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**Harvard Journal
of
African American
Public Policy**

2014-2015 Editorial Board

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Deloris Wilson is a concurrent master in public administration candidate at the John F. Kennedy School of Government at Harvard University and juris doctor candidate at Georgetown University Law Center. As a summa cum laude graduate of Spelman College, her studies focused on international relations and the African diaspora, taking her to both Ghana and the Netherlands to study issues of human rights and discrimination. As previous senior editor, vice-chair of marketing and outreach for the 2013 Black Policy Conference, and cochair of the Negotiations Committee-Alternative Dispute Resolution Division of the Barristers' Council at Georgetown Law, she is interested in issues at the nexus of social policy, creative expression, and corporate social responsibility.

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Editor's Note

Welcome to the twenty-first edition of the Harvard Journal of African American Public Policy. This is a banner year for the journal and a milestone for myself, as I've now been with the publication for three years. In that time, I've proudly seen it evolve into a more modern, accessible, and reflective anthology as we strive to balance academic research and policy theory with a relevant—and actionable—critique of our current state of affairs.

Our previous year, 2014, exposed the underbelly of life of a young Black man in small- or big-town America. As street protests and rallies served as the undercurrent of national debate, many witnessed for the first time what is wrongly recurrent for many: the death of unarmed Black men at the hands of White police officers. Such a dichotomy resembles the violent events that fed demands for social change fueling the spirit of the Civil Rights Movement. As footage of the savage attack on peaceful marchers at Selma's Edmund Pettus Bridge provided a striking backdrop to racialized police brutality and the confounding judicial decisions of 2014, we noted the passion and expressions of worldwide communities who summoned the same calls for justice as those who marched in 1963. The same calls that tolled half a century later.

In many respects, 2014 was a year of regression; but as the children and grandchildren of those in the earlier struggle, we are privileged only as a result of their sacrifice and dedication to the movement of their time. As we observe a clock turning back, we are charged to be good stewards of our inheritance—: obligated to use our platforms to speak and contribute to launching a derailed dream back to course. We are new witnesses to injustice,; and we, too, have a testimony to give.

The 2015 edition of the *Harvard Journal of African American Public Policy* is a distinguished publication by virtue of its legacy, but more so by its contributors who speak to the core of new and renewed challenges of the twenty-first century. In expanding traditional boundaries and documenting the unrelenting fervor for progress, their work activates thought and reflection—calling to action our future lives at whatever roles we play—expectantly, as full citizens.

Justin Hansford opens our issue. He was among those on the front line of protest in Ferguson, Missouri, following the fatal shooting of Michael Brown. Mr. Hansford elevates street protests to the international stage. His choice of weapon: to petition the United Nations for redress of grievances brought on by state brutality and targeting of young Black men in America.

Breanne Palmer explores the polarization of nonviolent progress and Black rage against a backdrop of millennial youth activism. Spanning histories of movements past, influence of the Black cChurch, and political discourse of “radical” leaders, she justifies the outrage of the Black lived-experience through situational irony and provocative truth.

Through vivid imagery, Derecka Purnell and Mary Glen Fredrick eloquently challenge one-sided media portrayals of the Ferguson protests in their front line “Our Account: A Ferguson Photo Journal.”

Zoe Cadore provides a critical inquiry into our nation’s judicial system—shifting the focus from police officials and politicians to the arbiters of justice themselves. By chronicling encouragement rather than prevention of racial profiling, she takes us through prolific cases that set the foundation for official police policies.

Flowing from the Supreme Court to the municipal courtrooms of St. Louis County, the ArchCity Public Defenders expose accepted and standard court procedures that threaten both the legal and social fabric of our society. Their research demonstrates how the intersection of socioeconomic status, criminal (in) justice policy, and radicalized tactics converge to form a critical mass with the repression of people of color at its core.

Lucas Turner-Owens and Casey McQuillan, informed through personal visits to Ferguson, promote the idea of universal body cameras to build trust in police and assure the fair administration of justice. The pair takes their case from Ferguson to a national call for transparency and tools to regulate police conduct.

Stephen Balkaran expands these concerns to the national stage, critiquing the myth of a “postracial America” by analyzing how a “racial” America persists in its “postracial” state.

Our spotlight on Ferguson shifts in both space and time to recognize the Diasporic scope of racial injustice, Black solidarity, and political progress. We begin with a reflection to 2009, through a chilling recount of the killing of Oscar Grant and spatial-political analysis of the city’s development and reformation policies in the tragedy’s aftermath.

Desmond Wilson, through a creative lens, documents how events in Ferguson have gained ground in other places—particularly with on-the-ground activists in the cradle of the Civil Rights Movement, Birmingham, Alabama.

The Black Lives Matter movement penetrates the arts through a discussion on identity and independent film with Justin Simien, director of *Dear White People* and winner of the Special Jury Award for Breakthrough Talent at Sundance Film Festival.

Matthew Miller invites us to examine spatial models of financial institutions in low-income Black neighborhoods of Los Angeles County.

Damon Jones puts forth his analysis and solutions for comprehensive education policy reform using STEAM (science, technology, engineering, art, and mathematics) as his canvas.

The team at Terra-Firma illustrates an innovative medical-legal partnership addressing the growing challenges of unaccompanied immigrant children in the South Bronx.

And, as we bid farewell to Harvard University's longest serving dean, David Ellwood, we recount his unrelenting commitment to public service and dedication to issues of social policy—providing the support and foundation upon which this journal can thrive.

We are privileged to feature the visceral poetic works of Will N. Hack, Clint Smith, Konstantin Kulakov, and Brandon Moore throughout this issue. Their work emits a social critique that parallels scholarly themes and provides opportunities for inward reflection as each page turns.

The 2015 *Harvard Journal of African American Public Policy* expresses sincere gratitude to our donors and contributors who played key roles in its publication. The support of our staff, advisors, subscribers, and student body at the Harvard Kennedy School is a testament to the teamwork, dedication, and genuine commitment indicative of public service. We sincerely hope this issue serves as a deserving way to pay tribute to lives lost, while providing a platform for informed debate as we resolve to meet our community's most pressing concerns.

Let this be a catalyst for continued discourse and informed strategic action; and let us bear witness to the import of the Black Lives Matter movement. Let us propel society to a state where such recognition is permanently wedged in the mass consciousness of America.

Deloris Wilson, Editor-in-Chief
Harvard Journal of African American Public Policy

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HARVARD Kennedy School

MALCOLM WIENER CENTER
for Social Policy

The Fire This Time

By Will Hack

The news rang out – six shots, Big Mike is dead.
Another black man killed for no reason or rhyme.
In Ferguson, the people pledged as Michael bled,
They said, “No more water, the fire this time.”

All across the nation old wounds opened
As new wounds made the men of faith exclaim,
“Let the word of justice tonight be spoken –
No more water, the fire next time”

A community held fast through nights of unrest
Preparing to see the shooter face his crime
But – the prosecutor ignored Big Mike’s protest
He said, the killer walks, there’ll be no fire this time

The anger spread, the anger grew,
The chorus ever louder climbed,
Rocks and bottles and bullets flew
As they said “No more slaughter, we fire this time”

Women cried for help, women shouted for freedom
As the Police held the Police line –
Rioters and newsmen wore masks for different reasons
As the Police threw gas on the fire this time

O-, O’Reilly’s caught flames, as shots rang out
Nobody was fiddling as Little Caesar’s burned
The firemen came, then around they turned
They said, “No more water, they’re firing this time.”

The streets filled with ash, an ugly shrine
As politicians begged for guidance divine
Tonight God didn’t, but the people gave a sign
They said, “No more water, the fire this time”

The Whole System Is Guilty as Hell

Interrupting a Legacy of Racist Police Culture Through a Human Rights Lens

By Justin Hansford

Justin Hansford is a law professor at Saint Louis University School of Law, where his research incorporates legal history, legal ethics, critical race theory, human rights, and the Global Justice Movement in a broader attempt to interrogate injustice in society. He is a member of the Ferguson Legal Defense Committee and has been involved in demonstrations as a protestor, organizer, legal observer, and policy advocate.

Hansford has a BA from Howard University and JD from Georgetown University Law Center, where he was founder of the Georgetown Journal of Law and Modern Critical Race Perspectives. After obtaining his JD, Hansford assisted in the founding of Imagine Southeast Public Charter School in Washington, DC. He has worked with the Obama for America Presidential Campaign, the White House Office of Presidential Personnel, and clerked for the Honorable Judge Damon Keith on the United States Court of Appeals for the Sixth Circuit (2009-2010). In addition to serving as a law fellow with both the University of Maryland School of Law and Georgetown University Law Center, Hansford has also been recently recognized by the National Bar Association as one of the Top 40 Lawyers Under 40. He most recently testified to the President's Task Force on 21st Century Policing and traveled to Geneva, Switzerland, with Mike Brown's family to testify in front of the United Nations.

The Protest

I was thumbing through my Facebook timeline on my cell phone on a warm summer weekend afternoon when I first saw it. The picture of Mike Brown's dead body, his blood on the concrete in a long red line. It made me sick to my stomach. My mind started playing the song "Strange Fruit" by Billie Holliday, "Blood on the leaves . . . Black bodies swinging in the southern breeze." I keeled over a bit and had to stop what I was doing. That song puts into harmony a uniquely discordant American tradition: lynching. This was when a young Black man, and sometimes a woman too, faced extrajudicial murder after being accused of committing an infraction against a White person. They could have been accused of a serious crime or a minor breach of decorum. Either way, the infraction itself was often a pretext. The real crime? Failure to engage in the genuflections demanded by racial hierarchy. For example, Emmett Till wasn't killed for whistling at a White woman. He was killed for failing to act submissive enough in the Jim Crow context.

Often, they were hung from a tree. The dead body was usually left in plain view as a spectacle, a warning to other Blacks: next time, this would be them.

For decades, the law turned a blind

eye to these murders. Police, prosecutors, and grand juries failed to hold the killers accountable. This was unjust justice, when the system itself makes a mockery of what the law is supposed to deliver.

Teenager Mike Brown—stopped for jaywalking, unsubmitive, killed, body left on display for over four hours—triggered these cellular memories inside of me. The devaluing of his life was a devaluing of my own life, the offense to his dignity an offense to my own dignity, the attack on him an attack on the entire community. It was a fresh cut in an old wound.

So I joined and protested. Out on West Florissant Avenue, I saw things that I will never forget. Like Emmett Till's murder a generation ago, Mike Brown's killing seemed to mark a turning point. And we, the protestors, in spite of all our subalternity, committed our minds, bodies, and spirits to the task of transforming the meaning of Mike Brown's killing—sparking once again a movement that included mass civil disobedience and reconceptualizing of fairness and equal justice under the laws of the United States.¹

The system met our acts of courage not with coronation but condemnation. I saw people chanting, marching, and facing tanks and rows of police without regard to their own


safety. I saw people stare down the barrel of loaded police guns pointed in their faces, with police shouting curse words and threatening to shoot them. I saw grandchildren of Freedom Riders labeled as “rioters” and “looters,” as authorities ascribed responsibility to thousands for the acts of a dozen or so individuals.

“I’m going to Mike Brown you.”² In response, we shouted, “Hands up, don’t shoot” with our hands in the air. I gained courage from the energy of the community’s unnamed heroes who face state violence in the hope of finding justice.

In the aftermath, a new Black political discourse emerged from these unheralded heroes. The moment

demonstrators were acts of violence committed by the state later “justified” through the use of jurisprudential sleight of hand and false legal narratives. But such a scheme fits the character of a system that has been hypocritical since its inception. As Supreme Court Justice Thurgood Marshall noted in his bicentennial speech, the Fram-

State, local, and federal government actors varied in their responses, from patronizing, unresponsive, and clueless, to outright betrayal and abandonment. In light of the failure of these organs to properly function, we decided to petition the United Nations (UN) for redress. Mike Brown’s life is—and all of our lives are—that important to us.



For decades, the law turned a blind eye to these murders. Police, prosecutors, and grand juries failed to hold the killers accountable. This was unjust justice, when the system itself makes a mockery of what the law is supposed to deliver.

I saw the people just stand there with nothing to defend themselves but their bare hands in the air, and they kept protesting.

In the protest, I too was tear-gassed, I too had loaded guns pointed in my face, I too was verbally abused and threatened by police officers. They would hem us in and tell us to walk in opposite directions at gunpoint. They told us that we could not stand still in one place for more than five seconds or else we would be arrested. They wore “I am Darren Wilson” wristbands and said things like,

had become a movement, the spontaneous chants had coalesced into mantras, and these mantras struck with force of an obvious idea that stunningly wasn’t obvious: “Black lives matter” as an assertion of value; “Hands up, don’t shoot” as a reconfiguration of who is the savage aggressor and who is the civilized victim appealing to higher angels to no avail; and “I can’t breathe” as a summation of an entire community’s state of being.

The tear gas, rubber bullets, and arrests of hundreds of peaceful

ers of the Constitution engaged in the “contradiction of guaranteeing liberty and justice for all, but denying both to Negroes.”³ While our Constitution professed freedom, it practiced slavery. It is difficult to imagine anything more hypocritical.

The fight continued in the following weeks as a struggle for the narrative. Politicians and mainstream media outlets sought to minimize what we had experienced, to justify the actions of the police in the killing of Mike Brown, to rationalize the warlike response to the protesters.

Trying the System

If the legal system in the United States was an animate being, such that it could stand trial, face charges, and at some point encounter an ultimate judgment day, would it be deemed “guilty as hell?” When protesters chant the serious charge that “the whole system is guilty as hell,” do they have evidence to corroborate their claim?

Certainly they could refer back to the Constitution’s framing, *Plessy vs. Ferguson*, or the *Dred Scott* case. They could point to the legalized

raping of Black women during enslavement, or the lynchings during Jim Crow. The system, in its own defense, would disclaim these crimes, or perhaps one day countenance them making amends and reparation. I, however, don't know of any justice system that exonerates offenders without penalty simply for disclaiming past acts without any punitive or reparative measures. Nevertheless, does the system continue to commit crimes for which it could be indicted by a grand jury of its peers?

The Crimes

Any system that targets the least powerful and lacks a nationwide sense of urgency to alter its practices embarks on the road to moral bankruptcy. If the system was an animate spiritual being, it would be found guilty and condemned to hell.

Mass Incarceration. Blacks make up only 13 percent of the country, but nearly 43 percent of the combined state and federal prison population.⁴ They represent 12 percent of the total population of drug users, but 58 percent of those in state prisons for drug offenses.⁵ While the rate of drug use among Whites is five times greater than Blacks, Blacks are imprisoned for drug offenses at a rate ten times greater than Whites.⁶ Only an abiding narrative of Black criminality could justify this disparity in punishment.

To maintain any semblance of integrity, the system's defenders must consistently imply, if not outright argue, that Blacks commit crimes at a higher rate than Whites.

Guilty as hell.

Militarized Policing Culture. Police departments have moved from community policing to "hot spot" policing tactics. The use of military language, such as waging a "war" on drugs has a negative effect on our policing cultures. Many departments continue to recruit former military veterans without retraining them to properly engage with community members in a nonmilitary setting. Some have posttraumatic stress disorder and think they are on the streets of Iraq when patrolling our neighborhoods. Some see every person of color in these neighborhoods not as citizens but as targets or enemy soldiers where they have to kill them first or be killed. We saw this demonstrated recently in Miami, Florida, where police unapologetically used the faces of Black men from the community as target practice in their training modules.⁷

These war zones of the mind are then reinforced by programs like the federal government's 1033 pro-

gram. Under this program, excess military equipment, like assault rifles and mine-resistant tanks, is provided to local law enforcement agencies upon request with little oversight. During their response to the Mike Brown protests, the Ferguson police had more equipment than had by many soldiers in Iraq, only they did not have the specified training. So they ran around like little children with new toys, playing tag or paintball with people's lives.

A militarized state also affects day-to-day policing. Soldiers on the battlefield act accordingly on the front lines, veering to use deadly force against reciprocal attempts by enemy combatants. However, when translated into our neighborhoods and in the context of Black criminality, a militarized state facilitates interpretations of the Black body as a perpetual threat.

Guilty as hell.

Lack of accountability for police killings of Black people. The Malcolm X Grassroots Movement estimates that Black youth are killed by law enforcement every twenty-eight hours.⁸ Yet, we have consistently failed to even issue indictments. While use of force standards are partly to blame, systemic discrimi-

nation and false narratives of Black criminality also induce a lack of accountability within these contexts. For example, in the Mike Brown case, Missouri's anachronistic and unconstitutional use of force statute gave Darren Wilson an advantage in the grand jury process. Its tenets would potentially justify an officer's use of deadly force to subdue someone suspected of a nonviolent felony—like passing a bad check.⁹ Though the Attorney General of Missouri acknowledged the unconstitutionality of this statute, such practices are apparently not an aberration.¹⁰ Yet, even if these unconstitutional laws cannot stand in court, prosecutors like Bob McCullough of St. Louis County, may still use them to manipulate grand juries and prevent the fair administration of justice.

The President of the United States and others have recommended the use of body cameras to provide more evidence of police interactions. My fear of this policy is twofold: first, that footage will be used and manipulated, leading to further prosecution of minor violations and mass incarceration of Black and brown people; second, as the Eric Garner decision demonstrates, providing more evidence makes no difference if the law itself allows police to kill with little justification.¹¹ Such a policy may even increase violent encounters as footage is shared of

Guilty as hell.



Who would judge the guilt or innocence of the system? In a system that employs mass incarceration, justifies a militarized police culture, and lacks accountability in the practice of its own laws, how could a judgment be rendered from a neutral position?

what type of violence has been permitted with impunity.

Guilty as hell.

The International Judgment: Concluding Observations of the United Nations Committee Against Torture

Who would judge the guilt or innocence of the system? In a system that employs mass incarceration, justifies a militarized police culture, and lacks accountability in the practice of its own laws, how could a judgment be rendered from a neutral position?

Through the United Nations, we sought to employ a human rights framework and highlight the ethical nature of this crisis. We traveled to Geneva with Mike Brown's parents and local Ferguson activists to argue our case before the global community, hoping that we could receive an honest verdict on the behavior of our local, state, and federal officials based on standards of international human rights law.

Black people in the United States have a long history of appealing to the international community, and particularly the United Nations (UN), for judgment of the American system. In the early 1920s, Marcus Garvey petitioned the League of Nations to begin the decolonization process in Africa.¹² In 1947, the National Association for the Advance-

ment of Colored People (NAACP) petitioned the UN Commission on Human Rights to investigate the socioeconomic conditions experienced by Black Americans. In "An Appeal to the World," written under the guidance of W.E.B. Dubois, crafters carefully documented racial inequalities in education, housing, employment, and health care.¹³ In July 1964, Malcolm X asked for a formal resolution condemning the United States for human rights violations in its treatment of Black Americans. To a conference of newly independent African nations as part of the Organization of African Unity, he explained that "racism in America is the same as that in South Africa."¹⁴ Though neither the UN nor the international community made significant interventions as a result of these petitions, their submission brought attention to inconsistencies and injustices employed by a global "leader." The petitions rightfully altered the facade of a sparkling United States.

In our case, we spoke of the grave injustices of mass incarceration, militarized police culture, and an unaccountable judicial structure. In our case, we noted not only the killing of Mike Brown. We also noted the failure to remove his body for over four hours from the street. We noted the wearing of "I am Darren Wilson" wristbands, wristbands that continue to be worn openly by po-

lice officials as of 28 January 2015.¹⁵ We also noted the common practice of smearing the name of deceased victims, as Ferguson Police Chief Thomas Jackson demonstrated by releasing a provocative video of Mike Brown unrelated to the incident involving Darren Wilson.¹⁶ Through these actions and countless others, including its draconian response to the demonstrations, our local police departments have treated citizens of color with more derision than any foreign enemy on a battlefield or in a theater of war.

After our testimony before the United Nations Committee Against Torture, the responses from UN officials made it apparent that the state of policing and the criminal justice system in the United States has damaged America's moral standing in the global community. During the hearing, multiple committee members questioned the United States government delegation with shock about its failure to put into place effective accountability mechanisms or ensure equal application of the law when it came to criminal justice and the Black community. After the hearing, the UN Committee Against Torture officially expressed its concern about the "numerous reports of police brutality and excessive use of force by law enforcement officials, in particular against persons belonging to certain ethnic groups."¹⁷ It also

expressed its "deep concern" about "the frequent and recurrent shootings or fatal pursuits by the police of unarmed Black individuals," and it noted the "alleged difficulties of holding police officers and their employers accountable for abuses."¹⁸ The United States is expected to answer these concerns in the coming months pursuant to the treaty compliance review process.

America was guilty as charged.

Upon our return from Geneva, we felt both legitimized by the international community, and saddened that we had to travel half-way across the world to have our dignity legitimized. In this historical moment of flux, our society has an opportunity to choose to create a new ideal of law enforcement and policing, one that engages human rights and dignity. For the police, it would entail giving up a general culture of militarization and impunity, and being held accountable financially and professionally for excessive use of force and racial profiling in Black and brown communities. Below are a number of policy recommendations that begin to address some of these issues.

America was guilty as charged.

Policy Recommendations

- * **Create standards in compliance with UN human rights norms for the use of force.** The Eighth United Nations Congress adopted its "Basic Principles on the Use of Force and Firearms by Law Enforcement Officials" in 1990. It states that law enforcement should not use firearms against people unless less extreme means are insufficient and should not seek to kill people unless strictly unavoidable to prevent loss of life. It also states that force should not be used to disperse unlawful assemblies, or the least amount of force possible should be used.
- * **Create financial penalties for police departments that engage in racial profiling.**

Serious proposals to end harmful practices by government agencies attach funding penalties, the loss of licensing, or the merger of departments as consequences for the lack of compliance. No one has yet proposed this type of firm commitment to ending racial profiling in the United States. Racial profiling creates moral decay in our police departments and facilitates dehumanization and brutality. This must

be addressed using financial penalties.

- * **End the 1033 program and use of military language in training.** Giving police high-level military equipment without training promotes irresponsible usage. The alternative of training police to use this equipment further inculcates the militarized culture of an occupying army at war with citizenry. The transfer of this military equipment to state and local police should end.
- * **Create federally operated oversight mechanisms with enforcement power for civilian review boards.** Civilian review boards established around the country have had limited success in changing policing culture. These instruments are easily rebuffed by police departments that can refuse to comply or use their discretion in implementing penalties. Further, such mechanisms fail to recognize victims of brutality as the center of redress. Enforcement mechanisms like subpoenas, additional oversight, and the provision of remedies will help increase the accountability and functionality of these boards.
- * **Mandate personal liability insurance for police officers.** Personal liability insurance can provide a financial incentive for police officers to refrain from misconduct. While current proposals only address ex-

treme cases of police violence that end in the killing of victims, in civil cases, police are generally indemnified from financial penalty by their departments. Officers should face higher premiums when they continuously engage misconduct that raises the probability of a civil suit, perhaps providing them a financial incentive to refrain from misconduct.

*** Provide citizens with the right to a hearing with any officer in the aftermath of a police interaction or use of force.** This will promote the dignity of citizens and ensure that officers engage in only justified policing activity.

*** Disallow the use of deadly force for minor violations.** In part, the moral abhorrence of the killing of Eric Garner for selling loose cigarettes and Mike Brown for an interaction that began with jaywalking results from notions of disproportionality between the offense and subsequent police encounter. Deadly force should only be allowed when an arrest involves a felony or serious crime.

Conclusion

We hope our efforts at the UN ultimately result in the creation of more rights, the enforcement of existing rights, and the generation of opportunities for international discourse on issues of racial profiling and

police brutality against Blacks in the United States. Ultimately, policing is simply the tip of the spear—mass incarceration is the most devastating attack on Black Americans, and perhaps the greatest ethical failure of our society is failing to even name it as so for decades on end. Our charge remains to fight it on all fronts.

The killing of Mike Brown, like Eric Garner, Tamir Rice, John Crawford, Ezell Ford, Oscar Grant, and so many others, should shock and sadden us all. Any community that instinctually justifies the killing of unarmed citizens (and even children) by its law enforcement has reached a level of moral decay that approaches depravity. The culture of policing and mass incarceration in the United States is not a civil rights issue. It's a human rights issue. Until it is fixed and reparations are given to the victims, the whole system is guilty as hell.

Endnotes

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The Virtues of Black Rage

By Breanne J. Palmer

Breanne J. Palmer is a magna cum laude graduate of the University of Florida, where she majored in political science and African American studies. She is currently a second-year Juris Doctor candidate at the Georgetown University Law Center (GULC) in Washington, DC. She has held leadership roles as the First Year Representative for the Black Law Students Association, Membership Development and Diversity Editor of the Georgetown Law Journal, and Academic Chair of the Women's Legal Alliance. She is a member of the Alternative Dispute Resolution Division of the GULC Barristers' Council and is enrolled in the Center for Applied Legal Studies Clinic, which offers asylum seekers representation on a pro bono basis. Palmer participated in the Sponsors for Educational Opportunity (SEO) Corporate Law Program in 2013 and just completed a two-year term as a National Council for Black Studies Dr. Tsehloane C. Keto Fellow. Born to Jamaican immigrant parents, her passion for Black Diaspora empowerment and social justice has a decided Caribbean bent and is affirmed by her status as a first-generation American.

if we
wanted
to.
people of color
could burn the world down.
for what
we
have experienced.
are experiencing.
but
we don't.

*-how stunningly beautiful that our sacred respect
for the earth. for life. is deeper than our rage.*

—nayyirah waheed

The Black millennial activist reawakening that followed the August 2014 murder of Michael Brown in Ferguson, Missouri, has faced a barrage of critique and questioning from the public, from political pundits, and from movement elders. Yet one line of questioning has become most common: why must these young people choose to be so very angry? This question is posed with a clandestine message, a message that proclaims non-violence and rage as mutually exclusive concepts. Alas, this line of critique is flawed at its core. Black rage, while decried by critics as a taint on this new civil rights movement, in truth validates and bolsters the movement's goals. The virtues of Black rage reverberate in both directions on the historical timeline—what once was, has become what is again.

This line of critique, disparaging Black rage as poisonous to progress, also stems from American historical amnesia, surgically targeted at the Black civil rights movement of the 1950s to the 1970s. As James Baldwin said, “To be Black and conscious in America is to be in a constant state of rage.” In an interview with *Esquire* in July 1968, Baldwin fielded questions centering on White fear of Black rage: “Q: How can we get the Black people to cool it? BALDWIN: It is not for us to cool it.”¹ Black American history has been sterilized to create rabid monsters out of Malcolm X, the young activists of the Student Nonviolent Coordinating Committee, and the Black Panther Party, and to create benign, nearly ethereal figures out of Martin Luther King, Jr., the established elders of the Southern Christian Leadership Conference, and Rosa Parks. What the nation has “forgotten” is that all of these parties—students and elders alike—were linked by one specific, collective undercurrent of emotion: Black rage. There was no fear amongst these giants of Black rage, of organized anger, of concentrated ire.

The sanitized “turn the other cheek” philosophy has been distorted and manipulated to serve as the objective, empirical response to any notion of Black rage-turned-action. Questions like, “What would Martin Luther King say if he saw ____?” have become the rallying cry of the conservative public (Black and otherwise) to combat what appears to critics to be a terrifying and uncontrollable anger manifested by society's youngest members.

The Black civil rights movement was inextricably linked to the phenomenon and institution of the Black church and Black evangelical Christianity, thus it is not mysterious or inexplicable that Black rage was and continues to be a genuine sentiment passed down through the generations. In the Christian Bible, Jesus expressed anger at the Pharisees whose hard hearts were cruel² and at the soulless materialism and commercialism that sullied the temple.³

The concept of righteous anger is familiar to Christians, as witnessing sin is meant to enrage and incense the God-fearing. Racism, police brutality, over-criminalization of Black adolescent behavior, continuation of the school-to-prison pipeline, misapplication and abuse of the law, and mass incarceration—these practices should boil one's blood. Whether it is conceptualized via religion and faith or through a primordial knowledge of morality, Black rage is a fury born of generational, centurial wrong. Black America knows intimately what wrong looks, smells, and feels like, and Black America knows what it is to be deeply, unapologetically wronged. Black rage is righteous anger on a Biblical scale, manifesting itself in our millennial activism.

Why are revolution, subversive rebellion, and righteous dissent admirable on film or in fiction, but dangerous and unacceptable when wielded by people of color yearning for the realization of the universal right to life?

