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Todd J. Clark

Caleb Gregory Conrad

andré douglas pond cummings

University of Arkansas at Little Rock William H. Bowen School of Law, acummings@ualr.edu

Amy Dunn Johnson

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**MEEK MILL'S *TRAUMA*:
BRUTAL POLICING AS AN ADVERSE
CHILDHOOD EXPERIENCE**

TODD J. CLARK*
CALEB GREGORY CONRAD**
andré douglas pond cummings***
&
AMY DUNN JOHNSON****

INTRODUCTION

Meek Mill's life and career have been punctuated by trauma, from his childhood lived on the streets of Philadelphia, through his rise to fame and eventual arrival as one of hip hop's household names. In his 2018 track *Trauma*,¹ Meek

*Professor of Law, St. Thomas University College of Law; J.D., University of Pittsburgh School of Law. First, I would like to thank God for putting me in a position to write about and shed light on issues that I find compelling. Second, it has been an honor, as well as a pleasure, to work with Professor cummings, Caleb Conrad, and Judge Amy Johnson. Their passion and intellectual acumen is unparalleled and I learned so much from them during this project. I would also like to thank my mother, Dora L. Clark, my father, Sherwood Hill, and my aunt, Selena Comer, for all of their love and support. Additionally, I would like to thank my son, Jordan K. Clark, as well as my nephews and nieces, for serving as part of my motivation for writing. Hopefully, my writings and work as a professor will one day inspire them to achieve their greatest potential. In addition, I would like to thank my mentors Professor André Douglas Pond Cummings, Professor Grace Wigal, and Professor Mary Wright for all of the time they dedicated to helping me improve as both a scholar and a law professor. Anything that I have managed to do well as a member of the academy is largely a function of their dedication and vested interest in my success. Finally, I am extremely grateful for the assistance provided by my research assistants Aimee Garces and Alexandra N. Bendayan.

**B.A. University of Arkansas; J.D. U.A. Little Rock William H. Bowen School of Law; Deputy Prosecuting Attorney, 11th-West Judicial District of Arkansas, serving Jefferson and Lincoln Counties. I am humbled to have been asked to partner with my knowledgeable and inspiring co-authors, Prof. cummings, Prof. Clark, and Judge Johnson. I would like to thank my incredible wife, Ashley, whose work as a mental health professional continues to inspire my research on how trauma and the law intersect and whose patience of my late nights allowed me to contribute to this article. As always, a sincere thanks to the student editors of the St. Thomas Law Review editorial board. Finally, I would like to thank Meek Mill for using his platform to bring awareness to a system that was not only rigged against him, but that also continues to oppress millions of other Black children in our country.

*** Associate Dean for Faculty Research and Development and Professor of Law, University of Arkansas at Little Rock William H. Bowen School of Law; J.D., Howard University School of Law. I am grateful to my co-authors, Caleb G. Conrad, Professor Todd Clark and Judge Amy Johnson for partnering so eloquently with me on this article of critical importance. I am further grateful to the

Mill describes, in revealing prose, just how the traumatic experiences he endured personally impacted and harmed him. He also embodies a role as narrator in describing the same traumas and harms that impact the daily lives of countless similarly situated young Black people in the United States. As a child, Mill's lived experience was one of pervasive poverty and fear, as the world surrounding him consisted of large-scale poverty, addiction, crime, violence, and death. As a young man—at just 19 years of age—he was beaten by police, wrongfully arrested and incarcerated, and ultimately convicted of crimes that he did not commit, becoming another statistic as a young Black man swallowed by the American criminal justice system.² Meek's story, lyrics and contributions to hip hop illuminate the Black experience with law enforcement. His personal involvements provide a powerful narrative for exactly how a racially biased criminal justice system perpetrates a trauma that extends far greater than the law has traditionally recognized. This article highlights this narrative through the lens that Meek Mill provides because of his current prominence in hip hop and the importance of his narrative claims.

While no hip hop artist may ever impact the world to the same degree as Tupac Shakur, Meek Mill, in many respects, is the modern-day version of "Pac." Mill's ability to tell a story in a way that evokes passion, energy and understanding is reminiscent of Tupac and for that reason, he is the perfect artist to narrate our legal proposition about expanding the way that the law conceptualizes and addresses "trauma." Despite his success in achieving the status of a true hip hop icon, Meek Mill suffered the kind of childhood adversity and trauma that emerging health care research indicates leads to debilitating health outcomes in adulthood.

Powerful health studies conducted over the past two decades have uncovered the startling impact of Adverse Childhood Experiences ("ACEs"). ACEs

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**** Circuit Judge, 15th Division, 6th Judicial District of Arkansas, serving Pulaski and Perry Counties. B.A., Hendrix College; J.D., U.A. Little Rock William H. Bowen School of Law. I am deeply grateful to my co-authors and collaborators, Prof. Todd Clark, Prof. andré cummings, and Caleb Conrad, for their vision and commitment to bringing to light the inextricable connection between health and justice. The views stated in this article are not intended as statements regarding any pending or impending litigation, nor should the content of the article be construed as any promise or pledge that I would rule in any way that would be inconsistent with the impartial exercise of my duties as a judge. Rather, this article is a call to our legal system to affirmatively work to dismantle the structures and practices within that system that perpetuate trauma so that we can truly deliver justice to the public we serve.

¹ See MEEK MILL, *Trauma*, on CHAMPIONSHIPS (Maybach Music Group/Atlantic Recording 2018) [hereinafter *Trauma*]; *Trauma*, GENIUS, <https://genius.com/Meek-mill-trauma-lyrics> [hereinafter *Trauma* lyrics] (last visited Apr. 21, 2021); Meek Mill, *Meek Mill – Trauma (Official Video)*, YOUTUBE (Dec. 19, 2018), <https://www.youtube.com/watch?v=DU2FWrxIGcl>.

² See *Free Meek: The Trap* (Amazon Studios Aug. 8, 2019) [hereinafter *The Trap*].

are traumatic events that occur in childhood, ranging from abuse and neglect to other traumatic experiences derived from household and community dysfunction.³ Today, ACEs are generally placed by health researchers into seven to ten categories of childhood adversities ranging from sexual, physical and emotional abuse to the incarceration of a family member, living with someone who abuses alcohol or drugs and poverty, community violence and homelessness.⁴ These identified categories of trauma, although not fully understood or grasped as late as the 1990s, were known to occur in the lives of children all over the United States; however, the overall impact of childhood trauma on an individual's long-term health outcomes was only first measured in the now famous CDC-Kaiser Permanente ACE study.⁵ The findings of this study shook the health care world, forever altering the understanding of the link between childhood trauma and adult health outcomes. These links pushed researchers to look more deeply into the ultimate impact of traumatic childhood experiences on overall adult health. The groundbreaking study concluded that the more trauma a child experiences, the fewer years that child would live as an adult. In fact, in a 2009 study, CDC researchers determined that exposure to childhood trauma literally shortens an individual's lifespan. On average, a person with six or more ACEs died *twenty years earlier* than a person that had experienced no Adverse Childhood Experiences.⁶

This reality, that traumatic childhood experiences are directly and inextricably linked to negative health outcomes, is now widely recognized in the public health and clinical literature. Dr. Robert Block, former President of the American Academy of Pediatrics, has warned that “[a]dverse childhood experiences are the single greatest unaddressed public health threat facing our nation today.”⁷ More recently, this literature has begun to explore the connection between trauma and race, outlining how structural violence and historical trauma—particularly violence and discrimination experienced by Black, indigenous, and persons of color—is often experienced both at the individual and community levels.⁸ Such work has focused on improving economic opportunities for trauma-stricken communities, improving the physical/built

³ See *Preventing Adverse Childhood Experiences*, CDC (Apr. 3, 2020), <https://www.cdc.gov/violenceprevention/aces/fastfact.html>.

⁴ See Stacy Shwartz Olagundoye, *What Are Adverse Childhood Experiences (ACEs)?*, APPLIED SURV. RSCH. (May 21, 2019), <https://www.appliedsurveyresearch.org/news/2019/5/21/what-are-adverse-childhood-experiences-aces-1> [<https://perma.cc/BH5R-MQ4W>].

⁵ See Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study*, 14 AM. J. PREV. MED. 245, 246 (1998).

⁶ Jane Stevens, *Traumatic Childhood Takes 20 Years Off Life Expectancy*, LAWRENCE JOURNAL-WORLD (Oct. 6, 2009), <https://www2.ljworld.com/news/2009/oct/06/traumatic-childhood-takes-20-years-life-expectancy/>.

⁷ Nadine Burke Harris, *How Childhood Trauma Affects Health Across a Lifetime*, TED TALK (Sept. 2014), https://www.ted.com/talks/nadine_burke_harris_how_childhood_trauma_affects_health_across_a_lifetime [hereinafter *Childhood Trauma*].

⁸ See *id.*

environment, and supporting the development of healthy social-cultural environments.⁹ The prevailing framework for addressing the ACEs crisis has been a medical model focused on interventions for individual survivors and communities rather than addressing the glaring systemic issues that directly contribute to the vast majority of the trauma suffered by those communities and the individuals and families that inhabit them.¹⁰ Largely and undeniably absent from the body of work on childhood trauma, and the proposed solutions to confronting and rectifying its deadly impact, is the exploration of how the American legal and justice systems, from municipal law enforcement to the appellate courts, stands at the epicenter of the current crisis.¹¹

Each of the recognized categories of ACEs listed in medical screening instruments used by physicians to identify trauma have a direct nexus to the justice system. If we as a society are committed to treating ACEs as the public health crisis that they are, it is incumbent upon us to examine where and how our legal system is complicit in perpetuating trauma upon minority children. In addition, we need to consider how it can intervene—both at the individual and structural levels—to eliminate practices that contribute to multi-generational cycles of trauma and work to equip those with justice-system involvement to succeed and build the resilience necessary to heal minority individuals and communities who have been stricken by trauma and its life-long negative consequences.¹² Indeed it is the responsibility of our justice system, as a major contributor to so-called “social determinants of health.”¹³

Meek Mill, in his intimate autobiographical tracks of *Trauma*, *Oodles O’Noodles Babies*, and *Otherside of America*, describes experiencing not just

⁹ *Id.*

¹⁰ See, e.g., Howard Pinderhughes et al., *Adverse Community Experiences and Resilience: A Framework for Addressing and Preventing Community Trauma*, PREVENTION INST. 1, 18 (2015) <https://www.preventioninstitute.org/sites/default/files/publications/Adverse%20Community%20Experiences%20and%20Resilience.pdf>.

¹¹ It is, however, important to note that problem-solving courts, which began to emerge as a model in the late 1980s and early 1990s, represent early efforts to address the needs of adults and juveniles affected by trauma through court intervention, but without the benefit of ACEs research or the express goal of ameliorating the effects of trauma. See Ed Finkel, *Problem-Solving Courts Dig Deep to Acknowledge, and, Sometimes, Address Trauma*, ACES TOO HIGH NEWS (Apr. 15, 2015), <https://acestoohigh.com/2015/04/15/problem-solving-courts-dig-deep-to-acknowledge-sometimes-trauma/>. More recently, the National Infant-Toddler Court Program of the nonprofit organization of ZERO TO THREE, has been at the forefront of piloting the deployment of interdisciplinary teams, including judges and other actors in the legal system, to address the needs of young children in the child welfare system through trauma-informed interventions. *National Infant-Toddler Court Program*, ZERO TO THREE, <https://www.zerotothree.org/resources/series/national-infant-toddler-court-program> (last visited Apr. 21, 2021).

¹² Emerging ACEs research suggests that the negative consequences of trauma may extend beyond the lives of those directly impacted by trauma by causing epigenetic changes. See, e.g., Jason Lang et al., *Adverse Childhood Experiences, Epigenetics and Telomere Length Variation in Childhood and Beyond: A Systematic Review of the Literature*, 29 EUR. CHILD & ADOLESCENT PSYCHIATRY 1329, 1329–30 (2020).

¹³ See Finkel, *supra* note 11 and accompanying text; see also ZERO TO THREE, *supra* note 11 and accompanying text.

several instances of childhood trauma as identified by the CDC-Kaiser Permanente study, but as a teenager, he suffered additional cruel trauma at the hands of U.S. police and a criminal justice system that wrongly imprisoned and unfairly positioned him in a revolving door between probation and prison.¹⁴ The data tells us that the trauma Meek experienced as a child and teenager statistically predicts a poorer life expectancy for him than those individuals that experienced no trauma or little trauma as a child and youth.¹⁵ Because of the anti-Black culture of policing in America,¹⁶ and because of the deep systemic racism that permeates the criminal justice system, simple exposure to U.S. policing and its courts should qualify as an Adverse Childhood Experience for Black and minority children—one that contributes to harmful adult outcomes, including a shortened life expectancy. Mill's personal childhood trauma as described in his music carefully extrapolates the ways that American policing and the criminal justice system literally traumatized and endangered his young Black life, as it does so many Black children.

This article begins in Section I by providing an in-depth examination of ACEs research, including how the groundbreaking original ACE study discovered the direct link between high ACE scores and poor health outcomes and the prevalence of ACEs in the Black community. It then turns, in Section II, to a brief discussion of the broad ACE category of social disadvantage, and how a child growing up in an environment built on a foundation of poverty and violence will inevitably have more trauma, more ACEs, and be harmed through his or her experience of toxic stress. Section III will provide an overview of anti-Black policing and how law enforcement, as currently constituted, traumatizes minority communities and youth. Section IV explains how criminal charging, jailing, and sentencing traditions have disproportionately targeted Black men, contributing to the trauma that their children and families experience with the loss of a loved one to death or incarceration. The article next argues that minority youth exposure to U.S. law enforcement agents and the justice system at large functions as an ACE for youth of color in a way that is simply not present for non-minority youth and, as such, should be added to the list of ACEs that are formally recognized by public health officials. Finally, the article concludes with how Meek Mill himself is seeking to reform a system rife with debilitating trauma. Throughout each section, Meek Mill, and the raw lyrics from some of his most personal tracks, will serve as an illustration, and example, of how social disadvantage, police misconduct and brutality, and the American criminal justice system at large, cause harmful and lifelong trauma for Black Americans.

¹⁴ See *The Trap*, *supra* note 2.

¹⁵ See Felitti et al., *supra* note 5, at 245–46, 251 (finding victims of childhood abuse or household dysfunction were more likely to develop adverse health problems).

¹⁶ See andré douglas pond cummings, *The Anti-Black Culture of Policing in the United States – Part I: History*, OXFORD HUM. RTS. HUB (June 27, 2020), <http://ohrh.law.ox.ac.uk/the-anti-black-culture-of-policing-in-the-united-states-part-i-history/> (“policing in America is rooted in anti-blackness and controlling the movement and freedom of black bodies.”).

