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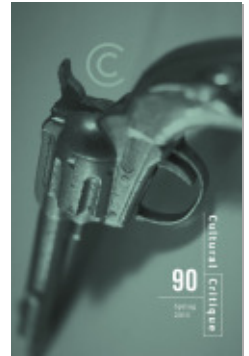
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FROM *PLESSY* TO FERGUSON

George Lipsitz

The killing of Michael Brown in Ferguson, Missouri, on August 9, 2014, and the callous and cruel official responses to it repeat what by now has come to be a familiar pattern of events. Like Eric Garner, John Crawford, Tanisha Anderson, Aiyana Stanley-Jones, Amadou Diallo, and countless others, Michael Brown was an unarmed black person killed by a police officer sworn to protect and serve the public. In each of these cases, authorities moved quickly to hide evidence and exonerate the killers. Media outlets rushed to blame the victim and smear his or her reputation. Protestors were dismissed as people playing the race card.

We can be saddened or angered by this process, but we should not be surprised. In our society, white vanity is more highly valued than black humanity. Residential segregation orders urban geography. It promotes opportunity hoarding and asset accumulation for whites while confining aggrieved communities of color to impoverished, under-resourced, and criminogenic neighborhoods. This system subsidizes whites, offering them unfair gains and unjust enrichments while saddling communities of color with artificial, arbitrary, and irrational obstacles to asset accumulation. Yet whites view themselves as innocent and unaccountable for a system that is rigged in their behalf. They attribute the social skewing of opportunities and life chances along racial lines to the allegedly deficient character and behavior of blacks. Neighborhoods created by white flight become suffused with white fright, and that fear is used to justify the taking of black lives.

Phobic fantasies of demonized monstrous black criminality stand at the center of the national political imaginary. They fuel a seemingly insatiable sadism ever in search of a story, relentlessly blaming and shaming people for their own oppression and dismissing the testimony of the aggrieved even before they speak. White officers who kill black

“suspects” need only invoke fear as a motivation for the killing and they will be let off. The officers become seen as the injured victims in these incidents, not the people they kill. The actually innocent victims, however, are judged to have been always already guilty. Proclamations of white innocence and imagined incidents of white injury combine to create a whiteness protection program that elevates the comfort and illusions of whites over the constitutional and human rights of people of color.

In this way, the racial order of the United States requires us to live with evil and then to lie about it, to deny even the existence of systemic and structural injustice, to identify with the oppressors and to blame the oppressed. I started learning about this system fifty years ago, not too far from the street where Michael Brown was killed. I traveled to St. Louis in September 1964 to start my first year in college at Washington University. At that time, St. Louis was a city convulsed by struggles over civil rights. Just one year earlier, demonstrators staged a sit-in to pressure a bank in a black neighborhood to hire black tellers. The nonviolent protestors were arrested and given jail sentences more suited for bank robbers than bank demonstrators. In July 1964, Percy Green, the leader of the city’s best-known direct action protest group, chained himself to a spot high up one of the legs of the Gateway Arch, then under construction, to protest the absence of black construction workers on the federally funded project (McGhee, 1). When I arrived in St. Louis, I joined with other students helping Percy Green, Ivory Perry, and other activists working on a voter registration drive.

I soon found myself canvassing residents in the massive Pruitt-Igoe housing project and in the few parts of the highly segregated St. Louis County where black residency was clustered, including the all-Black suburb of Kinloch that adjoined what then was the nearly all-white city of Ferguson. In Kinloch, dilapidated small houses were scattered alongside unpaved or barely paved streets. The municipality was a pocket of poverty almost completely cut off from the affluent areas adjacent to it. The isolation of Kinloch was created by the actions of a wide range of city, county, and state officials. Planning and zoning policies in Ferguson primarily revolved around preventing interactions with residents of Kinloch. Most streets in Ferguson reached a dead end before they approached the Kinloch municipal line. The few streets that did go through were barricaded by Ferguson officials (Gordon,

186). In the 1930s, residents of a white Kinloch neighborhood sought to draw school attendance lines in such a way that their children would attend all-white schools. When that effort failed, they seceded from the municipality, creating the city of Berkeley as a then all-white and well-funded entity, in the process depriving Kinloch of its key tax base (41–42; Quadagno 109–10). When I canvassed in Kinloch, I learned that school funding pegged to property tax revenues meant that students in the wealthy white St. Louis County suburb of Clayton drew on assessed property values of \$37,000 per pupil, while students in Kinloch could draw on only \$2,200 per pupil (Gordon, 57). Ten years after the Supreme Court had outlawed school segregation, declaring it a violation of the constitutional rights of black children, young people in Kinloch continued to attend schools that were both separate and manifestly unequal. I discovered that declaring fidelity to the principle of equal education but preventing its actual practice was one tactic this society deploys to live with evil but lie about it.

