

# Where Do We Go From Here: Memphis and the Legacy of Dr. King’s Unfinished Work

Demetria Frank\* & Daniel Kiel\*\*

I. INTRODUCTION .....	1
A. <i>The Symbols</i> .....	2
B. <i>The Reality</i> .....	4
II. THE TOPICS .....	6
A. <i>Political Participation</i> .....	6
B. <i>Education</i> .....	9
C. <i>Criminal Justice</i> .....	13
D. <i>Public Health and Housing</i> .....	19
III. CONTEMPORARY ACTIVISM IN MEMPHIS .....	22
IV. CLOSING .....	26

## I. INTRODUCTION

The question we consider in this Essay is the question posed in Dr. Martin Luther King, Jr.’s final book: *Where Do We Go From*

---

\* Associate Professor and Director of Diversity & Inclusion, The University of Memphis Cecil C. Humphreys School of Law. Thank you to the many Memphians who consistently put themselves at risk in the name of progress and social justice. I also would like to thank my co-author and colleague Daniel Kiel who has committed to shining light into the dark places in our past and present and has made addressing educational inequity in Memphis the touchstone of his academic career.

\*\* Professor of Law, The University of Memphis Cecil C. Humphreys School of Law. Special thanks to the many individuals and organizations—too many to list—who assisted in making the MLK50 Symposium successful and to the staff members of *The University of Memphis Law Review* for embracing the opportunity to convert the energy and ideas of the symposium into something permanent. Extra special thanks to my co-author and colleague, Demetria Frank, whose passion for our community, insights into its shortcomings, and creativity in generating solutions are consistently inspiring.

*Here?* However, whereas Dr. King's question identified *here* as a moment within the civil rights movement, we consider *here* not only as a moment but also as a place. *Here* is 2018, and *here* is Memphis, Tennessee. Given what has unfolded in a half century since Dr. King's tragic visit to Memphis in 1968 and where this community sits in 2018, the importance of the question both as to this moment in time and as to this place is undeniable. Considering where we have come from, where we are, and, crucially, where we go from here, this Essay highlights several of the areas in which Dr. King's activism was most pronounced and the ways in which those topics remain of great relevance within Memphis.

### *A. The Symbols*

Commemorating the 1968 Memphis Sanitation Workers' Strike, the confrontation that brought Dr. Martin Luther King, Jr., to the site of his tragic assassination, was bound to be complex. The series of half-century commemorations of civil rights movement events that had been unfolding at least since the commemorations of *Brown v. Board of Education* in 2004 each had to thread a needle between celebrating victories of the past while acknowledging shortfalls of the present and encouraging a continuing struggle into the future. But the commemorations in Memphis would face the added challenge of identifying a victory powerful enough to counterbalance the immensity of the loss of Dr. King. The difficulty was even greater because, both symbolically and substantively, Memphis provided reminders of the incompleteness of the work.

In the months leading up to the commemoration events of April 2018, several of these symbolic reminders were at the center of public discussion. Atop a tall pedestal in the center of a lush park less than 100 yards north of The University of Memphis Cecil C. Humphreys School of Law loomed the figure of Jefferson Davis, the lone president of the Confederate States of America. Several miles away, an equestrian statue of Nathan Bedford Forrest, Confederate general and Ku Klux Klan founder, loomed over another City park adjacent to, improbably, Union Avenue. To some, perhaps, the statues had become unnoticed parts of the scenery, but to many others in this majority African American city, the statues and their origins remained hurt-

ful reminders of a history of intolerance and bigotry.<sup>1</sup> With April 2018 approaching as a moment when the eyes of the world would return to Memphis a half century after those eyes had seen Dr. King lying on the balcony of the Lorraine Motel, staining not only the balcony but also the community where the blood was spilled, the presence of the statues was becoming increasingly inconvenient.<sup>2</sup>

Among the commemorations of April 2018 was the gathering that led thought leaders from across the country to consider that question posed in Dr. King's last book, "Where do we go from here?" Many of the participants have contributed ideas to this Law Review book with focus on topics central to Dr. King's work: poverty, voting rights, criminal justice, and activism. Implicit in the framing of the question was the fact that there remains an immense amount of work to be done on these fronts. That reality—the substantive incompleteness of the movement Dr. King led—is difficult to deny in Memphis.

During the fall of 2017, the looming problem was that the commemorations threatened to be overwhelmed not only with the substantive shortfalls of the present but also with the symbols of the past. The continued presence of the Confederate president in a park would only amplify the discord between commemoration and reality. Local activists had been mounting pressure on City leaders to tear the statues down for months, and the closer April 2018 approached, the more intense the pressure on City leaders became.<sup>3</sup>

---

1. The Forrest statue was erected near the turn of the century in an effort to elevate the community's Confederate credentials. See WANDA RUSHING, *MEMPHIS AND THE PARADOX OF PLACE* 36–48 (2009). The Jefferson Davis statue was erected in 1964 amidst the social changes of the desegregation era. John Branston, *A Short History of the Jefferson Davis Statue in Confederate Park*, MEM. FLYER (Feb. 8, 2013, 1:34 PM), <https://www.memphisflyer.com/CityBeatBlog/archives/2013/02/08/a-short-history-of-the-jefferson-davis-statue-in-confederate-park>.

2. See Ryan Poe, *Activists: Memphis Confederate Statues Need to Go by 50th Anniversary of MLK Jr.'s Death*, COM. APPEAL (Aug. 16, 2017, 2:10 PM), <https://www.commercialappeal.com/story/news/government/city/2017/08/16/activist-s-memphis-confederate-statues-need-go-mlk-50/572414001/>.

3. In fall 2017, The University of Memphis Cecil C. Humphreys School of Law hosted a panel to discuss the various legal options available to City leaders for removing the statues. Following the panel, a small student-led group marched to the nearby Jefferson Davis statue and held a vigil. See *SNAPSHOT: Law Students, Citi-*

Of course, the presence or absence of statues of Confederate presidents and generals would not change the substantive reality in Memphis in 2018, but these statues were powerful symbols of a failure to progress, both on the ideals represented in Dr. King's work and on the practical demands of the strikers who brought him here. Unlike the facts on the ground, the statues were something that could, in theory, be removed. Indeed, before the calendar turned to 2018, the statues were gone, the controversial result of selling the City parks to a local non-profit group that quickly removed the Davis and Forrest statues.<sup>4</sup> With their removal, at least one embarrassment could be avoided when the eyes of the world returned. But even with these symbols down, a discouraging reality remained.

### B. The Reality

Poverty brought Dr. King to Memphis. As he geared up the Poor People's Campaign and shifted his emphasis from racial discrimination to economic inequality, Dr. King was drawn to the plight of Memphis sanitation workers who were standing up for recognition of their dignity and the value of their labor. The specific issue was the right of the sanitation workers to form a union to advocate for better pay and working conditions, and the specific trigger was a truck malfunction that resulted in the gruesome deaths of two sanitation workers, but the ingredients for a movement had long been present. Those ingredients included racialized economic inequality and substantial numbers of Memphians, particularly Black Memphians, living in poverty. They also included the legacy of legalized racial segregation and continued segregated realities in the community's neighborhoods, schools, and lived experiences. The City's power dynamic was racialized as well, represented by the juxtaposition of the Black sanitation workers lobbying the City's White power structure.<sup>5</sup>

---

zens Protest, DAILY NEWS (Oct. 4, 2017), <https://www.memphisdailynews.com/news/2017/oct/4/snapshot/>.

4. Daniel Connolly & Vivian Wang, *Confederate Statues in Memphis Are Removed After City Council Vote*, N.Y. TIMES (Dec. 20, 2017), <https://www.nytimes.com/2017/12/20/us/statue-memphis-removed.html>.