I. ADVERSE CHILDHOOD EXPERIENCES (ACES): HOW TRAUMA IN CHILDHOOD IMPACTS LONG-TERM HEALTH AND LIFE EXPECTANCY

The original ACE study was conducted in the mid-1990s by Dr. Robert Anda of the Centers for Disease Control and Prevention (“CDC”) and Dr. Vince Felitti of Kaiser Permanente.¹⁷ For the study, the two physicians surveyed nearly 17,500 adults in southern California requesting information on their history of exposure to trauma in childhood, indicators that the researchers styled “Adverse Childhood Experiences.”¹⁸ These traumas included “physical, emotional or sexual abuse; physical or emotional neglect; parental mental illness, substance dependence, incarceration; parental separation or divorce; or domestic violence.”¹⁹ Today, health researchers essentially quantify ACEs into nine categories of childhood traumas including: (1) sexual abuse, (2) physical abuse, (3) emotional abuse, (4) incarceration of a member of the household, including parental incarceration, (5) witnessing a mother who was treated violently, (6) experiencing parental divorce or separation, (7) living with someone who was mentally ill, (8) living with someone who abused alcohol or drugs, and (9) social disadvantage, defined as experiencing economic hardship/poverty, homelessness, community violence, discrimination, and/or historical trauma.²⁰ For every experienced trauma the respondents reported they endured as a child, one point was added to their ACE score. A respondent’s total ACE score was then compared to that individual’s health outcomes, and the findings of this original study were “groundbreaking,” and heartbreaking.²¹

The CDC-Kaiser Permanente study found first that ACEs are stunningly common. More than sixty-seven percent of respondents reported having at least one ACE, and 12.6 percent had four or more.²² Second, the study found a strong dose-response relationship between ACEs and health outcomes.²³ A dose-response relationship is one in which increasing levels of exposure are correlated with either an increasing or decreasing risk of the outcome.²⁴ In the context of the ACE study, researchers uncovered overwhelming evidence that increased levels of exposure to childhood trauma profoundly increased the risk of negative health outcomes later in life.²⁵ The researchers found that an individual with an ACE score of four or more—representing 12.6 percent of respondents—was

¹⁷ *Childhood Trauma*, *supra* note 7.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Olagundoye, *supra* note 4.

²¹ *Id.*

²² See Felitti et al., *supra* note 5, at 253 (referencing Table 6 of the ACE study); *Childhood Trauma*, *supra* note 7.

²³ *Childhood Trauma*, *supra* note 7 (meaning the higher an individual’s ACE score, the worse his or her health outcomes).

²⁴ Sydney Pettygrove, *Dose-Response Relationship*, ENCYC. BRITANNICA (Sept. 23, 2016), <https://www.britannica.com/science/dose-response-relationship>.

²⁵ See *Childhood Trauma*, *supra* note 7.

two-and-a-half times more likely to contract obstructive pulmonary disease, two-and-a-half times more likely to contract hepatitis, four-and-a-half times more likely to suffer from depression, and twelve times more likely to commit suicide.²⁶ As mentioned above, researchers revealed that exposure to childhood trauma literally shortens an individual's lifespan.²⁷ These results were "striking" and classified ACEs as the newest critical public health crisis in the United States.²⁸ Since the original CDC-Kaiser Permanente study, many additional studies on ACEs have been conducted, each affirming and furthering the reach and impact of this crucially important breakthrough.

The original ACE study thus boldly classified childhood adversity as a critical public health issue in the United States.²⁹ Perhaps more profound, however, was that the study's results were not derived from a pool of low-income respondents in some inner city who lacked basic resources to live a healthy and fulfilling life. Instead, the respondents were solidly middle-class—70 percent of respondents were White, 70 percent were college educated, and the pool overwhelmingly had access to great health care.³⁰ Other than the obvious impact of revealing this hidden relationship between childhood adversity and adult health, the original ACE study sparked a movement and inspired a new body of research that would soon conduct more widespread and diverse studies, and that would more clearly show not only the impact that ACEs have on those who experience them, but that the most vulnerable communities suffer the most.

Subsequent literature has acknowledged the limitations of the ten original ACEs explored in the seminal CDC-Kaiser Permanente Study. Poverty, discrimination, police violence, and natural disasters are among some of the emerging areas needing in-depth study and suggest that the impact of ACEs in low-income communities of color is even greater than originally believed.³¹ Some of this emerging research has shown that Black children, as a direct result of generational complex trauma in the form of racial discrimination, experience the most ACEs of any childhood population in the U.S. The country's history of state-sanctioned segregation and violence has led to a majority of Black neighborhoods that are poorer, more violent, and less stable, and has established

²⁶ See Felitti et al., *supra* note 5, at 253 (interpreting the statistics in Table 6 of the ACE study); *Childhood Trauma*, *supra* note 7 (noting that an individual with an ACE score of seven or more was found to have triple the lifetime risk of lung cancer and three-and-a-half times the risk of ischemic heart disease).

²⁷ See Stevens, *supra* note 6 (emphasizing that a traumatic childhood takes 20 years off the victim's life expectancy).

²⁸ See *id.* (quoting Dr. David Bowen "Being able to tie (ACEs) to premature mortality further reinforces the public health importance and why we need to further look at this.").

²⁹ See Felitti et al., *supra* note 5, at 246.

³⁰ See *id.* at 249.

³¹ See Denise Powell & Katherine Minaya, *Healing in Place: Linking COVID-19 and Adverse Childhood Experiences*, OP-MED (June 19, 2020), <https://opmed.doximity.com/articles/healing-in-place-linking-covid-19-and-adverse-childhood-experiences>.

a criminal justice system that weakens Black communities through mass incarceration and the murder of Black bodies.

II. TOXIC STRESS IN CHILDREN: THE ACE OF SOCIAL DISADVANTAGE AND ENVIRONMENTS OF PERSISTENT TRAUMA

“Social disadvantage” is a recognized category of ACEs that encapsulates the trauma and adversity produced by economic hardship, community violence, discrimination, and historical trauma.³² Two of the leading factors working to increase the likelihood of traumatic experiences for children are poverty and racial discrimination.³³ Poverty and trauma are inextricably intertwined. As the original ACE study found, an overwhelming number of children will experience some form of adversity or trauma no matter their background, socioeconomic status, or geographic location;³⁴ however, it has been clearly shown that children who are raised in poverty are substantially more at risk to experience increased levels of trauma and adversity.³⁵ Sixty-one percent of Black non-Hispanic children reported having at least one ACE, the most of any demographic.³⁶ This disquieting data point is coupled with the fact that African Americans have the highest poverty rate in the U.S., twenty-one percent, compared to just eight percent of non-Hispanic Whites.³⁷ Thus, it is no surprise that recent research of ACEs, and the populations more likely to experience them, have shown that Black children are more likely to face frightening and traumatic experiences and are left to deal with the aftermath of the negative effects on their cognitive, behavioral, and health outcomes. After all, a child whose home life is defined by consistent hunger, significant violence, and abject scarcity experiences never-ending feelings of heightened fear and terror, leading to inevitable *toxic stress*.³⁸ Simply, toxic stress occurs when an individual’s normal stress response, the

³² See Olagundoye, *supra* note 4.

³³ See Leila Morsy & Richard Rothstein, *Toxic Stress and Children’s Outcomes*, ECON. POL’Y INST. (May 1, 2019), <https://www.epi.org/publication/toxic-stress-and-childrens-outcomes-african-american-children-growing-up-poor-are-at-greater-risk-of-disrupted-physiological-functioning-and-depressed-academic-achievement/> [hereinafter *Toxic Stress*].

³⁴ See Felitti et al., *supra* note 5, at 249; see also Vanessa Sacks & David Murphey, *The Prevalence of Adverse Childhood Experiences, Nationally, by State, and by Race or Ethnicity*, CHILD TRENDS (Feb. 20, 2018), <https://www.childtrends.org/publications/prevalence-adverse-childhood-experiences-nationally-state-race-ethnicity> (“Just under half (45 percent) of children in the United States have experienced at least one ACE . . .”).

³⁵ See Sacks & Murphey, *supra* note 34.

³⁶ See *id.*

³⁷ See Pam Fessler, *U.S. Census Bureau Reports Poverty Rate Down, But Millions Still Poor*, NPR (Sept. 10, 2019), <https://www.npr.org/2019/09/10/759512938/u-s-census-bureau-reports-poverty-rate-down-but-millions-still-poor>.

³⁸ See Danna Bodenheimer, *Real World Clinical Blog: Poverty as Trauma, Social Work as Cure*, THE NEW SOC. WORKER, <https://www.socialworker.com/feature-articles/real-world-clinical-sw/poverty-as-trauma-social-work-as-cure/> (last visited Apr. 21, 2021); see also Caroline Ratcliffe & Margery Austin Turner, *Reduce Poverty By Tackling Childhood Trauma*, URBAN INST. (Apr. 26, 2011), <https://www.urban.org/urban-wire/reduce-poverty-tackling-childhood-trauma> (noting that although family stress and dysfunction are not solely dictated by income, “these problems are more pervasive and severe among poor families and children”).

body's evolutionary physiological response to perceived threatening or dangerous situations, becomes dysregulated.³⁹ Toxic stress can cause a host of health issues for any person, but a child who suffers from toxic stress is at risk for lasting damage to his or her brain and organs.⁴⁰

The fact that Black children in America suffer the greatest risk of experiencing ACEs may seem intuitive because of the statistics: children living in poverty are more likely to experience trauma and Black Americans have the highest poverty rate in the United States.⁴¹ However, the single ACE category of social disadvantage can spur on additional experiences for children that fall into other recognized ACE categories, whether it is the death or incarceration of a family member,⁴² having an addict in the household,⁴³ living in areas of constant violent crime,⁴⁴ or experiencing some form of abuse or neglect.⁴⁵ These traumas are often not isolated events or rare occurrences that might frighten an impacted child once or twice in childhood; rather, traumas that fit under the umbrella of social disadvantage literally make up the entire environment in which many Black children are raised. It must be acknowledged that for decades—for generations—Black children have been forced to grow up in communities where traumatic experiences occur so often as to be considered “normal,”⁴⁶ and where ACEs are not experiences to be avoided or protected against, but instead mark a day in the life of Black America. Children growing up in impoverished communities may witness or take part in violent crimes, lose friends or family members to violence or incarceration, or become victims of crime or abuse themselves, including crime and abuse at the hands of law

³⁹ See Leila Morsy & Richard Rothstein, *Mass Incarceration and Children's Outcomes*, ECON. POL'Y INST. 1, 15 (Dec. 15, 2016) [hereinafter *Mass Incarceration*]; see also NADINE BURKE HARRIS, *THE DEEPEST WELL: HEALING THE LONG-TERM EFFECTS OF CHILDHOOD ADVERSITY* 65 (2018) [hereinafter *THE DEEPEST WELL*] (noting that a dysregulated stress-response system is the source of toxic stress).

⁴⁰ See *Mass Incarceration*, *supra* note 39; see also *THE DEEPEST WELL*, *supra* note 39 (“A disrupted stress response doesn't affect only the neurological system, it affects the immune system, the hormonal system, and the cardiovascular system as well.”).

⁴¹ See Fessler, *supra* note 37.

⁴² See Dan Kopf, *New Data Clearly Illustrate the Poverty-to-Prison Pipeline*, QUARTZ (Mar. 22, 2018), <https://qz.com/1233966/new-data-clearly-illustrate-the-poverty-to-prison-pipeline/> (“Neighborhoods with high rates of poverty and large shares of Black or American Indian residents have even higher rates of incarceration than incomes alone would predict.”).

⁴³ Patrick Bailey, *Addiction Driven by Poverty, Not Race*, CTR. FOR REDUCING HEALTH DISPARITIES (Oct. 14, 2020), <https://reducedisparity.org/2020/10/14/addiction-driven-by-poverty-not-race/> (noting that class, not race, dictates a higher rate of addiction).

⁴⁴ John N. Mitchell, *Breaking Poverty: Crime, Poverty Often Linked*, PHILA. TRIB. (Sept. 18, 2018), https://www.phillytrib.com/metros/breaking-poverty-crime-poverty-often-linked/article_258b0eac-33f6-570e-89bf-b2d83635a13b.html#new_tab.

⁴⁵ David Francis, *Poverty and Mistreatment of Children Go Hand in Hand*, NAT'L BUREAU ECON. RSCH. (Jan. 2000), <https://www.nber.org/digest/jan00/poverty-and-mistreatment-children-go-hand-hand>.

⁴⁶ K-RAHN VALLATINE, *BEYOND THE CRACK GENERATION: SURVIVING A TRAUMA ORGANIZED CULTURE* 47 (2018).

enforcement officers.⁴⁷ Each time a child experiences such trauma, his or her ACE score increases, and the heightened danger for negative health outcomes, risky behaviors, and shorter life expectancy becomes even greater.⁴⁸

Meek Mill, growing up in the streets of Philadelphia, was a child living and breathing in a world fraught with adversity and trauma. His lyrics give his fans and other listeners a masterclass in the category of ACEs known as social disadvantage, as he brilliantly describes the poverty, community violence, death, and sense of loss all around him. Further, Mill's rhymes perfectly illustrate how a single ACE category—social disadvantage—makes a child more likely to experience several other ACEs, thus compounding the trauma and increasing the child's ultimate risk of negative health outcomes.

Meek Mill's father, Robert, was shot and killed when Mill was just five years old.⁴⁹ Although Robert was in and out of the lives of Mill and his mother (and in and out of prison) during Mill's first five years, the loss of the little financial support for a family already struggling was devastating.⁵⁰ With his father dead, Mill's mother was forced to work several jobs for long hours, often leaving Mill alone to fend for himself and without the type of parental support that a young child needs and craves. Mill touches on his mother's work schedule and how it impacted his childhood in *Oodles O' Noodles Babies* and *Other-side of America*:

See, I got a homie that's a billionaire;
And I be tryin' to explain it to him like;
If your mom ain't on crack or if she got a job and she doing eight
hours a day;
And your daddy in the graveyard or in the jail cell, who the fuck
gon' babysit?⁵¹

N***a, we hungry;
Mama at work, daddy, he dead, n***a we lonely;

⁴⁷ See Portia D. Rawles, *The Link Between Poverty, the Proliferation of Violence and the Development of Traumatic Stress Among Urban Youth in the United States to School Violence: A Trauma Informed, Social Justice Approach to School Violence*, F. ON PUB. POL'Y (2010), <https://forumon-publicpolicy.com/Vol2010.no4/archive.vol2010.no4/rawles.pdf>; see also *Trauma*, *supra* note 1.

⁴⁸ Felitti et al., *supra* note 5, at 250.

⁴⁹ Mikey Fresh, *5 Revealing Facts from Meek Mill's Prison Interview*, VIBE.COM (Mar. 14, 2018), <https://www.vibe.com/music/music-news/meek-mill-prison-interview-philly-judge-arrest-573161/>.

⁵⁰ Grant Rindner, *Meek Mill Looks Back at His Tough Upbringing on "Oodles O' Noodles Babies"*, GENIUS (Nov. 24, 2018), <https://genius.com/a/meek-mill-looks-back-at-his-tough-upbringing-on-oodles-o-noodles-babies>.

⁵¹ MEEK MILL, *Oodles O' Noodles Babies*, on CHAMPIONSHIPS (Maybach Music Group/Atlantic Recording 2018) [hereinafter *Oodles-O' Noodles Babies* song]; *Oodles O' Noodles Babies*, GENIUS, <https://genius.com/Meek-mill-oodles-o-noodles-babies-lyrics> (last visited Apr. 21, 2021) [hereafter *Oodles-O' Noodles Babies* lyrics].