In those days, Kinloch was a pocket of black poverty surrounded by largely white municipalities where federally guaranteed home loans enabled residents to acquire assets that appreciated in value, to send their children to better-funded schools, and to access social networks that eased their way to new employment opportunities. In the city of St. Louis, blacks had a history of limited yet nonetheless real political participation and influence, but the demographics and municipal fragmentation in the county rendered them all but voiceless.

One month before I knocked on doors in Kinloch seeking to promote voter registration, my home town of Paterson, New Jersey, had been convulsed by three days of pitched battles between police officers and ghetto residents. Like many of the urban insurrections of that year and that era, the violence in Paterson began with a police action, an aggressive effort by officers to clear the streets of young people walking home after a dance. Some of the youths pushed back. Officers responded with excessive force. As spectators chastised the police for their brutality, people poured from their homes and fought with the officers. Some set parked cars on fire. Others threw bricks and bottles through store windows. Twenty local businesses were damaged. Sixty-five people were arrested. Eight people were hospitalized (Lipsitz 2014, 3–6). The riots in Paterson and other cities were frightening and destructive events, but as Martin Luther King Jr. noted at the time, they were

also actions voicing the language of the unheard (King, 119). Politicians and pundits universally blamed the violence in Paterson on hoodlums, troublemakers, and outside agitators. Even as a teenager, however, I knew that was a lie. The violence in Paterson had been long in the making. Housing discrimination and mortgage redlining confined a large black population to a small physical area. Police officers in Paterson routinely harassed and humiliated Fourth Ward residents, detaining, searching, and belittling them. A grand jury investigation earlier in 1964 revealed that police officers held lit matches against a suspect's body and poured alcohol into his nose. Slumlords, some of whom were my neighbors, relatives, and family friends, extracted enormous profits by renting out substandard dwellings that they refused to maintain in livable condition. Building inspectors winked at violations of the municipal code, leaving residents without access to decent sanitation. The overcrowded houses and apartments in the Fourth Ward generated revenue that paid for college tuitions, country club memberships, and summer camp fees for people who lived in our part of town. Employment discrimination, unequal schools, and automation contributed to an unemployment rate double the national average. The young black and Puerto Rican children with whom I attended school (in the same buildings but rarely in the same classes) felt trapped in a vicious cycle of inadequate housing, underfunded schools, joblessness, poor health, and brutal aggressive policing. The Paterson Riot was not caused by hoodlums, troublemakers or outside agitators. It was a product of people resisting an unlivable destiny. To say otherwise was simply a way of living with evil but lying about its existence.

My first years in St. Louis gave me ample opportunity to learn about relations between community members and the police. On June 12, 1965, officers killed seventeen-year-old Melvin Cravens, claiming that the handcuffed youth had kicked one of the officers and attempted to flee from custody, so they shot him in the back. After a high-speed chase on August 7, 1965, police officers shot and killed twenty-eight-year-old Willie Lee Harris as he attempted to run away from his wrecked automobile. On September 8, a police officer stumbled on fifteen-year-old Melvin Lee Childs at the site of a suspected burglary. The officer fired bullets in the youth's back as he attempted to run away. On September 13, 1965, police officers attempted to question nineteen-year-old Robert Robinson because of a report about a stolen car. When he

ran away, the officers shot and killed him. The next night, officers shot and wounded twenty-one-year-old Dwight Hill, who was suspected of stealing by authorities in a neighboring municipality (Lipsitz 1995, 117–18). All of these shootings and killings were ruled as justified.

No one who lived in St. Louis in the summer of 1965 can be completely surprised by the killing of Michael Brown in Ferguson in 2014, but I think most of us believed that by this time these kinds of events would happen differently and less frequently precisely because of the organizing and mobilizing work we were doing then. In the summer of 1968, a dispute over whether a mixed-race couple had the right to purchase a home in the then all-white Paddock Hills subdivision, a mere five miles away from Ferguson in North St. Louis County, reached the Supreme Court in the case of *Jones v. Mayer*. Like the previous *Shelley v. Kramer* case about the pervasive use of restrictive covenants in St. Louis, *Jones v. Mayer* entailed local manifestations of historical national practices. In deciding the case, the court found that discrimination in St. Louis County in 1968 violated the Thirteenth Amendment and the 1866 Civil Rights Act. In an unusually frank concurring opinion, Justice William O. Douglas condemned deliberate residential segregation as a manifestation “of slavery unwilling to die.” Even though the legal slave system ended in 1865, Douglas explained, it lived on in black codes passed by the states, in the segregation mandated by *Plessy v. Ferguson*, and in the restrictive covenants, racial zoning, and direct discrimination that denied housing to the plaintiffs in the case and to their ancestors. The court’s ruling led many of us to believe that our future could be markedly different from our present. The killing of Michael Brown reminds us that we were overly optimistic. We underestimated the depths of our nation’s insistence on living with evil and lying about its existence.

