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HOLMES ET AL VS. CITY OF RACINE

SUPPLEMENTAL EXPERT WITNESS REPORT

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I. STATEMENT OF OPINIONS

INTRODUCTION/EXECUTIVE SUMMARY

The lawsuit brought by Holmes et al against the City of Racine, WI revolves around accusations of discrimination against particular tavern owners on the basis of their race/ethnicity and that of their patrons. This report works to emplace the local situation in Racine, WI into its national context, particularly regarding race, urban development, and legal enforcement and examines specifically the depositions and geopolitical data gathered in support of these claims. The expertise applied here is not a psychologist test for “racial hate” within the defendants but rather presents an understanding of how everyday people, including those named in the lawsuit, engage with race in regulatory and economic decision making in justifying actions that jeopardize minority interests.

The Civil Rights Movement was an important moment in American history that ushered in what has been popularly referred to as the “post-racial” or “colorblind era.” The sweeping legal changes enacted through legislatures, the courts, and even executive branches at the state and national levels targeted de jure discrimination on the basis of race or ethnicity. With these legal changes came a cultural shift as well—racism, specifically racial hatred, became defined as immoral. The practices that had undergirded the Jim Crow South and the segregated urban North were in some cases abandoned and in other cases were reformulated—in all cases, however, racial epithets in public forums became seen as the province of explicitly hard-core White supremacists. The “now-you-see-it-now-you-don’t” style of racial signifiers that has arisen in the aftermath has been termed “colorblind” racism—that is, racial epithets and outright expressions of racial hate are seldom used, but the outcomes of social policy and private decision making continue to create racialized outcomes.

Racial stratification continues to structure American society. Combating the idea that racism is a thing of the past, in Whitewashing Race M. K. Brown et al. (2003) give the subject book length treatment, simply summarizing and explaining the ongoing struggle of people of color in the arenas of the labor market, civil society, welfare state, criminal legal system, and education. In American Apartheid, Massey and Denton (1993) argue that the 1990s were no better than the 1950s in terms of racial segregation and that the same patterns continue today. Tonry (1996) makes similar points regarding the criminal legal system, while Alexander’s (2010) bestselling work, The New Jim Crow, is well known, characterizing the ongoing repression of people of color through the legal means as a direct extension of racial practices that crystalized under Jim Crow. Although these authors see the problem through different lenses, all would agree that the politics of race render minority presence in a gentrifying downtown nightlife scene as a potential problem to be handled through colorblind legal regulatory schemes.

The City of Racine, WI is located between Chicago and Milwaukee along the coast of Lake Michigan. It has historically been a manufacturing town, and though some of residents commute to Milwaukee for work, most are employed within the county. After the downturns of the 1970s, the recession that began in the late 2000s also hit Racine manufacturing jobs hard and the damage has lingered. Additionally, the city has experienced the abandonment of the urban

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1 It is important to recognize that this dynamic is not limited to public forums. Many Americans, particularly Whites, continue to use racial epithets in private among friends and family members (Myers & Williamson, 2001; Zamudio & Rios, 2006). These only become problematic when evidence of this—e.g., hacked emails, clandestine filming—is somehow made public.
core by the White middle and upper class known popularly as “White flight” and not only in the 1960s—since 1970, the percent White in Racine has plummeted nearly 38%. The mayor and the Common Council of Racine have attempted to attract new development to the city, particularly the downtown area. Deals for several mixed-use developments that would have added condominiums to the lakeside adjacent to downtown have reached various stages of completion, but many of these developments have fallen through. The attempt to attract new investment continues as do efforts to “clean-up” the downtown area to attract (and keep) these new investors. Between 2006 and 2013, new taverns opened up downtown that catered to minority clientele, frustrating those who see in increased minority presence poor investment potential. The Public Safety and Licensing Committee of the Common Council (PSLC) began focusing on these taverns specifically for social control through license revocation and processing. Despite the lack of evidence that minority owned and patronized taverns were disproportionately engaged in problematic behavior compared to White taverns, the PSLC used reports of this behavior to justify their closure of these minority owned taverns. It is my opinion that the Public Safety and Licensing Committee of the Common Council did discriminate against minority tavern owners by disproportionately focusing on their establishments despite a lack of evidence for doing so. I conclude that such a practice is consistent with the City’s push to gentrify the downtown area, an initiative which has been historically unfriendly to people of color, particularly Black and Latino residents and businesses. To explain this conclusion, I first present the empirical and theoretical perspectives on race, law enforcement, and urban space that led to it. Next, I discuss the political economy of Racine, WI that makes it susceptible to such outcomes. To demonstrate points regarding selective enforcement, I compare White-owned and patronized taverns to minority-owned and patronized taverns regarding differential enforcement, regulatory processes, and symbolic racial preference. Finally, I conclude with an analysis of colorblind racist discourse in the case depositions; in other words, the use of verbal maneuvers and other symbolic proxies to hide racial intent. My hope is that the analysis presented in this section can be carried forward throughout the case, disabling the ability to disguise racial intent with code words and avoidance.

RACE, LAW ENFORCEMENT, AND URBAN CHANGE

Coded Language and Colorblind Racism

Today using [racial epithets] is seen as an immoral act. More significantly, saying things that sound or can be perceived as racist is disallowed. (Bonilla-Silva, 2002, p. 43)

Americans tend to have difficulty thinking socially. When it comes to racial stratification in society, this means that the recent racist rantings of White supremacist Dylann Roof before killing 9 Black people in a Charleston church is considered an anomaly unconnected to the lack of Asian American representation at the Oscars. While the unriddling of the American racial matrix is beyond the scope of this report, it is important to acknowledge that racism is an ongoing feature of American life. It shares space with the other vectors such as sex/gender, social class, and sexual orientation, sometimes shaping them and sometimes being shaped by
them. It has always been one of the most important, however, as demonstrated by its inclusion in
the Constitution at the nation’s founding.

Colorblindness is the racial ideology positing that the best way to end discrimination is
by treating individuals as equally as possible, without regard to race, culture, or ethnicity
(Bonilla-Silva, 2003; M. K. Brown et al., 2003). Colorblind ideology regards race as unimportant
so long as it is unacknowledged. Paying attention to the issue is seen as counterproductive for
improving society. This is often considered as an admirable stance, particularly in the wake of
aggressive Jim Crow-style racism, which violently identified race as its primary feature. The
power of colorblindness is tethered to its transcendence of this officially outlawed racial
paradigm—from explicit acknowledgment of race to an erasure.

On the other hand, the assertion of the post-racial era and the retreat from race in social,
institutional, and interpersonal analyses of inequality and discrimination has had several effects
on public discourse, none of which have resulted in enhanced equality, but rather the
continuation of racism by other means. First, colorblindness has allowed the substitution of the
set of proscribed words, frozen in the Jim Crow-era, for a set of contemporary terms that
continue to be performed and read as racially degrading. Lee Atwater, pioneer of the politically
powerful electoral “Southern strategy,” made this point clearly in an interview in 1981:

You start out in 1954 by saying, “Nigger, nigger, nigger.” By 1968 you can't say “nigger”—that
hurts you. Backfires. So you say stuff like forced busing, states’ rights and all that stuff. You're
getting so abstract now [that] you're talking about cutting taxes, and all these things you’re talking
about are totally economic things and a byproduct of them is [that] blacks get hurt worse than
whites...But I'm saying that if it is getting that abstract, and that coded, that we are doing away
with the racial problem one way or the other. (B. Herbert, 2005)

One can see in the last line that even Atwater, who was looking to win elections at the expense of
Black Americans, inexplicably also considered himself to be colorblind—racists, after all, in the
colorblind era, are immoral people. Atwater’s examples articulate some of what sociologists of
race and ethnicity consider to be racist tropes and codewords, or ways of talking about race
without explicitly doing so. Other traditional codewords include such references to Black men
and women as “urban youth,” “welfare moms,” and “thugs,” minority neighborhoods as
“disadvantaged areas,” “the ghetto,” and “the inner city,” and Latinos in general as “illegals” and
“job takers.” To this list one could easily add indicators such as hip hop music and fashion
stylings and preferences such as white undershirts and baggy/sagging pants, skull caps, flashy
jewelry, and consumption of Hennessy and Courvoisier. In the constant attempt to regulate
racialized self-expression, many municipalities have proposed banning sagging pants (e.g.,
Ardoin, 2015; Clark, 2012).

Another major outcome of the deletion of race-as-explanation from the public discourse
is that those who wish to talk about race, particularly people of color who raise legitimate
concerns about the ongoing racist treatment they endure, are themselves accused of fomenting
division. This view assumes racism to be the same as prejudice, reducing a historical set of
arrangements, privileges, structures, and oppressions to a basic (and thus arguably reasonable)
dislike. One can be prejudiced against the Chinese in the same way that one can simply dislike
the obese—racism becomes an opinion that cannot be right or wrong. Rather than seeing racism
as a system that operates to benefit some at the expense of others through institutionalized
means, racism is rendered a property that anyone can possess and by which anyone can be
victimized. Consequently, Whites often see racial minorities as the new racists, and themselves as the new victims of racism (Bonilla-Silva, 2003; Feagin, 2009). As Norton and Sommers (2011) suggest, Whites often see racial discrimination as a zero-sum game at which they are now losing. The ongoing lawsuit Fisher v. University of Texas is a perfect case-in-point.