In *Killing Rage*, bell hooks explains that Black rage is a “potentially healthy, potentially healing response to oppression and exploitation.”⁴ Those within the beloved community—elders and new leaders alike—must first embrace Black rage. Black rage is the fire with which we fuel the new movement. Black rage nourishes, encourages, and heals. Suppression of Black rage will only stunt the exponential growth and gains made in 2014 and will kill all hope of progress in 2015. Black rage is our inheritance. Black rage is not a threat to the movement—it is a threat to the systematic oppression the millennial movement seeks to destroy.

Endnotes

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Our Account: A Ferguson Photo Journal

Commentary/Photos by Derecka Purnell

Photos by Mary Glen Fredrick

Derecka Purnell is a first-year student at Harvard Law School and political organizer from St. Louis, Missouri. She studied Black studies and political science at the University of Missouri-Kansas City. She is committed to solving issues in the criminal justice and education systems, and her experiences include investigating disparate impact discrimination on ex-offenders of color in housing and employment, teaching middle school math, and researching school funding formulas for a state commissioner. She is a former National Black Law Students Association Fellow; a Coca-Cola Scholar; a Sidley Prelaw Scholar; University of California, Berkeley, Public Policy and International Affairs Law Fellow (PPIA); and First to the Top Fellow in the Tennessee Department of Education. She continues to be active in Missouri and on campus in the pursuit of justice for victims of racially charged discrimination and violence. Her commitment to people stems from her personal experience as a member of marginalized communities, as well as her belief that advocacy for such groups through law, education, and policy provides liberation, protection, and empowerment.

Mary Glen Fredrick is an actor, writer, and filmmaker from Kansas City. She graduated from Stanford University with a degree in comparative studies in race and ethnicity. She currently attends University of California, San Diego, where she is pursuing her MFA in acting.



Photo by Mary Glen Fredrick 8/12/2014

"I write to record what others erase when I speak, to rewrite the stories others have miswritten about me, about you."

Gloria Anzaldúa

Every time someone at school asks me about my city and its "chaos," I ask them about their line of thinking: "What's so chaotic about my city?" Most of them refer to the QuikTrip fire or the looting. I then reframe the conversation.

I explain that Ferguson became relevant and "chaotic" when Darren Wilson unconstitutionally killed Mike Brown, an unarmed teenager who was fleeing from him.

I then explain that when I was home, I felt like a crazy person. I felt like a crazy person because I was unable to reconcile the differences between what my eyes witnessed and what my television portrayed.

Each time I watched the news, the "coverage" was actually just a replay of looting and burning footage from the first eruption. The tear-gassing was not a result of civil unrest and violence "experienced" every night. Peaceful protestors were tear-gassed. Every night.

I felt like a crazy person because what I witnessed, what I experienced, wasn't dictated on the news. What was the news talking about? Why were they lying?

Days before the news reported it, I stood in the street—facing tanks with headlights illuminating at maximum intensity. We couldn't take pictures then because the lights were so bright. Officers stood facing us in tactile gear, military-grade weapons drawn. If we took a step within five yards of them, they would immediately raise their weapons—

even with our hands above our heads.

Although the tear gas has since cleared, the peace surrounding the Black Lives Matter movement is becoming increasingly disturbed. But as we advocate, organize, and mobilize, we must also ensure the truthful telling of our stories—ensure that our accounts, our efforts, our momentum, and our progress is rightfully and validly portrayed.

There is much work to do.



Photo by Derecka Purnell 8/10/2014

"When an individual is protesting society's refusal to acknowledge his dignity as a human being, his very act of protest confers dignity on him."

Bayard Rustin

Michael Brown Jr. is the reason why my words are relevant. He is the reason why these photos are relevant.

I am from St. Louis. I was raised in the city, spent my summers in Ferguson, and lived half a mile away from where Michael Brown laid on the hot pavement for four hours. I went to college in Kansas City and was home visiting family just days before heading to law school. Michael was killed Saturday, August 9, 2014, and I was home by that following Monday. My husband Grandon, my mother-in-law, and I were watching the news when we saw images of police officers surrounding my old neighborhood. Ten minutes later, Grandon and I found a small back road into North County so we could head towards Ferguson. This road was blocked off by the police, as were the rest of the streets in about a six-mile radius. Despite this, the crowd continued to grow with curious and concerned residents.



Photo by Derecka Purnell 8/11/2014

"The challenge of social justice: to evoke a sense of community that we need to make our nation a better place, just as we make it a safer place."

Marian Wright Edelman

Crowds started to gather on West Florissant, the major street intersecting Canfield Drive.



Photo by Derecka Purnell 8/11/2014

Crowds were always on Canfield Drive—everyone wanted to see the memorial. They all greeted one another. Residents of the apartment complex stood from their porches and balconies, nodding or smiling to passersby. St. Louis summers are humid though, and it seemed that the events taking place made the air even thicker.

As we headed back to West Florissant, I approached a woman as she exited her SUV. She lives in a house about half a block from the memorial site. She was tired; she had children who hadn't been sleeping—scared from the aftermath of the killing, scared from the noise of the protestors and police. "People just keep coming," she said.

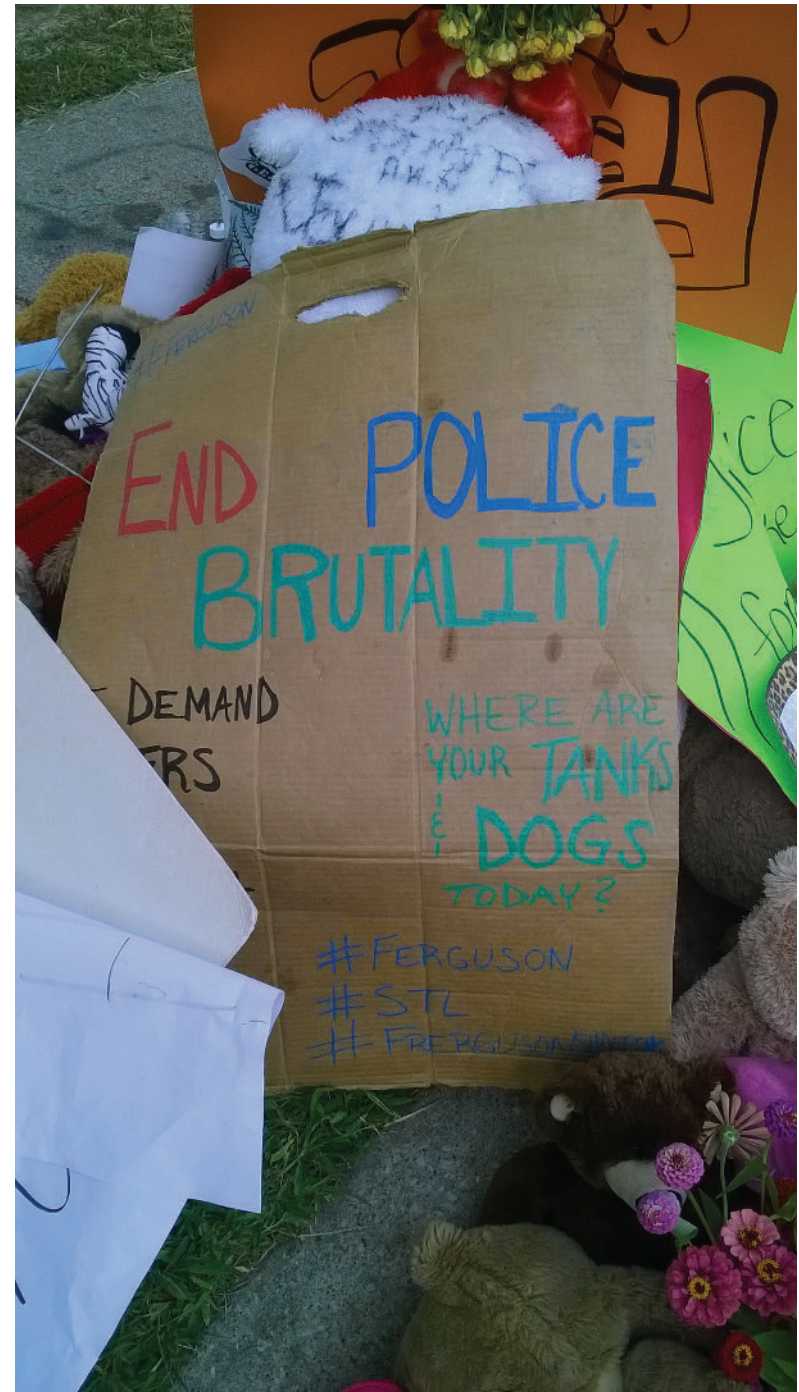


Photo by Derecka Purnell 8/11/2014



Photo by Derecka Purnell 8/11/2014

The QuikTrip on West Florissant was burned down during the second night of protest. During the day, people drove to Ferguson to protest. At night, when they tried to leave, police officers barricaded the borders of the county, forcing them to stay inside their cars and/or barricading them inside parking lots. People started to leave their cars and were physically restrained from leaving the county. After a while, people started to retreat and some opted to break into stores.



Photo by Derecka Purnell 8/11/2014

QuikTrip became the hub for the community and the media. Community members brought food to feed thousands. Major news networks set up large white tents on the grass and parked their vans just a few yards away. Many protestors happily shared their stories to some reporters, while shunning others.

At QuikTrip, each gas pump portrayed a message dedicated to Mike Brown. In a sense, each pump was reserved: there was one dedicated for prayer, one for a banner displaying the names of unarmed people of color killed by the police, and one that served as the meeting place for people connecting to the movement on the ground from social media.

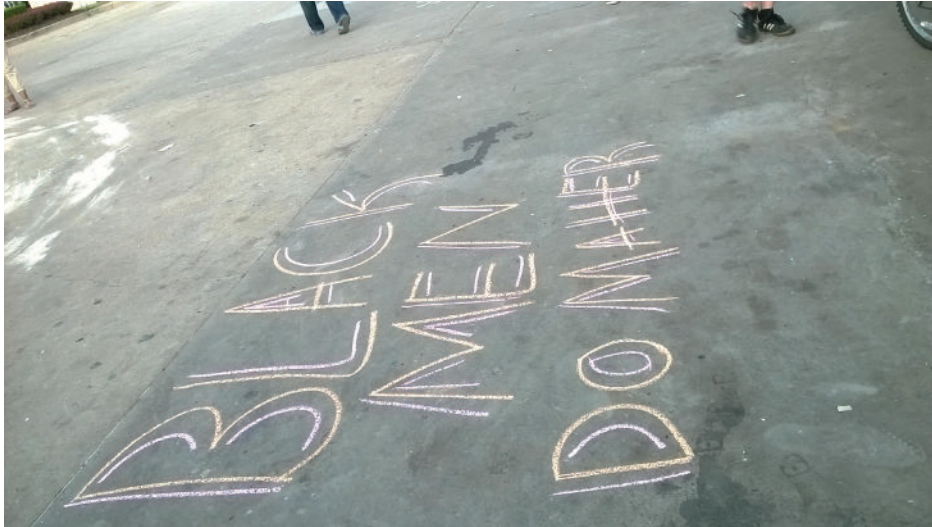


Photo by Derecka Purnell 8/11/2014



Photo by Derecka Purnell 8/11/2014

At night, people in the community brought instruments, microphones, radios, and even danced on pieces of cardboard to celebrate and commemorate Mike Brown's life.



Photo by Mary Glen Fredrick 8/12/2014



Photo by Mary Glen Fredrick 8/12/2014



Photo by Mary Glen Fredrick 8/12/2014

"I didn't break the rules, but I challenged the rules."

Ella Baker, 1977

Protesters lined West Florissant for about a mile. Parents brought their infants. The elderly brought lawn chairs. Bloods and Crips held hands in solidarity, along with people of all faiths. Cars played all types of music—NWA, Kirk Franklin, Lil' Boosie. The crowd would often chant "Mike Brown" over blowing horns that rang amidst slow traffic.



Photo by Mary Glen Fredrick 8/12/2014

"Nobody's free until everybody's free."

Fannie Lou Hamer

Respectability politics will not save Black people. Personally, I think that people who promote this idea try to reconcile all of their positive experiences with all of the negative stereotypes following them. It does not matter whether someone is a college graduate, has a criminal record, and/or is a preacher: a police officer does not have the right to stereotype, agitate, and then kill an unarmed person with impunity. Rights are not attached to clothing, degrees, or race. Rights are attached to human beings.

Accepting the Unacceptable

Judicial Backing of Racial Profiling in America

By Zoe Cadore

Zoe Cadore is native Houstonian, a 2011 graduate of Spelman College, and a third-year student at the University of Houston Law School where she serves as the president of the Black Law Students Association. She currently serves as an intern for the United States House of Representatives Judiciary Committee, where she is working on issues of voting reform, racial profiling, intellectual property, immigration, and regulatory reform. Cadore has been engaged in the Houston community since returning home from college, serving as Miss Houston 2013 and actively fighting to break down racial barriers plaguing our society. During the 2014 midterm election, she worked closely with several campaigns and “get out the vote” initiatives to increase voter participation and perception of civic responsibility. She hopes to return to Houston upon graduation and use her law degree to continue fighting racial injustices.

Background

Recent events that have taken place in Florida, Missouri, New York, and Texas all have one common theme: an unnecessary killing due to racial profiling.

The history of law enforcement in America is deeply embedded with a presence of racial profiling, often used to maintain the status quo through practices that were biased against persons of color. This harmful practice is one that has been a part of the US criminal justice system since its formation and stems from centuries of North American colonial justice systems. Racial profiling is a term used to describe adverse action by police or law enforcement personnel that is directed at a person because of their race. Although it may not always be the sole reason for targeting an individual, statistically, race plays a large role when law enforcement officers decide who to search and question.

Racial profiling is indeed a problem that many have fought hard to end within the legislative and executive branches of government. However, the courts have historically taken a disappointing approach to racial profiling, oftentimes interpreting the law in a way that further encourages racial profiling rather than preventing it.

The most prominent birth of racial profiling practices began with the enactment of the vagrancy laws during reconstruction and the Jim Crow era. These laws targeted Freedmen and restricted their freedom of movement. Vagrancy laws were a rebirth of the laws that restricted slaves’ freedom of movement within the colonies. Under those laws, “no slaves were to leave their masters’ premises at any time unless in company with whites or when wearing servants’ livery or carrying written passes.”¹ Similarly, vagrancy laws were in place for decades after slavery was ruled unconstitutional and prevented a person from wandering, being idle, or strolling without an

explicit purpose. The laws did not expressly target minorities, but because of racial profiling, they were strictly enforced against racial minorities. It was through these laws that a racially divided country was able to maintain power over certain ethnic groups, primarily African Americans, by forcing them into labor in attempts to prevent them from being a “vagrant.” It was not until 1972 that the Supreme Court addressed the issues with vagrancy laws in *Papachristou v. City of Jacksonville*, striking down the local vagrancy ordinance that gave police the power to make unmerited arrests.² Although the use of vagrancy laws decreased significantly after *Papachristou*, a new era of profiling began through the creation of the motor vehicle code and court-created exceptions to the Fourth Amendment’s protection against unreasonable searches and seizures.

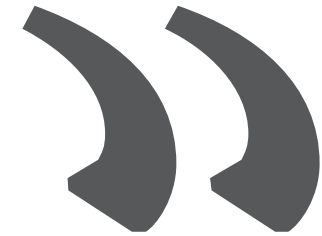
The “war on drugs” further exacerbated a system designed to penalize those for “walking while Black.” Though initially implemented in the Nixon era, the policy’s lasting effects still permeate today. Although statistics show that Whites, Latina/os, Blacks, and Asian Americans use illicit drugs at almost equal rates, the war on drugs has been overwhelmingly implemented against minority communities throughout the country.³ For example, in Tulia, Texas, undercover narcotics officers were found to have framed African Americans for drug-related crimes.⁴ This framing, which later became a large racial discrimination drug bust case, ultimately led to the reforming of sentencing against drug crimes while revealing the prejudices that African Americans faced as related to the drug war.

Before the September 11, 2001, attacks, racial profiling had become a practice that was generally condemned throughout the United States. Even conservative leaders such as President

George W. Bush vowed to “end it,” and a federal court viewed racial profiling as an “anathema to [the] criminal justice system.”⁵ There were also many efforts made to eliminate racial profiling in law enforcement. The aftermath of September 11, however, added to an acceptable standard for racial profiling, primarily toward people of Muslim descent, but also exacerbated and helped justify existing policies that disproportionately impacted African Americans.⁶

The Courts

The Fourth Amendment protects people from unreasonable search and seizures. The warrant is the essential tool used to assert a Fourth Amendment claim if a search and seizure procedure is conducted without probable cause. However, the Supreme Court has construed the Fourth Amendment away from its original enactment, weakening its importance in cases involving automobiles. The Court has created two exceptions to this Constitutional guarantee: the *Carroll* doctrine and the *Belton* doctrine. The *Carroll* doctrine allows for the search of a person’s vehicle when there is probable cause, and the *Belton* doctrine allows for the search of a person’s vehicle when an arrest has been made.⁷ Both of these doctrines may seem righteous, but they create a large loophole for law enforcement to perform searches and make arrests without proving a legitimate reason. This is just the tip of the iceberg for how the courts have slowly chipped away at the idea of a fair criminal justice system and process. As the country continues to endure decades of racial tension, the courts seemingly continue to make it more difficult to combat the epidemic that prejudice has created within America. The Fourteenth Amendment’s Equal Protection Clause requires that all persons similarly situated



Vagrancy laws were a rebirth of the laws that restricted slaves’ freedom of movement within the colonies.

are to be treated equally. In order for a race-based claim to be brought under the Equal Protection Clause, a plaintiff must allege that the government actor intentionally discriminated against him on the basis of his race. Unfortunately, the courts have repeatedly rejected the Equal Protection Clause arguments in racial profiling claims, making it almost impossible to use its protection in litigation.⁸ The Court's interpretation has almost made it a requirement for police officers to explicitly show discrimination before they can be in violation of the Equal Protection Clause. This creates a defense for any officer with "good intentions."⁹ Furthermore, the Supreme Court has yet

The Case: *Whren v. United States*

Traffic stops have become one of the most common areas of racial profiling. Although the Supreme Court has had opportunities to address this problem, it has repeatedly failed to do so. In 1996, in *Whren v. United States*, the Supreme Court effectively undermined the purpose of the Fourth Amendment in the context of pretextual traffic stops when ruling in favor of a White officer who made an illegal traffic stop, leading to the unjustified arrest of a Black driver.¹⁰ The defendant alleged he was stopped under the pretext of a minor traffic offense, which then led to a search for drugs. The defendant saw this as a violation

On its face, decisions like that made in *Whren* seem harmless. Although the officer's stop was alleged to be illegitimate, it resulted in the arrest of a man that was carrying an illegal substance. In theory, this type of policy only leads to the increase of legitimate arrests and aids in the war on drugs. However, it also opens a door for "bad cops" to take advantage of the system in attempts to exert power over a group of people that have historically been subjugated and oppressed. Since the *Whren* decision, courts have made similar rulings, extending the decision in *Whren* to even more leniency. In 2001, the court once again ruled that a minor traffic stop can result in a full

Both of these doctrines may seem righteous, but they create a large loophole for law enforcement to perform searches and make arrests without proving a legitimate reason.

to state a remedy for criminal defendants who are subjected to racial profiling, making any attempt to argue such a claim seemingly hopeless. Rather, the Supreme Court's interpretation has trickled down into courts throughout the nation, protecting law enforcement and their policies, and allowing the cycle of racial profiling to continue. Since creating legislation to combat the problem is practically impossible and waiting for prejudices toward minorities to die with time puts the country in limbo, it would be ideal to look to the courts for a solution. However, their decisions do not forecast a tide for change.

of his Fourth Amendment rights because of the subjectiveness of the stop, which increased a police officer's ability to single out Black drivers. However, the Court found this argument to be irrelevant. Rather than seizing an opportune moment to send a nationwide message upon the unconstitutionality of racially motivated and pretextual stops, the Court did the opposite: in a single decision, the Court further "encouraged racial profiling in ordinary traffic stops and abandoned solutions to profiling to the political process."¹¹ This decision set the foundation for racial profiling cases for years to come. The majority of states have adopted this approach, and America has yet to recover.

custodial arrest.¹² This type of arrest subjects a person to a full search and confiscation of their possession without a showing of probable cause.¹³

Conclusion

Racial profiling is seemingly a disease that has no cure. It is a result of centuries of corruption and abuses of power used by law enforcement to maintain the status quo and disenfranchise certain ethnic groups. It is a practice that survives because of the perpetration of negative stereotypes, primarily against minorities, and reinforcement by the judicial system that is charged with upholding, not diluting, our constitutional

rights. The idea that a police officer is justified in profiling a person because of assumed characteristics or behaviors based on race opposes our constitutional standards and our nation's human dignity. While the arrest that results from a traffic stop may seem minor, regardless of whether or not it is based on pretext, it is but one aspect of a major problem that affects the lives of many and prevents the progress of more. It is these types of practices by law enforcement and the hesitation of the courts to adequately condemn such practices that set the foundation for systematic

discrimination and injustice. This type of racial profiling weakens what little trust remains between minority groups and law enforcement. As a result, our country has entered into an era of increased racial tension, retaliation against law enforcement, and an urgent need for reform within the criminal justice system. The called-for solutions are not new but the unified front behind them is refreshing for our time. Let this be the last time we have to demand for our guaranteed rights to be rightfully respected and upheld.

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for mrs garner

By Clint Smith

we all watched as they turned
his windpipe into a staccato
of decrescendos

his entire body made martyr
unwilling we have been down
such roads before

they buried his face in concrete
we could see his right
hand stiffen

blood retreating in an attempt
to save the rest of him
when I watched it

fall limp
an autumn of heavy limbs
i wondered if my mother had

lied to me
about where the cracks
in the sidewalk come from

Six Months Later

ArchCity Defenders' Municipal Courts White Paper, Current Challenges to Change the System, and Next Steps for Comprehensive Reform

This paper was written by Thomas B. Harvey, executive director and cofounder of ArchCity Defenders. Michael-John Voss, John McAnnar, Megan Conn, Sean Janda, and Sophia Keskey contributed to the finished product. Voss and McAnnar are the cofounders of ArchCity Defenders. Conn, Janda, and Keskey are interns from Washington University.

Thomas B. Harvey is an attorney and the executive director and cofounder of ArchCity Defenders (ACD), a nonprofit law firm providing holistic legal services to the indigent in the St. Louis region and pursuing policy advocacy and impact litigation arising from its direct legal services. Since its founding in 2009, Harvey has overseen the growth of ArchCity Defenders from an all-volunteer, part-time staff of three, into a paid staff of eleven, a network of volunteer attorneys, and social work and legal interns. With no startup funding and only the work of cofounders Michael-John Voss and John McAnnar to rely on in the first three years, ArchCity Defenders has helped thousands of people remove the legal barriers that prevent them from obtaining the services they need to avoid or exit homelessness.

His current work focuses on the way the legal system disproportionately impacts poor people and communities of color to create or maintain poverty. He has been interviewed by the Washington Post, New York Times, Wall Street Journal, and BusinessWeek as well as featured on MSNBC and NPR to provide valuable context in explaining the distrust between the people of the region and the authorities following the killing of Mike Brown.

Harvey oversees ACD's groundbreaking litigation and advocacy work on the systemic abuses in St. Louis' municipal courts, which includes using international and domestic law to hold municipalities and government officials accountable for abuses; challenging racial injustice; and combating illegal policies such as debtors' prisons and deprivation of the right to counsel.

He is a 2009 graduate of Saint Louis University School of Law, gained ABD status at University of California Irvine in 2004 in French literature, and was awarded his MA in French literature in 2001 from the University of Missouri-Columbia. He has a bachelor's degree in French from Washash College.

Abstract

This paper presents the findings of ArchCity Defenders' study of municipal courts; documents challenges to that system following the death of Mike Brown in Ferguson, Missouri; and proposes next steps for comprehensive reform. The paper shows how the poor and communities of color are disproportionately stopped, fined, and jailed for nonviolent traffic stops in violation of the United States and Missouri Constitution in order to raise revenue for small towns. These practices destabilize communities of color, create hostility toward government, and prevent the homeless from accessing necessary services. Finally, the paper presents litigation, advocacy, and legislative efforts to end these practices as well as a broader systemic approach.

Introduction

ArchCity Defenders provides holistic legal advocacy to the homeless and poor in St. Louis, representing people in criminal and civil legal matters while connecting our clients with social services to address the root cause of their poverty. Our primary goal is to remove the legal barriers preventing our clients from accessing the social services necessary to exit or avoid homelessness.

For the last five years, we have primarily focused on representation in municipal courts that have jurisdiction over mostly traffic-related offenses. We were prompted to conduct a court-watching program after directly representing clients in these courts and hearing stories of their experiences. Our program aimed to more closely observe what impact the municipal court system has on our clients' lives. Law students observed sixty courts and recorded their findings in a questionnaire modeled on a program at the Southern Center for Human Rights. Our findings indicate that communities of color and the poorest St. Louisans are subjected to an unnecessarily expensive and incredibly inefficient network of municipal courts that siphon away vast amounts of their money to support a system seemingly designed to maintain the status quo, no matter how much it hurts the communities the system is supposed to serve.

Below is a summation of our findings of systemic practices and resulting effects on our clients:

1. Cities, police, and courts comprise the key players in a broader system that disproportionately impacts poor people and communities of color.
2. Courthouse policies and punishments—including jail time for inability to pay fines,

closing courts to the public, refusing to allow children in the courtroom, and disproportionately fining the poorest of individuals—violate the Constitution, harm public confidence in the judiciary system and local government, and have compounding effects on our clients' lives.

3. As a part-time role, judges can be employed as both private attorneys and county prosecutors across St. Louis County municipalities.
4. Discrepancies between salaries in relation to job requirements, as well as the process for selecting/assigning judges and prosecutors to their positions, highlight an inequitable incentive structure that negatively impacts our clients.
5. Racial discrepancies in the makeup of the municipal court system (including police officers) vis-a-vis the communities they serve (that is, predominately White versus predominately Black) and statistical evidence of traffic citations suggest racially motivated tactics that benefit the revenue stream of these municipalities.

Overall, we observed that the poor—particularly, communities of color—suffer significantly in their forced dealings with St. Louis'

municipal court system. While nonimpoverished people may be occasionally ticketed for an expired vehicle registration, outdated inspections, or driving without insurance—likely resulting in nothing more than a minor inconvenience or annoyance—the same citations can have compounding effects for the poor. Poor people and communities of color are pulled over more often, they are let go without a ticket less frequently, and they are in all likelihood the only group to see the inside of a jail cell for minor ordinance violations. Yet, such violations may exist as a consequence of their economic instability, with effects culminating in a single traffic stop, quickly leading to daunting fines, loss of driving privileges, and jail time for unpaid debt.

Matters are worsened by policies that close courts to the public and allow incarceration for the inability to pay debts. Our clients reported incidents of indigent mothers who "failed to appear" in court, resulting in warrants issued for their arrest. The reality is that, despite having arrived early or on time to court, they were turned away because that particular municipality prohibited the presence of children in court. Further, municipalities fail to inform indigent defendants of their right to legal counsel, fail to appoint said counsel, and refuse to make reasonable bond assessments or conduct



Poor people and communities of color are pulled over more often, they are let go without a ticket less frequently, and they are in all likelihood the only group to see the inside of a jail cell for minor ordinance violations.

the constitutionally required inquiry into their ability to pay. As a result, family members have been forced to wait outside courtrooms while loved ones represented themselves in front of a judge and a prosecutor. Most devastating, however, is that these policies push the poor further into poverty and prevent the homeless from accessing the housing, treatment, and jobs they so desperately need to regain stability in their lives. These practices are ongoing and violate the most fundamental protections of the United States and Missouri Constitutions. They are the product of a disordered, fragmented, and inefficient approach to criminal justice. Municipalities in St. Louis County fan the flames of racial tension, oppression, and disenfranchisement by appropriating the courts to act as governmental debt-collection agencies, implicitly charging them to ensure the municipalities' fine-generated revenues sufficiently maintain government operations.

Method

We observed over sixty courts during our court watching program and obtained sworn statements from clients, law students, attorneys, and other individuals we encountered. Roughly half of the courts we observed did not engage in the widespread illegal and harmful practices described above while we were

present. However, approximately thirty of those courts did engage in at least one of these practices. Three courts—Bel-Ridge, Florissant, and Ferguson—were chronic offenders and serve as prime examples of how such practices violate the fundamental rights of the poor, undermine public confidence in the judicial system, and perpetuate injustice. In this paper, we will focus on those three municipalities.

