

**The Appearance of  
Black Lives Matter**

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# Preface

I participated in my first Black Lives Matter action on August 14, 2014, four days after the death of Michael Brown. It followed a march in solidarity with Palestine in which activists dropped a banner in support of Boycott, Divestment, Sanctions (BDS) from the Manhattan Bridge. In similar fashion, the Black Lives Matter march was “wild-cat,” meaning that it did not have official permission to march from the police and no route had been submitted to the city authorities. Heading through the Lower East Side to the East Village and into midtown, it was remarkable how many people were galvanized by the march—running out of apartments, bars, and restaurants to be part of what was happening. In keeping with that urgency and the drive to have the murdering police officers indicted, I began writing about Ferguson and the Black Lives Matter movement online. As the killings continued and no convictions followed, the movement grew into what many people have seen as the third phase of the Civil Rights Movement, after Reconstruction (1865–77) and the Civil Rights era (1954–68). It became clear that this was a defining issue of our time. I decided that I wanted to gather my writing and think it through as a coherent whole. At the same time, as a person defined who is identified as “white” by the US color line, I did not want to put this book through the usual academic channels, where it might be perceived that I was trying to profit, whether financially or in career terms, from a Black-led movement. I also wanted the book to be available free of charge, so that if anyone did want to read it, they could. The result is this project.

I want to thank Natalia Zuluaga and everyone at NAME Publications for making this book possible. Thanks also to Gean Moreno for his enthusiasm in getting this project going. The section on Michael Brown’s

murder first appeared in *Tidal: Occupy Theory, Occupy Strategy*, and later, a revised version appeared in *Social Text* (whose collective I have since joined). I thank *Social Text* for taking on a project that other academic journals had veered away from. “The Space of Appearance” is derived from an essay that first appeared in *Critical Inquiry*, whose editors forced me to think more clearly and precisely about what I meant. In particular, my thanks go to Kathleen Wilson, Pamela Brown, Patrick Deer, Nicole Fleetwood, Amin Husain, everyone in Free University NYC, Reclaim and Rename, and the Anti-university (London). I have given talks on this material in too many locations to list—in five countries and fifteen states—but I have learned more from each and every one of those conversations. I became aware in that process that my role was to help the (predominantly but not exclusively) white academic and art-activist audience engage with Black Lives Matter in solidarity, with humility and with respect. To the extent that I have succeeded, it’s due to the collective wisdom of a remarkable movement, and to the extent that I have (inevitably) failed, I can only promise to fail better next time.

**Ouverture:  
Black Lives Matter**

*Opening, Toussaint L'Ouverture.  
 All saints opening.  
 Not for the first time.  
 (Vehement pause).  
 A city street. A square. Now.  
 Enter people, the people.  
 Murmuring. Voice. Vision.  
 Action.*

Police killings captured on cell-phone video or photographs have become a hallmark of United States visual culture in the twenty-first century. What these low-resolution photographs and videos have revealed is the operations of the maintenance of a law-and-order society that inflicts systemic violence on Black<sup>01</sup> people. The America that is seen here is at the intersection of three streams of visibility. First, the witnessing of these scenes, depicted in cell-phone videos and photographs, supplemented by machine-generated imagery taken by body cameras, dash cams, and closed-circuit television footage. Next, the embodied protests and actions taken to claim justice and to make injustice visible. Finally, the sharing of these images and actions on social media that in turn have made their way into mainstream media. Here I will call the interface of what was done and what was seen and how it was described as “appearance,” especially as the space of appearance, where you and I can appear to each other and create a politics. What is to appear? It is first to claim the right to exist, to own one’s body, as campaigns from antislavery to reproductive

<sup>01</sup> I am capitalizing “Black” against convention in keeping with the practice of Black Lives Matter and my own conviction that a distinction between Black people, blackness, and black is structural under regimes of white supremacy.

rights have insisted, and are now being taken forward by debates over gender and sexual identity. To appear is to matter, in the sense of Black Lives Matter, to be grievable, to be a person that counts for something. And it is to claim the right to look, in the sense that I see you and you see me, and together we decide what there is to say as a result. It's about seeing what there is to be seen, in defiance of the police who say "move on, there's nothing to see here," and then giving the visible a sayable name. People inevitably appear to each other unevenly—the social movement process is about finding ways for people to learn how to treat each other equally in circumstances where they are not equal, whether in material terms, or those of relative privilege. To take the foundational example, the indigenous person in the Americas always knows that the land in which we appear was stolen from them and so the work of creating the space of appearance is always decolonial.

Any appearance takes place in a specific space, loaded with histories and inequalities. People are being killed in racialized spaces—housing projects and urban neighborhoods that are marked as racialized by the visible lack of state support in terms of infrastructure and services. Black Lives Matter protests reclaim spaces of connection—roads, transport, infrastructure, malls, intersections, train stations, political rallies, concert halls, sports arenas, libraries, and lecture halls. It is the function of the police and the prison industrial complex—the infrastructures of white supremacy—to keep such spaces separate, which is to say, segregated. By articulating racialized space with spaces of connection in protest against police violence, Black Lives Matter created a decolonial space of appearance in which to prefigure a different "America."



1.01

I am appropriating Hannah Arendt's evocative phrase "the space of appearance"<sup>02</sup> to describe the doubled experience of revealed police violence and subsequent protests in the same or similar spaces. But I will be using it in a very different way. For Arendt, the space of appearance is "where men are together in the manner of speech and action," and it is the space where politics happens. She situated it in an idealized version of the ancient Greek city state, or *polis*, founded (as she herself attests) on the exclusion of women, children, non-Greeks,

<sup>02</sup> Hannah Arendt, *The Human Condition*, 2nd ed. (1958; repr., Chicago: University of Chicago Press, 1998), 199.

and enslaved human beings. It was more exactly a space of representation because those admitted represented the category of free male citizens. In keeping with one thread of Arendt scholarship, it might even be said that the space of appearance was understood this way as an articulation (conscious or not) of white supremacy.<sup>03</sup> So Arendt's formulation of "appearance" is not that being discussed here. It is not representation, either in the political or cultural sense, but the very possibility of appearing directly.<sup>04</sup> In her recent reconsideration of Arendt, through which I have thought this project, Judith Butler claims a "right to appear" that is nonetheless at once constrained by "norms of recognition that are themselves hierarchical and exclusionary." Black Lives Matter protests are instead an example of what she calls "anarchist moments or anarchist passages... [which] lay claim to the public in a way that is not yet codified into law and that can never be fully codified into law."<sup>05</sup> The anarchism of these moments is not just the suspension of law but the pre-figuration of the very possibility of appearing as Black in a way that is not codified by white supremacy. That enables those who are "white" to engage with Black people in a different way than that which is predicated by the color line. It further

requires a recognition that any space whatever in the Americas is colonized.

As Jacques Rancière put it in defining politics against Arendt, this appearance "makes visible that which had no reason to be seen, [because] it lodges one world into another."<sup>06</sup> Appearance resists representation precisely because representation excludes and limits the zone in which what is present matters to create non appearance. To be sure, the space of appearance does not end racial hierarchy. It reveals what Fred Moten has called "the constitutive disorder of the *polis*," in which who can appear and who cannot, and why, are the properly political questions.<sup>07</sup> Who has the right to appear in urban space? "Whose streets?" people ask in protests. This is what it now means to be intersectional: Who gets to hold the intersection? In claiming the intersection in both physical space and political understanding, the space of appearance counters the built environment that forms spaces of nonappearance—that is to say, spaces where no one outside cares what happens there. The space of appearance is a claim to space that is not subject to the police. Yet in the Americas space cannot be so claimed without reflection because it was all Native land first.

The low-resolution photographs and videos that captured the particular set of appearances that can be called Black Lives Matter have become a genre, a symptom of how American culture is now. They are symptoms because, as much as it may seem that these scenes are endless, what can be seen is only a mere sampling of what happens. In 2015, police in the United States killed 1,146 people. Forty three percent of those killed were

<sup>03</sup> See Robert Bernasconi, "The Invisibility of Racial Minorities in the Public Realm of Appearances," in *Phenomenology of the Political*, ed. Kevin Thompson and Lester Embree (Amsterdam: Kluwer Academic Publishers, 2000), 169–87; Danielle Allen, *Talking to Strangers: Anxieties of Citizenship Since Brown v. Board of Education* (Chicago: University of Chicago Press, 2004); and Kathryn T. Gines, *Hannah Arendt and the Negro Question* (Bloomington: Indiana University Press, 2014).

<sup>04</sup> See Alexander R. Galloway, "Black Box, Black Bloc" (lecture, The New School, New York, April 12, 2010), <http://cultureandcommunication.org/galloway/pdf/Galloway,%20Black%20Box%20Black%20Bloc,%20New%20School.pdf>.

<sup>05</sup> Judith Butler, *Notes toward a Performative Theory of Assembly* (Cambridge: Harvard University Press, 2015), 26, 38, 75.

<sup>06</sup> Jacques Rancière, "Ten Theses on Politics," trans. Rachel Bowlby and Davide Panagia, *Theory & Event* 5, no. 3 (2001).

<sup>07</sup> Fred Moten, "The Case of Blackness," *Criticism* 50, no. 2 (200): 205.

people of color and 23 percent were African American.<sup>08</sup> US census data indicates that African Americans constitute 12 percent of the population, while non-Hispanic whites make up 63 percent. Native people are killed more often per capita (although the absolute numbers are small) than any other group.<sup>09</sup> These incidents are rarely even reported, perhaps because the color line still tends to make people presume that “race” means Black or white. In addition to these disproportionate numbers, what has been seen is a shocking imbalance of violence enacted to the action being investigated for what appear to be nonviolent offenses. We saw Tamir Rice, aged twelve, shot to death in two seconds for playing in a Cleveland park. We saw Laquan McDonald, seventeen years old, shot multiple times as he wandered erratically up the road in Chicago, carrying a knife but threatening nobody. And then we waited and nothing happened to the police officers that did these killings. In this project, I examine this transformation of visual culture and the spaces of appearance from the deaths of Eric Garner and Michael Brown in the summer of 2014 to the inauguration of Donald Trump as president in 2017. This period (July 23, 2014–January 20, 2017) marks a moment in which questions of appearance, race, law, justice, police, and the people were newly mobilized, requiring new decolonial histories of the present and creating new possibilities for the future.

<sup>08</sup> These figures are from “The Counted: People Killed by Police in the US,” *Guardian*, <https://www.theguardian.com/us-news/ng-interactive/2015/jun/01/the-counted-police-killings-us-database>.

<sup>09</sup> Stephanie Woodard, “The Police Killings No One is Talking About” (Oct. 17, 2016), *In These Times* [http://inthesetimes.com/features/native\\_american\\_police\\_killings\\_native\\_lives\\_matter.html](http://inthesetimes.com/features/native_american_police_killings_native_lives_matter.html)

## On Writing About Black Lives Matter While Not Being Black

Black Lives Matter has changed lives. It has changed mine for better and for worse. One consequence has been that I have been forced to recognize, despite my various diasporic identities, that in the United States, I am “white.” When I grew up in London, I was asked constantly, “that’s not an English name is it?” And under present-day government definitions, I can select “British Asian (Other)” as my given ethnicity in the UK by virtue of my Central Asian grandparents on my father’s side. In the United States, not only can I not select “Asian,” for which one must be of East or South Asian descent, but even if I could, that would still place me on the “white” side of the foundational color line that continues to constitute the settler colonial regime of America. Whiteness is not simply a descriptor of the body and it has everything to do with regimes of power. Consequently, I will write “white” but also indicate self-identified African American identity as Black, in keeping with the practice of Black Lives Matter.

At present to be in any American jurisdiction and to be visibly identifiable by the police as Black is to be subject to an extensive code of regulated appearance, as defined by Garnette Cadogan’s writing about walking through New York City: “no running especially at night; no sudden movements; no hoodies; no objects—especially shiny ones—in hand; no waiting for friends on street corners, lest I be mistaken for a drug dealer; no standing near a corner on the cell phone (same reason).”<sup>10</sup> Any person, like myself, who can do any of these things without being

<sup>10</sup> Garnette Cadogan, “Black and Blue,” in *The Fire This Time: A New Generation Speaks about Race*, ed. Jesmyn Ward (New York: Scribner, 2016), 139.

stopped by the police is “white,” regardless of skin tone. Frantz Fanon famously wrote “the Negro is not.”<sup>11</sup> Which we might now want to augment: allowed to do anything that will not be regarded with suspicion. To be white is simply to be allowed to act.

The archive of violent encounters with police created by Black Lives Matter has led the poet Claudia Rankine to create an updated list of unpermitted behavior for Black people today: “no hands in your pockets, no playing music, no sudden movements, no driving your car, no walking at night, no walking in the day, no turning onto this street, no entering this building, no standing your ground, no standing here, no standing there, no talking back, no playing with toy guns, no living while black.”<sup>12</sup> As she indicates, the very possibility of living a life is always under suspension in these conditions. Taken together, the combination of these vernacular regulations, an unwritten governmentality for the racialized, with the facts of police killing demonstrate the quotidian operations of antiblackness. In this project, as a person not subject to these regulations, I am not attempting to speak for Black experience in any way, but against such forms of antiblackness, to articulate an anti-antiblackness. This anti-antiblackness is not directed against those people, who, like myself are defined as white. Rather it is against the system of classification of people as Black or white for the purposes of ordering and governing them. Were anti-antiblackness to become hegemonic, people could identify differently, expressing the density and interconnectedness of human experience in manners of their own choosing.

<sup>11</sup> Frantz Fanon, *Black Skin, White Masks*, trans. Richard Philcox (New York: Grove Press, 1962), 231.

<sup>12</sup> Claudia Rankine, “The Condition of Black Life Is One of Mourning,” in *The Fire This Time*, 146.

In these circumstances, what does it mean to call life Black, as Black Lives Matter has done? As Alexander Weheliye defines it, “blackness designates a changing system of unequal power structures that apportion and delimit which humans can lay claim to full human status and which humans cannot.”<sup>13</sup> To be “white” only makes sense within a system of white supremacy that creates and sustains such hierarchies, in which to be white is to benefit. The existence of race as a category of social life sustains hierarchy. Hierarchy is sustained by police, both as an institution and as a concept of social ordering. In 1661, the British colonial regime in Barbados passed a law entitled *An Act for the Better Ordering and Governance of Negroes*. The enslaved were defined in this act as “heathenish, brutish and an uncertain dangerous pride of people,” whose ordering was essential. All “Negroes and Indians” were enslaved, as were their children, unless specifically freed. As such, they were defined as “chattel,” modified to “real estate” in 1668. The act was above all concerned with controlling fugitives and runaways and preventing resistance. The enslaved could be “lawfully killed” if they used violence against any white person. Whiteness is only defined by implication: a person not a Negro, Indian, mulatto, or mestizo is “white.” Degrees of whiteness were taken to exist in that an enslaved person away from their plantation needed to be in the company of “some whiter person,” or be subject to examination. This act was adopted as the basis for slave law in South Carolina in 1696 and had a long legacy in US law. In many senses, US governance continues to center on this colonial ordering. If you are subject to that ordering, always a

<sup>13</sup> Alexander Weheliye, *Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human* (Durham, NC: Duke University Press, 2014), 3.

set of negatives, then you are Black. If not, not. That does not foreclose other ways of being in the world. It states how the United States creates order by dividing people into populations. Let it also be noted how slavery was prescribed for both Native and African people, meaning that any space of appearance that would create a politics against the ordering of settler colonialism must allow for the appearance of both groups.

This policing was reinforced by the 1857 Supreme Court decision in *Dred Scott v. Sanford* that enshrined the legal distinction between “the dominant race” and the “subordinate and inferior race of beings” known as the “negro African race,” to use the terms of Chief Justice Taney’s ruling opinion.<sup>14</sup> For Taney “a perpetual and impassable barrier” existed in the laws of the thirteen colonies between the two groups, meaning that the Declaration of Independence’s assertion of liberty for all could not apply to those who were simply an “article of property.” The Court opined: “He [the enslaved African] was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race.” The Court went out of its way to note, contrary to present-day historians, that in the Declaration of Independence, Africans “formed no part of the people.” It stressed that the distinction between the citizen and the slave is part of “police regulations.” So too were paupers, vagabonds, and other such denizens of the commons excluded from the citizenry of the Republic by the police. Black Lives Matter, as a theoretical proposition, entails the abolition of the police because the police regulate racial hierarchy. That police are not (just) the cops

but what philosopher Jacques Rancière has called the “general order that arranges... reality,”<sup>15</sup> which is always and already racialized in the post-encounter Americas.

### When Black Lives Matter: Spaces of Appearance

That reality, the real conditions of existence, is changing. Since 2008, more people live in cities than in the countryside for the first time in history. Since 2011, the global majority is under the age of thirty. In 2016, just under half the world’s population had access to the Internet. And in May 2014, carbon dioxide in our atmosphere exceeded four hundred parts per million for the first time in millions of years, causing drought in some places and floods in others. These conditions were felt first in the megacities of the global South and their regions, but can be felt everywhere now. In response, movements from Tahrir Square to Athens, Madrid, Occupy Wall Street and dozens of other locations created temporary spaces of appearance in the privatized enclosures of neoliberalism. The movements that are collectively known as Black Lives Matter, from Ferguson to New York, Cleveland, Detroit, Los Angeles, and Charleston, took that possibility as their starting point.

It was to be expected, or at least it should have been expected, that the global refusal to be led and to claim the right to look and the right to be seen would create a powerful encounter with what the dominant call “race” and what is better described as white supremacy. In academia, eyebrows used to be raised if

<sup>14</sup> 60 U.S. 393 *Scott v. Sandford*, 406–07, [https://www.law.cornell.edu/supremecourt/text/60/393#writing-USSC\\_CR\\_0060\\_0393\\_ZO](https://www.law.cornell.edu/supremecourt/text/60/393#writing-USSC_CR_0060_0393_ZO).

<sup>15</sup> Jacques Rancière, *Disagreement: Politics and Philosophy*, trans. Julie Rose (Minneapolis: University of Minnesota Press, 1999), 28.

one used this term. For many activists it is a given. As Ta-Nehisi Coates has put it: “white supremacy is not merely the work of hotheaded demagogues, or a matter of false consciousness, but a force so fundamental to America that it is difficult to imagine the country without it.”<sup>16</sup> Black Lives Matter has been able to make white supremacy newly visible through the ubiquitous distribution of digital images via social media and traditional media. What is being seen is not new but simply newly visible.