Stomach growlin' like an AMG, goin' to bed, we hungry⁵²

While his father was living, Meek's parents were not always together, but also not always apart. In some sense, Mill saw his father's death, and his criminality leading up to it, as the ultimate separation of his parents:

I seen my mom and dad separate, ain't talkin' divorce;
Said daddy was livin' by the fire, and he died by the torch⁵³

Meek Mill once stated to interviewers that when his father was killed, he had to be the man of the house.⁵⁴ He was just five years old at that time. Mill found becoming a man at five years old, and for the formative years thereafter, more challenging because he simply had no older male figures in his life to connect with or learn from. "To be real with you," Meek has stated, "I don't really know no men who stepped up. There was nobody for me to listen to, and growing up we never even had men, like, hold conversations with us."⁵⁵ Like so many young Black boys whose fathers were incarcerated or killed, Mill turned to the only remaining men in his neighborhood. For the future hip hop star, this group consisted of his older cousins and their friends, a crowd made up of drug dealers who were themselves raised by the streets.⁵⁶ Even at that time, Meek knew that what he was learning from this crowd on the streets was not the kind of guidance a young man needed.

Ain't have a daddy, I listened to suckas the same way that Ray Ray
did;
I'm totin' Smith &'s and HKs and I just was a grade A kid;
Ain't have no guidance, we grew up with hitters and did everything
they said⁵⁷

Through his admission of having no guidance, Mill has never wanted to take anything away from his hardworking mother. In fact, he acknowledges and appreciates the hard work and sacrifice she endured in attempting to provide for her family. However, Meek admits that no mother could provide what he needed in a father figure:

⁵² MEEK MILL, *Otherside of America*, on DREAMCHASERS 5 (Dream Chasers Records 2021) [hereinafter *Otherside of America* song]; *Otherside of America*, GENIUS, <https://genius.com/Meek-mill-otherside-of-america-lyrics> [hereinafter *Otherside of America* lyrics] (last visited Apr. 21, 2021).

⁵³ *Otherside of America* song, *supra* note 52; *Otherside of America* lyrics, *supra* note 52.

⁵⁴ See Rinder, *supra* note 50.

⁵⁵ *The Trap*, *supra* note 2.

⁵⁶ See *Free Meek: Two Americas* (Amazon Studios Aug. 8, 2019) [hereinafter *Two Americas*].

⁵⁷ *Otherside of America* song, *supra* note 52; *Otherside of America* lyrics, *supra* note 52.

My mom played the role of both mom and dad. We had nothing growing up, so my mom worked any job she could find to provide for me and my sister. I love her so much for that. But as much as I appreciated everything my mother did for me, she couldn't fill the space that a father should hold in a child's life.⁵⁸

By just five years old, Meek Mill had lost one parent to violence and another to endless hours on the clock, and with his parents separated—whether by relationship strife or death—he faced the world alone, tasked with finding food, caring for himself and his sister, and being a man while a boy.

As his honest and infectious lyrics suggest, Mill is characteristically observant. It is clear that he possessed a keen awareness of the social disadvantage that was omnipresent during his childhood and his adolescent years and of the trauma that confronted him around every corner. Out of all of his lyrical descriptions of his childhood trauma, Meek's stanzas about the violence and death in his environment are the most riveting. Important to note is that the stories that Mill tells through his songs are not hypothetical or an overexaggerated or dramatized version of events. Rather, as Mill raps in the first stanza of *Otherside of America*, "I feel like this shit was for me, this shit just my story (Facts)."⁵⁹ Meek's story, and the story of so many Black children like him, is one of constant fear and violence and an awareness of death that no child should be forced to reckon with.

"This Nightmare on Elm Street, Friday the 13th. . . ."⁶⁰ This single line in *Trauma* is deeply powerful, as it summarizes how Mill must have felt every single day living in his childhood neighborhood. From his perspective as a child, he was living in a real-life horror movie. He explained the meaning of this reference to the classic films further in an interview for *Free Meek*: "[t]here's murders every day. Just coming from these situations, it's like watching Friday the 13th when you see Jason appear every five minutes. Watching that movie, you're expecting to see death coming up."⁶¹

The prevalence of violence, physical injury, and death is clear, as Meek hung out on the "same corner where my brothers died."⁶² Further, it is evident that Meek lived with the knowledge of the very real threat that he would end up on the receiving end of this violence that surrounded him, no doubt placing him in a state of permanent heightened awareness and fear, a pure sign of toxic stress. Mill knew too many young men—children—like him who were killed by such violence, even personally witnessing the aftermath of brutal killings.

⁵⁸ Meek Mill, *Meek Mill: Being a Father Means Giving My Son the Life He Deserves*, TIME (June 19, 2015), <https://time.com/3928286/fathers-day-meek-mill/>.

⁵⁹ *Otherside of America* song, *supra* note 52; *Otherside of America* lyrics, *supra* note 52.

⁶⁰ *Trauma*, *supra* note 1.

⁶¹ See *Two Americas*, *supra* note 56.

⁶² *Otherside of America* song, *supra* note 52; *Otherside of America* lyrics, *supra* note 52.

Uzi on me, all my friends are dead, n***a, we lonely⁶³

Killed my lil' cousin, I'm like, 'Damn it, man;'
 Had to see the footage on a camera, man;
 On the pavement, with his brains out;
 With the white sheet, he was laid out⁶⁴

Although he understood the risks of not only his involvement with his older cousins and their friends, but also those risks of simply being a child growing up in his neighborhood, Mill was determined to climb out of his traumatic environment and to avoid becoming just another Black teenager killed in the projects.

Reportin' live from the other side (Yeah);
 Same corner where my brothers died (Yeah);
 Living' life, we ain't got a care;
*Told my mama I ain't dyin' here (No)*⁶⁵

However, in an environment as traumatic and dangerous as Mill's, staying out of the literal line of fire is not always an available option. There were times that Meek prayed for his safety and survival:

Big dogs, they ain't showin' remorse;
 I was beggin' just to catch a sale;
 Same block, we was goin' to war;
*I was prayin' I ain't catch a shell*⁶⁶

Meek Mill's childhood was riddled with adversity and trauma, from the time he woke up in the morning until he went to sleep at night. If Dr. Felitti and Dr. Anda were to assign ACE points to Meek Mill, they would determine that his parents ultimately separated (1), that Meek's father was killed (2), that his father's absence and mother's work schedule resulted in neglect (3), that Mill's father and other family members were incarcerated (4), that members of Meek's family were addicted to drugs (5), and that every day he had to live in an environment that threatened serious physical harm or death to him and those around

⁶³ *Otherside of America* song, *supra* note 52; *Otherside of America* lyrics, *supra* note 52.

⁶⁴ *Oodles O' Noodles Babies* song, *supra* note 51; *Oodles O' Noodles Babies* lyrics, *supra* note 51.

⁶⁵ *Otherside of America* song, *supra* note 52; *Otherside of America* lyrics, *supra* note 52 (emphasis added).

⁶⁶ *Otherside of America* song, *supra* note 52; *Otherside of America* lyrics, *supra* note 52 (emphasis added).

him (6). According to the original ACE study, because Mill has an ACE score in excess of four, he would statistically be two-and-a-half times more likely to contract obstructive pulmonary disease, two-and-a-half times more likely to contract hepatitis, four-and-a-half times more likely to suffer from depression, and twelve times more likely to commit suicide.⁶⁷

However, just because Meek Mill reached his eighteenth birthday, and thus entered adulthood, the trauma he experienced and its impact on him did not cease. Unknown to him then, Mill was about to encounter the U.S. criminal justice system and face an entirely new set of adversities and traumas as a young Black man at the hands of corrupt police officers and a harsh and unforgiving trial judge. Mill would later expose these additional traumas in his music by shining a spotlight on the unfairness and glaring racial disparities that millions of Black Americans face every day, to his millions of fans worldwide fans, and he would find himself seen widely as the embodiment for just how broken the American criminal justice system is. The first broken spoke in the U.S. criminal justice regime is the system of policing.

III. ANTI-BLACK POLICING IN THE UNITED STATES

One constant source of toxic stress in the lives of Black children growing up in Black and urban communities across the nation is the hyper presence of police officers and those officers' police departments in their daily lives. Under the ACE category of social disadvantage, racial discrimination accounts for frightening and threatening experiences related to not only housing racial discrimination, but also interactions between Black Americans with the criminal justice system and with police. A Harvard study published on June 24, 2020, found that of the 5,494 fatalities involving police from 2013—2017, 27.07% were Black.⁶⁸ This figure is disproportionately higher than the total Black population in the United States, which is approximately 13.4%.⁶⁹ The study found that Black Americans were 3.23 times more likely to be killed during police contact compared to White Americans and police were also much more likely to kill Black individuals who were unarmed.⁷⁰ These statistics, while troubling, are nothing new. Police forces from incipency were created to manage, control and intimidate Black bodies.

⁶⁷ Felitti et al., *supra* note 5; *Childhood Trauma*, *supra* note 7.

⁶⁸ Gabriel L. Schwartz & Jaquelyn L. Jahn, *Mapping Fatal Police Violence Across U.S. Metropolitan Areas: Overall Rates and Racial/Ethnic Inequities, 2013-2017*, DEPT. OF SOC. & BEHAV. SCI., HARV. T.H. CHAN SCH. OF PUB. HEALTH (June 24, 2020), <https://www.hsph.harvard.edu/social-and-behavioral-sciences/2020/07/01/mapping-fatal-police-violence-across-u-s-metropolitan-areas-2013-2017/>.

⁶⁹ *Quick Facts*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/US/PST045219> (last visited Apr. 21, 2021).

⁷⁰ See Schwartz & Jahn, *supra* note 68.

State sponsored killing of unarmed Black men is a deeply rooted historical tradition in the United States.⁷¹ Despite nationwide and far reaching global protests in 2020 following the killing of George Floyd by then Minneapolis police officer Derek Chauvin,⁷² police slayings and assaults upon Black men and women across the nation have continued unabated.⁷³ As the nation's protestors called upon law enforcement agencies and municipal governments throughout the country to respect and value the lives of Black Americans, and as some states and municipalities gave brief glimpses of hope that this respect might be actualized,⁷⁴ the assaults upon and murders of Black Americans at the hands of law enforcement did not subside.⁷⁵

⁷¹ See andré douglas pond cummings, "Lord Forgive Me, But He Tried to Kill Me": Proposing Solutions to the United States' Most Vexing Racial Challenges, 23 WASH. & LEE J. CIV. RTS. & SOC. JUST. 3, 8–9, 12 (2016) [hereinafter "Lord Forgive Me"] (describing police killing of unarmed black men, mass incarceration, and violent homicide deaths in the African American community as the three most pressing racial tragedies confronting U.S. politicians, citizens, law enforcement agencies, officers, policymakers, and lawyers); see also *Taking Cover: How Cops Escape Discipline For Shootings in Suburban Chicago*, WBEZ, <https://interactive.wbez.org/taking-cover> (last visited Apr. 21, 2021) (chronicling investigative reports that uncover suburban police forces outside Chicago, IL engaging in common citizen shootings where officer discipline is non-existent, including the following stories: "113 Suburban Cop Shootings, Zero Discipline," "Deadly Force Policies Ignored in Suburban Chicago," and "The Revolving Door: Troubled Officers Get Frequent Career Chances"). Portions of this section were originally considered in andré douglas pond cummings, *Reforming Policing*, 10 DREXEL L. REV. 573 (2018) and andré douglas pond cummings, *The Anti-Black Culture of Policing in the United States – Part I: History*, OXFORD HUM. RTS. HUB (June 27, 2020), <http://ohrh.law.ox.ac.uk/the-anti-black-culture-of-policing-in-the-united-states-part-i-history/>.

⁷² See Evan Hill et al., *How George Floyd Was Killed in Police Custody*, N.Y. TIMES (Nov. 5, 2020), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>.

⁷³ See Christina Maxouris, *Here's What We Know About the Casey Goodson Jr. Fatal Police Shooting*, CNN (Dec. 12, 2020, 6:26 AM), <https://www.cnn.com/2020/12/12/us/casey-goodson-jr-what-we-know/index.html> (describing the case of Casey Goodson, Jr., who was shot by police while trying to enter his home in Columbus, Ohio); see also J.D. Gallop, *Brevard Deputy Dashcam Video Brings Some Answers, Questions in Deadly Shooting of 2 Cocoa Teens*, FLA. TODAY (Nov. 18, 2020, 12:58 PM), <https://www.floridatoday.com/story/news/2020/11/18/deadly-deputy-involved-shooting-happened-friday-cocoa-neighborhood/6334910002/> (describing case of police shooting of Angelo "A.J." Crooms, 16, and Sincere Pierce, 18, in Cocoa, Florida); Eric Levenson, *What We Know About the Philadelphia Police Shooting of Walter Wallace, Jr.*, CNN (Oct. 28, 2020, 8:00 PM), <https://www.cnn.com/2020/10/28/us/philadelphia-walter-wallace-jr-shooting/index.html> (detailing Philadelphia Police shooting of Walter Wallace, Jr.); Joe Brandt & Cydney Long, *Mom Beaten by Philly Cops, Separated From Child During Walter Wallace Jr. Unrest*, NBC10 PHILA. (Oct. 30, 2020, 6:12 PM), <https://www.nbcphiladelphia.com/news/local/mom-beaten-by-philly-cops-separated-from-child-during-walter-wallace-jr-unrest/2579012/> (describing case of Rickia Young, who was "thrown from her car, beaten, detailed and separated from" her two-year-old son).

⁷⁴ See Katherine Fung, *These Are the Cities and States That Have Banned Police Chokeholds So Far in the Wake of Protests*, NEWSWEEK (June 9, 2020, 11:34 AM), <https://www.newsweek.com/these-are-cities-states-that-have-banned-police-chokeholds-so-far-wake-protests-1509659> (reporting on the jurisdictions that have banned the use of chokeholds by police departments since George Floyd's death, including Minneapolis and New York).

⁷⁵ See Maxouris, *supra* note 73; see also Gallop, *supra* note 73 (noting that deaths of Crooms and Pierce were the "fifth deadly officer-shooting[s]" in Brevard County in 2020); Levenson, *supra* note 73 (reporting that shooting was latest after shootings in Minneapolis, Minnesota, Kenosha, Wisconsin and Louisville, Kentucky); Brandt & Long, *supra* note 73 (stating that incident occurred during

In November 2020, sixteen-year-old Angelo Crooms and eighteen-year-old Sincere Pierce, both teenage African American males, were shot and killed in Cocoa, Florida, while driving slowly away from Sheriff Deputy Jafet Santiago-Miranda.⁷⁶ Crooms and Pierce had just left their home when two sheriffs, Santiago-Miranda and Carson Hendren began following them claiming that they were investigating a stolen car claim.⁷⁷ In fact, Crooms and Pierce were not driving a stolen car and unlike Santiago-Miranda's justification for shooting nine shots into the car, the teenagers were not driving the car with malicious intent toward Santiago-Miranda.⁷⁸ Instead, Deputy Santiago-Miranda inserted himself as Prosecutor, Judge, and Executioner in killing two teenage boys for the "crime" of not stopping the car when ordered (without evidence that the boys even heard the commands or committed any underlying crime).⁷⁹ Similar narratives since George Floyd's 2020 killing are replete.