To begin, we provide an overview of the Missouri municipal court system, outlining how these courts operate and the revenue they earn. We discuss the negative implications this system has on the public's confidence in their local government and its courts, and we describe how these courts and the policies they employ lead to job loss and homelessness amongst the indigent population. Finally, we detail the financial cost of operating the municipal courts and incarcerating the indigent who cannot afford to pay the fines levied against them.

We conclude with proposed solutions to these issues and a strategic approach for implementation. This plan includes installing public defenders in each municipal court, setting fines based upon the defendant's income, consolidating or eliminating municipal courts, and developing alternatives to fines and incarceration.

Overview of Municipal Courts in St. Louis County

Composition and Jurisdiction of St. Louis County

St. Louis County comprises ninety municipalities, ranging in population from twelve to over fifty thousand. The density of the municipalities is such that it is possible to drive through eight separate cities in less than four miles on a stretch of Natural Bridge Road from Bel-Ridge to Pine Lawn. Eighty-one municipalities have their own court to enforce their municipal codes across their slivers of St. Louis County.

Each municipal court has jurisdiction over its city's ordinances. Courts can imprison individuals for ordinance violations and keep them confined until the fines and costs of the suit against them are paid or otherwise satisfied. As a result, these fines generate a substantial revenue stream.

These substantial revenue streams are supported by municipal practices that incentivize citations, prosecutions, and profiling of minority communities. For communities of color, this harassment is palpable in a way that does not require data. Nevertheless, the notion that minorities are harassed by police more often than Whites is statistically supported by the annual reports

Courts can imprison individuals for ordinance violations and keep them confined until the fines and costs of the suit against them are paid or otherwise satisfied. As a result, these fines generate a substantial revenue stream.

on racial disparities in police stops, prepared by the Missouri Attorney General's office.¹ In other words, Blacks were 66 percent more likely than Whites to be stopped based on their respective proportions of the Missouri driving-age population in 2013.² The data is similarly problematic in Bel-Ridge, Ferguson, and Florissant, as discussed below.

Jurisdictions of Focus: Bel-Ridge, Ferguson, and Florissant

Bel-Ridge

The Village of Bel-Ridge is a small municipality located in northern St. Louis County. Bel-Ridge has 1,087

households and 2,737 residents,³ the vast majority of whom (83.1 percent) are African American.⁴ In addition, almost half (42.3 percent) of the residents are below the federal poverty level, with a median annual household income of \$21,910; more than one-third (37 percent) of households receive food stamps.⁵

In spite of the relatively small and poor nature of the municipality, Bel-Ridge manages to collect hundreds of thousands of dollars every year in municipal court fines. In fact, Bel-Ridge's 2014 budget projected \$450,000 in fine revenue⁶—or, an average of \$450 per Bel-Ridge household—making municipal court fines the largest single source

of revenue in the budget. In fiscal year 2013, Bel-Ridge's municipal court disposed of 4,900 cases⁷ and issued 1,723 warrants.⁸ This means that in the last year alone, Bel-Ridge's court system handled almost five cases and issued almost two warrants per single Bel-Ridge household.

Of course, such a municipal court operation does not come without costs to the municipality. In its 2014 budget, Bel-Ridge estimated that it would spend \$101,200 to operate its municipal court, including nearly \$100,000 in salaries and benefits for a part-time judge (\$18,600), prosecuting attorney (\$25,000), and court clerks (\$38,350).⁹ By way of com-

parison, assistant public defenders in Missouri have a starting salary of \$38,544 annually,¹⁰ the average circuit attorney in St. Louis City earns \$52,347 annually,¹¹ and the average St. Louis City court judge earns \$78,592 annually.¹² Those are all full-time positions.

In Bel-Ridge, however, the judge and attorney work only three evenings—roughly twelve hours combined—per month, and both also operate private legal practices. To put it another way, the Bel-Ridge prosecuting attorney position is a part-time side job that requires 7.5 percent of the work required by full-time jobs but is paid at a rate amounting to 65 percent of what a Missouri assistant public defender makes, 48 percent of what the average Missouri circuit attorney makes, and 32 percent of what the average St. Louis–area city court judge earns.¹³ The judge and prosecutor earn \$129 and \$174 per hour, respectively, for the approximately 144 that they each spend in court annually.

In Bel-Ridge, as in many other municipalities, the prosecuting attorney and judge are chosen not by constituents or through a merit system, but are instead handpicked by the Village Trustees. This system, of course, provides terribly misaligned incentives for both prosecutor and judge: the two positions are extraordinarily valuable to the individuals

who hold them—providing enough additional annual income to send children to private school or public college, or to pad retirement accounts, fund vacations, or pay the mortgage—all for twelve hours of work each month. More disconcertingly, the undeniable consequence of these individuals' positions as employees of the Village of Bel-Ridge is their strong incentive to ensure that Bel-Ridge receives enough fine revenue to cover both their salaries and those of their peers. This is undoubtedly a difficult position for well-paid part-time municipal employees to manage, but even the mere existence of these jobs is at odds with the ideals of fairness and justice that ought to characterize the criminal courts.

The Village of Bel-Ridge regularly detains individuals who are unable to pay imposed fines. This choice adds substantial costs for the municipality, including \$45,000 (according to the Village's 2014 budget) to jail these individuals. Moreover, because Bel-Ridge does not have its own detention facility, it must take one of its three on-duty police officers (who make \$16.47, on average, each hour) away from preventing violent crime to transport ordinance violators between the jail and the courthouse.¹⁴

Ferguson

Ferguson is a city located in northern St. Louis County, with 21,203 residents living in 8,192 house-

holds.¹⁵ Most (67 percent) residents are African American, while the remainder (29 percent) is mostly White.¹⁶ Ferguson's unemployment rate is 14.3 percent,¹⁷ more than double that of both St. Louis County (6.2 percent)¹⁸ and the State of Missouri (6.6 percent).¹⁹ Ten percent of the city's 9,105 housing units are vacant.²⁰ Nearly one-quarter (22 percent) of residents live below the poverty level, including 35.3 percent of children under eighteen, and 21.7 percent received food stamps in the last year.²¹

Despite Ferguson's poverty, the second largest source of city revenue is made up of fines and court fees—\$2,635,400.²² In 2013, the Ferguson Municipal Court disposed

Despite these defendants' poverty, courts frequently levy exorbitant fines, sometimes amounting to more than three times his or her monthly income and without considering the person's ability to pay or resulting consequences.

of 24,532 warrants²³ and 12,018 cases,²⁴ or three warrants and 1.5 cases per household. According to a court employee, the docket for an average court session may include as many as 1,500 cases.²⁵ Assuming an 80 percent conviction rate,²⁶ the average fine in a case resulting in a guilty verdict is \$275 for all cases.

In addition to such heavy legal prosecution, Ferguson and other munic-

To carry out its work, the Ferguson Municipal Court employs a judge, prosecuting attorney, assistant prosecuting attorney, as well as three full-time and three part-time court clerks. Residents of Ferguson have no direct voice in determining who holds the powerful position of the prosecuting attorney, since he or she is appointed by the city attorney with approval of the city manager.

at three hours or less per session, each hour of court costs the City of Ferguson approximately \$2,950.

For the time being, Ferguson relies on the St. Louis County Jail (located in Clayton) to hold its inmates beyond seventy-two hours.²⁹ City police officers are required to take time out of their patrol schedules to make the forty-minute round trip necessary to transport prison-

share the burden of protecting 2,650 citizens.

Florissant

Florissant is the largest municipality in St. Louis County, with a population of 52,363. More than a quarter (26.8 percent) of the population is African American, while a large majority (69.3 percent) is White. The unemployment rate is 7.9 percent, slightly over the unemployment

The disproportionate impact of ticket citations on poor individuals compounds existing economic issues faced by the poorest populations.

ipal courts engage in a number of operational procedures that make it increasingly difficult for defendants to navigate the courts. For example, a Ferguson court employee reported that the bench routinely starts hearing cases thirty minutes before the appointed time and locks the doors to the building as early as five minutes after the official hour, a practice that could easily lead a defendant arriving just a few moments late with an additional criminal charge for failing to appear pursuant to a court summons.²⁷

Unlike Bel-Ridge and Florissant, Ferguson does not publicize the salaries of its prosecutor and judge. However, in 2013, the total forecasted expenditure for municipal court personnel amounted to \$221,700, with an additional \$59,500 categorized as “professional services”; \$37,100 was spent on supplies and services.²⁸ The Ferguson Municipal Court holds three sessions per month, meaning that Ferguson spent \$318,300 to fund just thirty-six court sessions, or \$8,841.67 per session. To be more specific,

ers to and from the facility. At any given time, Ferguson has eight patrol officers on duty for its 21,203 citizens,³⁰ or 3.8 officers for every 1,000 citizens. Although the officer-to-citizen ratio is comparable to that of St. Louis City (2.5 officers for every 1,000 citizens), even one Ferguson officer tasked with court duty rather than patrolling the regular beat decreases the Ferguson Police Department’s ability to police violent crime. Thus, any time an officer drives to Clayton, the remaining force of seven officers must

rates of both St. Louis County (6.8 percent) and the State of Missouri (6.6 percent), and 8.6 percent of the population is below the poverty line.³¹

In 2013, just under one-third (32.9 percent) of the cases disposed by the Florissant Municipal Court resulted in a warrant,³² meaning that Florissant issued roughly one warrant for every six residents.³³ The municipality collected \$695,201 from warrants, amounting to approximately one-quarter of the court’s \$3,000,000 revenue. The

third largest source of revenue was fines, falling behind only sales and utilities taxes.

Florissant dedicates significant financial and personnel resources to operate its court system. In 2013, \$3,861 was spent on prisoner-related supplies for incarcerated individuals.³⁴ Further, it spends over \$1.75 million to run the municipal court, in which 90.6 percent of filed cases are “other traffic” violations.

Out of the 2013 annual budget, \$473,668 paid municipal court salaries, \$408,900 went to professional services, and \$9,300 to office supplies.³⁵ Although only a part-time position, with roughly two regular court appearances a month or twenty-six per year, the appointed judge earns \$50,000 annually—only slightly less than the full-time judge of the St. Louis City Court. The Florissant prosecuting attorney, also a part-time employee, earns \$56,060 for only twelve regular court appearances (with additional office hours). In addition, the assistant prosecuting attorney is paid \$33,158 for the same number of appearances.

By comparison, the starting salary for full-time public defenders in Missouri is \$38,544, and the average state-employed circuit attorney earns \$52,347 per year. In other words, Florissant’s part-time prosecuting attorney works roughly 4 percent of a full-time job, but earns

145 percent of a full-time public defender’s salary and 102 percent of the average full-time circuit attorney’s salary. The only full-time position is that of a court clerk, whose annual salary is \$46,530. Five assistant clerks cost Florissant another \$191,360 per year, and reserve police officers are paid \$37,700.³⁶

Specific Findings

Court Policies and Practices Raise Constitutional Concerns

Sixth Amendment Concerns

Although many municipal ordinance violations carry the possibility of jail time, nearly every municipality fails to provide lawyers for those who cannot afford counsel. As a result, unrepresented defendants often plead guilty without even knowing that they have a right to consult with a lawyer.³⁷ Defendants are also sentenced to probation and to the payment of unreasonable fines without a knowing, voluntary, and intelligent waiver of their constitutional right to counsel. Despite these defendants’ poverty, courts frequently levy exorbitant fines, sometimes amounting to more than three times his or her monthly income and without considering the person’s ability to pay or resulting consequences.

Even in cases where jail is not a possible sentence, an attorney plays a

crucial role. The ability to resolve an ordinance violation often depends on the ability to hire an attorney and pay the fine(s): an attorney can appear on behalf of the violator and request for the prosecutor to submit a recommendation for disposition. Depending on the charge, the prosecuting attorney will recommend it be reduced to a charge less damaging to the violator’s record.³⁸ For instance, moving violations are often amended to non-moving violations upon the payment of a fine and court costs.

If a person has the money, the process works: a simple speeding ticket is amended to littering, an attorney is paid \$50-\$100,³⁹ the municipality is paid \$150-\$200, and the defendant avoids points on his or her license as well as any possible increases to insurance costs. Neither the attorney nor the defendants even need to go to court. Since Missouri operates on a point system, automatically suspending or revoking driver’s licenses once a certain number of points accrue, it is crucial that such amendments are made when possible.

However, for those unable to afford counsel or pay fines, no recommendation is made, so no prosecutor makes the amendment. Consequently, the outcomes can be astoundingly different for the poor. Without representation from counsel, points are added to the cash-

poor individual’s driver’s license as a result of the heightened charge, possibly resulting in suspension. The disproportionate impact of ticket citations on poor individuals compounds existing economic issues faced by the poorest populations. That individual still owes money to the municipality in addition to increased troubles surrounding the revocation of a license.

Due Process Concerns: Provisions of Payment Plans Are Inconsistent Across Jurisdictions and Result in Jail Time

While many courts expect payment in full and explicitly refuse to offer payment plans, others allow them—sometimes as low as \$50 per month for qualifying individuals. However, if an individual cannot pay the amount in full before the scheduled court date, he or she must still appear in court on the scheduled date to provide an explanation. Missed court dates and the inability to pay fines often lead to the issuance of a warrant for the person’s arrest.

Defendants are entitled to a hearing to determine their ability to pay fines under Missouri law.⁴⁰ Upon revocation of probation for failing to pay, defendants are again entitled to an inquiry into their ability to pay.⁴¹ Based on our observations, however, these hearings rarely occur. As a result, defendants are incarcerated for their poverty.

Arrests for the failure to pay fines often result in extended jail time. People who are arrested on unpaid fines frequently sit in jail for an extended period. They are routinely told that they may leave jail upon the payment of the money they owe. If they are too poor to pay, they remain incarcerated. There is no subsequent hearing into their ability to pay as required by the constitution. Because no municipality holds court on a daily basis, a person who is arrested on a warrant in one of these jurisdictions and who cannot pay the bond may spend as much as three weeks in jail waiting to see a judge. Any time in jail solely as a result of the inability to pay is a violation of the clear protections of the United States and Missouri Constitutions.

First Amendment Violation: Restricting Access to Public Courts

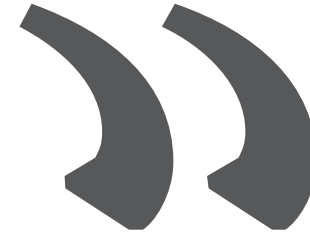
Until recently, many local courts denied access to the general public. When summoned to one of these courts, defendants face jail time for failing to appear. Some courts refuse to allow children in the courtroom, inhibiting those without access to child care from attending as requested. According to local judge Frank Vatterott, 37 percent of courts that responded to a survey unconstitutionally closed the courts to nondefendants.⁴²

In addition to being a clear violation

of the First Amendment, defendants are then faced with the choice of leaving their kids in the court parking lot or taking them into the court, breaking the court rules in the process. For instance, Antonio Morgan reported being denied entry into the court with his children; he was then jailed for child endangerment after leaving them in the court parking lot under the supervision of a friend.⁴³

Judges and Prosecutors Easily Switch Roles, Causing a Conflict of Interest and Dynamic Incentives Across Municipalities

Municipal court judges, pursuant to RSMo 479.02, are part-time positions.⁴⁴ In St. Louis County, municipal court judges are private criminal defense attorneys and sometimes county prosecutors. They may serve in multiple jurisdictions and the judge need not be a resident of the municipality within which he serves. Missouri does not prohibit, and some municipalities explicitly permit, practicing prosecutors and judges from one municipality to serve as a judge in another municipality. Similarly, municipal court judges and prosecutors may be employees of the state while working as a prosecutor in St. Louis County. For instance, it is possible for a defense attorney to appear before a judge on Tuesday, yet serve as



Defendants are entitled to a hearing to determine their ability to pay fines under Missouri law. Upon revocation of probation for failing to pay, defendants are again entitled to an inquiry into their ability to pay. Based on our observations, however, these hearings rarely occur. As a result, defendants are incarcerated for their poverty.

the prosecuting attorney in another municipality on Wednesday. Later that week, that same attorney may practice law in his third role as a state prosecutor.

Court Costs and Fines Provide Significant Revenue for Municipalities: Collection and Enforcement

Court costs and fines represent a significant source of income for these towns. Two municipalities alone, Ferguson and Florissant, earned a combined net profit of \$3.5 million from municipal courts in 2013.⁴⁵ The amount of revenue collected through municipal courts seems inversely proportional to the wealth of the municipality. This problem is illustrated by the examples of Pine Lawn and Chesterfield. Pine Lawn's per capita income is \$13,000, yet, in 2013, Pine Lawn collected more than \$1.7 million in fines and court fees.⁴⁶ However, Chesterfield, with a per capita income of \$50,000, collected just \$1.2 million from municipal fines.⁴⁷ The collected municipal fines and court fees are essential to maintaining governmental operations, and as the amount of fines have increased, so too have the number of issued arrest warrants. According to reporter Ray Downs, "Pine Lawn has a population of only 3,275, yet last year it issued 5,333 new warrants, bringing its total outstanding warrants to

23,457."⁴⁸ Thus, the ratio of warrants issued to city population and the ratio of total fines to per capita income suggest that these cities use jail time as a form of coercion to forcibly extract needed funds from exceedingly poor communities.

Effects of Municipal Court Procedures on Offenders

Psychological Impact of Harassment

One defendant stated he had been harassed by police and was seeking legal aid to sue the municipality. He asserted that the arresting officers lacked warrants and ignored his ensuing anxiety attacks, using mace and force after he told them he was having difficulty breathing.

Harassment, whether physical or psychological, has serious negative consequences for the victim. Harassment can lead to lack of confidence, fatigue, depression, isolation, frustration, stress, trauma, and a loss of motivation, all of which make it difficult for the individual to succeed at work or to engage in their community. On a personal level, this can lead to job loss, family estrangement, and much more. Widespread harassment can damage the performance and morale of the entire community.⁴⁹

Detention also leads to psychological consequences for defendants,

even for short-term stays in jails as opposed to prisons. The lack of privacy and constant scrutiny by guards can be "psychologically debilitating."⁵⁰ Further, detainees experience psychological strain through the mental adjustment required to live behind bars.⁵¹ Further, children of incarcerated parents experience "social, emotional, and developmental problems."⁵² While these negative effects of detainment are more difficult to quantify than the lost income described above, they are the long-term legacy of these short-term detention programs.

Financial and Familial Impacts of Incarceration

Employment

As previously explained, many municipalities incarcerate individuals for their inability to pay fines. While this policy of incarceration imposes relatively steep financial costs on the municipalities themselves, many of which rent jail space elsewhere because they do not have facilities capable of holding detainees overnight, far greater are the negative effects endured by the individuals involved.

Most concretely, incarceration counteracts any progress a defendant has made in his or her life. For many municipal court defendants who work for an hourly wage, missing three or four days of work while

in jail will seriously hinder their ability to balance already strained budgets and can often result in termination. Though jail stints are levied for the inability to pay fines, they actually make it even more difficult for defendants to raise the necessary funds. In addition, research suggests that incarceration has lifelong negative effects on earnings and economic mobility since it reduces individuals' access to steady jobs with opportunities for advancement.⁵³

Housing

Targeting poor individuals and families with fines for traffic and ordinance violations impacts their ability to hold on to stable housing. For those living on the financial edge, each day presents difficult choices between competing needs: groceries or utilities, car loan payment or car insurance payment, clothes for children or vehicle inspection and registration, rent or repairs. Court-imposed fines of just a few hundred dollars can be enough to push a struggling family over the edge, out of their home and into homelessness. Some manage to find refuge with relatives or live "doubled up" with another family, but many have no such safety net.

The financial distress that causes a family to lose their home continues to stifle them even as they attempt to get back on their feet, sharply

limiting their ability to obtain a new residence. Most landlords require a credit check and background report; a prior eviction or bad credit history raises red flags, which often lead to immediate rejection. "Once someone has had an eviction, a lot of landlords and management companies won't even touch them. . . . An eviction, that can take seven years to get that off your credit report. That's a long time."⁵⁴ Further, "people who become homeless almost always have poor credit. . . . [they] don't fall into homelessness overnight, after paying bills on time and keeping up with rent. [Homeless] families have almost always made some tough choices."⁵⁵ Current housing practices continue to punish those forced to make such tough choices for years to come, enforcing a vicious cycle of instability. Even public housing programs place strict limitations on who is eligible to receive assistance. The St. Louis Housing Authority cites any criminal arrest, including failure to pay fines or appear in court, as grounds for denial of assistance.⁵⁶ Housing is typically denied if any member of the family has been evicted from federally assisted housing in the past three years. Additionally, individuals struggling with drug addiction or alcohol abuse—common causes of initial homelessness—are often barred from public housing.⁵⁷ Without stable housing, however,

an individual's ability to overcome addiction is severely compromised. Finally, if an applicant misses an appointment or deadline with the Housing Authority, potentially due to a court appearance or jail time for not paying court fines, their petition may be summarily denied.⁵⁸

Family

As previously noted, fines set by municipal courts can amount to huge portions of the defendant's monthly income, leading to deepened poverty, incarceration for failure to pay, and even homelessness. A study done by Zahid Ahmed characterizes the experience of poverty as an important component of family dysfunction, strain on spousal relationships, and issues with childhood development—such as depression, trust and abandonment issues, and underachievement or failure in school.⁵⁹ These problems in childhood frequently carry over into adulthood and contribute to a cycle of poverty.

Those in poverty recount difficulties in paying for very basic needs, and fines can push them over the edge. Family provides the only direct support system for many people in poverty, and individuals without such a network often lack a financial safety net as well as meaningful social connections.

Effects of Municipal Court Procedures on Racial Profiling, Public Confidence, and the Relationship Between the Community and the Courts

Municipal Court Procedures Lead to Racial Profiling

Many residents feel that police target Black residents and try to find something wrong in order to issue tickets. The courts, in turn, issue arrest warrants and later send residents to jail for failure to pay fines. Officers can choose whether to charge the same offense as a municipal ordinance violation, a county ordinance violation, or a state misdemeanor; the only difference among the three is that if the officer chooses municipal ordinance violation, the fines accrued go directly to the municipality—and to pay the officer's salary. Otherwise, anything above the actual cost of enforcement is disgorged to the state to fund education. Therefore, the primary function of police in these towns is to create revenue.

A group of defendants waiting outside a municipal court noted that there were no White individuals waiting with them; one indicated, "You go to all of these damn courts, and there's no White people."⁶⁰ Another referenced specific municipalities that he believes engage in racial

profiling: "In Dellwood, Ferguson, basically in North County, if you're Black, they're going to stop you."⁶¹

Certainly, racial profiling exists outside of St. Louis and would exist without the municipal courts. However, if the financial incentive were removed, the policies driving policing would be very different. As one defendant said, "[t]hey're searching to find something wrong. If you dig deep enough, you'll always find dirt."⁶² This "dirt" so often sought and found by police is typically expired inspections, expired tags, or driving without insurance.

Bel-Ridge

The widespread feeling among defendants that the police and courts target Black residents has a substantial statistical basis. In Bel-Ridge in 2013, 75.7 percent of all traffic stops involved a Black motorist.⁶³ This number is staggering in itself, but what may be more shocking is that in 2013, 100 percent of all searches and arrests originating from traffic stops in Bel-Ridge involved Black motorists.⁶⁴ Of the 775 Black drivers pulled over, eleven vehicles were searched and thirty-two Black drivers were arrested. Of the 249 non-Black drivers pulled over, no vehicles were searched and no drivers were arrested.

Ferguson

In Ferguson, the statistics indicate

a similar degree of racial profiling. Overall, 86 percent of vehicle stops involved a Black motorist, although Blacks make up just 67 percent of the population. By comparison, Whites comprise 29 percent of the population but just 12.7 percent of vehicle stops.⁶⁵ Once stopped, Blacks are almost twice as likely to be searched and precisely two times more likely to be arrested as compared to Whites—12.1 percent versus 6.9 percent, and 10.4 percent versus 5.2 percent, respectively.⁶⁶ Ironically, despite disproportionate

Americans represent only a quarter of the municipality's populace, they comprise 57 percent of stops.⁶⁹ Once stopped, White drivers were arrested 7.2 percent of the time, while Black drivers were arrested 14.9 percent of the time—more than twice as often.⁷⁰ The search rate was equally disproportionate, with White drivers searched 8 percent of the time and Blacks 15.8 percent.⁷¹ The Florissant data similarly demonstrated that White drivers who were searched were more likely to have contraband in the car, at 29

public perception of justice and the American legal system. Unfortunately, for many of the poorest citizens of the region, the municipal courts and police departments inflict a kind of low-level harassment involving traffic stops, court appearances, high fines, and the threat of jail for failure to pay without a meaningful inquiry into whether an individual has the means to pay.

Many residents feel municipal courts exist to collect fine revenue, not to dispense justice. As one defendant explained, “[they abso-

procedure of the court: “[a]fter you come in like two or three times, if a person hasn't paid [the fine] by then, then they gonna sock it to you, they about to put you in jail. People are in hardship, they can't pay the fine, and if you got children, they won't let you take them in there with you.”⁷⁴ Another agreed and summed up his experience ruefully, “[t]hey [are] treating us bad.”

Another woman there on the same charge attributed her legal problems to the municipality's determination to find something wrong and collect

Missouri does not prohibit, and some municipalities explicitly permit, practicing prosecutors and judges from one municipality to serve as a judge in another municipality.

stops, searches of Black individuals produced contraband only 21.7 percent of the time, while searches under similar circumstances involving White drivers produced contraband 34 percent of the time—a 57 percent greater rate of success.⁶⁷

Florissant

The Florissant Police Department also disproportionately stops Black motorists at a rate four times greater than non-Blacks.⁶⁸ While African

percent in searches of cars driven by White people and only 9 percent of stops involving Black residents.⁷²

Residents Perceive Municipal Court Procedures as Money Driven Rather Than Justice Oriented

For the vast majority of St. Louisans, a run-in with the municipal court is the only personal interaction they have with the justice system. This interaction thus shapes

lately] don't want nothing but your money . . . [but] you get people out here who don't make a whole lot of money.”⁷³ He then described the startlingly common experience of being arrested, jailed, and instructed to call everyone he could think of who might have money to pay his fine—with the promise of three or four days in jail if unable to cobble together the sum.

One man waiting in line at the court expressed concern over the general

revenue. Chagrined, she exclaimed, “[t]hey had to come and dig, they had to come and look in my files. There's no way you could tell I don't have trash service, that can is out there! What I'm mad at is, how did you get this information?”⁷⁵ Along with the widespread impression that municipal courts are little more than debt-collection services, she, like many of the other defendants we talked to complained about the lack of consideration given to their

Certainly, racial profiling exists outside of St. Louis and would exist without the municipal courts. However, if the financial incentives were removed, the policies driving policing would be very different.

circumstances and needs.

The abovementioned policies and procedures negatively impact public confidence in the integrity and impartiality of both the municipalities and the courts. As noted in the *Missouri Municipal Bench Book*—a publication drafted largely by and for municipal court judges—“[p]ublic impression of justice and its administration is formed more in municipal courts than in any other court of the state. The judge as judicial officer will instill in that individual his or her lasting image of our judicial system and this should never be forgotten.”⁷⁶ Unfortunately, the current policies adopted by the municipal court system lead to the impression of the courts and municipalities as racist institutions that care much more about collecting money—generally from poor Black residents—than about dispensing justice.

Municipal Court Procedures Harm the Relationship Between Residents and the Municipality

As a result of these impressions, many residents have a broken and antagonistic relationship with their municipal governments. One defendant, who estimated he has been jailed fifteen or sixteen times over ten years (all on the same charge of driving with a suspended license) said that he now skips court if unable to pay his fines, in order

to avoid further detention. Another defendant proclaimed he will always plead not guilty, in an attempt to prolong the process “and make them spend more money.”⁷⁷

A shockingly common sentiment among defendants was a desire to leave their municipality. For example, one longtime resident looked forward to leaving Bel-Ridge as soon as his lease expired. Another defendant stated, “I’m gonna leave St. Louis. That’s what I’m ready to do. I’m about to go. There’s too much going on in St. Louis, you can’t find a job, and when you can’t find a job, you hold on to the itty bitty jobs you got and they wanna [mess] with the little people that are actually working. . . . That’s what St. Louis is all about: trying to get the people that’s working.”⁷⁸ This kind of negative sentiment directly hurts the municipality and erodes its sense of community. When a municipality repeatedly marginalizes and penalizes its residents, the discontent grows and hardens attempts to rectify with community-building efforts. “It is ridiculous how these small municipalities make their life-line off the blood of the people that drive through their area.”⁷⁹

Next Steps

ArchCity Defenders is working to develop proposed solutions to the problems outlined above. We recommend the following changes to

existing procedures:

1. The consolidation or elimination of municipal courts.

There is simply no reason to have eighty-one separate courts with their own policies and procedures complicating clients' lives, pushing the poor further into poverty, and further fragmenting our region. Nothing prevents towns from enforcing their municipal ordinance through the associate court of St. Louis County or contracting with one of unincorporated St. Louis County's four satellite courts.