In 2016, an estimated 1.2 trillion photographs were taken. To put that in perspective, in 2012 an estimated 3.5 trillion photographs had been taken since the invention of photography in 1839. That means that every year, we now take a third of all pictures ever up to 2012. Some four hundred hours of YouTube video are posted every single minute. Even allowing for repetition and copying, this is an astonishing transformation. YouTube, founded in 2005, has existed for just over a decade. Whether this particular site lasts or not, this time will be remembered for this dramatic and revealing expansion of photographs and videos. All of these “images” are computational media. A digital camera, no matter how expensive, samples the light that hits its sensor and computes an image as a result. That’s why we can alter the filter at a single click, because the image is in fact assembled data. Whenever a photograph or a video is being discussed in this project, it is an instance of such assembled data, rendered through a visualizing program to be viewed on a screen and capable of being printed. This data is, by definition, providing information. It tells us about things that are happening in the lives of our friends and families of which

we were previously unaware. And it gives visible access to the ways in which the social order operates. These, then, are not just images. Nor are they just images (in the sense of justice) by themselves. Like any other fragment recuperated from the totalizing ambition of the carceral state, they need to be activated, forced out of the continuum of capitalism’s ever-advancing time, so as to be collectively inhabited and experienced by means of reenactment.

In 2012, Alicia Garza, Patrisse Cullors, and Opal Tometi created #BlackLivesMatter in response to the murder of Trayvon Martin by George Zimmerman. When Zimmerman went on trial, it seemed that these actions had achieved at least a measure of legal accountability, if not justice. But he was acquitted. And while many were moved when President Barack Obama said sadly that if he had had a son, that child would have looked like Trayvon, others were repelled. It was striking how often I read in journalists’ accounts of Trump supporters that that comment was mentioned as the point where things had gone too far. As Obama understood, he could be a president while being Black, but he could not be Black while being president. Black Lives Matter began activist work soon after Michael Brown was shot in Ferguson, Missouri, on August 9, 2014. The group organized a bus trip to Ferguson on September 3, 2014, in conscious imitation of Civil Rights era tactics. The result was far more than just a copy. The combined impact of the repeated deaths of young African Americans at the hands of police generated the beginning of what some are calling the third Civil Rights Movement. In Ferguson and elsewhere, the movement is led by young queer Black women and men, using networked technology to create spaces of appearance. Alicia Garza puts it this way:

<sup>16</sup> Ta-Nehisi Coates, “The Case for Reparations,” *Atlantic* (June 2014), <http://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>.

#BlackLivesMatter doesn't mean your life isn't important—it means that Black lives, which are seen as without value within White supremacy, are important to your liberation. Given the disproportionate impact state violence has on Black lives, we understand that when Black people in this country get free, the benefits will be wide reaching and transformative for society as a whole. When we are able to end hyper-criminalization and sexualization of Black people and end the poverty, control, and surveillance of Black people, every single person in this world has a better shot at getting and staying free. When Black people get free, everybody gets free.<sup>17</sup>

Her message is clear: unless Black people get free, nobody gets free. Or, put in terms of anti-antiblackness, as Fred Moten does: “The coalition emerges out of your recognition that it’s fucked up for you, in the same way that we’ve already recognized that it’s fucked up for us.”<sup>18</sup> With the seemingly unending repetition of Black deaths at the hands of law enforcement and the seas of statistics about deprivation and discrimination, no one should think that all US citizens are equal before the law. In 2014 a new moment of abolition began in which people began to claim justice, precisely because they did not have it. That the instances keep coming in which the energy contained in social and visual frames breaks free from the restraints imposed by the society of control, which is

<sup>17</sup> Alicia Garza, “A Herstory of the #BlackLivesMatter Movement,” *The Feminist Wire*, October 7, 2014, <http://www.thefeministwire.com/2014/10/blacklivesmatter-2/>.

<sup>18</sup> Fred Moten and Staphano Harney, *The Undercommons: Fugitive Planning and Black Study*, (Wivenhoe, New York: Minor Compositions 2013), 140.

itself now notably out of control, I take to be the condition of the present space(s) of appearance and an indication of hope for years ahead.

Being under control is living a contained and containerized life. It's living in boxy apartments and working in open-plan offices with swipe card entry and hot desks. It's precarious job security—being an adjunct rather than being tenured. It is rendered in numbers: your credit score, your cholesterol level, your GPA, all the numbers and zones that limit your possibilities. And even being allocated such numbers are aspects of privilege today. It was French radical philosopher Gilles Deleuze who called out the “society of control” back in 1990.<sup>19</sup> He pointed to a society ordered less by enclosure, meaning the appropriation of physical space, and more by debt. Debt is a measure of time, both the amount of time it takes to repay the debt and the amount of labor-time required to do so. It creates a restraining order over the future. During the Black Lives Matter movement, it has become clear that law enforcement uses debt as a punitive form of social control. The first debt may be incurred for a minor traffic offense, but for those unable to pay the one hundred dollars or so, this relatively small fine can lead to bench warrants, arrests, further fines, and additional costs imposed on the incarcerated. Debt is an extremely effective form of control for small nations and ordinary people alike. Its opposite, in a racialized context, form is reparations for slavery. When President François Hollande visited Haiti in 2015 and spoke of France's debt to the country, islanders assumed he meant that he would now return the indemnity with which they had been punished for abolishing slavery. But the French state quickly clarified that

<sup>19</sup> Gilles Deleuze, “Postscript on the Societies of Control,” *October* 59 (Winter 1992): 3–7.

only a “moral” debt was owed.<sup>20</sup> Moral debts cannot be financialized but, according to prevailing neoliberal logic, financial debts cannot be forgiven. When the Movement for Black Lives published its *Vision for Black Lives*, reparations were the second item on its their agenda, after ending the war on Black people. In turn, “lifelong education” is the first item on the reparations agenda, rather than a single payment.<sup>21</sup>

Moments of rupture are any place whatever where control fails. It was Sidi Bouzid in Tunisia, 2011. It was Tahrir, Sol, Syntagma, and Zuccotti. Then there was Gaza, Ferguson, Detroit, and Hong Kong. To feel the rupture, put your body in a space where it not supposed to be and to stay there. If it works, a space of appearance is formed that coalesces common sensation. That is to say, first, I see you and you see me and a space is formed by that exchange, which generates no surplus for expropriation, but by our consent it is possible to mediate that dialogic space into materially shareable and distributable form. The space of appearance is the means by which we catch a glimpse of the society that is (potentially) to come—the future commons or communism. It is doing the work of abolition, creating the possibility for abolition democracy. Of a democracy rather than a republic. And in so doing the past is also seen differently, both in the ways it shapes and determines the present, as well as pasts that have not been fully recognized or allowed to be. The space of appearance is not universal and it is not unchanging. It is

where a crack in the society of control becomes visible.<sup>22</sup> Through this crack, it can become possible to look back and discover new genealogies of the present that were not previously perceptible, as well as look forward to the possibility of another world(s).

If the space of appearance is a place that connects to the future, the ways in which it appears become prefigurative. That is to say, what we see when we create a space of appearance prefigures in the present a possible, but not necessary, future that others might aspire toward. In the moment of the space of appearance, then, there are multiple temporalities at work. Sometimes, as in the Paris Commune, the gesture to the future is very much present. At others, as at Tahrir Square, the present necessity crowds out considerations of how the act may be viewed in the future. Prefiguring is always performative.<sup>23</sup> In the space of appearance, people act *as if* they were free, *as if* what happens there happens everywhere, now and in the future. It does not represent, it performs. Speaking can be an act, as in the marriage ceremony when a person says “I do” and is thereby married. Being seen and seeing in a space of appearance is also such an act. It creates real relations of existence, without regard to external social forces, *as if* they were permanent. When people look back at other moments of appearance, it is possible to reconnect with that potentiality, precisely because it has not conceded its temporary temporality. When marchers or occupiers chant “Black Lives Matter” that sense of being present in a particular space is evoked and remains open.

<sup>20</sup> Ishaan Tharoor, “Is it Time for France to Pay its Real Debt to Haiti?” *Washington Post*, May 13, 2015, [https://www.washingtonpost.com/news/worldviews/wp/2015/05/13/does-france-owe-haiti-reparations/?utm\\_term=.96e48e12656f](https://www.washingtonpost.com/news/worldviews/wp/2015/05/13/does-france-owe-haiti-reparations/?utm_term=.96e48e12656f).

<sup>21</sup> “Reparations,” Movement for Black Lives, <https://policy.m4bl.org/reparations/>.

<sup>22</sup> See John Holloway, *Crack Capitalism* (London: Pluto Press, 2010).

<sup>23</sup> For an analysis of prefigurative politics in the present-day context, see Mark Engler and Paul Engler, “Should We Fight the System or Be the Change?” *Waging Non-Violence*, June 3, 2014, <http://wagingnonviolence.org/feature/fight-system-change/>.

What happens in spaces of appearance is not simple, which is why it is powerful. These moments condense information and emotion into a space, creating energy. Taking action in and with them unleashes that energy.

The space of appearance has, then, two forms: the kinetic, live space in which real people interact, and its potential, latent form in mediated documentation. This documentation can be called photography in the expanded field generated by computed imagery: meaning camera-generated photographs, but also film and video, certain three-dimensional objects, and computational imagery of all kinds, especially as generated by cell phones. Not all photographs in this extended array contain the potential of the space of appearance. In her critical study of photography in African American social movements, Leigh Raiford described an intersection of “struggles for the black body, the black eye and black memory.”<sup>24</sup> A movement image would have each of these possibilities.

By contrast, police or official photography looks how the state wants its subject to look, not how people see themselves. Even under such circumstances, refusal and resistance can sometimes be seen, although a price may be paid for that refractory gesture. Where the police use photography to order and control, people can use photographs to send a message to present and future audiences. German philosopher and antifascist Walter Benjamin called these moments “dialectical images.”<sup>25</sup> This dialectic is conditioned by the pasts that have made it

<sup>24</sup> Leigh Raiford, *Imprisoned in a Luminous Glare: Photography and the African American Freedom Struggle* (Chapel Hill: University of North Carolina Press, 2011), 17.

<sup>25</sup> Walter Benjamin, “On the Concept of History” (1940), <https://www.sfu.ca/~andrewf/CONCEPT2.html>.

possible, while it prefigures the choices that are available in the moment of viewing and offers future possibilities. It is prefigured, not preordained. The open future, that which Dr. King in his final address in Memphis called the “promised land,” has been envisioned before; it has not been realized in sustained form. Increasingly it seems that sustaining such an open future is impossible within racial capitalism. Given the crisis within the Earth system (from climate change to mass extinctions and sea-level rise), it also seems that racial capitalism cannot be sustained. This is the crisis we call the present.

In the subsequent sections, I explore the space of appearance and its counterpart created by the state, the space of nonappearance. As a dialectical form, this is not new: in the first section, I trace its formation in the Haitian revolution and its reappearance in Reconstruction in South Carolina (1861–1877), then the most revolutionary moment in United States history because it brought an end to enslavement, unlike the anticolonial revolt of 1776. In the next section, I create a genealogy of the modes of appearance used by activists during Black Lives Matter, such as “Hands Up, Don’t Shoot,” the turning of backs, and the die-in. These early forms of Black Lives Matter have been supplemented by such interventions as Diamond Reynolds’ extraordinary Facebook Live video from the scene of the shooting of Philando Castile. Such events take place in what I term no one’s land—neither corporate nor private land. These spaces of nonappearance are where police violence takes place. I endeavor to make them “visible” in two ways. Firstly, by editing images from the scenes of such killings so as to exclude the body of the slain. Then in the third section, at much greater length, I analyze the transcripts and other materials made public in during the investigation of the murder of

Michael Brown. These include hundreds of photographs created to support the police view of what happened and to “impeach” (as the lawyers say) the eyewitnesses. In the afterword, I reflect briefly on the repudiation of Black Lives Matter implied by the election of Donald Trump. Once again, a moment of progress for Black people and their allies in the United States has been followed by a moment of profound reaction. Perhaps the strength of the movement in a networked world will allow for a stronger resistance. That’s going to be up to you. And me. See you in the streets.

## **I. Prefiguring Appearance: From Haiti to Reconstruction and 1968**

In the revolutionary space of appearance, abolition democracy prefigures the commons. This space of appearance is not space in an abstract sense but makes a claim to be grounded. It is created by people seeing each other, inventing each other, and thereby creating a common space of appearance between them. It is not an atavistic relic or a tradition to be reinvented. It is the means by which social change metabolizes, creating a form of counterpower, “the joining together of women and men willing to expend all of their energy to solve in common, *at the margin of, beyond, and outside state normativity*, the problems that stifle them.”<sup>26</sup> But the common space of appearance is not (yet) permanent but prefigurative. It is a recurrent moment, and so each time it is present is a revolution. Its sustained state would be permanent revolution. Making and sustaining that common space of appearance is what I call groundwork, a particular form of prefiguration. Here ground has a double meaning—first as commonly worked or shared earth (land, territory, and other such terms have legal and colonial meanings). It is the (re)formation of common ground and the possibility of lives lived for common good, rather than personal profit. This ground is where the kinetic, live space of appearance happens. Secondly, ground is the element that makes its depiction possible in potential form. In painting, the ground makes a canvas into a paintable surface. In photography, the ground enables the subject or figure to be comprehended as such. Groundwork is itself common, understood as coactivity, collaborative in process and conversational in research method. Claiming ground in the post-encounter Americas is the work of prefiguring

<sup>26</sup> Raquel Gutiérrez Aguilar, *Rhythms of the Pachakuti: Indigenous Uprising and State Power in Bolivia*, trans. Stacey Alba D. Skar (Durham, NC: Duke University Press, 2014), xi.

and performing abolition. When slavery is abolished or suspended, the space between regimes becomes a space without regime—abolition democracy. In abolition, a person is not a subject to representation but claims to be a subject, as Sojourner Truth’s (apocryphal) call “Ar’nt I a woman?” Truth famously sold her own photograph to support abolition, using “the shadow to support the substance,” as she put it.<sup>27</sup> This “substance” was the ground of her abolitionism. Making ground in abolition is undoing the shattered worlds made by slaveries and their afterlives.

When there is a common space of appearance, common sensation, and common consent, its potential can be framed by the photograph (or other lens-based media). When the camera is, as it so often is, the tool of surveillance and discipline, it cannot do this work. The space of appearance, active or potential, does not discipline, operate surveillance, or categorize. Nor does it rest upon the *memento mori*, the evocation of death. To the contrary, it sends messages to the future. It creates new relations of the visible and the invisible, and the visible and the sayable. That common sensation occurs when we see, in the sense of coming to understand, a photograph of the space of appearance that emanates from that space, contains its potential and is not simply about it (as in the form of photojournalism). This work has been described by the Spanish feminist collective Precarias a la Deriva as “a desire for common ground when the common ground is shattered.”<sup>28</sup> The reshaped ground is the

<sup>27</sup> Nicholas Mirzoeff, “The Shadow and the Substance: Race, Photography, and the Index,” in *Only Skin Deep: Changing Visions of the American Self*, ed. Coco Fusco and Brian Wallis (New York: Abrams, 2003),

<sup>28</sup> Colectivo Situaciones, “Something More on Research Militancy,” *ephemera* 5, 4 (2005): 602–14, 606.

potential commons and the potential for a commons, in which we can be photographed, a ground that can hold and shape our imprint. It is a frame for the potential of the space of appearance. This commons is our desire. We see ourselves in common spaces of appearance, as and in the visual commons, forming a common sensation.

Photography in its extended field holds the potential to intersect and interface the points of view (the “eye” cited by Raiford) that create embodied subjects. It creates a ground against which figures or subjects can be seen. Like land, the photograph holds the imprint of the commons. Here memory is also crucial, as Raiford has suggested. It exists, it cannot be represented, and it is individual. But photography surrogates it into material form that becomes itself a kind of common memory. In the space of appearance, photography prefigures the ground of a commons and depicts the ground that it occupies. Similarly, many Native peoples across the Americas hold that ground has memory and thereby constructs kinship relations with all living things who reside on it. As Chickasaw scholar Jodi Byrd puts it: “Within American Indian epistemologies *where* something takes place is more important than when and the land itself, according to Cree scholar Winona Wheeler is ‘mnemonic, it has its own set of memories.’ A land that remembers is a land that constructs kinship relations with all living beings who inhabit it.”<sup>29</sup> This memory is the key to a set of current political claims to land, as we saw at the 2016 Standing Rock protests against the Dakota Access Pipeline. Leonard Crow Dog said to veterans who had come to ask his forgiveness: “we do not own the land, the land owns us.” In like manner, the commons (that which cannot be owned)

<sup>29</sup> Jodi A. Byrd, *The Transit of Empire: Indigenous Critiques of Colonialism* (Minneapolis: University of Minnesota Press, 2011), 118.

passes from the living into the ground and back again, enabled by human and nonhuman memory, a process that can be mediated by the photograph. The land itself, when liberated from being territory into the grounds of freedom, is, in this sense the space of appearance, that which holds the imprint of the commons. This ground might be physical soil under occupation or cultivation, or it might be the place where an autonomous community thinks of itself as being. In its dialectical form, it is the nonmaterial place where Marx's "old mole" of revolution is burrowing between its irregular appearances.<sup>30</sup>

In this section, I will follow that mole on from its astonishing appearance in Haiti, the first successful antislavery revolution in the Atlantic world; to its reappearance in the general strike against slavery in the United States in 1861 and the radical Reconstruction in South Carolina that W. E. B. Du Bois called the "dictatorship of the proletariat"<sup>31</sup>; and finally, into 1968, the tumultuous year of world revolution and the Resurrection City encampment in Washington, DC. These moments are dialectically related spaces of revolutionary appearance for people of the African diaspora and their allies. If they do not form the narrative history to which we are accustomed, perhaps that reflects the ongoing presumption that history is, as Carlyle would have put it, the history of great men (gender designation intended). It is a history in which one space of appearance prefigures another, even as it remembers its predecessors. The process is imperfect, to be sure, shaping only what Dr. King called

the "arc of the moral universe."<sup>32</sup>

Blackness in all its forms has been a dialectical image since the Haitian Revolution. Whether there is a formal visual image or not, blackness is always in some sense visual or visualized in dialectical relation to an imagined whiteness. From this perspective, blackness is (among many other forms) an Atlantic world theory of revolution, derived from the Haitian Revolution and its 1804 Constitution. The Haitian Revolution remains the most extraordinary of revolutions (1791–1801), an event that could not have been imagined by those not involved but which was carefully planned and executed. After more than ten years of struggle, when Haiti was founded in 1804, it abolished the colonial regime established by France on the island of Hispaniola under the name Saint-Domingue. The revolution restored the indigenous Taíno name for the island, reminding us that blackness is also a relation to indigeneity. The Constitution of 1804 declared: "Slavery is abolished forever," using past, present, and future tenses in one four-word prefigurative phrase.<sup>33</sup> By abolishing slavery, Haiti further abolished the primary political distinction between "free" and "slave" that had structured the Atlantic world since 1492. Haiti then made itself into the scandal of modernity by decreeing in Article 12:

No whiteman of whatever nation he may be, shall put his foot on this territory with the title of master

<sup>30</sup> Karl Marx, *The Eighteenth Brumaire of Louis Bonaparte* (1852), part VII, <https://www.marxists.org/archive/marx/works/1852/18th-brumaire/ch07.htm>.

