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The Everyday Economic Violence of Black Life

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FROM THE READING ROOM

The Everyday Economic Violence of Black Life

Reviewed by Renee C. Hatcher

Ferguson's Fault Lines: The Race Quake That Rocked a Nation
 Kimberly Jade Norwood, Editor
 American Bar Association
 276 pages, \$24.95

*There are two Fergusons. There are two Americas. We cannot change this reality unless we first acknowledge it.*¹—KIMBERLY JADE NORWOOD

*The truth about the racism and brutality of the police has broken through the veil of segregation that has shrouded it from public view.*²—KEEANGA YAMATTA-TAYLOR

*You can't understand your appropriate role in this moment without understanding the moment we're in.*³—PURVI SHAH

I. Introduction

All too often, what is missing from the mainstream discourse around race is the historical and political context that has shaped the present-day reality.

1. Kimberly Jade Norwood, *Introduction*, in *FERGUSON'S FAULT LINES: THE RACE QUAKE THAT ROCKED A NATION* xxi (Kimberly Jade Norwood ed., 2016).

2. KEEANGA YAMATTA-TAYLOR, *FROM #BLACKLIVESMATTER TO BLACK LIBERATION* 154 (2016).

3. Purvi Shah, Closing Keynote Address at the Rebellious Lawyering Conference 2017 (Feb. 18, 2017).

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Often there are conversations about the condition of Black neighborhoods, without the mention of redlining; conversations about the poverty rate in the Black community, without discussing the employment and housing discrimination experienced by Black citizens. Most often, there are conversations about Black criminality, without the mention of predatory policing in low-income Black neighborhoods or the targeted enforcement of petty crimes on Black citizens. *Ferguson's Fault Lines* provides a much needed social, political, and historical context to the national conversation about racialized state violence reignited by the 2014 killing of Michael Brown at the hands of Officer Darren Wilson. We may never definitively know what happened on August 9, 2014,⁴ but we do know the long history of discriminatory policies that shaped the conditions and policing practices in Ferguson. *Ferguson's Fault Lines* begins to unpack the ways in which urban and more recently suburban landscapes have continuously been racialized through decades of state de jure and de facto discrimination and corresponding institutional policies. While there may never be justice for Michael Brown, there can still be justice for the communities, like Ferguson, that have suffered state-sanctioned structural and spatial racism.

Kimberly Norwood has wonderfully curated thirteen chapters, each written by a different scholar or advocate, that begin to shine a light on why the slaying of Michael Brown at the hands of Officer Darren Wilson sparked mass protests around the country and captured the nation's attention. While the killing of Michael Brown was the spark that ignited the flame, the book examines the social conditions and economic and political policies that served as tinder. Nearly half of the chapters paint a picture of the historical and ever present state-sanctioned economic violence on the Black community in Ferguson and greater St. Louis.

While the value of *Ferguson's Fault Lines* is partly the nuanced historical (policies) account of Ferguson and the St. Louis metropolitan area, there are a number of parallels of state institutions and social forces that are relevant for almost every city and suburb across the country. As a result, Kimberly Norwood has provided a blueprint for the type of research that is necessary to have fruitful public discourse and policy-making discussions not only on local policing practices but also on housing, education, and community development. The book marks a two-fold achievement of connecting oppressive state-sanctioned policies to the current conditions of Black communities, and it expands the call to transform not only discriminatory policing practices but also those policies that contribute to the everyday economic violence of Black life.

4. Michael Harriot, *Everything You Think You Know About the Death of Mike Brown Is Wrong, and the Man Who Killed Him Admits It*, THE ROOT, Mar. 15, 2017, http://www.theroot.com/everything-you-think-you-know-about-the-death-of-mike-b-1793261221?utm_source=theroot_facebook&utm_medium=socialflow.

In Part II, I briefly summarize and analyze each of the thirteen chapters of the book. Chapters One and Two explore how the history of slavery and violence against Black bodies continues to shape modern day America. Chapter three recounts the unorthodox grand jury proceeding of Darren Wilson for Michael Brown's murder. Chapters Four through Eight are the heart of the book and begin to paint a picture of spatial racism, the current geography of inequality, and discrimination in Ferguson and the St. Louis metropolitan region. Chapters Nine through Thirteen explore different societal responses to the killing of Mike Brown and the events that happened afterward. When read together, the chapters provide the necessary context to discuss the current moment on injustice and inequality of Ferguson and the necessary steps to address it.

In Part III, I draw some concluding thoughts and raise unanswered questions regarding the uneven development, spatial racism, and discriminatory practices in Ferguson. These policies assign different spaces, neighborhoods, and opportunities to citizens of different races in the St. Louis metropolitan region. In doing so, they create unequal access to education, employment, transportation, health outcomes, and life expectancies, based on race and zip code. They also give rise to and enable discriminatory policing. Much of my analysis is based upon my experiences as a community economic development (CED) lawyer in cities with substantial Black populations, namely Chicago, Gary, and, most recently, Baltimore. I ultimately argue that state-sanctioned discriminatory policies of both physical and economic violence are intertwined, cyclical, and compounding. In looking to solutions, I advocate that community-driven strategies that address historical discrimination and inequality will move the needle towards progress. By the same token, local housing and development policy makers should employ a racial equity impact assessment for all future investments and policies and take affirmative action to address the geography of inequality that they have helped to create and sustain.