2. Ensure that consolidated courts have full-time prosecutors, judges, clerks, and public defenders.

These courts should meet every day and regularly in the evening to accommodate irregular working hours.

3. In any court enforcing municipal ordinance violations, courts should do the following:

- a) Provide attorneys for those unable to afford one
- b) Remove jail as a punishment for any ordinance violation
- c) Cease the use of warrants to confine persons who have not been found in contempt
- d) Make judges available at

any time for recalling warrants and releasing people from jail, perhaps by teleconference or having a duty judge for multiple municipalities

e) Eliminate the failure to appear charge

f) If there is a failure to appear charge, do not report the failure to appear to the state, thus avoiding the automatic in-state suspension of a person's driver's license

g) Adopt Alabama model for determining indigence

h) Proportion all fines to income and put a uniform maximum on fines

i) Make constitutionally required inquiry into a person's ability to pay before any incarceration for unpaid fines

j) Adopt a policy of signature or recognizance bonds for all ordinance violations

k) Require bond review within twenty-four hours of any incarceration and make constitutionally required inquiry into individual circumstances

l) Eliminate the in-state failure to appear suspension

m) Eliminate all unlawful fees and costs

n) Once fines have been assessed, the case is over; if an

individual owes money to a court, the court may pursue it through any lawful civil debt collection practice

o) Adopt the principals of a community court, where the infraction is treated as a place to intervene to help address underlying causes of infractions:

i. Invite social service agencies to dockets to connect people with services

ii. If a person has a suspended license, walk them through the reinstatement process; do not assess fines or otherwise create obstacles preventing reinstatement

iii. If the car is not up to code, help facilitate the repair of the car and allow time for the vehicle to meet inspection

iv. Offer genuine community service within the person's community

Update

ArchCity Defenders' White Paper was initially posted to its website on 12 August 2014. Since then, there has been a movement toward reform of the municipal courts that includes litigation, policy advocacy, legislative proposals, rule changes, and actions by

individual towns in the St. Louis region.

ArchCity Defenders

Letter to Ferguson

ArchCity Defenders and Saint Louis University School of Law Legal Clinics sent a letter to the mayor of Ferguson requesting that he grant amnesty to all pending charges and remit all fines and fees in the City of Ferguson as a "first step towards reconciliation." We presented the legal authority under which he could implement the suggested policy. The mayor never responded to the letter.

Letter to the US Supreme Court

In partnership with Saint Louis University Legal Clinics, ArchCity Defenders articulated one of its longstanding proposals to proportion fines to income at the outset of a case. This could have an enormous impact on the lives of the poor in our region and reduce the time spent processing payments, issuing warrants, and unconstitutionally incarcerating people because of their inability to pay.

In the letter, we noted that the United States Supreme Court held, on equal protection grounds, that indigent defendants could not be imprisoned for failure to pay a fine when the failure is due solely to their financial inability. Further, we

called their attention to the Supreme Court of Missouri's holding that an indigent defendant who is unable to pay may not be incarcerated as a consequence of his or her poverty. To remedy this practice, we proposed a revision to Missouri Supreme Court Rule 37.65, as noted in the endnotes of this article.⁸⁰

Class Action Lawsuit Filed Against Ferguson, Beverly Hills, Fenton, Jennings, Pine Lawn, Wellston, and Velda City for State Law Violations

We have joined the Campbell Law Firm and Saint Louis University School of Law Legal Clinics in filing class action lawsuits against Ferguson, Beverly Hills, Fenton, Jennings, Pine Lawn, Wellston, and Velda City. The suits call for a judgment that the fees violate state law and for reimbursement to defendants who were forced to pay the fees in order to avoid jail time or warrants. The suits also include a claim under the Missouri Merchandise Practices Act, the state's consumer fraud statute, alleging the cities' attempts to deceive defendants into paying the fees.

Class Action Lawsuit Filed Against Ferguson and Jennings for Debtors' Prisons

Our investigation uncovered long periods of incarceration for people whose only "crime" was the inability

to pay. We have joined Equal Justice Under Law and Saint Louis University Legal Clinics to bring class action lawsuits against Ferguson and Jennings, alleging violations of the First, Sixth, Eighth, and Fourteenth Amendments. The suits allege that indigent people were jailed solely for their inability to pay and held in deplorable conditions until they or their family scraped together enough cash to buy their freedom.

Bel-Ridge Writ

ArchCity Defenders and Saint Louis University School of Law Legal Clinics have joined to bring a class action lawsuit against the Village of Bel-Ridge, alleging it has been operating a court without jurisdiction since June of 2014 as a result of failing to timely file required reports indicating provisions of municipal revenue. Under Missouri Law, municipalities are prohibited from collecting more than 30 percent of their overall revenue from traffic-related adjudication in their municipal courts. In order to determine whether the 30 percent cap was exceeded, municipalities are required to file a report with the state after the end of their fiscal year. Any municipality that fails to timely submit such reporting "shall suffer an immediate loss of jurisdiction of the municipal court of said city, town, village, or county on all traffic-related charges."⁸¹

A shockingly common sentiment among defendants was a desire to leave their municipality.

Address to the Ferguson Commission

ArchCity Defenders' Executive Director Thomas Harvey addressed the Ferguson Commission on the issue of systemic racism in the municipal courts. He was invited to join the working group on municipal courts through the Ferguson Commission and to prepare a report for the governor by September 2015.

Legislation

There has been substantial movement at the legislative level, with both Democrats and Republicans seeking to introduce legislation to reform the municipal courts. For

example, State Senator Eric Schmitt, a Republican from Glendale (a St. Louis suburb) has introduced legislation that would revise Missouri Statute 302.341.1 by limiting revenue earned from traffic-related ordinance violations to 10 percent of general revenue.⁸² Any traffic-related revenue in excess of 10 percent would be given to local schools and would automatically trigger a ballot initiative allowing for the disincorporation of the municipality in question.

United States Supreme Court

Chief Justice Mary Rhodes Russell made municipal courts a key part of her State of the Judiciary address in January of 2015. She called attention

to the impressions left when courts act as sources of revenue instead of justice: “From a local municipal division to the state Supreme Court, Missouri’s courts should be open and accessible to all. Courts should primarily exist to help people resolve their legal disputes. If they serve, instead, as revenue generators for the municipality that selects and pays the court staff and judges—this creates at least a perception, if not a reality, of diminished judicial impartiality.”⁸³

While the Supreme Court declined to follow our lead and order the proportionment of fines, the Chief Justice announced a change in the rules to require the following: “When a fine is assessed and it appears to the judge that the defendant does not have at that time the present means to pay the fine, the judge shall order a stay of execution on the payment of the fine.”⁸⁴

Governor Jay Nixon of Missouri

Following the death of Mike Brown, Governor Jay Nixon established the Ferguson Commission, charging it to prepare reports that propose reform to policing, municipal courts, and education polices. In his State of the State address on 21 January 2015, he called for legislation to reform the municipal court system in order to bring about systemic change.

Reforms in Individual Municipalities

As a result of the report, the City of St. Louis recalled over 200,000 outstanding warrants and proportioned fines to income for the poor. St. Louis County Presiding Judge Maura McShane ordered municipal courts to be open to the public. Municipal court Judge Frank Vatterott now heads a committee for municipal court reform and has adopted a few of our proposals. A local nonprofit, Beyond Housing, has proposed its own municipal court reforms, including many of our suggestions. Velda City offered to dismiss all pending cases upon a payment of \$300. Ferguson eliminated two ordinances charging fees not authorized by state law, eliminated the warrant recall fee, and created a new docket to address people who are struggling to make their payments.

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- 63 According to the Attorney General's "disparity index," which compares the percentage of traffic stops that involve a given race to the percentage of driving-age residents in the municipality of that race (so a 1.0 indicates perfectly proportionate stops, while below a 1.0 indicates "under-representation" of a given race in traffic stops, and above a 1.0 indicates "over-representation" of a given race in traffic stops), this number is actually an "under-representation" of Black motorists in stop data. These numbers, however, may be skewed given the very high percentage of Black residents in the municipality, a proportion that is almost certainly larger than the proportion of Black drivers in the municipality, given the number of highly trafficked intermunicipal roads running through Bel-Ridge. See Chris Koster, 2013 Missouri Vehicle Stops Report: Racial Profiling Data, Office of the Missouri Attorney General, 30 May 2014, 63.
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- 74 Ibid. This particular court session was on 25 June 2014, one day after Presiding Judge Maura McShane specifically released an order reminding municipal courts that such practices are an unconstitutional restriction of the court system. Of course, on that day, the order was not followed. Only recently was the prohibition against children in the courtroom removed from Bel-Ridge's "Court Procedures" webpage.
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- 80 37.65 Fines, Installment or Delayed Payments—Response to Nonpayment
- (a) In determining the amount and the method of payment of a fine, the court shall proportion the fine to the burden that payment will impose in view of the financial resources of an individual. The court shall not sentence an offender to pay a fine in any amount which will prevent him from making restitution or reparation to the victim of the offense.

(b) If it appears to the judge imposing judgment or assessing a fine that the defendant does not have at that time the present means to satisfy the fine, the judge may issue an order allowing the defendant additional time for payment, reducing the amount of the fine or of each installment, or revoking the fine or the unpaid portion in whole or in part.

(c) When an offender sentenced to pay a fine defaults in the payment of the fine or in any installment, the court upon motion of the prosecuting attorney or upon its own motion may require him to show cause why he should not be imprisoned for nonpayment. The court may issue a warrant of arrest or a summons for his appearance.

(d) Following an order to show cause under section c, the court may fine the defendant or imprison the defendant for a period not to exceed 30 days upon a finding that the defendant intentionally refused to obey the sentence of the court. The court may provide in its order that payment or satisfaction of the fine at any time will entitle the offender to his release from such imprisonment or, after entering the order, may at any time reduce the sentence for good cause shown, including payment or satisfaction of the fine.

(e) If it appears that the default in the payment of a fine is excusable under the standards set forth in section d, the court shall enter an order allowing the offender additional time for payment, reducing the amount of the fine or of each installment, or revoking the fine or the unpaid portion in whole or in part.

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Learning from Ferguson

Using Body Cameras and Participatory Governance to Improve Policing

By Lucas Turner-Owens and Casey McQuillan

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Abstract

The shooting and killing of Mike Brown by a police officer in Ferguson, Missouri, drew national attention to issues of discrimination, police brutality, and the growing divide between communities and their local law enforcement agencies. Compounding this with the grand jury's decision not to indict the officer responsible, the need for police reform became evident. On the national level, reform focused on requiring body-mounted cameras on patrolling officers to provide better evidence for these cases. However, as this article argues, body cameras alone will not improve policing without also engaging the community—the people most affected by these issues.

This article outlines the costs of body-mounted cameras in Ferguson and proposes creating a police oversight commission consisting of the police

commissioner, two patrolling officers, and six local community members to establish guidelines for use of body cameras, to investigate police misconduct, and to review complaints found “not sustained” by the Ferguson Police Department. By externalizing accountability mechanisms, this participatory structure makes police officers more directly accountable to the community and engages the key stakeholders—the community—in decisions about local policing.

I visited Ferguson, Missouri, in late February, long after the cameras had left and supporters from out of town had taken their buses home, and I found a story that hadn't been told. Community members had banded together to cover the windows that had been broken on local storefronts so the businesses wouldn't lose heat. Then, once all the windows had been covered, community members had grouped together to

paint and beautify the area, painting over the dull boards with messages of hope and community. A main window that had been broken on a Chinese restaurant had been repaired and now read, “A journey of a thousand miles begins with a single step,” a quote from Lao Tzu's *Tao Te Ching*.

Hundreds of boards had been painted throughout Ferguson in this way, some with rainbows, others with images of civil rights leaders and their messages. Where there had been broken glass and burned wood there were now messages of hope. And when members of the community saw a board they had painted, they felt a new type of ownership over their community. No top-down plan to revitalize the area could have been as cost-effective or engaging as this community-driven effort. This made me consider the national policy to implement body cameras within local law enforcement agencies (LEAs) and to consider

the viability of this in Ferguson and the ways in which it could include a similar level of community engagement.

Mike Brown's parents requested that the death of their son be a catalyst for national systemic policy change, and one of their main objectives was to see the implementation of body-mounted cameras within law enforcement agencies. The Obama administration recently announced a \$263 million commitment over the next three years to offer funding for LEAs that purchase body-mounted cameras for their officers.¹ The policy proposal below investigates the costs of this body camera implementation within Ferguson's police department and proposes a component of all this that has been painfully overlooked—community involvement.

Community members need to be a part of a review board that monitors footage taken from body-mounted cameras placed on police officers. If internal police review boards are the only ones seeing such footage, it's unlikely that this policy will have its desired impact. So with that in mind, the proposal below reimagines and outlines a new vision of community policing for Ferguson.

Purpose

Body cameras on patrolling officers combined with the creation of a community oversight council will improve community relations with law enforcement, reduce the number of violent interactions, and restore public confidence in law enforcement.

Background and Context

The grand jury decision in Ferguson not to indict the officer responsible for shooting and killing Michael Brown, an African American male



teenager, has sparked outrage, polarizing the country in the process. The prosecuting attorney released the evidence presented to the grand jury, and witness testimonies told divergent accounts of the events.² Unable to separate fact from fiction, the grand jury ruled against indictment. In the wake of the decision, the family of Michael Brown urged citizens to channel any frustration into positive change and to join the campaign to ensure every police officer working the streets in this country wears a body camera.

In the aftermath of the Eric Garner case, where the grand jury also decided against indictment despite video evidence that the police caused a

despite the fact that less than 5 percent of law enforcement agencies contributed to the database.³ Recent events have initiated a national dialogue on race, discrimination, and police brutality; this conversation must now be converted into substantive change.

The Policy

This policy requires police officers in Ferguson to wear a body camera that records video and audio while on patrol. Additionally, in order to implement this new technology, the city of Ferguson will establish a police oversight commission (POC) consisting of the police commissioner,

or Viewu LLC. The city of Ferguson has eight to twelve officers patrolling at any given time and employs forty-two officers total;⁴ therefore, the costs of ensuring body cameras for each patrolling officer amounts to \$3,600-\$4,800, plus the cost of data storage. The cost would be even lower for Ferguson since the city began purchasing body cameras prior to the shooting of Michael Brown but has not begun using them.

This is a small price, especially when considering the benefits. Research by Cambridge University on the introduction of body cameras in Rialto, California, revealed very positive effects: in the first year alone, the number of incidents of police

Then, once all the windows had been covered, community members had grouped together to paint and beautify the area, painting over the dull boards with messages of hope and community.

man to suffocate to death, it has become obvious that in addition to body cameras, reform requires a structural change to police oversight to give the community a greater voice in these matters. To accomplish this goal, many cities have already established a participatory oversight council, such as the Office of Police Complaints in Washington, DC, the Office of Citizen Complaints in San Francisco, and the Community Ombudsman Oversight Panel in Boston.

The deaths of Michael Brown and Eric Garner are not isolated events. Federal Bureau of Investigation (FBI) data on police shootings shows a Black teenager is shot and killed twice a week, even

two patrolling officers, and six local community members. The police commissioner appoints two patrolling officers for the committee, and community members are elected. The POC will establish guidelines for use of body cameras and footage, investigate police misconduct, and review complaints found “not sustained,” “unfounded,” or “exonerated” by the Ferguson Police Department.

Analysis

Body cameras are a low-cost alternative to police militarization. Each body camera costs \$300-\$400 from producers such as Taser International, Inc.,

force declined 60 percent and the number of complaints filed by civilians decreased 90 percent.⁵ This suggests officers are more reluctant to use violence as a solution and citizens are more satisfied with the quality of policing. In contrast, without the documentation provided by body cameras, police militarization heightened tensions and turned Ferguson into a war zone.

To put this in perspective, Ferguson allocated \$50,600 to police equipment in 2014.⁶ Part of the funds for military-grade equipment could be diverted to cover the entire costs of body cameras. In the riots following the death of Michael Brown, a police officer in Ferguson was photo-

graphed carrying a \$1,200 M4 5.56 mm Carbine rifle, two pistols at \$500 each, and 180 rounds of ammunition.⁷ This officer carried \$2,200 worth of military-grade firearms, and as residents will remark, this officer was not alone. At the cost of four Carbine rifles, Ferguson could finance body cameras.

Lastly, the creation of the POC ensures the community has a voice in these issues. A study by Archon Fung found more effective policing and improved community relations when a participatory council was implemented into the Chicago Police Department.⁸ Boston, San Francisco, and Washington, DC, have all established similar participatory councils to improve accountability for police departments and have seen encouraging results.⁹ This structure benefits from the technocratic knowledge of officers and engages stakeholders in finding a solution, ensuring the POC makes well-informed decisions on the use of body cameras with consideration for officers and the larger community. Additionally, externalizing oversight of the police department prevents the potential for corruption by making police more directly accountable to the community and transparent in their proceedings.

Requiring body cameras makes both officers and civilians accountable for their actions, and the POC supplements this change by allowing civilian oversight over any potential conflicts. This policy is a step in restoring confidence in our law enforcement and making it more accessible to citizens.

Next Steps

The campaign for body cameras has made progress, and President Obama announced in December a bill that would allocate \$263 mil-

And when members of the community saw a board they had painted, they felt a new type of ownership over their community. No top-down plan to revitalize the area could have been as cost-effective or engaging as this community-driven effort.

lion in federal funds to local law enforcement agencies for this purpose.¹⁰ However, cameras will not be enough. This issue requires systemic change to accountability mechanisms.

Potential partners to help build out support include Ferguson City Council member Keith Kallstrom, given his experience volunteering for community policing efforts. ArchCity Defenders, a nonprofit organization in St. Louis, has campaigned for similar reforms and offers valuable resources and contacts.

Key Facts

- Body cameras for every patrolling officer in Ferguson would cost around \$4,800, or less than 10 percent of the department's \$50,600 budget for policing equipment.
- Federal government spent \$5.1 billion on military-grade equipment for local authorities since 1990.¹¹

- Introduction of body cameras reduced incidents of police force by 60 percent and number of complaints by 90 percent in Rialto, California.¹²

Talking Points

- Body cameras are a less expensive and more effective alternative to police militarization.
- Data from cameras would provide an objective account of events to the court and reduce the uncertainty in trial.
- Body cameras hold police officers and civilians accountable for their actions, which will help restore our faith in the law enforcement and court systems.
- Studies show body cameras reduce the number of violent interactions with police and the number of complaints filed by citizens.

- Police oversight councils increase citizen oversight over police officers; councils proved successful in Boston, Chicago, San Francisco, and Washington, DC.

Action Plan

- **Community outreach.** Continue to build a diverse coalition of activists, legislators, and local businesses to support the policy. The community wants to affect change but needs a constructive proposal to build on.
- **Policy affairs.** City council members who enact legislation already feel pressured by the community to take action. It is imperative to shift the current momentum to focus on a constructive proposal.
- **Coalition building.** Continue to build support in the community by reaching out to local businesses, nonprofits, legislators, and activists. People demonstrated passion for this issue, but this movement needs an agenda.
- **Communication plan.** The campaign will focus its message on learning from recent events by providing video evidence for any future incidents and making police officers more directly accountable to the community they serve.

Timeline

Over the next few months, the coalition must continue to be built out. By the summer, the coalition should be strong enough to pressure legislators to pass the body cameras and create the POC.

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The Continuing Significance of Race

An American Dilemma

By Stephen Balkaran

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Abstract

The idea of America becoming a melting pot, of moving beyond the issue of race and toward a society free of racism and discrimination where all are guaranteed the benefits of this great nation, has always been a myth rather than a reality. The election of President Barack Obama in 2008 has generated more debates on race and the future of race relations in America than in any other time in our country's great history. The increased optimism that America would transcend beyond race, that both White and Black racial attitudes would undergo a fundamental shift, and that race will no longer be part of American society has almost vanished in postracial America in the age of Obama. Despite this expectation, it is apparent that race still matters in America. As we continue to grapple with the issue of race and its impact on society, it is quite clear that race will continue to play an important role in defining who we are as Americans. In the twenty-first century, many facets of oppression still exist and are pervasive throughout American society. Silent, rather than overt, racism exists in our school systems, places of employment, health care systems, prison systems, immigrant communities, and other sectors of societies. Race permeates our society in ways we don't even realize and has taken away the best of who we are and what we can become as a nation.

I wish I could say that racism and prejudice were only distant memories. . . . We must dissent from the indifference. We must dissent from the apathy. We must dissent from the fear, the hatred and the mistrust. . . . We must dissent because America can do better, because America has no choice but to do better.¹ — Thurgood Marshall, 1992

The proclivity for many Americans to avoid race-related conversations while promoting the idea of a postracial society voids what would be one of the most debatable topics to emerge in the twenty-first century: postracial America in the age of President Barack Obama. The idea of a postracial America continues to be lost in transition; race and racism continue to be significant factors as we delve into the deep waters of race in America. As we end the second phase of the Obama presidency, several important debates continue to haunt our society, which have taken away the best of who we are as Americans. First and foremost, race and politics are alive and well in America, and second, postracial America continues to be a major disappointment, as we have yet to leave our racist attitudes and mindset behind us.

**... in the twenty-first century, silent, not overt, racism exists
in our school systems, places of employment, health care
systems, prison systems, immigrant communities,
and other sectors of societies.**

Because of the visible and widespread contributions of African American civil rights leaders, educators, architects, inventors, scientists, sports heroes, and others, many have wrongly assumed that these racial disparities have already been dismantled. However, the disparities in educational systems, poverty rates, the criminal justice system, and other sectors of society continue to plague a country that promises so much yet guarantees so little.

Why has race continued to play such a large role in America even fifty years after the enactment of the Civil Rights Act in 1964? Since America's inception, its brand of democracy has been plagued with racial and gender discrimination. We have made few attempts to amend these democratic shortcomings during the last three hundred years, and as a result, we have struggled with a defective foundation. Therein lies the answer for why race still matters in America: many Americans refuse to come to terms with the history of African Americans, dismissing the continual struggle against racism and oppression in a country that refuses to either acknowledge or apologize for its harsh treatment and wrongdoing.

Our increased expectation that America would transcend race and that both White and Black racial attitudes would undergo a fundamental change has not come to fruition. Some fifty years after the monumental Civil Rights Act of 1964, America continues to grapple with the issue of race, and it continues to divide us as a nation.

Gone are the days of former Alabama Governor George C. Wallace, who famously preached, "Segregation now, segregation tomorrow, segregation forever!" to resounding applause in 1963.² Gone are the days when signs reading, "Whites only" and "Colored" hung prominently over water fountains, bathrooms, and restaurant counters. However, in the twenty-first century, silent, not overt, racism exists in our school systems, places of employment, health care systems, prison systems, immigrant communities, and other sectors of societies. It also permeates our society in ways we don't even realize and takes away the best of who we are and what we can become as a nation.

Race relations have always been an important issue in the struggle for equality and reconciliation in America. A July 2013 Gallup poll of over 4,000 Americans asked whether they thought "race relations between Blacks and Whites [would] always be a problem for the United States"; 40 percent answered in the affirmative. In 1964, Gallup posed the same question, with 42 percent of respondents answering in the affirmative.³ Despite the election of our first African American president, the research shows that little, if any, progress has occurred in the last fifty years when it comes to optimism toward race relations.

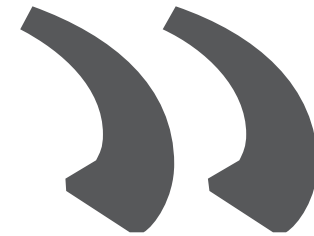
Now, more than sixty years since the Supreme Court's decision in *Brown v. Board of Education*, we continue to fight implicit and explicit bias-

es, discriminatory practices, and questionable policies that orchestrated the laws of the past. While the *Brown* decision dismantled state laws that created separate public schools based on race and ruled that such segregation was unconstitutional, the Civil Rights Project at the University of California, Los Angeles, reports that schools today are more segregated than they were in the past. Particularly, segregation for Black students is the highest in the Northeast, schools are substantially more segregated now than they were in 1970 across the South, and both Black and Latino students attend schools with a substantial majority of poor children (while White and Asian students attend middle-class schools).⁴

The Africana Studies and Research Center at Cornell University reported that in 1960, only 20 percent of the Black population finished high school, compared with 43 percent of the White population. Furthermore, only 3 percent of African Americans graduated from college, less than half the White graduation rate of 8 percent.⁵ Some fifty years later, a 2013 report by the *Journal of Blacks in Higher Education* indicated that 54 percent of young African Americans were graduating from high school, and 42 percent of African American students were graduating from college—still less than half the rate of White graduates. The report indicates that the vast majority of our nation's highest-ranked colleges and universities have shown significant improvement over the past quarter-century, but at the same time, there is a 20 percent gap in the graduation rate between White and Black students.⁶ Schools are becoming more segregated at a time when we hail public policies like No Child Left Behind, Race to the Top, and Common Core, which promised quality and access to education for all, when in reality many Black and Brown kids are Left Behind.

Educational disparities have become the new civil rights issue of the twenty-first century. These disparities are both directly linked to and implicated by policies that seek to eradicate poverty and increase social mobility.

In 1964, President Lyndon B. Johnson declared a “war on poverty,” making poverty in America one of his top priorities during his presidency. This not only raised awareness of poverty throughout American communities, but also ensured that early education, food stamps, and other government economic assistance programs would be extended to America's poor. Yet despite this and the initiation of the Poor People's Campaign by Dr. Martin Luther King, Jr., in 1967, poverty continues to be the cancer that threatens our society and remains a significant inhibiting factor in many African American households. According to the US Census Bureau's report on income and



The failure to talk about race and racism, and the failure to acknowledge that racism exists in the present day, is what best defines one of the most contentious subjects in America.

poverty in the United States, the poverty rate for African Americans in 2013 was 27.2 percent, as compared to 9.6 percent for non-Hispanic Whites.⁷ The report indicated that the poverty rate increased between 2005 and 2013 for every socioeconomic group within African American families.

Further, the Pew Research Center indicated that the wealth gaps between Caucasians and African Americans are at an all-time high. In 2013, the wealth of White households was thirteen times the median of Black households. This is the highest gap since 1989, when White households had seven times the wealth of African Americans households.⁸ There are a number of factors that contribute to many of the economic disparities between African American and Caucasian households, including access to economic opportunities, educational opportunities, and systematic discrimination in employment, which are still prevalent in society. Economic empowerment of the races has always been a cornerstone of American democracy, African Americans economically continue to lag far behind other races, and a significant section of their community continues to struggle beyond the poverty threshold.

Recent events in Ferguson, Missouri, and New York City as well as other race-related incidents throughout the country have left many issues that continue to haunt our society: the lost community policing, trust in law enforcement, and treatment of young Black males, but more so the continuing significance of race in America. The recent riots that surrounded the deaths of both Michael Brown and Eric Garner have continued to open the debates on race, criminal justice, and America's commitment to a postracial society. These riots have brought many lingering racial issues to the surface, which can only be resolved by having more open dialogue on race and discussion of diversity in America.

With the election of our first African American president, the United States has made great strides toward a more racially harmonious society, one in which all contributions to our great country—despite the color of one's skin—are respected. Despite this optimism, race continues to play a defining role in who we are as Americans in the twenty-first century, just as it did in the past. The failure to talk about race and racism, and the failure to acknowledge that racism exists in the present day, is what best defines one of the most contentious subjects in America. In the twenty-first century, many facets of oppression still exist and are prevalent in American society. Some fifty years after one of the greatest social movements in American history, African Americans and other minority groups are still some of the

most underrepresented groups in education, employment, criminal justice, and other sectors in American society. Postracial America has not come to fruition, and the continuous disparities among the races, racial attitudes, stereotypes, racial profiling, and other elements in society have in many ways reinforced the significance of race in the twenty-first century.