5. MICHAEL K. HONEY, GOING DOWN JERICHO ROAD: THE MEMPHIS STRIKE, MARTIN LUTHER KING'S LAST CAMPAIGN 7-22 (2007).

Though the strike was resolved several weeks after Dr. King's assassination—with a raise of fifteen cents for the sanitation workers and recognition of the union<sup>6</sup>—these ingredients remained long after. As the commemoration events of 2018 approached, poverty and economic inequality stubbornly stood at the center of virtually every local challenge. Even the striking workers themselves remained economically vulnerable, several of them still on the job after a half century and uncertain when they might be able to retire.<sup>7</sup> Like the confederate statues, this fact revealed a lack of progress, and the City provided \$50,000 grants to the surviving workers in 2017 as salve for a lifetime of working poverty.<sup>8</sup>

Just as they had in 1968, the economic circumstances of the sanitation workers symbolized deeper currents in the community. To document the extent of Memphis's poverty in 2018, the National Civil Rights Museum commissioned University of Memphis social work professor Elena Delavega to author *The Poverty Report: Memphis Since MLK*.<sup>9</sup> According to the report, 16% of Shelby County residents live in poverty, a figure that is largely unchanged since 1970.<sup>10</sup> Those figures place Memphis among the metropolitan areas with the highest poverty levels.<sup>11</sup>

---

6. JOAN TURNER BEIFUSS, *AT THE RIVER I STAND* 453, 456–57 (St. Luke's Press 2d ed. 1990) (1985).

7. Alan Blinder, *Decades Later, Memphis to Compensate Black Sanitation Strikers of 1968*, N.Y. TIMES (July 25, 2017), <https://www.nytimes.com/2017/07/25/us/memphis-sanitation-workers-strike-grants.html>.

8. Ryan Poe, *For MLK50, Memphis Pledges \$900K to Surviving 1968 Sanitation Strikers*, COM. APPEAL (July 6, 2017, 12:30 PM), <https://www.commercialappeal.com/story/news/government/city/2017/07/06/memphis-offers-grants-retirement-make-sanitation-workers-whole/454852001/>.

9. ELENA DELAVEGA, NAT'L CIVIL RIGHTS MUSEUM, *THE POVERTY REPORT: MEMPHIS SINCE MLK* (2018) [hereinafter *POVERTY REPORT*].

10. *Id.* at 9.

11. See, e.g., Jennifer Pignolet, *Memphis Area No Longer No. 1 in Overall, Childhood Poverty*, COM. APPEAL (Sept. 13, 2018, 1:52 PM), <https://www.commercialappeal.com/story/news/local/2018/09/13/memphis-area-no-longer-1-overall-childhood-poverty/1291444002/> (noting Memphis is now second in both overall and childhood poverty); Samuel Stebbins, *Despite Overall Sustained GDP Growth in US, Some Cities Still Hit Hard by Extreme Poverty*, USA TODAY (Apr. 23, 2018, 9:00 AM),

And though the sanitation strike was primarily a movement fighting against poverty, it was not a coincidence that all the striking workers were African American. In Memphis, poverty cannot be disentangled from race, and *The Poverty Report* made this point as well. For example, while the county's overall poverty rate is 16%, the figure for African Americans is 24.3%, more than four times higher than for whites (5.5%).<sup>12</sup> Although the African American poverty rate has decreased since 1970 (when it was 36.9%),<sup>13</sup> these persistent disparities demonstrate that Dr. King's commitment to economic justice was well founded.

These statistics regarding poverty and economic and racial inequality have become a defining feature of Memphis in 2018, and they are worth exploring in two divergent directions. First, they are results of a community structured for inequality that has yet to substantially reform inequality-producing systems, such as in education, housing, or criminal justice. Second, they make reform work of those systems even more challenging because of the disadvantages poverty imposes on people. In the following sections, we will consider several of the topics of the MLK50 Symposium from these two perspectives, focusing on *here*: Memphis.

## II. THE TOPICS

### A. Political Participation

Henry Loeb, the segregationist Memphis mayor who confronted the leadership of the Sanitation Workers Strike in 1968, received less than 2% of the African American vote in the 1967 election.<sup>14</sup> Though African American political participation had been greater in Memphis than in much of the South, it had largely been controlled through the machine politics of E.H. Crump.<sup>15</sup> By the end of the 1960s, the Crump machine was eroding, giving way to an emerging

---

<https://www.usatoday.com/story/money/economy/2018/04/23/cities-hit-hardest-extreme-poverty/528514002/>.

12. POVERTY REPORT, *supra* note 9, at 9 tbl.3.

13. *Id.*

14. BEIFUSS, *supra* note 6, at 71.

15. MARCUS D. POHLMANN & MICHAEL P. KIRBY, RACIAL POLITICS AT THE CROSSROADS: MEMPHIS ELECTS DR. W. W. HERENTON 62–63 (1996).

racially polarized political landscape. The City's demographics were shifting as well, so that by 1990, African Americans made up a majority of registered voters; these shifts, combined with litigation-induced changes to citywide elections, contributed to the election of the City's first African American mayor in 1991.<sup>16</sup> Yet more than a quarter-century later, there remain structural elements that diminish the power of African American voters in a city that was 63.6% African American in 2017.<sup>17</sup>

First, political power resides not only in the City. Memphis and Shelby County operate a dual form of government. There is both a City mayor and a County mayor, a City council and a County commission, a City police chief and a County sheriff. Though Memphis makes up most of Shelby County in terms of population (approximately 70.5%), economic power has been shifting out of the city for decades.<sup>18</sup> By 2012, less than 60% of Shelby County's assessed property wealth was situated within Memphis's boundaries.<sup>19</sup> And the city-county duality has both racial and economic characteristics. For example, while Memphis is 63.6% African American (and the County as a whole is 54.1%), the areas of Shelby County outside of Memphis are only 32.3% African American.<sup>20</sup> Similarly, a disproportionate number of individuals in poverty reside within Memphis's city lines—according to the U.S. Census definition, 27.6% of Memphis

---

16. *Id.* at 74–90, 101 fig.16.

17. *QuickFacts Memphis, Tennessee*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/memphiscitytennessee/PST045217> (last visited Nov. 18, 2018) [hereinafter *Memphis Census QuickFacts*].

18. For population information compare *Memphis Census QuickFacts*, *supra* note 17, with *QuickFacts Shelby County, Tennessee*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/shelbycountytennessee,memphiscitytennessee/PST045217> (last visited Nov. 18, 2018) [hereinafter *Shelby County Census QuickFacts*].

19. Charles A. Santo, *Urban-Suburban Disparity and Geographic Stratification: A Context for Fiscal Conflict*, in RACE, ECONOMICS, AND THE POLITICS OF EDUCATIONAL CHANGE: THE DYNAMICS OF SCHOOL DISTRICT CONSOLIDATION IN SHELBY COUNTY, TENNESSEE 176 tbl.6.4, 177 tbl.6.5 (John M. Amis & Paul M. Wright eds., 2018).

20. *Memphis Census QuickFacts*, *supra* note 17; *Shelby County Census QuickFacts*, *supra* note 18.

residents live in poverty, compared to only 5.2% of Shelby County residents outside of Memphis.<sup>21</sup>

Efforts to address what has been criticized as an inefficient system through consolidation into a metropolitan government have failed, largely along racial lines and due to provisions embedded in the Tennessee constitution.<sup>22</sup> Crucially, the Shelby County government—not the City—controls local funding for both schools and the criminal justice system (the district attorney, public defender, and courts); two systems that significantly and disproportionately impact those in poverty.<sup>23</sup>

Another feature of the local political structure is the status of Memphis within the political landscape of the State of Tennessee. Memphis is a demographic and, increasingly, a political outlier within a state that is whiter and more conservative.<sup>24</sup> Often, this results in state legislation that is out of step with or even detrimental to the voters of Memphis. Though examples are numerous, one with particular relevance was the Voter ID Act of 2011. After the state required photo identification for voting, the City of Memphis began including photographs on library cards so that residents would have sufficient iden-

---

21. *Memphis Census QuickFacts*, *supra* note 17; *Shelby County Census QuickFacts*, *supra* note 18.

