant progress within five years.

The National Academy of Public Administrators (NAPA) Standing Panel on Social Equity offers four measures of equity that are useful in understanding inequity in public policy (Standing Panel on Social Equity in Governance, Research Committee (2005). These measures are designed to take into consideration differences among race and ethnic groups in terms of fundamental differences in access to services, quality of services that are received, systematic differences in treatment during service delivery by public officials, and outcomes. The measures will inform the current discourse surrounding racial and ethnic disparities by advancing the agenda to action to improve and better manage programs that cause such disparities.

Combining the accountability mechanisms of the No Child Left Behind Act and the equity measures of the National Academy of Public Administrators could serve as useful tools when considering solutions for race and ethnic disparities at the states level. Based on these approaches, the following four steps could be used to achieve better accountability of public policy to the American people.

- 1) The federal government should establish protocols that will be effective in ensuring that all public policies make *adequate yearly* progress towards closing the racial gaps in the development, implementation and outcomes of public policy.

- a) *Adequate yearly* progress will be based on NAPA's measures of equity, which can be utilized as a mechanism of state government accountability.
 - i) Access/ Distribution- States should review access to and/or distribution of current policies and services by race and ethnicity.
 - ii) Procedural Fairness- States should examine problems or issues pertaining to minority groups in procedural rights, treatment in procedural sense, and determination of eligibility within existing policies and programs.
 - iii) Quality- States should review the level of consistency in the quality of existing services delivered to groups and individuals of all races.
 - iv) Outcomes-States should study, measure and identify disparities in outcomes for population groups
 - b) These measures would provide a means by which the federal government could continuously and effectively assess state response to race and ethnic disparities in public policy.
- 2) State performance on the measures of equity and the impact of policies for all groups should be monitored placing particular emphasis on those groups most disadvantaged.
- a) States should be reviewed and updated at least once per year.
 - b) The goal is to have states over time ensure better outcomes for all citizens equally.
- 3) States should prepare annual report cards that indicate their progress towards closing the racial and ethnic gaps.
- a) States should act promptly to improve race and ethnic gaps.
 - b) This strategy should identify findings for individual racial and ethnic groups, minorities as a collective group, and White groups separately.
 - c) As part of this effort, the federal government should establish policies and procedures that require states to offer redress for any identified racial/ethnic gaps.
 - i) States should be required to make monetary or service related payments to disadvantaged individuals and or communities.

- 4) The federal government should exercise authority to ensure that states are fulfilling these requirements by:
 - a) establishing target time frames in which states are expected to show evidence of dramatic progress (measured by fewer disparities); and
 - b) instituting fiscal penalties and rewards for states that comply and those that do not.

The collection of these data could coincide with existing data collection by administering agencies or be conducted by independent agencies. To eliminate potential partisan bias these responsibilities would be best served under the auspices of an agency that can best monitor the needs of the people while remaining impartial. As part of this effort, the following organizations could be considered suitable:

- General Accountability Organization- serves as a *congressional watchdog*. The organization's goal is to ensure accountability by the government to the American people.
- Justice Departments Civil Rights Division is the program institution within the federal government responsible for enforcing federal statutes prohibiting discrimination based on race, sex, handicap, religion, and national origin.
- National Academy of Public Administration is an independent, non-partisan organization chartered by Congress to assist federal, state, and local governments in improving their effectiveness, efficiency, and accountability.
- Urban Institute- measures effects, compares options, shows which stakeholders get the most and least, tests conventional wisdom, reveals trends, and makes costs, benefits, and risks explicit.

This list is not exhaustive; instead, it represents a sample of agencies already in place whose mission coincides with the needs of this recommendation.

State Organized Initiatives

In their attempt to follow through with the measures of accountability posed in the last section, state governments can choose a minimal or a core approach as part of a state plan to weaken their existing policy restrictions. This recommended framework

includes a mix of two main strategies: (1) a minimalist tactic that would instate a gradual approach to the elimination of restrictive policies through a series of time sensitive steps (keeping in mind imposed federal time frames); or (2) a core approach that would involve an immediate overhaul of existing restrictive policies. A minimalists tactic is probably most suited for instances such as Unemployment Insurance programs and SCHIP policies for which there remains some social benefit for the continued existence of the policy. This method would allow states the continued capacity to function under the current policy structure while altering the dimensions that negatively affect non-White groups. Alternatively, other policies like felony voting policies could reasonably be done away with under the core approach. This suggestion is based on the evidence that shows limited, if any purpose, for the continued existence of felony voting provisions.