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Where People Move and Find Their Being

By Konstantin Kulakov

In “Where People Move and Find Their Being,” Konstantin Kulakov illuminates the inner city (and gentrification/police brutality) in the context of white space. Similar to the Black liberation theology of James Cone, Kulakov locates divinity in Blackness and sexuality, raising up the so-called “thug” and “crack whore” as the real image of the Virgin Mary and Christ. He presents the Black Lives Matter movement as an essentially spiritual movement with its own symbols and narrative.

*“The projects in Harlem are hated . . .
And they are hated for the same reason: both
reveal, unbearably, the real attitude of the white world . . .”
James Baldwin*

I.

For those in whiter spaces,
the inner city is not home;

it is simply a thereness, hovering;
an idea pushed far from the holy.

Only those who see a deeper beauty
will brush the corners of that world;

and to write that which is seen there
is to risk speaking the unspeakable.

II.

Jamaica Center, Queens

First, it is the bodega, blossoming
with a ruffle of coats and lotto tickets.

The liquor store, pale-green,
yet empty in the street.

The young, weathered faces
enthroned on pale stoops.

The thin church walls, trembling
to “Peace in the valley”— And an

unendurable greyness, crying-out,
“Lose hope; we have abandoned you.”

III.

They tell me,
“You can say the word ‘injustice,’
but cannot know the weight
of body rejected, the hot flush
the night father is arrested. You can read
the word ‘shooting,’ but cannot know
the crackle of gun shots,
the teeth against cement—”
here, at the edges of peril where
people move and find their being.

IV.

Harlem

This is how those with much
take from those with little:
Slowly, the childhood bodega
is cleared for the dim bar.
The apartment handle is sawed-off
for the brass revolving door.
They say, “This is Morningside Heights!
The edges of peril are not near!
The thug, the crack whore: gone!,
pushed further from our luster.”

V.

Still, all through the night, five Angels
broke through the skyline. They lifted-up
a woman, rejected, saying: "No! the one you call
'crack whore' is the Blessed Mother; see her blue
garment, the dip of her brown breast.
She is holy." Then, revealing a man
in an sidestreet, another Seraph advances:
"No," she declares. "The son you call thug,
the son plummeting in bullets, is The Christ..."
And, illuminating his vast body, says "He is
the fabric of existence... Repent, repent..."

VI.

After the decision is proclaimed,
those in whiter spaces sink into their beds.
Outside, like a ribbon, an expanding
line of youth, streams into the night.
Signing Hands-Ups and I-Can't-Breathes,
they make-real their Last Supper.
While, in the streets, the armoured tanks
wait beneath a heavy, blackening sky.

Race, Place, and Police

The 2009 Shooting of Oscar Grant

By Katherine Blaisdell, Eliot Glenn, Christine Kidd, William Powers, and Rebecca Yang

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Originally from Kansas City, Missouri, Eliot Glenn is a master of public administration candidate at the John F. Kennedy School of Government, where he has studied social policy, inequality, and in particular, issues of race, sexuality, gender, and class. He has published articles on these topics in publications such as the Huffington Post and Salon.

Glenn holds an MBA from NYU's Stern School of Business and a BA from the University of Pennsylvania where he studied studio art and specialized in photography and painting. He previously worked for Christie's in both New York and London, where his career transitioned from nineteenth-century European paintings to finance.

Christine Kidd is a second year MPP at the John F. Kennedy School of Government. After completing her bachelor's degree in policy management and Spanish at Dickinson College, she began working in Chelsea, Massachusetts. During her six years working in Chelsea, a predominantly Central American and Caribbean community, Kidd served as a youth worker at Roca, Inc., and later transitioned to Chelsea High School where she supported ninth graders and their families as well as expectant and parenting students across the district. After graduation, she hopes to continue working in youth services to improve equity and outcomes for adolescents.

William "Billy" Powers is a second-year masters in public policy candidate at the John F. Kennedy School of Government. Prior to HKS, he was a preschool teacher and community organizer in the South Shore neighborhood of Chicago, Illinois.

Rebecca Yang graduated in 2014 from the John F. Kennedy School of Government with a master in public policy. Following graduation, she will serve as a diplomat in the US Foreign Service.

Abstract

Early on New Year's Day in 2009, a police officer investigating a disturbance at the Fruitvale BART (Bay Area Rapid Transit) Station in Oakland, California, shot and killed Oscar Grant. The officer was White, and Grant was Black. At every stage of the process that followed, Bay Area residents responded with protests, some engaging in property destruction. This article presents an analysis of those events as well as policy recommendations for addressing the issues identified.

Introduction: Race and Police in Oakland, California

Oakland's population boomed in the early part of the twentieth century as shipbuilders took over the East Bay front. Two Bay Area impresarios, Kaiser and Moore, sought laborers for their shipyards, which boomed during World War II.^{1, 2} Looking for people who "knew how to work,"³ they recruited Black sharecroppers from the Deep South. They also sought law enforcement who "knew how to deal with those people," drawing from police forces in the Jim Crow South.⁴ These racial dynamics persisted over decades in the relationship between Oakland's police force and its Black community. They set the stage for the explosive reaction to the January 2009 shooting

of young Black Oscar Grant by a White police officer.

The Incident: Oscar Grant's Death and Aftermath

Shortly after the Bay Area welcomed the new year in 2009, Bay Area Rapid Transit (BART) police arrived at Fruitvale Station in Oakland, responding to reports of fighting. Among the men taken from the train was Oscar Grant III. According to *SFGate*, "as [Officer Johannes Mehserle] moved to cuff him . . . Grant violently pulled his right hand away," perhaps "[reacting] to abusive words from [another officer]."⁵ The abusive words came from Mehserle's partner Tony Pirone, who called Grant a "bitch ass nigger," although it is unclear whether Pirone or Grant said these words first.⁶ Thinking Grant might have been reaching for a gun, Mehserle pulled out a weapon and shot Grant in the back. In reality, Grant, a twenty-two-year-old Black male, was unarmed.

Public outrage arose following the shooting, stoked by YouTube videos of the incident posted by witnesses. Days later, "hundreds of protestors rampaged through the streets of downtown Oakland, creating a near-riot that lasted for several hours."⁷ The aftermath included "protestors [laying] prone in front of police, hands behind their backs, saying, 'I am Oscar Grant.'"⁸ The

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New York Times reported, "civic leaders said . . . that the violence reflected anger among young people—and particularly young Black men—who feel that they are unfair targets of the police."⁹

The components of the incident's aftermath can be loosely characterized by three themes: (1) prosecutorial aggression, (2) judicial intervention and independence, and (3) responsive public outcry. Nearly two weeks after the shooting, Mehserle was charged. After initially charging Mehserle with first-degree murder, the judge ultimately ruled that the most severe charge possible would be second-degree murder. Protests continued, beginning with

a "largely peaceful rally of more than 1,000" but also "demonstrators [who] began a rampage through downtown, smashing windows at a dozen businesses, vandalizing several cars and forcing police . . . to spray tear gas."¹⁰

The bail hearing provided another opportunity for judicial intervention and independence. More than two weeks after the indictment, bail was set at \$3 million for Mehserle, causing "thousands of residents [to gather] to voice their outrage . . . and to demand that Mehserle not be given a chance to leave jail on bail."¹¹ On Friday, 6 February 2009, Mehserle posted bail and was released.

The trial components included several key moments of judicial intervention, many of which led to public outcry. Mehserle's preliminary hearing began on 18 May 2009, against the backdrop of protests. In advance of the trial, the defense outlined its intention to bring Grant's past encounters with law enforcement into its arguments. John Burris, an attorney for Grant's family, labeled such tactics as character assassination. Also crucial to the defense's argument was the notion that Mehserle meant to use his Taser on Grant. The prosecution asserted that the shooting was intentional, following a contentious interaction that featured racial language directed at Grant. Also of note, the trial was relocated to Los Angeles "because of pretrial publicity and the threat of violence."¹² The Los Angeles jury did not include any Black members.

Ultimately, the jury found Mehserle guilty of involuntary manslaughter. Following the verdict, the Grant family's attorney asserted, "the system is rarely fair when a police officer shoots an African-American male."¹³ That evening, more than 1,000 people rioted in Oakland. According to the *San Jose Mercury News*, "wearing black masks, many looted stores, smashed windows and rolled trash bins into the streets while setting them on fire."¹⁴

In the end, Los Angeles Superior Court Judge Robert Perry reduced

Mehserle's potential prison sentence down to four years and ultimately sentenced him to two years (of which he served only eleven months). Protests followed both Mehserle's sentencing and early release, with Grant's uncle asserting, "I do believe it's a racist criminal justice system."¹⁵

History: Black Cultural Center, Contested

Oakland as a Center of Black Culture

Oakland has a long history as a center of Black culture that "shaped Black identity for the nation."¹⁶ Over time, it came to be known as "the Harlem of the West." In the 1920s, the Brotherhood of Sleeping Car Porters, headquartered in Oakland, became the first Black union to be recognized by the AFL. In the 1940s and 1950s, Oakland was a hub of blues and jazz culture. In the 1960s, the Black Panther Party was founded in Oakland, and in the 1980s, the Black population rose to almost 50 percent of the population,¹⁷ representing almost 35 percent of the Bay Area's total Black population.¹⁸ In the 1990s, Oakland became a center for hip-hop culture; Tupac Shakur called the city home. Oakland looms in the national Black consciousness, and as such, it is an incendiary place for incidents of perceived racist violence.

Thus, the narrative of police abuse that surfaced in the Oscar Grant incident has existed for decades in Oakland, and the process of documenting abuses by police—seen in the taking of amateur YouTube videos—has historical roots as well.

Notably, the Black population in Oakland has declined over the past thirty years.¹⁹ It is now more multi-ethnic, with Whites, Blacks, Asians, and Latinos sharing the city.

Police Brutality and the Black Panthers

Police brutality was a central issue for the Black Panther Party, which was founded in and was active in Oakland. Huey Newton, a co-founder of the Party, once said, “The key plank of the Panther platform . . . was a non-negotiable demand for the immediate end of police harassment and brutality in the Black community.”²⁰ Bobby Seale, the other cofounder, similarly spoke

the sympathy of Black audiences. Thus, the narrative of police abuse that surfaced in the Oscar Grant incident has existed for decades in Oakland, and the process of documenting abuses by police—seen in the taking of amateur YouTube videos—has historical roots as well.

Bobby Hutton

Bobby Hutton was sixteen when he joined the Black Panther Party. Two years later, police ambushed a group of Panthers, and a shootout followed. After their surrender, Hutton was shot twelve times and stripped to his underwear. The incident provoked major discontent in the Black community and “set a tone

framing innocent people. Most of their victims were former convicts, many of whom were minorities; few questioned the legitimacy of police action against them.

The Riders had been active for a decade when a twenty-three-year-old recruit turned them in to the internal investigation department of the police force, as he felt pressure to comply with their methods. Three of the Riders were arrested, and Vazquez fled—likely to Mexico—and has still not been found. Lawsuits against the OPD ensued, filed by 119 plaintiffs who won a total of \$10.9 million.²³ Charges were brought against the Riders,

2008. The deadline was extended three times, and the cost of compliance rose above \$15 million.²⁵ To this day, the OPD still has nine reforms outstanding.²⁶ Thus, it was acknowledged by both society and the judiciary that OPD had a problem with police brutality—and that it has not been resolved even today.

Chauncey Bailey

The audit of the investigation of the Chauncey Bailey murder similarly revealed the shortcomings of the OPD and incensed the Black community. In 2007, Chauncey Bailey, a famous Black journalist, was assassinated on the street in Oakland in broad daylight. He had been inves-

The Oscar Grant incident ironically came at a time when the problem it emblemized may have been improving.

about “these racist dog swine who been controlling our community and occupying our community like a foreign troop.”²¹

The Black Panthers would conduct “police patrols,” in which they would observe and document police action, inform arrestees of their constitutional rights and carry law books. They would also open carry weapons to intimidate police and provoke confrontations to win

of discord between the OPD [Oakland Police Department] and . . . the city’s Black community that has lasted until the present day.”²²

The Rough Riders

In the 1990s, a group of four OPD officers, led by Francisco “Choker” Vazquez, called themselves the Rough Riders and were accused of planting evidence, brutalizing suspects, falsifying reports, and

but a jury with no Black members acquitted them of eight charges and reached no verdict on twenty-seven.²⁴ The OPD was seen to have acted with impunity (particularly against the Black community) in a systematically brutal and unjust way.

After the 2003 trial, the OPD was placed under external oversight by a district judge, who mandated fifty-one reforms to be instituted by

tigating Your Black Muslim Bakery, a local organization with a criminal past.

The murder became controversial not only because Chauncey was famous, but because a 2009 investigation of the 2007 murder case slammed Police Sergeant Derwin Longmire as someone who “probably didn’t belong in homicide” and who “neglected to do . . . just basic routine homicide 101.”²⁷ Longmire

was accused of having obstructed the investigation into suspect Yusuf Bey, with whom he had a personal relationship. He was also accused of allowing him special privileges while in custody. This again undermined the legitimacy of the OPD and its relationship with the Black community.

Historical Data

Statistically speaking, the OPD has disproportionately targeted Blacks as a portion of the population over the last twenty years. According to our analysis of data taken from the OPD, 83 percent of victims of police

other words, the Oscar Grant incident ironically came at a time when the problem it emblemized may have been improving.

Context: Oakland in 2009

Many of the issues in Oakland at the time of Grant's death—poverty, community violence, and a fraught relationship between police and the community—existed prior to 2009, but new dynamics were also at play that influenced the public response. Specifically, the 2008 recession erased much of the economic progress that communities of color had made previously.

Oakland retained the highest concentration of Black residents in the metropolitan Bay Area, which was less than 7 percent Black.³¹

The relationship between police and the community continued to be challenging. The Oakland Citizens' Police Review Board (CPRB) received ninety-six complaints against the OPD in 2009, a 23 percent increase from the year prior; Black males filed 48 percent of the complaints, Black females 21 percent.³² The CPRB sustained 7 percent of the complaints. BART Police did not file a report for 2009, but their 2010 audit provides a window into

ings against officers in the OPD and BART likely contributed to the feeling that law enforcement was above accountability.

One major criticism and explanation for the antagonism between the OPD and the community is the dearth of officers residing in Oakland. In 2012, only 9 percent of officers lived in the community; most lived in surrounding suburbs. This dynamic contributes to Oakland residents seeing officers as outsiders, who don't have Oakland's interests at heart. Given Oakland's racial makeup, sourcing officers from the community would allow for a police

One major criticism and explanation for the antagonism between the OPD and the community is the dearth of officers residing in Oakland.

shootings between 1993 and 2013 were Black. Blacks had declined, however, as a fraction of victims of police shootings at the time of the Oscar Grant shooting, from almost 95 percent in 1994 to only 58 percent in 2008. The absolute number of shooting victims had also declined from a high of twenty-three in 1995 to only seven in 2008.²⁸ In

The 2010 census shows that Oakland was a multiracial city of 390,724 residents, upholding its legacy as a community of color with a mix of Latino (25 percent of population), Black (28 percent), and Asian American (17 percent) families.²⁹ The proportion of Black residents of Oakland had decreased from 35.9 percent, a loss of over 30,000 residents, since the 2000 Census.³⁰

policing on transit. BART received sixty-six complaints; excessive use of force by officers was the primary allegation in fourteen of the cases. In 15 percent of the BART complaints, officers were deemed responsible for wrongdoing.³³ While it is difficult to understand the significance of these numbers without context, the low percentage of find-

force whose demographics were more aligned with the community. Moreover, given that Oakland devotes 40 percent of its general fund to policing, suburban police residency is problematic for the local economy, as it sends a large portion of tax dollars into other communities.³⁴ California state law forbids residency requirements for city

agencies, limiting Oakland's options in retaining law enforcement as residents of the city.³⁵

The 2008 recession impacted households nationwide, with people of color experiencing disproportionate losses. White families experienced an 11 percent decrease in wealth, while Black and Latino families experienced a loss of 31 percent and 40 percent respectively.³⁶ Oakland did not fare as badly as many in California; between 2000 and 2009, median household income fell by 99.5 percent across California,

about public transportation. Silicon Valley companies have developed their own networks of buses that obviate wealthier residents' need to use BART. At the time of Grant's death, this trend had not yet begun; the demographics and distribution of BART riders had remained largely consistent with research conducted ten years prior. The ethnic and socioeconomic makeup of BART ridership closely aligned with regional demographics. For example, Asian/Pacific Islanders made up 24 percent of the BART

the irrational suspicion that Grant was a violent criminal.

Police brutality is the use of excessive or unnecessary force by police when dealing with civilians. "Excessive use of force" means force well beyond what would be necessary in order to handle a situation. Police brutality can also be coupled with racial profiling. In the United States, demonstrating racial profiling in court requires demonstrating explicit bias against a person because of their race. However, implicit bias also affects police officers' decisions.

the strength of implicit bias by measuring the relative strength of associations between pairs of concepts. The popular Black/White IAT analyzes the speed with which participants associate White and Black faces with positive and negative words. The racial group that individuals most quickly associate with positive terms reflects a positive implicit bias toward that group. Faster response times when pairing concepts indicate stronger associations. The Black/White IAT has been used in many studies and has

Multiple studies show that there is a strong perception that Black neighborhoods suffer from more crime than other neighborhoods, even when there is evidence to the contrary.

while Oakland decreased of 65.9 percent.³⁷ Recessionary unemployment came faster and more markedly to Oakland than to other Bay Area communities, however; job losses began in July 2007, while San Francisco did not see losses until 18 months later. Employment recovery was slower and started later in Oakland as well.

In the years since 2009, gentrification has accelerated in the Bay Area, causing significant controversy

service area and were 24 percent of its ridership.³⁸

The Problem: Police Brutality and Implicit Bias

The community interpreted the murder of Oscar Grant as an act of police brutality and the use of excessive force. Because Officer Mehserle was White and Oscar Grant was Black, many saw the murder as an incident of racial profiling, where excessive force was applied due to

Implicit bias refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner. These biases can include both positive and negative associations and are activated involuntarily. Everyone has implicit biases, they have real-world effects on our behavior, and they can be unlearned and replaced with new mental associations.

The Implicit Association Test (IAT) was designed in 1998 to measure

shown a pro-White/anti-Black bias in most Americans, regardless of their own racial group.^{39, 40} Moreover, researchers have documented this bias in children as young as six years old.⁴¹

These implicit biases affect law enforcement decision making. Implicit bias may have affected Officer Mehserle's shooting of Oscar Grant, because implicit bias can persist in individuals, including police officers, even when they consciously

reject racial stereotypes. In fact, recent studies have studied implicit bias and the impact of race on the decision to shoot.⁴²

Shooter/Weapons Bias

Researchers last May reviewed a decade of empirical evidence about police officers and implicit bias. They found that officers possess implicit bias that might make them more likely to shoot Black suspects than White ones. To test these disparities, researchers used video games to see how people reacted to suspects of different races. According to an article on *Vox*, “initial findings showed police officers generally did a good job of avoiding shooting unarmed targets of all races, but when shooting was warranted, officers pulled the trigger most quickly against Black suspects. This finding suggests that officers exhibit some racial bias in how quickly they pull the trigger.”⁴³

Race and Perceptions of Crime

Multiple studies show that there is a strong perception that Black neighborhoods suffer from more crime than other neighborhoods, even when there is evidence to the contrary. A 2001 study examined the relationship between neighborhood racial composition and residents’ perceptions of their neighborhood’s level of crime. Using data from the late 1990s in Chicago, Baltimore,

and Seattle, Lincoln Quillian and Devah Pager found a positive association between the percentage of young Black men in a neighborhood and perceived crime, even when controlling for a variety of neighborhood characteristics.⁴⁴ This suggests that stereotypes are influencing perceptions of neighborhood crime, so much so that these perceptions overwhelm any actual associations. This pervasive correlation between Blackness and perceived threat and between Blackness and perceived criminality may have played a role in the murder of Oscar Grant.

Issues Summary and Recommendations: Chipping Away at Structural Racism

Insights have emerged from research on the four major aspects of the Oscar Grant riots: the incident, its history, its context, and the problem. The following five recommendations for preventing further police brutality and racial profiling address each research area in turn. These suggestions would ideally be implemented in concert, not sequentially.

Reforms other than those contained here will be necessary to end violent incidents such as the death of Oscar Grant. Others might include full compliance with the requirements

of OPD’s judicial oversight as well as efforts to address income and wealth inequality along racial lines.

Problem 1: The Divide Between Police in Oakland and the Community

OPD’s racial makeup and officers’ choices to live outside of Oakland contribute to the sense that OPD is an occupying force.⁴⁵ Given that California law prohibits residency requirements, a more comprehensive approach will be necessary.

OPD should implement a recruitment and training program (similar to the Army’s ROTC). The program would pay tuition and a stipend for graduates of Oakland public high schools to pursue a degree before joining the police force. These recruits would agree to serve on a local police force and remain in Oakland for a set number of years. This would increase the diversity of the historically White OPD and create closer ties between the police and the community they serve.

Problem 2: Lack of Justice in Incidents of Police Violence

There are two justice concerns at play in the shooting of Oscar Grant. The first is substantive: whether the justice system holds perpetrators accountable and repairs harm caused by the crime. The second concern is procedural: whether the community feels it has a voice in a

meaningful process of determining the course of reconciliation. Procedural justice is important to consider in situations that lead to civil unrest that may cause further violence.

Incidents of police violence are reviewed by an internal police board. Reports from OPD’s Independent Monitor suggest that internal review fails to properly disincentivize the use of force and live up to the goals of procedural justice.⁴⁶ One way to deepen restorative and procedural justice is to ensure outside review for a broader range of police incidents. Given ongoing issues with internal review and justice concerns, OPD’s citizen review panel, appointed by the city council and independent of OPD, should have oversight over incidents currently subject only to internal review.

Problem 3: Implicit Bias

Research on implicit bias suggests that our subconscious associations are malleable through training.^{47, 48} Programs exist in other jurisdictions to train agents to correct anti-Black/pro-White implicit bias.⁴⁹ We therefore recommend that police officers, judges, and jurists in Alameda County be trained to correct for implicit racial bias.

Problem 4: Fear-Based Decision Making

It is difficult for people to make

decisions under conditions of fear that respect the lives of subjects and increase community safety. In high-stress situations, police officers are more likely to rely on instinct and stereotypes that may make them prone to use excessive force, especially against minorities.⁵⁰ We therefore recommend that officers involved in high-stress altercations have a cooling-off period of several hours before returning to active policing.

Problem 5: BART Is Hard to Police

Given the account of the police's intervention and the shooting of Oscar Grant, it is apparent that BART is very difficult to police, especially during high-traffic times like New Year's Eve. The station platforms are dimly lit, often crowded, and only staffed on a limited basis.

Crime prevention through environmental design is a method with substantial proven success.⁵¹ Changes to the BART platform environment could make it easier to police. It is hard to know at this point which specific changes might be useful, but we recommend that BART commission a study on station design to make them safer for passengers and easier to police.

Acknowledgements

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Alabama Grain

Photos and Commentary by Desmond Wilson

Desmond Wilson is a professional creative director, based in the Southern United States with a specialty in film, graphic design, and photography. Wilson was born and raised in Southern Alabama.

Birmingham, Alabama, is no stranger to civil discourse concerning police and race relations. Historically, the city has maintained a steady reputation for being one of the most segregated places during the civil rights movement. Reminders of Birmingham's sketchy past are found throughout the city with help of the Civil Rights Institute, Kelly Ingram Park, and other physical acknowledgments to the history that was and the progress made since. However clean and silent these historical skeletons are attempted to be kept, it is nonetheless a permanent stain that will forever haunt America and the Founding Fathers of this country. It in no doubt is very much a part of who we all are to this very day. The ramifications from our historical mistakes are still being dealt with today, although still not acknowledged by many as valid.

I attended the Black Lives Matter protests on 19 December 2014 to document the events. I remained there, however, due to my personal opinions regarding the lack of prosecution in the deaths of numerous unarmed African American men at the hands of the police. As an African American male, I knew it would be important for me to experience this protest—for this was my first in my twenty-seven years of existence. However, I hoped to preserve a moment in history for those twenty-seven years after me and beyond. My father, former editor-in-chief for the Black Panther newsletter, instilled in me the power of truth and dedication to documentation. I hope my work helps preserve an important moment in history and aids in the movement for full recognition and respect for Black lives.





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Interview with Justin Simien, Director of *Dear White People*

By Kalisha Holmes, Senior Editor,
Harvard Journal of African American Policy



Justin Simien, one of *Variety's* 10 Directors to Watch, is the writer/director of the critically acclaimed film *Dear White People*, which won the Special Jury Award for Breakthrough Talent at Sundance 2014. In addition to producing and directing online companion pieces for *The Help*, *Best Exotic Marigold Hotel*, and *Middle of Nowhere* campaigns, he has also written, produced, and directed for *TakePart TV* and the Streamy-nominated web series *INST MSGS*. Originally from Houston, Texas, Simien currently lives in Los Angeles.

Kalisha Holmes is a 2014 graduate of the John F. Kennedy School of Government at Harvard University. She currently serves as senior editor of the *Harvard Journal of African American Public Policy* and works for the US Department of State as a Foreign Service Officer.

HJAAP: *This year was a racially charged year in American political life. How do you see the responsibility of the Black filmmaker in terms of shaping and influencing the American public's perception of Black people, and particularly young Black American men, given that perception is often the primary driver for policy makers making policy that impacts Black lives?*

SIMIEN: Black artists have been struggling with this question since the Harlem Renaissance, but I tend to agree with those who felt that the role of art should above all else be to tell the truth. Sometimes the truth can lead to favorable "perceptions" of its subjects and sometimes it doesn't, but when stories tell the truth, it allows an audience to see the humanity in characters who may be coming from different points of view. Beyond perception, I think the heart of the problem is the unwillingness or inability of those in power to put themselves in the shoes of people who don't look or think like them. With that in mind, I think one of the most profound ways art can transform culture is by expanding empathy and sparking dialogue.

HJAAP: *In the wake of the highly publicized non-indictments of police officers who shot and killed unarmed Black men, the nation watched as protests erupted across American cities and towns. Artists and athletes also took this opportunity to use their platforms to speak out and further focus attention on the issue. In your view, does the spotlight that comes with fame come with a certain civic responsibility to raise awareness about continuing racial injustices?*

SIMIEN: I, like many people, was completely outraged over the non-indictments as well as the way

in which the media was covering them, focusing mostly on “looting” and “rioting” rather than the systemic causes of these injustices. I took to my Twitter account and, of course, spoke on relevant issues at Q&As of my film. But I can’t say I did that out of responsibility. It’s how I was feeling, and I happen to have more of an audience for my opinions than I’ve had before. But I actually think we place too much of an emphasis on famous people to shape and mold the cultural conversation. The skill set it takes for someone to have a string of hit singles or hit movies is the not always the same as leading a needed national dialogue on important issues.

HJAAP: *What are your thoughts on the #BlackLivesMatter movement?*

SIMIEN: It’s sparking much-needed dialogue and increasing the visibility of issues that otherwise would be more easily pushed under the rug.

HJAAP: *You recently sat on a panel with legendary filmmaker Spike Lee. It’s been twenty-five years since *Do the Right Thing* was released. In what ways did that film impact your own career? How do you think the American movie industry has changed since the release of that movie?*

SIMIEN: That film taught me that telling Black stories and being artistically daring weren’t mutually exclusive ideas. It blew my mind on multiple levels. Not only is it, in my mind, a masterpiece, but it’s also a masterpiece by a Black auteur tackling a story about Black lives. To be honest, I think the industry has grown more myopic than it was when *Do the Right Thing* came out. Spike Lee himself said that the film couldn’t get made

at the studio level these days. I imagine it would also struggle (as most films with Black casts do) to find independent investors thanks to the outdated but pervasive myth that Black films don’t perform well overseas.

HJAAP: *Your first major film, *Dear White People*, was commercially released nationwide in summer 2014. What was that moment like for you?*

SIMIEN: Strange. It’s been a dream for such a long time. I feel torn between wanting to soak it in and immediately moving on to the other stories in me dying to be told.

HJAAP: *Watching *Dear White People*, it seemed like you wanted to use your movie as a vehicle to spark a national conversation about the pervasiveness of racism even in the most unlikely places—that is, at elite institutions of higher education. Do you think that conversation has occurred, and what kind of reactions have you witnessed while touring the country?*

SIMIEN: I certainly wanted to spark conversation. But for me the movie at its core is more about identity than anything else: the war between who we really are and how we’re perceived by the culture around us. I stress the difference, because as a story about identity it has proven to be incredibly universal—connecting with people from Atlanta, to New York, to Stockholm, regardless of the racial makeup of the audience. I think telling an honest story about Black characters struggling with identity requires racism and racial issues to factor into the world of the story, but my main focus here was identity. I’ve found the film to be eye-opening for people regardless of

race or age. I’ve also found it to be challenging for some people, as it raises some questions that some members might find uncomfortable. All of the characters do things we want to root for and things we don’t, which I think is honest and more powerful than if they were just dogmatically projecting a certain code of behavior to the audience. I didn’t want to make a morality play or a dogmatic statement. I wanted to tell some truth and get people in the lobby and in the office having the conversations that can actually move the culture forward.