II. From Slavery to Policing in the 21st Century

Chapter 1: Michael Brown, Dignity, and Déjà Vu:

From Slavery to Ferguson and Beyond

Christopher Alan Bracey

*The shooting of Michael Brown is reflective of a much older and deeper pathology that lies at the core of our shared national identity.*⁵—CHRISTOPHER ALAN BRACEY

Racial oppression in the United States predates the very founding of this country. America, a country founded on the ideals of freedom and

5. Christopher Alan Bracey, *Michael Brown, Dignity, and Déjà Vu: From Slavery to Ferguson and Beyond*, in *FERGUSON FAULT LINES*, *supra* note 1, at 2.

equality, was entangled in chattel slavery of African peoples for more than a century before the ratification of the U.S. Constitution. The survival and function of the “peculiar institution” was based on “the belief of whites that Blacks did not possess equal humanity and therefore did not deserve equal treatment.”⁶ This, as Bracey puts it, was a “core founding principle of this nation” and “underlies a great deal of historical racial interactions in American life.”⁷ As we begin to make sense of the both tragic and heroic events that took place in Ferguson in late 2014, we must first understand that a tradition of oppression has been embedded in America’s cultural consciousness since the nation’s founding.

Michael Brown’s death was “yet another vicious downbeat in the rhythmic assault on black humanity,” writes Bracey. A part of the recurrent ritual of expropriating the basic dignity and equal humanity of Black people in furtherance of some larger agenda, or what Bracey refers to as the “dignity expropriation” of racial oppression, is a concept he developed in his co-authored book, *The Dred Scott Case: Historical and Contemporary Perspectives on Race and the Law*.⁸

Bracey’s chapter is compellingly constructed and an important foundation for understanding the history of Black people and the state. Quoting Justice Taney from the landmark *Dred Scott* decision, Bracey shows the way in which the law has reinforced and contributed to the denial and emphatic rejection of Black humanity:

Negroes had for more than a century before been regarded as being an inferior order; and altogether unfit to associate with the white race . . . ; and so far inferior that they had no rights which the white man was bound to respect; and that the Negro might justly and lawfully be reduced to slavery for [the white man’s] his benefit.⁹

While the Reconstruction Amendments, most notably the Fourteenth Amendment, renounced Justice Taney’s opinion as law, Blacks continued to experience racial oppression and dignity expropriation throughout the 20th century.

Bracey ultimately argues that Blacks in Ferguson were denied basic dignity and equal humanity by the very nature of racial profiling and predatory policing they endured, as evidenced by the U.S. Department of Justice’s investigation of the Ferguson Police Department.¹⁰ The pattern and practice of discriminatory policing in Ferguson is akin to the disparate law enforcement of the 19th century, designed to relegate Negro

6. *Id.*

7. *Id.*

8. *The Dred Scott Case: Historical and Contemporary Perspectives on Race and the Law* (David Thomas Konig, Paul Finkelman & Christopher Alan Bracey eds., 2010).

9. *Scott v. Sandford*, 60 U.S. 393, 407 (1856) (Taney, J.).

10. U.S. Dep’t of Justice, Civil Rights Div., *Investigation of the Ferguson Police Department* (Mar. 4, 2015), <https://www.courts.mo.gov/file.jsp?id=95274>).

slaves to servitude and oppress emancipated Blacks. Bracey traces this history of discriminatory policing from the slave codes (Slave Act of 1850, The Fugitive Slave Act, etc.) to modern day criminal justice and policing. An important point connected to this history is the exploitation of Black labor. The law has historically and continuously been used to exploit Black labor. From the slave codes to the Black codes to the excessive fines and fees and predatory policing, the law in the United States has been used to extract value from Black citizens to the benefit of whites who are embedded in the power structure.

The #BlackLivesMatter movement is yet another reminder that “the call for equal dignity and equal humanity has remained fundamentally unanswered.”¹¹ Promoting a culture of racial equality and inclusiveness is the clearest way of fulfilling this demand. For Bracey, this can only be possible if we “historicize, contextualize, and deepen our conversation about race in America”¹² and interrogate our respective racial identities and histories to seek affirmation of our collective humanity.

Chapter 2: The Psychology of Racial Violence

Phillip Atiba Goff and L. Song Richardson

Chapter 2 provides a useful scientific foundation to understand the contemporary ways in which racial bias shapes discriminatory policing practices and outcomes. Black suspects are five times more likely to die at the hands of police than white suspects. In the wake of these extrajudicial killings, often the attention of the media pits the character of the officer against that of the victim. “Was the officer racist and was that racism responsible for the death? Or did the victim act in ways that could be considered threatening and dangerous?” However, this dichotomy ignores the current scientific understanding of bias, specifically racial “suspicion cascades” and the implicit dehumanization of Black people.

Racial “suspicion cascades,” a term coined by Philip Goff, refers to multiple waves of decision-making errors that can warp a person’s perception, regardless of his or her individual racial attitudes.¹³ Citing several studies, Goff and Richardson assert that even individuals who hold egalitarian beliefs are subject to these psychological processes that cause errors in and perceptions in judgment.¹⁴ Racial suspicion cascades theory is informed by a contemporary understanding of racism, which recognizes that racism can exist without racists. Thus, it provides an important framework to discuss discriminatory policing practices and outcomes.

11. Bracey, *supra* note 4, at 12.

12. *Id.*

13. Phillip Atiba Goff & L. Song Richardson, *The Psychology of Racial Violence*, in FERGUSON FAULT LINES, *supra* note 1, at 17.

14. *Id.* at 18 n.15.

Implicit dehumanization is the tendency to associate Blacks with beasts, particularly apes.¹⁵ Numerous studies have shown that implicit dehumanization facilitates racial violence against Blacks, including the use of excessive force by police officers on Black citizens, and also makes people feel more comfortable with such racial violence.

In looking to address these troubling, documented phenomena, Goff and Richardson suggest that community policing is a possible solution. The coauthors define community policing as a model in which officers and communities work closely together to address the underlying causes of crime and disorder and focus on crime prevention and the social work aspects of policing.¹⁶ Goff and Richardson also emphasize the importance in power and privilege analysis in constructing community policing models and policies. They propose specific, immediate solutions, including reforming police training practices to center de-escalation; revising officer incentive structures to reward creative problem solving, interpersonal skills, and ingenuity; using a multidisciplinary approach to identify interventions to reduce racial violence; and abandoning practices that have shown to be ineffective but exacerbate community tensions, such as stop and frisks strategies.