As state-sponsored killings of African American men and women continue without interruption, despite the global George Floyd and Breonna Taylor protests throughout the summer of 2020, no true end to these executions seems in sight. The fraught relationship between the African American community and local law enforcement agencies may be frayed beyond repair as of this writing. This is so because policing in America is rooted in anti-blackness and in controlling the movement and freedom of Black bodies.⁸⁰

This culture and history developed from the slave-era practice of patrols pursuing and capturing runaway slaves and southern U.S. politicians seeking to control the newly freed Black bodies following the Civil War.⁸¹ This history is acutely embedded in the fabric of law enforcement agencies and the psyche of law enforcement officers across the nation.⁸²

protests after Walter Wallace, Jr. shooting); Fung, *supra* note 74 (reporting that police policy changes were response to nationwide anti-police-brutality protests).

⁷⁶ See Johnny Diaz & Michael Levenson, *Fatal Shooting of 2 Black Teenagers by Florida Deputy Is Under Investigation*, N.Y. TIMES (Nov. 22, 2020), <https://www.nytimes.com/2020/11/22/us/angelo-crooms-benjamin-crump-video.html>.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ See andré douglas pond cummings, *Reforming Policing*, 10 DREXEL L. REV. 573, 583 (2018) [hereinafter *Reforming Policing*].

⁸¹ See KATHERYN RUSSELL-BROWN, *THE COLOR OF CRIME: RACIAL HOAXES, WHITE FEAR, BLACK PROTECTIONISM, POLICE HARASSMENT, AND OTHER MACROAGGRESSIONS* 32–33 (2d ed., 2008); see also MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* 7 (2012) (stating that “[s]ociologists have frequently observed that governments use punishment primarily as a tool of social control”); AMY FARRELL & DONNA M. BISHOP, *RACIAL DIVIDE: RACIAL AND ETHNIC BIAS IN THE CRIMINAL JUSTICE SYSTEM* 83–107 (Michael J. Lynch et al. eds., 2008); John S. Goldkamp, *Minorities as Victims of Police Shootings: Interpretations of Racial Disproportionality and Police Use of Deadly Force*, 2 JUST. SYS. J. 169, 170 (1976) (stating that some “suggest that the disproportionately high death rates of minorities at the hands of the police can be explained by the disproportionately high arrest rates of minorities for crimes of violence”).

⁸² See Goldkamp, *supra* note 81, at 169–73; see also PATRISSE KHAN-CULLORS & ASHA BANDELE, *WHEN THEY CALL YOU A TERRORIST: A BLACK LIVES MATTER MEMOIR* 186, 226–29 (2018)

[T]he literature clearly establishes that a legally sanctioned law enforcement system existed in America . . . for the express purpose of controlling the slave population The similarities between the slave patrols and modern American policing are . . . salient Hence, the slave patrol should be considered a forerunner of modern American law enforcement.⁸³

Therefore, the tragic police killings of George Floyd and Breonna Taylor in 2020, straightforwardly maintain this anti-black tradition of law enforcement killing and control from slavery through today. Clear evidence of this tradition and culture are in plain sight through the recent police slayings of Daunte Wright, Andrew Brown, Jr., Angelo Crooms, Sincere Pierce, Rekia Boyd, Rayshard Brooks, Eric Garner, Tamir Rice, Miriam Carey, Philando Castile, Michael Brown, Freddie Gray, Samuel DuBose, Alton Sterling, Laquan McDonald, Oscar Grant, Sean Bell, and so many others.⁸⁴

While most police departments in the nation began as slave patrols,⁸⁵ controlling and abusing Black bodies was written into the United States' founding documents, including the Constitution, and has animated lawmakers' thinking and legislating since the early days of this nation.⁸⁶ Black criminality and command over Black bodies is literally written into the American Constitution.⁸⁷ The U.S. Constitution, as written, dehumanizes Blacks and entrenches their criminality for nothing more than simply insisting upon their right to be free from bondage. Additionally, while White male slaveholders routinely raped and sexually assaulted their Black female slaves, they concomitantly agonized, stewed, and legislated that Black males and slaves show no attention or intimacy toward White females.⁸⁸ "The same brutality that attended the policing of runaway slaves and the same terrorization that attended the lynching of freed Black males informs and inspires the United States' policing of Black males and minority citizens today."⁸⁹

Thus, the fascination with and intense desire to control the Black male and female bodies continues today as police departments and law enforcement

(stating that law enforcement fails to serve the negro community, meanwhile they come together to mourn their loss).

⁸³ VICTOR E. KAPPELER & LARRY K. GAINES, *COMMUNITY POLICING: A CONTEMPORARY PERSPECTIVE* 47 (5th ed. 2009) (citing a 2006 paper by Turner, Giacomassi & Vandiver).

⁸⁴ See Daniel Funke & Tina Susman, *From Ferguson to Baton Rouge: Deaths of Black Men and Women at the Hands of Police*, L.A. TIMES (Jul. 12, 2016), <http://www.latimes.com/nation/la-na-police-deaths-20160707-snap-htlstory.html>.

⁸⁵ KAPPELER & GAINES, *supra* note 83.

⁸⁶ See generally TA-NEHISI COATES, *WE WERE EIGHT YEARS IN POWER: AN AMERICAN TRAGEDY* 223–81 (2017).

⁸⁷ See *id.* at 242–43.

⁸⁸ See *id.* at 242–47; see also Jennifer Latson, *How Emmett Till's Murder Changed the World*, TIME (Aug. 28, 2015), <http://time.com/4008545/emmett-till-history/> (recounting the story of Emmett Till, including how he was murdered for whistling at a white woman).

⁸⁹ See *Reforming Policing*, *supra* note 80, at 581.

agencies across the United States follow this timeworn tradition of concomitant enthrallment coupled with brutal control.⁹⁰ The very social order and coherence of U.S. history is anchored in controlling and brutalizing Black bodies.⁹¹ Anything that acts to reject or counter this anchoring factor is often met with swift condemnation and repulsion.⁹² The 2020 police killings of Angelo Crooms, Sincere Pierce, George Floyd, Rayshard Brooks, Breonna Taylor and the near execution of Jacob Blake exemplify U.S. law enforcement's continuing anti-black orientation and anchoring policy of brutal control of Black bodies.⁹³ As policing has evolved, from deep-seated roots in slave patrols and lynching through today's killing of unarmed Black men and women for insignificant violations, then U.S. policing is culturally, legally and historically infected with a

⁹⁰ See Tryon P. Woods, "Sexual Poetic Justice": *Hip Hop, Antiracist Desire, and Legal Narratives*, in *HIP HOP AND THE LAW* 125, 125–26 (Pamela Bridgewater, andré douglas pond cummings & Donald F. Tibbs eds., 2015).

⁹¹ See *id.* at 125.

⁹² *Id.* at 126. For hip hop's recent examination of Michael Brown's killing see The Game ft. Rick Ross, 2 Chainz, Diddy, Fabolous, Wale, DJ Khaled, Swizz Beatz, Yo Gotti, Curren\$y, Problem, King Pharaoh & TGT:

Fabolous: Speak up, and don't you ever let 'em silence you;
'Cause action speaks louder than words, that's what I heard;
Shot down with his hands up, that's what occurred?;
Man that sound absurd;
Matter fact to me that sound like murder;
We want justice.

Yo Gotti: So it's time we come together;
Use our voice as a weapon;
I am Michael Brown, 'cause I stand for what he stand for;
News say we're looting;
Paint pictures like we some animals;
On my NWA CMG;
Holler'in' "Rest in peace Eazy and fuck the police."

Curren\$y: I heard he surrendered but we all saw how they did him;
Television broadcasts, a confused country;
I'm a resident of a nation that don't want me;
What's done is done the town erupts in fury;
A lot of motherfuckers need to act more worried.

Chorus: Time to take a stand and save our future;
Like we all got shot, we all got shot;
Throwing up our hands don't let them shoot us;
'Cause we all we got, we all we got;
God ain't put us on the Earth to get murdered, it's murder;
Don't point your weapons at me.

The Game, *Don't Shoot (Audio)*, YOUTUBE (Sept. 4, 2014), <https://www.youtube.com/watch?v=N-QWI-Iy1ns>. On *Don't Shoot*, artists Fabolous, Yo Gotti, and Curren\$y memorialize Michael Brown.

⁹³ See Funke & Susman, *supra* note 84 (describing the police killing of each of the unarmed black men named); Jordan Freiman & Justin Carissimo, *Police in Wisconsin Shoot Black Man in Back Multiple Times, Sparking Protests*, CBS NEWS (Aug. 25, 2020), <https://www.cbsnews.com/news/jacob-blake-kenosha-shooting-wisconsin-police-black-man-protesters-gather/>.

sickness. Reforming policing so infected will require recognition and acknowledgment of the anti-Blackness that continues to permeate policing today.

Further to the anti-Blackness that permeates policing today, two added hardships have landed harshly on communities of color affixing additional trauma onto the lives of millions of minority Americans, namely, the War on Drugs and the subsequent evisceration of Fourth Amendment search and seizure protections. Situated comfortably within the anti-black culture of policing, the War on Drugs, declared by President Richard Nixon and later weaponized by President Ronald Reagan, bastardized police departments across the nation.⁹⁴ With law enforcement incentives distorted away from community protection, local police agencies began prioritizing the drug war with its violent accoutrements over community policing, de-escalation and a startling eschewing of honest police work as departments adopted S.W.A.T. team takedowns of its own citizens in its own communities often propelled by drug-addicted informants, unreliable snitches, and shoddy evidentiary workups.⁹⁵ The War on Drugs simply further corrupted the already racially-biased policing culture in the United States.⁹⁶

Further, the War on Drugs effectively gutted Fourth Amendment protections against search and seizure.⁹⁷ Corrupted and co-opted police departments increasingly seized American residents in a new but now never-ending quest to unearth illegal drugs in poor and urban communities, concomitantly trampling on traditional rights against illegal searches, sending case after case to the federal courts that chipped away ruthlessly at Fourth Amendment protections.⁹⁸ Time and again, police officers, driven by forfeiture laws and their siege or warrior mentality, searched citizens without a warrant or probable cause while

⁹⁴ See ALEXANDER, *supra* note 81, at 5 (stating that the War on Drugs was an internal method of the United States to rid themselves of blacks from society); see also *Reforming Policing*, *supra* note 80, at 590–93, 595–96, 605, 612, 617, 622, 625–26 (drawing attention to the police brutality in the United States police enforcement, and how to remedy the issues that perturb blacks and other minorities from within the system); andré douglas pond cummings & Steven Ramirez, *Roadmap for Antiracism: Unwind the War on Drugs Now*, 96 TUL. L. REV. (forthcoming 2021).

⁹⁵ See ALEX S. VITALE, *THE END OF POLICING* 134–135, 137–40 (2017); see also ALEXANDER, *supra* note 81, at 76–80 (stating that there is an exponential increment of incarcerations as the United States fails to respect the Fourth Amendment right granted to the people by the Founders of the Constitution).

⁹⁶ See VITALE, *supra* note 95, at 137–140; see also ALEXANDER, *supra* note 81, at 74–76.

⁹⁷ See ALEXANDER, *supra* note 81, at 79–80; see also Donald F. Tibbs, *From Black Power to Hip Hop: Discussing Race, Policing, and the Fourth Amendment Through the “War on” Paradigm*, 15 J. GENDER RACE & JUST. 47, 61–68 (2012) (detailing the erosion of Fourth Amendment protections through the federal courts based on drug stops and searches); Paul Finkelman, *The Second Casualty of War: Civil Liberties and the War on Drugs*, 66 S. CAL. L. REV. 1389, 1452 (1993) (concluding that the war on drugs endangers “our Bill of Rights and our political freedom.”).

⁹⁸ See Tibbs, *supra* note 97, at 61 (“The legal formula ‘Young + Black + Male’ is routinely equated with ‘reasonable suspicion’—authorizing state-sponsored unconstitutional stops, searches, questioning, and seizures of thousands of African American males every year”); *id.* at 65 (“[i]n the decades since Terry [v. Ohio], however, the standard for reasonable suspicion has reached new lows. The steady lowering of the threshold of evidence required to satisfy Terry’s reasonable suspicion standard means that Fourth Amendment privacy rights have all but dissipated.”).

scouring for illicit drugs.⁹⁹ Time and again, these officers would tread upon time-worn Fourth Amendment protections which would thereafter be challenged as illegal by defense lawyers.¹⁰⁰ These hyper-aggressive searches began finding comfort and acceptance by the nation's highest court.¹⁰¹ The War On Drugs, in a literal sense, eviscerated the Fourth Amendment.¹⁰² And this evisceration was borne by and large on the backs of Black Americans.

Based on this corrupting influence of federal prioritization and militarization, law enforcement across the country suffered scandal after scandal attributable singularly to the War on Drugs.¹⁰³ These scandals have occurred unabated and continue today.¹⁰⁴ One scholar notes “[i]t is impossible to fully catalog the

⁹⁹ andré douglas pond cummings, *Just Another Gang: “When the Cops Are Crooks Who Can You Trust?”*, 41 HOW. L.J. 383, 383 (1998) (describing the rise of the “Warrior Mentality” or “Siege Mentality” that permeated police departments at that time).

¹⁰⁰ See generally ALEXANDER, *supra* note 81, at 80–82.

¹⁰¹ See *id.* at 73–81.

¹⁰² See *Massachusetts Declaration of Rights – Article 14*, MASS. L. UPDATES (Jan. 14, 2019), <https://blog.mass.gov/masslawlib/legal-history/massachusetts-declaration-of-rights-article-14/> (“Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation”).

That general warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offense is not particularly described and supported by evidence, are grievous and oppressive and ought not to be granted.

Virginia Declaration of Rights, Article 10, NAT'L CTR. FOR PUB. POL'Y RSCH. (Nov. 3, 2001), <https://nationalcenter.org/ncppr/2001/11/03/virginia-declaration-of-rights-1776/>;

MASSACHUSETTS ET AL., DEBATES AND PROCEEDINGS IN THE CONVENTION OF THE COMMONWEALTH OF HELD IN THE YEAR 1788 AND WHICH FINALLY RATIFIED THE CONSTITUTION OF THE UNITED STATES 87–88 (W. White, printer to the commonwealth, 1856) (“And that the said Constitution be never construed to authorize Congress . . . to subject the people to unreasonable searches and seizures of their persons, papers or possessions.”).