**Policing Space: Race and Desirability**

With the advent of civil rights and the recognition of segregation as a social harm came the Fair Housing Act (1968), an attempt to ensure that de jure housing segregation came to an end and that housing opportunities were equal without regard to race. In the South, the immediate impact of these decisions was the abandonment of the public school system and urban White flight. Although the reactions of Southern Whites who felt in crisis were extreme, they were largely the result of the “intimate apartheid” that had governed the South—the North (and much of the West) had long been segregated by neighborhood rather than by water fountain. With the new era of equal opportunity in housing (on paper, at least), the White Flight and suburbanization movement began, with those fleeing using several coded arguments including crime, subpar schooling, and forced busing to elide racial motives (Galster, 1990; Thompson, 1999; W. J. Wilson & Taub, 2006).

Even when Black urban residents band together and collectively challenge hostile legal and political structures, they can still lose. Thompson (1999) recounts the contest between Black and White Detroit residents to shape the social, political, and economic landscape of the city after the upheaval of 1967-73. The battles over fair housing in the 1950s, welfare and crime in the 1960s and the riots against police misconduct in 1967 led Whites to fear rising crime by Black residents despite the crime drop of the early-to-mid 1960s and relative flatline between 1965 and 1970 (the 6% uptick was based largely on changed police reporting strategies). Victories by Black residents led to a White exodus in 1973 to the suburbs, taking with them a significant tax base, commercial enterprises, and manufacturing jobs. The post-deindustrialization struggles of Detroit have been well documented, as the city recently declared bankruptcy and has largely abandoned portions of its urban territory.

Although the more recent push toward urban gentrification in many large cities seems to be a complete reversal of these trends, the impetus is not substantially different and race politics continue to inform the process (Davis, 2006; Smith, 1996). Urban neighborhoods are valued as cool and edgy by young tech and entertainment workers and seen as prime investments by real estate investors. The result of this has been a steady “cleansing” of urban spaces of the poor and the working poor, particularly those who are Black and Brown, through various ordinances, policing tactics, and private-public investment strategies in the urban cores of cities from LA to New York (Beckett & Herbert, 2009; Fagan & Davies, 2000; Gelman, Fagan, & Kiss, 2007; Lynch, Omori, Roussell, & Valasik, 2013; Stuart, 2011, 2014).

Law enforcement is not the only institution used to excise minorities from desirable urban neighborhoods (see Desmond & Valdez, 2012), but it comprises a large component of the effort. Selective enforcement of seemingly-colorblind—even progressive—laws is an effective tactic. For example, Lynch and her colleagues (2013) found that political economic pressures from development and tourism seem to drive drug law enforcement in San Francisco. Black residents in different neighborhoods are subjected to either surveillance (community court) or expulsion (arrest and incarceration) depending on the political/economic development goals for each neighborhood. Stuart (2011) found that homeless law enforcement task forces (the federal
Safer Cities Initiative) coerce (mainly Black) Skid Row residents into sub-poverty positions using initiatives underwritten by businesses that profit from this labor. He compares this “rehabilitation”-oriented policing of the homeless in Skid Row skeptically to the expulsion of the homeless from “prime” commodified urban spaces in other parts of LA (Stuart, 2014). In their now-famous work on “stop-n-frisk” in New York, Fagan and his colleagues at Colombia (2010; 2007) have demonstrated not only the increased harassment of Black and Latino residents within their own neighborhoods but also in primarily White neighborhoods, showing a pattern which conforms closely to the policing of neighborhood containment by color line. In Seattle, all manner of local ordinances have been passed which make certain sections of the city entirely off-limits to an increasing number of poor and minority residents (Beckett & Herbert, 2009). And Seattle PD enforces drug law in a proactive manner that focuses on neighborhoods, drugs-of-choice, and open air drug markets that are primarily Black without regard for actual community complaints or crime rates, while largely sparing those that are White (Beckett, Nyrop, Pfingst, & Bowen, 2005).

In considering the “community” and “disorder” policing movements of the 1980s and 1990s², we continue to see these concerns raised. If “disorder” leads to serious crime, as contended by Wilson and Kelling in 1982, then preventing and removing neighborhood disorder becomes paramount. Disorder however, much like pornography, is something that people know when they see, but have trouble defining. Trash and litter may be obvious, but perception of noise and nuisances often depend on the identity of those engaged in the activity—indeed, James Q. Wilson, one of the authors of the “broken windows theory” (1982), explicitly perceives disorder to include Black fashion stylings and interracial relationships (see Harcourt, 2005). Indeed, as Roussell investigated in a forthcoming article on community policing in LA, Blacks, Latinos, and police define disorder differently and deploy these definitions to enhance and protect their group positions. As Sampson and Raudenbush (2004) confirm in Chicago, not only does the concentration of Black and Latino residents in a neighborhood markedly increase perceptions of disorder holding all else constant, but the inclusion of these covariates completely eliminates the effect of a neighborhood’s physical disorder (e.g., garbage, graffiti, abandoned cars) in their multivariate, multi-level model. Similar dynamics regarding perceived risks of crime in a neighborhood have been found in Florida as well (Chiricos, McEntire, & Gertz, 2001). Notably, many studies of racial perceptions of danger recognize that these stereotypes are not limited to dominant groups (i.e., Whites), but are shared by racial minorities as well.

As with any academic and scientific work, the patterns throughout all of these studies are open to interpretation—contrary to popular belief, science never “proves” anything, but rather provides evidence in support. Taken together, however, this literature underlines the continued association of neighborhood minority presence with crime, disorder, and degeneration independent of the actual conditions.

These considerations—racial preference, neighborhood and municipal investment, and selective—help explain the shutdown and selective enforcement of minority-owned and minority-patronized taverns in Racine, WI. Below I discuss the economic and racial demographic shifts in Racine over the past several decades to set the stage for the case itself.

² Some scholars of community policing argue that these are distinct projects, but as S. Herbert (2001) suggests, political considerations have largely rendered them functionally analogous.
POLITICAL ECONOMY OF RACINE

Demographics and Geography

Racine is located in Southeast Wisconsin along Lake Michigan. In 2010, Racine’s population of 78,199 was 53.5% White, 22% Black, and 20.7% Latino. Since the 1970s, the White population has decreased by 32.2%, while the Black and Latino populations have increased by nearly 12% and 14% respectively. Table 1 depicts these changes by decade using Census data. Overall, the city’s population has been decreasing for decades, hitting an all-time high in 1970, before the shedding of manufacturing jobs began in earnest. From 2000 to 2010 the city’s population decreased by 3.7%, while the larger county’s population increased by the same percentage. The growing Latino population is a state-wide trend, and includes both immigrants and native-born residents (Long & Veroff, 2014). Notably, the median age of Hispanics in Wisconsin is 24.8 years old, while the overall state median age is 38.2 (Wisconsin Department of Health Services, 2014). This younger age demographic is important when discussing the behavior of tavern patrons in a following section, insofar as it enables “youth” to be substituted for indicators of race and ethnicity.

Geographically, Racine is between Chicago and Milwaukee and is attempting to attract developers who will tap into the Chicago-Wisconsin commuter market. Highway 32 along Lake Michigan goes right through downtown Racine, running along the streets of some of the taverns in question. Ninety-two percent (n = 44) of the taverns examined are in two downtown zip codes (53402 and 53403). Table 2 depicts the changing racial composition of those two neighborhoods. Between 2000 and 2010, percent White in these neighborhoods declined nearly 10 and 14% respectively—one gained 35.6% in its Black population, while the other lost 11%. The Latino population of both neighborhoods increased substantially (42% and 38%). One neighborhood is predominantly White, while the other is much more heterogeneous—a quarter Black and Latino and about half White.

Economic Decline and Attempts at Investment

The economic story of Racine, as with much of the former Rustbelt, is the struggle to attract capital investment as its blue collar manufacturing sector gradually declines. Originally a factory town, Racine has struggled to attract investment as its manufacturing jobs have dwindled. SC Johnson, a national corporation that manufactures chemical and cleaning supplies such as Windex and Pledge, is based in Racine and employs approximately 3,500 employees. In 2014, the company announced plans to reduce its workforce by an estimated 8.5 to 11.5%, resulting in the estimated loss of 300 to 400 jobs (Burke, 2014). The continuing job loss in the manufacturing industry is a potential pressure point for city officials attempting to revitalize the local economy. In fact, several major development projects have been in the works for the city dating back to 2006. Mayor Gary Becker (current Mayor John Dickert’s predecessor) emphasized attracting new businesses and jobs to Racine, noting the need to connect with the global economy to survive. Underscoring the withdrawal of manufacturing, private developers announced the $200 million mixed-use Pointe Blue project in May 2006 which was to include both condominiums and apartments on the site of a former auto parts plant adjacent to downtown (Lohr, 2006). By January 2008, the project failed due to the inability of the developer to secure financing and as of 2014 it continues to await environmental clean-up (Burke, 2014; Daykin, 2008). Another
downtown development project, transforming the empty lot of a former furniture store into retail and apartments, has been halted as well (Burke, 2014).