<sup>31</sup> W. E. B. Du Bois, *Black Reconstruction in America: An Essay toward a History of the part which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860–1880* (New York: Russell and Russell, 1935), 346.

<sup>32</sup> Martin Luther King, Jr., "Sermon at Temple Israel, Hollywood," February 29, 1965, <http://www.americanrhetoric.com/speeches/mlktempleisraelhollywood.htm>.

<sup>33</sup> See Anne W. Gulick, "We Are Not the People: The 1805 Haitian Constitution's Challenge to Political Legibility in the Age of Revolution," *American Literature* 78, no. 4 (December 2006). Gulick discusses the 1805 version (another one was issued in 1806), but the clauses I mention here were not changed at that time.

or proprietor, neither shall he in future acquire any property therein.

This clause undid colonialism, and sought to foreclose any future possibility of white supremacy, neocolonialism, or segregation.

What names were the nonenslaveable now to have? In place of the regime of slavery, the Constitution reinscribed other masters and proprietors, allowing and requiring private property. Crucially, it nonetheless insisted, against the highly complicated racial hierarchy of miscegenation created by slavery, that all persons living in Haiti were to “be known only by the generic appellation of Blacks.” To be present in the decolonial space was to be Black, regardless of past personal histories. As much as Haiti’s history was, in Michel-Rolph Trouillot’s term “unthinkable” for its revolution, it was all the more inconceivable for its rewriting of blackness as revolutionary affiliation and as abolition democracy.<sup>34</sup> In Haiti, as everywhere in the Atlantic world that slavery was abolished, the abolition demand from the revolutionaries was for communally owned land. When President Alexandre Pétion began creating such a commons with a law passed in 1814 by redistributing former plantation land to the formerly enslaved, it was understood to have institutionalized the revolution.<sup>35</sup> Since abolition democracy had claimed blackness, visuality as a means of colonial ordering has depicted its others as Black from then on. In this frame, the colonized Irish would be black, so too the radical *sans-culottes* of the French Revolution

and the Paris Commune. But as Thomas Carlyle, who introduced the concept of visuality in English, put it, the Haitians were “Black beyond remedy.”<sup>36</sup> That is to say, to revolt is to be black in a system where white supremacy is the militarized maintenance of hierarchy. Revolution is blackness in the colonial frame of white supremacy. To revolt and be Black is to be beyond all recognition from white supremacy, all claim to personhood.

### Abolition, Reconstruction, and the Visual Commons

For abolition to be meaningful, it had to be more than the end of the condition of slavery. From Haiti to Jamaica and North America, the formerly enslaved called for the redistribution of land so they could support themselves by communal farming.<sup>37</sup> The commons and their ground, both of subsistence and depiction found themselves in opposition to representation and its arrests by the police and their visual technologies, including the new format of photography, invented in 1839. The common land and any possible commons have been most effectively occupied by capitalism. The actually existing Black commons of Reconstruction has subsequently been so thoroughly occupied as to be all but invisible. In the Americas, there is a visual iconography of abolition, ranging from the enslaved person on their knees pleading for freedom to Martin Luther King’s “I Have a Dream” speech in 1963.

<sup>34</sup> Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston, MA: Beacon Press, 1997), 70–108.

<sup>35</sup> Dantès Bellegarde, *Histoire du Peuple Haïtien, 1492–1952* (Port-au-Prince: Collection du Tricinquanteaire de l’Indépendance de Haïti, 1953), 118.

<sup>36</sup> Thomas Carlyle, *The French Revolution*, vol. II (1837; London: Chapman Hall, 1896), 222. See also Nicholas Mirzoeff, *The Right to Look: A Counterhistory of Visuality* (Durham, NC: Duke University Press, 2011), 10–13, 111–13.

<sup>37</sup> Mirzoeff, *The Right to Look*, 90–101.

It is an iconography of representation, in which the wronged submit demands to those who have wronged them. There is no such set of visual references for Reconstruction, the radical redistribution of land and wealth that might have given autonomy to the freed and made abolition fully meaningful. That is not because there was no counter way to imagine social order after slavery, and still less because visual images of Reconstruction do not exist. It is because the work of white supremacy in erasing these accomplishments has been so thoroughgoing.

Even the photographic traces of Reconstruction have been invisible for many years, emerging from private collections only with the spread of digital technology. There are two intertwined threads to these dialectical images. One concerned the capacity of African Americans to labor and create value, whether within the capitalist market or as self-sufficient small holders. The other concerns the human status of freed citizens, protected by the Fifteenth Amendment but undone by the loophole in the Thirteenth Amendment that allowed for the emergence of the penitentiary, lend-lease labor and the formation of mass incarceration. These dialectics of Reconstruction may be said to revolve around the question of Black life and whether it matters. Were Black people people? Did they have life distinct from that of other beasts of burden? Slavers said that they did not. Jim Crow sharecropping would later say that they did not. Between these eras came the revolution of Reconstruction.

The Black commons formed itself on and in the ground of slavery, almost as soon as what Du Bois called the “general strike against slavery” that had begun at the outbreak of the Civil War. He described how the refusal of hundreds of thousands of the enslaved to continue as

chattel led to a mass migration from the Confederacy to Union-held territory. From the strike came a revolution that Du Bois hailed as “a revolution comparable to the upheavals in France in the past, and in Russia, Spain, India and China today.”<sup>38</sup> His description met the temper of the period. At an 1867 meeting to determine the platform of the Union Republican party for the South Carolina Constitutional convention, the African American pastor Rev. Ennals J. Adams declared, “these are revolutionary times.”<sup>39</sup> While the framing of Reconstruction as revolution has been obscured by the standard historical accounts, the white supremacist Woodrow Wilson understood very well in 1901 that “Reconstruction is still revolutionary matter.”<sup>40</sup>

Timothy O’Sullivan, known in art history for his later work in the American West and famed for his Civil War photographs, captured the potential of this revolutionary moment in his 1861 photographs of African Americans on a former slave labor camp (aka plantation) in the Sea Islands. All those present had participated in the strike. In O’Sullivan’s best-known photograph from this series over a hundred people, mostly women, have gathered for the purpose of being photographed to attest to their right to do so. There is no question that those who stood to be photographed understood that they stood at a transitional and transformational moment in US history. At the time, their very persons were interstitial: neither slave nor free, they were technically contraband

<sup>38</sup> Du Bois, *Black Reconstruction*, 708.

<sup>39</sup> Bernard E. Powers, Jr., “Community Evolution and Race Relations in Reconstruction Charleston, South Carolina,” *South Carolina Historical Magazine* 95, no. 1 (January 1994): 87.

<sup>40</sup> Bruce E. Baker, *What Reconstruction Meant: Historical Memory in the American South* (Charlottesville: University of Virginia Press, 2007), 113.



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because they had under slave law “stolen” themselves. By presenting themselves to be seen by the camera, a machine that had hitherto been used more often to advertise human property in the South, the strikers claimed a new subjectivity before and outside the law. The image was a risk: the Fugitive Slave Law was still in effect and could have been used to identify and reclaim them. The strikers must have believed that sending this visual message outweighed that risk and that their picture should be celebrated as a gathering of revolutionaries. From a present-day perspective, the photo prefigures Black Lives Matter because that is, in brief, its clear message.

Another photograph from this series, known as “Five Generations,” makes this message abundantly clear. It depicts a group of nine men, women, and children of different ages—from babies to an elderly man. They are standing in front of one of the so-called “slave cabins,” built by enslavers to house their human property. Some

have shoes on, some do not. Someone seems to have moved during the exposure, as a phantom arm holding a broom can be seen at left. As we know that slavery did all that it could to disrupt Black families, it cannot be certain that these people had familial ties. The point is nonetheless made: from the older man, born into a slavery that might have seemed permanent, to the young children for whom it would only be a vague memory, and the babies that would never remember it (Jim Crow notwithstanding), revolutionary change has happened within the span of one human life. Those photographed still appear uncertain of their right to be seen. One woman has her eyes lowered, as expected by slave owners, while the young children and the oldest man stare directly into the camera, at us. The group expresses the passing of time, not as mourning but as possibility, despite all the palpable costs of racial capitalism. Across a century and a half it remains evocative and moving because the aspirations that it visibly contains have yet to be fully realized.

Like their predecessors in revolutions of the enslaved across the Atlantic world, those who struck against US slavery were clear that their goal was self-sufficiency by means of the communal ownership of land. In December 1860 a planned revolt of the enslaved and poor whites in Alabama had already set the goal of “land, mules and money” as reparations for slavery.<sup>41</sup> A popular song during the Civil War had the chorus: “Occupy the land.”<sup>42</sup> Indeed, whites reported that African American troops in Charleston were saying “all the property of their former owners was theirs by right as they had

<sup>41</sup> Manning Marable, *The Great Wells of Democracy: The Meaning of Race in American Life* (New York: Basic Books, 2002), 224.

<sup>42</sup> See David R. Roediger, *Seizing Freedom: Slave Emancipation and Liberty for All* (New York: Verso, 2014).



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worked for it.”<sup>43</sup> In Georgia, freedwomen were reported by the Freedmen’s Bureau to be “occupying all the vacant houses.”<sup>44</sup> Nor did they lose their revolutionary consciousness once settled, despite being designated “vagrants” by the Bureau. A woman called Harriet King in Morgan, Georgia, “would not Contract at all” and instead performed short-term work on her own terms. She endeavored to “persuade other freed people not to work with the old poor Rebs.” Ultimately she responded to an agent “in a Vulgar manner ... kicking up her heels and dancing ... her tongue going at a terrible rate” for which she was beaten and jailed.<sup>45</sup> Sharecropping depended on yearlong contracts to keep workers in dependency, as King was clearly aware. Formerly enslaved human beings in South Carolina refused to sign contracts during the Constitutional Convention, expecting to be awarded land.<sup>46</sup> The Bureau encouraged these contracts and only offered land for purchase after three years of renting. In this period, mortgages or loans usually had to be repaid in three to five years, an impossible target for most of the formerly enslaved. By the end of Reconstruction in 1877, the top 5 percent of white planters owned over 40 percent of the farmland in the former Confederacy,<sup>47</sup> meaning that the political loss of rights was a corollary to the loss of common lands.

<sup>43</sup> Powers, “Community Evolution and Race Relations,” 45.

<sup>44</sup> Mary Farmer-Kaiser, “‘Are They Not in Some Sorts Vagrants?’: Gender and the Efforts of the Freedmen’s Bureau to Combat Vagrancy in the Reconstruction South,” *Georgia Historical Quarterly* 88, no. 1 (2004), 25.

<sup>45</sup> *Ibid.*, 35.

<sup>46</sup> J. Woodruff, *Proceedings of the Constitutional Convention of South Carolina* (Charleston: Denny and Perry, 1868), 111.

<sup>47</sup> Marable, *The Great Wells of Democracy*, 227.

In 1865, that outcome was not preordained. In the Sea Islands, the land claimed by the strikers as a visual commons in 1861 became a material commons when General Sherman's Special Field Order no. 15 confiscated plantation land and redistributed it in forty-acre allotments to the freed. As is widely known, this redistribution did not take hold at national level. In the individual states, different efforts at redistribution were considered, especially in South Carolina, home of the most radical efforts in Reconstruction. The question was central to the South Carolina Constitutional Convention of 1868, charged with drawing up a new state constitution in light of the Reconstruction statutes and as a way of bringing the state into line with the Union. Most whites boycotted the election for the Convention, with the exception of antislavery Republicans and some canner former Confederates seeking to limit the damage. Constitutional proposals included giving access to all places "of any public nature whatever" to all persons and enfranchising "every person who has attained the age of twenty-one years" (other than paupers and the military).<sup>48</sup> The Convention was dominated, however, by the question of debt, especially whether debts contracted by those selling and purchasing enslaved human beings before and during the war had to be honored. There were thousands of such debts outstanding and creditors were trying to sell the plantations in order to recoup some of their debt. In the postwar recession with no established labor system, land was very cheap and these sales would not in many cases have raised enough to clear the debtors. They would, however, have provided an opportunity for the freed to purchase (or be given) land. White Republican N. G. Parker hoped

that "there will not be a large plantation in the State" but rather "one hundred thousand farms" of fewer than a hundred acres.<sup>49</sup> This abolitionist small-holders democracy might have looked something like slaveowner Thomas Jefferson's imagined yeoman farmer America.

This was a determining moment for future US history: had the plantations been broken up and a communal agriculture been established, the revolution of Reconstruction would have become grounded and permanent. At first, white delegates proposed that the debt be frozen, or, as its opponents put it, granted a stay.<sup>50</sup> The transparent hope was that three months later, when the Union army would have departed, the debts could be quietly forgotten. Delegates rejected this by a large majority. Another motion was then reframed, motivated by the antislavery sentiment that there is no "right of property in man," so no debt could be incurred, because that which was being mortgaged was not owned in the first place. One of the most eloquent opponents of the slave owners' debt annulment was the Rev. Francis L. Cardozo, the son of a free black woman, Lydia Weston, and a Portuguese-Jewish man, either Isaac Cardozo or his brother Jacob. Between the ages of five and twelve he had attended a school for free blacks, then he spent five years as a carpenter's apprentice and four more as a journeyman. Cardozo then worked as a carpenter and a shipbuilder. In 1858, he attended the University of Glasgow in Scotland where he graduated in 1861 and later became a Presbyterian minister.

Cardozo described the debt annulment as a "class measure," to protect slavers. As he pointed out, they had

<sup>48</sup> Woodruff, *Proceedings*, 72.

<sup>49</sup> *Ibid.*, 456.

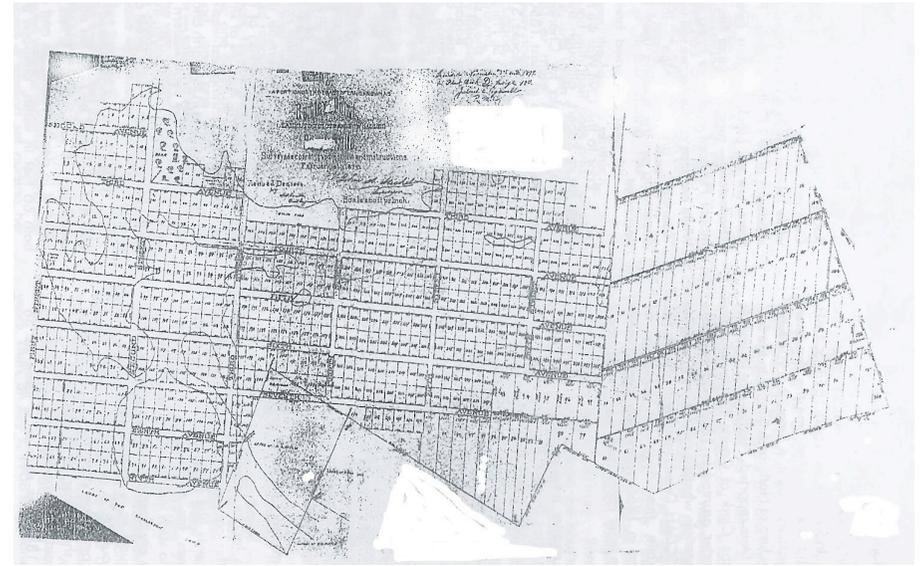
<sup>50</sup> *Ibid.*, 63.

known the “precarious tenure” of slavery when they took on the debt. More importantly, he saw this as the only chance to break up the “plantation system.” He described how a hundred freedmen in Charleston had formed the Charleston Land Company. Buying shares individually, they had collectively just bought six hundred acres of land for \$6600 that would formerly have sold for \$25 to \$50,000. Cardozo declared:

Men are now beginning not to plant cotton but grain for food, and in so doing, they are establishing a system of small farms, by which not only my race, but the poor whites and ninety-nine hundredths of the other thousands will be benefitted ... [Planters] do not want that a nigger or a Yankee shall ever own a foot of their land.<sup>51</sup>

Perhaps this is the first use of the 99 percent meme? It envisions a future of sustainable, local agriculture, rather than single cash-crop agribusiness cultivation, which is today promoted by food activists, environmentalists, and de-growth economists. Nonetheless, Cardozo and his allies lost the vote to a majority made up of African Americans so opposed to slavery in all forms that they were prepared to cancel any debt incurred in its name, who made temporary alliance with self-identified whites in this one matter.

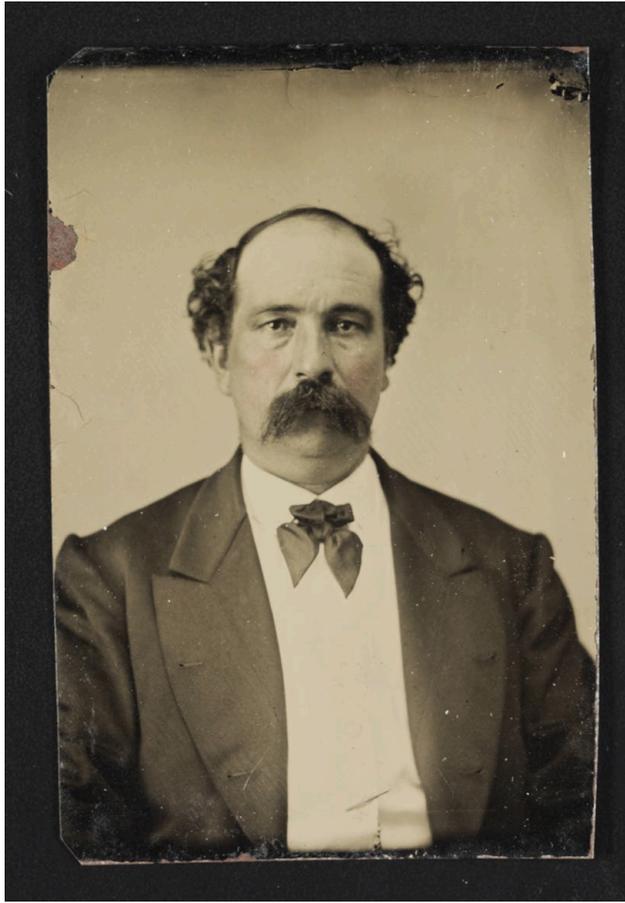
The Charleston Land Company did nonetheless succeed in creating a community, now known as Scanlonville, in Mount Pleasant, South Carolina, after its presumed leader Robert L. Scanlan (or Scanlon). Other such settlements were created at Lincolntonville, Maryville,



2.03

Edisto Island, and Bull’s Island.<sup>52</sup> Scanlonville’s land formerly belonged to a plantation called Remley’s Point, a name still used by local Realtors today. First settled by Sewee Indians, the site was colonized by the British as early as 1680. When it became a collective farm, very small plots for residences were supplemented with longer plots for collective farming. One-third of Scanlonville’s plots were bought by women. All decisions were taken by consensus. People worked as they were able and willing. Health care was mutual. In 1873 the *Charleston Courier* published an account of life at Scanlonville under the heading “Negro Communism”: “Some of the largest plantations ... are now owned and successfully conducted by colored people, who have united their resources and combine in their labor ... The land is equally distributed by the officers elected for that purpose among the members of the society, or so much as they may wish to cultivate.