Like the violence that erupted in Paterson in 1964, the rage and frustration that led people to pour into the streets in protest in Ferguson in 2014 stemmed from much more than one single incident of police brutality. The disrespect by city and county officials for Michael Brown’s life, for his dead body, for his friends, and for his family encapsulated in microcosm the degrading, demeaning, and debilitating forms of institutionalized racism that black people face every day. The sudden violence that took Michael Brown’s life took place in the context of the slow violence perpetrated by unemployment, educational inequality, environmental racism, housing and food insecurity, and

aggressive and oppressive police harassment and brutality. As Professor Jack Kirkland of the George Warren Brown School of Social Work at Washington University noted, the killing of Michael Brown set off an explosion that had been building for a long time. “I liken it to a flow of hot magma just below the surface,” Kirkland explained. “It’s always there, building, pushing up against the earth. It’s just a matter of time. When it finds a weak point, it’s going to blow” (Balko).

As was the case in Paterson in 1964, a few incidents of property damage by community members in Ferguson gave the police an excuse to retaliate with massive force. Officers wearing riot gear pointed semi-automatic weapons at citizens. They fired tear gas, concussion grenades, chemical irritants, and rubber and plastic bullets at demonstrators to drive them off the streets. One officer pointed his AR-15 semiautomatic rifle at people in the crowd and threatened to kill them. A pastor from an African Methodist Episcopal church attempting to keep the peace was hit in the stomach by a rubber bullet that left her with a large bloody bruise. Reports of a few demonstrators throwing bottles and the refusal of a few demonstrators to follow police orders to move every five seconds led the authorities to deploy a Long Range Acoustic Device designed to induce pain. This weapon has the potential to produce loss of balance, eardrum rupture, and permanent hearing loss. The police actions caused South African social justice advocate Navi Pillay, the United Nations High Commissioner for Human Rights, to condemn what she described as the “excessive force” used by the police against demonstrators in Ferguson, observing “these scenes are familiar to me and privately I was thinking that there are many parts of the United States where apartheid is flourishing” (Amnesty International).

Michael Brown died when a police officer fired his weapon over and over again into the youth’s body on Canfield Drive in Ferguson on August 9, 2014. But like millions of other black and Latino/a youths, Brown had already been condemned to death by a systematic skewing of life chances and opportunities along racial lines, by a legal system that relegates members of aggrieved racial groups to the status of lesser citizens, by the racialization of space and the spatialization of race, and by the hegemony of ways of knowing and ways of being that a white supremacist society enables, encourages, and ultimately requires.

The conditions that led to Michael Brown’s killing were already in place long before the bullets from Officer Darren Wilson’s gun entered

Michael Brown's body, long before Ferguson police officers let the teenager's body lie in the street unattended and unclaimed for four hours, long before the police chain of command allowed Officer Wilson to go into hiding without being questioned or having to file a comprehensive written report explaining the shooting, long before Ferguson Police Chief Thomas Jackson released a video to the press in an effort to smear the reputation of the deceased and long before the chief lied that he was required to release the video because of a Freedom of Information Act request when in fact none had been filed, long before Ferguson and county police officers attacked demonstrators and reporters, long before the county prosecutor turned the grand jury process into an exercise in exculpating Officer Wilson and mounting a public relations campaign on his behalf by repeatedly leaking secret testimony, long before the prosecutor allowed a racist bipolar convicted felon to appear before the grand jury as a witness in support Officer Wilson's version of events (even though she had not been present at the shooting and in fact witnessed nothing), long before the prosecutorial team instructed the grand jury to decide Wilson's culpability on the basis of a statute they knew had been declared unconstitutional, long before white people with no real factual knowledge about the incident claimed to have collected more than \$500,000 from sympathizers for a fund for Officer Wilson (who had been charged with no crime and made no appeal for assistance for a legal defense fund), long before St. Louis County police officers at the demonstrations protesting Michael Brown's shooting wore wristbands that read "I am Darren Wilson," and long before military grade equipment was used as part of a show of force designed to silence the media and drive protestors from the streets.