22. See D. Eric Setterlund, Note, *Two Claims, Two Keys—Overcoming Tennessee’s Dual-Majority Voting Mechanism to Facilitate Consolidation Between Memphis City and Shelby County*, 41 U. MEM. L. REV. 933 *passim* (2011).

23. Linda A. Moore, *Shelby County Commission Delays Decision to Pay for DA’s Portion of Body Camera Program*, COM. APPEAL (Apr. 25, 2016, 2:02 PM), <https://www.commercialappeal.com/story/news/government/county/2016/04/25/shelby-county-commission-delays-decision-to-pay-for-das-portion-of-body-camera-program/90511584/> (“Shelby County funds the DA’s Office.”); Ryan Poe, *Shelby County Schools, County Officials Find Funds to Close \$6.6 Million Gap*, COM. APPEAL (June 18, 2018, 7:03 PM), <https://www.commercialappeal.com/story/news/government/county/2018/06/18/shelby-county-schools-officials-find-funds-close-schools-funding-gap/710180002/> (indicating Shelby County funds schools).

24. Tennessee’s population is 17.1% African American and 15% reside in poverty, compared to the figures of 63.6% and 27.6% in Memphis (and 54.1% and 20.8% in Shelby County). *Memphis Census QuickFacts*, *supra* note 17; *Shelby County Census QuickFacts*, *supra* note 18; *QuickFacts Tennessee*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/tn/PST045217#PST045217> (last visited Nov. 18, 2019).



tification to vote.<sup>25</sup> The State, however, refused to acknowledge the library cards as sufficient, and when that conclusion was challenged in court, changed the law to specifically exclude them from the list of acceptable identification.<sup>26</sup> In this story is both a state-level policy that tends to disadvantage poor voters<sup>27</sup> as well as an example of the state legislature intervening to reject local efforts in Memphis to mitigate the effects of that policy.

Cumulatively, the structure of the democratic institutions serving Memphis seem to be disinclined toward policies aimed at aiding Memphis's high-poverty population. At the same time, some policies, such as the voter ID law, seem to make political participation more difficult for those with fewer means. The days of an openly segregationist mayor may have passed, but the ability of Memphians, particularly those who are living in poverty, to control their political destiny remains restrained.

### B. Education

Education is often identified as a pathway out of poverty, but the experience in Memphis calls that idea into question. Amidst the findings of *The Poverty Report* were some that demonstrated significant progress in Memphis in the half century since the Sanitation Workers Strike.<sup>28</sup> The most significant increase, perhaps, was in educational attainment. Although in 1970 only 15.5% of African Americans in Shelby County had attained a high school diploma or gone on to earn higher degrees, the proportion of African Americans having reached those education levels was 85.5% in 2016.<sup>29</sup> For several decades, those increases in education levels seemed to be succeeding in

---

25. *City of Memphis v. Hargett*, No. M2012-02141-SC-R11-CV, 2013 Tenn. LEXIS 1101, at \*7–8 (Tenn. Oct. 17, 2013) (discussing TENN. CODE ANN. § 2-7-112(a)(1)(B) (2012)).

26. *Id.* at \*12–13.

27. See Zoltan L. Hajnal, Nazita Lajevardi & Lindsay Nielson, *Do Voter Identification Laws Suppress Minority Voting? Yes. We Did the Research*, WASH. POST (Feb. 15, 2017), [https://www.washingtonpost.com/news/monkey-cage/wp/2017/02/15/do-voter-identification-laws-suppress-minority-voting-yes-we-did-the-research/?utm\\_term=.bbf0371f4fa6](https://www.washingtonpost.com/news/monkey-cage/wp/2017/02/15/do-voter-identification-laws-suppress-minority-voting-yes-we-did-the-research/?utm_term=.bbf0371f4fa6).

28. See generally POVERTY REPORT, *supra* note 9.

29. *Id.* at 13 tbl.4.

reducing African American poverty in Shelby County, but that trend seems to have plateaued.<sup>30</sup> More recently, the better indicator of the level of education that can reduce poverty is the number of individuals having obtained bachelor's degrees or higher. Although that figure has also risen significantly for African Americans in Shelby County since 1970 (from 3.9% in 1970 to 19.6% in 2016), there remains a sizable racial gap (43.3% of Whites, compared to 19.6% of African Americans), and the educational impact on poverty seems to have stalled in the twenty-first century, where African American poverty levels have hovered just below 25% since 2000 despite increases in educational attainment.<sup>31</sup>

The poverty in the community is reflected in its schools, with many schools both racially and socioeconomically isolated. Within Shelby County Schools, the district serving all public school students that do not reside in the county's six suburban municipalities, 58.6% of students are considered economically disadvantaged by the state's definitions.<sup>32</sup> The vast majority of those students are in schools made up of sizable numbers of similarly situated students.<sup>33</sup> This socioeconomic isolation is both the result of structures within the community's educational landscape and the cause of great challenges in reducing educational disparities.

To begin with, the educational landscape is even more fractured than the dual governments: as of 2014, there are seven local public school districts in Shelby County, a state-operated district (the Achievement School District), and a healthy private school sector that serves approximately 20,000 local students.<sup>34</sup> Among the seven local

---

30. *Id.* at 15–16.

31. *Id.* at 9 tbl.3, 13 tbl.4.

32. *Tennessee State Report Card*, TENN. DEP'T EDUC., <https://www.measuretn.gov:444/ReportCard/Main/CurrentReportCard#/> (last visited Nov. 18, 2018) (select “2016–2017” in the “Year” drop-down list and select “Shelby County” in the “District” drop-down list).

33. *State Report Card*, TENN. DEP'T EDUC., <https://www.tn.gov/education/data/report-card.html> (last visited Nov. 18, 2018) (select the “Comparisons” tab, select “Shelby County” in the “District” drop-down list, and select “Enrollment by Ethnicity %” in the “Data Set” drop-down list).

34. *Children Characteristics, 2012–2016 American Community Survey 5-Year Estimates, Shelby County, Tenn.*, U.S. CENSUS DEP'T, <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=A>

districts, the largest (Shelby County Schools) primarily serves the Memphis student population, while the six others serve students in the county's suburban municipalities. The socioeconomic profiles of the systems vary widely—as mentioned above, Shelby County Schools serve a student population that is 58.6% economically disadvantaged, while five of the six municipal districts served student populations that were less than 15% economically disadvantaged in 2016–17, with figures that were as low as 2.7% in Collierville Municipal Schools.<sup>35</sup> Although figures for private schools are difficult to find, the tuition at such schools makes many inaccessible to the county's families.<sup>36</sup> Thus, the fractured landscape contributes to socioeconomic isolation among systems and within schools, leaving many Memphis students in schools where a majority of their peers are in poverty.

This socioeconomic isolation means that many schools in Memphis are made up entirely of the community's most vulnerable students. High concentrations of poverty within schools impede the educational process in multiple ways, such as through greater student

---

CS\_16\_5YR\_S0901&prodType=table (last visited Nov. 18, 2018) [hereinafter *Shelby County ACS Data*].