Table 1. Percentage change in Racine for major racial categories

<table>
<thead>
<tr>
<th>Racial categories</th>
<th>Racine %</th>
<th>Decennial Change</th>
<th>Total change to 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>1970</td>
<td>85.8</td>
<td>---</td>
</tr>
<tr>
<td></td>
<td>1980</td>
<td>78.3</td>
<td>-7.5</td>
</tr>
<tr>
<td></td>
<td>1990</td>
<td>72.9</td>
<td>-5.4</td>
</tr>
<tr>
<td></td>
<td>2000</td>
<td>63.7</td>
<td>-9.2</td>
</tr>
<tr>
<td></td>
<td>2010</td>
<td>53.5</td>
<td>-10.2</td>
</tr>
<tr>
<td>Black</td>
<td>1970</td>
<td>10.1</td>
<td>---</td>
</tr>
<tr>
<td></td>
<td>1980</td>
<td>14.0</td>
<td>+3.9</td>
</tr>
<tr>
<td></td>
<td>1990</td>
<td>18.4</td>
<td>+4.4</td>
</tr>
<tr>
<td></td>
<td>2000</td>
<td>19.7</td>
<td>+1.3</td>
</tr>
<tr>
<td></td>
<td>2010</td>
<td>22.0</td>
<td>+2.3</td>
</tr>
<tr>
<td>Latino</td>
<td>1970</td>
<td>3.7</td>
<td>---</td>
</tr>
<tr>
<td></td>
<td>1980</td>
<td>6.7</td>
<td>+3</td>
</tr>
<tr>
<td></td>
<td>1990</td>
<td>8.0</td>
<td>+1.3</td>
</tr>
<tr>
<td></td>
<td>2000</td>
<td>13.9</td>
<td>+5.9</td>
</tr>
<tr>
<td></td>
<td>2010</td>
<td>20.7</td>
<td>+6.8</td>
</tr>
</tbody>
</table>

Table 2. Racial demographics in zip codes 53402 and 53403, 2000 & 2010

<table>
<thead>
<tr>
<th>2000 %</th>
<th>2010 %</th>
<th>Count change</th>
<th>Count %change</th>
<th>Change in %</th>
</tr>
</thead>
<tbody>
<tr>
<td>53402</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Latino:</td>
<td>2,433</td>
<td>7.2%</td>
<td>3,452</td>
<td>10.4%</td>
</tr>
<tr>
<td>White:</td>
<td>28,520</td>
<td>84.5%</td>
<td>25,763</td>
<td>77.7%</td>
</tr>
<tr>
<td>Black:</td>
<td>2,011</td>
<td>6.0%</td>
<td>2,726</td>
<td>8.2%</td>
</tr>
<tr>
<td>Other:</td>
<td>782</td>
<td>2.3%</td>
<td>1,233</td>
<td>3.7%</td>
</tr>
<tr>
<td>Total:</td>
<td>33,746</td>
<td>100%</td>
<td>33,174</td>
<td>100%</td>
</tr>
<tr>
<td>53403</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Latino:</td>
<td>4,489</td>
<td>15.9%</td>
<td>6,180</td>
<td>22.5%</td>
</tr>
<tr>
<td>White:</td>
<td>15,237</td>
<td>54.0%</td>
<td>13,162</td>
<td>48.0%</td>
</tr>
<tr>
<td>Black:</td>
<td>7,979</td>
<td>28.3%</td>
<td>7,105</td>
<td>25.9%</td>
</tr>
<tr>
<td>Other:</td>
<td>505</td>
<td>1.8%</td>
<td>985</td>
<td>3.6%</td>
</tr>
<tr>
<td>Total:</td>
<td>28,210</td>
<td>100%</td>
<td>27,432</td>
<td>100%</td>
</tr>
</tbody>
</table>
In addition to attempting to attract new business, Racine was also poised to benefit from the planned commuter train between Chicago and Milwaukee, building a station at a cost of $1.4 million (Lohr, 2006). The Cruise Inn, one of the taverns involved in this case, was forced out of their property so this rail line could be built, but as of 2011, the project was cancelled (Sandler, 2011).

Mirroring other post-industrial cities, Racine’s manufacturing losses have been only partially offset by gains in the service sector. According to the Bureau of Labor Statistics (2015), of non-farm jobs, manufacturing provides the most jobs in Racine, followed by trade, transportation, and utilities. The 19,000 manufacturing employees in 2014 slid down 21% from 1998 and 1999. Skilled trades in mining, logging, and construction also declined 35% from 1999 to 2014, while jobs in trade, transportation, and utilities stayed stagnant. During that same period, employees in the leisure and hospitality fields have grown by 25%, from 5,900 to 7,400 jobs. These jobs have not numerically replaced the lost blue-collar work and seldom come with similar salary or benefits packages.

It is clear the city is concerned about economic development in light of the declining quantity and quality of employment as well as the Racine’s population decreases, much of which has comprised its White population. Racine wants to attract moneyed residents and businesses to the area, since entertainment and service economies depend on outside cash flow. They are using old factory lands to rebuild the image of Racine as a desirable place to live and visit. In 2014, the city announced the $65 million mixed-use Machinery Row project, which is located along the south bank of the Root Rover just north of downtown (Daykin, 2014). This project is a principle component of the city’s RootWorks: Root River Corridor Redevelopment Plan, announced in 2012, which focuses on the development of former industrial land along the river and close to the downtown.

**DOWNTOWN TAVERN ACTIVITY & REGULATORY RESPONSE**

To present an attractive Racine ripe for investment, the downtown nightlife must be tailored to the intended audience. After the early 2000s, the nightlife of downtown Racine became younger and more visibly minority, which can be perceived as an obstacle to development and gentrification. Between 2006 and 2013, new taverns opened downtown which catered to minority clientele. This had the potential effects of both offering minority customers entertainment outlets closer than Milwaukee and frustrating those who might see poor investment potential with increased minority presence. As we have seen, perceptions of disorder and crime are strongly related to minority presence, regardless of actual rates of crime and disorder (Chiricos et al., 2001; Sampson & Raudenbush, 2004). Indeed, in her deposition, Sharp indicated that she overheard Mayor Dickert on more than one occasion express precisely this relationship in explicitly racial terms: “These niggers need to go back to Waukegan because they’re disturbing the revenue…” (p.26, line 10, p.27, line 19). Mayor Dickert’s words to former alderman Marcus make clear that the downtown must be “cleaned up” (p.26, line 10, p.27, line 19), clarifying that this meant “safer” with respect to the “downtown bars” (p.28, line 11).

The tools available to the city to control this urban racial dynamic include liquor license revocations and coercive side agreements that force taverns to observe extra-legal requirements that are frequently burdensome and expensive. The PSLC identified problems at particular locations and identified particular taverns as especially influential in creating these problems. The Committee then either revoked their licenses (effectively curtailing their cash flow) or used
the threat of revocation to force owners to invest in expensive equipment and tailor their appeal against particular demographics the Committee deemed unacceptable.

A basic recounting of the use of these tools between 2006 and 2011 reveals a nearly universal pattern of racialized enforcement. Based on the information I received and reviewed, of the 42 taverns considered in the area, 24 are minority owned or are owned by Whites who service a primarily minority clientele. Every single tavern (n = 10) taken directly through the revocation process without a Committee-offered side agreement had a minority owner (n = 9) or minority clientele (n = 1). The listing of taverns without side agreements (n = 14)—i.e., those remaining essentially un-hassled; neither revoked nor taken through side agreements—includes only 1 tavern owned by a non-White person while the rest serve White clientele. The taverns coerced into signing side agreements (n = 18) comprise 13 owned by minorities or having minority clientele and only 5 that do not. To say that license revocations are being used to control and remove minority taverns from Racine is simply description, particularly in the downtown. The PSLC also imposes a de facto tax on the taverns that remain under side agreements, in the form of security and surveillance equipment not required of taverns without such agreements.

Downtown Racine has its share of violence, including homicide. Calls for service in and around the downtown taverns are common enough that the Racine Police Department has begun the Tavern Enforcement Squad, although it is unknown whether this was politically motivated. At base, the taverns in question lost their liquor licenses because of the “problem activity” they are said to have generated. The majority of this “problem activity” was large and loud crowds outside the taverns, rather than inside the establishments. Multiple taverns downtown are adjacent to one another, and it appears that the way that RPD and private security were able to attribute these crowds to these specific taverns was by identifying loud passersby by race. The official linking of the complaint to a tavern is likely the result of the dispatch requirement for an address to attach to the call, and the tavern was the closest address.

Figure 1, which is based on the information that I have received and reviewed, lists the location and years of operation of the taverns in downtown Racine as well as whether they were minority owned or catered to minority clientele (Figure 2, also based on information I have received and reviewed) adds supplementary information for taverns outside of the downtown core). The taverns in red had their liquor licenses revoked or their owners were forced to surrender their liquor licenses; the shading separates each block. Based on subpoenaed emails I reviewed, the PSLC and RPD primarily focused on plaintiffs The Place on 6th and Park 6. Once those locations had their licenses successfully revoked, they turned their attention to Ginger’s Lounge under the assumption that the unwanted minority clientele had shifted there. The focus of the license revocations was on loud music and crowds in the street, and witnesses suggested that these caused disturbances severe enough to warrant license revocation.