In considering alternatives to current restrictive policies, current public policy may supply the solution for this problem. States can look to other public policies for guidelines on how to address racial and ethnic disparities. Public policy in the area of criminal justice provides the most recent example of such measures. The recent Racial Justice Act⁶⁶ forces the critical examination of disparities in receipt of the death penalty through a race conscious lens (Chemmerinsky, 1995). The intent is to alter the racial swing of the death penalty pendulum. While not widely accepted, the Racial Justice Act provides important theoretical value that is transferable to other policy areas. First, the Act recognizes the significance of racially disproportionate application of public policies

⁶⁶ The Racial Justice Act was passed twice by the U.S. House of Representatives but failed to gain momentum in the Senate. Kentucky is the first and only state to pass such a measure. The Racial Justice Act requires the initial burden of proof rest with the defendant. If the defendant is successful in proving racial bias, then the burden is shifted to the state to prove that its motives were unbiased.

and seeks to rectify racial bias in its administration. Second, the Act employs the use of statistics as evidence of racial bias. Third, the Act calls for the review of the interference of racial discrimination. Finally, adequate presentation of valid statistical evidence that supports the claim of racial interference requires the state to supply a non-race based explanation for its policy. Having a policy yardstick to measure the outcomes of disparate public policies against is novel. Modeling a universal racial justice act after these standards could provide a mechanism on which to gauge all public policies. The objective would be to establish a uniform system, which would serve as a mechanism for identifying race and ethnic bias. Policies that prove to be racially charged could be taken under federal advisement. Eventually, a universal racial justice act would deter the implementation of policies based on race.

Conclusion

The overall message received from this study is that taken in totality, minority populations still experience negative differences in public policy treatments. Consistent with previous findings this study showed a connection between minority diversity and the presence of more restrictive public policies. More importantly, this study showed that states with high African-Americans, American Indians/ Alaskan Natives and Hispanics were each consistently likely to experience more restrictive public policies even when states with high minority populations were not restrictive. In addition, this study showed that even in the presence of some race awareness, minorities are still experiencing more restrictive policies than Whites in many states. The author does not want to over claim the findings of this study, specifically since measures of association were not employed in this study. However, the consistency in these findings when comparing

race and public policy, over time across a variety of areas, may indicate that institutional racism is still in existence. We must move beyond the denial of the presence of strict institutional factors; policy makers should be apt to begin to delve into the depths of the problem. Comprehensive and timely research in the area of racial bias is imperative to eradicating the ill effects of these policies.

Race is negatively entrenched in the policy structures of U.S. states, and change will only result if these institutions are examined and exposed. There are inherent structural problems in existing public policy, which transmit inconsistency in power. Racial oppression is institutionalized within the structures of society through public policy. It is important to recognize the racial tensions that underlie everyday experiences. The disjuncture between the ideas of liberty and equality and the subjugation of racial and ethnic minorities by the same system points to the contradictions in U.S. state policy.

APPENDICIES

APPENDIX A: Census Issue and Race

Two main issues have been identified across the census literature: undercounts and racial and ethnic classification.

Undercounts. Census undercounts are a critical assessment of the government sanctioned tool. The allocation of resources is based on the geographical distribution of the population. Instances where populations are not accounted for can have a severe impact on the area's population (Taylor, 1996). Grant programs such as Medicaid, foster care, social services and substance abuse are areas of funding that are affected by census undercounts. Not only are states cut off from federal financial resources for their programs but also the consumer is cut off from the benefits associated with such resources. It is estimated that the total undercount for the Census 2000 was 3.4 million people, costing states nearly \$4.1 billion in lost federal funding. The Census of 1990 ignited backlash when it undercounted a large segment of the U.S. population, mainly minorities. It was the first undercount in 50 years to be more than the prior census. Minorities, particularly African-Americans, are extremely impacted by community undercounts. It is estimated that the undercount for African-Americans has been 3 percent higher when compared nationally, since World War II (Hogan & Robinson, 1993).