<sup>52</sup> Michael Trinkley, “Scanlonville, Charleston, South Carolina: The Community and the Cemetery,” *Chicora Research Contribution* 34 (2001): 9.



2.04

Each is free to work as suits him, and each can dispose of his crop as he deems proper.” Admissions to the commune were by unanimous consent. The freed undertook day labor at fifty cents a day to raise the money for the plots at \$1.50 an acre.<sup>53</sup> The plat, or title deed, was a depiction of the Black commons being created by the freed in the Reconstruction Revolution. It was first drawn up on February 14, 1870. The version we have now was revised in December 1894. At some point between 1870 and 2000, the name “Scanlonville” was ineffectively scratched out by some angry person. The plat shows land set aside

<sup>53</sup> “Negro Cooperation,” *New York Times*, August 17, 1873.

for a graveyard and even a small park. At the southwest side, an area is designated “lands of the Charleston Land Company,” perhaps indicating some land kept in common not made available for communal use. Or perhaps the communal way of life was ended by Jim Crow.

While I have not yet found a photograph of Scanlonville from the Reconstruction era, a set of stereograph views of a farm very close by apparently operating on communal principles does exist. Photographer George N. Barnard was another member of Matthew Brady’s team photographing the Civil War. He took a well-known series depicting Sherman’s March to the Sea. After hostilities had ceased, he seems to have settled in Charleston, where he took many pictures. Among them was a set showing a cotton plantation in Mount Pleasant, a few miles from Scanlonville, which he named as belonging to one Alexander Knox. Knox was a Quaker from Massachusetts and purchased the land after the war. However, Knox died in 1867, when he was succeeded by his brother George, who died in 1871.<sup>54</sup> A tintype portrait by Barnard of Alexander Knox survives showing a middle-aged man but it is inaccurately dated to 1874.<sup>55</sup> What was happening here? As Quakers were known for their opposition to slavery, it seems unlikely that simple profit was their motive. Was the Knox ownership an abolition “beard” for the freed, meaning that that they held formal white ownership to allow for African American community?

Barnard’s photographs, mostly stereograph cards,

<sup>54</sup> George Fisher Daniels, *History of the Town of Oxford, Massachusetts* (Oxford, MA: 1892), 403.

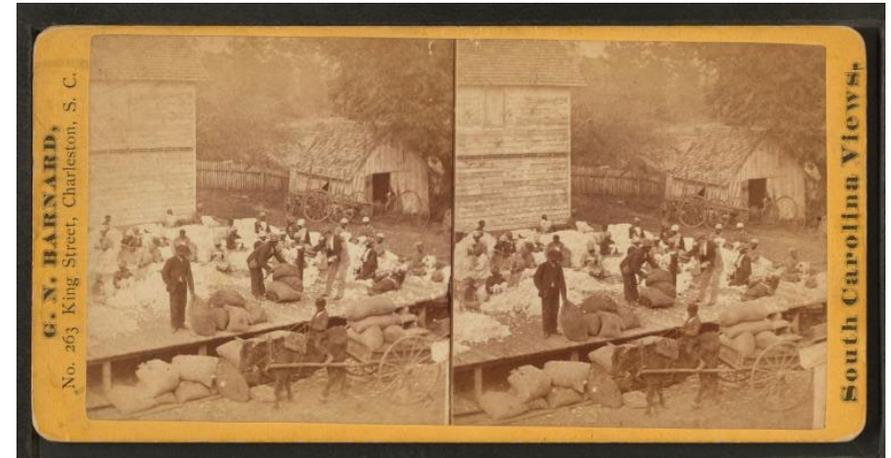
<sup>55</sup> Portrait of Alexander K. Knox, Prints and Photograph Online Catalog (PPOC), Library of Congress Prints and Photographs Division, <http://hdl.loc.gov/loc.pnp/ppmsca.38911>.

are similarly hard to interpret. They certainly seem to be showing a community at work, rather than oppressed subjects forced to labor. In them, there is none of that sense of being compelled to be photographed that is palpable in J. T. Zealey's photographs of the enslaved taken in South Carolina for Louis Agassiz before the Civil War. In one stereograph, Black men are seen ginning cotton by themselves. Operating the machinery was skilled work that separated the seeds from the fiber and made the cotton ready to be woven. Slavers had believed that African Americans could not do such work unless closely monitored, but these photographs say otherwise. What may appear like somewhat banal scenes today were in fact demonstrably political in the period, a visual argument for the success of Reconstruction. In another image, a group of African American men, women, and children bag cotton outside what seems to be the same barn. An elderly white man (not one of the Knox brothers) is weighing the cotton, whether for purchase or to measure the daily labor of the workers. Sacks of the material are being loaded onto a cart. He might be an overseer, although he is not carrying any visible weapon. Or he might be a commercial agent. No physical coercion is visible, other than the compulsion inherent for those without other forms of ownership to sell their labor power. One man lies stretched out on the ground, an unlikely pose in the presence of an overseer. Free labor is working as part of the commodity system. If that is not as revolutionary as modern eyes might want, again remember that just years before these laborers were considered chattel, supposedly incapable of self-directed action.

Another scene shows men and women workers returning from the fields, posed in an elegant curve, as if in ceremony, many with loads of cotton on their heads.



2.05



2.06



2.07

The procession is led by a Black man wearing a top hat and dressed in a frock coat, who is carrying a stick, held upright in front of him. Clearly, he is depicted as being in charge. Marcus Wood has interestingly suggested that he was acting as a leader in West African tradition, rather than as an overseer or disciplinarian.<sup>56</sup> In the Carolinas, especially on the Sea Islands, African traditions survived far more intact than elsewhere in the United States, leading to the creation of Gullah, an Atlantic world Creole language, which is still in use in the area today. This is no utopia: gathering cotton is hard, physical labor. But it is skilled work and African people contributed their insight and knowledge to it. As Walter Johnson has recently argued: “the labor that the slaves did was also work: the application of human energy and imagination to the physical world.”<sup>57</sup> There is every difference, nonetheless, in participating in such work as an equal person, rather than as an enslaved laborer. But is it freedom?

Barnard’s own allegiances are hard to define. On the one hand, he took a studio picture of an African American child, born into slavery but subsequently freed, and entitled it “Fifteenth Amendment: A Good Specimen.” Whereas many abolitionists had used light-skinned children in such photographs, Barnard chose to show someone with dark skin, a signifier that has yet to pass into insignificance as it should have. Passed in 1870, the Fifteenth Amendment forbids any interference with the right to vote, “race, color or previous condition of servitude.” Both that amendment and Barnard’s photograph seem to be as yet unfulfilled. By terming the young

<sup>56</sup> Marcus Wood, *Black Milk: Imagining Slavery in the Visual Cultures of Brazil and America* (Oxford, UK: Oxford University Press, 2013), 311.

<sup>57</sup> Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, MA: Belknap Press of Harvard University, 2013), 164.



2.08

person he photographed a “specimen,” Barnard nonetheless participated in the prevalent racialized regime of white supremacy. No white person would be designated a “specimen,” unless they were in some way considered inferior (“defective” in the language of the time), such as the disabled or the so-called “criminal classes.” While Barnard’s photographs, like the Knox plantation, no doubt wanted to manifest good intentions, they did so within a paternalist and hierarchical regime of difference. To some degree, they show us what free African American communal culture might have looked like, pictures of a (now past) future that never fully materialized. On the other hand, his 1875 stereograph entitled “The Champion Water Melon Eater” was every much the racist stereotype its title appears to predict. My sense is that what radical possibility there was in 1870 felt increasingly less likely by 1875, and Barnard, like so many other white people, retreated back into white supremacy.

While there are no known photographs by African Americans of such communities, African Americans were commissioning and making photographs in South Carolina at the time. George Smith Cook, who was part

of Matthew Brady's studio during the Civil War, had a studio in Charleston where he took antebellum photographs of free African Americans. One example shows a young man and woman, perhaps siblings or a couple, dressed stylishly. The young man's parted but dramatic hairstyle recalls that of Frederick Douglass, while the woman is wearing both earrings and a long necklace. The first African American studio known is that of Knight and Randolph, established in Charleston in December 1865. Henry Knight is referenced as being African American but his origins are not known. Harvey Teal suggests he must have come from the Northeast because it would have been unlikely for a local to have gained the necessary skills at so early a date.<sup>58</sup> Be that as it may, Knight and Randolph took ambrotypes and had a studio "Where All Kinds of Photographs Are Taken Cheap," suggesting they were targeting the freed and working classes. While no photographs from the Reconstruction period taken by African Americans are yet known, it is perfectly reasonable to assume that the community was familiar with the medium and its possibilities.

Visual culture was, after all, a key arena for post-Civil War politics. When Barnard's work is contrasted with mainstream white depictions of Reconstruction that presented it as an inevitable failure, it becomes clear that a contest over the capacities and possibilities of Black labor was being visualized. It might well be said that this debate continues to this day. The actually existing commons of Reconstruction and its messages to the future have been made invisible by the simultaneously created myth of the Black incapacity to labor. In *Frank Leslie's Illustrated Newspaper*, a print made from

<sup>58</sup> Harvey S. Teal, *Partners with the Sun: South Carolina Photographers, 1840–1940* (Columbia: University of South Carolina Press, 2001), 288.



2.09

a sketch by James E. Taylor shows a freedman "Plowing in South Carolina" (1866). To present-day eyes, it might seem like a "positive" image, but it was in fact meant to show how poorly prepared the freed were to run farms. William Stone of Massachusetts came to work with the Freedmen's Bureau in South Carolina and wrote in his reports for 1868:

While this office has always encouraged the hiring or purchase of farms by industrious freedmen who had sufficient means to carry them on successfully, it has discouraged the idea that many freedmen seem to have that a piece of land and an old, broken down horse are sufficient to ensure them not only subsistence while raising a crop but abundance for the next year. No Freedman ...

should, without having credit, attempt to carry on a farm unless he has six months provisions to start with.<sup>59</sup>

Just as the debt of the slavers prevented a redistribution of land, the lack of credit extended to the freed limited their options as independent or collective farmers. This idea was widely visualized. A stereograph from Florida depicted a man using a mule to pull a ramshackle cart with the caption: “15th Amendment, or the Darkey’s Millenium, 40 Acres of Land and a Mule.” These racist images were clearly meant to make the radical small-holding solution to post-slavery society seem ridiculous. They cannot but help testify to the remarkable new reality of independent African American small holders trying to establish themselves.

Several of these communities continued until the Civil Rights Movement of the 1950s, as living reminders of what might have been possible and what remained to be done. Mass-produced cotton was far too central to emerging industrial capitalism for it to be set aside for the pursuit of human happiness. So too Toussaint L’Ouverture had denied his own revolutionaries small holdings in favor of large cash-crop plantations—so he could repay his loans to the United States. Later President Pétion’s efforts at redistribution in Haiti were undermined by the need to repay the indemnity imposed by France supposedly in “exchange” for the losses caused by the abolition of slavery. The commodity fetishism so often described following Marx conceals an earlier set of transformations at work in making the linen so often discussed

<sup>59</sup> William Stone, Suzanne Stone Johnson, and Robert Johnson, *Bitter Freedom: William Stone’s Record of Service in the Freedmen’s Bureau* (Columbia: University of South Carolina Press, 2008), 105.



2.10

in *Capital*. As Walter Johnson describes it, this process transforms “lashes into labor into bales [of cotton] into dollars into pounds sterling.”<sup>60</sup> So efficient was this process that average productivity per enslaved person increased sixfold between 1820 and 1860. Sterling is the endpoint because fully 85 percent of US cotton went to Great Britain to fuel the Industrial Revolution. In Blake’s satanic mills, the immiserated British proletariat evoked by Engels wove slave-grown cotton, illuminated by light generated by whale oil. Thus capitalism.

## Resurrection City: Reconstruction II

The space of appearance affords an experience of counterpower that returns and revolutionizes itself. It was often said that the Civil Rights Movement was the Second Reconstruction and the commons of Reconstruction was

<sup>60</sup> Johnson, *River of Dark Dreams*, 244.

powerfully felt in its return. As Elizabeth Abel, Maurice Berger, Martin Berger, Leigh Raiford, and others have shown, photography and visual media were central to the Civil Rights claim to be visible in public space.<sup>61</sup> Dr. King sought out ways to challenge white supremacy, highlighting instances of resulting police violence as a means of demonstrating inequality to the mass media audience. From Birmingham Jail in 1963, he wrote: “we would present our very bodies as a means of laying our case before the conscience of the local and national community.”<sup>62</sup> The Black body was presented at lunch counters, on buses, and in the streets where it was not supposed to be. And that in itself provided what was then convincing evidence that America was out of joint by the refusal to be moved. I use the phrase from *Hamlet* in acknowledgement of the echo in King’s paragraph of the Prince’s stratagem: “The play’s the thing wherein I’ll catch the conscience of the king.” For Hamlet, performance was the means to approach the sovereign and affect him sufficiently that change would result. For King, mass media presented the spectacle of suffering to the conscience of the sovereign republic in the hope of legislation. As King put it, “we’ll wear you down by our capacity to suffer... we will so appeal to your heart and conscience that we will win you in the process.” His strategy worked: the televised violence in Birmingham,

<sup>61</sup> See Raiford, *Imprisoned in a Luminous Glare*; Elizabeth Abel; *Signs of the Times: The Visual Politics of Jim Crow* (Berkeley: University of California Press, 2010); Maurice Berger, *For All the World to See: Visual Culture and the Struggle for Civil Rights* (New Haven: Yale University Press, 2010); and Martin A. Berger, *Seeing through Race: A Reinterpretation of Civil Rights Photography* (Berkeley: University of California Press, 2011).

<sup>62</sup> Martin Luther King, Jr., *A Testament of Hope: The Essential Writings of Martin Luther King Jr.*, ed. James Melvin Washington (New York: Harper & Row, 1986), 291.

Alabama, in 1963 led to the passage of the Civil Rights Act (1964). The violence in Selma helped pass the Voting Rights Act (1965).

But there was no sense of victory for civil rights activists in 1965. Rather, the movement looked beyond formal legal inequality to the structural violence maintaining social inequality. In his 1967 book *Where Do We Go From Here?*, Dr. King stressed that “the inseparable triplets” of racism, poverty, and war required a new Reconstruction. In 1962, Michael Harrington’s *The Other America* highlighted the invisibility of the poor, showing that in 1959, an extraordinary 55 percent of African Americans lived in poverty. The Poor People’s Campaign of 1967–68 was inseparable from the antiwar movement and antiracist direct action, explicitly designating the poor as the “colonized” within the settler colony.<sup>63</sup> Connecting the movements produced a new space of appearance. It was made visible at Resurrection City, where thousands camped along six blocks beside the Reflecting Pool on the Mall in Washington, DC, for six weeks from May 13 to June 23, 1968, just weeks after King’s assassination. In those tremendous weeks of upheaval worldwide, the encampment struggled to capture attention. Tom Kahn, a labor movement organizer, who was not very supportive, nonetheless conceded that after the encampment, “it is doubtful that the poor can any longer be described as invisible in the old sense.”<sup>64</sup> What was being resurrected at the encampment? It was a “resurrection of the spirit,” as the artist Corita Kent put it in her 1969 memorial to King *if i*, a resurrection somewhere between insurrection

<sup>63</sup> Aloysha Goldstein, *Poverty in Common: The Politics of Community Action during the American Century* (Durham, NC: Duke University Press, 2014), 137.

<sup>64</sup> Tom Kahn, “Why The Poor People’s Campaign Failed,” *Commentary*, September 1, 1968, 50.

and reconstruction. Resurrection City claimed public space and opened the possibility of a city of love in King's sense of love as *agape*, meaning "understanding, creative, redemptive good will toward all" but also other more embodied loves.<sup>65</sup>

King had intended for the city to carry out daily acts of disruption, such as mass arrests and civil disobedience, in order to highlight "the inseparable triplets." After King's murder, Ralph Abernathy and other SCLC leaders opted instead for a permitted encampment and a symbolic residency with specific policy demands.<sup>66</sup> Its day-to-day population was around 3000, sometimes as many as 5000, coordinated by Reverend Jesse Jackson, putting Resurrection City's population somewhere between Scanlonville and Occupy Wall Street. The six hundred wooden huts where the occupiers lived were designed by the architect John Wiebenson of the University of Maryland. In the city, Black Panthers mixed with white Appalachians, Native Americans, and Latina/o farm workers at the Many Races Soul Center and the Poor People's University. Not without tension and arguments, to be sure. The city attracted the famous. Sidney Poitier led a morning cleanup brigade, and Robert Kennedy's funeral cortege stopped there for the exchange of mutual respects.

The goal was to make visible Dr. King's 1967 call for a "radical redistribution of wealth and power," which he openly framed as a correction to the failure to redistribute land in 1865. Resurrection City was an amplification and return of the Reconstruction project, signaling King's move toward revolutionary politics. By designating the

city as a commons, and positioning redistribution of wealth as a goal, the campaign understood that common land in and of itself did not create the commons under late capitalism. Land was still a vital decolonial demand of the Poor People's Campaign. In 1915, African Americans had owned 15.7 million acres of land, but by 1963 that figure had declined to 6 million acres.<sup>67</sup> The nine Poor People's Caravans that converged in Washington included a much-photographed Mule Train from Marks, Mississippi, to visualize the connection to Reconstruction. Land claims in New Mexico against the 1848 Treaty of Guadalupe Hidalgo were made by land grant rights leader Reies López Tijerina of New Mexico. Native American activists called for respect for the treaties and the return of land. The march from Resurrection City to the Smithsonian Institution to demand the return of Native cultural property was among the first, if not the first, of its kind.<sup>68</sup> African American leaders like Ralph Abernathy of the SCLC joined Native protesters at the Supreme Court in opposition to their decision in the fishing rights case *Puyallup*. When windows were broken at the court, the limited media coverage concentrated on who had been responsible.<sup>69</sup> Overall, the media downplayed the intersectional aspects of Resurrection City and depicted it as an African American project.<sup>70</sup> Gender and sexual orientation were configured by residents as they chose.

<sup>67</sup> Marable, *The Great Wells of Democracy*, 228.

<sup>68</sup> A point derived by implication from Calvin Trillin's sarcastic commentary in the *New Yorker*, in which one Indian notes that most of them were at the Smithsonian because "there are some relics there that belong to them," "Resurrection City," *New Yorker* (June 15, 1968), 77.

<sup>69</sup> McKnight, *The Last Crusade*, 131.

<sup>70</sup> Gordon Mantler, "The Press Did You In': The Poor People's Campaign and the Mass Media," *The Sixties: A Journal of History, Politics and Culture* 3, no. 1 (2010), 33–54.

<sup>65</sup> King, *A Testament of Hope*, 253–58.