In their conclusion, Goff and Richardson insightfully contend that even if such recommendations were implemented, the current legal doctrine in the U.S. justice system is inadequate to address racial violence. Therefore, in addition to any policy changes regarding policing practices, there must also be a new doctrinal framework that (1) abandons the law's current reliance on demonstrating discriminatory intent or racial animus and considers the historical context of U.S. race relations and (2) shifts the burden to the state to remedy the institutional factors that exacerbate racial violence.

Chapter 3: The Prosecution, the Grand Jury, and the Decision Not to Charge *Katherine Goldwasser*

I want to tell you how this is going to proceed. Obviously, it's going to be different from a lot of the other cases that you've heard during your term.
—BOB McCULLOUGH, ST. LOUIS COUNTY PROSECUTOR

The chapter details the prosecutorial options that were available and chronicles the way in which Darren Wilson's case substantially diverged from the normal order of business in a typical criminal grand jury proceeding. Infamously, the prosecutor in the case, Robert P. McCullough made the above statement at the outset of Darren Wilson's grand jury proceeding.

15. *Id.* at 20.

16. *Id.* at 26.

Chapter 3 explores the irregularities of the grand jury proceeding in the Darren Wilson case. This issue is especially relevant in the context of the many recent, highly publicized shootings of Black men. The unfortunate parallel between many of these cases is that the killer, often a police officer, escapes criminal liability. There is also a historical reality of ethnic minorities, especially African Americans, being subject to systematic miscarriages of justice and extrajudicial killings under the color of law.

First, Goldwasser cites the stark difference in the scope and volume of evidence presented to the grand jurors concerning Officer Wilson and the time it took to present it. Normally, a similar case might have one or two witnesses and few, if any, exhibits. Often, cases are presented in less than an hour. In Wilson's case, McCullough decided to present for over seventy hours, including sixty witnesses and hours upon hours of audio and video recordings, in addition to hundreds of photographs.

Goldwasser summarily asserts that Robert McCullough had an obvious anti-indictment bias, evidenced by the prosecution's decision to call Darren Wilson as a witness and the introduction of the use of deadly force statute during the grand jury proceedings. Moreover, throughout the totality of the grand jury proceedings, it was particularly telling that there was no mention of race. Yet, race was cited as a factor of the Department of Justice investigation into Michael Brown's death.

Goldwasser ultimately calls for secrecy in grand jury procedures to be eliminated, race to be considered as a relevant factor in use of force cases, and independent prosecutors to be installed for police prosecutions. While these recommended solutions are important piece of meaningful judicial reform, they only begin to scratch the surface of the ways in which prosecutorial discretion delivers unjust discriminatory outcomes in the justice system.

Chapter 4: St. Louis County Municipal Courts, For-Profit Policing, and the Road to Reforms *Thomas Harvey and Brendan Roediger*

*At the time of Mike Brown's death, there were more warrants for arrest than people living in the city of Ferguson.*¹⁷—THOMAS HARVEY AND BRENDAN ROEDIGER

For-profit policing has been a touchstone for advocates of police reform in the wake of recent law enforcement involved killings. Data suggests that for profit policing tactics often result in the violation of citizens' constitutional rights. When police are mandated to achieve quotas based on a

17. Thomas Harvey & Brendan Roediger, *St. Louis County Municipal Courts, For-Profit Policing, and the Road to Reforms*, in FERGUSON FAULT LINES, *supra* note 1, at 64.

municipality's budgetary needs and the requisite number of crimes has not occurred, they engage in unlawful means to issue summons.

Chapter 4 discusses troubling reports of rampant constitutional violations by way of closed criminal hearings, municipal jails operating as de facto debtors' prisons, and often deplorable conditions for prisoners. There is a moving list of the grotesque things reported by prisoners in the local system and informative arrest statistics from cities in the region. Among the reported penal conditions are defendants suffering from dehydration in the absence of a trustworthy water supply, weeks without an opportunity to shower, and inhumane medical conditions and access to medication. The statistics from the region that are presented tend to show that Blacks are stopped and ticketed at a rate that is disproportionate to their share of the population, even in instances where the data suggest that whites are almost twice as likely to carry contraband.

It also chronicles the uniquely fragmented nature of municipalities in St. Louis County and how this structure contributes to the perpetuation of inequities in the administration of law. For instance, many extremely small towns operate a single former residential property as a jail, police station, and court. These places often hold court only once or twice a month, leading to defendants having to wait weeks sometimes for a purely administrative hearing to discharge them. Another consequence of the fractured municipalities is what the authors refer to as the "muni-shuffle," or the process of being transported from small jail to small jail, to adjudicate what are often minor or arbitrary offenses, such as manner of walking.

ArchCity Defenders' recent white paper detailed the many ways in which the policing and justice systems play a role in creating and maintaining poverty of St. Louis residents.¹⁸ ArchCity Defenders has played an important role in advocating judicial and policy reform, including requests for amnesty from the Ferguson City Court, a proposal to the Missouri Supreme Court to make fines proportional to a person's income, litigation attacking certain court fees as unlawful, seeking a writ of prohibition from the state sanctioning towns in violation of a state law prohibiting cities from using police revenue for more than 30 percent of their budget, debtor's prison lawsuits, the Ferguson Commission tasked by the governor to make recommendations to improve the courts, and others.

18. Thomas Harvey et al., ArchCity Defenders: Municipal Courts White Paper (Nov. 23, 2014), <http://www.archcitydefenders.org/wp-content/uploads/2014/11/ArchCity-Defenders-Municipal-Courts-Whitepaper.pdf>.