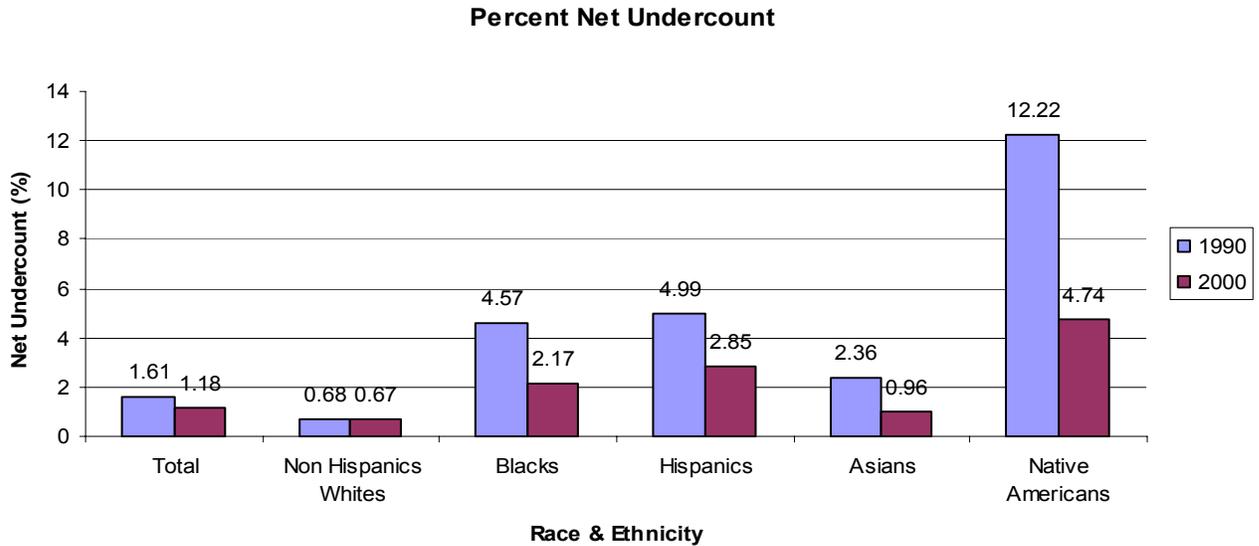
The difference in the rate of undercount for minorities compared with that of Whites has received significant attention. Differential undercount undermines legislative apportionment and policies that are of particular value for minority communities (Anderson & Finberg, 2000). In 1990, minority groups were undercounted at rates that were significantly higher than non-Hispanic Whites as indicated in Table 1. Table 1

shows that in 1990, the national undercount was 1.6 percent, most of whom were racial and ethnic minorities. Native Americans experienced the highest undercount at 12.2 percent. Hispanic and Black populations garner similar undercounts with 4.5 and 4.9 respectively. Of all minority groups, Asian Americans had the lowest net undercount at just 2.36 percent.

Table. 1 Comparisons of Undercount Rates and Differences, 1990 and 2000 Census		
Racial Group	1990	2000
Total	1.61	1.18
Non Hispanics Whites	0.68	0.67
Blacks	4.57	2.17
Hispanics	4.99	2.85
Asians	2.36	0.96
Native Americans	12.22	4.74

Source: U.S. Census Bureau, 2001

Although the undercount rates were much lower, the same patterns are identified in 2000. Figure 1 shows a comparison between undercounts in 1990 and 2000. In 2000, the undercount estimates are about 1.18 percent. Again, Non Hispanic Whites experienced the lowest net undercount. Asian Americans experienced a significant change in their undercount rate from more than 2 percent in 1990 to a less than 1 percent undercount in 2000 maintaining their status as the least undercounted minority group. Blacks and Hispanics rates were higher at 2.17 percent and 2.85 percent respectively. Native Americas were still the highest undercounted group reduce to 4.74 percent in 2000.



Racial and Ethnic Classification. Another key area of concern regarding the census is use of racial and ethnic classifications. A number of scholars (Kertzer and Arel, 2002; Nobles 2000, Goldscheider, 2002) argue that there is an implicit assumption in the census that cultural affiliation can be enumerated objectively to an essential core outside of politics. Because identity is a social construction, the authors found it difficult to locate the validity of this assumption. Glazer (2002) argues that racial and ethnic questions are not indicative of the reality of America and are incapable of soliciting coherent responses (p.21). This failure may be related to the social and political malleability of race and ethnicity. Race has changed over time to reflect the standards of dominance in society. Color, according to Powell (2002), has always been significant in America for the purposes of allocating power and privilege between Whites and minorities. Since its inception, the census has constructed race in a number of ways many of which have moved toward cementing a dominant White culture (Anderson and Fienberg, 2000). Consequently, census data have been used as a mechanism to mirror America’s vision of a racial divide. “Identity categories in the

census create a particular vision of social reality” (Kertzer & Arel, 2002, p. 5). The original categories of White free persons, other persons (slaves) and Indians not taxed served the purpose of allocating resources to Whites with power and relegated all other persons to second-class status. Since then, the racial and ethnic categories used by the census have evolved to further distinctions of all minority groups as they have increased their presence in this country. The census has served as a means to “separate those people who were entitled to the full measure of opportunity and participation in society from those who were not so entitled because of their racial, ethnic or national origin.”