<sup>66</sup> Gerald D. McKnight, *The Last Crusade: Martin Luther King Jr., the FBI, and the Poor People's Campaign* (New York: Basic Books, 1998), 111–30.

Butches and queer people of color lived alongside hippies. The City created nonviolent campaigns for a living wage—which is not the minimum wage, but a basic wage on which a person can live. As the Vietnam War continued, there were active antiwar protests, including the first burning of draft cards by women, which was liable to the same heavy penalties as when performed by those to whom the cards were addressed. From the photographs, it does seem as if more white people participated in the antiwar protests, while antipoverty protests drew mostly African Americans. The goal overall was to generate a space of appearance capable of reimagining the United States from below. Perhaps such racialized divides account for the failure to make that space sustainable.

There are many photographs of the encampment. News photographs in the mainstream media tended to concentrate on the deep mud caused by the heavy rain that spring. In a typical column, *Newsweek* asserted: “Resurrection City itself, conceived as a model of communal living, had fallen into a true-to-life squalor—an ill-housed, ill-fed, self-segregated, absentee-rum slum afflicted with low morale, deepening restiveness, and free-floating violence.”<sup>71</sup> By contrast, Magnum photographer Constantine Manos took classic photojournalist pictures—matte black-and-white, tight to the frame, dispassionate.<sup>72</sup> Movement photographers like Bill Wingell took some telling shots, especially of the Native American participation.<sup>73</sup> Relatively few were able to convey the

<sup>71</sup> Quoted in Kahn, “Why the Poor People’s Campaign Failed,” 54.

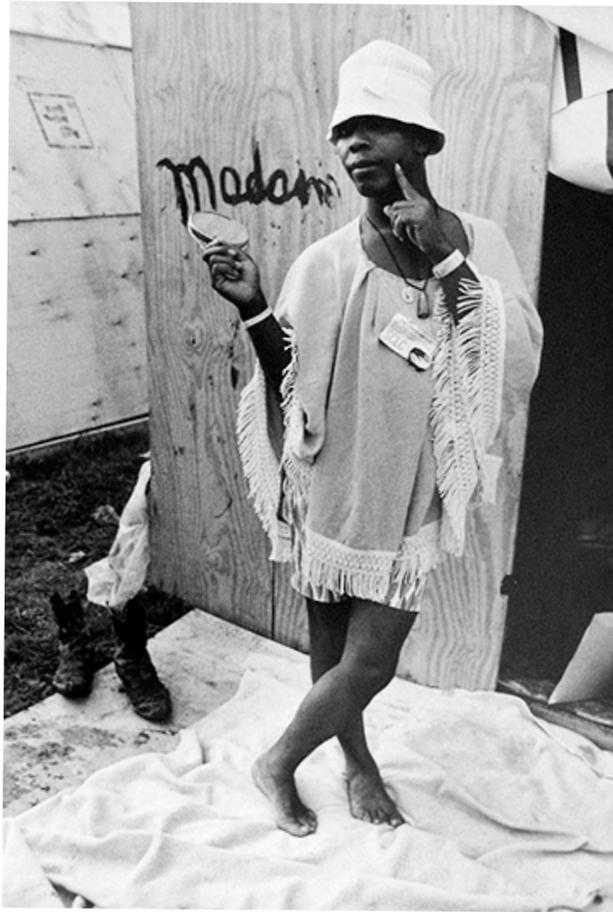
<sup>72</sup> See “Constantine Manos – USA. Poor People’s March. 1968,” Magnum Photos, <https://pro.magnumphotos.com/Catalogue/constantine-manos/1968/usa-poor-people’s-march-1968-nn145818.html>.

<sup>73</sup> See Bill Wingell, “Poor People’s Campaign—Washington, DC, 1968,” [http://photo.net/photodb/folder?folder\\_id=470967](http://photo.net/photodb/folder?folder_id=470967).



2.11

sense of revolutionary possibility in the new space of appearance. One who did was New York photographer Jill Freedman. She joined the occupation because of her anger at the assassination of Dr. King and marched down to Washington with a New York contingent. She lived in Resurrection City from its first days to the eviction. Among the thousands of photographs of the occupation, hers are perhaps the most resonant, precisely because she was part of its commons. She called her book of pictures of Resurrection City *Old News*. “Poverty,” she wrote, “is



2.12

ancient history.”<sup>74</sup> She was not just an observer, she was there to work: “In our town, work meant demonstrating ... And talking man power, woman power, Chicano power, Indian power, black power, white power, people power, soul power. Claiming all our human rights to dignity. Every day.”<sup>75</sup> Her photographs show people marching on the Capitol, women burning draft cards, a Black Panther couple, the Soul Power university, and many other aspects of what it was do the work of resurrecting the city.

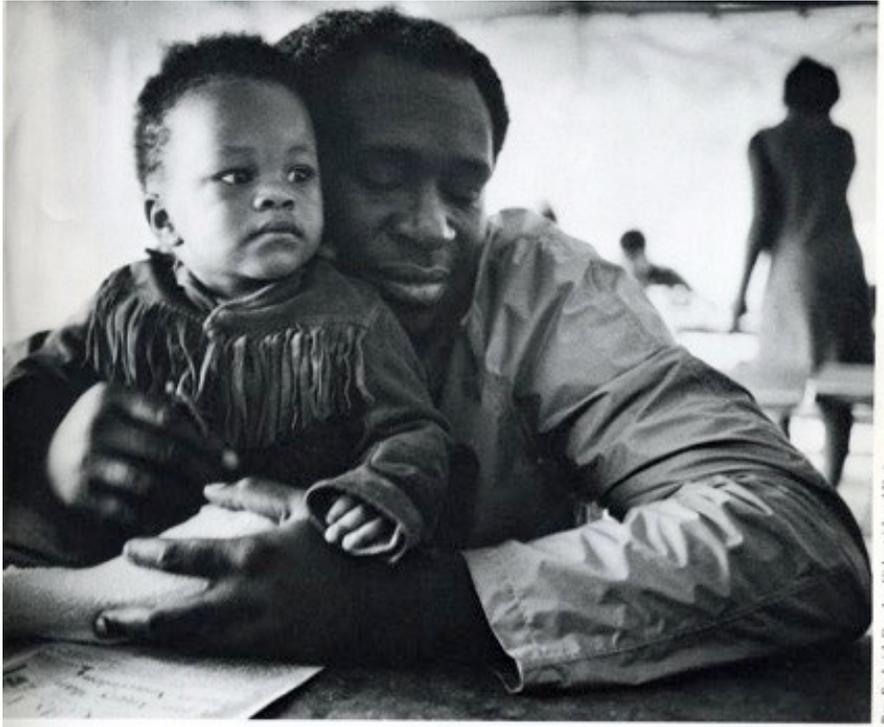
<sup>74</sup> Jill Freedman, *Old News: Resurrection City* (New York: Grossman Publishers, 1970), 18.

<sup>75</sup> *Ibid.*, 34.



2.13

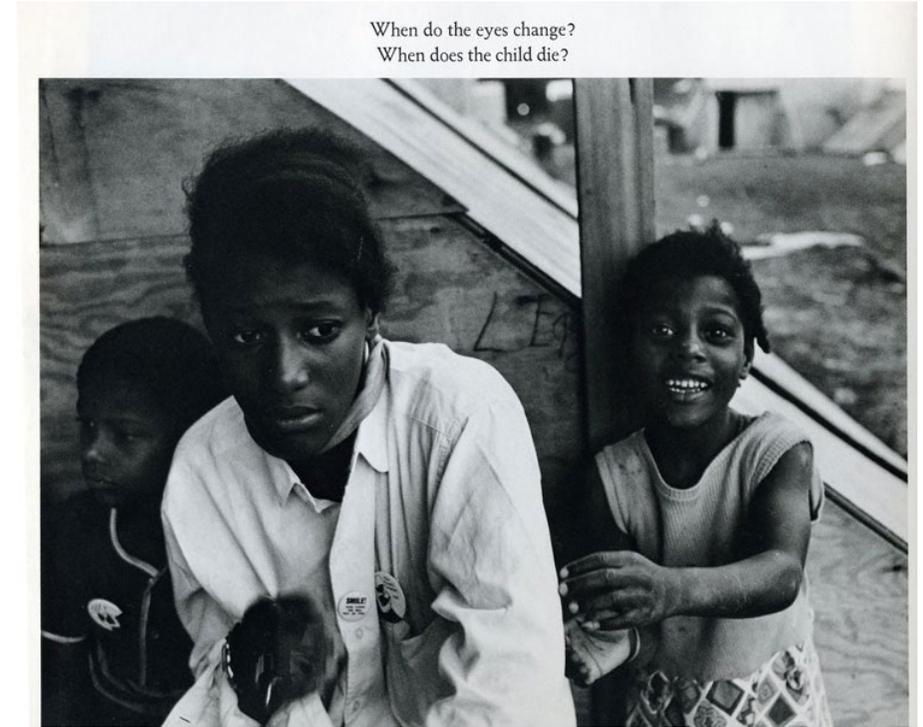
Freedman was aware of the problems in the encampment, but she saw what else was happening. Her photographs did not idealize the city. They are matte, black-and-white pictures in ranging shades of gray with a grainy quality. Notably, however, her subjects look at her directly. Her camera does not capture them but allows them to be seen on their own terms. She engaged in the space of appearance and was able to convey its complexity and possibility in images that seem open to the participation of those depicted, rather than the “decisive moment” of colonial photography. In a photograph titled *Dignity* a man sits inside his hut, legs crossed, hands



Rev. Frederick Douglass Kirkpatrick and Desiree

2.14

folded, regarding the camera with a quiet smile. Above his head, a framed craft image of President Kennedy sitting in a similar pose. While his shoes and boots were covered with mud, the hut was immaculate, there was a carpet on the floor, and clothes and quilts hanging neatly from hooks. This man was occupying for the long term, creating his own space. Freedman liked to find these visual rhymes. Another picture showed an African American man wearing a sports coat, squatting comfortably on his haunches while playing the flute. At the other end of the Reflecting Pool where he was playing, the Washington Monument created a sharp vertical to counterpose the horizontal line of the flute. It is a surprising and quiet moment among the intensity of the city. In *Call Me Madam*, a person who appears to be trans\* poses outside her hut labeled "Madam." She is wearing a fringed garment like

When do the eyes change?  
When does the child die?

2.15

a poncho, holding a mirror and posing, legs crossed at the ankles, with the left index finger aligned along the cheek. Madam's rain-sodden boots are adjacent. It is at once a strikingly queer and proud image.

Three photographs of children captured the hopes and fears of the city. A young girl called Brenda stands in a confident pose against the backdrop of the Soul Center, whose sign reads "Nothing But Soul." She holds a lollipop in her teeth and looks at the camera with the most confident smile. "Soul Power" was one of the main slogans of Resurrection City. A portrait of *Rev. Frederick Douglass Kirkpatrick and Desiree* shows him hugging the child in his arms with his eyes shut in a blissful expression, while the toddler, dressed in a fringed buckskin jacket, looks off into the distance with interest at something we cannot see. There's a palpable desire for change in this

photograph, from the very name of the minister, connecting back to resistance against slavery, to a sense of possibility that comes from the love that is visible here. In contrast to that assemblage, another image asks: *When do the eyes change? When does the child die?* Freedman has caught two young people, one about six years old looking at the camera with glee, while an older woman, perhaps twenty, looks abstractedly away. Although her button says “Smile!,” her worries are evident. Freedman wrote: “Dream City had old nightmares. People messing up ... Turning their rage on themselves and others, showing how being poor can make you crazy, can kill you long before your body stops ... Yet every day I saw incredible acts of kindness and compassion. And I couldn’t understand how they could be so beautiful.”<sup>76</sup> Resurrection City attracted the poor, but rather than being praised for offering care, the encampment was critiqued for making poverty visible, which was, of course, why it was there. On June 19, 1968, around one hundred thousand people attended the Solidarity Day on Juneteenth, the celebration of Emancipation. This was the largest rally since the 1963 March on Washington, but the media had already portrayed the city as a failure. Just four days later, police using tear gas evicted the residents and tore down the encampment.

Later that year the geneticist Garret Hardin published an essay called “The Tragedy of the Commons” in the journal *Science* that has often been used to condemn any idea of common provision.<sup>77</sup> It was an odd mixture of eugenics, pessimism, and racism that gained respectability with the imprimatur of science. Hardin attempted

<sup>76</sup> Ibid., 116.

<sup>77</sup> Garret Hardin, “The Tragedy of the Common,” *Science* 162, no. 3859 (1968): 1243–48.



2.16

to demonstrate that the commons was a fallacy by using the example of pasturage. Common land is open to all to pasture their animals. Hardin insisted that each herdsman [*sic*] would necessarily try to maximize his own possession of animals until the pasture inevitably became exhausted: “Freedom in a commons brings ruin to all.” However, a commons does not behave like this. At Scanlonville and other such communal farms, the consideration was supplying enough food to eat and creating a sufficient surplus to trade for other goods and services. Unless you assume that the pursuit of private (meaning individual) profit is ingrained (or hardwired as people like to say these days), there is no reason a commons cannot survive as long as it behaves like a commons. A more accurate version of Hardin’s phrase would be: “capitalism in a commons brings ruin to all.” His example of pollution is a clear demonstration of this modified axiom. A commons run as a commons understands that planetary resources are a key aspect of the sustainability of the commons and acts accordingly. Using animals to manure arable

land, rather than farming just plants or animals is one example of how this has worked in practice. Manured land remains fertile and the animal waste is disposed of without pollution.

Hardin wanted above all to limit population along eugenic lines. His motive was presented in none too subtle a way:

Every new enclosure of the commons involves the infringement of somebody's personal liberty. Infringements made in the distant past are accepted because no contemporary complains of a loss. It is the newly proposed infringements that we vigorously oppose; cries of "rights" and "freedom" fill the air. But what does "freedom" mean? When men mutually agreed to pass laws against robbing, mankind became more free, not less so. Individuals locked into the logic of the commons are free only to bring on universal ruin once they see the necessity of mutual coercion, they become free to pursue other goals. I believe it was Hegel who said, "Freedom is the recognition of necessity."

In 1968, the call for rights and freedom came from many sides, no doubt, but above all from African Americans. Hardin's fear of the commons was more exactly fear of a Black planet.

## Intersection

By its very name, Resurrection City implied that it was something whose function was to return. From our vantage point, we can see the intersection of direct action by the indigenous, people of color, and antiwar protesters as part of a transition from a commons of the ground to a grounded urban commons. Since 2008, the global majority has lived in cities for the first time ever. Of course, for many of those people, the city is a polite name for the slums, or informal housing, that migrants have built for themselves. They have nonetheless left rural areas for the city. Thus, the commons will have to be urban. At the same time, landless, indigenous, and peasant commons from Latin and South America are examples of the first successful forms of the commons in the era of financial globalization. These global social movements, including Black Lives Matter, are a process of imagining how such commons might work in a world dominated by global cities. The Zapatistas emerged out of the Lacandon rainforest on January 1, 1994, at the moment that NAFTA enshrined neoliberalism across North America, in order to claim the rights of the indigenous to autonomy. Their cosmology argues for "one world in which many worlds fit," a version of the "one culture, many natures" indigenous cosmology for the global present.<sup>78</sup> As this movement spread across South and Latin America, it generated a widespread rejection of hierarchical governance. The commons that is endeavoring to emerge is the interaction of indigenous and urban knowledges. One striking example of this interaction was the People's Agreement of

<sup>78</sup> Marina Sitrin and Dario Azzellini, *They Can't Represent Us!: Reinventing Democracy from Greece to Occupy* (New York: Verso, 2014), 15.

Cochabamba (2010), a document drawn up in response to the scientific consensus on anthropogenic climate change, already visible in countries like Bolivia that depend on glaciers for drinking water. Rather than offer a hi-tech design solution, the People's Agreement:

propose[s] to the peoples of the world the recovery, revalorization, and strengthening of the knowledge, wisdom, and ancestral practices of Indigenous Peoples, which are affirmed in the thought and practices of "Living Well."<sup>79</sup>

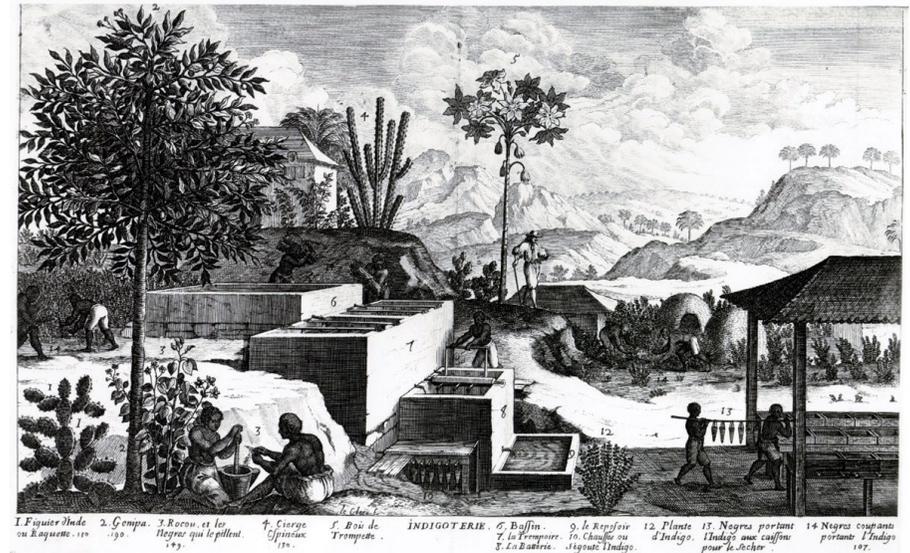
In November 2014, the Intergovernmental Panel on Climate Change announced that carbon emissions must cease rising immediately. "Living well," or making a life, is now a matter of global necessity not communal imaginings. In 2016, this movement reached the northern part of the Americas, when "Water is Life" became the rallying cry at Standing Rock. Black Lives Matter activists and chapters expressed solidarity with Standing Rock and many made the journey to the encampment. From Haiti to Standing Rock, the alliance of the indigenous with the descendants of those who were enslaved has been the most effective challenge to settler colonialism. The alternative is the privatized, lead-poisoned water offered to the African American residents of Flint, Michigan, a town so abandoned by racial capital that the US Army conducted exercises there in May 2015 in order "to operate

in urban environments for upcoming overseas deployments."<sup>80</sup> In other words, Flint is an adequate substitute for Afghanistan and Iraq within the United States. From New Orleans after Hurricane Katrina in 2005 that led to the deployment of armed National Guard in the streets to Donald Trump's threat to send troops into Chicago, the United States has considered its African American population as an insurgency. And so we saw military vehicles and weapons deployed in Ferguson, Missouri, to prevent the expression of the simple statement: "Black Lives Matter" as a matter of national security. For whom?

<sup>79</sup> "World People's Conference on Climate Change and the Rights of Mother Earth April 22nd, Cochabamba, Bolivia," <https://pwccc.wordpress.com/2010/04/24/peoples-agreement/>.