The dynamics that placed Michael Brown in the line of fire in Ferguson in 2014 have a long and ignoble history. They are part and parcel of the unspoken but all-too-real American Creed of living with evil but lying about its existence. Supreme Court Chief Justice Roger Taney displayed this thinking clearly in the majority opinion that decided the 1857 *Dred Scott v. Sandford* case, a case originally tried in the federal courthouse in downtown St. Louis. Scott's gravesite is in the Cavalry Cemetery in St. Louis, less than five miles from the street where Michael Brown was killed. The framers of the Constitution, Taney argued, considered blacks an inferior race of people entitled to no rights that a white man was bound to respect. It took a bloody civil war and mass

mobilization by newly free black people to compel Congress to pass the 1866 Civil Rights Act and the Thirteenth, Fourteenth, and Fifteenth Amendments. These measures were designed to initiate a “new birth constitution,” one that required the government to protect black freedom and black rights to the same dimension and degree that it previously protected the slave system (Newman and Gass). Yet very quickly, the nation’s precarious democracy was undermined by its pervasive hypocrisy. Southern whites used restrictive new laws, mass incarceration, and vigilante violence to force free blacks to remain a source of cheap and exploitable labor and to destroy the new democratic opportunities and institutions that emerged for the poor of all races in the wake of abolition democracy. Northern politicians in both the legislative and executive branches of government found it convenient and advantageous to renege on the promise of a “new birth” constitution. In the *Civil Rights Cases* of 1883, the Supreme Court declared the 1875 Civil Rights Act unconstitutional because opening up public accommodations to blacks was construed as reverse discrimination against whites. Speaking for the 8–1 majority, Justice Joseph Bradley ruled that while it might have been necessary to ratify the Fourteenth Amendment in 1868 and the Fifteenth Amendment in 1870 to protect the rights of blacks emerging from slavery, passing a bill protecting black rights just five years later in the wake of ferocious and unremitting anti-Black legal and extralegal action gave blacks special privileges and meted out undue punishments to whites. “When a man has emerged from slavery,” Bradley argued, “there must be some stage in the progress of his elevation when he takes the rank of a mere citizen and ceases to be the special favorite of the laws” (*Civil Rights Cases*). Few blacks living in 1883 and facing unremitting violence and oppression had any reason to consider themselves the “special favorite of the laws.” Without the legal protections that the court misrepresented as special favoritism, blacks essentially became citizens without rights, deprived of the equal protection of the law supposedly guaranteed by the Fourteenth Amendment. In the name of equality and fighting against special favoritism, Justice Bradley’s opinion once again established that blacks had no rights that whites were bound to respect. Still cited and honored as legal precedent today, the *Civil Rights Cases* helped shape discourses and practices that require us to live in the midst of evil but lie about its existence. A century later, the same pattern of invoking reverse discrimination

against whites emerged as an excuse for not enforcing the civil rights of blacks, undermining the freedoms promised by the 1964 Civil Rights Act, the 1965 Voting Rights Act, and the 1968 Fair Housing Act.

The Supreme Court's ruling in *Plessy v. Ferguson* in 1896 brought the logic of *Dred Scott v. Sandford* and the *Civil Rights Cases* to an even higher level of malicious mendacity. The court's decision legitimated de jure Jim Crow segregation as the law of the land, yet this case did not really revolve around questions about the rights of blacks, as is commonly thought. Instead, the matters decided in the *Plessy* case entailed competing notions about the rights of whites. Plaintiff Homere Plessy did not contend that segregated railroad cars were unfair to black passengers. He argued instead that he was entitled to ride in the white car because he was a light-skinned mixed-race person whose ancestry was seven-eighths white. Plessy and the judges alike knew that he could not have boarded the train in the first place if he had been dark skinned and phenotypically black, that he would likely have been assaulted and killed for attempting to cross the color line. Yet Plessy's argument contained an accurate understanding of the law's protection and privileging of whiteness as property in making his case. As Cheryl Harris has established, Plessy claimed that his propertied interest in whiteness had been injured by a policy that compelled him to sit in a car reserved for blacks (Harris). The court remanded the issue of Plessy's whiteness back to the courts in Louisiana, ruling instead that if he *were* black, as the state contended, no violation of his rights had occurred. Writing for the majority, Justice Henry Brown rejected claims that assigning blacks to separate railroad cars (and by extension to separate schools, bathrooms, and sections of theaters and restaurants) "stamps the colored race with a badge of inferiority." The court claimed instead that although these laws prevented blacks from occupying spaces reserved for whites, they equally prevented whites from occupying the spaces to which blacks were relegated. Treating disingenuous fiction as a legal fact, the court pretended that the dirty and uncomfortable railroad cars to which blacks were consigned were substantially equal to the clean and comfortable cars that whites could use. Segregated public accommodations, the court ruled, were "separate but equal," even though everyone knew that they were separate and unequal. This majority opinion in *Plessy* used denial and subterfuge to support policies grounded in presumptions of black inferiority and lesser citizenship.

Even the lone dissenter in *Plessy v. Ferguson* depicted the white race as superior. In a widely cited and celebrated dissent, Justice John Harlan argued that the Constitution should be color-blind. But in the sentences that preceded that declaration, sentences that are rarely cited, celebrated, or even quoted, Harlan wrote, “The white race deems itself to be the dominant race in this country. And so it is in prestige, in achievements, in education, in wealth and in power. So, I doubt not, it will continue to be for all time if it remains true to its great heritage and holds fast to the principles of constitutional liberty” (*Plessy v. Ferguson*). The disagreement between Harlan and the majority was not over whether the law should support white supremacy, but rather about the best and most effective ways of supporting it.

