

FOREWORD

In February 2012, neighborhood watch coordinator George Zimmerman fatally shot an unarmed, seventeen-year-old African American boy named Trayvon Martin in a gated community in Sanford, Florida.¹ Trayvon's death, juxtaposed against Zimmerman's justification for the shooting, dragged a longstanding American Dilemma into the political fray on discussions regarding criminal justice and the racial politics of policing. As debates ensued, legal and political pundits, including yours truly,² weighed in offering a variety of accusations and excuses. In the end, more questions were asked than were answered, but at least – for one of the first times in American history – we were beginning to have an open, honest, and serious discussion about how black people experience the American criminal justice apparatus generally, and racialized policing specifically.

By “racialized policing,” I am referring to any action undertaken by the police for reasons of safety, security, or public protection that rely on stereotypes about race (color), ethnicity, ancestry, religion, or place of origin rather than on probable cause to single out an individual for greater scrutiny or different treatment than white people. This is deeply problematic, not only for issues regarding America's social contract with its citizens, but also because racialized policing is a violation of the Fourteenth Amendment of the U.S. Constitution, which guarantees equality under the law.

According to the Fourteenth Amendment, “no State shall . . . deny to any person within its jurisdiction the equal protection

1. *Trayvon Martin Shooting Fast Facts*, CNN, <https://www.cnn.com/2013/06/05/us/trayvon-martin-shooting-fast-facts/index.html> (last updated May 7, 2018, 4:46 PM) (detailing the timeline of events).

2. See, e.g., *Interviews: Race and Violence in the US*, FOX NEWS SHOWS (Sept. 11, 2013), <http://www.foxnews.com/transcript/2013/09/12/race-and-violence-us-0.html>; Nick O'Malley, *One Fatal Shot Echoes Across a Divided US*, SYDNEY MORNING HERALD (Mar. 31, 2012), <https://www.smh.com.au/world/one-fatal-shot-echoes-across-a-divided-us-20120330-1w3pk.html>; *Radio Times, The Zimmerman Verdict, Race and Justice* (WHYY July 22, 2013).

of the laws.”³ Ironically, it was drafted as a post-Civil War Reconstruction Amendment to protect newly emancipated black Slaves, whose inclusion in the American citizenry had to be codified in the letter and the spirit of the law. However, despite the legislature’s intention, and the goal upon which the Fourteenth Amendment was passed (to address and erase the vestiges of Slavery), ample evidence attests to its promises and protections being denied and abused—de jure and de facto—by law enforcement during the Reconstruction and Jim Crow eras, as well as during the current post-civil rights period. As such, racialized policing is not only a minor form of discrimination and rights violation that remains pervasive in law enforcement, and is used as a tactic of everyday social control, but it is also a violation of international standards for human rights.

For African Americans, racialized policing dates back to the repressive formation and implementation of “slave patrols” organized and designed with one goal in mind: to hunt black people and exact street justice on anyone who resisted. Subsequently, in the post-bellum South, integral to the workings of Black Codes and later Jim Crow laws, which, among other things, controlled Black labor and mobility (both physical and social), it was recognized by the Civil Rights Congress (CRC), an organization well left of the National Association for the Advancement of Colored People, that “thousands of incidents of police violence [were being committed] against African Americans alone.”⁴ According to the CRC’s claims, against which the U.S. government (including its most liberal spokespersons such as Eleanor Roosevelt) argued, the cumulative impact of those assaults, along with many other forms of discrimination and social disparities, constituted nothing less in its effects than genocide, a crime against humanity defined in the Convention on the Prevention and Punishment of the Crime of Genocide, adopted in 1948. The convention states that “[a]ny intent to destroy, in whole or in part, a national, racial, ethnic, or religious

3. U.S. CONST. AMEND. XIV.

4. Andrea J. Ritchie & Joey L. Mogul, *In the Shadows of the War on Terror: Persistent Police Brutality and Abuse of People of Color in the United States*, 1 DEPAUL J. FOR SOC. JUST. 1, 3 (2008).