Relying on the information I have received and reviewed, based on calls for service, taverns owned by Whites and catering to White clientele had 13% more violent calls than minority owned taverns whose licenses were revoked. It is clear that White taverns with serious violence issues were not subject to license revocation, while those in the downtown core that catered to young minorities were driven out of downtown through revocation and hamstrung by side agreements. Moreover, and again based on the information I have received and reviewed, the White taverns minority owned taverns had five times the reported complaints as White taverns in terms of noise and crowd calls, but two-thirds of those were determined to be
<table>
<thead>
<tr>
<th>Address</th>
<th>Name</th>
<th>Years</th>
<th>Minority Owned</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>230 Main Street</td>
<td>Casablanca De Mexico</td>
<td>2005-2015</td>
<td>x</td>
<td>Very few issues</td>
</tr>
<tr>
<td>231 Main Street</td>
<td>Ivanhoe's Pub</td>
<td>2005-2015</td>
<td></td>
<td>Several calls for service, mostly for disorderly conduct type calls. No hearings, license always renewed</td>
</tr>
<tr>
<td>235 Main Street</td>
<td>De Pizza Chef</td>
<td>2005-2015</td>
<td></td>
<td>Very few issues</td>
</tr>
<tr>
<td>236 Main Street</td>
<td>Ricky's</td>
<td>2005-2015</td>
<td></td>
<td>Multiple calls for service, typically on more violent end (shootings, fights, assaults). No hearings, license always renewed</td>
</tr>
<tr>
<td>240A Main Street</td>
<td>Uncork't</td>
<td>2008-2015</td>
<td></td>
<td>Very few issues</td>
</tr>
<tr>
<td>240B Main Street</td>
<td>Pink Magnolia/ Granger's Lounge</td>
<td>2009-2015</td>
<td></td>
<td>A few minor calls, including one for noise</td>
</tr>
<tr>
<td>245 Main Street</td>
<td>Divino Gelato Café</td>
<td>2012-2015</td>
<td></td>
<td>New Class B license issued 2012; no issues</td>
</tr>
<tr>
<td>309 Main Street</td>
<td>The Soup</td>
<td>2010-2011</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>314 Main Street</td>
<td>Salute Italian Restaurant</td>
<td>2007-2015</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>316 Main Street</td>
<td>Envi</td>
<td>2009-2015</td>
<td></td>
<td>A few minor calls, including one for crowd control in street; also 2 assault calls in 2012 - but no hearing. Homicide in 2014, no hearing</td>
</tr>
<tr>
<td>331 Main Street</td>
<td>Evelyn's Club Main</td>
<td>2005-2015</td>
<td></td>
<td>Multiple calls for service, largely for noise and disorderly conduct type calls. No hearings, license always renewed</td>
</tr>
<tr>
<td>345 Main Street</td>
<td>Gingers Lounge/Sticky Rice</td>
<td>2008-2011</td>
<td>x</td>
<td>Lots of noise complaints, with police noting unfounded. Complaints of crowds outside tavern -- worth noting this is on corner of Main and 4th by a crosswalk. Committee revoked their license in 2011</td>
</tr>
<tr>
<td>400 Main Street</td>
<td>Whey Chai Chinese Restaurant</td>
<td>2008-2015</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>424 Main Street</td>
<td>JavaVino</td>
<td>2006-2009</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>555 Main Street</td>
<td>(2 different cafes)</td>
<td>2005-2015</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>600 Main Street</td>
<td>Dewey's Sports Bar</td>
<td>2012-2015</td>
<td></td>
<td>New Class B license issued 2012; no issues</td>
</tr>
<tr>
<td>525 Wisconsin Street</td>
<td>Bar 525</td>
<td>2005-2014</td>
<td></td>
<td>Several fights and loud music calls.</td>
</tr>
<tr>
<td>201 Sixth Street</td>
<td>Somerset Club</td>
<td>2005-2015</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>211 Sixth Street</td>
<td>Vero's Restaurant</td>
<td>2007-2015</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>213 Sixth Street</td>
<td>McAulliffs on the Square</td>
<td>2006-2015</td>
<td></td>
<td>Several calls for service, mostly for noise and disorderly conduct type calls. No hearings, license always renewed</td>
</tr>
<tr>
<td>300 Sixth Street</td>
<td>Taos Chili/Sip Drink Eatery</td>
<td>2013-2015</td>
<td></td>
<td>New Class B license issued 2013; no issues</td>
</tr>
<tr>
<td>306 Sixth Street</td>
<td>Blue Rock Lounge and Eatery</td>
<td>2007-2015</td>
<td>x</td>
<td>Loud music and assault calls. Not minority owned, but minority clientele. After a side agreement, switched music formats, and license renewed. Still same level of calls, however</td>
</tr>
<tr>
<td>418 Sixth Street</td>
<td>Olde Madrid</td>
<td>2007-2015</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>423 Sixth Street</td>
<td>Asiana</td>
<td>2007-2015</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>500 Sixth Street</td>
<td>Park 6</td>
<td>2008-2011</td>
<td>x</td>
<td>Loud music and fights, but license renewed for 2009-2010. 2010-2011 most calls were for crowds outside being unruly; police do not designate as not related to premise, but do say 500 block of 6th. License revoked 2011</td>
</tr>
<tr>
<td>501 Sixth Street</td>
<td>Henry &amp; Wanda's</td>
<td>2007-2015</td>
<td></td>
<td>Several calls for service, mostly for noise and disorderly conduct type calls. No hearings, license always renewed</td>
</tr>
<tr>
<td>509 Sixth Street</td>
<td>Place on 6th</td>
<td>2009-2012</td>
<td>x</td>
<td>Many fights documented inside and outside of bar; police do document attached to this bar, unlike in many other instances. Otherwise, just noise and crowd complaints. Renewed in 2011, but license revoked in 2012. (Between 2006-2009 was Tango Bar; no issues)</td>
</tr>
<tr>
<td>515 Sixth Street</td>
<td>Wilbur's BBQ/Fireside Ribs &amp; Fish</td>
<td>2005-2008</td>
<td>x</td>
<td>No issues</td>
</tr>
<tr>
<td>522 Sixth Street</td>
<td>Raytown Roadhouse</td>
<td>2009-2011</td>
<td></td>
<td>Very few issues</td>
</tr>
<tr>
<td>600 Sixth Street</td>
<td>3 different establishments</td>
<td>2006-2015</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>605 Sixth Street</td>
<td>Balkan Restaurant</td>
<td>2007-2015</td>
<td></td>
<td>No issues</td>
</tr>
<tr>
<td>607 Sixth Street</td>
<td>Cera's Tequila Bar</td>
<td>2006-2008</td>
<td>x</td>
<td>A few loud music and a few disorderly conduct calls. License initially renewed, but revoked in 2008</td>
</tr>
<tr>
<td>618 Sixth Street</td>
<td>Pepi's Pub &amp; Grill</td>
<td>2010-2015</td>
<td></td>
<td>Multiple calls, ranging for noise to fights, to a shooting. No hearings, license always renewed</td>
</tr>
</tbody>
</table>

Figure 1. All taverns (Class B liquor licenses) in Downtown Racine.
unfounded; conversely, in White taverns, the complaints were founded over 50% of the time. Interestingly, both the license-revoked minority owned taverns and all minority taverns considered together had five times as many unfounded calls as the White taverns. The extreme discrepancy between founded and unfounded implies differences in perception. The assessment of the desirability for any given tavern’s clientele appears to be based on race. When pressed for how they could tell from which taverns the disturbing crowds had emerged, the City’s witnesses at Ginger’s due process hearing indicated race and youthful clothing as the primary means. For example, one witness was asked how she could tell where the people that disturbed her at night came from:

A: Ginger’s has a different crowd, a different clientele….

…

Q: Describe for me how you know that they are different.

A: They are younger, they are black, they are Mexican, the way they dress, the way they talk…That is not the clientele from Evelyn’s, not the crowd from Ricky’s, it is not the crowd from Ivanhoe’s…

Q: One of the problems you have with this crowd is that it is predominantly Mexican or—

A: I don’t have a problem with the type of crowd, I have a problem with how loud they are, how obnoxious they are, the screaming, the yelling. If they didn’t do that and would leave the bar like normal people do…

Not only does the City’s witness clearly state that her complaint is based on race, but she also determines that “normal people”—that is, people who are not “black” and “Mexican”—do

<table>
<thead>
<tr>
<th>Address</th>
<th>Name</th>
<th>Years</th>
<th>Minority Owned</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1300 N Main</td>
<td>Kenny’s</td>
<td>2007-2015</td>
<td></td>
<td>Multiple incidents, including several shootings, as well as fights and noise complaints. License continues to be renewed, despite highest call load of any bar in Racine</td>
</tr>
<tr>
<td>1234 Douglas</td>
<td>American Legion Post</td>
<td>2005-2015</td>
<td>x</td>
<td>Several calls for fights and assaults, and homicide occurred in 2014. License renewed month later</td>
</tr>
<tr>
<td>1307 Douglas</td>
<td>Double Ds</td>
<td>2005-2011</td>
<td></td>
<td>Several calls for assaults and disorderly conduct, called before committee once, license always renewed</td>
</tr>
<tr>
<td>1333 Douglas</td>
<td>Rosie’s</td>
<td>2007-2008</td>
<td>x</td>
<td>Two shootings, including one after patron ejected. No other issues, but license revoked</td>
</tr>
<tr>
<td>3113 Douglas</td>
<td>Peg and Lou’s Bar</td>
<td>2006-2015</td>
<td></td>
<td>Very few calls, but location of homicide. Hearing held, license renewed</td>
</tr>
<tr>
<td>1655 Taylor</td>
<td>Blind Alligator</td>
<td>2005-2010</td>
<td></td>
<td>Multiple incidents, primarily for assaults and prostitution. License revoked in 2010</td>
</tr>
<tr>
<td>1814 Taylor</td>
<td>TBGs</td>
<td>2005-2015</td>
<td></td>
<td>Multiple fights, assaults, shooting complaints, as well as problems dispersing crowds from parking lot. License always renewed</td>
</tr>
<tr>
<td>1244 Washington</td>
<td>The Club</td>
<td>2009-2015</td>
<td>x</td>
<td>Multiple fights, as well as problems dispersing crowds from parking lot. Two side agreements with City.</td>
</tr>
<tr>
<td>1330 Washington</td>
<td>Mr. Kools Bar</td>
<td>2006-2015</td>
<td>x</td>
<td>One shooting (after patrons ejected), very few other calls. But was held for non-renewal until entered side agreement</td>
</tr>
<tr>
<td>1501 Washington</td>
<td>Gerald’s Smokehouse</td>
<td>2010-2013</td>
<td>x</td>
<td>Several fights and large crowds</td>
</tr>
<tr>
<td>5200 Washington</td>
<td>The Boiler Room</td>
<td>2007-2015</td>
<td></td>
<td>Multiple fights and loud music complaints. License always renewed</td>
</tr>
<tr>
<td>501 High Street</td>
<td>Viper’s Lounge</td>
<td>2005-2008</td>
<td>x</td>
<td>Multiple fights and noise complaints. License Revoked</td>
</tr>
<tr>
<td>3701 Durand</td>
<td>Vintage Rock Café</td>
<td>2005-2014</td>
<td></td>
<td>Multiple calls for fights and assaults; had hearing in 2005 and kept license, but calls continued. Surrendered license in 2014</td>
</tr>
<tr>
<td>3458 Rapids Drive</td>
<td>All Sports Pub</td>
<td>2007-2013</td>
<td></td>
<td>Multiple fights, assaults, and crowds in parking lot</td>
</tr>
</tbody>
</table>