Conventional legal histories generally claim that Justice Henry Brown’s ruling in *Plessy v. Ferguson* was overturned by the unanimous opinions of the court in *Brown v. Board of Education I* and *II* in 1954 and 1955 (*Brown v. Board*). Yet there are important continuities between all of these “Browns,” between Justice Brown’s 1896 opinion in *Plessy*, the 1954 and 1955 *Brown I* and *Brown II* decisions, and the killing of Michael Brown in 2014. In *Plessy v. Ferguson* the majority treated segregation as a device to maintain order because it presumed that whites would not want to associate with blacks and that they had a right not to. If whites reacted violently to laws that created integration, it would be the law that was to blame. In *Brown I*, the court held that separate educational facilities were inherently unequal, that school segregation stamped blacks with the stigma of inferiority. Yet like the majority in *Plessy*, the justices in *Brown* worried that desegregation would provoke white violence. As a result, in *Brown II*, the court left the pace of ending segregation to the whim of whites. In the U.S. constitutional system, rights are supposed to be personal and present. People are supposed to have rights and be able to exercise them. Yet the court’s order in *Brown II* to desegregate “with all deliberate speed” meant that for black people, rights were to be secured on the installment plan, with only a few granted now in hopes that the rest could be provided later. The very people who had created, maintained, and profited from the system of segregation were allowed to decide at what pace it would be dismantled. Fear of white resistance became a self-fulfilling prophecy as the phrase “all deliberate speed” produced much deliberation but very little speed. Ten years after *Brown v. Board I* only 2 percent of the schools covered

by the decision had started any kind of desegregation. At that pace, full integration would have taken five hundred years. Today, schools (including those in the Normandy School District that Michael Brown attended) remain as segregated as they were in the 1970s. By the time of the *Parents Involved in Community Schools* cases in 2007, outlawing successful local school desegregation programs in Seattle and Louisville, Supreme Court justices claimed that using race in order to desegregate schools was every bit as racist as using it to segregate them. Creating a formula even worse than *Plessy*, the Court in 2007 endorsed an educational system that is both separate and unequal. In the face of unremitting evil, the court chose to live with it and lie about its very existence.

The practices written into law through Justice Henry Brown's ruling opinion in *Plessy v. Ferguson* and in the "all deliberate speed" provision articulated in *Brown v. Board* have a direct relationship to the Brown named Michael Brown—and to another Ferguson—Ferguson, Missouri. The conditions that enabled this young man to be killed and for his killer to be supported and even celebrated stem from ways in which the patterns of place in cities across the nation, including St. Louis, encourage people to live with evil, but lie about its existence. A history of more than one hundred years in St. Louis has institutionalized racial segregation and stratification through racial zoning, restrictive covenants, mortgage redlining, and government housing policies that have promoted white home ownership and asset accumulation while relegating blacks to means-tested public housing and vouchers. A persistent and consistent pattern of white violence and white lawlessness in St. Louis has functioned to place people of different races in different places, places with radically different amenities, opportunities, hazards, and dangers. In the early twentieth century an explicitly racial zoning ordinance made it illegal to purchase a home on a block unless a majority of the homes on that block were already occupied by residents of the same race as the buyer. Restrictive covenants written into deeds bound whites together in a racial cartel pledged to keep dwellings in white hands in perpetuity. Whites used mob violence to prevent blacks from moving into white neighborhoods or from using publicly funded facilities. In 1949, more than two hundred white men waving weapons and screaming racial epithets attacked a group of thirty black children attempting to swim in a municipally funded and operated swimming pool. Public policy and private practices worked hand in

hand routinely to restrict, regulate, and rig economic exchanges in favor of whites. Government-supported and -administered redlining policies subsidized white flight to the suburbs while denying loans to mixed or black neighborhoods. Highways built to lessen commuting time from the suburbs to downtown increased the value of homes in white suburbs while demolishing inner-city housing, contributing to the already artificially constrained housing market open to blacks. Seventy-five percent of the people displaced by the construction of new highway interchanges in downtown St. Louis were black (Gordon, 206). Twenty thousand black residents of the Mill Creek Valley were forced out of their homes by urban renewal projects, creating new overcrowded slums in the few areas of settlement subsequently open to them. These projects displaced businesses, undermined property values in black neighborhoods, and led to higher tax burdens on inner-city residents (Lang, 139–40). As historian Colin Gordon concludes, racial prejudice provided “the ethical and effective foundation of local incorporation, zoning, taxation and redevelopment policies in St. Louis and its suburbs” (8).