Another issue involved in the use of racial and ethnic classification is the “de-emphasis” of ethnic identity (Goldscheider, 2002, p. 85). The measures of ethnic identity have been subjective, preferring, for example, place of birth to infer ethnic status. In addition, methodologies are flawed in that they are limited to cross-sections and static views of ethnic differentiation. Hispanic Americans have resisted classification as a racial group in all censuses but the 1930 census.⁶⁷ Because of its continued growth as the largest group in America, it continues to maintain a prominent status in census categories. However, controversy does surround its inclusion. Glazer (2001; 2002) considers the disjuncture between ethnic labels and their application suspect. First people from Argentina and Spain are considered in the Hispanic classification yet individuals from Brazil and Portugal are not (Glazer, 2002). He also questions the merit of considering Hispanic in its own category, yet other ethnicities are

⁶⁷ *Hispanic* is designated as a race by federal agencies for the purposes of civil rights enforcement.

extracted from consideration. In addition, he questions why 'White' is used monolithically to encompass all persons from Europe and the middle east without individual distinction, yet people of Asian descent are allowed to choose among many descriptors. The transient nature of race data allow for a number of racial and ethnic combinations that may mean nothing. The contradiction in application speaks volumes to the necessity of race.

The current classification system of five racial categories and two ethnic categories (Hispanic and non-Hispanic) present opportunity for new classifications. In 2000, Census respondents were for the first time allowed to indicate belonging to multiple racial categories. The recent addition of a multi racial option has ignited additional controversies. Primarily, this multiracial category has come under fire by a number of minority advocacy groups for fear that any identification in addition to minority, might dilute the representation of the minority base (Glazer 1996; 2002).The concern points to a greater fear advanced by the conservatives of total elimination of race calculation.

APPENDIX B: Supplemental Policy Tables

Table 6a.

Number (%) of states with High and Low Race and Ethnic populations by Felony Voting Policy restrictions

	Tier 1 No voting restrictions	Tier 2 Incarceration	Tier 3 Incarceration and probation or Parole	Tier 4 Incarceration, parole and probation	Tier 5 Indefinitely
WHITE (n=33)					
	2 (6.1%)	11 (33.3%)	3 (9.1%)	9 (27.3%)	8 (24.2%)
MINORITY (n=18)					
	0 (0)	3 (16.7)	2 (11.1)	8 (44.4)	5 (27.8)
HISPANIC					
High (n=9)	0 (0)	0 (0)	3 (33.3)	3 (33.3)	3 (33.3)
Low (n=42)	2 (4.8)	14 (33.3)	2 (4.8)	14 (33.3)	10 (23.8)
AFRICAN AMERICAN (17)					
High (n=17)	0 (0)	3 (17.6)	1 (5.9)	6 (35.3)	7 (41.2)
Low (n=34)	2 (5.9)	11 (32.4)	4 (11.7)	11 (32.3)	6 (17.6)
ASIAN					
High (n=10)	0 (0)	2 (20.0)	2 (20.0)	2 (20.0)	4 (40.0)
Low (n=41)	2 (4.9)	12 (29.3)	3 (7.3)	15 (36.6)	9 (22.0)
AMERICAN INDIAN/ ALASKAN NATIVE					
High (n=18)	0 (0)	5 (27.8)	3 (16.7)	6 (33.3)	4 (22.2)
Low (n=33)	2 (6.1)	9 (27.3)	2 (6.1)	11 (33.3)	9 (27.3)
NATIVE HAWAIIAN/ PACIFIC ISLANDER					
High (n=7)	0 (0)	3 (42.9)	1 (14.3)	1 (14.3)	2 (28.6)
Low (n=44)	2 (4.5)	11 (25.0)	4 (9.1)	16 (36.4)	11 (25.0)

Note: Values in the table represent the number of states with high or low race or ethnic populations. The values enclosed in parentheses represent the percent of states included in the category. For example, 33 states have a high White population. A review of the top panel reveals that 2 out of 33 (6.1%) states with a high White population have voting policies in Tier 1.