Chapter 5: Making Ferguson: Segregation and Uneven Development in St. Louis and St. Louis County

Colin Gordon

*The surprise in Ferguson is not what happened but why it does not happen more often.*¹⁹—COLIN GORDON

Modern day St. Louis is the fifth most segregated city in the United States.²⁰ This is no accident, but the result of a confluence of private and public policies of racial discrimination and exclusion. Beginning in the early twentieth century, when cities first started to develop zoning regulations, St. Louis was one of a handful of cities that first passed laws racially segregating city neighborhoods. The first city to pass such an ordinance was Baltimore in 1910—perhaps no coincidence since Baltimore and St. Louis had the two largest Black populations of any other cities at the time and both were located in slave border states. Redlining and federal housing policies in the decades to come cemented the spatial segregation of the city. In the 1950s, the federal government's urban renewal, often called "Negro removal" in Black communities, displaced hundreds of Black families to the inner ring suburbs of the City of St. Louis.

While many of the discriminatory policies that shaped modern St. Louis touched every part of the United States, the history of segregation, Black dislocation, and dispossession in St. Louis is a particularly brutal one. After all, the policies and practices of segregation in St. Louis gave way to *Shelley v. Kraemer* (the landmark 1948 Supreme Court case that outlawed state enforcement of restrictive covenants),²¹ *Jones v. Alfred H. Mayer Co.* (the 1968 case that prohibited private discrimination in real estate transactions),²² and *United States v. City of Black Jack* (one of the first exclusionary zoning cases).²³

Colin Gordon traces the policies of spatial racism and housing discrimination in St. Louis, ranging from public practices, such as redlining and exclusionary zoning, to private practices, such as restrictive covenants and agreements among realtors not to sell to Blacks. Gordon identifies a common thread that runs through the ways in which the old de jure discriminatory policies have been transformed into modern day de facto discriminatory public policy. For example, a focus on blighted development

19. Colin Gordon, *Making Ferguson: Segregation and Uneven Development in St. Louis and St. Louis County*, in *FERGUSON FAULT LINES*, *supra* note 1, at 88.

20. An interactive demographic map of the greater St. Louis area developed by Gordon also reveals the extent of the racial segregation across St. Louis County, where Ferguson is located. See *Mapping Decline: St. Louis & the American City*, <http://worldmap.harvard.edu/mappingdecline/>.

21. 334 U.S. 1 (1948).

22. 392 U.S. 409 (1968).

23. 508 F.2d 1179 (8th Cir. 1974).

has yielded much more commercial development than residential and has displaced many Black families in St. Louis.

Gordon contends a confluence of four factors have created and maintained the north-south St. Louis racial and economic divide: (1) structural discrimination and disinvestment have produced gross inequality between white and Black wealth in St. Louis; (2) the northern inner suburbs of North County were treated much like the city itself in terms of zoning and residential development; (3) disinvestment and redevelopment initiatives have caused a shortage of affordable quality housing; and (4) spatial racism and considerations of race in the development process have produced and maintained a certain spatial arrangement, marked by white flight into southern St. Louis County, and later Black flight into North County.

Gordon concludes the chapter by urging the municipal agencies and actors of St. Louis to assume a "stronger sense of responsibility for the local legacy of segregation and local inequality it has sustained."²⁴

**Chapter 6: From *Brown* to Brown:
Sixty-Plus Years of Separately and Unequal Public Education**
Kimberly Jade Norwood

Indeed, public schools remain "so separate and vastly unequal that Plessy v. Ferguson, not Brown v. Board of Education, might as well be the law of the land."—KIMBERLY NORWOOD

What is left of *Brown*? Chapter 6 explores the current state of unequal public education through the lens of Michael Brown's school district, Normandy School District, which was "predominately black, poor, and in academic distress." Norwood explores the conditions that plague urban schools nationwide, such as having few textbooks, teachers that fail to meet the lowest standards of professionalism and competence, and unattended classrooms. She also examines the effectiveness of *Brown v. Board of Education*.

The history of the Normandy School District is a heart wrenching story that is emblematic of the disinvestment and policies that have undermined the success of public schools in majority Black neighborhoods. Originally the district served almost entirely white families, but as Blacks began to move into Normandy and adjacent municipalities, including Ferguson, white families fled to the western and southern suburbs of St. Louis. Some time in the late 20th century, Normandy became the school district with the highest percentage of Black students in the St. Louis metropolitan area. Since 1991, Normandy School District was provisionally accredited because the school district failed to pass state accreditation standards. Michael Brown started kindergarten in Normandy Schools

24. Gordon, *supra* note 19, at 88; see also Patience Crowder, *Inequality, Economic Development, and the New Regional Community*, 43 Sw. L. REV. 569 (2014).

around 2000. The district experienced many challenges regarding funding, the lack of quality teachers, and crowded classrooms. To make things worse, the State of Missouri in 2009 dissolved the neighboring Wellston School District, another all-Black, poor, unaccredited district and placed all of its students in the “technically-unaccredited-but-nonetheless-labeled-provisionally-accredited” Normandy Schools.²⁵ Many questioned the decision because there were two high performing school districts closer to the Wellston School District. These districts also happened to be in affluent, almost all-White neighborhoods. The vice president of the Missouri Board of Education commented, “The Wellston students were not going to be absorbed into any of the high performing, mostly White districts nearby. You’d have a civil war.”²⁶

By 2012, Normandy schools collapsed. The schools would be unaccredited by January 2013, triggering the Missouri state transfer law, which required Normandy to pay the tuition of students who choose to transfer to neighboring districts and to provide transportation. Normandy chose to provide transportation to the all-white Francis Howell School District, twenty-three miles away. Again, there were two other school districts that were higher performing and closer. In the weeks that followed, the public outcry from Francis Howell parents was somewhat unbelievable. There were stories in the newspapers and town hall meetings in which parents objected to the transfer enrollments. Normandy school children were referred to as “trash, slum kids, thugs, and rapists.”²⁷ Parents voiced concerns about the bad influence, lower test scores, and drug use that the Normandy students might bring into the school. Yet, the transfer proceeded. Eighteen months later, the state dissolved the Normandy School District and created a new district, “Normandy Schools Collaborative (NSC).”²⁸ Nothing had changed, except the new district was labeled as a “State Oversight District.” As a result, the transfer students at Francis Howell were asked to reenroll in this new district. A few families sued to keep their children at Francis Howell in order not to interrupt their education again. Months later, a court held that the new NSC district was “abysmally unaccredited.”²⁹ To this day, NSC continues to struggle with academic issues, over 90 percent of its students are on free or reduced lunch, and 97 percent of the student body is Black. By the time that Michael Brown graduated from NSC, it had the worst academic record in the state.