City officials concentrated subsidized public housing in ghetto neighborhoods, while government bodies in St. Louis County used zoning to resist public housing and minimize the number of units available to low-income home seekers. The city of St. Louis and the state of Missouri were found guilty in federal court of maintaining segregated schools in clear violation of *Brown v. Board*. Yet political leaders from both the Republican and Democratic Parties pandered to white resentments by resisting court orders and portraying desegregation as reverse racism against whites. Republican John Ashcroft as attorney general and governor resisted court orders, filed repeated appeals on minor and trivial issues to delay their implementation, and opposed every magnet school proposal. Ashcroft falsely claimed that the state had never been found guilty of any wrongdoing by the federal courts, when in fact the clear and consistent finding of the federal judiciary was that the state was obligated to pay most of the costs of desegregation in St. Louis precisely because its policies played a primary role in creating separate and unequal schools. Ashcroft’s policies expended \$4 million of state money to fight desegregation. The actions of Democrat Jay Nixon as attorney general and governor followed the same pattern established by Ashcroft. Nixon dissolved the desegregation plans implemented in St. Louis and Kansas City, describing them as unwarranted burdens

on the state rather than as legally mandated accountability for the continuing effects of the state's past actions (Judd, 214–15).

A particular history led Michael Brown to be on Canfield Drive in Ferguson on August 9, 2014. Racialized land-use policies concentrated the black population of St. Louis on the city's north side. The serial destruction of black neighborhoods enacted by urban renewal, the tax policies that encourage segregation and opportunity hoarding in the suburbs while depriving the city of the tax base required to fund necessary services, and the massive white resistance to enforcing the 1968 Fair Housing Act and adhering to its mandate to affirmatively further fair housing made inner-city residents desperate to move to more favored places. Yet discrimination, redlining, racially motivated zoning, and the artificially limited amount of affordable housing units leave low-income blacks with few options to improve their living conditions. Blacks moving out of the conditions that segregation created in the northern parts of the city of St. Louis encounter a similarly segregated and stratified environment in newly desegregated North St. Louis County neighborhoods, including southeast Ferguson where Michael Brown lived and died. They move into areas characterized by declining property values (Judd, 224). Many are renters, some of whom pay exorbitantly high monthly amounts to speculators who bought multiple dwellings for cash in the wake of the home mortgage foreclosure crisis of 2008, a crisis which itself was propelled by racially motivated predatory lending (Downs; Rugh and Massey; Dymski). Some renters hold Section 8 vouchers that make up the difference between the market rent and what the voucher holder can afford. These vouchers guarantee that landlords will receive the full rental amount on time every month, but fair housing regulations that allow discrimination based on source of income mean that landlords do not have to admit Section 8 voucher holders into their buildings. Those that do, tend to cluster the new tenants in particular complexes in particular neighborhoods where they become quickly stereotyped and stigmatized by city officials, white property owners, and police officers. The artificially constrained housing market open to blacks means that absentee landlords have a captive population, that they can charge more money for rent and spend less on maintenance and repairs.

When black youths like Michael Brown move to the suburbs, they do not receive the benefits of the neighborhood race effects generally

associated with suburbia. They attend schools that spend less per pupil than the county average, even though the municipalities in which they live have higher than average tax rates (Judd, 226). The Normandy High School that Michael Brown attended draws its students from twenty-nine municipalities (Gordon, 45). The school has low graduation rates, gives out a large number of in-school and out-of-school disciplinary suspensions, and lost its accreditation by the state because of low scores on standardized tests (Klein). Laws passed by the state legislature to limit the property tax obligations of affluent residents and policies that leave the state government giving less to local school districts than many other states rig the game and make sure that the most amount of money is spent on the students who need it the least and the least amount is expended on behalf of those who need it the most. Long before the violence that took his life on August 9, 2014, Michael Brown was already the victim of the slow violence of displacement, dispossession, and disposability that has characterized the racial ecology of St. Louis and the United States for centuries.

One hundred and fifty years ago, the new democratic practices and institutions created by abolition democracy and the “new birth” constitution enacted through the 1866 Civil Rights Act and the Thirteenth, Fourteenth, and Fifteenth Amendments were undermined by new regimes of racial repression. Sharecropping continued the labor relations of the slave system while Jim Crow segregation institutionalized its racial hierarchy. In the nineteenth century, criminalization and mass incarceration proved to be efficient mechanisms for perpetuating the social and economic relations of slavery. Southern states had very few people in jail or prison before emancipation, but the numbers grew astronomically once slavery ended. Propertied white males used the power of the state to secure control over a captive labor force through new laws against vagrancy and loitering that were enforced selectively against blacks. Those not working for whites under the terms whites believed to be adequate could be arrested for loitering. Those seeking work elsewhere could be arrested for vagrancy. As Ruth Wilson Gilmore notes, blacks could be jailed for either moving or for standing still (12). One hundred and fifty years later, the same fate befell the Second Reconstruction provoked by the black freedom movement. Today, the differential policing, charging, and sentencing policies attendant to the war on drugs and stop and frisk laws serve the same purpose as laws

against loitering and vagrancy in the nineteenth century, carrying out a political attack on members of aggrieved racial groups under the guise of law and order.