Table 6b.
Number (%) of States with Felony Voting Policy Restrictions by High or Low Race or Ethnic Population States

	Tier 1 No voting restrictions (n=2)	Tier 2 Incarceration (n=14)	Tier 3 Incarceration and probation or Parole (n=5)	Tier 4 Incarceration, parole, and probation (n=17)	Tier 5 Indefinitely (n=13)
WHITE	2 (100%)	11 (78.6%)	3 (60.0%)	9 (52.9%)	8 (61.5%)
MINORITY	0 (0)	3 (21.4)	2 (40.0)	8 (47.1)	5 (38.5)
HISPANIC					
High	0 (0)	0 (0)	3 (60.0)	3 (17.6)	3 (23.1)
Low	2 (100)	14 (100)	2 (40.0)	14 (82.4)	10 (76.9)
AFRICAN AMERICAN					
High	0 (0)	3 21.4	1 (20.0)	6 (35.3)	7 (53.8)
Low	2 (100)	11 (78.6)	4 (80.0)	11 (64.7)	6 (46.2)
ASIAN					
High	0 (0)	2 (14.2)	2 (40.0)	2 (11.8)	4 (30.8)
Low	2 (100)	12 (85.7)	3 (60.0)	15 (88.2)	9 (69.2)
AMERICAN INDIAN/ ALASKAN NATIVE					
High	0 (0)	5 (35.7)	3 (60.0)	6 (35.3)	4 (30.8)
Low	2 (100)	9 (64.3)	2 (40.0)	11 (64.7)	9 (69.2)
NATIVE HAWAIIAN/ PACIFIC ISLANDER					
High	0 (0)	3 (21.4)	1 (20.0)	1 (5.9)	2 (15.4)
Low	2 (100)	11 (78.6)	4 (80.0)	16 (94.1)	11 (84.6)

Note: Values in the table represent the number of states with felony voting policies. The values enclosed in parentheses represent the percent of states included in the category. For example, 2 states have felony voting policies in Tier 1. A review of the top panel reveals that 2 out 2 states (100%) in Tier 1 also have high White populations.

Table 9a.

Number (%) of states with High and Low Race and Ethnic populations by Unemployment Insurance Policy

	No alternate base period	Waiting periods	Part-time workers ineligible	No additional dependent allowance	Weekly benefit greater than \$292.67
WHITE (n=33)					
	23 (69.7%)	25 (75.8%)	16 (48.5%)	25 (75.8%)	8 (24.2%)
MINORITY (n=18)					
	10 (55.6)	14 (77.8)	10 (55.6)	13 (72.2)	5 (27.8)
HISPANIC					
High (n=9)	6 (66.7)	8 (88.9)	4 (44.4)	7 (77.8)	3 (33.3)
Low (n=42)	27 (64.3)	31 (73.8)	22 (52.4)	31 (73.8)	10 (23.8)
AFRICAN AMERICAN					
High (n=17)	10 (58.8)	12 (70.6)	9 (52.9)	13 (76.5)	6 (35.3)
Low (n=34)	23 (67.6)	27 (79.4)	17 (50.0)	25 (73.5)	7 (20.6)
ASIAN					
High (n=10)	4 (40.0)	8 (80.0)	5 (50.0)	6 (60.0)	2 (20.0)
Low (n=41)	29 (70.7)	31 (75.6)	21 (51.2)	32 (78.0)	11 (26.8)
AMERICAN INDIAN/ ALASKAN NATIVE					
High (n=18)	15 (83.3)	17 (94.4)	8 (44.4)	16 (88.9)	5 (27.8)
Low (n=33)	18 (54.5)	22 (66.7)	18 (54.5)	22 (66.7)	8 (24.2)
NATIVE HAWAIIAN/ PACIFIC ISLANDER					
High (n=7)	5 (71.4)	6 (85.7)	5 (71.4)	6 (85.7)	2 (28.6)
Low (n=44)	28 (63.6)	33 (75.0)	21 (47.7)	32 (72.7)	11 (25.0)

Note: Values in the table represent the number of states with high or low race or ethnic populations. The values enclosed in parentheses represent the percent of states included in the category. For example, 33 states have a high White population. A review of the top panel reveals that 2 out of 33 (69.7%) states with a high White population also have restrictive alternate base periods.