25. Kimberly Jade Norwood, *From Brown to Brown: Sixty-Plus Years of Separately and Unequal Public Education*, in FERGUSON’S FAULT LINES, *supra* note 1, at 99.

26. *Id.* at 100.

27. *Id.* at 102.

28. *Id.* at 103.

29. *Massey v. Normandy Schs. Collaborative*, 492 S.W.3d 189 (Mo. Ct. App. 2016).

Chapter 7: If Mike Brown Were Alive, Would He Be Employable?*Terry Smith*

"We will never know whether Michael Brown would be employed or employable had he lived, but chances are he would have faced long odds, as do so many young black men."—TERRY SMITH

Ferguson has become the poster child for structural inequality and petty law enforcement against Black citizens. Their resulting criminal histories all too often lock many individuals out of the formal economy. "It costs more than \$80 billion annually to maintain the U.S. prison system, and unemployment for those with criminal records reduces GDP by as much as \$65 billion per year."³⁰ The chapter discusses the obstacles to Blacks in the labor market and their often segregation era rooted causes. Discrimination is an obstacle for many African Americans because it restricts access to labor markets and the type of work available to them. Forty-seven percent of young adult males are unemployed in St. Louis County, compared to only 16 percent of their white counterparts. Furthermore, Blacks are three times as likely to live in poverty in St. Louis County. Smith sees the enforcement of petty crimes as the vestiges of Black codes and peonage laws in the former slave states. In Ferguson, Blacks are charged disproportionately for discretionary offenses, such as "manner of walking," the offense that Michael Brown was originally stopped for. Yet, "Ferguson is but one case study in the collateral consequences of petty-crimes law enforcement, not the least of which is the death of Michael Brown."³¹ Smith recognizes that Michael Brown would have faced long odds and many obstacles to gainful employment had he not been killed.

Chapter 8: The Geography of Inequality: A Public Health Context for Ferguson and the St. Louis Region*Jason Q. Purnell*

When considering the social, economic, and health characteristics of the St. Louis region, Ferguson emerges "a stark picture of the geography of inequality."—JASON PURNELL

Chapter 8 provides some useful data on Ferguson and the larger St. Louis metropolitan region. Ferguson, by the numbers, makes clear that

30. Karen Dolan & Jodi Carr, *The Poor Get Prison: The Alarming Spread of the Criminalization of Poverty*, INST. POL'Y STUDIES 13-14 (2015) (citing Rebecca Vallas & Sharon Dietrich, *One Strike and You're Out: How We Can Eliminate Barriers to Economic Security and Mobility for People with Criminal Records*, Ctr. for Am. Progress (Dec. 2, 2014)).

31. Terry Smith, *If Michael Brown Were Alive, Would He Be Employable?*, in FERGUSON FAULT LINES, *supra* note 1, at 127.

racial inequality is not limited to the criminal justice system, but extends to all social determinants of health (education, economics, etc.). Jason Purnell draws largely from *For the Sake of All: A Report on the Health and Well-Being of African Americans in St. Louis—and Why It Matters to Everyone*,³² which was released three months prior to the fatal shooting of Michael Brown, to detail the social, economic, and health characteristics of the population of Ferguson. The report also took a historical look at the demographics and social determinants over time, honing in on the decades of inequality along racial and geographic lines.

The geography of inequality literally takes years off of the lives of residents of certain communities. In St. Louis, there is an eighteen-year gap in life expectancy at birth between babies born in a predominantly Black, high poverty, high unemployment zip code and those born in the mostly white, affluent zip code less than ten miles away.³³ Educational attainment is one of the best predictors of life expectancy. Studies have shown that someone with some college education gains 1.6 years in life expectancy. In St. Louis city and county combined, 74 percent of whites have at least some college education compared with 57 percent of African Americans. African Americans in Ferguson were more than three times more likely to be unemployed than their white counterparts, 16.6 percent and 5.5 percent, respectively. Poverty has a significant effect on health and life expectancy. Approximately one in three African American residents of Ferguson live in poverty in comparison to one in ten of the town's white residents. Forty-percent of African American households in St. Louis city and county live on less than \$25,000 of income per year. Furthermore, even when socioeconomic status is controlled across households, lower socioeconomic status in neighborhoods has a negative effect on health.

Informed by research and community input, Purnell concludes the chapter with following six recommendations, which were also outlined in *For the Sake of All*, to address these problems:

- (1) Invest in quality early childhood development for all children.
- (2) Help low- to-moderate income families create economic opportunities.
- (3) Invest in coordinated school health programs for all students.
- (4) Invest in mental health awareness, screening, treatment, and surveillance.
- (5) Invest in quality neighborhoods for all in St. Louis.

32. Washington Univ., *For the Sake of All: A Report on the Health and Well-Being of African Americans in St. Louis—and Why It Matters to Everyone* (May 30, 2014), <https://forthesakeofall.files.wordpress.com/2014/05/for-the-sake-of-all-report.pdf>.

33. Jason Q. Purnell, *The Geography of Inequality: A Public Health Context for Ferguson and the St. Louis Region*, in *FERGUSON FAULT LINES*, *supra* note 1, at 159.

- (6) Coordinate and expand chronic and infectious disease prevention and management.