<sup>80</sup> Ron Fonger, "Army Calls Cease Fire on Military Exercises that Rattled Flint," [http://www.mlive.com/news/flint/index.ssf/2015/06/military\\_exercises\\_over\\_in\\_fli.html](http://www.mlive.com/news/flint/index.ssf/2015/06/military_exercises_over_in_fli.html).

## **II. The Space of Appearance #BlackLivesMatter**



3.01

The activist movements connected by the hashtag #BlackLivesMatter have created a new way of seeing in the two years since the deaths of Eric Garner and Michael Brown.<sup>81</sup> “Seeing” here should be understood to mean that point of intersection between what we know, what we perceive, and what we feel—using all our senses. Unlike the traditional one-sense visual perspective, it is a collective way to look, visualize, and imagine.<sup>82</sup> This new engagement refuses to allow these moments to pass. It keeps us looking with persistent attention at what at first seems to be unbearable. The prohibitions and exclusions that constitute white supremacy have been challenged during the Black Lives Matter movement by this persistent looking, meaning a refusal to look away from what is kept out of sight, off stage, and out of view.

<sup>81</sup> Nicholas Mirzoeff, “How Ferguson and #BlackLivesMatter Taught Us Not to Look Away,” *Conversation*, August 10, 2015, <https://theconversation.com/how-ferguson-and-blacklivesmatter-taught-us-not-to-look-away-45815>.

<sup>82</sup> For more on this definition of “seeing,” see Nicholas Mirzoeff, *How to See the World* (London: Pelican, 2015), 71–98.



3.02

This looking is sustained by long histories of resistance. It comprises a set of grounded, distributed, and repeated actions, whose persistence is enabled in part by social media. It calls for us to see what there is to see, to be vulnerable, but not to be traumatized. Looking here is both witnessing and the embodied engagement with space. Such performances of looking are about the recurring present that people choose not to escape, and continue to record in digital media. Persistently, they choose to keep looking against the prohibitions of the carceral state and to feel the presence of the absent bodies of those fallen from Michael Brown and Eric Garner to Sandra Bland, Alton Sterling, and Philando Castile—and so many more women and men, girls and boys. In that repeated present, the presence of the future can be felt. Repetition matters here, as a means both of instilling the urgency of the situation in others and for the participants to overcome their first shock in order to understand what has actually happened. The formal similarity and repetition of the actions shifts them from being simply protests—meaning



3.03

an indexical call to the state or other authority to remedy a wrong—and become instead invocations of what anti-antiblackness would look like.<sup>83</sup>

There is a decolonial history of slavery in the Americas within this looking. Slavery sustained its regime by what I have elsewhere called “oversight,” the felt surveillance of the overseer of enslaved human beings. While this regime was ultimately enabled by spectacular violence, it allowed for the quotidian performance of complicated labor, often not under direct supervision. A French planter from Saint-Domingue mourned after the revolution that created Haiti the passing of “the variety of magic, which gave the empire of opinion to whiteness, and made it so that three or four Whites could sleep in all security, with their doors open, on a property where four or five hundred blacks were subjected to a more or less grievous labor.”<sup>84</sup> Under US slavery, this magic required

<sup>83</sup> See Weheliye, *Habeas Viscus*, 42–53.

<sup>84</sup> *De Saint-Domingue. Moyen facile d'augmenter l'indemnité due aux colons de St-Domingue expropriés* (Paris: Ponthieu, 1825), 16.

absolute visual dominance. If an enslaved person looked at an overseer or owner it was considered “eye service,”<sup>85</sup> and was immediately punishable. It was a particular feature of being “reckless,” any activity by the enslaved that might bring them to the attention and violence of the overseer and his drivers.<sup>86</sup> To look at the enslaver was a reckless act, and no such act could be tolerated because recklessness leads to revolt.

During the Jim Crow period, looking across the color line became known by process of condensation “reckless eyeballing,” with the added connotation of forbidden desire across the color line that authorized fatal violence in response. Many people met their death by lynching as a result of such purported looking. Although it was never formally part of the legal code, the accusation of such looking was used to aggravate assault charges to rape as recently as 1952 in the case of Matt Ingram.<sup>87</sup> However, after pressure from the NAACP and African American media like *Ebony*, the state supreme court vacated the conviction because: “it cannot be said that a pedestrian may be assaulted by a look, however frightening, from a person riding in an automobile some distance away... He may have looked with lustful eyes but there was the absence of any overt act.”<sup>88</sup> That look no longer represented grounds for conviction as an “overt” act. “Reckless eyeballing” nonetheless remains part of the informal codes of the prison industrial complex both

<sup>85</sup> Johnson, *River of Dark Dreams*, 168.

<sup>86</sup> Sarah Jane Cervanak, *Wandering: Philosophical Performances of Racial and Sexual Freedom* (Durham, NC: Duke University Press, 2014), 66–67.

<sup>87</sup> Mary Frances Berry, “‘Reckless Eyeballing’: The Matt Ingram Case and the Denial of African American Sexual Freedom,” *Journal of African American History* 93, no. 2 (2008), 227–30.

<sup>88</sup> *State v. Ingram*, 74 S.E.2d 532 (N.C. 1953). Cited in *ibid.*, 232.

inside institutions and as part of law enforcement. To cite just one example, in a 2013 case in Florida, a man’s conviction was upheld on appeal in part because a female corrections officer testified that he had performed reckless eyeballing against her.<sup>89</sup> Remember Freddie Gray in Baltimore. His only offense was that he met the look of a police officer in the eye, leading to an assumption of guilt for which he ended up dead. He appeared always already marked in the space where police believed themselves to be sovereign. To meet the police’s gaze was *lèse-majesté* in the language of sovereignty but, as bell hooks named it, simply “uppity” in language of racialized encounters.<sup>90</sup> All the trials of the police officers involved in the death of Freddie Gray resulted in acquittals, with subsequent charges being dropped, as if no one but Gray could be responsible for his death

Notably, Black Lives Matter protesters have described the experience of the movement as a coming-to-meet the police gaze. In Ferguson, Missouri, Johnetta Elie, who tweeted as @Netaaaaaaa and became a key voice in the movement, described how: “I decided to dare the police to look at the faces of the babies and children their dogs were so ready to chase down. As more people began to look directly at the police and yell their grievances, the more aggravated they became.”<sup>91</sup> As can be seen in official scene of the crime photographs, St. Louis police used police dogs within hours of Michael Brown’s death to deter protesters, so Elie was not speaking in metaphor. That looking back at the police was directly

<sup>89</sup> Keith Lamont Peters, Appellant, v. State of Florida, Appellee, no. 4D11-607.

<sup>90</sup> bell hooks, *Black Looks: Race and Representation* (1992; Abingdon: Routledge, 2015), 168.

<sup>91</sup> Johnetta Elzie, quoted in Keeanga-Yamahtta Taylor, *From #BlackLivesMatter to Black Liberation* (Chicago: Haymarket Books, 2016), 156.

recorded when in November 2015, photographer John J. Kim took a picture of then-sixteen year-old protester Lamon Reccord confronting a police sergeant in Chicago. Each stares at the other, directly in the eye. Reccord stands fully committed to his right to engage the police as public servants. Despite his age, Reccord is claiming full citizenship, something that the equally engaged return look of the police seeks to deny him. That police officer is African American, just as three of the six police responsible for the death of Freddie Gray happened to be. For Keeanga Yamahtta Taylor, the moment challenges what she calls “the new Black political elite” in the era of Obama.<sup>92</sup> The point is that systemic racism operates above and beyond the imputed—but not actual—race of each individual within it in order to situate the place from which it is possible to look. Persistent looking has rendered that system visible in and of itself.

This possibility was enabled because the spaces of appearance created by protests and vigils are newly visible, or more exactly networked, via cell-phone video, Facebook, Instagram, Snapchat, Twitter, and Vine in a set of interactive and intersensory relays, which create a copresence between physical and digital spaces. The “space” in which we might want to appear has at least two modalities in a common temporality. In this sense, the long-standing sociological concept of copresence, meaning face-to-face interaction, has been updated for the digital era.<sup>93</sup> Such digital copresence has been defined as “the diverse ways in which people maintain a

sense of ‘being there’ for each other across distance.”<sup>94</sup> There are now multiple spaces in which we can appear, while also maintaining a sense of presence. The report *Beyond the Hashtag* showed that #BlackLivesMatter focused on disseminating news.<sup>95</sup> As a formal movement, #BlackLivesMatter began online, when people located each other using the hashtag. Then it became interactive between online information sharing and physical actions in the streets. Activist Deray McKesson described what followed: “In those early days, we were united by #Ferguson on Twitter... And once the protests began to spread, we became aware of something compelling and concise, something that provided common language to describe the protests: the hashtag #BlackLivesMatter ... Many of us became friends digitally, first. And then we, the protesters, met in person.”<sup>96</sup> This possibility was an articulation of the way in which Twitter, in the words of communications scholar André Brock, enables “a discursive, public performance of Black identity.”<sup>97</sup> In this sense, engaging in protest was in part the outcome of participating in Black Twitter.<sup>98</sup>

The use of the hashtags as horizontal identifiers

<sup>94</sup> Loretta Baldassar, Mihaela Nedelcu, Laura Merla, and Raelene Wilding, “ICT-Based Co-Presence in Transnational Families and Communities: Challenging the Premise of Face-to-Face Proximity in Sustaining Relationships,” *Global Networks* 16, no. 2 (April 2016): 134.

<sup>95</sup> Deen Freelon, Charlton D. McIlwain, and Meredith D. Clark, *Beyond the Hashtags: #Ferguson, #Blacklivesmatter and the Online Struggle for Offline Justice* (Washington, DC: American University, 2016), 15–17.

<sup>96</sup> Deray McKesson, “Ferguson and beyond,” *Guardian*, August 9, 2015, <https://www.theguardian.com/commentisfree/2015/aug/09/ferguson-civil-rights-movement-deray-mckesson-protest>.

<sup>97</sup> André Brock, “From the Blackhand Side: Twitter as a Cultural Conversation,” *Journal of Broadcasting & Electronic Media* 56, no. 4 (2012): 537.

<sup>98</sup> Freelon, et al., *Beyond the Hashtags*, 35.

<sup>92</sup> Taylor, *From #BlackLivesMatter to Black Liberation*, 77.

<sup>93</sup> Shanyang Zhao, “Toward a Taxonomy of Copresence,” *Presence* 12, no. 5 (October 2003): 445–55.



3.04

enabled people to find each other and to begin physical encounters and actions. This copresence made it possible to form a space of appearance, which can engender others, sometimes with surprising speed and reach. It is what Negar Mottahedeh has called “collective sensorial solidarity online,”<sup>99</sup> which is not utopian but site-specific, as in #Ferguson, which was used an astonishing 21.6 million times from June 2014 to May 2015.<sup>100</sup> The limited place of interaction becomes an open space of appearance. Because it makes common a way to be in the future, outside the enclosure, it is always becoming, always in formation, while being site-specific.

The space of appearance where Black Lives Matter in the Americas from the killings of Eric Garner and Michael Brown in the summer of 2014 to the inauguration of Donald Trump was that place where the Black person

<sup>99</sup> Negar Mottahedeh, *#Iranelection: Hashtag Solidarity and the Transformation of Online Life* (Stanford, CA: Stanford Briefs, 2015), 16.

<sup>100</sup> Freelon, et al., *Beyond the Hashtags*, 21.

and those in revolutionary affiliation with Black people might see each other and invent each other, in a dialogic imagination that forms a right to appear. The freedom of appearance is a practice, whereby people make themselves visible to each other. A striking example of how this practice operates has been the relationship between Palestine and Black Lives Matter. As soon as active resistance began in Ferguson, Palestinians sent not only messages of support but practical advice on how to deal with tear gas and the other tools of counterinsurgency developed and tested on Palestinians that were being deployed in Missouri. A widely circulated photograph showed a young Palestinian girl carrying a sign that reads: “Ferguson with love from Palestine.” She looks directly at the camera, conveying the one-on-one message with a sweet smile. Black Lives Matter activists got the message and organized a research trip to Palestine in November 2014. In October 2015, a video called “When I See Them, I See Us” was posted to YouTube, featuring over sixty African American and Palestinian artists and activists. It was a direct expression of the idea that a space of appearance allows those present to see and experience each other: “Black-Palestinian solidarity is neither a guarantee nor a requirement—it is a choice. We choose to build with one another in a shoulder to shoulder struggle against state-sanctioned violence.” Such solidarity is by no means new, as the work of activist scholars like Angela Y. Davis and Robin D. G. Kelley attests. But that solidarity is taking new form—solidarity as a mutual seeing, enabled by social media, which creates a transnational space of appearance that might in turn form a different kind of politics.

In the peculiar conditions enforced by the US color line, the person designated white appears in order to



3.05

listen to what the other designated Black might have to say, otherwise hierarchy will reassert itself. The construction of this common sensation of blackness has been persistently produced when bodies deemed Black position themselves in spaces deemed white. To highlight one action among many: on Martin Luther King Day 2016, protesters in San Francisco shut down the Oakland Bridge by chaining themselves together through a line of vehicles. There was no call for legislation. There was relatively little national media coverage. It was not, in short, an action claiming recognition. By contrast, a mass demonstration makes a demand of state authority. But since the mass antiwar demonstrations of 2003 were dismissed by President George W. Bush as a “focus group,” such demands have been largely ignored in the United States. On the Oakland Bridge, there was a reversal, whereby those whose negotiation of space is usually unhindered and under benevolent supervision



3.06

found themselves instead inconvenienced by having to experience people, both Black and white, refusing and blocking traffic to make the disruptive claim that Black lives matter appear. The protesters’ chains forced the police into a visible reversal, whereby the police had to cut the shackles of Black people. The experience of a space of appearance is thereby uneven, depending on how and why you have entered it. While mediated co-presence makes these spaces persist and resonate, they cannot be sustained or developed online. Such unheralded actions became visible to millions when Black Lives Matter activists chained themselves together at one of the entrances to the inauguration of Donald Trump on January 21, 2017. This was one of several such direct actions, joining blockades by feminists, climate justice activists, and Standing Rock activists. Each action had a slightly different character, reflecting those participating. Black Lives Matter made a strong visual impact by using

chains in an unmistakable evocation of slavery, trying to limit access of white people to celebrate the accession of an avowed racist to live in the White House, built as it was by enslaved labor.

### Hands Up, Don't Shoot

The Black Lives Matter movement has mobilized political bodies from vulnerable bodies in order to sustain spaces in which its claim can appear. Ruth Wilson Gilmore has defined racism as the “production and exploitation of group-differentiated vulnerability to premature death.”<sup>101</sup> The two signature gestures of the post-Ferguson movement were “Hands Up, Don't Shoot” and the appropriation of the older tactic of the mass die-in. By appropriative reversal of vulnerability, these embodied performances reclaim the right to existence. This vulnerable moment creates a dynamic whereby those following or watching feel actively engaged, whether online or locally. It calls to the witness in the space and to the watcher online to become engaged first through bodily mimesis, and then by making their body political. Political bodies oppose themselves by these repetitions to the representation of the state by the police.

“Hands Up, Don't Shoot” transformed the existing vernacular of Black protest into a signature movement. In 2013, Los Angeles residents began wearing T-shirts that read, “Don't Shoot Me, I'm Not Chris Dorner,” referring to the shootings of three civilians by the LAPD during the

<sup>101</sup> Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley: University of California Press, 2006), 28.



3.07

pursuit of Dorner, a former police officer.<sup>102</sup> A year later, in February 2014, *Washington Post* columnist Eugene Robinson wrote a widely circulated op-ed piece under the headline, “I'm black, don't shoot me” in response to the shooting of Jordan Davis by Michael Dunn, because the latter found Davis's music to be too loud. At Eric Garner's funeral on July 23, 2014, mourners wore T-shirts reading “Don't Shoot Me, I'm Black,” although Garner was not shot but strangled by police.<sup>103</sup> The events in Ferguson transformed this set of associations into a new form of embodied protest. Although “Hands Up” flowed from what was believed to have happened, it was not a simple re-creation of the scene of the murder. Many people later testified that Brown's hands were up at the time he was shot, beginning with his best friend who was on the

<sup>102</sup> “L.A. Residents Plead with LAPD on Signs, Shirts: ‘Don't Shoot, I'm Not Chris Dorner,’” <http://newsone.com/2204122/dorner-signs/>.

<sup>103</sup> “Eric Garner's Funeral Draws Police and Protesters,” photographs by Caleb Ferguson, *Village Voice*, July 24, 2014, <http://www.villagevoice.com/slideshow/eric-garners-funeral-draws-police-and-protesters-6314853/5>.

scene immediately.<sup>104</sup> Piaget Crenshaw, a local resident and witness, told Fox 2 News that he had been shot with his hands up.<sup>105</sup> Local people clearly believed Brown raised his hands, or attempted to surrender, a process complicated by the fact his right arm was broken by a bullet before he turned around.

The gesture of raised hands also imitated those made at the scene, such as those of a white contractor, caught on a cell-phone video.<sup>106</sup> He stood with his hands raised in a gesture that clearly asks: “why did you shoot, his hands were up?” It expresses confusion as well as questioning. Police testified that twenty or thirty people were outside immediately after Brown was killed, a crowd that quickly swelled to seventy or eighty. Feeling that the crowd was “very agitated,”<sup>107</sup> although media footage shows people mostly standing quietly behind crime scene tape, local police dispatched Darren Wilson from the scene and called in police dogs, apparently indifferent to the parallel with civil rights history. In May 1963, police dogs were set on protesters in Birmingham, Alabama, in scenes that were said to convince John F. Kennedy to pursue what became the Civil Rights Act of 1964. It was not until 2:30 pm that the police allowed the medical examiner to begin his or her investigation, and dogs can be seen in the background of some of the photographs taken as evidence. Heavily armed police in

<sup>104</sup> State of Missouri v. Darren Wilson Transcript of Grand Jury, XXIV vols. (St Louis, MO: GorePerry Reporting and Video, 2014), vol. XIII: 159.

<sup>105</sup> Betsey Bruce, “Teenager Shot, Killed in Ferguson Apartment Complex,” August 9, 2014, <http://fox2now.com/2014/08/09/man-shot-killed-in-ferguson-apartment-complex/>.

<sup>106</sup> For a full account of the events at the scene, see Mirzoeff, “The Murder of Michael Brown: Reading the Grand Jury Transcript,” *Social Text* 126 (Spring 2016): 46–71.

<sup>107</sup> Missouri v. Darren Wilson, vol. V: 44



3.08



3.09

bulletproof vests, carrying M-16 rifles, arrived at the scene although the police chief told local Fox 2 TV news that activists had helped him with the crowd. That evening, protesters at the scene came together to hold a vigil at the request of Michael Brown's mother Lesley McFadden. The *St. Louis Post-Dispatch* reported that "residents held up their hands, saying, 'Don't shoot me!' as police officers with barking dogs tried to keep order," depicted in a Vine, posted by a local alderman Antonio French.<sup>108</sup> The action was formed from a montage of the isolated and vulnerable body of Michael Brown and the crowd's resistance into a common identification—for they knew that any one of them could have been killed as Brown had been.