Table 9b
 Number (%) of States with Unemployment Insurance Policy Restrictions By High or Low Race or Ethnic
 Population States

	Eligibility			Benefits	
	No alternate base period (n=33)	Waiting periods (n=39)	Part-time workers ineligible (n=26)	No additional dependant allowance (n=38)	Weekly benefit less than \$292.67 (n=13)
WHITE					
	23 (69.7%)	25 (64.1%)	16 (61.5%)	25 (65.8%)	8 (61.5%)
MINORITY					
	10 (30.3)	14 (64.1)	10 (38.5)	13 (34.2)	5 (38.5)
HISPANIC					
High	6 (18.2)	8 (20.5)	4 (14.3)	7 (18.4)	3 (23.1)
Low	27 (81.8)	31 (79.5)	22 (78.6)	31 (81.6)	10 (76.9)
AFRICAN AMERICAN					
High	10 (30.3)	12 (30.8)	9 (34.6)	13 (34.2)	6 (46.2)
Low	23 (69.7)	27 (39.2)	17 (65.4)	25 (65.8)	7 (53.8)
ASIAN					
High	4 (12.1)	8 (20.5)	5 (19.2)	6 (15.8)	2 (15.4)
Low	29 (87.9)	31 (79.5)	21 (80.8)	32 (84.2)	11 (84.6)
AMERICAN INDIAN/ ALASKAN NATIVE					
High	15 (45.5)	17 (43.6)	8 (30.8)	16 (42.1)	5 (38.5)
Low	18 (54.5)	22 (56.4)	18 (69.2)	22 (57.9)	8 (61.5)
NATIVE HAWAIIAN/ PACIFIC ISLANDER					
High	5 (15.2)	6 (15.4)	5 (19.2)	6 (15.8)	2 (15.4)
Low	28 (84.8)	33 (84.6)	21 (80.8)	32 (84.2)	11 (84.6)

Note: Values in the table represent the number of states with felony voting policies. The values enclosed in parentheses represent the percent of states included in the category. For example, 33 states have restrictive alternate base periods. A review of the top panel reveals that 23 out 33 states (69.7%) with restrictive alternate base periods also have high White populations.

Table 12a
 Number (%) of states with High and Low Race and Ethnic populations by SCHIP policies

	Maximum eligibility threshold	Presumptive eligibility	Retroactive eligibility	Cost sharing	Crowd out	Continuous eligibility
WHITE (n=33)						
	25 (75.8%)	27 (81.8%)	11 (33.3%)	25 (75.8%)	11 (33.3%)	17 (51.5%)
MINORITY (n=18)						
	12 (66.7)	14 (77.8)	3 (16.7)	12 (66.7)	7 (38.9)	7 (38.9)
HISPANIC						
High (n=9)	5 (55.9)	4 (44.4)	4 (44.4)	9 (100)	3 (33.3)	3 (33.3)
Low (n=42)	32 (76.2)	37 (88.1)	10 (23.8)	28 (66.7)	15 (35.7)	21 (50.0)
BLACK						
High (n=17)	13 (76.5)	13 (76.5)	3 (17.6)	12 (70.6)	7 (41.2)	5 (29.4)
Low (n=34)	24 (70.6)	28 (82.4)	11 (32.4)	25 (73.5)	11 (32.4)	19 (55.9)
ASIAN						
High (n=10)	4 (40.0)	6 (60.0)	1 (10.0)	8 (80.0)	6 (60.0)	6 (60.0)
Low (n=41)	33 (80.5)	35 (85.4)	13 (31.7)	29 (70.7)	12 (29.3)	18 (43.9)
AMERICAN INDIAN/ ALASKAN NATIVE						
High (n=18)	14 (77.8)	16 (88.9)	7 (38.9)	13 (72.2)	7 (38.9)	6 (33.3)
Low (n=33)	23 (69.7)	25 (75.8)	7 (21.2)	24 (72.7)	11 (33.3)	18 (54.5)
NATIVE HAWAIIAN/ PACIFIC ISLANDER						
High (n=7)	5 (71.4)	6 (85.7)	1 (14.3)	4 (57.1)	4 (57.1)	4 (57.1)
Low (n=44)	32 (72.7)	35 (79.5)	13 (29.5)	33 (75.0)	14 (31.8)	20 (45.5)

Note: Values in the table represent the number of states with high or low race or ethnic populations. The values enclosed in parentheses represent the percent of states included in the category. For example, 33 states have a high White population. A review of the top panel reveals that 23 out of 33 (75.8%) states with a high White population also have restrictive maximum eligibility threshold.