**Chapter 9: Media Framing in the Black and White:
The Construction of Black Male Identity**

Candice Norwood

Mainstream “framing techniques continuously reduce black men to a list of stereotypes that affect their social, economic, and legal treatment in American society.”—CANDICE NORWOOD

With great precision, Chapter 9 focuses on techniques, such as framing theory, used by the media to obscure facts in cases of police brutality with Black victims. Norwood argues that the news media by and large has served as a microphone for cultural racism. The criminalization, “thugification,” and other stereotypes projected on Black men were ever present and, more often than not, used to discredit Black victims of state violence in the media. Norwood uses several examples of actual media coverage to demonstrate the use of the framing technique in the media. For example, after the Ferguson police left Michael Brown’s body in the road for four hours and held back his parents with dogs and guns, the New York Times declared Brown was “no angel” because he occasionally smoked marijuana and sometimes listened to rap. After a thorough review of the media framing of the Michael Brown’s death, Norwood reminds us that throughout the history of the United States, “whites sought to create fear of black men” by constructing false narratives and negative depictions to associate Black bodies with criminality.³⁴ This history continues to “shape the cognitive framework of American society.”³⁵

Norwood concludes the chapter by challenging and calling on journalists and news media to do a better job of policing themselves for bias rather than a grassroots effort to spark change.

Chapter 10: Psychic Pain:

Residents, Protesters, Police, and Community

Kira Hudson Banks and Vetta L. Sanders Thompson

Racism and racial discrimination have health, psychological, and mental health impacts.—KIRA HUDSON BANKS AND VETTA L. SANDERS THOMPSON

Chapter 10 provides context for the psychological responses of and effects on the Ferguson community resulting from the killing of Michael Brown, the ensuing investigation, and the fight for systemic change. Drawing upon experiences in Baltimore, Chicago, and Ferguson, Banks

34. Candice Norwood, *Media Framing in the Black and White: The Construction of Black Male Identity*, in *FERGUSON FAULT LINES*, *supra* note 1, at 180.

35. *Id.*

and Thompson importantly situate the community effects of state-sanctioned violence against Black bodies within the framework of cultural, structural systemic racism, and individual discrimination. They also explore the psychosocial harm of racism on whites that often go unrecognized in the wake of police killings.

Prior trauma and mental health, social support, neighborhood quality, and conflict all affect an individual or a community's response and ability to cope with traumatic events. Banks and Thompson advocate ongoing counseling for Ferguson residents and similar communities that have experienced a history of police violence to address the trauma associated with such events and experiences.

Chapter 11: Ferguson and the First Amendment

Chad Flanders

In what became an endlessly playing loop, the aggressive police response to protestors decrying injustice became an instance of the very injustice that the protestors were decrying . . . and what suffered, what kept being put back on its heels, were the First Amendment rights of the people.—CHAD FLANDERS

Chapter 11 explores the racialized aggressive, militarized police response to protestors in Ferguson as a metaphor for the killing of Michael Brown at the hands of Darren Wilson. Flanders posits that “everything people *thought* went wrong between Brown and Wilson *did* go wrong in the police response to the protestors.”³⁶

Flanders thoughtfully unpacks the analogous similarities between the encounter of Brown and Wilson and those seeking justice for his death and the police's militarized response. What unfolds is a narrative of the state-sanctioned violence and excessive force against Black bodies, deeply rooted in the historical oppression of Black people. Flanders raises important questions as to the First Amendment rights of Ferguson's Black citizens, although he never explicitly mentions race. The story goes something like this: a man was told to get out the street by a police officer and walk somewhere else. When the man turned toward the officer, a confrontation ensued, and the officer used aggressive potentially deadly force against the man. There was no reliable video of the encounter, and the police released only selective information to the media that was favorable to the level of force used. As a result, public perceptions were drastically different as the culpability of the police or the man and the level of force that was used. Ultimately, the incident raised important concerns as to the exercise and protection of First Amendment rights of Black citizens when encountered by police. As outlined in the Department of Justice report, aggressive police tactics were a long part of Ferguson's history. “Officers

36. Chad Flanders, *Ferguson and the First Amendment*, in *FERGUSON FAULT LINES*, *supra* note 1, at 198.

expect and demand compliance even when they lack legal authority. They are inclined to interpret the exercise of free-speech rights as unlawful disobedience, innocent movements as physical threats . . .”³⁷

Flanders likens the protest in Ferguson to “speaking truth to power.”³⁸ While that may be so, it also misses many of intended and subsequent benefits of protests and organized actions. Civil disobedience and political protest have been proven to be an effective tool of power building and grass-roots lobbying. Would there ever have been a grand jury for Darren Wilson, or a Department of Justice report on the discriminatory pattern and practice of the Ferguson Police Department, if it had not been for the mass protests in Ferguson? Would the country have ever heard of Ferguson, if not for the committed people who were brave and courageous and fueled by injustice in the wake of Michael Brown’s death?

Chapter 12: The Uncertain Hope of Body Cameras *Howard M. Wasserman*

The current discussion—in which cameras are erroneously touted as magic solutions that resolve all problems—highlights the failure to recognize [that] complexity.—HOWARD WASSERMAN

Post-Ferguson, much of the mainstream policy debate around police reform focused on the benefits of police body cameras. In some spaces and media outlets, body cameras were touted as the silver bullet to create a more just policing culture. Wasserman asserts that the support for body cameras was widespread and favored by both communities and activists and police advocates. I disagree. A number of organizations and activists are opposed to body cameras and the police and expressed concerns that such equipment could be just another means to conduct surveillance of Black and low-income communities. However, the proponents of body cameras tout them as a tool to achieve both transparency and accountability for both police and the citizens they encounter. The argument in support of body cameras often goes something like this. First, body cameras will encourage police and the public to behave better during encounters because the body cam video could be used as potential evidence of police misconduct or law breaking. Secondly, if there is unlawful conduct, the body camera will provide neutral and objective evidence of the police-citizen encounter. Thirdly, body cameras will lead to less police abuse and citizen complaints and provide important evidence during the review process or litigation.