HJAAP: *What’s your next move as a filmmaker? Do you have any projects in the pipeline that our readers should keep in mind?*

SIMIEN: The film *Make a Wish* was reported with Anthony Mackie as something I’m doing at Paramount. I’m also writing two new scripts as well as working on a potential television project.

HJAAP: *What final thoughts would you like to leave our readers with?*

SIMIEN: Support independent film. It’s where the truth is being told and the medium of film is being stretched.

Social Finance in Black Geographies

A Statistical Analysis of
Locations in
Los Angeles County

By Matthew J. Miller

Matthew Miller is a PhD student in urban planning and development at the University of Southern California's School of Public Policy, where he holds research assistantships in the Price Center for Social Innovation and the Spatial Analysis Lab. His previous professional and volunteer work has included federal and local government in community engagement, social justice, and environmental policy, particularly in California. He is an alumnus of the Massachusetts Institute of Technology (MIT) and Stanford University, where he earned his master in city planning degree (2014) and bachelor of arts in urban studies with honors and African/African-American studies (2012), respectively.



Abstract

The Great Recession created interest in addressing income and wealth inequality, particularly financial exclusion in “banking deserts.” Given credit unions’ history in effectively combating financial marginalization in asset-challenged communities, member-driven social finance would appear a policy solution. However, using spatial econometrics and visual analysis, this article uses the case of Los Angeles County to see whether credit unions are filling what are formally regarded as “spatial voids” in low-income and Black neighborhoods compared to traditional banks and alternative financial service providers (AFSPs). It posits three findings. First, Black populations and poverty rates do not positively predict credit union locations; in fact, these variables are negatively correlated with banks and AFSPs. Second, socioeconomic factors matter, but not consistently across space and institutional types. Lastly, spatial models are more reliable for both visual and statistical pattern detection than nonspatial models. While limited, these findings suggest where and for whom opportunities lie for equitable asset development.

Background

In the wake of the Great Recession, the wealth gap has widened in the

United States, particularly between Black and White communities.^{1,2,3} The rise of “banking deserts”—areas where there are just one or no banks—has been part of that diminished financial stability, particularly in low-income and ethnic minority neighborhoods.⁴ In 2013, 7.7 percent of households in the United States were without a banking account.⁵ Creating more equitable neighborhoods requires the capacity to absorb and distribute capital—an effective and fair financial sector being a critical element toward economic inclusion. Credit unions—a mission- and member-driven financial institution—have historically played a role in expanding banking services to marginalized markets both in the United States and internationally. However, there is little sustained attention in academic and popular literature on the local impacts of credit unions, especially in low-income and majority-minority areas.

Since 2012, the National Credit Union Administration (NCUA) has ramped up its efforts to support credit unions by automatically qualifying institutions with a voluntary low-income designation (LID). The LID unlocks a host of economic and organizational benefits for credit unions that can “demonstrate that a majority (at least 50.01%) of its members are low-income as defined in Section 701.34 of the NCUA

Rules and Regulations (earn 80% or less than the median family income for the metropolitan area where they live or national metropolitan area, whichever is greater).⁶ The benefits under this policy include the right to accept nonmember deposits from any source, increased maximum borrower limits, eligibility to apply for the NCUA’s Community Development Revolving Loan Program, technical assistance by NCUA’s Economic Development Specialists, and more. This creates an exploration-worthy policy environment wherein opportunities for investment and future credit union expansion could lie, especially in geographies like Los Angeles where inequality is high.

Literature

Racial Segregation, Poverty, and Lending Discrimination

Historically, in the United States, racial discrimination and metropolitan segregation led to economic deprivation in majority-minority urban cores, with financial institutions playing a significant role in that disinvestment.⁷ While blatant credit discrimination is often linked to the era before 1970s fair lending legislation passed,⁸ scholars have found evidence through the late twentieth century. In a five-part report on racial redlining, spatial analysts documented “*prima facie* evidence”

of sixty-two discriminatory lending patterns against minority neighborhoods in sixteen US metropolitan areas using a dataset of over 1.2 million mortgage loans by major banks in 1990-1991.⁹ But even as communities segregated by race and income began to be approved for loans, scholars have found higher rates of subprime lending between 2002 and 2005, the primary culprit for the Great Recession.^{10,11}

Beyond exclusionary practices, there are lending institutions that regularly profit on credit-constrained, minority neighborhoods (e.g., payday lenders, check cashing) by charging high fees, euphemistically called alternative financial service providers (AFSPs). In 2013, 20 percent of US households (24.8 million people) were “underbanked.”¹² While they owned a bank account, they also frequented AFSPs despite “payday loans” being one of the “most predatory products commonly offered today.”¹³

The Spatial Void Hypothesis and AFSPs: Varied Findings

Because of the well-established negative association between social distress and banking access, some posit that AFSPs offer a viable alternative in areas with high proportions of under- and unbanked households and/or ethnic minorities. The idea that AFSPs fill an unmet need in either low- or

working-class neighborhoods is known as the spatial void hypothesis (SVH). However, this concept has been contested both empirically and popularly. In one of the earliest articles, spatial economists found “indeed strong empirical support” for the SVH based on their study of four counties in Philadelphia.¹⁴ Further studies have found support for the SVH in working-class areas.^{15, 16} Conversely, others found

Black Cooperative Economic Development: Possible Poverty Panacea?

Community development financial institutions (CDFIs) have long been upheld as the agents of change in the troubled history of financial exclusion in the United States. Between 1970 and 1990, the law, business, and social policies shifted to make community-based institu-

However, recently, cooperatives have been garnering theoretical attention for how they address marginalized and Black communities. Few have drummed up this knowledge area more consistently than political economist Jessica Gordon Nembhard. Her novel *Collective Courage* retells African American history—from slavery to present day—through the lens of cooperative economic thought. Dubbing it

mulation, while increasing and stabilizing the community’s tax base.”

2. Cooperatives “contribute to reducing the gap between rich and poor by more equitably distributing opportunities, assets (including wealth and income).”

Though underexplored, these concepts rely on “Du Bois’s theory of

Creating more equitable neighborhoods requires the capacity to absorb and distribute capital—an effective and fair financial sector being a critical element toward economic inclusion.

that “fringe banks do not fill a spatial void in traditional services” and that “whether fringe providers disproportionately locate in counties with more minorities depends on the service and the minority population” under study in a separate geography.¹⁷ The cited literature uses varying geographical units (e.g., census tracts versus block groups) and locations across the United States, which makes it difficult to rule whether there is one pattern.^{18, 19, 20, 21} This study recognizes but does not aim to solve that dilemma.

tions like cooperative businesses, community development banks and venture capital funds, churches, and nonprofit organizations more powerful agents of economic development.²² The lending entities in this field of “social finance” are the protagonists in this article. There are three categories: social banking, impact investing, and microfinance. The CDFIs could fit within the social banking category because “social banks are institutions that offer products and services that should create a social impact.”²³ Community development credit unions (CDCUs) aim to do exactly that.

as a “hidden history of economic defense and collective well-being,” she shows how major African American leaders like W.E.B. Du Bois and Ella Jo Baker participated in organizing with, purchasing from, and advocating for cooperatives.²⁴ Accordingly, there are economic benefits for this structural arrangement, but she posits two most relevant to this article:²⁵

1. Cooperatives “create and anchor capital, businesses, and jobs in the community, institutionalizing local income generation and wealth accu-

racial cooperative economic development, combined with Hogan’s theory of Black self-help” posited as early as 1907 and 1984.^{26, 27} Theoretically, community development credit unions fit within this type of economic activity.²⁸

The Credit Union Movement in Los Angeles: Mission Drift?

In 1994, John Isbister charted the emergence of CDCUs through case studies that aimed to “return credit unions to the roots of cooperative banking [for] marginalized people.”²⁹ Unfortunately, one of his conclusions is that “most Ameri-

can credit unions have moved away from these commitments as their memberships have become increasingly affluent.”^{30, 31} Even today, the challenge with credit unions is that they may not explicitly aim to focus on low-income communities; they simply have a commitment to their defined membership. While member-driven goals could be synonymous with social impact, a credit unions is not federally certified as a CDCU just because it exists in proximity to (and possibly serves) some low-income members. Furthermore, it is not clear how spatially accessible CDCUs have been to low-income households, especially compared to banks and AFSPs.

Given this sophisticated history, I interrogate the understudied, socioeconomically diverse Los Angeles geography: do their credit unions’ locations support this narrative of mission drift? To date, there has only been one *spatial* analysis of financial access in Los Angeles.³² After examining the distribution of all CDFIs, they found only eight CDCUs. However, the report did not compare this access

to other financial institutions nor did it speak to the characteristics of proximate neighborhoods. This article furthers their work by showing where the strongest (and weakest) statistical ties lie between neighborhood demographics and financial institutions.

Data and Methods

Overall, my methods aimed to illuminate statistical relationships between aggregated point and polygon data using their associated variables. First, I used the Dun & Bradstreet business listings of the finance and insurance industry, which is the North American Industry Classification System (NAICS) industry 52, as the point data. Each establishment has a unique “D-U-N-S Number” and can be valid for accurately geocoding at the street level. However, I narrowed it to financial institutions and then aggregated those observations into three subsectors that best represented the financial institutions of interest: 260 credit unions, 1,968 traditional banks, and 4,404 AFSPs, as presented in Table 1.³³

Table 1: Summary Statistics on Financial Institutions

Institutional Type	Establishment Count	Percentage of Total
Credit unions	260	3.9
Traditional banks	1,968	29.6
Alternative financial services	4,404	66.4

Second, I relied on US Census Bureau American Community Survey (ACS) cross-sectional, five-year estimates 2008-2012 at the tract level to represent neighborhood characteristics. ACS data is collected through surveys. Then, through a combination of literature review and analytical methods (e.g., exploratory regression), I narrowed in on explanatory variables. The initial list of variables was more comprehensive but less statistically and theoretically relevant than the following six variable types:

- 1. Population density:** total population normalized by the census tract area in square miles.
- 2. Population percentage by race:** the proportions of non-Hispanic Black and Hispanic/Latino (of any race)
- 3. Median household income:** the amount of income and benefits received annually at a median level within a household
- 4. Poverty rate:** the percentage of families and people living below the poverty line for their family size and income;³⁴ this metric is not inclusive of income from benefits, like the median household income
- 5. Household ownership:** the rate of households occupied by the owners

- 6. Financial mix:** the number of AFSPs, credit unions, or banks in census tracts per square mile (all separate variables)

Lastly, to represent geographical space, I used the US Census Bureau’s TIGER/Line Shapefiles for California in 2012.³⁵ Census tracts are an aggregation of the smallest unit (e.g., block groups) sampled, but are modestly reliable compared to other boundaries (e.g., ZIP codes). Prior related studies also used tracts so using them was necessary to engage in comparative spatial scholarship at the national and local levels.³⁶

Regression and Cluster Analyses

Initially, I specified the model based on twelve possible explanatory variables as defined in Table 2. However, after the exploratory regression based on the credit union model, the final regression relied on eight critical explanatory variables as employed in Equation 1:

$$\text{CreditDensi}_i = \beta_0 - \beta_1 \text{MedHHI}_i + \beta_2 \text{Pov}_i + \beta_3 \text{HouseOwn}_i + \beta_4 \text{Black}_i + \beta_5 \text{Hisp}_i + \beta_6 \text{PopDens}_i - \beta_7 \text{AFSPDens}_i + \beta_7 \text{BankDens}_i + \varepsilon_i$$

Based on the Exploratory Regression tool in ArcGIS, the strongest models for credit union, AFSPs, and banks used eight variables: poverty rate (*Pov*), median household

Dependent Variable	Explanatory Variables
Number of credit unions/ banks/ AFSPs per square mile	1. Population density per tract***
	2. % of residents non-Hispanic African American***
	3. % of residents Hispanic***
	4. % of residents White***
	5. % unemployed
	6. % of families and people in poverty***
	7. % owner occupied households***
	8. % population over 25 with bachelor's degree
	9. % foreign born
	10. Median household income***
	11. Credit unions/ banks/ AFSPs per square mile***
	12. Credit unions/ banks/ AFSPs per square mile***

*** = statistically significant at $p < 0.01$

Table 2: Regression Model with Initial Explanatory Variables and T-Test Results

income (*MedHHI*), the percentage of non-Hispanic Blacks (*Black*), the percentage of Hispanics (*Hisp*), the rate of household ownership (*HouseOwn*), the population density (*PopDens*), and the density of the other two types of financial institutions (*AFSPDens* and *BankDens*). I hypothesized that only the median household income and density of AFSP would correlate with higher credit union density; I had no preconceived ideas on the effect of race and ethnicity due to the scarce literature.

The *ordinary least squares* (OLS) model was calculated in both Stata and ArcGIS software. Because of the inherent spatial heterogeneity of a model that uses census tracts and density as the normalization value, I used cluster-robust standard errors. In *geographically weighted regres-*

sion (GWR), spatial heterogeneity is allowed in the coefficients rather than an average coefficient relationship.³⁷ Given the magnitude of data points (over 10,000 with at least 200 per category), this was appropriate. The model is essentially the same except it was weighted with a *spatial weights matrix*. This matrix is based on the conceptualization of spatial relationships as the *nearest neighbors* for a geographical feature (e.g., a credit union branch) based on *Ripley's K-function cluster*. My K-function used eight neighbors as the default weight, which was required to run the exploratory regression; this differs from the previous studies, which identified nearest neighbors based on clusters of five. Using this custom matrix, it creates a more realistic account of the relationships between points.

Dependent Variable	Explanatory Variables	Coefficient	Beta	Rank
Credit Union Density ($R^2 = 0.19$)	Poverty rate	-.0005485 *	-.0431575	7
	Median household income	-3.25e-07***	-.0706702	6
	Black %	-.0001628	-.0136728	8*
	Hispanic %	.0003238***	.0609749	5
	Household ownership	-.0007929***	-.1455174	4
	AFSP density	-.001744***	-.2359154	3
	Bank density	.0019775***	.238323	2
Bank Density ($R^2 = 0.34$)	Population density	6.26e-06 ***	.3021277	1
	Poverty rate	.1723753***	.1125488	6
	Median household income	-1.00e-06	-.0018039	8
	Black %	-.0600973***	-.0418805	7
	Hispanic %	-.1309486***	-.2046096	2
	Household ownership	-.098315***	-.1497215	5
	AFSP density	.4382879***	.4919528	1
AFSP Density ($R^2 = 0.43$)	Credit density	23.31443***	.1934531	3
	Population density	-.0004801***	-.1921109	4
	Poverty rate	.0804037***	.0467712	7
	Median household income	.0000158***	.0253555	8
	Black %	-.0834683***	-.051822	6
	Hispanic %	-.0388603***	-.0540964	5
	Household ownership	-.0505422***	-.0685732	4
	Credit density	-22.34484***	-.1651826	3
	Bank density	.4763053***	.4243474	1
	Population density	.0011972***	.4268133	2

Table 3: Results of Robust OLS for Credit, AFSP, and Bank Density Models

Lastly, for the hot spot analysis, I used the Getis-Ord local statistics. Rather than give an aggregated Z-score, it generates Z-scores for individual features. This can be useful for cluster analyses where we are interested in the occurrence of points beyond what could be randomly expected in a statistically significant pattern.

Results and Findings

OLS and GWR Outputs

In Table 3 for OLS results, we see the strongest relationships for all three models are ranked by the standardized beta coefficient, an equalizer to help compare the impact of independent variables across data units on the dependent variable. While there are many diagnostic tools to test the strength of my OLS, these diagnostics are not fully included in this brief article.

In the GWR, I modeled the same eight variables on the three financial categories, all of which increased nearly unanimously in predictive power as pictured in Table 4. Notably, the values are strongest for predicting bank densities (0.88). However, as Figure 1 shows, there is variation in how much the GWR predicts credit union density across space. The model shows the strongest predictive power in the edges of the county: the northeast (e.g., Lancaster and Palmdale), the

eastern corner (e.g., Covina and El Monte), and the southern corner (e.g., El Segundo and Torrance). These are neighborhoods with significant Black and Latino communities.

The following section on interpretation will offer insight on the maps in Figures 5 through 7 where the financial institutions display the coefficient strengths of the Black population percentage on predicting their locations based on the GWR. These are overlayed onto census tracts displaying the Black percentage to see how the strength varied in Black tracts.

Hot Spot Analysis Results

The Getis-Ord local statistic provides both a statistical and visual analysis of clustering of features (in this case, points). In particular, I mapped the Z-scores of the credit union branches as shown in Figure 2, which are indicators of more significant clusters than what would be expected by chance. The highest Z-score of 9.48 is in a census tract in El Segundo, which also has a poverty rate of 31.7 percent. This is in the second highest quintile of poverty. In Figure 3, however, the highest cluster of banks is in Downtown with a Z-score of 12.42. In Figure 4, the AFSP cluster with the highest Z-score of 14.4 is located in the West Los Angeles area, in the intersection of Wilshire and Santa

R ² Category	AFSP	Bank	Credit
OLS	0.43	0.34	0.19
GWR	0.62	0.88	0.53
Adjusted GWR	0.61	0.88	0.38

Table 4: R² Values for OLS and GWR Models for Banks, AFSPs, and Credit Unions

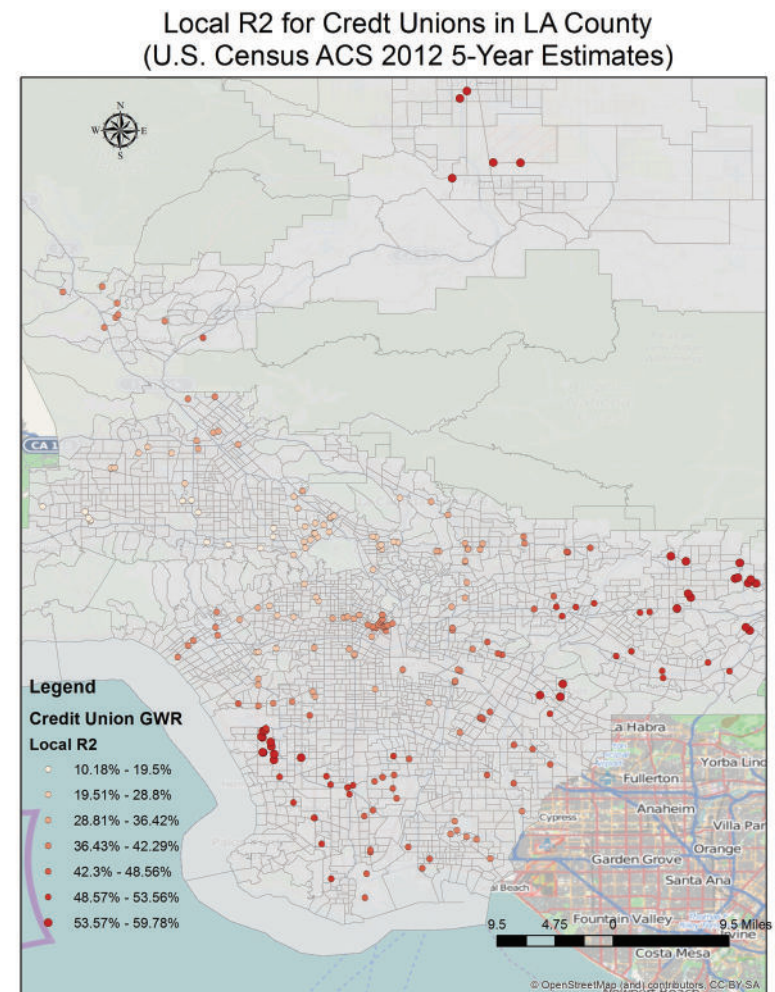


Figure 1: Local R² Values for Credit Union Density in LA County

Monica.

Interpretation of Findings

These three findings discussed below are tailored toward how the results can help us understand credit union behavior in relation to the neighborhood indicators of race, poverty, and space.

Finding 1: Black Tracts Exhibit Slightly Negative Associations with Financial Access

Credit union locations were better predicted by population dynamics and organizational ecosystem in OLS than racial and ethnic composition, especially compared to banks and AFSPs. In the OLS models, I found that the ethnic variables were among the least predictive factors, with Hispanic population percentage ranking fifth and Black population percentage ranking eighth (the least impactful) using the standardized beta coefficients. In fact, the Black percentage was not statistically significant according to a t-test at the 0.10 level. The strongest predictors of credit union density were the population density and the presence of banks or AFSPs followed by ownership and median household income. This differs starkly with the strongest predictors for bank locations, which were density of AFSPs and Hispanic, or the strongest predictors for AFSPs, which were bank density and population den-

Poverty Rates and Hot Spots of Credit Unions in LA County
(U.S. Census ACS 2012 5-Year Estimates)

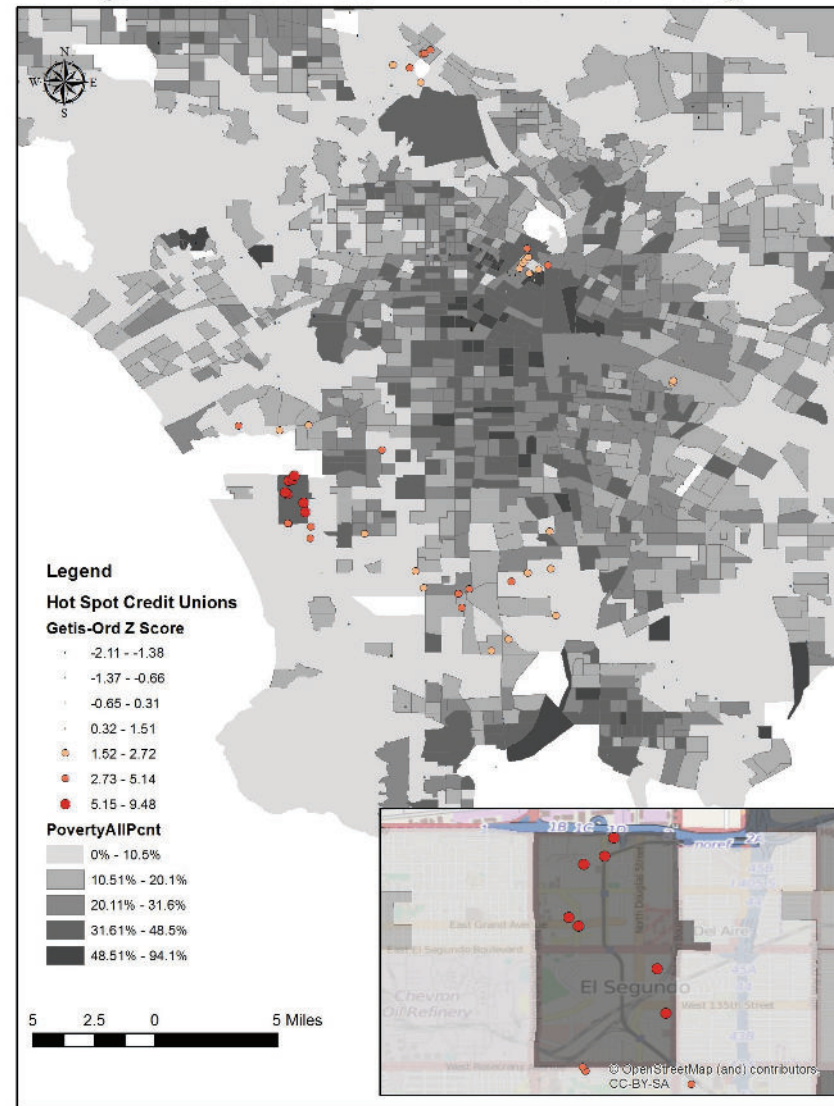


Figure 2: Poverty Rates and Clusters of Credit Unions in LA County

Poverty Rates and Hot Spots of Banks in LA County
(U.S. Census ACS 2012 5-Year Estimates)

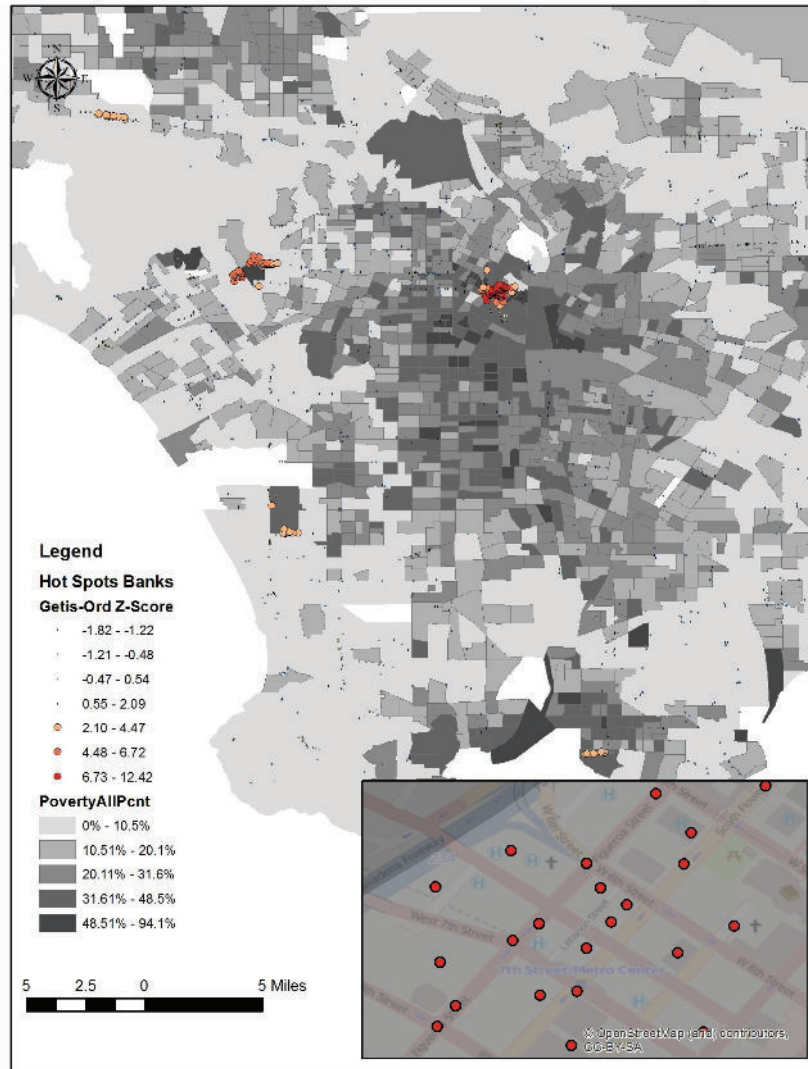


Figure 3: Bank Hot Spots and Poverty Rates in LA County

Poverty Rates and Hot Spots of AFSPs in LA County
(U.S. Census ACS 2012 5-Year Estimates)

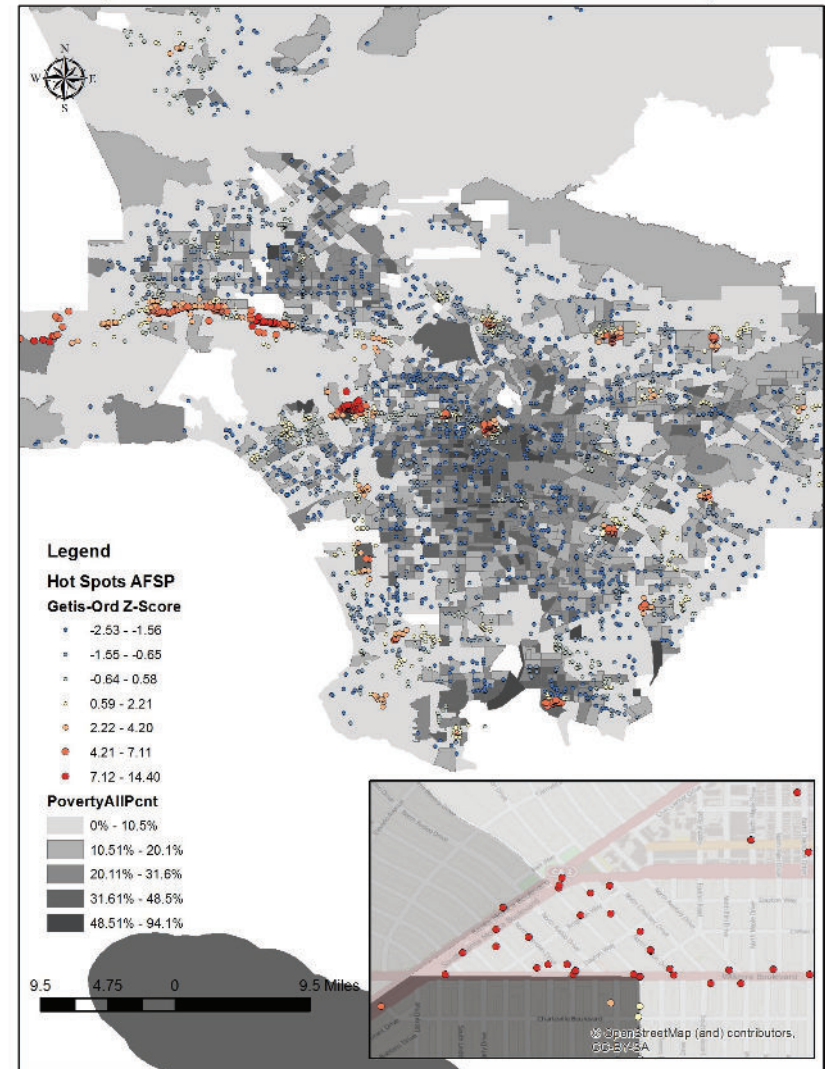


Figure 4: AFSP Hot Spots and Poverty Rates In LA County

sity. Overall, ethnicity matters more for banks.