35. *Tennessee State Report Card*, *supra* note 32. Below is the percentage of “students from families that meet eligibility criteria for economically disadvantaged subgroup[s]” for each local public school district in Shelby County:

Arlington 5.9%  
 Bartlett 13.5%  
 Collierville 2.7%  
 Germantown 5.7%  
 Lakeland 7.5%  
 Millington 34.7%  
 SCS 58.6%  
 Achievement School District 77.3%  
 State of Tennessee average 34.7%

*Id.*

36. One exception was the network of Jubilee schools, private schools that served a significant number of students from families in poverty. However, those schools faced closure and recently sought conversion to charter schools. See Laura Faith Kebede, *Six Memphis Catholic Schools Would Convert to Charters Under Revised Application*, CHALKBEAT (July 30, 2018), <https://www.chalkbeat.org/posts/tn/2018/07/30/six-memphis-catholic-schools-would-convert-to-charters-under-revised-application/>.

turnover, less stable teaching forces, and larger class sizes.<sup>37</sup> And it is not simply that students in poverty face greater challenges—it is the concentration of such students that exacerbates those challenges. Research has found that a school's socioeconomic composition has an even greater impact on student performance than the student's own socioeconomic status.<sup>38</sup>

In Memphis, this socioeconomic isolation exists alongside widespread racial isolation in schools. Both the fractured landscape and metropolitan residential racial segregation contribute to a system of schools serving a diverse countywide student population in schools that are almost all racially identifiable, regardless of system. The school-age population in Shelby County is approximately 58.4% African American, 30.9% White, and 9.6% Latino.<sup>39</sup> However, most schools, whether public or private, urban or suburban, charter or traditional, are made up of strong majorities (75% or greater) of either Black or White students.<sup>40</sup>

Among the many consequences of racial and socioeconomic separation in schools is disproportionate student disciplinary practices. National studies have shown that African American students are more likely to experience harsh disciplinary practices, such as suspensions and expulsions. These higher rates of harsh discipline are even worse in racially or socioeconomically isolated schools, with African American students even more likely to be suspended or expelled.<sup>41</sup> Though student discipline is only one of a variety of negative effects of the racial and socioeconomic isolation that is the norm in Memphis, it is of particular importance because it serves as the beginning

---

37. See Derek Black, *Middle-Income Peers as Educational Resources and the Constitutional Right to Equal Access*, 53 B.C. L. REV. 373, 404–09 (2012).

38. MARGUERITE L. SPENCER & REBECCA RENO, THE OHIO STATE UNIV., *THE BENEFITS OF RACIAL AND ECONOMIC INTEGRATION IN OUR EDUCATION SYSTEM: WHY THIS MATTERS FOR OUR DEMOCRACY* 6 (2009), [http://www.kirwaninstitute.osu.edu/reports/2009/02\\_2009\\_EducationIntegrationBenefitsReport.pdf](http://www.kirwaninstitute.osu.edu/reports/2009/02_2009_EducationIntegrationBenefitsReport.pdf).

39. *Shelby County ACS Data*, *supra* note 34.

40. See *State Report Card*, *supra* note 33.

41. Tom Loveless, BROOKINGS INST., *Race and School Suspensions*, in 3 *THE 2017 BROWN CENTER REPORT ON AMERICAN EDUCATION: HOW WELL ARE AMERICAN STUDENTS LEARNING?* 22, 29–30 (6th ed. 2017), <https://www.brookings.edu/research/2017-brown-center-report-part-iii-race-and-school-suspensions/>.

of the pipeline that filters students in poverty from schools and into prisons.

### C. Criminal Justice

Dr. King's legacy included a strong awareness of the criminal justice system's weaponization against people of color and human progress. Putting aside that Dr. King's activist work included organizing protests against racist court systems, he himself was repeatedly arrested and served jail time for multiple criminal code violations, such as disturbing the peace, marching without a permit, trespass, libel, violation of boycott and protest laws, and conspiracy.<sup>42</sup> As he stated in his *Letter from a Birmingham Jail* in 1963, "law and order exist for the purpose of establishing justice, and that when they fail [in this purpose] they become the dangerously structured dams that block the flow of social progress."<sup>43</sup> Dr. King's sentiments toward the misgivings of American justice for people of color are certainly understandable given his demands for freedom in the American civil rights sense. His struggle, at times as a literal prisoner in pursuit of that freedom, inevitably deepened his understanding of how oppressive a justice system founded on White supremacy could be.

It should not be surprising that a system that criminalized nearly every step of Dr. King's peaceful pursuit of social progress would find itself in the middle of a human rights crisis fifty years later. With race and sex as the strongest indicators of whether a person will be arrested, convicted, and sentenced to prison during their lifetime, African American men are six times more likely to serve time in prison than White men.<sup>44</sup> Most people who spend time in jail or prison come

---

42. According to The Martin Luther King, Jr. Research and Education Institute at Stanford University, King was arrested 29 times between 1958 and 1967. See *Martin Luther King, Jr.—Arrests*, MARTIN LUTHER KING, JR. RES. & EDUC. INST., <https://kinginstitute.stanford.edu/mlk-topic/martin-luther-king-jr-arrests> (last visited Nov. 18, 2018); see also *FAQs*, THE KING CTR., <http://www.thekingcenter.org/faqs> (last visited Nov. 18, 2018).

43. MARTIN LUTHER KING, JR., LETTER FROM BIRMINGHAM JAIL 10 (Apr. 16, 1963), [http://okra.stanford.edu/transcription/document\\_images/undecided/630416-019.pdf](http://okra.stanford.edu/transcription/document_images/undecided/630416-019.pdf).

44. NAT'L RESEARCH COUNCIL, THE GROWTH OF INCARCERATION IN THE UNITED STATES: EXPLORING CAUSES AND CONSEQUENCES 2 (Jeremy Travis et al. eds., 2014), [https://johnjay.jjay.cuny.edu/nrc/NAS\\_report\\_on\\_incarceration.pdf](https://johnjay.jjay.cuny.edu/nrc/NAS_report_on_incarceration.pdf).

from families in poverty, further highlighting the injustice that Dr. King turned his activism toward in his final days in support of living wages for Memphis's Black workers.

Shelby County's poverty rate helps hold the County's average jail population higher than the daily population of both the national and state averages with 690 per 100,000 Shelby County residents sitting in jail on average.<sup>45</sup> Consistent with the rest of the country, the racial composition of this disparity is also profound—although African American residents make up only 54.1% of the general Shelby County population, they make up 90% of the jail population.<sup>46</sup> Serious disparities also persist in Shelby County's juvenile justice system with African American youth almost four and a half times more likely to be arrested when compared to White youth.<sup>47</sup> Other documented disparities between African American and White youth exist at every stage of the juvenile court process: rate of arrest, rate of incarceration versus diversion or other dismissal, rate of transfer to adult facilities, and rate of detention.<sup>48</sup> A number of studies have confirmed that high rates of incarceration have created additional crime in over incarcerated poor communities, instead of less, and contribute to the cycle of poverty.<sup>49</sup>

---

This trend is also true of adolescents. See Suh-Ruu Ou & Arthur J. Reynolds, *Childhood Predictors of Young Adult Male Crime*, 32 CHILD. & YOUTH SERVS. REV. 1097, 1097–1107 (2010).

45. According to the Vera Institute, the Shelby County average jail population outpaces Tennessee's 628 per 100,000 residents and the national average of 326 per 100,000 residents. *Incarceration Trends*, VERA INST. JUST., <http://trends.vera.org/profile?fips=47157&incarcerationData=all> (last visited Nov. 18, 2018).

46. *Id.*

47. See JOINT AD-HOC TENN. BLUE RIBBON TASK FORCE ON JUVENILE JUSTICE, FINAL REPORT 14 (2017), <https://www.tn.gov/content/dam/tn/tccy/documents/jj/JJ-BlueRibbon-Report-2018.pdf>; MICHAEL LEIBER, TENTH COMPLIANCE REPORT—EQUAL PROTECTION 2–4 (2017), <https://dashboard.shelbycountyttn.gov/sites/default/files/file/pdfs/10th%20Equal%20Protection%20Monitor%20Compliance%20Report%20-%20December%202017%20-%20FINAL.pdf>.