¹⁰³ See *Opinion: Ghosts of Rampart Are Hovering Over LAPD's Latest Gang Scandal*, L.A. TIMES (Jan. 21, 2020), <https://www.latimes.com/opinion/story/2020-01-21/ghost-rampart-lapd-gang-scandal> (describing the 1990s LAPD Rampart Scandal where elite “gang unit” officers were found guilty of planting evidence, stealing drugs, and beating suspects, leading to more than 3000 cases being overturned); see also *Free Meek* (Amazon Studios Aug. 8, 2019) (detailing the Philadelphia Police Department manufacturing drug evidence against rapper Meek Mill leading to jail time and numerous probation and parole revocations until the corruption was exposed); VITALE, *supra* note 95, at 137 (“Most of the major police scandals of the last fifty years have had their roots in the prohibition of drugs. The Rampart Scandal in Los Angeles involved officers abusing their authority and engaging in brutality toward drug dealers . . . and eventually involved the stealing of drugs from evidence rooms and selling it on the streets”); andré douglas pond cummings & Adam Lamparello, *Private Prisons and the New Marketplace for Crime*, 6 WAKE FOREST J.L. & POL'Y 407, 409–10 (2016) (“[T]he War on Drugs was declared most forcefully in poor and urban communities, and waged upon the powerless and voiceless, while drug users and dealers in suburban areas, beach cities, and college campuses were left largely ignored and undeterred.”).

¹⁰⁴ See VITALE, *supra* note 95, at 137 (identifying both the corrupt “Dirty Thirty” police precinct in Harlem, uncovered by the Mollen Commission and the “Prince of the City” book and movie detailing corrupt narcotics detectives in NYC).

The disgraced ex-cop worked for a group of smugglers who had for years illegally

abuses of authority, thefts, bribes, and drug sales committed by US police every day in the War on Drugs.”¹⁰⁵ And, these corrupting abuses occurred nearly without exception in precincts “serving” urban communities of color.

Enter Meek Mill. Mill has personally experienced police misconduct and brutality. He has been unnecessarily beaten by police and illegally arrested due to the blatant fabrications of a high-ranking police officer. Mill does not hesitate to call out blatant police misconduct and brutality in his music. He boldly describes the trauma that policing perpetuates on Black Americans by using his personal life experiences with law enforcement, but also by commenting on the rampant police misconduct and brutality impacting African Americans around the country.

Yeah, they called it the projects, they put us in projects;
 What they gon’ do with us? *Can’t call the cops yet;*
You might just get popped at;
‘Cause they the ones shootin’ us;
 I’m on my mom’s steps, it’s like a bomb threat;
 The violence pursuing us...¹⁰⁶

imported drugs in shipping containers containing bananas from Ecuador and the Dominican Republic. . . . In a federal complaint, agents also said Mata helped plan the execution of two rival drug dealers, even proposing that his “contacts” could dress up like cops and pull over the men before killing them.

David Ovalle, *Ex-Miami-Dade Lieutenant Gets 10 Years Prison for Helping Cocaine Ring*, MIA HERALD (Dec. 2, 2015), <https://www.miamiherald.com/news/local/crime/article47627235.html#!>.

Fresno Deputy Police Chief Keith Foster was among six people arrested Thursday on federal drug charges, including conspiracy to distribute oxycodone, heroin and marijuana. Foster, 51, who oversaw patrol operations for the department’s four districts, was arrested for conspiracy to distribute and/or possess with the intent to distribute oxycodone, heroin and marijuana.

Carmen George, *Fresno Deputy Police Chief Arrested in Federal Drug Investigation*, FRESNO BEE (March 26, 2015), <https://www.fresnobee.com/news/local/crime/article19643307.html>.

Richard Irizarry, 45, a former Titusville police officer, was found guilty in January of attempting to help distribute one kilogram of cocaine and using a cellular telephone to commit a drug-trafficking offense, the U.S. Attorney’s Office said. . . . Once, federal prosecutors allege, Irizarry looked up a license plate in a confidential database and told the informant the plate belonged to an undercover DEA car.

Kevin Connolly, *Former Titusville Police Officer Gets 10 years in Prison in DEA Coke Sting*, ORLANDO SENTINEL (Mar. 31, 2015), <https://www.orlandosentinel.com/news/breaking-news/os-richard-irizarry-prison-cocaine-cop-20150331-story.html>.

¹⁰⁵ VITALE, *supra* note 95, at 137.

¹⁰⁶ *Oodles O’ Noodles Babies* song, *supra* note 51; *Oodles O’ Noodles Babies* lyrics, *supra* note 51 (emphasis added).

Ain't no PTSD's, them drugs keep it at ease;
 They shot that boy twenty times when they coulda told him just
 freeze;
 Coulda put him in a cop car, but they let him just bleed;
 "The ambulance, it comin' baby, just breathe."¹⁰⁷

Mill describes his personal interfacing with Philadelphia police before making a clear reference to the police killing of Stephon Clark in Sacramento, California, in 2018, where police shot at Clark, an unarmed young Black man, twenty times when he was simply holding a cell phone in the backyard of his grandparent's home.¹⁰⁸ Rather than attend to Clark after shooting at him twenty times—hitting him at least seven times just a mere four seconds after entering the backyard—the officers first checked on each other's safety, then proceeded to wait five more minutes before attempting to render aid to Clark who was already dead: "Coulda put him in a cop car, but they let him just bleed."¹⁰⁹ Mill drops a further veiled reference to the police practice of leaving bleeding or dead Black Americans lying in the street before rendering assistance. For example, after Michael Brown, an unarmed young Black man, was killed by a police officer in Ferguson, Missouri, his dead body remained in the streets for four hours after the shooting.¹¹⁰ Ferguson Committeewoman Patricia Byner attempted to put into words the community trauma experienced when Black neighbors saw Brown's bloody body in the street for so long: "It was very disrespectful to the community and the people who live there. It also sent the message from law enforcement that 'we can do this to you any day, any time, in broad daylight, and there's nothing you can do about it.'"¹¹¹

Meek Mill's decrying police misconduct and brutality is not hypothetical. Meek's own saga with the American criminal justice system began when, at 19 years old, he was arrested on January 24, 2007.¹¹² Narcotics Field Unit ("NFU") supervising officer Reggie Graham appeared as the sole witness in each stage

¹⁰⁷ *Trauma*, *supra* note 1; *see also Free Meek: Free, Not Free* (Amazon Studios Aug. 8, 2019) [hereinafter *Free, Not Free*].

¹⁰⁸ Barbara Marcolini et al., *How Stephon Clark Was Killed by Police in His Backyard*, N.Y. TIMES (Mar. 22, 2018), <https://www.nytimes.com/video/us/10000005813009/stephon-clark-killed-police-sacramento.html>; *see also Free, Not Free*, *supra* note 107.

¹⁰⁹ Rhiannon Walker, *A Timeline of Stephon Clark's Death at the Hands of Sacramento Police and the Aftermath*, THE UNDEFEATED (Mar. 23, 2018), <https://theundefeated.com/features/a-timeline-of-stephon-clarks-death-at-the-hands-of-sacramento-police-to-the-protest-at-the-kings-game/>; *see also Free, Not Free*, *supra* note 107.

¹¹⁰ *See* Julie Bosman & Joseph Goldstein, *Timeline for a Body: 4 Hours in the Middle of a Ferguson Street*, N.Y. TIMES (Aug. 23, 2014), <https://www.nytimes.com/2014/08/24/us/michael-brown-a-bodys-timeline-4-hours-on-a-ferguson-street.html>.

¹¹¹ *Id.*

¹¹² *See* Kory Grow, *Meek Mill's Legal Troubles: A History*, ROLLING STONE (Mar. 14, 2018, 6:17 PM), <https://www.rollingstone.com/music/music-news/meek-mills-legal-troubles-a-history-117981/>.

of the case that led to Meek's original conviction and the sentence that placed him firmly in the grasp of the system.¹¹³ The arrest warrant that would kick-start Mill's battle for his freedom was based on a single statement from Officer Graham, who claimed that he witnessed Meek Mill leave his residence, sell crack cocaine, and return to his residence.¹¹⁴ This statement was good enough for the issuance of an arrest warrant for the home where Meek lived in 2007. When the NFU showed up to exercise the warrant, Mill ended up beaten and bloody and charged with several crimes, including pointing a gun at Graham and his fellow officers.¹¹⁵ At Mill's trial, it was Officer Graham who was the only witness testifying for the prosecution, and it would be Graham's testimony alone that would convince the judge to convict and sentence Mill.¹¹⁶ However, all of the testimony provided by Officer Graham against Mill has subsequently been shown as false.

Since the time that he testified at Meek Mill's trial, Officer Graham has been discharged and blacklisted from testifying by the Philadelphia District Attorney due to his long history of dishonesty and corruption.¹¹⁷ In fact, Graham's NFU was found to be so corrupt that thousands of cases involving the unit have been thrown out, as officers were said to have lied to show probable cause, obtain a warrant, bust through the door of a suspected drug supplier, and steal all of the drugs and cash they could find on scene.¹¹⁸ Mill's case was no different, as it is now clear that Officer Graham lied about witnessing Meek selling drugs to obtain the arrest warrant. On the exact date and at the precise time that Graham claimed that he witnessed Mill selling crack cocaine—Meek adamantly denies ever using or selling—Mill was in court supporting a cousin who had an appearance that day.¹¹⁹ Dozens of witnesses confirm Mill's presence in the courtroom on the date he was alleged to have sold drugs. Officer Graham also lied on the stand at trial when he told the judge that Mill had pointed a gun at officers. According to a former NFU officer on the scene the night of Meek's beating and arrest, Mill never raised a weapon toward the officers; instead, he removed the firearm from his waistband and laid it on the ground before placing his hands in the air.¹²⁰ This statement corroborates Mill's story from the very beginning that he had never pointed the weapon in the direction of the officers. Mill claims that if he had, he very well would be dead: "I had a gun, but I ain't point no gun at no cop"¹²¹

¹¹³ See Paul Solotaroff, *#FreeMeekMill*, ROLLING STONE (Mar. 14, 2018, 1:00 PM), <https://www.rollingstone.com/music/music-features/freemeekmill-203630/>.

¹¹⁴ See *id.*

¹¹⁵ See *id.*

¹¹⁶ See *id.*

¹¹⁷ *The Trap*, *supra* note 2.

¹¹⁸ See *id.*

¹¹⁹ See Solotaroff, *supra* note 113.

¹²⁰ *The Trap*, *supra* note 2.

¹²¹ See *id.*

While Mill's probation, parole, and revolving door between probation and prison has received significant attention,¹²² the truth is that he was unconstitutionally arrested and imprisoned, due to police misconduct and law enforcement brutality.¹²³ He should never have spent a day behind bars. If after his initial arrest, Meek was hoping that the truth would ultimately come out in front of a judge, or that he would be convicted only if he were proven guilty beyond a reasonable doubt, or that a judge would sentence a young, first time offender in a way that would enable him to break free of the system and improve his standing in life, he was deeply mistaken. This is because the American criminal justice system treated Meek Mill like it would any young Black man in his shoes: unfairly and with prejudice, without regard for truth or justice.

IV. ANTI-BLACK CHARGING, JAILING, AND SENTENCING TRADITIONS IN THE UNITED STATES

Anti-Black charging, jailing and sentencing traditions in the United States have an insidious history. The current criminal justice system is overwhelmingly averse to Blacks, at each level of the criminal justice process, the system is stacked against them. From the first stage, policing, as noted in Section III, Blacks are wrongfully targeted and over-policed, resulting in higher incidents of violent interactions with law enforcement, arrests, and ultimately incarceration. This reality begins the vicious cycle that continues to plague Black people in America. After their arrest, Black defendants experience more racially charged challenges during the charging and plea-bargaining stage. The data is clear: Black criminal defendants are charged for crimes at a much higher rate than their White counterparts,¹²⁴ and typically receive less favorable outcomes during the plea deal process.¹²⁵ Racist plea-bargaining practices are particularly

¹²² See *id.*

¹²³ See *id.*

¹²⁴ See Radley Balko, *There's Overwhelming Evidence That the Criminal Justice System Is Racist. Here Is the Proof.*, WASH. POST (June 10, 2020), <https://www.washingtonpost.com/graphics/2020/opinions/systemic-racism-police-evidence-criminal-justice-system/#Prison> ("A 2013 study found that after adjusting for numerous other variables, federal prosecutors were almost twice as likely to bring charges carrying mandatory minimums against black defendants as against white defendants accused of similar crimes"); Sonja B. Starr & M. Marit Rehavi, *Mandatory Sentencing and Racial Disparity: Assessing the Role of Prosecutors and the Effects of Booker*, 123 YALE L.J. 2, 2–3, (2013) (finding "a black-white gap appears to be introduced during the criminal justice process [which] appears to stem largely from prosecutors' charging choices"); Matthew S. Crow & Kathrine A. Johnson, *Race, Ethnicity, and Habitual-Offender Sentencing*, 19 CRIM. JUST. POL'Y REV. 63, 72–73, 79–80 (2008), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.821.8079&rep=rep1&type=pdf> (explaining that black defendants' chances of being sentenced as a habitual offender are 28% greater than white defendants with similar criminal records and that it "appears that stereotypical assessments of dangerousness and culpability are linked to race and ethnicity, even after offense seriousness and prior record are controlled.").

¹²⁵ See Lindsey Devers, *Plea and Charge Bargaining*, BUREAU OF JUST. ASSISTANCE (2011), <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/PleaBargainingResearchSummary.pdf> (explaining that "[t]he majority of research on race and sentencing outcomes shows that blacks are less likely than whites to receive reduced pleas," that "[s]tudies that assess the effects of race find that blacks are less likely to receive a reduced charge compared with whites," and that

troubling considering that 90% to 95% of all criminal cases are resolved via the plea-bargaining process.¹²⁶

The charging and plea negotiation stages are driven in large part through the discretion of the elected prosecutor and his or her office, a term referred to as prosecutorial discretion. The American criminal justice system is often characterized as a system of laws, but it would be more accurately described as laws that are mediated by a system of discretion.¹²⁷ This is because the discretion granted to officials in the criminal justice system not only applies to police officers on the streets, but also in the prosecution stage. Prosecutors are vested with complete decision-making power when it comes to charging decisions, along with all of the leverage during plea negotiations, meaning that prosecutors—and prosecutors alone—ultimately “decide whether [criminal defendants] enter the door and what happens to them if and when they do.”¹²⁸ For example, after considering a defendant’s behavior and the accompanying set of facts, prosecutors have the discretion to determine what charges the defendant will face. Additionally, and arguably more powerful, is the prosecutor’s discretionary power to decide whether the defendant will face charges at all.¹²⁹ What’s more, these charging decisions are made behind closed doors, without any requirement that prosecutors provide a reason or insight into why a particular decision was made in a case.¹³⁰ Making critical charging decisions in such a black box results in an utter lack of prosecutorial accountability, relieving prosecutors of the responsibility of explaining charging practices that have and continue to

“[s]tudies have generally found a relationship between race and whether or not a defendant receives a reduced charge”); see also Carlos Berdejó, *Criminalizing Race: Racial Disparities in Plea-Bargaining*, 59 B.C. L. REV. 1187, 1215–16 (2018) (showing that “white defendants are over twenty-five percent more likely than black defendants to see their top charge dropped or reduced” and that when looking at misdemeanor charges, “white defendants [were] 74.72% more likely than black defendants to see all misdemeanor charges carrying a potential imprisonment sentence dropped, dismissed or amended to lesser charges”); Gene Demby, *Study Reveals Worse Outcomes for Black and Latino Defendants*, NPR (July 17, 2014, 10:44 AM), <https://www.npr.org/sections/codeswitch/2014/07/17/332075947/study-reveals-worse-outcomes-for-black-and-latino-defendants> (finding that “[b]lack defendants were 19 percent more likely than whites to be offered plea deals that included jail or prison time”); Dave Ress, *Blacks More Likely to Get Prison Time in Plea Deals, Hampton Roads Court Data Show*, DAILY PRESS (Mar. 17, 2016), <https://www.dailypress.com/news/dp-nws-sunshine-disparities-20160317-story.html> (explaining that a review of nearly 474,000 criminal cases in Hampton Roads, Va., found that “whites are far more likely to strike a deal that keeps them out of jail than African-Americans are,” that when facing charges of drug distribution, “whites received no time in jail in 48 percent of their plea agreements, compared to 22 percent of African-Americans,” and for those prior criminal records who pled guilty to robbery, “36 percent [of whites] got no jail time . . . compared to 8 percent of African-Americans”).