By the following afternoon, social media at the Canfield Green housing shows local residents alternating chants of "Black and Proud" with "Don't Shoot," attributed by then to Michael Brown, while holding their hands up.<sup>109</sup> Soon afterward, intersections in Ferguson were being blocked by protesters with chants of "Shut It Down."<sup>110</sup> The first photograph that brings the two parts of the phrase "hands up" and "don't shoot" together was taken on August 11 in front of Ferguson Police Department by Michael B. Thomas.<sup>111</sup> It shows a group of protesters standing with their arms in the air and one man holding a sign that reads "Please do not shoot me, my hands are up. RIP Mike Brown." By the next day, the sentence had been condensed to "Hands Up, Don't Shoot" and was

<sup>108</sup> Vine by Antonio French, August 10, 2014, <https://vine.co/v/MVTjzm2Ditx>.

<sup>109</sup> Vine by Antonio French, August 10, 2014, <https://vine.co/v/MVQje76ul0d>.

<sup>110</sup> Vine by Antonio French, <https://vine.co/v/MVEjLJdplx3>, <https://vine.co/v/MVEjLJdplx3>.

<sup>111</sup> Lauren Williams, "Hands Up, Don't Shoot: The images that Define Ferguson's Protests," August 13, 2014, <http://www.vox.com/2014/8/13/5998591/hands-up-dont-shoot-photos-ferguson-michael-brown>.



3:10

being printed on signs, as seen in Scott Olson's press photographs from Ferguson.

These words were combined with the action of raising hands as a call-and-response marching action: "Hands up?" "Don't Shoot!" It calls to people to join in, to become part of the action. The phrase spread quickly across the country and has been used in countless actions. I have never experienced a more effective and affective embodied political protest. When I first saw it in New York on August 20, 2014, people rushed out of buildings to share the gesture or join the march. "Hands Up, Don't Shoot" makes visible what happened even though it was perpetrated too quickly to be documented by cameras. The event was portrayed as an O.K. Corral

conflict between Michael Brown and Darren Wilson. In fact, it took place in a busy apartment complex of eighteen buildings, each with twenty-three apartments, of which 324 were occupied as of August 9, 2014. Cars were blocked on the road by Wilson's SUV, and dozens heard or saw some part of the events. The grand jury hearings were conducted so as to cast every possible suspicion on those eyewitnesses to deny probable cause to indict. Probable cause is a lower standard than that enshrined in the phrase "beyond a reasonable doubt" that would have pertained at a trial. Before and after the grand jury hearings (see Chapter Three), the question of justice invoked by protesters turns these legal concepts around and reveals the failings of the criminal justice system.

At the same time, "Hands Up" is a command to the police that says "when people have their hands up, don't shoot." In itself, this would be—or should be—an unremarkable statement. But it follows: "our hands are up, you don't dare to shoot." By not only displaying vulnerability but admitting to it and doing so in numbers, the performance gains a paradoxical strength. "Hands Up" was not in this sense addressed to the police at all but to the protesters, naming political bodies that can be wounded, even die, but who do not submit and are open to others. The feminist implication of this vulnerability as strength became clear when women formed the #SayHerName project. Because the conventional space of representation is normatively masculine, there was an unequal response at first to the deaths of African American women at the hands of the police. Protesters took the appearance of the sexualized female body and rendered it political. Naked to the waist in articulated affiliation with West African traditions, Black women blocked traffic in San Francisco on May 21, 2015, with their bodies



3.11

to force the connection between their visibility and the forgotten names of women killed by police: Rekia Boyd, Sandra Bland, Keyla Moore, Shelley Frey, Joyce Curren, and so many more.<sup>112</sup>

"Hands Up, Don't Shoot" pauses the action at the crucial moment, when any "reasonable person" (to use the legal phrase) would have ceased firing at a wounded, surrendering child. It concentrates our attention on the vital moment (in the sense of living as well as essential) *before* the definitive violence. Those witnessing the action feel in that repeated present their choices for the future. The action prevents the media from its usual call for closure, healing, and moving on. Protesters choose to remain in that moment that is not singular, but has already been repeated. For Michael Brown, there was no choice. But when protesters reenact, they are making choices. It has been said that "Hands Up" is a passive, even weak form.

<sup>112</sup> Sarah Lazare, "Say Her Name: In Expression of Vulnerability and Power, Black Women Stage Direct Action With Chests Bared," *Common Dreams*, May 22, 2015, <http://www.commondreams.org/news/2015/05/22/say-her-name-expression-vulnerability-and-power-black-women-stage-direct-action>.

I have not experienced it that way. “Hands Up” creates a sympathetic reaction, first in the performing body, and then in others watching. It is about the refusal to be afraid, the refusal to stay in the place allocated to us, and the refusal to accede to their order. Roman gladiators addressed the Emperor: “Those who are about to die salute you.” Those performing “Hands Up,” as if about to die, do not salute the sovereign power of the police, and do not accept their right to kill. They refuse for those people who have died to die again, and prohibit any future shots. “Hands Up, Don’t Shoot” is the first product of the interaction of the Snapchat/selfie generation with direct action in the streets because it created a new self-image of the protester.<sup>113</sup> It is not a simple reenactment. It is a protest at the killing of an unarmed child and all the other operations of the prison industrial complex by those who in fact have most to fear from it: people placing themselves in situations that can be deemed noncompliant, allowing the police to claim the right to shoot. At Michael Brown’s funeral, a room full of people stood and raised their hands. Heartbreaking. But not weak. That action combines reenactment, remembrance, and resistance to form a rupture with the form of order in which the police speak but those they rule make noises. “Hands Up” is defiant. It defies the shots that will have in fact already happened and defies the social order in which those shots will not be registered as murderous. The action claims the space that is usually that of circulation and commerce to create a space of appearance, in which to confront the state with its own violence.

<sup>113</sup> On the selfie, see Nicholas Mirzoeff, *How to See the World: An Introduction to Images from Selfies to Self-Portraits, Maps to Movies and More* (New York: Basic Books, 2016), 29–69.

## Die-ins and Turning of Backs

In medieval theories of sovereignty, the King never dies because he has two bodies. One is the human body of the king that can be hurt, but the idea of the King is eternal. Modern political bodies in the space of appearance are not eternal like the body of the King. But they have suspended death in the die-in. This counter-body politic is dying but not dead. Because death is a sanction applied by the carceral state and white supremacy for noncompliance, the new civil rights movement, like many before it from feminism to ACT UP and the environmental movement, has reclaimed it as means to disrupt commercial space and divert it into becoming a temporary commons. Greenham Common women performed die-ins in protest against cruise missiles stationed at the US Air Force base in Britain, while ACT UP activists staged a now-legendary die-in on Wall Street in 1987 to protest the lack of AIDS treatments available. In recent protests, participants took over spaces of circulation and consumption. In November 2014, one of the first mass die-ins in New York took over Grand Central Station during the evening rush hour, causing a dramatic response online. Protests continued every week in Grand Central for over a year. Online activism generated solidarity actions worldwide, such as a British “I Can’t Breathe” die-in at the Australian-owned Westfield Mall in London. Rather than restage one death at a time, there have been mass die-ins, making it clear that all who might fail to comply are potential targets. When counter-body politics die-in, what Marc Augé has called the “non-places” of shopping malls and transport hubs become visible as the spatial component of the policed society—the only public spaces we are supposed



3.12

to inhabit.<sup>114</sup> Performed death surrenders to the dominant viewpoint from above, making each person vulnerable, but creates a sense of freedom as you rest your body with others in spaces where you never normally are at rest. You experience solidarity as the collective body dying-in. You may close your eyes, listen to the silence, broken only by counting that does not enumerate value but re-performs the eleven statements: “I Can’t Breathe,” the last words of Eric Garner, the body of the commons dying and yet refusing to depart. In dying but not transitioning into

<sup>114</sup> Marc Augé, *Non-Places: An Introduction to Supermodernity*, trans. John Howe (New York: Verso, 1995).

death, the die-in prevents the circulation of commodities. There is within these movements what performance studies scholar Diana Taylor would call a repertoire, not an archive.<sup>115</sup> From such repertoires, it becomes possible to create a space of appearance outside norms. The political body in movement opens the way to overwrite spaces of owned and militarized appearance in order to constitute a different ground for politics.

Each police killing resulted from the intense enforcement of policing that has become the visible presence of the carceral state in everyday life. Black Lives Matter challenged that priority and suspended it between the announcement of the grand jury verdict in the case of Darren Wilson on November 24, 2014, and the killing of two NYPD officers on December 20, 2014. Its effectiveness was recognized by its primary targets, the police, in the sincerest form of flattery: imitation. On the first night of public demonstrations in Ferguson, in August 2014, Black protesters turned their backs on the militarized police arrayed in front of them.<sup>116</sup> They were at once showing disrespect for their power and refusing to engage with the line of battle being presented. The tactic has its roots in the formation of the body politic—it was an offense to turn your back on the King at the court of Louis XIV and other absolutist monarchs. French soldiers turned their backs on Col. Alfred Dreyfus, falsely convicted as a spy, as a sign of his dishonor at his second trial in Rennes in 1896. Dreyfus later said that these rituals of dishonor were far harder for him to endure than the penal colony on Devil’s Island. In a doubled historical

<sup>115</sup> Diana Taylor, *The Archive and the Repertoire: Performing Cultural Memory in the Americas* (Durham, NC: Duke University Press, 2003), 20–23.

<sup>116</sup> Twitter photograph by @s\_roach, August 10, 2014, [https://twitter.com/S\\_Roach/status/498694653852397569/photo/1](https://twitter.com/S_Roach/status/498694653852397569/photo/1).

and contemporary moment, on December 27, 2014, the NYPD and its allies turned their backs on New York City Mayor Bill De Blasio as he spoke at the funerals of first Officer Rafael Ramos and later Officer Wenjian Liu.<sup>117</sup> The two police officers had been killed on December 20 in Brooklyn by a Baltimore man named Ismaaiyl Brinsley, who had traveled to New York after assaulting his girlfriend, apparently motivated to kill by the spate of police killings of Black men. Later that day, police turned their backs on De Blasio at the hospital where the dead had been taken. This performance was repeated at the funerals and at a subsequent speech to the police academy where, like Dreyfus, De Blasio was called a “traitor.” This dissent, like that of the soldiers in France, asserted that the real locus of power was with the police in and of themselves, not in any representative capacity. It reopened a field of seeing in which absolute power was asserted, in the effort to shut down the space of appearance and restore the ubiquitous authority of the police. Their gesture relocated the body politic within the carceral state, making it inaccessible to elected officials, and restated its physical form as the mournable bodies of the police.

On the same day as Rafael Ramos’ funeral, protesters marched from the Louis H. Pink Houses in Brooklyn to Police Precinct 75. An African American man named Akai Gurley had lived at the Pink Houses and was shot to death by Officer Peter Liang on November 20, 2014. Police carried out so-called “vertical patrols” in housing projects, going up and down buildings, as part of their “zero tolerance” policing strategy. In circumstances that were never fully explained, Liang fired his weapon

in a dark stairwell, killing Gurley whom he had not even seen. On December 27, 2014, speaker at a rally at the Pink Houses described how the New York City housing authority rarely maintained the buildings and that lights were often broken. Arguably, Gurley died for want of a light bulb. Trash collection and other amenities were said to be infrequent. For all that, the hyperbolic description by police union leader Patrick Lynch of the project as “the most dangerous” projects in New York was obviously nonsense.<sup>118</sup> When the march arrived at Precinct 75, long known as a tough station, where Liang worked, marchers responded by turning their backs on police who were lined up on the roof above. Far from being disturbed by this action, the officers visibly laughed at the crowd. They felt they were now back in control. Although Liang was convicted, his lenient sentence of probation and community service made it clear that police operate according to different rules.

In retrospect, this moment seems to be a key instigator of the combined police and white backlash that fueled the Trump candidacy. The hitherto locally known Sheriff David Clark of Milwaukee, who later spoke at the Republican convention in 2016, was quoted in national media that police were “beginning to wonder if the risks they take to keep communities safe are even worth it anymore.”<sup>119</sup> In order to demonstrate this sentiment, the New York City police then withdrew their labor in a wildcat strike. Neither unions nor employers used that

<sup>118</sup> Ben Feuerherd, Lorena Mongelli, and Sophia Rosenbaum, “Living in Fear at the Dark and Deadly Hellhole Houses,” *New York Post*, November 22, 2014, <https://nypost.com/2014/11/22/tenants-live-in-fear-at-the-notorious-pink-houses/>.

<sup>119</sup> Ta-Nehisi Coates, “Why the NYPD Turned Its Back on the City,” *Atlantic*, January 5, 2015, <https://www.theatlantic.com/politics/archive/2015/01/why-the-nypd-turned-its-back-on-the-city/384196/>.

<sup>117</sup> Amy Davidson, “No One Here Should Be Turning His Back,” December 30, 2014, <http://www.newyorker.com/news/amy-davidson/nypd-turning-back-de-blasio>.

term, presumably so as not to muddy the water of tolerated police protest with highly regulated labor disputes. Far from generating chaos, as must have been expected, the police stoppage accidentally created two very pleasant weeks for everyone in New York. The protest was intended to make visible the reality that the police work at their own pleasure, arrest whomever they deem arrestable, and answer only to themselves. What it actually showed was that modern cities can function without mass surveillance policing.

### Broken Windows and White Supremacy

Despite all the millions spent, police rarely prevent violence. As activist-scholar David Graeber wrote during the police strike:

The police spend very little of their time dealing with violent criminals—indeed, police sociologists report that only about 10% of the average police officer’s time is devoted to criminal matters of any kind. Most of the remaining 90% is spent dealing with infractions of various administrative codes and regulations: all those rules about how and where one can eat, drink, smoke, sell, sit, walk, and drive.<sup>120</sup>

Revelations from Ferguson and elsewhere showed that these administrative codes were operating as a present-day

<sup>120</sup> David Graeber, “Ferguson and the Criminalization of American Life,” *Gawker*, March 19, 2015, <http://gawker.com/ferguson-and-the-criminalization-of-american-life-1692392051>.

Black Code, restricting and controlling the lives of African Americans, especially those in or near poverty levels.

In New York City, the stop-and-frisk policy enforced this state of affairs. It allowed police to stop people if they felt they had cause and to search them. Behind this recent style of policing lies a long history of controlling the movements and gatherings of the enslaved, especially dancing that was often prohibited except during carnival, known as Pinkster in New York.<sup>121</sup> In theory, it was a neutral exercise of police expertise. In practice, it was a means by which the carceral state monitored and exercised control over nonwhite populations. Anyone who has attended a Black Lives Matter protest in New York can attest that police are far more likely to arrest a visibly Black person than anyone else. Judge Shira A. Scheindlin’s judgment on stop-and-frisk, in which she ruled against the NYPD, found that fully 42 percent of the 4.4 million stops recorded between 2004 and 2012 were for “furtive movement.” NYPD officers defined “furtive movement” as “changing direction,” “walking in a certain way,” “moving in and out of a car too quickly,” or even “turning a part of their body away from you.”<sup>122</sup> All of this in New York City, famed for its fast-walking and irritable pedestrians. The very act of movement was criminalized for African American and Latina/o populations, who constituted 52 percent and 31 percent of those stopped respectively, while making up 23 percent and 29 percent of city population respectively. Only 6 percent of the stops resulted in an arrest with a

<sup>121</sup> Simone Browne, *Dark Matters: On the Surveillance of Blackness* (Durham, NC: Duke University Press, 2015), 74–82.

<sup>122</sup> Memoranda and orders filed by U.S. District Court Judge Shira A. Scheindlin in the matter of Floyd v. City of New York on August 12, 2013, 4, 12. See Hill, Marc Lamont, *Nobody: Casualties in America’s War Against the Vulnerable, From Ferguson to Flynt and Beyond*, (New York, NY: Atria Books, 2016), 56–59,

further 6 percent generating a summons, meaning that 88 percent of the stops were unjustified, even on police terms. Few of the charges were serious—open container offenses and the like predominated. Although stop-and-frisk has been withdrawn, the NYPD continues to subject people of color to intense scrutiny, with a current focus on monitoring the subway for fare jumping and other trivial breaches of regulations that has led to the presence of multiple officers armed with M-16 rifles in subway stations. The Trump administration has now proposed returning to more confrontational policing.

The police theory of power is what former NYPD commissioner William Bratton called, in his response to the Eric Garner protests published by the Manhattan Institute, the “aggressive maintenance of order,” meaning an active prevention of disorder that leads (in their view) to the nonoccurrence of crime. The euphemism “broken windows” has been used to name this ordering, loosely based on controversial 1980s psychology research by Philip Zimbardo, claiming that paying close attention to small infractions of the law prevents more serious ones. Less than a year before the Michael Brown murder, Bratton had addressed St. Louis–area law enforcement officials on the virtues of “broken windows.”<sup>123</sup> Based on a 1982 article by social scientists James Wilson and George Kelling, the strategy proposes that to maintain order and prevent chaos the vagrant and the marginalized must be actively controlled. The name came from their argument that allowing “broken windows” to proliferate creates the appearance of disorder and makes an area “vulnerable to criminal invasion.” To prevent this loss of confidence, they urged that those they call “drunks,” “vagrants,” and

“undesirables” should be subject to very close police attention. They admitted that there is the risk of “bigotry” undermining this process.

“Broken windows” in New York targeted a set of bodies and bodily practices, from public drinking and urination, to vagrancy, loitering, prostitution, and drug use. Amid the wave of protests following the grand jury verdicts in the cases concerning Eric Garner and Michael Brown, Bratton and George Kelling (one of the original authors) made a vigorous, belligerent defense of “broken windows” that clarifies its present-day character. They sneered at “ivory-tower” criticism of their idea. They held Eric Garner’s death to be “anomalous” and suggested that their critics were not in New York prior to 2000 so have no idea what it was like, raising the unlikely specter of widespread car radio thefts at that time. In fact, felony arrests peaked in New York City in 1989, according to a 2014 report on which Bratton collaborated, so the youngest adult who experienced the worst of those conditions would now be forty-four.<sup>124</sup> They nonetheless assert that: “Left unchecked, street corners can degenerate into criminogenic environments. The bullies take over. They drink alcohol and take drugs openly, make excessive noise, intimidate and shake down honest citizens, engage in scams and criminal enterprises—and, worst of all, fight with one another, often with firearms... Current crime levels don’t stay down by themselves because of some vaguely defined demographic or economic factor. Crime is actively managed in New York City every day.”<sup>125</sup> What they now call “quality-of-life” arrests, including that of

<sup>124</sup> Preeti Chauhan, et al., *Trends in Misdemeanor Arrests in New York* (New York: John Jay College of Criminal Justice, 2014), 22.