Figure 2. Other taverns (Class B liquor licenses) outside downtown with high service calls
not comport themselves in such a manner. At its root, a “stereotype” is essentially a mental shortcut, which cuts out cognitive reasoning to enhance processing time. Having joined the aural and the visual into a single (and popularly supported) stereotype, it is likely that she would attribute noise heard from White patrons in the area to minorities as well. Ginger’s experienced multiple loud music/noise complaints, the majority of which were determined to be unfounded. For large street crowds, officers often stated that the call was “not related to the operation of the premise” if they did not actually observe patrons leaving the establishment. This is not to suggest that Ginger’s patrons did not make noise, but rather that witnesses, operating under the “Black and Latino noise is obnoxious” stereotypes, did not bother to parcel out noise based on race. Rather, for the witnesses, it’s likely that the presence of both minorities and noise caused the attribution of the problem to Ginger’s, confirming preconceived notions of how people who are not “normal” act. The stereotyping of racial minorities as noisy and obnoxious helps explain the significant discrepancy between founded and unfounded calls for service. Police investigating the complaints most likely found generally high levels of noise emanating from many bar goers of all races and ethnicities.

The racial overtones of the PSLC’s selective enforcement process are made clear in the language used in revocation hearings and the side agreements. Because it is no longer officially acceptable to discriminate on the basis of race, efforts to excise racial populations must be made through coded language and race-blind attributions. Jerome Skolnick, a preeminent policing scholar, demonstrates this by discussing the officer involved in the original Terry stop in 1963, ostensibly based on reasonable suspicion:

> I will suggest to you that Officer McFadden lied, and I will tell you how. He said, “‘[T]hey didn’t look right to me at the time.’’’ What was it about them? Well, he described their behavior. But they were two black teenagers. Surely that was the first thin
> g that grabbed his attention. Why didn’t he say it? Because it wasn’t politically correct, even at that time, to say it.” (1998, p. 1267)

The results of the policy spawned by the Terry decision have been unquestionably racially disparate, even though Terry stops are based officially on the standard of reasonable suspicion. The criteria used (e.g., “furtive movement,” “suspicious bulges”) can, in theory, apply to anyone, yet are applied disproportionately to Blacks and Latinos (Fagan & Davies, 2000; Skolnick, 1998). Clearly, anyone can move furtively, but in NYC only Black and Latino residents seem to move that way in front of police officers. “Furtive movement” becomes a defensible justification for racial discrimination.

In examining revocation hearings and side agreements, we find similar racial coding, ranging from obvious to subtle. Several side agreement with taverns of minority ownership included requirements to prohibit certain styles of dress and publically post notices such as the following:

> Notices (see Attachment B) shall be well lit and prominently displayed at all the entrances and exits from the establishment (and shall be enforced by security employees) prohibiting patrons from wearing visored (e.g., baseball) caps, bandanas, white t-shirts (except when worn under another shirt or clothing), pants with one leg rolled up, and from indecent exposure of undergarments. (Tinita’s side agreement, 2007)

Rather than opt for an affirmative dress code (e.g., “sport coat required”), the boilerplate language used by the Committee often focuses on excluding hip hop styles of dress: bandanas,
pants worn to a level that exposes undergarments, white undershirts, rolled pant legs, and baseball caps. Indeed, the prohibition on Hennessey, a frequently referenced alcoholic drink in popular hip hop music, reflects much the same impetus.³

Tellingly, the music in minority owned and frequented taverns was also closely scrutinized. The side agreement with the minority-patronized Warning Track, for example, specifies that “The Licensee voluntarily agrees not to play Hip hop or Mexican Faedo [sic] music on the jukebox.” Even Alderman Eric Marcus, a self-admitted musical illiterate, connected the racial coding of hip hop music with Black clientele:

A: I remember specifically side agreements that restricted something called hip hop music, and the reason why it stood out to me was I had no idea what hip hop music is, and I’m frankly not sure I really know what it is today. But apparently, it was a kind of music that, that was, was included in these restrictions.
Q: And so the licensing committee would prohibit and/or restrict certain establishments from playing hip hop music?
A: That is correct.
Q: And is it your understanding, although you may not yourself be familiar with hip hop music, but from what you were informed on the committee that hip hop is a type of music that's frequently listened to by African-Americans?
MR. COHEN: Objection, calls for speculation.
THE WITNESS: To the best of my knowledge, the hip hop restrictions were only placed on, on African-American owned bars or bars that served African-American customers. (pp. 74-77, lines 5-22)

This de-facto racial ban appears to have been common knowledge. Although Kenny’s is a White owned and patronized, when called to testify before the PSLC regarding several violent incidents at his tavern, the owner voluntarily self-imposed several racialized rules for himself to follow, which seemed to please the committee, and doubtlessly had little effect on his White-patronized establishment:

Everyone under 30 has ID checked
All male patrons are scanned for metals.
Rap and R/B have been removed from Juke Box.
No Hats, doo rags or bandanas allowed to be worn on premises
No White T-shirts, or Tanks allowed to be worn on premises
No Baggy pants allowed to be worn on premises
No Long gold chains allowed to be worn by customers.

In addition to the racialized music bans and the style choices already discussed, baggy pants and gold chains are also indicative of a hip hop (and thus Black and Latino) aesthetic. Doo-rags, used by the original disorder policing theorists as an indicator of disorder along with “interracial dating” (Harcourt, 2005), are head coverings used by African Americans to maintain chemically-processed hairstyles, although they are sometimes worn regardless of the underlying hairstyle. Bandanas can also serve this purpose. To draw these conclusions is not a stretch—former Mayor Becker himself acknowledges the clear connection between musical prohibition

³ Alderman Coe, who is asked about the prohibition on the drink in his deposition, explicitly denies racial motivations. I discuss these colorblind denials in the next section.
and racial exclusion: “Obviously the type of music you play is going to be the type of what young crowd you bring in” (pp. 157, lines 22-23).

The slippage between discussing race and “gang members” is important to emphasize, insofar as concerns expressed over the latter reflect fears related to Black and Latino (and sometimes Asian) young men. In this case, such bans on attire are defended by Helding and Mozol as aimed only at gangs, without regard to race. As Alexander (2010) notes, gang definitions are left to police departments that use geographic information, apparel, kinship and friendship networks, and other legal behavior to identify suspected gang members. Such overinclusion is textbook racial profiling: In Denver, for example, this led to a list of suspected gang members lengthy enough to include two-thirds of young Black men in the city (Johnson, 1993). Helding and Mozol are both affirm that clothing characteristic of White gangs is not of concern. Black and Brown men are often interpreted as gang members simply by their presence; similarly the hip hop aesthetic often “rounds up” to gang attire. Much as the French ban on face veils banned everyone, not only Muslim women, from wearing face veils, the styles of dress prohibited here are designed and enforced specifically with Black and Latino patrons in mind.

Finally, although extensive information on the community policing philosophy and practice of the RPD is not available at this time, it is known that police were apprehensive before the opening of the first Black-oriented nightclub downtown, The Place on 6th. To quote an email from the RPD Chief: “here comes trouble.” Indeed, Marcus’s deposition describes intimidation in the form of the Nuisance Property Abatement Vehicle (NPAV; known as “the Armadillo” internally). The Armadillo is a repurposed Brinks armored vehicle and equipped with surveillance equipment, leveled at “nuisance” locations, particularly Ginger’s, at Chief Wahlen’s and Alderman Coe’s request (Sanders, 2014). Although the relationship between the PSLC and the RPD is neither clear nor the focus of this report, a community policing philosophy premised on communication, flexible response, adaptation, reduction of hierarchy, and community relations (Goldstein, 1987; Skolnick & Bayley, 1988) appears at odds with the intimidation of minority owned and patronized taverns in downtown Racine through armored vehicles.

“RACISM WITHOUT RACISTS”: EXPRESSING RACIAL OPINIONS IN COLORBLIND WAYS

Sharp’s testimony regarding the comments of Mayor Dickert—“These niggers need to go back to Waukegan because they’re disturbing the revenue…” (p.85, lines 14-15)—shock the sensibilities because they seem so obviously a relic of the Jim Crow era in a post-racial, colorblind present. Yet evidence suggests that such “traditional racism” as one might call it persists in the everyday experience of Americans and simply is scrubbed from most public discussions (Feagin, 1991; Myers & Williamson, 2001; Zamudio & Rios, 2006). The success of colorblind racism—the maintenance of racial subordination while appearing race-neutral—depends on relegating such expressions of traditional racism to private forums. This ensures that when these instances are discovered, the individual is seen as an isolated “bad apple” rather than indicative of a larger ongoing problem of racial discrimination.