¹²⁶ See Devers, *supra* note 125, at 3.

¹²⁷ See The Ezra Klein Show, *Why Prosecutors, Not Cops, Are the Keys to the Criminal Justice System*, VOX (Aug. 22, 2017) (downloaded using Google Podcasts), <https://rb.gy/kkuniz>.

¹²⁸ See ANGELA DAVIS, *POLICING THE BLACK MAN: ARREST, PROSECUTION, AND IMPRISONMENT* 178 (Angela J. Davis, ed., 2017) [hereinafter *POLICING THE BLACK MAN*].

¹²⁹ See *Episode 3—Prosecutorial Discretion*, CHASING JUST., <https://www.chasingjusticepodcast.com/episodes/episode-3-prosecutorial-discretion> (with guest Kim Foxx).

¹³⁰ See The Ezra Klein Show, *supra* note 127.

undeniably impact people of color in a disproportionate manner in jurisdictions all around the U.S.

“Whether done consciously or not, prosecutors are more likely to charge” Black men more often and with more serious charges than Whites.¹³¹ A 2017 study by the United States Sentencing Commission (“USSC”) found that “Black men who commit the same crimes as White men receive federal prison sentences that are, on average, nearly 20 percent longer.”¹³² Similarly, a 2014 University of Michigan Law School study revealed that, “all other factors being equal, [B]lack offenders were 75 percent more likely to face a charge carrying a mandatory minimum sentence than a White offender who committed the same crime.”¹³³ This racial disparity is also found in a prosecutor’s discretion to drop or decrease charges. A study conducted by Carlos Berdejó at the University of Loyola Law School in 2017 found that White defendants in Wisconsin were 25% more likely than Black defendants to have their criminal charges dropped or reduced to less serious crimes, a phenomenon found also in San Francisco in a study commissioned by the jurisdiction’s district attorney.¹³⁴

Prosecutors enjoy virtually unregulated discretion in the plea-bargaining process that takes place when prosecutors attempt to make deals with defendants in agreements that resolve the case without going to trial.¹³⁵ In practice, the plea negotiation is one-sided and results in an overwhelming number of defendants pleading guilty to crimes they did not commit. Like charging decisions, prosecutors engage in plea negotiations behind closed doors and hold all of the cards, as a prosecutor is not required to extend a plea offer, nor is he required to justify the contents of the offer.¹³⁶ As a part of a plea offer, prosecutors often stack charges, meaning they charge a defendant with multiple crimes stemming from the same set of behavior, a tactic that incentivizes the defendant to plea in an attempt to avoid the harsh sentence threatened if found guilty of all of the included charges.¹³⁷ Research indicates that when federal prosecutors are reviewing defendants with state-based charges seeking opportunities to stack federal charges on top of those state crimes, the state-charged individuals that end up with federal charges stacked upon them are overwhelmingly Black and Latinx.¹³⁸ This immense amount of prosecutorial leverage in

¹³¹ Christopher Ingraham, *Black Men Sentenced to More Time for Committing the Exact Same Crime as a White Person, Study Finds*, WASH. POST (Nov. 16, 2017, 1:33 PM), <https://www.washingtonpost.com/news/wonk/wp/2017/11/16/black-men-sentenced-to-more-time-for-committing-the-exact-same-crime-as-a-white-person-study-finds/>.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ See Timothy Williams, *Black People are Charged at a Higher Rate Than Whites. What if Prosecutors Didn't Know Their Race?*, N.Y. TIMES (June 12, 2019), <https://www.nytimes.com/2019/06/12/us/prosecutor-race-blind-charging.html>.

¹³⁵ See POLICING THE BLACK MAN, *supra* note 128, at 181.

¹³⁶ *See id.*

¹³⁷ *See id.*

¹³⁸ In describing the racism inherent in stacking federal charges:

plea negotiations leads to more than 90% of criminal cases ending in a plea bargain.¹³⁹ The problem, of course, is that this number is not congruent with how many defendants are in fact guilty of the crimes charged. Although the exact number of innocent defendants who plead guilty is difficult to quantify, a study conducted in Houston, Texas, found that between 2014 and 2017, 133 defendants who were exonerated due to the retesting of their drug test samples had each pled guilty to the charge for which they were exonerated.¹⁴⁰ The statistics regarding the criminal justice system's jailing and sentencing practices are equally discouraging. They detail a troubling pattern wherein Black convicts serve longer sentences than Whites for committing the same or similar crimes.¹⁴¹ This theme of racial discrimination also plays out in the context of

To be clear, the decision to charge an already-in-state-custody defendant with federal crimes is not to ensure that the defendant does some time—he already will based on the state crimes charged—but the primary motivation by federal prosecutors in stacking federal crimes upon state charges is to see that defendant's do *more* time, as federal sentencing is often harsher than state sentencing. Those defendants selected to do *more* time are overwhelmingly poor and black. With vast discretion to stack charges against any state defendant regardless of race, federal prosecutors overwhelmingly select African American defendants to stack charges against.

cummings, “*Lord Forgive Me*”, *supra* note 71, at 33–34.

¹³⁹ Fresh Air, ‘*Charged*’ Explains How Prosecutors and Plea Bargains Drive Mass Incarceration, NPR (Apr. 10, 2019, 1:46 PM), <https://www.npr.org/2019/04/10/711654831/charged-explains-how-prosecutors-and-plea-bargains-drive-mass-incarceration>.

¹⁴⁰ Samuel R. Gross, *What We Think, What We Know and What We Think We Know About False Convictions*, 14 OHIO ST. J. CRIM. L. 753, 776–77 (2017).

¹⁴¹ See Fresh Air, *supra* note 139; see also Gross, *supra* note 140, at 779–82 (highlighting racial disparities between black and white defendants for murder, sexual assault, and drug crimes). A 2018 review of academic research found that at nearly all levels of the criminal justice system, “disparities in policing and punishment within the black population along the colour continuum are often comparable to or even exceed disparities between blacks and whites as a whole.” That is, the darker the skin of a black person, the greater the disparity in arrests, charges, conviction rates and sentencing. Ellis P. Monk, *The Color of Punishment: African Americans, Skin Tone, and the Criminal Justice System*, 42 ETHNIC & RACIAL STUD. 1593, 1593–94 (2018), <https://www.tandfonline.com/doi/pdf/10.1080/01419870.2018.1508736>. A survey of data from the U.S. Sentencing Commission in 2017 found that when black men and white men commit the same crime, black men on average receive a sentence almost 20% longer. The research controlled for variables such as age and prior criminal history. Ingraham, *supra* note 131. In Louisiana, which is 32.8% black, a survey sampling half the prisoners serving life without parole for nonviolent offenses found that 91.4% were black. *QuickFacts: Louisiana*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/LA/PST045219> (last visited Apr. 21, 2021); *A Living Death: Life Without Parole for Nonviolent Offenses in Louisiana*, AM. C.L. UNION LA. 5 (2013), https://www.laaclu.org/sites/default/files/field_documents/2013_Report_Life_Without_Parole_Louisiana_1.pdf. A New Jersey study found that 96% of defendants subject to an enhanced sentencing under “drug-free school zone” laws were black or Latino. Nicole D. Porter & Tyler Clemons, *Drug-Free Zone Laws: An Overview of State Policies*, SENT’G PROJECT 5–6 (Dec. 2013), <https://www.sentencingproject.org/wp-content/uploads/2015/12/Drug-Free-Zone-Laws.pdf>. A study published in February 2019 found that when a white person and a black person are convicted of similar crimes, Republican-appointed judges sentence the black person to three months longer in prison. Alma Cohen & Crystal S. Yang, *Judicial Politics and Sentencing Decisions*, 11 AM. ECON. J.: ECON. POL’Y 160, 175 (2019). A 2015 study in the *Journal of Legal Studies* found that black federal judges are about 10 percentage points more likely to be reversed on appeal than white federal judges. The study adjusted for variables like who appointed the judges, judicial circuits, and

bail,¹⁴² pretrial detentions,¹⁴³ and paroling.¹⁴⁴ What is clear from all of this information is that wherever discretion exists in the criminal justice process—in effect, at every stage from arrest to probation decisions—Black defendants are consistently treated more adversely than Whites.

demographic data. Maya Sen, *Is Justice Really Blind? Race and Reversal in US Courts*, 44 J.L. STUD. S187, S188, S195–96 (2015). A 2015 study of first-time felons found that while black men overall received sentences of 270 days longer than white men for similar crimes, the discrepancy between whites and dark-skinned blacks was 400 days. Traci Burch, *Skin Color and the Criminal Justice System: Beyond Black-White Disparities in Sentencing*, 12 J. EMPIRICAL L. STUD. 395, 408 (2015). While black youths make up 14% of the youth population, a 2018 study found that they make up 53.1% of minors transferred to adult court for offenses against persons, even though white and black youths make up nearly an equal percentage of youth charged with such offenses. Jeree Michele Thomas & Mel Wilson, *The Color of Youth Transferred to the Adult Criminal Justice System: Policy & Practice Recommendations*, CAMPAIGN FOR YOUTH JUST. 1 (2018), http://www.campaignforyouthjustice.org/images/pdf/Social_Justice_Brief_Youth_Transfers.Revised_copy_09-18-2018.pdf.

¹⁴² A 2018 study of bail practices in New Orleans found that black people are more likely to be required to pay bail, are more likely to have higher bail, are less likely to be able to afford bail and, therefore, are more likely to remain incarcerated before trial. See Flozell Daniels, Jr. et al., *From Bondage to Bail Bonds: Putting a Price on Freedom in New Orleans*, DATA CTR. 1 (2018), https://s3.amazonaws.com/gnocdc/reports/Daniels_bondage_to_bail_bonds.pdf. A 2018 survey of bail practices in Miami and Philadelphia found that “bail judges are racially biased against black defendants, with substantially more racial bias among both inexperienced and part-time judges. We find suggestive evidence that this racial bias is driven by bail judges relying on inaccurate stereotypes that exaggerate the relative danger of releasing black defendants.” David Arnold et al., *Racial Bias in Bail Decisions*, 133 Q.J. ECON. 1885, 1885 (2018). A 2011 study of bail in five large U.S. counties found that blacks received \$7,000 higher bail than whites for violent crimes, \$13,000 higher for drug crimes, and \$10,000 higher for crimes related to public order. These disparities were calculated after adjusting for the seriousness of the crime, criminal history and other variables. Shawn D. Bushway & Jonah B. Gelbach, *Testing for Racial Discrimination in Bail Setting Using Nonparametric Estimation of a Parametric Model*, SOC. SCI. RSCH. NETWORK 7–10 (2011), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1990324.

¹⁴³ A 2019 review of academic literature by the Prison Policy Initiative found that “[i]n large urban areas, Black felony defendants are over 25% more likely than white defendants to be held pretrial” when charged with similar crimes. Nationally, the review found that young black men were about 50% more likely to be detained pretrial than white defendants, and on average were given bail amounts that were twice as high. Wendy Sawyer, *How Race Impacts Who is Detained Pretrial*, PRISON POL’Y INITIATIVE (Oct. 9, 2019), https://www.prisonpolicy.org/blog/2019/10/09/pre-trial_race/. According to a 2014 study by the Vera Institute of Justice, black and Latino defendants in New York City were more likely to be detained before trial for comparable crimes. They were also more likely to have charges dismissed. The study didn’t look at this, but that may have been because they were more likely to be wrongly arrested in the first place. The study found that race played a role at nearly every step in the process, from arrest to detention to setting bail to sentencing. Besiki Luka Kutateladze & Nancy R. Andiloro, *Prosecution and Racial Justice in New York County – Technical Report ii*, NAT’L INST. OF JUST. 4, 224–25 (2014), <https://nij.ojp.gov/library/publications/prosecution-and-racial-justice-new-york-county-technical-report>.

¹⁴⁴ A 2008 study of parole board decisions found that “Black offenders spent a longer time in prison awaiting parole compared with white offenders, and the racial and ethnic differences are maintained net of legal and individual demographic and community characteristics.” See Beth M. Huebner & Timothy S. Bynum, *The Role of Race and Ethnicity in Parole Decisions*, 46 CRIMINOLOGY 907, 907 (2008). A 2016 New York Times report on thousands of parole hearings found a racial disparity which reflected that fewer than one in six black or Latino men was released after his first parole hearing. Among white men, it was one in four. Michael Winerip et al., *For Blacks Facing Parole in New York State, Signs of a Broken System*, N.Y. TIMES (Dec. 4, 2016), <https://www.nytimes.com/2016/12/04/nyregion/new-york-prisons-inmates-parole-race.html>.

In thinking about the negative encounters that Blacks experience with the police as “traumas,” it is much easier to appreciate the full scope of the personal, familial, and communal impact of the occurrence. Consider that any interaction with the justice system, even for a misdemeanor or arrest without conviction, can have devastating consequences for the individual. More than 60% of formerly incarcerated individuals remain unemployed one year after being released, and those who do find jobs make 40% less in pay annually. Research shows that a criminal record of any sort—including an arrest without conviction—reduced the likelihood of a job offer by almost 50%.¹⁴⁵ The impact is substantially larger for Black job applicants.¹⁴⁶ It must be recognized and acknowledged that at every phase of the criminal justice process, and even after the process has concluded, Black Americans experience traumatic and harmful discrimination.¹⁴⁷

If Meek Mill is critical of U.S. policing in *Trauma*, *Oodles O’Noodles Babies*, and *Otherside of America*, he is withering in his lyrical critique of the powers that be in the criminal justice system. Specifically, Mill calls out, time and again, the Philadelphia trial judge who oversaw his first trial, convicted him, handed down his initial sentence, and handled his probation once freed of jail time: Judge Genece Brinkley.

Got a black judge tryna tear me down[;]
All this jail time probably wear me down¹⁴⁸

Watching a [B]lack woman take my freedom[;]
Almost made me hate my people¹⁴⁹

Mill was blindsided by Judge Brinkley’s automatic deference to Officer Graham’s testimony and what seemed to be a total disregard of his own honest version of events, including an alibi that dozens of community member could

¹⁴⁵ Devah Pager et al., *Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records*, 623 ANNALS AM. ACAD. POL. & SOC. SCI. 195, 199 (2009).