Table 12b.
Number (%) of States with SCHIP Restrictions by High or Low Race or Ethnic Population States

	Maximum Eligibility threshold (n=37)	Presumptive eligibility (n=41)	Retroactive eligibility (n=14)	Cost sharing (n=37)	Crowd out (n=18)	Continuous eligibility (n=24)
WHITE						
	25 (67.6%)	27 (65.9%)	11 (78.6%)	25 (67.6%)	11 (61.1%)	17 (70.8%)
MINORITY						
	12 (32.4)	14 (34.1)	3 (21.4)	12 (32.4)	7 (38.9)	7 (29.2)
HISPANIC						
High	5 (13.5)	4 (9.8)	4 (28.6)	9 (24.3)	3 (16.7)	3 (12.5)
Low	32 (86.5)	37 (90.2)	10 (71.4)	28 (75.7)	15 (83.3)	21 (87.5)
AFRICAN AMERICAN						
High	13 (35.1)	13 (31.7)	3 (21.4)	12 (32.4)	7 (38.9)	5 (20.8)
Low	24 (64.9)	28 (68.3)	11 (78.6)	25 (67.6)	11 (61.1)	19 (79.2)
ASIAN						
High	4 (10.8)	6 (14.6)	1 (7.1)	8 (21.6)	6 (33.3)	6 (25.0)
Low	33 (89.2)	35 (85.4)	13 (92.9)	29 (78.4)	12 (66.7)	18 (75.0)
AMERICAN INDIAN/ ALASKAN NATIVE						
High	14 (37.8)	16 (39.0)	7 (50.0)	13 (35.1)	7 (38.9)	6 (25.0)
Low	23 (62.2)	2 (61.0)	7 (50.0)	24 (64.9)	11 (61.1)	18 (75.0)
NATIVE HAWAIIAN/ PACIFIC ISLANDER						
High	5 (13.5)	6 (14.6)	1 (7.1)	4 (10.8)	4 (22.2)	4 (16.7)
Low	32 (86.5)	35 (85.4)	13 (92.9)	33 (89.2)	14 (77.8)	20 (83.3)

Note: Values in the table represent the number of states with felony voting policies. The values enclosed in parentheses represent the percent of states included in the category. For example, 37 states have restrictive maximum eligibility thresholds. A review of the top panel reveals that 25 out 37 (67.6%) states with restrictive maximum eligibility thresholds also have high White populations.

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VITA

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Dissertation: The Color of Marginalization: Painting a Picture of Race and Public Policy in American States

Master of Social Work

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CERTIFICATES

Certificate, Equal Employment Opportunity Counselor

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RESEARCH INTEREST

Race, ethnic and minority relations; Public policy design, implementation and evaluation; Social welfare policy and hard to serve populations; Welfare reform; Child welfare; Diversity issues in education;

TEACHING INTEREST

- Undergraduate public administration/ political science including: public policy processes, personnel process, research methods, social welfare policy and race and ethnic politics
- Undergraduate sociology including: minority group relations and social inequality
- African American women studies
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TEACHING EXPERIENCE

Instructor, George Mason University Department of Public and International Affairs, Fairfax, VA. Political Analysis Fall 2005- Lectured to undergraduate students on social research methods. Emphasized clear, researchable questions and use of appropriate evidence to answer them. Introduced and taught students to use a broad range of evidence including quantitative and qualitative information. Prepared students to review, design and analyze surveys, government archives, case studies and interpretations of events in journals and other academic resources. Public Policy Making Spring 2005- Lectured to undergraduate students on public policy processes, agencies, and politics involved in the proposal making, implementation, evaluation and revision of public policy in the United States

PROFESSIONAL EXPERIENCE

Graduate Research Assistant, Virginia Tech Department of Sociology, Alexandria, VA, April 2005—July 2005. Member of research team developed to create an evaluation tool of the regional database of pawnshop activity in the Washington Metro area. Constructed questionnaire to satisfy client's data needs. Maintained relationships with the Metropolitan Washington Council of Governments (COG). Coordinated meeting of essential personnel.

Graduate Research Associate, Virginia Tech Race and Social Policy Research Center, Alexandria, VA, August 2001 – December 2005. Conducted research and analysis on public policy trends related to race and ethnicity. Compiled, researched, summarized and presented data in support of RSP initiatives. Conducted oral histories for preservation of African American history in Falls Church, VA. Designed and implemented survey research tools to gather data on the Martinsville- Henry County, VA Diversity and Conflict Resolution Leadership Program. Researched and analyzed policy developments concerning state welfare policies and race and ethnicity. Organized Center events (executive meetings, speaker seminars series, sponsored programs). Promoted the graduate student concentration through presentations and development of recruitment materials. Designed and prepared Center's biannual newsletter. Designed Center public relations materials (brochures, flyers, etc.). Provided support for Director's course offerings compiled reading materials, uploaded information to course webpage. Established team to address diversity problems in an affiliate program. Served as member of University team developed to commemorate Brown v. Board Anniversary Commission and to develop the Virginia Dr. Martin Luther King Jr. Memorial Center. Developed and maintained RSP database.