group . . . thus, 'causing serious bodily or mental harm to members of the group' is genocide as well as 'killing members of the group.'"⁵

Scholars, activists, and public intellectuals have revisited and reflected upon the present-day implications of race-and-policing advocacy as the remnants of our unrequited past. Political elites, such as lawyer William L. Patterson (the leader of the CRC and the International Labor Defense), performing artist and activist Paul Robeson, and public intellectual W.E.B. Du Bois – whose cooperative political project also depended on the contributions of Black left feminists such as Louise Thompson Patterson and Eslanda Goode Robeson – all have rung the bell of liberty in a hopeful quest for America to reconcile herself with how she treats certain members of her population. And, to be clear, racialized policing is not just a United States problem. The continuum continues to operate at other sites within the African Diaspora. The transnational evidence from Los Angeles to Rio de Janeiro demonstrates that when it comes to policing, the so-called racial democracy is hyper-invisible while racialized policing and paramilitarization are factors that disproportionately affect people of African descent, particularly those who are structurally and existentially vulnerable to violence because of poverty.

In the U.S. context in particular, policing race through population control joins a wide spectrum of iniquities, and ultimately the effects of structural racism – whether intended or unintended – which interlock with growing class inequalities. These injustices and disparities include infant mortality and morbidity, HIV/AIDS incidence, shortened life expectancies, under- and unemployment, substandard housing, miseducation and the impoverishment of public education, mass incarceration, high recidivism rates, the school to prison pipeline, and felony and other forms of disenfranchisement. Contributing to these conditions are the production, reproduction, and circulation of

5. FAYE V. HARISON, RACIAL PROFILING, SECURITY, & HUMAN RIGHTS 1-2 (2013); *see also* Convention on the Prevention and Punishment of the Crime of Genocide art. 2, Dec. 9, 1948, 102 Stat. 3045, 78 U.N.T.S. 277.

race-based “controlling images” that virtually conflate blackness, particularly inner-city blackness, with violent criminality, as well as association with drugs and threats to law and order. So vast and well accepted is this conflation that political candidates have built entire platforms upon its existence. In 1988 Michael Dukakis scared white America with the narratives of Willie Horton; in 1996 Hillary Clinton referred to young black males as super-predators; and more recently, in 2016 Donald Trump promised to “Make America Great Again,” by advocating for white-citizen and police brutality against people of color.

Although these negative meanings certainly tend to be inscribed upon the bodies of young Black males, Black women are not immune to being stereotyped and profiled as criminal suspects, particularly as drug couriers or mules, addicts, and sex workers. This makes Black women vulnerable to a range of gender-specific abuses from official and vigilante law enforcement. Not uncommonly, profiling leads to strip searches, sexual harassment, and rape. The stereotypes projected upon Black male physicality are also both raced and gendered in light of an ideology that attributes an innate proclivity for aggression, violence, and predatory sexuality to black masculinity. These notions purportedly justify the deployment of paramilitary style coercion on the part of the police, as in Ferguson, Missouri, or the engagement of white citizens to “act as the police,” as in the context of Trayvon Martin or the Starbucks incident in Philadelphia. In the end, white America becomes self-appointed and self-anointed to “stand your ground” defenders of white supremacy.

The contributors in this journal edition carefully ink out the substance and context for understanding these deeply complex and flawed relationships. These essays serve as a powerful reminder to those who uncritically consider racial policing as happenstance, accidental, or the product of a few rogue police officers. Together, they offer us a panoramic view of the intersections between law, race, social movements, and the science infiltrating our deep critiques of how “the way things are” is simply more of the way they have always been. In the end, their

analyses compellingly link the multiple forms of state violence—domestic and imperialist—with sexual violence, focusing our attention on how race and policing is a process, learned and instituted. In the end, we all can agree that with attention, intention, and effort, racialized policing can be and needs to be reversed if American really truly wants to become great.

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