The foregoing analyses have demonstrated that the Racine PSLC created racially disparate outcomes in its treatment of minority owned and patronized taverns, but it is also important to recognize the rhetorical tools used to render discrimination invisible. Using the work of Bonilla-Silva (2002, 2003), preeminent sociologist of race from whom the title of this section is gratefully borrowed, as a guide, my team examined the depositions of the defendants in this case.
In some places, the cultural racism is obvious and requires little interpretation. Much like the above quote attributed to Dickert, Police Chief Wahlen provides statements that disguise racial animus no more effectively than saying “Mexicans disdain education”:

You know, I think today’s day in age and even then, the country takes exception to truth a lot. Truth seems to be something that’s thrown underneath the bus. Some problems you’re never going to deal with unless you accept the facts of the truth. The truth is in the inner city among African American populations the adult male role model is missing.
You can take me to task for it. It’s not a racially bias statement, it’s just simply true. (p. 124, lines 16-25).

Cultural racism, which has been well-dissected, is simply the transfer of racially degrading statements that were previously grounded in racist social Darwinist biological theory to the new vehicle of sub-standard “culture” (Bonilla-Silva, 2003; Omi & Winant, 1994; Steinberg, 1989; Zamudio & Rios, 2006). Parroting the 1965 Moynihan Report, Wahlen ascribes Black crime to inferior family arrangements, whereas it was previously ascribed to inferior biology (Muhammad, 2010; Steinberg, 2007). The slippage is crude and obvious.

It is evident throughout these depositions however that the rhetorical tools Bonilla-Silva outlines to *circumvent* questions about race completely are used and adapted to great effect. As with the “furtive movements” that characterize explanations of Terry stops, there are a variety of contextually appropriate ways to disguise racial intent while preserving racial meaning. We analyzed several depositions with respect to the use of the themes outlined in his work.

When race-related matters are discussed publicly, those interested in minimizing the issue (usually Whites, but sometimes people of color invested in the status quo) err on the side of caution and are hesitant in their responses. First, the strategy of avoiding of direct racial language means that racial questions are answered without recourse to racial epithets or “traditional” racial language (e.g., “colored” instead of Black), but rather with race-neutral language such as “mixed” (Bonilla-Silva, 2002, p. 44). The second set of strategies regard the semantic moves used to avoid expressing antagonistic racial views or to express them safely. These are diverse, including such classic forms as “I’m not racist/prejudiced, but…” or “Some of my best friends are Hispanic…”. Stating upfront the socially expected ideology and answer, or deflecting some of the response onto others, allows the freedom for expressing prejudice without consequence. Other verbal tactics include “I am not Black, so I don’t know…” and “Yes and no, but…” (Bonilla-Silva, 2002, pp. 49-50). Claiming ignorance because one is not of a specific racial identity allows respondents safely to avoid the issue; equivocation allows for disagreement without confrontation.

Third, projection allows those in positions of power (often, but not always, related to racial hierarchy) to turn accusations of bias back onto those doing the accusing. To diagnosis racism, in this framework, is to perpetuate it—racial segregation, for example, enforced through redlining and enforcement activity, becomes rearticulated as self-segregation. Fourth, diminutives are used to “soften racial blows,” such as opposing interracial marriage by being “just a little bit concerned about the welfare of the children” (Bonilla-Silva, 2002, p. 57). Finally, rhetorical incoherence is a verbal response used when presented with racially controversial issues

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4 It is also evident that at least one Defendant has some understanding of racial coding and the purposes for which it is used. In discussing words he himself offered—“turds,” “thugs,” and “woo-woos”—Helding states: “I think they're using these words to refer to Black people without sounding like a racist” (p. 164, line 1-18).
where no ready evasion is available. Grammatical mistakes and pauses for thought are common throughout all spoken language, yet Bonilla-Silva observes these to be especially pronounced when race-related questions are posed to White interviewees. Each of these semantic moves present themselves in a variety of ways, but always with the goal of concealing racial views while still expressing them in subtext.

Below I use several examples pulled from the depositions to demonstrate some of these strategies in action. Clearly, the context here—a civil lawsuit that hinges around racial discrimination—is a different context than purposively scripted interviews conducted by trained and matched-race researchers. Further, these are examples rather than an exhaustive analysis of each deposition, but they serve to illustrate the ways that Racine’s downtown racial cleansing for gentrification and investment efforts is both actively and passively constructed at the level of language.

Avoidance

Alderman Coe is militant in his avoidance of racial language, rarely referring openly to minorities of any race. In a few instances in which he is forced to answer such questions directly, he discusses groups as evenly racially distributed, which serves the same purpose. For example, when discussing the racial composition of Ginger’s clientele:

I'll tell you there was no predominant race in there. It was pretty much split. I would say it’s pretty much of a third Black, White and Hispanic. All young—all races went in there. A lot of young people pretty much. (p. 55, lines 20-25).

The patronage of Ginger’s, of course, has been identified by many witnesses as predominantly minority, in particular Black and Latino. Presenting it as otherwise helps him guard against accusations of racial prejudice—in his framing, if there is a significant White clientele then he cannot be accused of discrimination. Coe relies on this response strategy—a “mix of people,” echoing precisely Bonilla-Silva’s analysis (p.44)—quite often in sidestepping racial questions:

Mixed, mixed crowd (p. 59, line 24)

The times I was in there, they had blues bands and stuff, so there was a mix of people (p. 60, lines 16-17)

It’s a restaurant. It’s a mix (p. 61, lines 4-5)

I know a lot of people that go in there, so I couldn’t tell—that’s I think very mixed (p. 64, lines 13-14).

This is more than a simple description. Not only is it code for Black and Latino with respect to Ginger’s, it is also an admission of fear. In one instance, Coe admits that he does not frequent Envi’s tavern because of its “mixed crowd”:

Q: Have you been in Envi before?
A: Yes.
Q: What's the predominant race in there when you've been in there and also based on your knowledge as the First District alderman?
MR. TOKARZ: Object to the form.
Part of the avoidance strategy is stripping away the racial connotations of words. Becker, for example, redefines the term “ghetto” until it has completely lost its contemporary meaning:

I don’t think it’s necessarily a terrible word. There’s a white Catholic ghetto that I went to grade school in and, you know, Germany there were Jewish ghettos. I mean, to me it signifies a somewhat defined area of people with somewhat similar backgrounds (pp.146-7, lines 22-2).

Having insulating himself from the contemporary definition of “ghetto”—a “spatially segregated and contiguous black community” (Patillo, 2003, p. 1046)—Becker then goes on to state that he does not use the word himself, but that he knows that it is sometimes associated with minorities (p. 147). Continuing the World War II theme, Becker’s analysis is similar to a defense of the contemporary use of swastikas due to their original use as a religious symbol from the Indus Valley.

**Anything but Race: Youth Deflections**

Most defendants (and, indeed, other witnesses as well) employ some variety of the “anything but race” strategy. The classic move is to shift discussion from race to class (i.e., “it’s not about Blacks/Latinos/Asians, the real problem is poverty”), and Kaplan provides this in his explanation of White Flight as due to tax differences. Kaplan, who has attended workshops on racial discrimination as well as on the perpetuation of racism through urban renewal, also naturalizes Racine’s White Flight as people just wanting to live near “family or people they know” as opposed to Whites actively leaving minority-populated areas (p. 54, line 14). Linking back to the changing age/race structure of Racine, however, the overwhelming theme of many depositions was to shift the issue of race to that of youth.

Coe, for example, addresses his forbidding of Hennessy behind Ginger’s bar with a discursive shift from race to age:

Q: Was it Doug Nicholson or you that told Pete not to put Hennessy behind the bar?
MR. TOKARZ: Object to the form.
[Coe]: It was me.
MR. SANDERS: Why did you tell Pete that?
A: Because the younger people that were going—it was always younger people, there was a couple of them, these were high alcohol content whiskeys, et cetera, and stuff like that. And a couple of them really gets you screwed up fast. And I said you shouldn’t, you know—this is what the young people were craving.
Q: All young people or—
A: Everybody.
Q: Young people of a particular race?
A: Nope, everybody that I know liked that stuff because it was 90, 100 proof. And a couple of those and—
Q: So you weren’t targeting your comments towards African, young African Americans?
MR. TOKARZ: Object to the form.
[Coe]: No, I wasn’t. (pp.80-81, lines 8-4)
Coe deflects the race question with an age answer, although Hennessey is a very specific alcoholic drink—a cognac, not a whiskey—popularized through, and associated with, popular African American hip hop music. This can be seen as a semantic move to remove race from the equation. By repositioning the object of complaint as “young people” rather than specifically “African Americans,” Coe is free to express why he feels selling Hennessy is problematic without further maneuvering. Much like his use of “mixed,” he remains consistent in switching the conversation from race to “young people” or “youth” throughout his deposition. Although the clientele may in fact be younger, this is not unique to minority owned and patronized taverns and all of these responses are answers to questions about race.

Wahlen provides another good example of this theme in action when he states that he believes the type of music played at bars can contribute to problems, but denies the significance of race and instead attributes it to the age of the crowd:

Q: Do you see that—do you believe that when you were the Police Chief that the type of music that was being played could cause a problem at bars?
A: I think that contributed to it, yes.
Q: In what way?
A: Hip-hop music caters to a younger, immature generation.
Q: Do you agree that it caters predominantly to African Americans?
A: No, not in today’s culture (p.68, line 21-25)

When questioned as to whether African Americans would be found at a country western establishment, Wahlen agrees that this is unlikely and restates that hip hop “draws a young, immature crowd” (p.69, lines 23-24). Much like Coe’s “mixed” crutch, Wahlen believes that by invoking the presence of non-Black people—“I saw other races involved in going to Park Six” (p.74, lines 3-4)—he is insured against the possibility of being seen as racist. He refers to the “hip-hop” crowd as “young” and “immature” on multiple occasions throughout the deposition and attributes a shooting specifically to a time in which George’s tavern was playing hip hop music (p. 95). By substituting age for race and reminding counsel that Park 6 was not patronized by 100% African-Americans, Wahlen is not only able to implicitly finger minorities as the problem, but employ condescending language as well. While it is unknown the extent to which the linguistic shifts from race to age are simply a product of the young-male-gang member-Black/Brown social equations, it is particularly relevant in Racine due to the large population of young Latinos that increasingly dominate the lower rungs of the age demographic.