Ultimately, Wasserman asserts that police body cameras are likely to be a net positive. Yet, he warns that there must be an honest recognition of

37. *Id.* at 210 (quoting *Investigation of the Ferguson Police Department*, *supra* note 10, at 2).

38. *Id.* at 211.

their limitations to improve policing or provide transparency. Specifically, Wasserman warns that (1) body cameras may not influence police behavior; (2) video evidence of police encounters can be interpreted differently by viewers; (3) law enforcement still has the power to enact policies regarding the use of body cameras; (4) police may still withhold body camera footage, as was the case of Laquan McDonald in Chicago; (5) video evidence of police misconduct does not necessarily lead to a conviction of a police officer, as in the case of Eric Garner in New York; and (6) from the physical perspective of the police officer, the footage may not adequately capture the encounter and actions of the officer.

Additionally, the other main problem with focusing on police body cameras as a means to reform policing is that this solution is completely reactionary. The video is not valuable or reviewed until something goes wrong. If the police do engage in excessive force or wrongfully engage in lethal force, the body camera will in no way be useful until it is too late. Moreover, many are concerned that body cameras will also become another tool of surveillance in Black and low-income communities. As detailed in Simone Brown's recent book, *Dark Matters: On the Surveillance of Blackness*, the targeted surveillance of Black people and Black bodies dates back to slavery and has continued to be a fact of life for Black people in the United States.³⁹ For example, the Baltimore Police Department's operation of a secret massive aerial surveillance program was revealed in 2016. The new technology, financed by a private benefactor through a local community foundation, captured the movements of persons in and out of Baltimore's primarily Black neighborhoods.⁴⁰

Chapter 13: Policing in the 21st Century

Tracey L. Meares

People are motivated more to comply with the law by the belief that they are being treated with dignity and fairness than by fear of punishment. Being treated fairly is a more important determinant of compliance than formal deterrence.—TRACEY MEARES

Public trust and the perception of fair treatment is key to the rule of law and basic functions of government, including policing. Procedural justice is the perception of fair treatment. Studies have shown that citizens are more likely to comply with the law when they perceive they are being treated fairly and trust those who enforce the law. As a result of this evidence, the Twenty-First Century Policing Task Force, of which Tracy

39. SIMONE BROWN, *DARK MATTERS ON THE SURVEILLANCE OF BLACKNESS* (2015).

40. Kevin Rector & Luke Broadwater, *Report of secret aerial surveillance by Baltimore police prompts questions, outrage*, BALTIMORE SUN, Aug. 24, 2016, <http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-secret-surveillance-20160824-story.html>

Meares was a member, crafted its recommendations on building trust and legitimacy.⁴¹ Meares emphasizes the importance of three of the task force's recommendations. She advocates that law enforcement (1) "embrace a guardian mindset"; (2) acknowledge the historical and present role of police misconduct, discrimination, and oppression in Black communities; and 3) acknowledge the reality that aggressive policing often has a counterproductive effect on community public safety because public trust is associated with compliance.⁴² Meares suggests that police agencies emphasize the imperative of procedural justice and legitimacy-based approaches in ongoing officer training, strategies and tactics of departments, and community participation efforts of police.

III. Conclusion

How do we thoughtfully unpack not only the killing of Michael Brown, but also the structural racism and inequitable systems that shaped his community and life experiences in Ferguson? These systems, and the historical policies that have created and sustained them, represent the racial fault lines in Ferguson and, more broadly, in the United States. Since the founding of this country, crafted systems of racial oppression have subjugated Black people and ultimately continue to divide our citizenry.

By using the St. Louis-Ferguson metropolitan area as a lens, *Ferguson Fault Lines* details some of the formative ways in which the institutionalized racial oppression of Black people has created the present day reality of discriminatory policing practices. What the book shows us is that it is impossible to understand the truth about modern day racism and police misconduct without first understanding (1) the contemporary policies that have created the inequitable conditions and uneven development in which discriminatory police practices are possible, and (2) the troubling way in which police have been regarded as a solution to inequality and social strife caused by spatial racism and discrimination. In other words, state-sanctioned discriminatory policies of both physical and economic violence are intertwined, cyclical, and compounding. But for uneven development and segregation, police would not be able to target Black and low-income communities so precisely.

Furthermore, uneven, pro-growth development policies continuously create crises in non-affluent Black neighborhoods or those communities deemed unworthy of investment or development. This often leads to the hollowing out of adequate municipal services and infrastructure. Furthermore, the rise of neoliberal policies in city governance has exacerbated

41. President's Task Force on 21st Century Policing, *Final Report of the President's Task Force on 21st Century Policing* (May 2015), https://cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf.

42. Tracey L. Meares, *Policing in the 21st Century*, in *FERGUSON FAULT LINES*, *supra* note 1, at 246-47.

inequality and abated community control. In turn, the criminal justice system, and police in particular, have been peddled as the primary solution to spatial inequality, poverty and unemployment, and financial subsistence for other city services. This has led to wide disparities in the life expectancies between Black and white babies born in the same city on different sides of invisible boundary lines. Consequently, both discriminatory, predatory policing and the economic violence of everyday Black life are killing Black people in this country. Both must be addressed to make meaningful progress.

To make #BlackLivesMatter, we must make Black neighborhoods matter. Nothing perhaps drives this point home more than the death of Freddie Gray, an unarmed Black man who suffered a fatal severe spinal injury while in Baltimore police custody in April 2015. Gray was initially targeted by police because he made eye contact with an officer and began to run away. Otherwise, Freddie Gray was simply outside in his neighborhood not far from where he lived. None of this would have been suspicious or interesting to police officers, except he lived in Sandtown-Winchester, a poor Black neighborhood in Baltimore. He was ultimately targeted because of the economic conditions and racial makeup of the place where he was born. What's more, Freddie Gray's autopsy showed he was suffering from severe lead poisoning as a result of the crumbling paint of the \$300/month row home where he lived with his family. More than 65,000 children in Baltimore have tested positive for unsafe elevated levels of lead in their blood, which can lead to brain damage, memory loss, hearing impairment, stunted growth, hyperactivity, kidney damage, seizures, coma, and death.⁴³ Most of these children come from neighborhoods like Sandtown-Winchester. So the sad truth is Freddie Gray was likely to die due to the policies that created the conditions such as those in Sandtown-Winchester, if not at the hands of the Baltimore police.