48. LEIBER, *supra* note 47, at 2–10.

49. See, e.g., Todd R. Clear et al., *Coercive Mobility and Crime: A Preliminary Examination of Concentrated Incarceration and Social Disorganization*, 20 JUST. Q. 33, 51 (2003); Robert D. Crutchfield & Gregory A. Weeks, *The Effects of*

Despite higher than average incarceration rates in the name of public safety, Memphis is still ranked among the most dangerous cities in the United States.<sup>50</sup> Although the local Memphis-Shelby County Crime Commission reports a drop in major violent crime in the past year,<sup>51</sup> it also reports that charges of violent acts by youth are on the rise, with a 35.8% increase from 2016 to 2017.<sup>52</sup> Additionally, according to the Commission, about 40% of youth in contact with the justice system are repeat offenders.<sup>53</sup> A growing body of literature suggests that such over-incarcerated communities reflecting these harsh disparities have been costly to taxpayers<sup>54</sup> and that incarceration

---

*Mass Incarceration on Communities of Color*, ISSUES SCI. & TECH., Fall 2015, at 46, 46–47, 49–50; Natasha A. Frost & Laura A. Gross, *Coercive Mobility and the Impact of Prison-Cycling on Communities*, 57 CRIME L. & SOC. CHANGE 459 *passim* (2012).

50. See Daniel Brown & Andy Kiersz, *FBI Data Reveals Some of the Most Violent Cities in Nearly Every State*, BUS. INSIDER (Apr. 16, 2018, 9:18 AM), <https://www.businessinsider.com/most-violent-city-every-us-state-fbi-2018-4> (placing Memphis in second place for violent crime rates per 10,000 people basing this finding on FBI nationally compiled crime data).

51. Press Release, Memphis Shelby Crime Comm'n & The Univ. of Memphis Public Safety Inst., *Violent Crime Rate Continues to Drop 1* (July 20, 2018), <https://memphiscrime.org/wp-content/uploads/2018June2ndQtrMediaRelease.pdf>.

52. Press Release, Memphis Shelby Crime Comm'n & The Univ. of Memphis Public Safety Inst., *Juvenile Crime Figures Show Both Encouraging and Some Alarming Trends 1* (Oct. 11, 2017), <https://www.memphis.edu/psi/media/documents/2017-october-media-release-juvenile-delinquent-data.pdf>.

53. MEMPHIS SHELBY CRIME COMM'N, *ANNUAL REPORT 2017*, at 13 (2017), <https://memphiscrime.org/wp-content/uploads/2017MSCCAnnualReport.pdf> [hereinafter CRIME COMM'N ANNUAL REPORT].

54. CHRISTIAN HENRICHSON & RUTH DELANEY, VERA INST. OF JUSTICE, *THE PRICE OF PRISONS: WHAT INCARCERATION COSTS TAXPAYERS 2* (2012), [https://storage.googleapis.com/vera-web-assets/downloads/Publications/price-of-prisons-what-incarceration-costs-taxpayers/legacy\\_downloads/price-of-prisons-updated-version-021914.pdf](https://storage.googleapis.com/vera-web-assets/downloads/Publications/price-of-prisons-what-incarceration-costs-taxpayers/legacy_downloads/price-of-prisons-updated-version-021914.pdf); Harry J. Holzer et al., *The Economic Costs of Childhood Poverty in the United States*, 14 J. CHILD. & POVERTY 41, 41–46 (2008); Michael McLaughlin et al., *The Economic Burden of Incarceration in the U.S.* 2–5, 21 (Concordance Inst. for Advancing Soc. Justice, Working Paper No. CI072016, 2016), <https://joinnia.com/wp-content/uploads/2017/02/The-Economic-Burden-of-Incarceration-in-the-US-2016.pdf>.

is often unnecessary to promote appropriate goals of criminal justice.<sup>55</sup>

There are grave economic consequences for over-incarcerated, high-risk communities that contribute to high-crime and incarceration rates. Some research indicates that sensible reductions in incarceration could reduce the number of people in poverty by as much as 20%.<sup>56</sup> Incarceration contributes to poverty in a number of ways by creating employment obstacles; creating income disparities for families and “gaps” in income; limiting access to social service benefits; removing income and spending from the local economy; and placing risks on economic stability through fees and fines.<sup>57</sup> For example, Shelby County has a practice of sending parents of detained youth a detention invoice of \$150.00 per night.<sup>58</sup> When families already face income challenges in daily life, such fees are financially crippling. Hence, the over incarceration of Memphians breeds more poverty, and thus more crime and incarceration, with little benefit to the rest of society.

The impact of incarceration resulting from poverty hurts the sustainability of families and children. Over 60% of children in Memphis live in single-parent homes, much higher than the national average; a number surely impacted by the rate of incarceration for parents.<sup>59</sup> Households with one earner or more in jail or prison have

---

55. JAMES AUSTIN ET AL., HOW MANY AMERICANS ARE UNNECESSARILY INCARCERATED? 24 (2016), [https://www.brennancenter.org/sites/default/files/publications/Unnecessarily\\_Incarcerated.pdf](https://www.brennancenter.org/sites/default/files/publications/Unnecessarily_Incarcerated.pdf).

56. Steven Raphael, Commentary, *How Do We Reduce Incarceration Rates While Maintaining Public Safety?*, 13 AM. SOC’Y CRIMINOLOGY 579, 582 (2014), <https://gspp.berkeley.edu/assets/uploads/research/pdf/capp12100.pdf>.

57. Charles E. Lewis Jr., *Economic and Relational Penalties of Incarceration*, in THE PUNITIVE TURN: NEW APPROACHES TO RACE AND INCARCERATION 159, 160–173 (Deborah E. McDowell et al. eds., 2013) (ebook) [hereinafter THE PUNITIVE TURN].

58. See *Court Cost Fee Schedule*, SHELBY COUNTY TENN., <https://www.shelbycountyttn.gov/360/Court-Cost-Fee-Schedule> (last visited Nov. 18, 2018).

59. THE URBAN CHILD INST., DATA BOOK 2013: THE STATE OF CHILDREN IN MEMPHIS & SHELBY COUNTY 3 (2013), [http://www.urbanchildinstitute.org/sites/all/files/databooks/TUCI\\_Data\\_Book\\_VIII\\_2013.00\\_complete.pdf](http://www.urbanchildinstitute.org/sites/all/files/databooks/TUCI_Data_Book_VIII_2013.00_complete.pdf).



particular difficulty meeting the needs of children.<sup>60</sup> Families with an incarcerated family member not only lose earnings but also must provide financial support to meet the needs of the would-be-earner during incarceration. Already low-income families can also expend a great deal of time and money on remaining in contact with the incarcerated family member.<sup>61</sup>

The children of the incarcerated suffer great harms in large numbers,<sup>62</sup> with one in fifteen African American children having an incarcerated parent.<sup>63</sup> Children with incarcerated parents typically do not see the incarcerated parent very regularly, which is often traumatic.<sup>64</sup> Nevertheless, the risk of intergenerational criminal behavior also increases with one study indicating that children of incarcerated parents are, on average, six times more likely to become incarcerated themselves.<sup>65</sup> These family hardships resulting from poverty assist in the pipeline that actively carries many children of incarcerated parents

---

60. Christopher Wildeman et al., *Implications of Mass Imprisonment for Inequality Among American Children*, in *THE PUNITIVE TURN*, *supra* note 57, at 177, 180–89.