In Ferguson and adjacent areas of St. Louis County, the municipal courts function to criminalize poverty and to require the racialized poor to subsidize the rich. The municipal courts in nearly ninety different tiny municipalities in St. Louis County have jurisdiction over minor traffic offenses and over minor violations of ordinances and regulations. Black people in these cities are stopped repeatedly by police officers on arbitrary and subjective grounds, charged with offenses like improper manner of walking in roadway or wearing saggy pants. Homeowners and renters are cited, convicted, and fined for failure to remove leaf debris, overgrown vegetation, and high grass and weeds. City officials pressure police officers to increase local revenues by charging motorists with speeding, passing in no passing zones, and driving with expired stickers or plates but without proof of insurance. When the “probable cause” for detainment and arrest does not result in credible charges, the officers fish for outstanding warrants, search homes for occupancy violations, and provoke arguments that enable them to bring charges of obstruction or resisting arrest (United States Department of Justice; Balko).

Small suburban municipalities in St. Louis County derive significant portions of their operating expenses from racially profiling black motorists who are passing through and fining them for “poverty violations.” The St. Louis area’s inadequate transportation system and the spatial mismatch between areas where blacks can live and the jobs open to them make it necessary to drive to work through numerous municipalities replete with speed traps. The low wages that black workers receive often leave them with insufficient funds to pay insurance costs and registration fees, much less court fees and fines (Balko). Many of these local governments derive as much as 40 percent of their annual revenues from court fines and fees, in clear violation of state law. The inability of defendants to afford counsel leads to fines they cannot afford to pay; nonpayment leads to more fines as punishment. When people do not show up for court dates because they know they cannot pay the fees and fines, warrants are issued, which means they can be arrested by officers of any municipality at any time. Jail sentences for outstanding warrants can lead to unemployment and eviction, which makes it

even less likely the fines can be paid (United States Department of Justice). Each conviction has unknown but often extensive collateral consequences. For example, residency in the city of Berkeley, Missouri, entails purchase of an occupancy permit. The city requires a valid driver's license as proof of identity. If a license has been suspended because of outstanding warrants, its holder cannot move into the city. But such a person is also likely to be stopped and cited for driving with a suspended license or driving a vehicle with expired tags or inspection stickers. They can be stopped in each municipality and written up for the same offense every time (Balko).

Draconian policing in the municipalities of the North County has structural causes and motivations. The state of Missouri's fiscal and taxation policies function to subsidize the state's wealthiest citizens and cities. Local property tax abatements and tax relief mandated by state law, low levels of state aid to counties and cities, and laws that allow wealthy municipalities to protect sales tax revenues from being used by the state's general fund create opportunity hoarding for the rich and inequality and deprivation for the working class and the poor.

Whites make up 29 percent of the population of Ferguson, but account for only 12.7 percent of motorists stopped by police officers. Blacks make up two-thirds of the city's population but represent 86 percent of those detained. Blacks in Ferguson are nearly twice as likely to be searched and twice as likely to be arrested as whites, even though searches of blacks found contraband 21.7 percent of the time compared to whites, who when searched had contraband 34 percent of the time. Fines and court fees provide the city of Ferguson with more than two million dollars in revenue. Raising this revenue requires relentless policing and draconian punishment for minor offenses. In 2013 alone, Ferguson's municipal court handled approximately 3 warrants and 1.5 cases per household (Arch City Defenders).

A political culture grounded in white flight and white fright, in white innocence and imagined white injury, produces compliant experts in legitimation. Two weeks after the killing of Michael Brown, the *New York Times* published a story that proclaimed that the youth was "no angel," as if people have to be angels in order to deserve justice (Eligon). Two weeks after the release of the Department of Justice's report on the Ferguson conjuncture, two columnists from the *Washington Post* concluded that Michael Brown could not have had his hands raised in