However, the GWR provided statistics on the predictive role of race in financial mix. Unfortunately, the insight was much stronger for the bank and AFSP models than credit union. As indicated in the maps in Figures 5-7, the coefficients for the Black population are much lower for credit union model (range -0.01 to 0.002) than the bank (0.73 to 1.4) and AFSP (-0.52 to 0.51) models. In viewing the map, we see that the areas where the credit unions locate are not necessarily where the Black population is most concentrated, though they are nearby or within census tracts. This is especially the case with the credit unions in South Los Angeles. However, because of the practically insignificant coefficients, the percent of Black residents would not be likely to be the statistical explanation for a credit union location. For example, a 1 percent change in the Black population would be correlated with, at most, an increase of 0.002 credit unions per square mile in South Los Angeles. At the least, it would be associated with a 0.10 decrease in credit unions per square mile. This renders the model statistically insignificant, which is a finding.

Thankfully, this is not the case for banks, which have far more interpretable figures. An increase of 1 percent of Black population would

Local R2 for Credit Unions in LA County
(U.S. Census ACS 2012 5-Year Estimates)

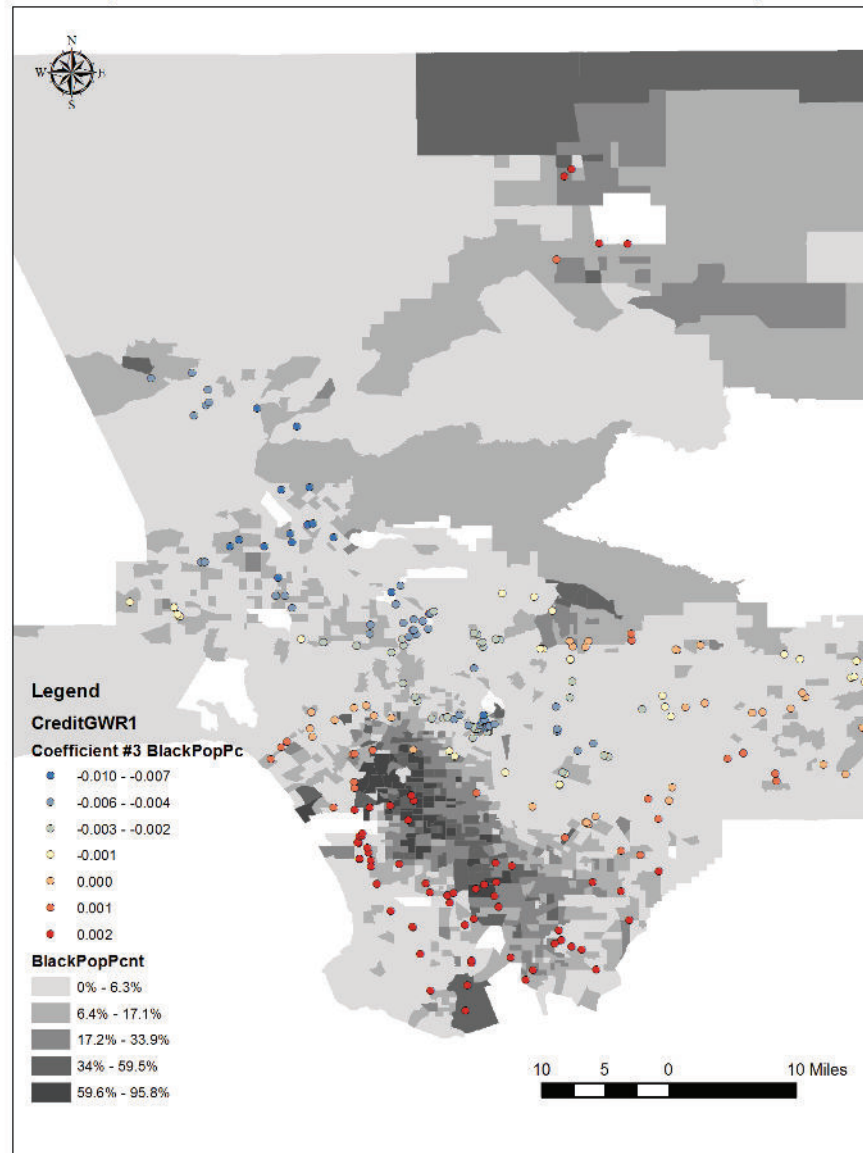


Figure 5: Map of Credit Union GWR and Black Population Coefficient Strengths in Black Tracts in Los Angeles County

Local R2 for Credit Unions in LA County
(U.S. Census ACS 2012 5-Year Estimates)

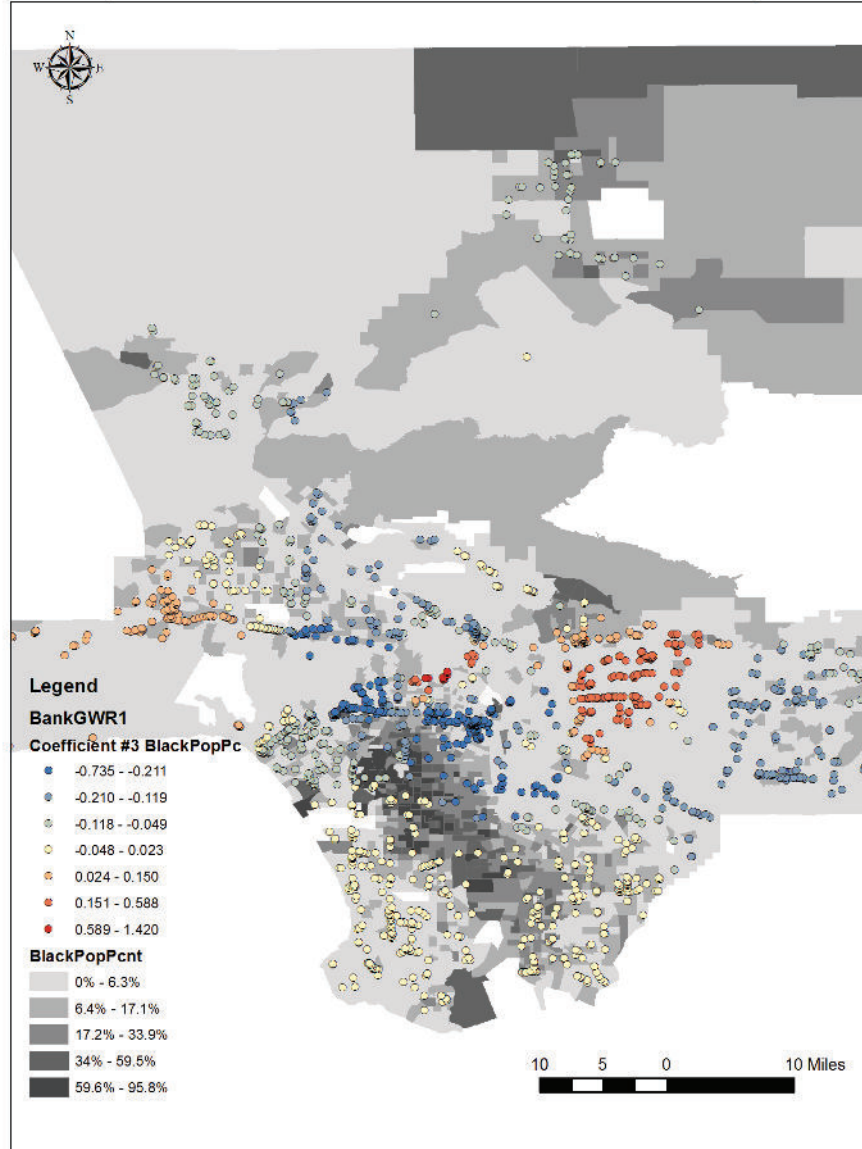


Figure 6: Map of Bank GWR and Black Population Coefficient Strengths in Black Tracts in Los Angeles County

Local R2 for Credit Unions in LA County
(U.S. Census ACS 2012 5-Year Estimates)

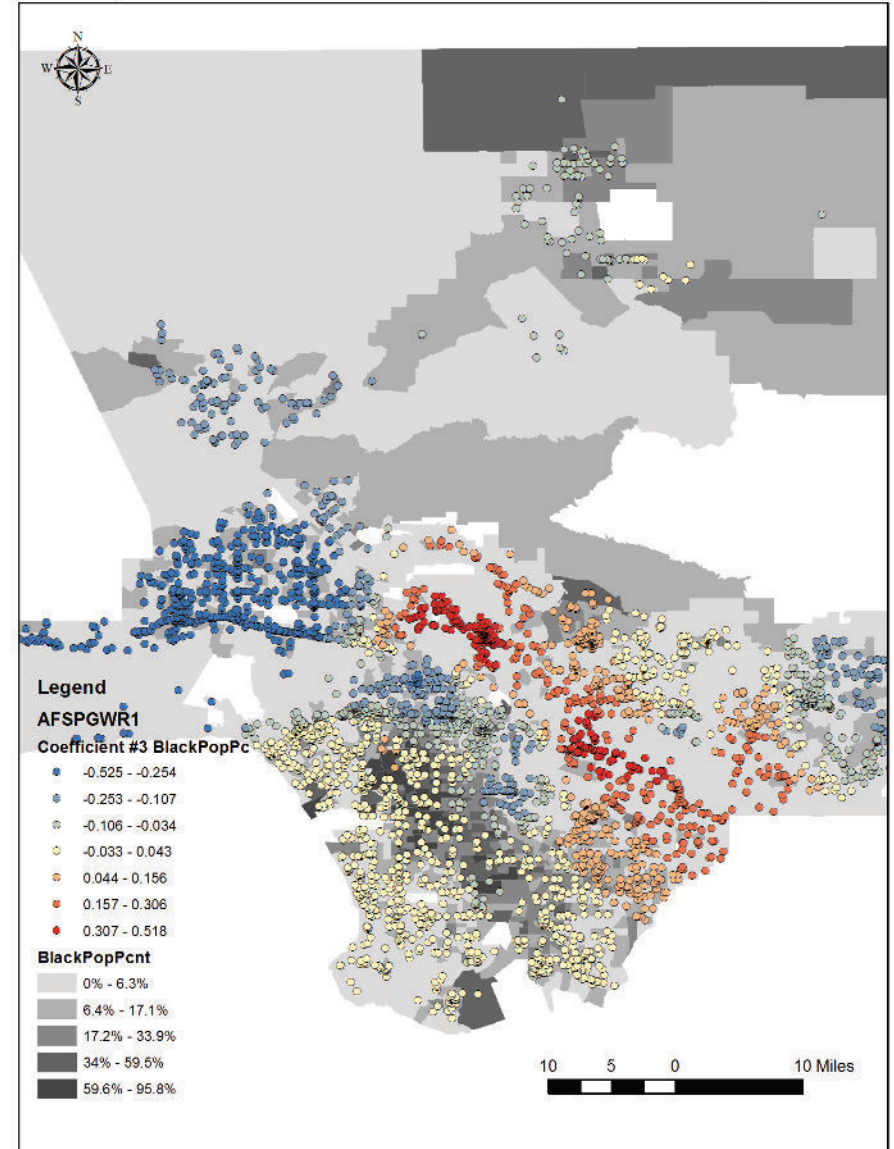


Figure 7: Map of AFSP GWR and Black Population Coefficient Strengths in Black Tracts in Los Angeles County

be associated with an increase of 1.4 banks in certain census tracts in North Los Angeles. However, there is not a very high concentration of Black residents, comparatively (between 0 and 6.3 percent). The Black tracts exhibit troubling relationships with the banks. The majority of the bank locations in South Los Angeles have either a negligible or negative statistical association with Black population (-0.048 to 0.02 range); this means that a 1 percent increase in Black population would either not affect the current banking composition or decrease it even further. A similar narrative can be said, surprisingly, about the concentrations of AFSPs with the range of -0.033 to 0.04 being the majority. I

for a positive increase in financial access in Los Angeles.

Finding 2: Socioeconomic Factors Matter, But Not Consistently Across Space and Institutional Types

Poverty, homeownership, and median household income were consistently the least statistically significant predictive factors in OLS. However, visually, we can see that the medium to high concentrations of poverty tend to be associated with clustering of banks and AFSPs. However, credit unions only have one cluster in the medium concentration of poverty: none elsewhere in Los Angeles. In particular, the

the poverty rate would increase the density of banks per square mile by 17 percent. For credit unions, there is a small but statistically significant negative correlation with an increase in poverty rate.

Finding 3: Spatial Models Matter More for Understanding Financial Institutions

First, the financial clusters do not overlap in the same spaces. Credit unions are, on the whole, not locating near the same populations as AFSPs in Los Angeles. The AFSPs are most clustered in East LA, West LA (e.g., Wilshire), and San Fernando Valley. The banks are most

are highly attracted to locations with banks, and credit unions are as well, but banks show a high association with areas of AFSPs not credit unions. These cluster results based on hot spot analysis are pictured in Figures 2-4.

Second, spatial models are more reliable than aspatial regressions in understanding locational patterns statistically. As previously shown in Table 3, the R^2 improvements ranged between 0.34-0.40 points in Table 4's GWR model. This is an impressive jump in predictive strength. While these results are interesting, however, given the low to moderate predictive power of the credit union estimators (both GWR and OLS

Beyond exclusionary practices, there are lending institutions that regularly profit on credit-constrained, minority neighborhoods (e.g., payday lenders, check cashing) by charging high fees, euphemistically called alternative financial service providers (AFSPs).

think this points to a need to better understand the Hispanic community, but that is outside the scope of this article. These are critical findings because they illustrate, quite literally, how little the density of Black population patterns matter

poverty rate, while statistically significant for all regression analyses, turned out to have one of the lowest impacts on the density of finance in terms of standard deviations. For banks, an increase in 1 percent of

clustered in Central and Downtown Los Angeles (e.g., 7th and Metro). But credit unions are clustered in East and South LA (e.g., El Segundo). The OLS models show high association among the financial institutions. For example, the AFSPs

explained under 50 percent of the variation), there is a need to understand the patterns further. Local statistics can play a more powerful role in strengthening this. It allowed us to see that, despite an overall low

predictive power of 0.19 in OLS, over 50 percent of the variation could be explained in GWR.

Limitations and Concerns

I see five main limitations that fall under methodological and practical

of five neighbors; mine used eight. Therefore, the results of hot spot analysis could be limited by its conservatism. Furthermore, there is overlap with unequal areas so there is not an equal areal unit of analysis. Last, time lapses exist between the

understood about the relationships between neighborhood features and social finance, the results of this study imply four possible directions for policy makers and community developers. First, as finding 1 showed, the diminished role of race

based in distressed Hispanic areas. Perhaps the Black communities could study the recruitment practices applied within these areas to achieve parity. Policy makers need to do more to balance the proliferation of AFSPs with banks and credit

Though underexplored, these concepts rely on “Du Bois’s theory of racial cooperative economic development, combined with Hogan’s theory of Black self-help” posited as early as 1907 and 1984. Theoretically, community development credit unions fit within this type of economic activity.

concerns, some of which cannot be fully explored in this article. First, methodologically, the F-value test results beg the question of missing data.³⁸ I did not have labor and cooperative organizational data for credit union OLS, which could explain why there was less predictive power and the F-value was significant. Second, I wonder about the impact of using K-function clustering nearest neighbor as the weighting scheme versus an inverse distance. Also, I did not use the same clustering technique as previous studies with a threshold

census estimates (2008-2012) and the 2014 institutional sample, which creates a lag in relating neighborhood characteristics. Practically, the financial institutional are sometimes a branch location and other times a headquarters, which may not offer services. Therefore, physical presence of a bank does not necessarily make it accessible for low-income, immigrant, minority or reservation households.

Conclusion and Recommendations

While there is still more to be

as a predictive factor in a regression model does not negate its practical importance in explaining for locational patterns. While this article does not investigate the economic sociology or ethnography of these credit unions, the outcome of low institutional concentrations in Black neighborhoods is indicting enough to demand more equitable approaches to finance. Second, while finding 2 suggests that policy makers could do more to support organizational dynamics and population density, the hot spots do affirm that the clusters of credit unions are

unions because certain voids *are* being filled with credit unions, not just banks or AFSPs. Therefore, future studies commissioned on this issue would miss a key spatial factor without credit unions included. Third, credit unions deserve their low-income designation and associated benefits, so long as they use them to recruit low-income members in proximity to their branches. Lastly, due to finding 3, it is worth pressuring credit unions to locate in areas near the predatory services (i.e., AFSPs), which need more disruption. The bank density would not

be the highest predictor for credit unions if that were already the case, especially since AFSPs are clustered in areas in similar socioeconomic circumstances as credit unions. These four concluding recommendations could spark the beginning of a new conversation about what kinds of equitable development can help close the racial wealth gap in America's metropolitan regions.

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Education Policy as a Means to Preserve the Modern Civil Rights Movement in America

By Damon Jones

Damon Jones is an educator, author, and entrepreneur. Through his nonprofit organization, STEAM America, he is on a mission to create new learning models for youth, parents, and teachers that incorporate the principles of STEAM (science, technology, engineering, arts, and mathematics) learning and the maker movement. After receiving his undergraduate degree from Harvard University in economics and a masters in the art of teaching from Trinity University, Washington, DC, it broadened his vision and set him apart as a world changer. In 2013, he earned his STEAM educator certification and, in 2008, his K-6 grade certification from the Maryland State Board of Education. Combining his more than twenty years of experience in education, the arts, and small business consulting, he has developed STEAM America, an initiative fostering twenty-first-century innovation, problem solving, and entrepreneurial skills in youth via STEM+Arts (STEAM) programming.

*Jones is the author of the bestselling e-book *The STEAM Education Effect: The Key to Unlocking Your Financial Future*. In it, he explores the economic ramifications of failing to systematically restructure our nation's education system. He firmly believes the future standing of the United States rests largely on the ability of our system to prepare learners to lead in a digital world.*

He is also the founder of SOCKS—So Others Can Keep Striding—a grassroots initiative aimed at helping homeless citizens living in the Washington, DC, metropolitan area. Jones, along with a small group of volunteers, has managed to solicit donations of more than 1,000 pair of socks in just a few months of operation. The initiative is very simple in scope, yet has proven to have a powerful impact on those who benefit from new, clean socks.

Abstract

America needs strong education policy to ensure there is a future coalition of civil rights freedom fighters. Targeted yet comprehensive education policy reform, informed by STEAM (science, technology, engineering, art, and mathematics), will motivate a “disconnected” generation and revitalize a languishing African American civil rights movement that is in need of a new vision.

America needs strong education policy to ensure the vitality and sustainability of the modern civil rights movement in America. Education is the great equalizer. Youth properly educated are more likely to reach their fullest potential in becoming leaders of economic, social, and political movements. Recent events have brought the grave inequalities that still exist within the fabric of this nation to the forefront of the world's consciousness. To ensure the promotion of equality

for all, it is imperative that education policy reflects the needs of all learners. Without equitable administration of education, society is certain to repeat the atrocities of the past and present. Simply put, a generation of African American leaders needs to be prepared to meet challenges in the areas of civil rights and social justice by providing access to the most powerful tool for effectuating change—education. To do so, a watchful eye must be kept on the education policy debate of today.

Education, in its truest form, is teaching one *how* to think while providing knowledge in the form of information, resources, and tools. Everyone is genius and has a unique way of processing the world. A teacher's job is to identify that unique brilliance and develop it so that, combined with knowledge, it becomes a powerful problem-solving tool. Education, therefore, produces people with the capability to change a situation. When one is able to affect their environment, they have achieved some level of power. Education is a mechanism to effectuate change and is therefore dangerous. It is a threat to institutions that thrive off of inequality. It is the most effective social justice tool at one's disposal. It is imperative that society ensures the education system is preparing youth to solve the pressing issues of the day, like climate change, pandemic disease, and social injustice.

Education policy is therefore one of the most influential constructs that guide the nation. It composes or decays the infrastructure of society. Used improperly, it becomes a dangerous weapon of divisiveness and destruction. Education policy can attack or defend; empower or deflate; guide or mislead the most vulnerable sector of the population—children. For example, economic, foreign, and immigration policy constructs were all created by those who were first educated. Edu-

cation has a unique range of influence unmatched by other disciplines. And while all policy sectors overlap and influence one another, education is unique in that no other construct exists without it. Hence, education and, subsequently, education policy should be revered as a powerful means of establishing and sustaining equality.

Equality. That is what America's civil rights movement is and has always been about—equal access to quality resources regardless of race, creed, or color. Consider three of the most influential legislative milestones born of the modern civil rights movement: *Brown v. Board of Education of Topeka, Kansas* (1954); the Voting Rights Act of 1965; and the Civil Rights Act of 1968.¹ It is no coincidence that the first of these three milestones is in the field of education. Education is the foundation of change, the substance of power, and a necessity of efficacy. NAACP (National Association for the Advancement of Colored People) leadership understood the connection between education and freedom and subsequently established the Legal Defense and Educational Fund (LDF) in 1940, led by Thurgood Marshall. The strategy devised was to attack Jim Crow laws in the area of education by appealing to the courts. According to the NAACP website:

LDF's victories established the foundations for the civil rights that all Americans enjoy today. In its first two decades, LDF undertook a coordinated legal assault against officially enforced public school segregation. This campaign culminated in *Brown v. Board of Education*, the landmark Supreme Court decision in 1954 that has been described as "the most important American governmental act of any kind since the Emancipation Proclamation." The Court's unanimous decision overturned

the "separate but equal" doctrine of legally sanctioned discrimination, widely known as Jim Crow.²

The movement was on the right track. By attacking inequalities in education, Blacks subsequently addressed other systemic issues of inequality. It was a victory for all.

However, despite this monumental victory, the fight continued to enforce school desegregation. LDF was forced to sue hundreds of school districts, and due to victories in cases like *Cooper v. Aaron* (1958) the Supreme Court mandated all vestiges of segregation be eliminated. The NAACP understood an effective movement needs present and future leaders on the front lines to preserve prior victories and push for more. Addressing inequalities in education was, and is, vital to ensuring there are well-equipped individuals to sustain the crusade. Each subsequent generation of educated African Americans creates promise that the rights of Blacks, and everyone for that matter, will be preserved. Even to this day, the LDF is still fighting for equality in the education system. Examples include recent victories such as *Grutter v. Bollinger* (2003), in which the Supreme Court ruled affirmative action is constitutional, as long as race is only one of the deciding factors for admission.

Despite the Supreme Court's 1954 ruling declaring, "that in the field of public education . . . separate educational facilities are inherently unequal," Blacks in this country are still disproportionately not provided with quality education. Therefore, they are not provided with the very basics of empowerment. Some argue this is due to underfunding in urban and predominantly minority school districts, while others dispute claims of disproportionate funding, citing data that

suggests many minorities (especially in urban centers) receive more than their counterparts. However, funding disputes aside, the fact is, grave disparities exist in the education system. The 2009-2010 Department of Education Civil Rights Data Collection Survey that covered 85 percent of American students found that minorities were disproportionately suspended, labeled as having a disability, involved in school-related arrests, or retained. According to this survey, children

There are battles yet to be fought by the leaders of tomorrow—the youth of today.

Unfortunately, sufficient soldiers are not being produced. This current generation is largely disconnected from the issues that plague Blacks and all of society. Measure of America, a social science research council, defines disconnectedness as adolescents and young adults ages sixteen to twenty-four who are “neither working nor in

smart, yet they intentionally dumb themselves down because that is perceived as cool. Education needs to be made “cool” again, so that it appeals to the sensibilities of young people. The nation’s collective future rests in their hands, so pride needs to be set aside to identify what works instead of forcing learners into a system that does not meet their mental, emotional, or social needs. The economic, political, and social structure of the nation hinges on it.

When one is able to affect their environment, they have achieved some level of power. Education is a mechanism to effectuate change and is therefore dangerous. It is a threat to institutions that thrive off of inequality. It is the most effective social justice tool at one’s disposal.

of color were also at an educational disadvantage due to fewer offerings of advanced courses like calculus, a lower incidence of referrals to gifted and talented programs, and teachers who, on average, were less experienced. All of this is evidence that the necessity to fight for equality is as urgent today as any time in the history of this country. Education is the foundation of freedom, and equal access to it must be preserved. Decades after the beginning of the modern civil rights movement, society is closer to equality. Access for African Americans has improved, they are in more positions of power (corporate, government, etc.), but the fight has not yet been won.

school.” Of this group, they estimate a whopping 22.5 percent of African American youth are disconnected, the highest of the country’s major racial and ethnic groups.³ These young people are struggling to find an identity, and adults are struggling to guide them. The nation’s future—economically, politically, socially—hinges on how well prepared learners are to be future leaders. To prepare them for leadership, the disconnect between the classroom and the world needs to be healed. Since youth are not being shown how school learning connects to the real world, they are gravitating toward pop culture to find their intellectual identity. The youth know they are

It is not just improved schools that are required. America needs a better educational infrastructure that fosters development of twenty-first-century leadership skills like communication, collaboration, and creativity. In order to fan the flames of a languishing civil rights movement, the passion and creativity lying dormant in too many youth needs rekindling. Therefore, improved education policy is needed that incorporates pedagogical approaches such as STEAM to inspire youth to inquire, to question the status quo and fight to make changes if necessary. Education policy that empowers school leaders to design curricula that engages learners and challenges students to

think beyond the box and examine social ills and create solutions is needed. Only a generation of thinkers will be motivated to promote civil rights and equality. Given this, policy efforts then must provide the atmosphere for more effective intellectual growth.

Reparations will not come from forty acres and a mule, it will come from our schools.

Perhaps it is taken for granted that on some level the education system is working to empower children equally. One sees the school building, the yellow buses, children with backpacks, and whether consciously or unconsciously, assumes some level of effectiveness because it appears to be functioning. But the reality is, in many schools, poor and minority children are disproportionately being set up for failure in inadequate systems that are not preparing them to be successful in a digital world. The current system is not preparing them for a globally oriented marketplace dominated by STEAM (and STEM) careers that require technical knowledge and creativity.⁴ Children who are not prepared have lower earning potential. The less money one (or a group) makes, the less power they have. In a capitalist society, money is the substance of the societal fabric. Without money, one is naked and exposed, while the affluent are clothed with potential and opportunity.