61. ECON. MOBILITY PROJECT & PUB. SAFETY PERFORMANCE PROJECT, *THE PEW CHARITABLE TRS., COLLATERAL COSTS: INCARCERATION'S EFFECT ON ECONOMIC MOBILITY* 18 (2010), [https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs\\_assets/2010/collateralcosts1pdf](https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2010/collateralcosts1pdf) [hereinafter *COLLATERAL COSTS*].

62. Children with an incarcerated parent also move more often, suffer from shame and stigma associated with having an incarcerated parent, are more likely to engage in antisocial behavior, and suffer from other trauma-related mental health issues. See SARAH SCHIRMER ET AL., *THE SENTENCING PROJECT, INCARCERATED PARENTS AND THEIR CHILDREN: TRENDS 1991–2007*, at 6, 11 (2009), <http://www.sentencingproject.org/wp-content/uploads/2016/01/Incarcerated-Parents-and-Their-Children-Trends-1991-2007.pdf>; see also *COLLATERAL COSTS*, *supra* note 61; Wildeman et al., *supra* note 60.

63. Other studies put this number at one in nine Black children with an incarcerated parent. See *COLLATERAL COSTS*, *supra* note 61, at 18–19.

64. THE ANNIE E. CASEY FOUND., *A SHARED SENTENCE: THE DEVASTATING TOLL OF PARENTAL INCARCERATION ON KIDS, FAMILIES AND COMMUNITIES* (2016), <http://www.aecf.org/m/resourcedoc/aecf-asharedsentence-2016.pdf>.

65. Megan Cox, *The Relationships Between Episodes of Parental Incarceration and Students' Psycho-Social and Educational Outcomes: An Analysis of Risk Factors 3–5* (May 2009) (unpublished Ph.D. dissertation, Temple University) (on file with Temple University Libraries).

toward the juvenile justice system and then later the adult criminal system.

Incarceration is not only costly and detrimental to the sustainability of Memphis families but also disruptive to the potential rehabilitation process and success upon release. With limited state and local resources for prison and jail administration, correctional institutions struggle to provide effective educational and rehabilitative programs, leaving many people with few tools to reintegrate into society upon release.<sup>66</sup> This and a number of other social realities make re-entering society extremely difficult in Memphis, with few systems in place to assist people upon release following prison and long-term jail confinement.<sup>67</sup> With detention rehabilitation and educational programs lacking and the absence of post-release services and job opportunities, recidivism rates in Shelby County soar with over 30% of those released from jail and prison reoffending within three years.<sup>68</sup>

Finally, like most over-incarcerated communities, there is a great deal of mistrust between Memphis citizens and Memphis law enforcement. For years, Memphis citizens have demanded police accountability through an independent entity or citizen group that would examine public encounters between citizens and police. Following the shooting death of nineteen-year-old, unarmed Darius Stewart by a White Memphis police officer in 2015, the outcry became louder but still has not been fully heard.<sup>69</sup> Without cooperation from the Memphis Police Department and its lack of subpoena power over Memphis Police, the Civilian Law Enforcement Review Board (“CLERB”), created to provide that accountability, arguably serves only a pacifying function to the community, without any real power.<sup>70</sup> The need to

---

66. ANGELA Y. DAVIS, ARE PRISONS OBSOLETE? 90 (Greg Ruggiero ed., 2003).

67. *Id.* See generally Adam P. Hellegers, Comment, *Reforming HUD’s “One-Strike” Public Housing Evictions Through Tenant Participation*, 90 J. CRIM. L. & CRIMINOLOGY 323, 324–25 (1999).

68. See CRIME COMM’N ANNUAL REPORT, *supra* note 53, at 14.

69. See Linda A. Moore, *So We Won’t Forget Darrius Stewart*, COM. APPEAL (July 17, 2017, 8:26 PM), <https://www.commercialappeal.com/story/news/2017/07/17/darrius-stewart-memorial/481493001/0> (recounting community outrage following the shooting).

70. For information on CLERB, see *CLERB Memphis*, <http://clerbmemphis.org/> (last visited Nov. 18, 2018); MEMPHIS UNITED & MID-SOUTH PEACE & JUSTICE CTR., INCREASING THE EFFECTIVENESS OF THE CIVILIAN

empower citizens in the face of low accountability law enforcement systems was emphasized by Dr. King when he stated, “[w]e can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality.”<sup>71</sup>

#### *D. Public Health and Housing*

Dr. King also understood well the connection between human health and economic security, urging more extensive and cohesive methods of addressing poverty in his Poor People’s Campaign. Through his words, direct action, and creative nonviolent resistance, Dr. King addressed poverty and segregation as moral obligations that include public health inequities, stating, “[o]f all the forms of inequality, injustice in health is the most shocking and inhuman.”<sup>72</sup> Dr. King believed that inequities in healthcare were representative of the social injustices faced by many underserved communities more broadly and that only through addressing poverty generally would such problems be eradicated.<sup>73</sup>

Poverty is, of course, at the center of health-care and housing disparities in Memphis. As a result of poverty, a number of health conditions have a higher prevalence in Shelby County than the rest of Tennessee and the United States. For example, based on the most recent available data from the Shelby County Health Department, the obesity rate stands at 33% while the average for Tennessee and nationally are 31% and 28% respectively.<sup>74</sup> Similarly, the rate of Shelby County residents diagnosed with diabetes is also higher at 13% compared to 11% statewide and 9% nationally.<sup>75</sup> Similar statistics also

---

LAW REVIEW BOARD (2015), <https://midsouthpeace.org/wp-content/uploads/2015/03/Memphis-United-CLERB-Report-Ordinance.pdf>.

71. MARTIN LUTHER KING, JR., *I Have a Dream*, in A TESTAMENT OF HOPE: ESSENTIAL WRITINGS AND SPEECHES OF MARTIN LUTHER KING, JR. 217, 218 (James Melvin Washington ed., 1986).

72. *Dr. Martin Luther King on Health Care Injustice*, PNHP, <http://www.pnhp.org/news/2014/october/dr-martin-luther-king-on-health-care-injustice> (last visited Nov. 18, 2018).

73. *Id.*

74. SHELBY CTY. HEALTH DEP’T, COMMUNITY HEALTH IMPROVEMENT PLAN 2012–2018, at 20 (2015), <http://www.shelbytnhealth.com/ArchiveCenter/ViewFile/Item/54>.

75. *Id.*

exist for the rate of several cancer diagnoses including breast, cervical, colon/rectum, and prostate. The rate of sexually transmitted diseases is also higher than state and national rates.<sup>76</sup> According to Shelby County's Health Improvement Plan, poverty explains these disparities more than any other factor.<sup>77</sup>

Also, the Memphis infant mortality rate is much higher than state and national averages. Memphis and Shelby County have among the highest infant death rates of any American city with a baby dying every forty-three hours on average.<sup>78</sup> The connection between poverty and infant mortality is not a hard one to make due to the physical and emotional strain of living in an urban environment with high crime rates, failing schools, lack of transportation, and lack of healthy food options. These and any number of other factors that exist in Shelby County due to poverty can lead to health complications, especially during pregnancy, all of which can lead to stress and infant death. These stressors of living in Memphis also pose health risks for all citizens, including those that are not pregnant, contributing to health conditions such as hypertension and heart disease.

Despite the high stress environment that poverty creates, access to mental health services is additionally problematic. During the 1960s, public concerns about "insane asylums" and the horrors of controversial treatments used there, such as electric shock treatment, drove the government to move away from state run mental facilities.<sup>79</sup> As a result, many individuals that would be treated or housed in mental facilities are now "treated" and housed in prisons and jails in Shelby County, with the Shelby County jail estimated to be the largest provider of mental health services in Tennessee even when combining

---

76. *Id.*

77. *Id.* at 48 (pointing to research that cites socioeconomic factors as the most important social determinants of health).