But why Ferguson? What makes the racial chasm in Ferguson and St. Louis so vast that the fissures and fault lines erupted in 2014? To answer that question, we have to understand that history and context matter; place matters. The history of St. Louis is one that is particularly rife with racial subjugation and discrimination. As Colin Gordon has said, "Missouri has a tradition of anti-black racism and white supremacism more typical of a former slave state. On the other hand, it has levels of housing segregation, and its attendant social ills, more characteristic of

43. *Baltimore City, Sandtown-Winchester/Harlem Park 2011 Neighborhood Health Profile*, BALTIMORE CITY HEALTH DEP'T, Dec. 2011, <http://health.baltimorecity.gov/sites/default/files/47%20Sandtown.pdf>; see also Deborah Bailey, *Am. Soc'y for Pub. Admin., Freddie Gray and Lead Poisoning*, PA TIMES, Mar. 11, 2016, <http://patimes.org/freddie-gray-lead-poisoning/>.

Northern states."⁴⁴ As the main city center of the State of Missouri, St. Louis is a place that perhaps was exceptionally ripe with racial resentment. Similarly, Baltimore is also the main city center of a slave border state, Maryland. The police killing of Freddie Gary in 2015 sparked similar protests to erupt in what is now referred to as the Baltimore Uprising.

As cities began to use zoning for the first time in the early 20th century, St. Louis was one of the first cities to pass an ordinance racially segregating neighborhoods; Baltimore was the first to pass such a law in 1910. Blacks were by and large shut out of home ownership opportunities by realtors, developers, and white homeowners through restrictive covenants. Black communities were located in the commercial or industrial part of the city and suffered a number of negative health effects as a result. Federal housing policies compounded the problem with the creation of the Federal Housing Authority in 1934. The new federal agency-backed home loans encouraged a wave of home ownership of whites. However, the FHA explicitly refused to guarantee loans to Blacks or for properties that were in majority Black neighborhoods. This policy and practice of redlining continued well in to the late 1960s. The construction of federal highways in the 1950s also gave way to white flight to the southern suburbs of St. Louis city because the majority of Blacks lived in the city at the time. This, in part, led to the establishment of over ninety distinct municipalities in St. Louis County with fifty-eight distinct police departments and a slowly collapsing tax base and an increase in vacant and abandoned buildings in St. Louis city proper. As the effects of deindustrialization began to take hold and blue collar jobs dried up, Blacks who remained in the city faced enormous challenges to sustain their families.

Furthermore, during the period of urban renewal in St. Louis, many Black families were displaced and dispossessed as the city razed public housing buildings to make way for new office buildings or concrete parking lots. Many Black families, in their search for affordable housing, began to move to the inner ring northern and western suburbs. As a result, St. Louis is the fifth most segregated city today. Racial and economic segregation largely shape the experiences, opportunities, and burdens of its residents. The racial divide between the north and south St. Louis metropolitan region is palpable and pronounced. This spatial segregation forecloses many other important resources and opportunities, such as adequate infrastructure and sidewalks, quality public schools and education, adequate public transportation, and other important public services.

Disinvestment and coordinated abandonment of entire neighborhoods is now common place in both urban and increasingly suburban environments.

44. Daniel Marans & Mariah Stewart, *Why Missouri Has Become the Heart of Racial Tension in America*, HUFFINGTON POST, Nov. 16, 2016, http://www.huffingtonpost.com/entry/ferguson-mizzou-missouri-racial-tension_us_564736e2e4b08cda3488f34d (last visited Mar 10, 2017).

As a result, in poor majority Black neighborhoods, such as Ferguson, schools are more likely to be underfunded, failing, or closed; residents are more often denied financing to purchase or rehab a home; police are more likely to enforce petty low-level crimes; unemployment rates are often two, if not three or four, times higher than in neighboring middle-class majority white neighborhoods; and access to basic needs (including health care, public transportation, fresh food, and grocery stores, etc.) often go ignored. This kind of economic and social violence breeds resentment of the current socio-economic political arrangement and gives way to unrest and resistance. The government's response to such resentment and unrest has been more aggressive policing. Instead of dealing with problems created by racial and class inequality, we criminalize those who experience the brunt end of these issues. Uneven, pro-growth development and aggressive policing exacerbates inequality and significantly harms Black communities. The police have become the solution for cities and citizens who are suffering from joblessness; substandard housing; underfunded education; and negative public health issues, such as crime or environmental issues.

All is not lost: the events in Ferguson have led to meaningful community-based change. In the spirit of the long history of community organizing in St. Louis, new community-based groups were formed, and existing organizations created wide-tent coalitions to collectively advance their organizing efforts. Organizations such as Solidarity Economy St. Louis, Million Hoodies' Movement for Justice, Ferguson Action, Law4BlackLives, Organization for Black Struggle, Hands Up United, Movement for Black Lives, and Ferguson Response Network, to name a few, have not only organized to challenge discriminatory policing but also have raised issues about the economic violence that poses an everyday threat to individual and community safety and security, such as the lack of access to basic human needs—food, work, and housing. Many of these organizations explicitly challenge the current political economy in their mission or their work. I am hopeful that community-based organizing and action, in which low-income Black community members have both agency and power, can transform the inequitable conditions of Ferguson, and beyond. Furthermore, government agencies in cities around the country should implement a racial equity analysis for all future policies and take affirmative steps to address the geography of inequality and legacy of segregation that they have helped to create and sustain.