a posture of surrender when shot because the grand jury testimony (which was orchestrated by a clearly biased prosecutor's office in non-adversarial proceedings) could not clearly confirm that claim (Capehart; Lee). One wonders how these same writers would have covered previous miscarriages of justice, if they would have treated readers to stories in 1955 claiming that Emmett Till was no angel and that deliberations by a Mississippi judge and jury found that they could not absolutely confirm that he had been abducted and killed. Even more important, however, the focus on the individual guilt or innocence of Officer Wilson obscures the historical preconditions of the shooting itself. The events that took place in Ferguson on and after August 9, 2014, could have happened quite differently if the current Supreme Court had not consistently followed in the footsteps of the *Dred Scott*, *Plessy*, and *Brown I* and *II* decisions. Michael Brown might have been in a very different kind of school if the Supreme Court had not terminated voluntary school desegregation programs in the 2007 *Parents Involved in Community Schools* case. The Ferguson police force might not have been more than 90 percent white if the court had upheld affirmative action programs in police departments in the 2009 case of *Ricci v. DeStefano*. The tax structure of Missouri might not have been as regressive as it is if the court had not unleashed the power and influence of wealthy donors to political campaigns in the 2010 *Citizens United* decision. Black voters in Ferguson and other North County municipalities might have had greater political power had the court not eviscerated the Voting Rights Act in the *Shelby v. Holder* case of 2013. By disaggregating the killing of Michael Brown from the conditions that made it not only possible, but likely, the press, politicians, and political activists leave us living with injustice yet lying about it.

The road from *Plessy* to Ferguson has been both long and short. The crisis we face in the aftermath of the killing of Michael Brown is both depressingly familiar and disturbingly new. It is, as the brilliant New Orleans spoken word artist Sunni Patterson reminds us, "ever-changing yet forever the same" (719). It is depressing to reckon with the duration, dimensions, and depths of white supremacy. But it is encouraging to recognize that the ongoing struggle for freedom that propelled people into the streets of Ferguson has history at its back as well. People who take up the cry for justice in Ferguson are focusing on more than one event and one place, but instead recognize Ferguson as

a historical conjuncture, a nexus that seems to crystalize the experiences of an entire decade that exposes the mendacity of power and that reveals the urgency of popular resistance to the unlivable destinies that racialized capitalism requires. Led by a new generation of activists working through a decentralized but reticulated web of organizations and affinity groups, people all across St. Louis and all across the nation and all across the world are stepping up, standing up, and speaking up. During the month of protests organized under the banner of Ferguson October, demonstrators engaged in nonviolent direct action protests on the streets of Ferguson. They staged demonstrations outside baseball and football stadiums downtown, inside the symphony hall in midtown, and in a suburban big box store in St. Louis County. Nonprofit legal groups and law professors have started litigation challenging the St. Louis County municipal court system and alleging that the municipalities operating the courts have violated state laws by not reporting their revenues to the state and by collecting a greater proportion of revenues from fines and fees than that state law allows (Kohler). A local artist created a mural on the wall of the Signature Screenprinting Building at Union and Cote Brillante in North St. Louis honoring the life of Michael Brown. Librarians at Washington University established the Documenting Ferguson website online to create a permanent record documenting the killing and the reactions to it. In mid-October, three thousand demonstrators marched through the downtown area and staged a rally that brought together an unusual assemblage of trade unionists and the unemployed, members of the clergy and hip hop artists, local activists and supporters from around the nation and the world.

In a nation with a long history of living with evil yet lying about its existence, there have nonetheless always been people willing to fight back. Percy Green, whose arrest at the Gateway Arch in 1964 did much to inspire generations of black freedom activists in St. Louis, saluted the significance of Ferguson October, telling a reporter, "I knew that it was just a matter of time before something like this would occur, because history has dictated that for us. It's just like we know rain comes from a cloud—it doesn't come from a clear blue sky—but every cloud doesn't bring rain. Sooner or later the clouds will bring rain . . . and this is the rain" (Vaughn).

For me, the crisis in Ferguson culminates a fifty-year history. When I first learned of the killing of Michael Brown, I thought immediately

of Sunni Patterson's poem "We Know This Place." I know personally the physical places of North St. Louis County, the places where I went door to door promoting voter registration in 1964, where I met with black and white workers in the early 1970s in a movement aimed at making Teamsters Local 688 a more democratic union, where I taught students from Ferguson and Florissant and dozens of big and tiny county municipalities in classes at the University of Missouri–St. Louis in the 1980s. But I also know this place in history, the "place" where black lives do not matter and where denial and disavowal shape white power and privilege. Patterson's poem was written in response to the organized abandonment of the black population of New Orleans in the wake of the flooding that accompanied Hurricane Katrina in 2005. In words designed for that event, but which also apply to the killing of Michael Brown, she writes, "And we know this place, all too well, dank with the smell of death and doom. It hovers, it smothers, no growth, no room, no pretty, no please, just gray, just gloom, just borned me a hope and it died too soon." We know this place. Yet the black resistance tradition that Patterson speaks from and for has always insisted that the darkest moment of our despair can be the first moment of our victory. Patterson says that we are the field hands of freedom. "Hold onto the prize, never put it down," she counsels, "be firm in the stance, no break no bow," hold on to the struggle, "cuz freedom is now" (721).

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