78. TENN. HEALTH EQUITY COMM'N, HEALTH DISPARITIES ELIMINATION REPORT 2009, at 9 (2009), <https://www.uthsc.edu/CHEER/documents/2009TennesseeHealthDisparitiesReport.pdf>.

79. William Gronfein, *Psychotropic Drugs and the Origins of Deinstitutionalization*, 32 SOC. PROBS. 437, 439–41 (1985) (recounting the history of deinstitutionalization); see also E. FULLER TORREY, AMERICAN PSYCHOSIS: HOW THE FEDERAL GOVERNMENT DESTROYED THE MENTAL ILLNESS TREATMENT SYSTEM 17–92 (2014).

all other mental health facilities in the state.<sup>80</sup> Moreover, the problem of youth trauma is significant in Memphis and Shelby County considering the general prevalence of poverty and educational deficits. Over 50% of all youth in Shelby County have been exposed to at least one Adverse Childhood Experience (“ACE”), with 12% exposed to four or more ACEs.<sup>81</sup> People suffering from such traumas are more likely to commit crime, suffer from mental health issues, and serve time in prison or jail.

The lack of safe, affordable housing in Memphis is also problematic due to socioeconomic challenges. Memphis citizens can undoubtedly relate to Dr. King’s words when he said: “We are tired of living in rat-infested slums . . . [n]ow is the time to make real the promises of democracy [and] open the doors of opportunity to all of God’s children.”<sup>82</sup> Memphis’s commercial and residential improvement projects often eliminate access for the poorer class, to the further detriment of public health. As a result of crime and other social conditions resulting from poverty, massive levels of lower middle-class citizens have migrated out of Memphis neighborhoods, to more suburban areas, further contributing to disparities in many parts of the City, such as food security.

The most extreme form of poverty and health consequences is reflected in the rate of homelessness in Memphis. The rate of homelessness in Memphis and Shelby County sits at almost 24 homeless residents per 10,000, exceeding the state rate of 15 per 10,000 Tennessee residents, with many families just one paycheck away from homelessness.<sup>83</sup> A disproportionate number of the Memphis home-

---

80. See Reginald Milton, *Opinion: Fighting Crime with Health Care at Shelby County Jail*, COM. APPEAL (Mar. 23, 2018, 8:00 AM), <https://www.commercialappeal.com/story/opinion/contributors/2018/03/23/opinion-fighting-crime-health-care-shelby-county-jail/448475002/>; see also Gronfein, *supra* note 79.

81. THE RESEARCH & EVALUATION GRP. AT PHMC, ADVERSE CHILDHOOD EXPERIENCES IN SHELBY COUNTY, TENNESSEE 1 (2014), [http://aceawareness.org/wp-content/uploads/2016/03/ShelbyCountyACEReport\\_12-22-14.pdf](http://aceawareness.org/wp-content/uploads/2016/03/ShelbyCountyACEReport_12-22-14.pdf).

82. See KING, *supra* note 71, at 247; see also Terri Ludwig, *M.L.K.’s Housing Legacy*, HUFFINGTON POST (Mar. 19, 2014), [https://www.huffingtonpost.com/terri-ludwig/mlks-housing-legacy\\_b\\_4619504.html](https://www.huffingtonpost.com/terri-ludwig/mlks-housing-legacy_b_4619504.html).

83. A.C. WHARTON, JR. & MARK LUTTRELL, JR., THE ACTION PLAN TO END HOMELESSNESS IN MEMPHIS AND SHELBY COUNTY 8 (2010),

less population are LGBTQ youth who have been kicked out by their families after revealing their sexual identity.<sup>84</sup> Despite high homeless populations creating further disparities, there is not a single free homeless shelter in Memphis.

### III. CONTEMPORARY ACTIVISM IN MEMPHIS

Notwithstanding great obstacles in each of these areas, Dr. King's dream of equitable access to American democratic institutions is still very much alive in Memphis. Like much of the country, Memphis especially experienced a very long pause in regular activism following Dr. King's death. Nevertheless, in the past several years Memphians have addressed a number of social justice issues, including the removal of confederate statues, voter turnout, living wages, youth justice intervention, and law enforcement accountability.<sup>85</sup> These movements have reignited hope that might one day overshadow the stain of King's death that figuratively plagues Memphis's progress.

As a result of this prolific activism and a reminder that some things never change, however, it was recently necessary that a federal judge rule that the City of Memphis's gathering of "political intelligence" against local activists violated a forty-year agreement against

---

[https://www.memphistn.gov/UserFiles/Servers/Server\\_11150732/File/Gov/Housing%20and%20Community%20Development/Action\\_Plan\\_Final.pdf](https://www.memphistn.gov/UserFiles/Servers/Server_11150732/File/Gov/Housing%20and%20Community%20Development/Action_Plan_Final.pdf).

84. Micaela Watts, *Annual Memphis Homeless Count Seeks Real Number of Folks with No Place to Go*, MLK50: JUST. THROUGH JOURNALISM (Jan 26, 2018), <https://mlk50.com/when-ursula-thomas-approached-a-homeless-individual-curling-up-under-the-arched-stone-entrance-of-a-la7fff43a5e>.

85. After a high-profile political battle that spanned nearly two decades, two Confederate monuments were removed from City of Memphis property after being sold to Green Space, a nonprofit led by Shelby County Commissioner Van D. Turner, Jr. See Connolly & Wang, *supra* note 4. #UPTheVote901 has focused on increasing voter turnout in Shelby County. See John Semien, *Get-Out-the-Vote Push Built for the Long Haul*, TSD MEM. (Apr. 27, 2018), <https://tristatedefender.com/get-out-the-vote-push-built-for-the-long-haul/04/27/>. Fight for Fifteen has been at the head of the movement for living wages. *Fight for \$15 in Memphis*, WMC ACTION NEWS 5 (July 31, 2018, 1:10 PM), <http://www.wmcactionnews5.com/clip/14120459/fight-for-15-in-memphis/>. A push for law enforcement accountability has been highly visible under Mid-South Peace and Justice, Memphis United, and Black Lives Matter's activism work. See MEMPHIS UNITED & MID-SOUTH PEACE & JUSTICE CTR., *supra* note 70, at 5.

spying on demonstrators.<sup>86</sup> That 1978 consent decree came following the finding of an entire Memphis Police Department unit created and committed to spy on anti-war and civil rights demonstrators who had not otherwise violated the law.<sup>87</sup> Following a 2016 “die in” protest at Mayor Jim Strickland’s home highlighting police brutality against African American citizens, a “list” of the demonstrators was created disallowing those citizens access to City Hall, among other surveillance measures.<sup>88</sup> The list was later supplemented with other locally known activists, including participants in the Interstate 40 bridge protest led by #BlackLivesMatter demonstrators highlighting the same problem earlier that year.<sup>89</sup>

The chilling effect of law enforcement sanctioned intelligence surveilling cannot be understated—such tactics are meant to intimidate and stifle public dissent on very real human rights issues. Citizen surveillance also impacts the economic prospects of demonstrators and activists and encourages perpetual harassment and targeting by law enforcement. Ultimately, the surveilling of discontent citizens breaches the securities of democratic government while igniting fear that those holding citizen best interest at heart might be subject to the same demise as the fallen leader Dr. King.

Although the products of inequity have not changed, a number of developments have proven extremely valuable in the modern fight for social justice and political power. Although peaceful grassroots efforts are still at the heart of Memphis social movements, the face of advocacy, its leaders, and the means of producing awareness have transformed.<sup>90</sup> Memphis activists have learned from the past in ad-

---

86. Order Granting in Part and Denying in Part the ACLU-TN’s Motion for Summary Judgment, *Blanchard v. City of Memphis*, No. 2:17-cv-2120-JPM-egb (W.D. Tenn. Aug. 10, 2018), [https://www.memphistn.gov/UserFiles/Servers/Server\\_11150732/File/081018%20Order.pdf](https://www.memphistn.gov/UserFiles/Servers/Server_11150732/File/081018%20Order.pdf).