¹⁴⁶ Gary Painter, *How Even a Casual Brush with the Law Can Permanently Mar a Young Man’s Life – Especially if He’s Black*, PBS (Oct. 21, 2020, 3:48 PM), <https://www.pbs.org/newshour/nation/how-even-a-casual-brush-with-the-law-can-permanently-mar-a-young-mans-life-especially-if-hes-black>.

¹⁴⁷ An ACLU report issued in 2018 found that in Miami, black people faced “2.2 times greater rates of arrest, 2.3 times greater rates of pretrial detention, 2.5 times greater rates of conviction, and 2.5 times greater rates of incarceration.” Hispanics were “subject to four times greater rates of arrest, 4.5 times greater rates of pretrial detention, 5.5 times greater rates of conviction, and six times greater rates of incarceration.” Jerry Iannelli, *Miami’s Justice System Widely Discriminates Against Blacks*, *ACLU Report Warns*, MIA. NEW TIMES (July 19, 2018, 11:00 AM), <https://www.miaminewtimes.com/news/miami-justice-system-discriminates-against-blacks-aclu-data-shows-10540037>.

¹⁴⁸ *Oodles-O’ Noodles Babies* song, *supra* note 51; *Oodles-O’ Noodles Babies* lyrics, *supra* note 51.

¹⁴⁹ *Trauma*, *supra* note 1.

attest. Upon seeing Judge Brinkley walk into the courtroom that day, Meek felt hope. “When you get a [B]lack male or female judge,” he said, “some of them can comb through the scenarios because they come from the places we come, and they can say, alright, that’s bullshit.”¹⁵⁰ But his hope soon faded when, during his testimony, it was clear that Judge Brinkley had made up her mind as to who was telling the truth. “She kind of looked at me like I was a liar, like I was lying . . . I kind of felt that she didn’t really care what I was saying. She wasn’t really trying to hear it.”¹⁵¹ In *Oodles O’ Noodles Babies*, Meek describes just how he felt Judge Brinkley viewed him as a criminal defendant—far from innocent until proven guilty:

“When I went to court, the judge said, ‘Meek, you a menace to so-
ciety’[;]
Huh, you said, you would give me a chance, your honor, why
would you lie to me?”¹⁵²

Throughout Meek’s more than ten-year battle with Judge Brinkley and the false police allegations that found him imprisoned and sentenced to years of probation, Brinkley routinely chastised Mill and sentenced him to the harshest possible punishments for very minor probation violations, even remanding him back into prison.¹⁵³ Meek recounts her harsh prison sentence in *Trauma*:

Gave me two to four years like, ‘Fuck your life, meet me in hell’[;]
And let it burn like Lucifer, you look even stupider[;]
Tryna impress them people in power when power abusin’ us[;]
For 44 dollars a hour, you coward they using ya¹⁵⁴

Meek acknowledges the stress and trauma this ongoing saga caused him, as the constant unknown of if and when his probation officer and Judge Brinkley would come knocking, haunted his every day:

“11 years going to court knowing they might keep you [will] drive
you crazy”¹⁵⁵

¹⁵⁰ See *The Trap*, *supra* note 2.

¹⁵¹ *Id.*

¹⁵² *Oodles-O’ Noodles Babies* song, *supra* note 51; *Oodles-O’ Noodles Babies* lyrics, *supra* note 51.

¹⁵³ *The Trap*, *supra* note 2; Solotaroff, *supra* note 113.

¹⁵⁴ *Trauma*, *supra* note 1.

¹⁵⁵ *Id.*

Not only was it nearly impossible to keep a clear mind during this ongoing nightmare for Mill, but Judge Brinkley also made it difficult for him to continue his rap career even in the midst of his massive success and arrival as one of hip hop's elite. In fact, Judge Brinkley and his probation officer made it so difficult for Mill to travel to concerts and appearances that his manager has estimated that Brinkley cost him more than \$30 million dollars in album sales—through the restriction of Mill's promotional tours, concert profits, appearances, and endorsements.¹⁵⁶ Mill astutely recognizes that Brinkley and the system cannot just kill or lynch him as had been historically employed against Black defendants, but that she retained the power to staunch his ability to make a lucrative living and that she, at times, actively and intentionally worked to harm his money making potential:

But they don't kill you now, they just take you out of your deal[;]
Kill your account, liquid money get spilled¹⁵⁷

This rhyme directly references the many times that Judge Brinkley and Mill's probation officer refused to allow him to travel out of Philadelphia to appear at concerts or tour or placed him on house arrest for very minor probation violations—one of which was riding a street bike in New York City—curtailing his ability to earn money, put food on his table, and provide for his family. Once again, the system worked against Mill in not just traumatizing him personally, but now putting additional childhood traumas onto his own children and loved ones—seeing their father, son, brother incarcerated; stemming the flow of profits that could have been earned and set aside for his children's future.

How many times you send me to jail to know that I won't fail?
Invisible shackles on the king, 'cause shit, I'm on bail[;]
I went from selling out arenas, now shit, I'm on sale[;]
Them cold nights startin[g] to feel like hell, uhh[;] . . .
When they label you felon, it's like they tellin[g] you they not
equal[;]
11 years goin[g] to court knowin[g] they might keep you will drive
you crazy[;]
23 hours in a cell, somebody save me[.]¹⁵⁸

Finally, Mill puts Judge Brinkley and the entire criminal justice system on notice that he will not be broken by the outrageous discrimination perpetrated

¹⁵⁶ See Solotaroff, *supra* note 113.

¹⁵⁷ See *Trauma*, *supra* note 1.

¹⁵⁸ See *id.*

upon him, as he was falsely arrested and wrongly imprisoned, “[h]ow many times you send me to jail to know that I won’t fail[;] [i]nvisible shackles on the king, ‘cause shit, I’m on bail.” Near the song’s end, Meek once again honestly and unashamedly, talks about the trauma that going to prison inflicts upon a person. “When they label you a felon, it’s like they tellin[g] you they not equal[;] 11 years goin[g] to court knowin[g] they might keep you will drive you crazy[;] 23 hours in a cell, somebody save me.” Therein, Meek describes the distress of being placed in solitary confinement for 23 hours a day, a devastating trauma.¹⁵⁹ Mill then describes the trauma that probation inflicts as he explains never knowing whether he would be remanded to prison for minor probation violations, based on a questionable and overzealous judge and a hand-picked probation officer that had to be taken off the case for her own questionable behavior toward Meek.¹⁶⁰

Judge Brinkley has since been reprimanded by the Pennsylvania Supreme Court for her actions in cases like Meek Mill’s. In late 2019, the Pennsylvania Supreme Court ordered the emergency release of Maurice Hudson who, like Mill, had spent more than a decade under Judge Brinkley’s supervision and was sentenced by the judge to state prison for technical violations of his probation.¹⁶¹ Meek Mill had taken notice of how eerily similar his case was to Hudson’s, and Mill visited Hudson in jail, paid for his court costs, and made an example of his case on social media proving the need for probation reform.¹⁶² Prior to the Supreme Court’s order, others in the Philadelphia legal community, such as the Philadelphia District Attorney’s Office and the Defender Association, came out in opposition to the prison term Judge Brinkley ordered for Hudson.¹⁶³ Such decisions against judges are rare and are warranted only when there is an “egregious error” that prompts the exercise of extraordinary jurisdiction.¹⁶⁴

Equally powerful is how Mill details his experience with the criminal justice system and how that challenged the way that he not only looked at himself, but how he viewed his own people. Consider how powerful Mill’s negative encounter with law enforcement impacted his perspective—he was driven to the point of hating the essence of his existence, as well as his fellow Black brothers and sisters. “Watching a Black woman take my freedom; almost made me hate my people.” America’s criminal justice system, since inception, has operated to devalue the Black body and to make Blacks hate themselves and their very being. Thankfully, Mill did not succumb to this hate, but other Blacks have and may not be as forgiving and introspective as Meek. While it is imperative

¹⁵⁹ *The Trap*, *supra* note 2.

¹⁶⁰ *See Solotaroff*, *supra* note 113.

¹⁶¹ *See* Samantha Melamed, *Pa. Supreme Court Cites ‘Egregious Error,’ Frees Philly Man Jailed by Meek Mill’s Judge for Probation Violations*, PHILA. INQUIRER (Nov. 22, 2019), <https://www.inquirer.com/news/supreme-court-meek-mill-judge-probation-hudson-freed-20191122.html>.

¹⁶² *See id.*

¹⁶³ *See id.*

¹⁶⁴ *See id.*

to increase the level of diversity within the judiciary, it is equally important that society change the way we think about the administration of justice. Merely adding additional minority faces to the bench will provide some improvement, but to accomplish true reform at a meaningful level, judges must be educated about the impact of traumatic experiences on the people that appear before them. It is this understanding, in conjunction with increased diversity, that will help to remedy the evils Meek Mill highlights.

V. POLICING AND THE CRIMINAL JUSTICE SYSTEMS AS AN ADVERSE CHILDHOOD EXPERIENCE FOR AFRICAN AMERICAN CHILDREN

A. CHILDHOOD AND ADOLESCENT POLICE EXPOSURE

Even though the clinical literature around ACEs has begun to recognize community violence and discrimination as an adverse childhood experience under the category of “social disadvantage,” the specific treatment of police interaction with minority communities and its causal relationship to toxic stress is scarce.¹⁶⁵ Notably, the National Centers for Disease Control and Prevention (“CDC”), which provides an extensive online catalogue of ACEs-related research and resources, has published guidance to help states and communities work toward developing and implementing evidence-based strategies for preventing ACEs.¹⁶⁶ The six recommendations in its *Preventing Adverse Childhood Experiences* report urges policymakers to “Promote Social Norms That Protect Against Violence and Adversity.” This recommendation focuses on how families and communities can improve outcomes by encouraging positive parenting strategies; promoting healthy norms around gender, masculinity, and violence; reducing stigma often associated with help-seeking; and enhancing connectedness.¹⁶⁷ Nowhere does the report acknowledge the pervasiveness of the over-policing of Black and Brown people and the all-too-frequent violent

¹⁶⁵ A few recent publications do connect police interactions and criminal justice involvement with increased anxiety and other negative mental health outcomes. See Rhea W. Boyd et al., *Police, Equity, and Child Health*, 137 PEDIATRICS PERSP. 1, 1–3 (2016), <https://pediatrics.aappublications.org/content/137/3/e20152711>. See generally Amanda Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men*, 104 AM. J. PUB. HEALTH 2321 (2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4232139/>; Catherine d. P. Duarte et al., *Policy Determinants of Inequitable Exposure to the Criminal Legal System and Their Health Consequences Among Young People*, 110 AM. J. PUB. HEALTH 43 (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6987944/#bib8>; Ram Sundaresh et al., *Exposure to the U.S. Criminal Legal System and Well-Being: A 2018 Cross-Sectional Study*, 110 AM. J. PUB. HEALTH 116 (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6987921/>.

¹⁶⁶ See *Adverse Childhood Experiences (ACEs)*, CDC, <https://www.cdc.gov/violenceprevention/aces/> (last visited Apr. 21, 2021); see generally *Preventing Adverse Childhood Experiences (ACEs): Leveraging the Best Available Evidence*, CDC (2019), <https://www.cdc.gov/violenceprevention/pdf/preventingACES.pdf> [hereinafter *Leveraging the Best Available Evidence*] (explaining how evidence-based strategies can prevent ACEs).

¹⁶⁷ See *Leveraging the Best Available Evidence*, *supra* note 166, at 13.

outcomes of those encounters. Instead, the report urges the implementation of strategies that require the buy-in and labor of those oppressed by the structures that generate conditions ripe for trauma rather than interrogating how those structures must be changed.

At least some studies have recently begun to address the obvious connection. A 2016 article published in *Pediatrics* on police exposure and child health provides salient analysis of three different types of police exposure that the authors assert negatively impact children and adolescents: (1) exposure to racial profiling; (2) exposure to police violence; and (3) exposure to caregiver encounters with police.¹⁶⁸

With regard to racial profiling, policies that increase the likelihood of police contact with the public for minor infractions or “perceived criminality”—often a feature of implicit bias—create conditions for unduly hostile encounters between police and young men of color, including juveniles. The authors note that the cumulative impact of such encounters “may lead to adverse adult health outcomes.”¹⁶⁹

When it comes to exposure to police violence, the authors note that not only do direct victims of police violence suffer traumatic outcomes, youth witnesses of such violence often experience symptoms of PTSD, substance abuse disorders, diminished school performance, depression, poorer health, and higher incidence of school disciplinary actions.¹⁷⁰

The third area of exposure deals with caregiver encounters with police that are not witnessed, but which create tragic fallout for families whose loved one is killed, injured, or incarcerated as a result of a police encounter. Without the social and economic support of the affected caregiver, the family and community both suffer from the void created by that caregiver’s absence.¹⁷¹

When a police officer murders a young Black man, a Black child experiences an ACE, as the victim of the killing could be a close friend or family member. When a police officer shoots rounds into the body of an unarmed Black man, Black children are watching, whether it is in person, on the news, or on social media, and those children experience an ACE—community violence. These are not merely hypothetical situations—we have all seen it. When Officer Rusten Sheskey of the Kenosha, Wisconsin, Police Department shot at Jacob Blake, an unarmed Black man, repeatedly in the back, Blake’s sons, ages

¹⁶⁸ Notably, the article focuses its recommendations on interventions for clinicians, researchers, and community advocates to consider. See Boyd et al., *supra* note 165, at 2–3.

¹⁶⁹ See *id.* at 2.

¹⁷⁰ See *id.* (explaining how witnessing police violence, even indirectly, can negatively impact the mental health of black Americans); see also Jacob Bor et al., *Police Killings and Their Spillover Effects on the Mental Health of Black Americans: A Population-Based, Quasi-Experimental Study*, 392 LANCET 302, 303 (2018), <https://www.thelancet.com/action/showPdf?pii=S0140-6736%2818%2931130-9> (“Police killings of unarmed black Americans might compromise mental health among other black Americans.”).

¹⁷¹ See Boyd et al., *supra* note 165, at 2.

8, 5, and 3, watched screaming from the backseat.¹⁷² When Officer Jeronimo Yanez of the St. Anthony, Minnesota, Police Department, shot and killed Philando Castile—a Black man legally in possession of a firearm—during a routine traffic stop, Castile’s girlfriend’s four-year-old daughter was in the backseat.¹⁷³

The unfortunate truth is that Black children are not relegated to being witnesses of these tense, negative, and often violent interactions with law enforcement. Far too often they are the very focus. Tamir Rice was just 12 years old when he was murdered by Officer Timothy Loehmann for playing in a park.¹⁷⁴ When Tamir’s 14-year-old sister ran up to the scene minutes later, the officers tackled her to the ground and put her in handcuffs.¹⁷⁵ Laquan McDonald was 17 years old when he was shot by police sixteen times when police dashcam footage showed him walking away from the squad car.¹⁷⁶ Angelo Crooms was just 16 years old and Sincere Pierce was 18 years old when both were shot and killed by Sheriff Deputy Jafet Santiago-Miranda as they drove slowly down the street, just blocks from their homes.¹⁷⁷

B. CRIMINAL JUSTICE SYSTEM INVOLVEMENT AND MASS INCARCERATION

Parental incarceration has, since the original CDC-Kaiser Permanente study, been considered one of the ten primary adverse childhood experiences that directly contribute to the myriad of poor health outcomes and earlier life expectancy described in Section I. It has long been known that children are traumatized by the experience of being alienated from a parent whose love, care, and financial support they are deprived of.¹⁷⁸ Parental incarceration is strongly associated with increased risk for depression, post-traumatic stress disorder,

¹⁷² Michelle Mark, *A Psychiatrist Explains How Jacob Blake’s 3 Sons Seeing Police Shoot Their Father Could Affect Them for Years to Come*, INSIDER (Aug. 26, 2020, 5:26 PM), <https://www.insider.com/jacob-blake-3-sons-saw-shooting-psychiatrist-explains-trauma-2020-8>.