Research Assistant, Radford University Child Welfare Institute, Radford, VA, October 2000 – May 2001. Assisted coordinator of Child Welfare Institute as related to the Title IV E grant. Performed research in the area of child welfare. Prepared and organized data files for first annual Child Welfare Conference. Gathered, entered and analyzed data. Provided assistance on writing research proposals, reports and presentations.

MSW Intern, Montgomery County Department of Social Services, Christiansburg, VA, August 2000 – May 2001. Provided support to agency staff. Administered support services to clients. Developed and implemented service plans. Investigated complaints of suspected child abuse and neglect. Assisted in adult protective services cases. Prepared reports correspondence and narrative descriptions of case activities and assessments. Coordinated community resources for clients. Advocated within the community for clients in crisis by debating policy and reaching mutual solutions. Motivated clients in developing their own capabilities. Performed custody studies that included home inspections, reference checks, interviews and making recommendations to the court.

Family Assessment and Planning Team, MSW Intern, Salem City, VA, September 1999 – April 2000. Served as case manager. Conducted intake interviews and assessments. Identified and obtained services for youth and family. Developed individualized family service plans. Counseled youth and their families to help them reach their own goals and potential. Monitored provision of families' services. Gained knowledge about Virginia's Comprehensive Services Act. Certified CAFAS™ administrator (Child & Adolescent Functional Assessment Scale). Created survey to monitor participants satisfaction with services received

PUBLICATIONS

Gooden, S. T. & N. E. Douglas. 2006. *Ever Present, Sometimes Acknowledged, but Never Addressed: Racial Disparities in U.S. Welfare Policy.* in *The Promise of Welfare Reform: Rhetoric or Reality?* Keith M. Kilty and Elizabeth A. Segal, eds. New York: Haworth Press. (forthcoming)

Douglas, N.E., Hairston, D., Lowell, S. & Martin, K. 2003. *Diversity and Conflict Resolution Leadership Program Evaluation.* Virginia Tech Office of Multicultural Affairs: Blacksburg, VA.

CONFERENCE PRESENTATIONS

The State of Race in America: An Examination of Felony Voting Policies

Association for Public Policy Analysis and Management

Washington, DC, November 2005

Race and Public Policy in American States: An Examination of Felony Voting Policies

Southern Political Science Association

New Orleans, LA, January 2005

Felony Disenfranchisement in American States: The Struggle for Black Political Power

National Forum for Black Public Administrators

Ft. Lauderdale, FL, April 2003

Connecting the DOTS: Interagency Collaboration, Civic Participation, and Organizational Learning in State Departments of Transportation (with Jan Rabin and Susan White)

American Society for Public Administrators

Washington, D.C., March 2003

African American Males Negotiating Learning and Life at a Predominantly White University (with Steven M. Culver and Penny L. Burge)

American Educational Research Association

New Orleans, LA, April 2002

Personal Development and Social Adjustment of African American Male Students at a Predominantly White University

Engaging Diversity: Education in the 21st Century

Atlanta, GA, February 2001

PROFESSIONAL PRESENTATIONS AND INVITED LECTURES

Felony Disenfranchisement and Black Political Power

Race and Social Policy Research Center Biannual Executive Board Meeting

Blacksburg, VA, October 2003

Race Analysis as a Tool for Social Research

Research Methods, Department of Political Science

Blacksburg, VA, October 2003

Felony Disenfranchisement in American States: The Struggle for Black Political Power,

Center for Public Administration and Policy, High Table Diversity Session

Blacksburg, VA, March 2003

Felony Disenfranchisement in American States: The Struggle for Black Political Power

Race and Social Policy Research Center, Professional Presentation

Blacksburg, VA, December 2002

*Personal Development and Social Adjustment of African American Male Students at a
Predominantly White University*

Radford University Faculty Development

Radford, VA, May 2001

PROFESSIONAL MEMBERSHIPS

American Society for Public Administration

Association of Black Social Workers

Association of Public Policy Analysis and Management

National Association of Social Workers

National Forum of Black Public Administrators

Phi Alpha National Social Work Society

Phi Kappa Phi National Honor Society

Southern Political Science Association