87. Order, Judgment and Decree, *Kendrick v. Chandler*, No. C76-449, 1978 U.S. Dist. LEXIS 20410 (W.D. Tenn. Sept. 14, 1978).

88. Order Granting in Part and Denying in Part the ACLU-TN’s Motion for Summary Judgment, *supra* note 86, at \*8.

89. *Id.* at \*10–12.

90. A score of organizations and local leaders inspire unique and effective means of grassroots and political advocacy in Memphis. #UPTheVote901, led by Pastor Earle Fisher, for example, concentrates on increasing voter registration and turn-out like organizations of the past but also focuses on meeting people where they

are, heavy social media presence, and creating inviting atmospheres for people who may not be accustomed to getting to the polls—especially young people. *See About Us*, #UPTHEVOTE901, <http://upthetvote901.com/register-to-vote/> (last visited Nov. 18, 2018); *see also* Phillip Jackson, #UpTheVote901 Works to Increase Voter Turn-out in Binghampton Neighborhood, COM. APPEAL (Nov. 1, 2018, 4:54 PM), <https://www.commercialappeal.com/story/news/2018/10/31/upthetvote-901-voter-registration-binghampton-neighborhood-block-party/1838294002/>; Semien, *supra* note 85.

Additionally, women of color have taken roles front and center in this new Memphis movement, both socially and politically. For example, “Take ‘Em Down 901,” the grassroots organization largely responsible for the removal of the confederate statues was led by then activist turned Shelby County Commissioner, Tami Sawyer. *The Confederacy Falls in Memphis*, MLK50: JUST. THROUGH JOURNALISM (Dec. 20, 2017), <https://mlk50.com/source-memphis-confederate-monuments-to-come-down-wednesday-4b35ed1de8a2>. *See also* discussion *supra* notes 1–4.

Organizations are also doubling at providing direct services while fighting for systemic change. The Memphis Coalition of Concerned Citizens, for example, has taken on a variety of issues including police reform but also runs programs like “Books and Breakfast” that focuses on developing a love of literacy and learning in people of all ages. Bianca Phillips, *Coalition of Concerned Citizens Responds to Police Shootings*, MEM. FLYER: NEWS BLOG (July 18, 2016, 8:24 AM), <https://www.memphisflyer.com/NewsBlog/archives/2016/07/18/coalition-of-concerned-citizens-responds-to-police-shootings>; *Memphis Tactical Officers Arrest Activist After Tracking Social Media to a ‘Potluck Dinner’*, DAILY KOS (July 8, 2018, 1:57 AM), <https://www.dailykos.com/stories/2018/7/8/1778833/-Memphis-tactical-officers-arrest-activist-after-following-his-social-media-about-a-potluck-dinner>. Similarly, the Memphis Black Lives Matter Chapter provides both direct services through its bail-out programs while also advocating for legal changes to the bail bond system itself. Linda A. Moore, *‘We Need to Figure Out Better Solutions’: Group Raises Bail Money Ahead of Father’s Day, Juneteenth*, COM. APPEAL (June 4, 2018, 2:38 PM), <https://www.commercialappeal.com/story/news/local/2018/06/04/national-bail-out-memphis-community-bail-fund-juneteenth-black-lives-matter/668816002/>. Other organizations have proven that creative opportunities in activism exist. For example, the Memphis “Fight-for-15,” which asks supporters to promote a living \$15 wage, makes effective use of a nationally recognizable campaign to mobilize activists locally. *See Fight for \$15 in Memphis*, *supra* note 85. Additionally, Memphis Interfaith Coalition for Action and Hope, considered the organization of organizations, encourages social justice groups and leaders to align strategically to push common-core objectives. *See About, Who Are We?*, MEM. INTERFAITH COALITION FOR ACTION & HOPE, <https://www.micahmemphis.org/about-us/> (last visited Nov. 18, 2018). The mention of these examples is not intended to undermine the hard work of the many other leaders and organizations that work tirelessly in Memphis for so-



addressing social inequity, exercising traditional methods of activism such as public protests and voter registration initiatives.<sup>91</sup> Modern Memphis activism also relies on a combination of tactics that includes backing and assistance from a plethora of non-profit organizations and educational institutions and programming that develops the resources and skills of Memphis citizens, such as community garden development, a number of youth services, and workforce training.

Social media and digital activism have helped move the needle toward modern progress across the nation and in Memphis. Not only has social media provided a means for citizens to connect with others that share passion on issues they care about, but it has also created opportunities to engage very personally with local activists and causes. After years of silence on many issues, social media has ultimately given individuals the permission to know they are not alone in addressing the issues they find problematic. In Memphis, a variety of movements, individuals, and organizations have used social media to both promote planned activities that strategically address injustice, as well as organize quickly for demonstrations that show community strength and support of modern causes and mishaps. This modern exercise of power allows citizens to direct anger and unrest into productive activities and positive actions quickly and efficiently.

Additionally, the availability of data and social awareness psychology, such as implicit bias research, has equipped activists, experts, attorneys, and educators with ammunition that challenges public perception on how to equitably address many social justice issues. Such literature has also increased national awareness of the prevalence of persistent poverty and compound impacts of bias due to the history of race in America. Going forward, the hope is that community stakeholders, including political leadership, will use data-driven so-

---

cioeconomic justice, nor is it meant to discount the other work of the organizations and leaders specifically mentioned in any way.

91. See Phillip Jackson & Micaela Watts, *Martavious Banks Shooting: 6 Protesters Arrested After Shutting Down Elvis Presley Boulevard*, COM. APPEAL (Oct. 19, 2018, 4:00 PM), <https://www.commercialappeal.com/story/news/2018/09/19/protests-memphis-police-shooting/1363080002/>, for an example of public protests to the Martavious Banks shooting. See Semien, *supra* note 85, for an example of the #UpTheVote901 initiative.

lutions that include fluid community-based responses in partnership with impacted populations.

#### IV. CLOSING

Fifty years after his death, Dr. King's influence is unquestionable even if his legacy has gone unfulfilled. If the current designation of leadership is at all telling of where Memphis is headed in realizing Dr. King's legacy, however, the future looks brighter. Recently, Shelby County voters overwhelmingly elected county and state leaders that share the ideals of Dr. King in his quest for economic and social equity on behalf of all Americans.<sup>92</sup> Memphians will have the opportunity to do the same with City officials in the near future. Though this provides Memphians with a great sense of pride and much needed optimism, we must remember that throughout history it has always been necessary to regularly exercise collective power in defense of human rights. As we celebrate the life and legacy at this fiftieth anniversary year of Dr. King's death, we must realize that prolonged failure to exercise that collective power has perpetuated harsh systemic realities for the poor and people of color. In deciding the ways to best exercise the newly harnessed political power of Memphians and answering the question of "*where do we go from here?*," Dr. King instructed, "[p]ower without love is reckless and abusive, and love without power is sentimental and anemic. Power at its best is love implementing the demands of justice, and justice at its best is power correcting everything that stands against love."<sup>93</sup>

---

92. Ryan Poe, *Democrat Lee Harris Wins Shelby County Mayor's Race as 'Blue Wave' Sweeps County*, COM. APPEAL (Aug. 3, 2018, 12:04 AM), <https://www.commercialappeal.com/story/news/politics/elections/2018/08/02/democrat-lee-harris-takes-early-lead-shelby-county-mayors-race/869062002/>.

93. MARTIN LUTHER KING, JR., *Where Do We Go From Here ?*, in A TESTAMENT OF HOPE, *supra* note 71, at 245, 247.