Projection

Projection, adapted from the psychological idea of denying one’s own impulses by attributing them to others, is a cornerstone of colorblind racism that is often called “reverse racism.” It’s a powerful tool that has enabled racial reactionaries to usurp language of the Civil Rights Movement to enable continued institutional racism under the theory that to continue to ascribe social meaning to race, even by victims of racial discrimination, is to be racist.

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5 Wild Turkey, for example, which is 1) actually whiskey, 2) also very strong, and 3) also very popular, would have been a more appropriate choice to namecheck.
6 Further examples can be found throughout: p.53, line 5; p.58, line 10; p.65; line 19; p.66, line 1.
7 Further examples can be found throughout: p.72, line 18; p.75, line 10; p.230, line 24; p.231, line 12-13.
Wahlen engages this tactic in discussing the fears of White residents who lived near Park 6 and The Place on 6th. Rejecting without reflection the idea that the owners might have legitimate complaints regarding their treatment, he turns local White residents into potential victims of muggings—not in a random act of violence facilitated by the presence of bars, but the owners themselves directly.

Q: Why would they [White residents] be afraid to go into—you said that they were afraid to go to City Hall and make a statement.
A: They’re afraid of reprisals from the owners of Park Six and The Place. They’re afraid of Keith Fair and Thomas Holmes.
Q: What did they think they were going to do to them?
A: They thought they would get mugged or something. I don’t know.
Q: Because they’re Black?
A: No, I think it’s the way they conducted themselves and the crowds that they gathered around them. That’s what I think.
Q: Because the crowds that gathered around them were Black?
A: I don’t think Black had anything to do with it. I think it was behavior. We’re talking about behavior issues, the fights, the shootings, the broken bottles, the urinating in the doorways, the yelling, the screaming, all that kind of stuff. People were afraid. (p.143, lines 2-22)

Steadfastly denying any racial involvement on the part of residents, city officials, aldermen, police, or the Committee, Wahlen turns the claim around, attributing to White residents a stereotypical fear of Black street crime from the owners of the taverns personally—they, not the tavern owners, are the real victims. In a clever twist on the projection strategy, he simultaneously sanctifies himself as the hero standing up for the oppressed White residents. Concluding the deposition, he extends the conceit to himself, stating “You’re the one bringing up the African Americans. I’m only bringing up the establishments [taverns]” (p.229, lines 8-10). Completing his claims to victimhood, he then proclaims that “the lawsuit has no basis in reality” and is “totally made up and a misuse of our legal system” (p.229, lines 19-21).

Avoiding Race Talk as a Minority

It is not only Whites who avoid sensitive racial topics, although the responses can differ somewhat in form. Howell, for example, the Racine Police Chief since 2012, is Black and also avoids discussing race as much as possible in his deposition. Research on the particular bilocation of Black law enforcement and civil leaders in general is wide-ranging. Black officers experience racial discrimination at the hands of their fellow officers and sometimes alienation from their communities, although they are also better positioned to build bridges between police and Black communities than White officers. Yet in statistical analyses, they are also more coercive than White officers in responding to conflicts and Black suspects are more likely to be arrested when the arresting officer is Black (R. A. Brown & Frank, 2006; Sun & Payne, 2004). In this instance, Howell is no doubt keenly aware of the scrutiny that his department could garner from such a case. Even though he was not personally in charge at the time, his role is to defend the department.

8 Black officers are also more likely to take seriously supportive activities in Black neighborhoods (Sun & Payne, 2004). For more information, see Bolton and Feagin (2004)’s Black in Blue: African-American Police Officers and Racism.
When questioned as to whether Wilbur Jones, the owner of the Viper Lounge, approached him about a problem because they are both Black, Howell responded reductively, seizing upon religion after a moment of rhetorical unbalance:

Yeah, I don’t—I mean, I wouldn’t—I wouldn’t profess that I could know his motives, but what I think is that he’s—I respect him as a deacon in the church and I think he respects me as a Christian person, and I think he approached me on that level because he thought I’d be honest with him (p.97, lines 17-23).

Later:

Again, if I could characterize our brief interactions that I’ve had with Wilbur over the years his general premise was that he felt that he wasn’t treated fairly, and that’s in general. That’s just in general. So that would include everybody involved, the city, the department, the committee, he just felt like he wasn’t being treated fairly (p.98, lines 6-14).

Howell effectively removes race from this issue and reframes it terms of simple unfairness, rather than racial inequality. In professing not to know Jones’s motivations, he ironically tiptoes close to the “I’m not Black, but…” tactic, which is uniquely relevant since the question expressly involve their co-ethnicity. Although stripped of the vitriol that can accompany such judgments when coming from Whites, Jones is painted as a chronic complainer; Howell claims not know about the glued shut locks of the Viper Lounge or the racial slurs painted on the outside (p. 98). Jones’s enumerated complaints about specific racial incidents are effectively belittled. In a twist on the projection of racism, Howell dismisses the racial slurs, not because he disbelieves them, but because he is inured to them:

I mean, unfortunately, that kind of colorful language is in thousands of police reports, so it wouldn’t necessarily be like an anomaly for me to see that, so after 30 years I think I’ve seen it enough times. (p. 216, lines 2-6)

Howell struggles to answer the original question in a way that distances himself from Jones as Black. Despite evidence substantiating of Jones’ complaints, Howell is predisposed to treat Jones as a malcontent, underlining a latent projection aspect to his response.

The responses of Alderman Shakoor, who is also Black, are comparable to Howell’s, but avoid race even more obviously. On more than one occasion, the defendant explains clearly that he does not wish to discuss race. For example, when asked about his discussion of race relations with other aldermen:

I haven't discussed anything. He [other alderman] may have said some things to me, and I don't recall what they were. I don’t really want to get into that, the whole race relations thing (pp. 123-124, lines 25-2)

Towards the end, Shakoor even more explicitly distanced himself from his racial identity than did Howell:

Q: [J]ust for the record, what race do you consider yourself?
A: American.
Q: Okay. Are you African American in terms of your race?
Here, Shakoor takes the “anything but race” tactic to an extreme. Not only does he steadfastly refuse to identify others as Black or African American, he also refused to identify himself as Black or African American until forced, preferring to ignore the existence of racial categories altogether by referring to himself only by his nationality. This is a variant known as “But we’re all on the same team!” Doane and Bonilla-Silva (2003) suggest that individuals who use this tactic believe that classifying everyone as Americans will end not only racism but other social oppressions as well. Instead, this has the effect of marginalizing other groups by denying the objective existence of group difference in social treatment (Fryberg & Stephens, 2010). Shakoor is consistent in his refusal to discuss racial minorities, dodging questions about racially identifying Africans Americans as patrons or clientele of certain taverns through equivocation:

I don’t know, I don’t want to assume. (p.86, lines 19-21)

I don’t know, but I would assume (p.88, lines 6-18)

He looks African, but looks can be deceiving. (p.97, line 1)

However, his reluctance to identify race breaks down when it comes to identifying Whites. Here, he identifies patrons of other taverns as White through his nationalistic circumlocution of “European”:

Q: Do you know the race of the owner of George’s?
A: I believe he’s European.
Q: Caucasian?
A: Isn’t that the same?
Q: Is that the way to say it?
A: Isn’t that the same? I don’t know, European, Caucasian. I say European.
Q: Okay. What about the race of the owner of Kenny’s, do you know it?
A: European. (p.119, lines 1-25)

Howell does this as well (p.54, lines 3-7), but returns to more traditional classifications throughout the deposition. The contradictions of such an approach are obvious—if Shakoor considers White Americans to be European, and Black Americans like himself to be only American, but possibly African, are “Americans” only Black?—but the rhetorical convolutions that Shakoor goes through to avoid the discussion of race by refusing to recognize the categories entirely are remarkable.

On the other hand, sometimes the language used by minorities echoes completely the categories and ethos of colorblind racism. Maack, who identifies as a direct descendent of the White Earth Chippewa and is married to a Latina woman, deflects every mention of race with considerable tenacity, only reluctantly acknowledging, for example, that he “assumes” his children to be “Hispanic.” When asked multiple times about his own experiences of racial discrimination, the question is deflected to the point of absurdity:

Q: Are you aware of any instances of discrimination in this country currently?
A: I’m not qualified to answer that question.

A: Yes, but I'm American first and foremost. (pp.127-128, lines 25-5)
Q: What qualifications do you believe you need to determine whether or not somebody’s been discriminated against?
A: I don’t know.
Q: So what qualifications do you believe you would need to determine whether somebody was discriminated against?
A: You’re asking me to give an opinion and I’m not qualified to give that opinion.
Q: Have you ever seen anyone in your lifetime discriminated against based on their race?
A: I don’t recall.
Q: Have you ever heard anybody during your lifetime use racially derogatory terms?
MR. STUART: Anyone anywhere? On TV, in music?
[Maack]: Yes.
Q: Okay. Have you ever been present in the room when somebody used racially derogatory language?
A: Do you have a time frame defined?
Q: At any point.
MR. STUART: What do you consider to be derogatory?
Q: I’ll ask specific terms. Have you ever heard—have you ever been in the room when anybody has used the term “nigger”?
A: When I was young I recall a neighbor lady using that term.
Q: Other than that lady neighbor?
A: There was some African-American kids down the block that were shouting that word a couple, couple months ago outside.