¹⁷³ Mitch Smith, *Philando Castile’s Girlfriend, Diamond Reynolds, Reaches \$800,000 Settlement*, N.Y. TIMES (Nov. 29, 2017), <https://www.nytimes.com/2017/11/29/us/philando-castile-diamond-reynolds-settlement.html>.

¹⁷⁴ Shaila Dewan & Richard A. Oppel, Jr., *In Tamir Rice Case, Many Errors by Cleveland Police, Then a Fatal One*, N.Y. TIMES (Jan. 22, 2015), <https://www.nytimes.com/2015/01/23/us/in-tamir-rice-shooting-in-cleveland-many-errors-by-police-then-a-fatal-one.html>.

¹⁷⁵ *Id.*

¹⁷⁶ See Mitch Smith, *Chicago Police Officer Defends His Shooting of Laquan McDonald*, N.Y. TIMES (Oct. 2, 2018), <https://www.nytimes.com/2018/10/02/us/jason-van-dyke-chicago-laquan.html>.

¹⁷⁷ See Johnny Diaz & Michael Levenson, *Fatal Shooting of 2 Black Teenagers by Florida Deputy Is Under Investigation*, N.Y. TIMES (Nov. 22, 2020), <https://www.nytimes.com/2020/11/22/us/angelo-crooms-benjamin-crump-video.html> (describing how the officer “moved closer to get a better shot” and how Angelo Crooms and Sincere Pierce were killed within three minutes of leaving home).

¹⁷⁸ See generally Gloria Huei-Jong Graf et al., *Critical Periods in Child Development and the Transition to Adulthood*, JAMA NETWORK (Jan. 7, 2021), <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2774702> (measuring the effect of adverse childhood experiences on adolescents).

anxiety, asthma, and migraines.¹⁷⁹ The incarcerated parent's absence also creates a void that restricts access to essential resources, including that parent's income.¹⁸⁰ Such deprivation is all the more cruel when imprisonment is not the least restrictive remedy and serves no meaningful rehabilitative purpose.¹⁸¹

The sheer scale of the trauma wrought by incarceration in America is a direct result of the frequency with which our criminal justice system locks people up. The U.S. incarcerates individuals at rates that are entirely unprecedented in the modern world, with approximately 700 prisoners per 100,000 residents.¹⁸² Individual states in America incarcerate more individuals per capita than entire countries,¹⁸³ notwithstanding similar rates of criminality.¹⁸⁴

The state supervision that follows incarceration is a significant ongoing contributor to re-arrest for technical violations. The “badge of inferiority” that accompanies felons who have paid their debt to society imposes an effective life sentence, in large part because of barriers they face in obtaining employment, housing, federal cash assistance, student loans, credit, food stamps, voting access, and community stability.¹⁸⁵

In addition, it is important to note the causal role that ACEs can play in placing children and youth who experience such trauma at greater risk for subsequent criminal justice involvement.¹⁸⁶ Studies on the prevalence of ACEs among adult incarcerated populations bear out the likely existence of a cruel, self-perpetuating cycle of trauma and incarceration that passes from generation to generation.¹⁸⁷ “If having an incarcerated parent was classified as a chronic health condition,” say researchers Andrew Axelson and Samantha Boch, “it would be the second most prevalent chronic condition” for children under the

¹⁷⁹ See Boyd et al., *supra* note 165, at 2.

¹⁸⁰ See *id.* (enumerating other essential resources such as public housing, federal cash assistance, and food stamps); see also *Toxic Stress*, *supra* note 33, at 13–15 (describing how access to essential resources is vital for social integration because without it children experience residential instability and other negative experiences).

¹⁸¹ See *Toxic Stress*, *supra* note 33, at 6, 15 (“prison culture develops tendencies toward criminal behavior in many of those who . . . had few such tendencies before”).

¹⁸² *Id.* at 4.

¹⁸³ *World Incarceration Rates if Every U.S. State Were A Country*, PRISON POL’Y INITIATIVE, <https://www.prisonpolicy.org/graphs/2018.html> (last visited Apr. 21, 2021).

¹⁸⁴ See *Crime Rate by Country 2021*, WORLD POPULATION REV., <https://worldpopulationreview.com/country-rankings/crime-rate-by-country> (last visited Apr. 21, 2021) (listing each country’s crime rate with France one place higher than the United States, and Iraq one place lower than the United States).

¹⁸⁵ ALEXANDER, *supra* note 81, at 142–43; see Boyd et al., *supra* note 165, at 2 (listing resources that ex-felon caregivers have difficulty obtaining and offering solutions how to best guide the child through adverse childhood experiences); see generally Graf et al., *supra* note 178 (studying the effect of adverse childhood experiences to suggest early intervention and other steps to mitigate a negative impact on adulthood).

¹⁸⁶ See *Toxic Stress*, *supra* note 33, at 7; see also Graf et al., *supra* note 178, at 2.

¹⁸⁷ See *Toxic Stress*, *supra* note 33, at 11–12; see also Kat Ford et al., *Understanding the Prevalence of Adverse Childhood Experiences (ACEs) in a Male Offender Population in Wales: The Prisoner ACE Study*, PUB. HEALTH WALES NHS TRUST 20 (2019), <https://phw.nhs.wales/files/aces/the-prisoner-ace-survey>.

age of 18 in the United States.¹⁸⁸ The appalling disparities in the policing, arrest, and incarceration of persons of color as discussed in Section III—which are a central feature of the epidemic of mass incarceration—inflict massively disproportionate trauma on Black children, their families, and their communities.

While the majority of ACEs research regarding the role of parental incarceration plays in impacting health outcomes at the individual level, the overwhelmingly obvious role that mass incarceration plays in destroying entire communities of color must be factored into considerations of how this particular ACE is permanently devastating the health and life opportunities of Black and Brown Americans at a scale that almost certainly accounts for a significant source of long-recognized racial disparities at a population health level.

Although this article focuses on Meek Mill's childhood trauma and the trauma perpetuated on him by police and the criminal justice system, his incarceration has caused trauma in the lives of others as well—his children. Mill is the father of three sons and has been incarcerated during their young lives.¹⁸⁹ Thus, Meek's sons, despite their father's massive commercial success and status as one of hip hop's most recognizable names, have experienced the ACE of parental incarceration. Mill himself struggled being away from his children while incarcerated and often worried about the negative impact it would ultimately have on them, praying that his sons would not fall prey to the streets and the system that put Meek in a tailspin. However, when a parent is incarcerated, there is a level of helplessness, as someone locked in a cell cannot protect and guide his children.

And that's your phone time, if you ain't got no money, you ain't
online[;]

Hey call your son, call your daughter[,] just to wish them more
prime[;]

*Oh God, don't let the streets get a hold of 'em*¹⁹⁰

Mill is also conscious that mass incarceration is a cycle that permeates down through generations of families and impacts entire communities. In fact, research indicates that the children of incarcerated parents are, on average, six

¹⁸⁸ Andrew Axelson, *A Hidden Epidemic: Parental Incarceration and What to Do When It Affects Your Patients*, PEDIATRIC NATIONWIDE (Sept. 18, 2019), <https://pediatricsnationwide.org/2019/09/18/a-hidden-epidemic-parental-incarceration-and-what-to-do-when-it-affects-your-patients>.

¹⁸⁹ John R. Kennedy, *Meek Mill Welcomes His Third Son*, IHEARTRADIO (May 7, 2020, 9:12 AM), <https://www.iheartradio.ca/news/meek-mill-welcomes-his-third-son-1.12352174>.

¹⁹⁰ *Trauma*, *supra* note 1 (emphasis added).

times more likely to become incarcerated themselves.¹⁹¹ Meek didn't conduct research—he saw it with his own eyes:

Lot of daddies goin' back and forth out of jail[;]
Lot of sons growin' up and repeating them.¹⁹²

The devastating consequences that Black Americans face when interfacing with both law enforcement and officers of the court are clear. Meek Mill describes these consequences in unapologetic clarity. What seems clear, is that emerging health care research must take seriously the specific trauma that the criminal justice system from jump (arrest) to end (probation/parole) places squarely on Black and minority children and adolescents. These traumas should be recognized as an Adverse Childhood Experience and studied as such. The question as to whether something can be done to eliminate this particular trauma is the challenge of this emerging generation, and Meek Mill provides guidance here too.

VI. SOLUTIONS AND REFORMS

There is an emerging and important body of clinical research that recognizes the causal link between the policing of minority communities and toxic stress, both for adults and for the children who are either exposed or are the direct subjects of the encounters. Likewise, the research linking ACEs with higher risk of justice system involvement and the traumatic fallout for incarcerated individuals, their families, and the community, is growing. As a social determinant of health, trauma cannot be prevented or fully addressed by the medical community. Indeed, if this crisis is to be addressed and mitigated, the legal system must play a key role in developing, researching, and implementing interventions to prevent trauma and build resilience for youth and communities that have experienced trauma. The need for intentional and radical reform is clear. Policing must be reformed. Prosecutorial discretion must be cabined and made fair. Mass incarceration must be ended, and health care must be prioritized for those who suffer trauma and mental illness, much of which stems from ACEs. The War on Drugs must be unwound. There is much to do, but the hard work must be done.

Once again, Meek Mill is illuminating a path forward. Mill is taking his story—his experience, his trauma—and turning it into positive action. In enduring the years of the constant trauma and cruelty levied at him by the draconian and discriminatory criminal justice system, Meek has vowed to work for reforms so that no one, particularly not poor young Black men, have to go

¹⁹¹ See Eric Martin, *Hidden Consequences: The Impact of Incarceration on Dependent Children*, 278 NAT'L INST. JUST. 1, 2 (2017), <https://www.ojp.gov/pdffiles1/nij/250349.pdf>.

¹⁹² *Oodles-O' Noodles Babies* song, *supra* note 51; *Oodles-O' Noodles Babies* lyrics, *supra* note 51.

through the all too familiar cycle that enveloped him. Mill has recently stated, “I’m dedicating my life to making the prison system more humane. I won’t stop.”¹⁹³

January 2021 marks the two-year anniversary of the founding of the REFORM Alliance, the bipartisan criminal justice reform organization formed by business and philanthropic leaders including Jay-Z, New England Patriots owner Robert Kraft, Mill’s friend and Philadelphia 76ers co-owner, Michael Rubin, and the rapper himself, Meek Mill.¹⁹⁴ The REFORM Alliance is focused on pushing for reforms in policing and the criminal justice system, but inspired by Mill’s experience in the belly of the system, REFORM has spent much of its efforts so far in fighting for probation reform.¹⁹⁵ In just over two years, the Alliance has celebrated several substantial wins. REFORM has helped pass legislation in states that have reduced probation populations and caseloads, prevented the imprisonment of probationers for technical violations, and reformed reporting practices to allow probationers to remain at work or to care for their children while reporting.¹⁹⁶

The REFORM Alliance was involved in California’s legislation AB 1950, widely considered to be the most transformative probation reform in the nation, that will decrease the state’s probation population by 33% over the next five years and prevent over 48,000 prison admissions due to technical probation violations.¹⁹⁷ In the first week of 2021, Michigan passed a set of REFORM supported bills, SB 1048, SB 1050, and SB 1051, “that will revamp the state’s probation and parole system” by reducing adult felony probation sentences from five to three years, preventing endless extensions on misdemeanor and felony probation terms, limiting jail sanctions for technical probation violations, and requiring parole supervision terms to be tailored to a person’s individualized risks and needs.¹⁹⁸ With these reforms in place, Michigan is slated to lower its overall caseloads by 8.4%.

REFORM’s impact has been significant on a national scale, but Mill will always keep his eye on Philadelphia. In December 2020, just in time for the holidays, Meek partnered with REFORM, Puma, GoPuff, and DocuVault and arranged deliveries of toys, clothes, and Xbox consoles to 35 Philadelphia

¹⁹³ Mike Freeman, *Opinion: Meek Mill, Jay-Z and Other Big Names in Sports Fight for Criminal Justice Reform*, USA TODAY (Jan. 27, 2021, 7:07 AM), <https://www.usatoday.com/story/sports/columnist/mike-freeman/2021/01/26/meek-mill-jay-z-sports-owners-fight-criminal-justice-reform/6694555002>.

¹⁹⁴ *See id.*

¹⁹⁵ *See id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ Tara C. Mahadevan, *Michigan Passes Set of Prison Reform Laws Backed by Meek Mill, Jay-Z, and Michel Rubin’s REFORM Alliance*, YAHOO! ENT. (Jan. 5, 2021), <https://www.yahoo.com/entertainment/michigan-passes-set-prison-reform-193521553.html>.

families impacted by the criminal justice system.¹⁹⁹ Not only did the underprivileged families receive everything from iPads to baby clothes, but Mill also donated \$30,000 to the Philadelphia chapter of the volunteer organization Twelve Days of Christmas, an organization that helps families make it through the holidays.²⁰⁰ Mill's donation went directly to 30 families across North Philadelphia, including families that live near Meek's old school, James G. Blaine Elementary.²⁰¹ Mill reported "It's been a tough year for all of us, but through all the ups and downs, I'll always do my part to support and give back to the Philly community that raised me."²⁰² Meek continued, "I remember not having much growing up, so it's important to use my platform to give back, especially to the families trying to provide for their kids while also dealing with the criminal justice system."²⁰³

Meek Mill is looking out for those families traumatized by U.S. policing and the system that continues to do grave injury to the lives of Black families. Now is the time for the law to step up and provide equality and safety for those children and their families.

CONCLUSION

Meek Mill's creative flow not only serves as a tool in advancing this article's argument that the law must newly consider traumatic experiences that Black children and families encounter with law enforcement and the criminal justice system as ACEs, but his current activism and initiative advances a compelling solution for addressing the concerns highlighted herein. Meek Mill's trauma, captured in creative art for the world to encounter, is merely a glimpse into the world that exists for minority children throughout the United States. Meek Mill's trauma, both experienced as a child raised in poverty and through wrongful arrest and imprisonment as a teenaged boy, is inexcusable. That his experience is still played out daily throughout the United States today is reprehensible. Surely the time has come to bring the necessary reforms to end childhood trauma, particularly that inflicted upon Black and minority children by U.S. law enforcement and the criminal justice system.

¹⁹⁹ Joe Price, *Meek Mill Gifts Toys, Clothes, and Game Consoles to 35 Families in Philly Impacted by Criminal Justice System*, YAHOO! NEWS (Dec. 23, 2020), <https://www.yahoo.com/entertainment/meek-mill-gifts-toys-clothes-202527992.html>.

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.*