On average, Black youth are not provided the same quality of public education as their White peers, leaving Black adults less likely to be in a position to influence the infrastructure of the nation. This does not have to remain true. With organized voting efforts and diligent lobbying, new policy can be promoted and existing policy modified in order to level the educational playing field. This means it is critical to keep an eye

on the 114th Congress, specifically with regard to decisions on education policy. Perhaps the debate to keep closest watch on would be the Elementary and Secondary Education Act (ESEA), also known as No Child Left Behind. This essential piece of legislation born of the modern civil rights movement was created to ensure equality and opportunity for all children despite race, income level, disability, or language within the school system. The debate of whether to reau-

Reparations will not come from forty acres and a mule, it will come from our schools.

thorize, modify, or eliminate this legislation is currently being waged on Capitol Hill. In thirteen years (since 2002), Congress has not been able to agree on its reparation. It is important for all people, and in particular the African American community, to get involved in the debate as the essence of the ESEA is a commitment to strong academic curricula and closing the achievement gap for all youth. Additionally, it has been reported that proposed revisions to the law might eliminate civil rights gains by including private school vouchers, weakening accountability measures, and rolling back current programs such as the Women's Educational Equity Act. Although

it is difficult to argue that ESEA has some serious structural flaws, the essence of the law must be preserved. There is work to be done to ensure the rights of all people, including minorities, are protected. Bipartisan work in conjunction with community stakeholders and political caucuses, like the Congressional STEAM Caucus, that are committed to advancing education policies that are beneficial to all learners will be important going forward. Important not only for the sake of the minority community, but the community-at-large as all people have a positive contribution to make to society.

America needs strengthened education policy coupled with a more focused economic strategy. Right now it's not an issue of having dollars, it's an issue of appropriation. As a nation, the United States needs to ensure that enacted legislation is properly funded so that it achieves maximum benefit. Within the African American community there exists a need to invest more money in advancing education policy through lobbying efforts, buying within the community, and involving themselves more deeply in the discussion of reform. According to *Marketplace*, African American buying power hit \$1.1 trillion in 2014; the equivalent of the sixteenth largest economy in the world.⁵ Surely with a renewed sense of purpose, that economic potential could be channeled to advance critical agendas such as education policy and the economic policy that supports it. Now more than ever, all people need to be equipped to join the discussion about how problems are solved and improvements are made on existing systems that are working. That means all races and creeds should be provided with equal access to opportunity.

The unfortunate situations surrounding Mike Brown, Shereese Francis, Tarika Wilson, Emmett

Till, and so many others are evidence of systemic inadequacy in America's political infrastructure that allows for some groups to be discriminated against without recourse. This flaw in the system isn't new. Blacks have been suffering from a lopsided political framework since arriving in this country. The modern civil rights movement in America has been effective in opening doors for Blacks and all people; however, it can be argued that the movement has not reached its full potential. We must reach a tipping point where a majority of Blacks are positioned to demand policy changes that are systemic and sustainable. What is required is the next generation of leaders to continue the movement. Continue lobbying. Continue advocating. Continue fighting for what they believe is right. Do you know where your elected officials stand on key education policies? If you care about civil rights. If you care about social justice. You should. It may be the most essential piece to sustaining the modern civil rights movement in this country.

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Terra Firma

Medical-Legal Care for Unaccompanied Immigrant Garifuna Children

By Jenny Ajl, Cristina Muñiz de la Peña, Alan Shapiro, and Brett Stark

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Brett Stark is legal director and cofounder of Terra Firma at Catholic Charities New York, where he represents unaccompanied immigrant children in federal and state litigation, specializing in asylum and Special Immigrant Juvenile cases. A former Equal Justice Works fellow, Stark has worked in refugee resettlement in Kenya, on human rights in Israel, and was a 2008 Fulbright Scholar in Taiwan. He is the coauthor of "Playing Solomon: Federalism, Equitable Discretion, and the Hague Convention on the Civil Aspects of International Child Abduction" (Roger Williams Law Review, 2014). Stark is a graduate of Harvard Law School and the University of Rochester, and is admitted to the New York Bar and the Eastern and Southern Districts of New York.

Abstract

Unaccompanied immigrant children are among the most vulnerable populations in the United States: they lack the legal status of refugees, the social services available to citizens, and adult guidance. Poverty, violence, and exploitation often compounds trauma experienced as trafficked, tortured, or gang-targeted youth. Included in the recent surge of unaccompanied immigrant children are Central Americans of African ancestry. These “Black Latinos” are often marginalized minorities in their countries of origin. Terra Firma—the first medical-legal partnership specifically designed to meet the needs of released immigrant children—provides coordinated medical-legal services to children in the South Bronx, including a large population of African-Caribbean Garifuna. Integrated medical, legal, and mental health supports offer an innovative model for serving thousands of vulnerable unaccompanied immigrant children nationwide.

I. Introduction

In 2014, an unprecedented number of unaccompanied immigrant children arrived in the United States. The Homeland Security Act of 2002 defines “Unaccompanied Alien Children” (hereinafter, “UIC”) as children under the age of eighteen

with “no parent or legal guardian in the United States, or no parent or legal guardian in the United States available to provide care and physical custody.”¹ In fiscal year (FY) 2008, fewer than 10,000 UIC were apprehended by US Customs and Border Patrol.² By FY 2012, that number had jumped to over 20,000.³ In FY 2014, nearly 70,000 UIC were apprehended and placed in immigration proceedings.⁴ As the numbers of new arrivals swiftly grew, the influx of unaccompanied children was declared a humanitarian crisis, and President Barack Obama has called for “unified . . . humanitarian relief to the affected children, including housing, care, [and] medical treatment . . .”⁵ Around 93 percent of UIC are from Honduras, Guatemala, and El Salvador,⁶ and in the media the face of the crisis has typically been Latino youth in states like Texas and Arizona. Largely obscured, however, is the “young Black Latino exodus”⁷ from Central American into urban communities like the South Bronx.

Approximately 300,000 African-Caribbean “Garifuna” live in countries across the world, with about 100,000 residing in Honduras.⁸ As a Black minority in their countries of origin, Garifuna children typically arrive in the United States having already experienced discrimination and racial prejudice.⁹ The Garifuna trace their heritage to 1655, when a

shipwreck off Saint Vincent Island carrying African slaves helped create a distinct language, population, and culture in Latin America and the Caribbean.¹⁰ Within this context, the Garifuna present distinct medical, legal, and psychosocial needs among the influx of unaccompanied children arriving in the United States.

II. Terra Firma: A Medical-Legal Partnership for Unaccompanied Immigrant Youth

Terra Firma is a medical-legal partnership,¹¹ a project of Catholic Charities New York Immigrant and Refugee Services, The Children’s Health Fund, and Montefiore Health Systems. Terra Firma is designed to address the medical, mental health, and legal needs of unaccompanied children, and it is the first medical-legal partnership developed specifically for unaccompanied immigrant children released from Office of Refugee Resettlement (ORR) detention into the community. Operating out of a Federally Qualified Health Center¹² in the South Bronx, Terra Firma provides coordinated legal, medical, and mental health services to UIC, including

a Garifuna Diaspora population in the Bronx that is larger than any single Garifuna community in Central America.¹³

Serving as a “patient centered medical home,”¹⁴ Terra Firma provides a comprehensive array of services in one centralized location, allowing physicians, mental health clinicians, and lawyers to coordinate care on-site, co-manage patient/client needs, and develop a multidisciplinary plan. These collaborations have synergistic effects. During medical examinations and therapy sessions, for instance, physicians and mental health clinicians learn about physical, psychological, and traumatic events. Armed with this information and with the patient’s consent, doctors and psychologists are poised to deliver crucial testimony in immigration legal proceedings. These contributions can have a dramatic impact: a study comparing the success rate in US asylum cases found that those cases with medical testimony were granted asylum 89 percent of the time, compared to a success rate of only 37.5 percent for those without medical testimony.¹⁵

III. Medical Needs of UIC: Socio-Environmental Risks and Barriers to Care

There is scant literature on the specific medical needs of unaccompanied immigrant children, especially

as it relates to Latinos of African or mixed-race descent. However, inferences into their health care needs can be inferred from studies of immigrant children living with their families and foreign-born adoptees in the United States. The American Academy of Pediatrics' policy statement on "Providing Care for Immigrant, Migrant and Border Children" alerts the pediatric practitioner that foreign-born immigrant children may not have been screened for congenitally transmitted diseases (e.g., syphilis, HIV) or inherited conditions such as sickle cell trait/disease or hearing loss.¹⁶ Similar to foreign adoptees, UIC carry a burden of risk factors that adversely affect their health and well-being, such as poverty, malnutrition, exposure to environmental toxins, lack of adequate social-emotional stimulation, and abuse.¹⁷

The socio-economic challenges of Black Latinos in Central America also have an impact on child health and well-being prior to migration to the United States. In Honduras, there are nine officially recognized minorities, including two of "Afro-descent." Taking into account a number of measures, 97.3 percent of children from these minorities live in poverty and 59.7 percent in extreme poverty.¹⁸ Key measures include lack of clean drinking water, poor dwelling and sanitation, malnutrition, and inadequate

education, placing these marginalized communities at increased risk of health conditions such as acute respiratory illness, parasitic infections, diarrheal illness, and sexually transmitted infections.¹⁹ To address these existing risk factors, Terra Firma providers have identified the following four socio-ecological foci in their approach to UIC, each with important medical-legal implications.

1. Country of Origin

Children coming from developing countries often lack access to routine comprehensive primary care throughout their childhood. Access to health care is worse in rural communities compared to urban centers. In Honduras, approximately 80 percent of indigenous and Afro-Honduran populations live in rural zones, and it is reported that there is a general lack of health care infrastructure to meet the needs of its minority populations.²⁰ Infant mortality, low birth weight, acute respiratory illness (from birth to seventeen years), poor weight control, and chronic malnutrition (less than five years of age) are higher among Garifuna children compared to the national averages.²¹ Inadequate health supervision by trained pediatric specialists translates into lost opportunities for health promotion, illness and injury prevention, and under-identification and

The Garifuna trace their heritage to 1655, when a shipwreck off Saint Vincent Island carrying African slaves helped create a distinct language, population, and culture in Latin America and the Caribbean.¹⁰ Within this context, the Garifuna present distinct medical, legal, and psychosocial needs among the influx of unaccompanied children arriving in the United States.

insufficient treatment of acute (e.g., pneumonia, ear infections) and/or chronic medical conditions (e.g., poor vision, hearing loss, failure to thrive). Significantly, developmental delays and learning disabilities are frequently missed, with potentially long-term consequences.²² At Terra Firma, Garifuna children uniformly report receiving little or no routine pediatric care after early childhood. Instead, medical attention is typically sought only in the case of serious illness or injury. In certain cases, comprehensive screening of newly arrived immigrant children has resulted in the identification of previously undiagnosed medical conditions and developmental disabilities, including parasitic infection and cerebral palsy.

2. Journey to the United States

In many instances, UIC endure an arduous journey on their way to the US border. The majority of UIC arrive via a combination of walking, bus, and, most notoriously, freight train. The latter, often referred to as “The Beast” (*La Bestia*), is a dangerous form of transportation in which hunger, sleep deprivation, exposure, and injury (including life-threatening limb amputations) are constant threats. Extortion by gang members is commonplace, and physical and sexual abuse compound the dangers children face along their journey; young women are at increased risk

for rape and sex trafficking. Once at the border, UIC are vulnerable to further violent crime and extortion. A number of children seen at Terra Firma have shared stories of being kidnapped and placed in “safe hous-

es” while their families (many living in the United States) are forced to pay thousands of dollars to set them free. It is important for providers to be cognizant of these perils due to their medical (e.g., trauma, hunger, sexually transmitted infections, pregnancy), mental health (e.g., adjustment disorders, posttraumatic stress disorders), and legal (e.g., asylum, T visa) ramifications.

3. Immigration Detention

Children under eighteen years of age typically spend a few days in immigration detention centers operated by the Customs and Border Protection (CBP) before being transferred to shelters under the auspices of the Office of Refugee Resettlement. These shelters house children under eighteen years old and have a range of educational and medical services that include physi-

cal exams, childhood immunizations, and TB screens. In 2009-2010, children remained in ORR shelters an average of sixty-one days.²³ As the numbers of UIC surged in 2014, that number decreased to thirty-five

days,²⁴ resulting in fewer opportunities for ongoing medical care and mental health treatment. According to ORR’s 2015 *Unaccompanied Children Policy Guide*, children with identified medical or mental health needs are “evaluated by a medical and/or mental health provider as soon as possible.”²⁵

Legal aid programs often serve as the initial points of nongovernmental contact with children in ORR custody. As a result, they are often uniquely positioned as sources of referrals to medical and legal resources. Health care providers, for their part, should be aware of the medical attention UIC receive in ORR care and request copies of health records to capture relevant health information and to avoid duplication of services (e.g., immunization) whenever feasible.

4. Community Placement

After release from ORR custody, UIC are placed with adult sponsors pursuant to a “family reunification policy” designed to “facilitate safe and timely placement” with family members or other qualified sponsors.²⁶ The sponsors to whom UIC are released—relatives, family friends, siblings, and others—often live in poor neighborhoods, sometimes designated as “Health Professional Shortage Areas” (defined as areas with 3,500 or more people per primary care physician).²⁷ As a result, finding high-quality, linguistically appropriate, and culturally sensitive health care can be very challenging. Lack of health insurance, language, and fear of deportation due to immigration status are significant barriers to care.²⁸ Many of Terra Firma’s clients live with sponsors in the South Bronx, specifically Congressional District 15, which is the poorest Congressional District in the United States.²⁹ The community health disparities include a disproportionately high prevalence of childhood obesity, childhood asthma hospitalizations, type 2 diabetes mellitus, teen pregnancy, sexually transmitted infections, and HIV.³⁰

Lack of health insurance is an additional important barrier to health care for UIC. Undocumented children under nineteen years of age, unaccompanied or not, are

These collaborations have synergistic effects.

ineligible for health insurance in all but four states: New York, Massachusetts, Washington, Illinois, and the District of Columbia. For unaccompanied children living in those states, health insurance provides access to a wide array of essential primary care and specialty services including dental and mental health care. In all other states, accessing comprehensive medical and mental health care becomes much more challenging.

Finding pediatric or family medicine professionals that are championing immigrant health concerns may lead to fruitful partnerships. The legal community can play an important role in connecting new arrivals to high-quality health care providers, as they are often the first point of contact for children once

released from ORR care.³¹ Developing partnerships with dependable health care providers facilitates access to timely care and helps to build a safety network for the child. Terra Firma has developed a model of care with medical, mental health, and legal professionals working collaboratively to promote best interests. At Terra Firma, a supportive community environment has been created through adolescent support groups, family-styled meals served at the health center, as well as a weekend soccer league. A wider safety net is facilitated by developing trusting relationships between providers and unaccompanied children and their sponsors, building new social networks, and easing the process of normalizing their lives in new and unfamiliar communities.

IV. Mental Health Needs: Trauma and Unaccompanied Child Migration

Unaccompanied child migration provides fertile soil for severe psychological distress.³² Overwhelming evidence in the literature on unaccompanied immigrant and refugee children suggests increased vulnerability to, and incidence of, traumatic impact and the development of psychopathology in UIC.³³ The potential for physical and emotional harm exists before, during, and after migration. Repeated exposure to traumatic events throughout each of these phases, coupled with the sheer hardship of migrating alone, has an exponential traumatic effect on any preexisting trauma,³⁴ and often leads to “complex trauma”

reactions:³⁵ a response to exposure to multiple traumatic events within the social environment (the setting in which children seek safety, stability, and support).³⁶ The absence of a caring adult, ordinarily a crucial regulating influence following traumatic exposure, places unaccompanied children at even greater risk for complex trauma reactions. Responses to complex trauma may include attachment problems, emotional and behavioral dysregulation, dissociative episodes, poor self-image, and physical and cognitive deficits.³⁷ For children of Garifuna descent, these experiences are aggravated by the systemic discrimination and consequent barriers they face as a Black minority in their home countries, which carries over to the process of acculturation in the United States.³⁸

Integrated and coordinated medical-legal services—calibrated to meet the legal, medical, and mental health needs of UIC—stand as essential pillars in the development of sensitive and effective interventions for one of the country’s most unique and vulnerable child populations.

Research suggests that initial traumatic experiences and resulting emotional dysregulation may lead to subsequent heightened trauma exposure (e.g., physical and sexual abuse). In order to properly treat and advocate for unaccompanied children, it is imperative to consider the complexity of these trauma responses. Psychologists, psychiatrists, and social workers can therefore play a critical role in facilitating adjustment and acculturation, including supporting the legal processes UIC face in immigration court.³⁹ Terra Firma has identified three critical functions mental health professionals can play as advocates for unaccompanied immigrant children.

1. Assessment and Treatment

Effectively assessing trauma exposure and documenting its impact can vitally assist professionals in other fields. Understanding the complexity of presentations of symptoms and the risks posed by the ongoing potential of deportation is key to fully understanding factors bearing on a child's mental health. This perspective allows mental health professionals to uncover traumatic experiences that might not have otherwise been identified. In one Terra Firma case, a child's severe sense of guilt after witnessing his friend's murder prevented him from fully disclosing what he had

seen to his attorney. With proper psychological support, the child was able to share his experiences, thereby opening the door to additional avenues of legal relief.

2. Social Supports

Obtaining occupational, social, and economic services is also an important component in helping to alleviate psychological distress. Mental health professionals can help children and families by linking them to community supports and agencies, coordinating services, and empowering them to advocate for their needs in all psycho-social areas. Increasing awareness and understanding among social services agencies regarding the circumstances of unaccompanied immigrant children, including the Garifuna, helps promote the sensitive provision of services in the medical, mental health, and legal spheres.

3. Legal Processes

Preparing children psychologically for the experience of immigration legal proceedings, including the importance of trauma disclosure, may facilitate legal processes. Through the use of individual or group interventions, children learn about the different steps along the legal process, helping to alleviate their anxieties while simultaneously becoming better equipped to address them. Providing affidavits and

testimony as part of the immigration process may also help prevent re-traumatization in UIC. Not only may affidavits by mental health providers support the underlying evidentiary goals of a case, they may also diminish the extent to which a child is required to testify and recount some of the most painful experiences of their lives.

Despite the growth in the literature on the mental health of Latino immigrant children and families over the past decade, little if any attention has been paid to unaccompanied immigrant children.⁴⁰ The lack of attention may well be due to a lack of awareness on the part of mental health professionals.⁴¹ This is even more true of Garifuna children, whose traumatic experiences before, during, and after migration are compounded by distress associated with their oppression as a Black minority. Terra Firma is tailored to meet the mental health needs of this population in a sensitive and effective manner while facilitating and supporting ultimate legal goals.

V. Conclusion

The recent surge of unaccompanied immigrant children has highlighted the poverty and violence threatening Central American communities in Honduras, Guatemala, and El Salvador. Among the new arrivals are Garifuna children of African-

Caribbean descent. Like other UIC, they come from impoverished backgrounds with little previous access to medical care and histories of trauma, but face additional barriers as a marginalized child population. At Terra Firma, medical and mental health providers address the legal implications of child migration. Through the provision of integrated, immigrant-oriented medical and mental health care, and a trauma informed group therapy program for adolescents, key medical and psychological insights can help improve health and legal outcomes. Concomitantly, attorneys become sensitized to psychological needs and medical vulnerabilities that are important for successful legal advocacy and promoting UIC well-being and resilience. Terra Firma's ultimate goal is the optimization of both health and legal services to holistically promote UIC resilience. Integrated and coordinated medical-legal services—calibrated to meet the legal, medical, and mental health needs of UIC—stand as essential pillars in the development of sensitive and effective interventions for one of the country's most unique and vulnerable child populations. While recent policy initiatives are beginning to address the unprecedented influx of UICs, any sustainable solution must also meet the distinct needs of Black Latino and Garifuna children.

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Interview with David Ellwood, Dean of the John F. Kennedy School of Government

By Eugene Scott, Senior Editor,
Harvard Journal of African American Policy

David Ellwood will complete his tenure as dean of the John F. Kennedy School of Government at Harvard University at the end of this academic year. Having served as dean since July 2004, Ellwood is currently Harvard's longest serving dean. A former Assistant Secretary for Planning and Evaluation at the US Department of Health and Human Services, Ellwood cochaired President Clinton's Working Group on Welfare Reform, Family Support, and Independence. One of the nation's leading experts on poverty and welfare, Ellwood discussed inequality, diversity and his future in this interview with HJAAPP Senior Editor Eugene Scott.

Eugene Scott is a 2015 master of public administration candidate at the John F. Kennedy School of Government at Harvard University. He currently serves as senior editor of the Harvard Journal of African American Public Policy. For more than a decade, he has worked in journalism, nonprofit management, and consulting reporting on and helping find solutions to the challenges plaguing urban cores. His work has appeared in USA Today, WashingtonPost.com, Newsweek, NPR, and MSNBC.

HJAAP: *How did you get to HKS?*

ELLWOOD: I joined the Kennedy School faculty in the fall of 1980 as an assistant professor. And interestingly enough, the focus of my PhD dissertation was on the high rates of Black teenage unemployment in America. In the course of my research, I specifically looked at the situation in the city of Chicago. I wondered if the high unemployment could be traced to the fact that many African Americans seemed to live in neighborhoods and regions with too few jobs available.

My research confirmed that many African American teenagers lived much further from jobs on average than White teenagers. And what was also striking about Chicago then, and probably still today, was that it was incredibly segregated residentially. This created natural experiments. You didn't have many Blacks and Whites living in the same neighborhoods. But at the boundaries of segregated neighborhoods, one could compare what happens to White and Black teens that live very close to each other. And the White kids who lived across the street did a whole lot better in terms of employment than the Black teens who lived nearby. Proximity of jobs seems to explain very little of the Black-White gap. So my conclusion was that the problem was not space but race.

HJAAP: *Do you know if that has changed?*

ELLWOOD: The data that I examined came from the 1970s. The world has most certainly changed since that time. Other scholars have found a much larger role for spatial job impacts than I did. So perhaps the location of jobs is a more important matter now.

Regardless, finding ways to create jobs and improve education systems in poor communities

and to combat discrimination are all enormously important. Adding jobs alone wouldn't solve the many serious racial challenges that we face as a nation, but it would help.

HJAAP: *The topic of inequality is pretty popular right now. And you've done quite a bit of work in that area.*

ELLWOOD: Yes, I did a great deal of scholarship on social policy and the poor and ultimately worked in the Department of Health and Human Services in the Clinton administration. I helped to lead Clinton's welfare reform office. It was my hope to help design new and better strategies to help the poor.

In my scholarship, I tried to understand why people are poor. And when people get out of poverty, how do they do that? And how do we make that more common? We were coming to the realization about that time that simply writing checks to individuals isn't the real solution. And it's not what most people in poverty said they wanted. I interviewed one woman who said, "I've been on and off welfare for ten years, and every time I was always expecting someone to ask, 'What's the problem? What can I do to help?' But no one ever asked. They just said, 'Fill out this form.' I was happy to have those things, but what I really wanted was not to be on welfare." We need to create a system that supports work; that helps people help themselves.

HJAAP: *You eventually transitioned to administration and are the longest serving of Harvard's current deans. What do you think distinguishes the Kennedy School from other public policy schools?*

ELLWOOD: There are several distinct features of the Kennedy School that I am particularly proud of. The first is our mission. We're about making the world a better place. It's as simple as that. And it is that shared sense of purpose that inspires us and unites all that we do.

Second is the people who create this remarkable community—talented scholars and practitioners, dedicated staff, and most notably, our incredible students and alumni who come from all over the globe who are so committed to advancing the public interest.

Finally, it is the amazing impact people really do have in being effective public leaders and solving critical public problems. I am literally inspired every single day.

HJAAP: *Are there things you desired to accomplish that you didn't?*

ELLWOOD: My top priority has been to lower the cost of education by expanding financial aid. When I became dean we were investing \$11 million annually in financial aid. Today we spend \$23 million annually, so we have made significant progress.

I would love to have a situation where none of our students have to worry about the cost of education. We're not there yet. But we have made the conscious decision to engage more fully with donors who are interested in supporting fellowships, scholarships, and other types of financial aid, and we are moving in the right direction.

HJAAP: *It is a large school. How would you rate the school in terms of diversity?*

ELLWOOD: We are diverse on so many different dimensions. But it's still far from where I would

like us to be, particularly with respect to racial and ethnic diversity, but on other dimensions as well. We continue to examine new ways to recruit and retain diverse candidates, and it remains a critical priority. But the truth is that the progress is slow and we've got a long way to go.

HJAAP: *So why not stay and move forward?*

ELLWOOD: I am not leaving because I feel frustrated or burned out. To be honest, I can't remember when I've been more excited.

Institutions need new ideas; they need change and a different set of insights and energies. And when I became dean, I promised myself and my family that I would serve eight to ten years. I am now in my eleventh year, so it is time for someone else to take us to the next level.

I'm excited about what the future holds for our school. I'm also excited about what the future holds for me.

HJAAP: *What does the future hold for you?*

ELLWOOD: I believe that people need to change and be challenged. There ought to be times when you do something that's scary. I'm excited about having the time to return to the classroom to try teaching in some new and innovative ways and to work on those very important issues surrounding inequality that have been central to my life throughout my academic career.

Trapped in a Reflection (The Color of the Sky)

By Brandon Moore

What color do you see;
when you look at me?

Do you see BLACK
Instead of my brown skin

The color of wickedness?
The color of sin?

Am I the color of menace;
A shadow in death's valley?
The color of stalking you
down a long dark alley?
Or maybe you see the color of EBT

The color of single mothers
And missing baby daddies

Am I the color of handouts?
The color of housing vouchers?
The color of neighborhoods filled with
bulletproof checkout counters?

Or am I the color of gangbanging?
Of drive-bys and drug runs?
But NOT the color of
limited economic options

Or the color of social isolation
the product of you never passing
the Navy Yard Train Station

"It's too dangerous!"
You exclaim as you try to explain
Why it's okay to color an entire community
With casual disdain

It's a damn shame...

That you see me
as the color of “Stop and Frisk”
But not the color of the 4th amendment
Or Gadsden Flags warning “Don’t Tread on Me”
And definitely not the color of a right to open carry

Oh no, not those colors...
those colors aren’t for me.

‘Cause see, you think I’m color of
“you just lucky to be free”
The color of “lock ’em up and throw away the key”
But not a victim of tough on crime policies

No, not the color of redlining,
But yet you color me “ghetto”
When my people migrated North
In your communities we couldn’t settle

But now you peddle the politics of personal responsibility
Without acknowledging your role in our historic inequality

You tell me you can’t help but see color
I say “true” but if you must,
Color me...
Christopher Columbus
in the corporate board room.

Color me Neil Armstrong
Highsteppin’ on the moon

When you see my color
You need to see...

Me standing tall
in the face of adversity
Bloody but not broken
by 300 years of racist policy

You can
Color me a mother
raising her kids the best way she can

You can
Color me a father
teaching his son how to be a man

You can
Color me solving differential equations
And particle acceleration

You can
Color me writing poetry
in the Caribbean on vacation

You can Color me crushing the Bar
You can Color me in brain surgery

You can Color me
driving the cross town bus
And getting off at 3 in the morning

But...
Whatever you color
Color me individually
Because we’re NOT a monolith
And whatever you color

Color it carefully
Because ALL lives are
PRICELESS ...



HARVARD Kennedy School

SHORENSTEIN CENTER

on Media, Politics and Public Policy

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The *Harvard Journal of African American Public Policy* is a student-run, nonpartisan scholarly review published annually by the John F. Kennedy School of Government at Harvard University.

Our mission is to educate and provide leadership that improves the quality of public policies affecting the African American community. In so doing, we hope to further the economic, social, and political empowerment of African Americans.

We seek to open dialogue on various policy sectors as well as topics ranging from philosophy to urban planning and even literature, as they all inform our sensibilities when it comes to developing policy that affects African Americans—and all Americans.

Manuscripts are accepted from all policy areas, academic disciplines, and related organizations. In addition to articles, the *Journal* welcomes essays, lectures, speeches, community-based initiative profiles, photography, symposia, position papers, art, illustrations, poetry, interviews, short stories, photo essays, and book reviews. The *Journal* seeks innovative and solution-oriented strategies that address the relationship between policy making and the political, social, and economic environments affecting African Americans at local, state, and national levels in the United States.

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- Articles must be original and unpublished.
- Any work of art/photography/design can be published elsewhere, but the submission must be the sole property of the individual submitting; all other places where the piece is published should be noted.
- Commentaries should be 400-600 words; longer commentaries should be cleared with editors beforehand.
- Articles should be 1,200-3,500 words.
- Articles should be formatted in any version of Microsoft Word.
- Endnotes should be formatted according to the guidelines and the Chicago Manual of Style.
- All figures, tables, and charts should be submitted as entirely separate files.

In addition, we request that all authors submit the following:

- A cover page with the submission title, author's name, mailing address, e-mail address, daytime telephone number, and a brief biography.
- A 100-word **abstract**.

Authors are required to cooperate with editing and fact-checking.

E-mail entries to: hjaap@hks.harvard.edu

For additional information, please visit: www.hjaap.org

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