Maack’s overall recalcitrance in discussing race is considerable. Although he does not quibble with counsel over racial categories, he declines to answer questions about his own life and history due to his lack of expertise about the subject. In an interesting example of adapted projection, apart from an incident from his childhood, he identifies only African Americans as every having used racially discriminatory language.

Rhetorical incoherence

 Relatedly, the final “strategy” is the simple inability to answer questions about race coherently for otherwise articulate professionals—in other words, an indication of the failure to sidestep quickly enough. Dickert relies on the phrases “I don’t know” and “I have no idea” (literally) hundreds of times as rhetorical method to avoid race related questions and issues and variation of “I don’t recall” or “I don’t remember” over 60 times for the same purposes. 9 Coe

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9 This is not an exaggeration. In response to questions regarding only race, attire, or music, examples can be found here: p. 32, line 10; p. 33, line 24; p. 47, line 12; p. 52, line 10, 12, 14; p. 55, line 15; p. 57, line 12; p. 58, line 1, 7; p. 59, line 1, 16; p. 60, line 2; p. 61, line 3, 12, 23; p. 69, line 5, 8, 11, 14, 16, 18; p. 70, line 25; p. 72, line 9, 12, 19; p. 75, line 2, 17; p. 76, line 3, 6, 9; p. 77, line 6, 16; p. 78, line 20; p. 79, line 9; p. 84, line 3, 7, 13 (twice); p. 85, line 1, 2, 7; p. 86, line 15, 17, 22; p. 87, line 6; p. 88, line 2, 5, 19; p. 127, line 2, 4, 5, 19; p. 150, line 8, 17; p. 151, line 2; p. 152, line 15; p. 153, line 21, 22, 23; p. 154, line 12, 14, 17, 21; p. 156, line 20; p. 157, line 16, 24; p. 158, line 6, 9, 22, 24; p. 159, line 7-8; p. 163, line 16, 17, 18; p. 164, line 4; p. 165, line 23; p. 173, line 5, 10 (twice); p. 178, line 15, 184, line 7; p. 189, line 23; p. 190, line 10; p. 203, line 3; p. 204, line 8; p. 224, line 8; p. 232, line 7; p. 239, line 3; p. 247, line 24; p. 248, line 3; p. 249, line 24 (this one is an “I don't remember”); p. 250, line 2; p. 285, line 14, 16; p. 316, line 10; p. 317, line 14, 19, 22; p. 318, line 2, 4.
Examples of “I don't knows” and “I don't recalls” directly relating to questions about the plaintiffs and their bars without mentioning their race or the race of the patrons can be found here: p. 67, line 4; p. 101, line 14; p. 110, line 2, 6; p. 138, line 10; p. 139, 6, 14, 16, 19; p. 142, line 15; p. 166, line 11; p. 169, line 22; p. 197, line 24; p. 198, line 5; p. 219, line 21; p. 220, line 19, 24; p. 222, line 2, 13, 18, 23; p. 223, line 11, 19; p. 260, line 18; p. 263, line 3, 8
also relies heavily upon ignorance, responding “Couldn’t tell you” at least 10 times in response to questions about race, although he answers other questions that way as well.10 Throughout Coe’s deposition, there is significant evidence of the incoherence that Bonilla-Silva (2002) identifies as a rhetorical tactic.

At the heart of this case is the characterization of the Racine downtown. The word “ghetto” is mentioned by the interviewing council as a segue into Coe’s conversation with two tavern owners, one White and the other Black. The original context of Coe’s actions (p.100, lines 15-24) makes it clear that Coe understands the word to be so potentially racially offensive as to require an apology to the tavern owner, who is Black. When questioned about the word, Coe’s responses are riddled with stammering and obvious discomfort with the word and its racial overtones:

How do I say it? To me ghetto is people that—it doesn’t matter what race, people that cause all sorts of problems and they’re doing things they shouldn’t be doing and causing—there is people that cause the same problems no matter what color they are. (p. 101:16-21)

When asked by council to define “ghetto” and to use it in a sentence11, Coe is reduced to total incoherence:

I knew people that to me—I can’t even go there. I— (p. 102, lines 8-9).

I'm not even going there with using it in a sentence. I mean— (p.103, 20-21)

While not as linguistically sophisticated as many of the other circumlocutions that comprise the colorblind racism rhetorical canon, incoherence—used as a predetermined strategy by Dickert and as a last resort by Coe—enables the issue of race to be successfully avoided, in however ungainly a fashion.

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Recalling the discussion of gang membership above, it is important to remember that cultural creations like clothing styles, music, and other racial stand-ins are constantly appropriated by the dominant culture. White people do listen to hip hop music and sometimes imitate the aesthetics, yet they pay few penalties for this—they are not seen as threats. Indeed, in the music industry, such appropriation is valued when done by Whites, as we can see through the examples of Benny Goodman, Dave Brubeck, Elvis, Eminem, and Macklemore, all of whom remain were/are more celebrated, culturally acceptable, and wealthier than the Black artists from whom they appropriated. Laws passed against the wearing of baggy and sagging pants are not aimed at White youth imitating hip hop styles; after Katrina, White people in New Orleans “found” food at flooded stores while Black people “looted” those same stores.

We see the effects of such double-think in the ability of defendants to remember particular instances of police reports and violence at minority-owned bars. They are

(twice); p. 266, line 1, 8; p. 267, line 13; p. 277, line 25; p. 278, line 4, 8, 11 (twice), 19, 21; p. 279, line 6, 12; p. 284, line 15, 16, 20; p. 287, line 19; p. 289, line 19, 21; p. 290, line 5, 14; p. 291, line 1, 4; p. 293, line 19; p. 297, line 22, 25; p. 306, line 4, 7; p. 308, line 4, 13, 18, 24; p. 309, line 6, p. 310, line 13; p. 311, line 21; p. 313, line 21; p. 314, line 9; p. 315, line 1, 4; p. 316, line 22; p. 319, line 23; p. 320, line 11.

10 Race related examples include: p.62, line 22; p.63, line14; p.65, lines 10 & 24
11 From exasperation, one might infer, given that counsel literally spelled it out: “G-H-E-T-T-O” (p.103, line 5).
simultaneously unable to remember any such issues at white-owned bars or white arrests, even though these objectively comprise the larger portion of serious incidents.

Q: So you don’t recall a single instance of violence at a white-owned bar during your tenure as mayor.
Becker: Not that I recall. (p.125, lines 16-19)

Q: Well, Chief Wahlen, do you recall any Whites ever being arrested or cited outside of Park Six or Place on 6th?
Wahlen: I don’t recall who was arrested outside those places. It’s very possible Whites were arrested out in front of those places, too. So I can’t speak to that (p.70, lines 8-14).

Q: You don’t recall receiving information about events at Kenny’s then, right, police events?
Dickert: I only believe, as I testified earlier, that I had one—one time that somebody informed me about what was happening at Kenny’s when someone was injured. (p.301, lines 18-24)

The normally loquacious Kaplan is questioned about several instances of violence and other disturbances at Kenny’s, a White owned and patronized tavern with a long record of violence and disturbance, but claims to not recall any of them, while being very aware of a fewer less severe instances occurring at the minority-owned Viper’s (p.238-243). This line of questioning essentially leads to an incoherent response from Kaplan when confronted with several transcription pages of evidence regarding misdeeds and violence at Kenny’s that were reported to the PSLC:

Q: What did you think, Kenny’s just had a clean slate?
Kaplan: No, I don’t have any comment -- I don’t -- I don’t recall any of it. (249:3-5)

Such double-think is the way that colorblind laws are selectively enforced. White transgression is excused as aberrant, easily fixable, and addressable through informal sanctions while minority (often Black and Latino) transgression is seen as pathological (M. K. Brown et al., 2003; Metzl, 2011; Muhammad, 2010; Richie, 2012; Rios, 2006, 2011).

Reports of racism’s death by way of the Civil Rights Movement have been greatly exaggerated. Racism and racialized talk come in both traditional and colorblind forms, but we express collective shock when high profile figures occasionally tell their “truth” about race in the words of Wahlen—sometimes when they think their conversations are private (e.g., Clipper’s owner Donald Sterling) and sometimes when they are in highly arousing, high stress situations or intoxicated (e.g., Michael Richards, Mel Gibsen). Rather than thinking of these acts as anomalous or as a case of a lucky “outing” of an uncover White supremacist, it makes much more sense to consider these cases as the tip of an iceberg. The iceberg—society’s ongoing racial stratification—is mostly submerged, but continues to influence perceptions of crime and disorder such that downtown Racine was seen as required “cleansing” of its non-White taverns to attract investment. The Racine iceberg’s tip—the obvious comments of Mayor Dickert who thought he was speaking privately (“These niggers need to go back to Waukegan because they’re disturbing the revenue”)—connect directly to its more subtle and symbolic expressions in the expulsion of Hennessey, hip hop, and do-rags from downtown taverns to the colorblind racism of fearing “mixed crowds.” The tavern owners in Holmes v. Racine have lost their establishments and the downtown taverns, by all reports, are considerably Whiter. It remains to be seen if this will save
the city and for whom, but the owners themselves have lost considerably due to the color of their skin and that of their clientele.
REFERENCES


II. FACTS AND DATA CONSIDERED

The documents reviewed were provided to me by the law firm of Segal, McCambridge, Singer, and Mahoney are listed in Exhibit 1. I also relied upon the academic studies cited in the reference section of this report. All of the documents reviewed and relied upon are the type of documents that an expert would reasonably rely upon when offering an opinion in my field.
III. EXHIBITS USED TO SUMMARIZE OR SUPPORT OPINIONS

I reserve the right to use as exhibits any documents referenced or quoted in this report.