<sup>125</sup> William J. Bratton and George L. Kelling, “Why We Need Broken Windows Policing,” *City Journal* (Winter 2015).

<sup>123</sup> [http://ago.mo.gov/newsreleases/2013/AG\\_four\\_day\\_Crime\\_Summit\\_StLouis\\_third\\_day/](http://ago.mo.gov/newsreleases/2013/AG_four_day_Crime_Summit_StLouis_third_day/)

Eric Garner, are held to be the preventative key to such apparently desirable outcomes as “aggressive order maintenance.” So whereas felony arrests peaked back in 1989, misdemeanor arrests have tripled since then. In an extension of the original thesis, quality-of-life arrests (and stop, question, and frisk tactics) are used to discover people with outstanding warrants. The authors attribute the drop in New York City murders and crime directly to these tactics. Empirical evidence cited includes a whimsical study from the Netherlands where more people stole cash left out visibly from a mailbox with graffiti on it than from a clean one. Unsupported assertions like “order breeds more order” abound. However, even according to Bratton and Kelling, 28 percent of arrests are for traffic and public transport offenses, so nearly a third have nothing to do with the locality. The John Jay report indicates that 15 percent of misdemeanor arrests were for marijuana possession and 14 percent for turnstile jumping in 2013, while property-related arrests had declined to 16 percent of the total. With 38 percent of misdemeanor charges dismissed by magistrates and a further 7 percent not pursued by district attorneys, nearly half of these arrests are groundless.<sup>126</sup>

What remains clear is their differential impact on ethnic groups: “the arrest rate for Whites was 1.2 percent in 2013, compared to an arrest rate of 6.4 percent for Blacks and 4.4 percent for Hispanics.” Over 100,000 Black people were arrested for misdemeanors in 2013.<sup>127</sup> Such “disorderly behavior,” is, asserts Bratton, “highly correlated with both poverty and race.” Bratton thus identifies those punished as “a small portion

of the minority population.” So great is the benefit to all concerned of having these racialized bodies removed, we are told, that other considerations should be secondary. In the aftermath of the killings of Officers Ramos and Liu, Bratton used this thesis in conjunction with the work stoppage to persuade New York City to fund an additional 1300 police officers at a cost of one hundred million dollars, in what is already one of the most intensively policed cities in the world.

Going still further, another writer for the Manhattan Institute, Heather MacDonald, went so far as to claim in May 2015 that Ferguson and the resulting protests against the police had actually produced a crime wave.<sup>128</sup> Offering some carefully selected statistics that criminal justice experts say were misleading,<sup>129</sup> MacDonald flatly asserted: “The most plausible explanation of the current surge in lawlessness is the intense agitation against American police departments over the past nine months.” In fact, New York City crime rates continued to fall in 2015, although there was a slight increase in the homicide rate. In 2016, that direction reversed and both shootings and homicides were at record low levels.<sup>130</sup> What became known as the “Ferguson effect” continued to be asserted in right-wing media, meaning that police claim not to be able to do their jobs if subject to being videoed or

<sup>128</sup> Heather MacDonald, “The New Nationwide Crime Wave,” May 29, 2015, <http://www.wsj.com/articles/the-new-nationwide-crime-wave-1432938425>.

<sup>129</sup> Brentin Mock, “Busting the Myth of ‘The Ferguson Effect,’” June 17, 2015, <http://www.citylab.com/crime/2015/06/busting-the-myth-of-the-ferguson-effect/396068/>.

<sup>130</sup> Ashley Southall, “Shootings in New York Fall to Lowest Number Since the ‘90s,” *New York Times*, January 4, 2017, <http://www.nytimes.com/2017/01/04/nyregion/new-york-shootings-decline.html?&moduleDetail=section-news-1&action=click&contentCollection=N.Y.%20%2F%20Region&region=Footer&module=MoreInSection&version=WhatsNext&contentID=WhatsNext&pgtype=article>.

<sup>126</sup> See Chauhan, et al, *Trends in Misdemeanor Arrests*, 25, 45, 56.

<sup>127</sup> *Ibid.*, 36, 42.



3.13

photographed. It should be noted here that when Black lives do matter, the social space of appearance has changed, meaning that police do not control how events are viewed. When five police were shot in Dallas during a Black Lives Matter protest on July 7, 2016, many of these negative predictions and assumptions appeared to many (white people) to be vindicated. The most notable “Ferguson effect” of all was the election of Donald Trump as part of what Van Jones termed the “whitelash” against Black Lives Matter.

### Machine Repertoires

There are repertoires of protest and those of police action. There is also the new range of machine-generated

visual materials recording the repeated police killings that we might call the machine repertoire of persistent looking. These are the videos from dash-cams, body cameras, CCTV, and other forms of surveillance of and by the police. Politicians and some activist groups like Campaign Zero have proposed these devices as a solution for the problem of police violence. From the cases of Eric Garner to Sandra Bland, Alton Sterling and Tamir Rice (among many others), it is clear that the existence of such materials does not lead to indictments, let alone convictions, despite the apparent neutrality of the recording machines. Like any other device, these machines can be manipulated. The International Association of Police Chiefs reported on in-car cameras in 2006, concluding “If the officers believe that the cameras are being installed strictly for the purpose of disciplinary actions, the agency’s program will be plagued with broken equipment and little support from the rank and file.”<sup>131</sup> That is exactly what has happened: for example, both officers involved in the death of Alton Sterling on July 5, 2016, had body cameras that somehow became “dislodged.”

How can we (not) look at these images and the seemingly endless stream of videos of police killings in another way? For many people, looking over and over again at broken Black and brown bodies has become intolerable, especially after the concurrent deaths of Alton Sterling and Philando Castile.<sup>132</sup> Such sentiment has been building for some time. For example, Michael Brown’s family objected to a white artist Ti-Rock Moore making a (somewhat inaccurate) life-size re-creation of his dead

<sup>131</sup> “In-Car Cameras,” International Association of Police Chiefs (2006), 67, <http://www.theiacp.org/portals/0/pdfs/incarcamera.pdf>.

<sup>132</sup> Alexandra Juhasz, “How Do I (Not) Look? Live Feed Video and Viral Black Death,” J-Stor Daily, July 20, 2016, <http://daily.jstor.org/how-do-i-not-look/>.



3.14

body for a Chicago exhibition in 2015.<sup>133</sup> Perhaps these machine images can be used instead to show the space of nonappearance, the no one's land where people die. The space of nonappearance is the racialized counterpart to the “nonplaces” of consumer society, designated “white.” Located between private and corporate property, this space of nonappearance has become a featureless killing zone.<sup>134</sup> This zone is an index of state violence without making a spectacle of the deaths that are and have always been the gross product of the settler state. In order to make this zone of nonappearance visible, all one needs to do is crop a still image taken from the video to

<sup>133</sup> See “Michael Brown’s Family Reacts to Art Exhibition on Son’s Death,” CBS News, July 15, 2015, <http://www.cbsnews.com/news/michael-brown-father-chicago-art-exhibit-on-ferguson-teens-death-disgusting/>.

<sup>134</sup> I have in mind here Eugène Atget’s 1913 album of photographs of the Paris underclass and their non-spaces, *Vues et types de la zone militaire de Paris* (Bibliothèque nationale de France).



3.15

exclude the fallen or about-to-be-wounded person.<sup>135</sup> Far from being censorship—the complete images still being widely available—this is a coming-into-visibility of what is otherwise not seen or ignored—the space of nonappearance. Let me give that space a name: America. The name is meant to convey an ideology, not a geography, the militarized white supremacy of the settler colony.

In image 3.13, I have edited the dash-cam video

<sup>135</sup> This simple tactic is derived from many more sophisticated contemporary art projects, such as the collaboration between Claudia Rankine and John Lucas in *Citizen: An American Lyric* (Minneapolis: Graywolf Press, 2014), which removed the victim’s bodies from the infamous lynching photograph taken in Marion, Indian, in 1930.

that shows the fatal police shooting in 2014 of teenager Laquan McDonald in Chicago to exclude his body. There was a yearlong dispute over the release of this video, which clearly demonstrates that Officer Jason Van Dyke shot McDonald when he posed no threat. What is most appalling and heartbreaking about the video is that Laquan was left entirely alone after being shot no fewer than sixteen times, even though he still seems to be alive. It is unbearable. However, in the long dispute over the video's release, his family argued against making it public. They would have known that forty-six of seventy people killed by Chicago Police Department from 2010–14 were Black.<sup>136</sup> Of four hundred police shootings, fatal and nonfatal from 2007–15, the Independent Police Review Authority found only one to be unjustified. And no doubt, like the Ferguson community, they feared reprisals. Note that everything was done by Chicago police to prevent the scene from being recorded. Only one of the five police vehicles at the scene recorded video. All failed to record any sound, which is important for determining the pattern of shots. If the video is edited to exclude the body, what do we now see of the America where Laquan McDonald died? A chain link fence. A billboard announcing to no one whatever real estate development is intended to take over the space. A deserted bus stop. Weeds taking over the sidewalk. The image conveys a terrible loneliness, the awful meaninglessness of the scene. Corporate space dazzles with halogen lighting and video displays. Private houses lurk behind their alarms and CCTV. Between is no one's land, the killing zone. This bleak capturing of United States reality is common to these videos that have

<sup>136</sup> "Chicago Tops in Fatal Police Shootings among Big U.S. Cities," July 26, 2015, <http://chicago.suntimes.com/news/chicago-tops-in-fatal-police-shootings-among-big-u-s-cities/>.



3.16

become the hallmark of its visual culture.

Consider figure 3.14 from the police dash-cam video that shows the scene where Sandra Bland was stopped in Texas on July 13, 2015, for failing to signal a lane change, a stop that was to cost her her life. A country road. Trees. Evening. The space is again featureless. A broad, deserted road with no visible markings. To whom, we might ask, did Bland need to signal her lane change? Utility wires dangle, awaiting the next storm to fall. The hazy white sky of climate-changed Southern summer. It is no one's responsibility to maintain or enhance nonprivate property in the United States and so no one does. No one's land. No one cares. Someone dies. This is the space of nonappearance. In *Waiting for Godot* (whose



3.17

stage directions are evoked here), Lucky, a slave driver, arrives instead of Godot and terrorizes the two tramps Vladimir and Estragon. Today in no one's land, America, the unlucky residents await the arrival of the police at any time whatever, on any day whatever.

The emptiness of these American spaces is formally analogous to the mind-destroying cells of the prison-industrial complex. Figure 3.15 is an edited still from the video showing the Tasering of Philip Coleman, an African American graduate of the University of Chicago, who was incarcerated on December 12, 2012, after suffering

a psychotic episode at his mother's house.<sup>137</sup> Arrested for assault because he spat at police, he was ultimately Tased thirteen times before his arraignment. The incident ended with his death from an adverse reaction to antipsychotic medication. The image shows the cell adjacent to Coleman's, visible in the video and identical to his in every way. The cell is so devoid of features as to defy verbal description. A blue shelf to place the body of the incarcerated. White walls. Bars. You can almost see the claustrophobia, the insufferable boredom, the discomfort, and the smell. These are the spaces in which the United States confines its mentally ill. According to the Treatment Advocacy Center, in 2012 there were an estimated 356,268 inmates with severe mental illness in prisons and jails, ten times the number of such patients in state psychiatric hospitals.<sup>138</sup> There is a further mirroring of abandoned urban spaces and the deserted rural locations where prisons are built, as Gilmore has pointed out: "These forgotten places, and their urban counterparts, can be understood to form one political world, abandoned but hardly defeated."<sup>139</sup> They form the present-day carceral landscape, first formed in slavery, modified under Jim Crow, and rendered into spaces of nonappearance under the present regime of mass incarceration.<sup>140</sup>

<sup>137</sup> Todd Lighty and Steve Mills, "Judge: Using Taser, Dragging Coleman from Lockup Amounts to 'Brute Force,'" *Chicago Tribune*, December 7, 2015, <http://www.chicagotribune.com/news/local/breaking/ct-philip-coleman-judge-ruling-met-20151214-story.html>.

<sup>138</sup> "The Treatment Of Persons with Mental Illness in Prisons and Jails", Treatment Advocacy Center, April 8, 2014, <http://tacreports.org/treatment-behind-bars/executive-summary/226-summary-of-findings>.

<sup>139</sup> Gilmore, *Golden Gulag*, 247.

<sup>140</sup> Johnson, *River of Dark Dreams*, 210.

## Antigone in St. Paul

The machine-generated image stream and the digital copresence of Black Lives Matter actions converged in the self-broadcast by Diamond Reynolds at the scene of the killing of her boyfriend Philando Castile in a suburb of St. Paul, Minnesota on July 6, 2016. The police thought Castile's "wide-set nose" matched that of a robbery suspect, a description that could encompass most African American men. For Mr. Castile, this was the fifty-third and last such stop he had endured in the area for driving while Black. The cop told Mr. Castile to produce his license and registration. In an excess of caution, he responded that he was carrying a weapon, for which he had a permit. When Mr. Castile reached for his wallet to produce his documents, the panicked police officer shot him several times, leading to his death.

At this moment Diamond Reynolds began broadcasting networked video on Facebook Live. Showing astonishing composure, she describes what has just happened in detail, calling the police officer, who visibly continues to point his weapon at her, "Sir." Her face is composed, elegant, perhaps elegiac. The phone camera makes her appear blue, unintentionally evoking the articulation of Black and blue from Miles Davis to David Hammons. Realizing that Castile has passed, she repeatedly asks: "Please don't tell me that he's gone." Reynolds calls on the law not to break its own promise to protect and to serve. She speaks of Castile's compliance with the officer's request and of the breach of procedure—her term. In Sophocles' tragedy, Antigone defies the state by burying her slain rebel brother against a royal prohibition. She puts justice and the sibling bond above process of law, for which she dies a living death

and is buried alive. Reynolds speaks to the law and demands that it not describe what it has done. In that silence, Castile will not yet have died. All the while she is live, streaming via Facebook Live, and alive, but remains under threat of death from the gun.

For minutes, we see a static scene. A suburban road. Wires. Evening. The messy physicality of the network that enables us to see her. It becomes our view because she is being arrested, apparently for the offense of being present. Her camera, lying on the ground as if in a die-in for machines, continues to stream live. Like Antigone, Reynolds' speech act has not prevented the law from its enactment of death. Antigone in St Paul. Who, as Saul, was stopped on the road to Damascus of all places, accused by Jesus of persecution. But he was not frisked and he was not shot. As Paul, he went on to write the one piece of scripture miscited by Trump during the election campaign as Two Corinthians (usually known as Second Corinthians but written 2 Corinthians).

Reynolds was unaccountably held in police custody until 5 am the following day. Just days after the presidential election, as if to keep the case out of the public eye, charges were finally filed against Officer Jeronimo Yanez.<sup>141</sup> He was charged with second-degree manslaughter and two counts of intentional discharge of a dangerous weapon. Conviction could lead to a sentence of ten years, although experience cautions us to expect acquittal or a lesser sentence at best. Reynolds herself continues to live with difficulty in the precarious margins

<sup>141</sup> Christina Capecchi and Mitch Smith, "Officer Who Shot Philando Castile is Charged with Manslaughter," *New York Times*, November 16, 2016, [http://www.nytimes.com/2016/11/17/us/philando-castile-shooting-minnesota.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region&region=top-news&WT.nav=top-news&\\_r=0](http://www.nytimes.com/2016/11/17/us/philando-castile-shooting-minnesota.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region&region=top-news&WT.nav=top-news&_r=0).

of white Minnesota.<sup>142</sup> In this video, she has created a tragic form for our fragmented time. A moment in which Vine, the popular but soon-to-be-discontinued six-second video format created new narratives, and in which its parent company, Twitter, won the presidency via the 140-character character assassination. Her ten-minute film shows unity of time, place, and action. It depicts loss. It is not, however, about the tragic hero. It expresses the fundamental separation and antagonism of white supremacy and opens a space of appearance in order to claim justice. The flaw is not within the characters but something rotten within the state, something that cannot be corrected without changing the very nature of that state: white supremacy.

### Interregnum

In the uneasy interval between the presidential election and the inauguration, two legal decisions reinforced the power of white supremacy to rewrite the interpretation of visual materials and counter any possible space of appearance. In the case of Walter Scott, shot by police in Charleston, South Carolina, on April 4, 2015, a cell-phone video showing a police officer shooting a man who was running away eight times in the back and then

<sup>142</sup> Eli Saslow, "For Diamond Reynolds, Trying to Move Past 10 Tragic Minutes of Video," *Washington Post*, September 10, 2016, [https://www.washingtonpost.com/national/stay-calm-be-patient/2016/09/10/ec4ec3f2-7452-11e6-8149-b8d05321db62\\_story.html](https://www.washingtonpost.com/national/stay-calm-be-patient/2016/09/10/ec4ec3f2-7452-11e6-8149-b8d05321db62_story.html).

planting evidence resulted only in a mistrial.<sup>143</sup> In the case of Keith Lamont Scott, shot to death by police officer Brentley Vinson on September 20, 2016, in a parking lot in Charlotte, North Carolina, while waiting to collect one of his children, no charges were brought. In December 2016, Andrew Murray, the district attorney in Charlotte, released a substantial twenty-two-page document of justification.<sup>144</sup> The central question throughout his account was not the actions of the police but the gun owned by Scott. The video evidence from body cameras and a cell-phone video taken by Rekiya Scott (wife of the deceased) did not show that he had the gun in his hand, or even show his hands at all. It did clearly demonstrate that he never raised his hands in such a way that he might fire that gun, even if he were holding it. Is that sufficient reason, beyond a doubt, for a person to be shot to death? The DA set out to displace that simple question with an array of questionable and marginal evidence.

Following the tactics used in the earlier case of Darren Wilson, Michael Brown's killer,<sup>145</sup> repeated witness statements that Scott was reading a book were discounted by discovering other minor alleged inaccuracies. We are told no book was found. But there was "a purple composition notebook, found wedged between the center console and the front passenger seat." Were

<sup>143</sup> The video can be seen at <https://vimeo.com/124336782>. See Alan Blinder, "Mistrial for South Carolina Officer Who Shot Walter Scott," *New York Times*, December 5, 2016, <http://www.nytimes.com/2016/12/05/us/walter-scott-michael-slager-north-charleston.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region&region=top-news&WT.nav=top-news>.

<sup>144</sup> District Attorney's Office, 26<sup>th</sup> Prosecutorial District of North Carolina, Mecklenburg County, *The Keith Lamont Scott Death Investigation*, November 30, 2016, [http://www.charmeckda.com/news/113016\\_1.pdf](http://www.charmeckda.com/news/113016_1.pdf).

<sup>145</sup> See Mirzoeff, "The Murder of Michael Brown, 49–71.



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witnesses asked what kind of book Scott was reading? Was anything written in the notebook that he might have been reading? These things we are not told. As in the Wilson case, photographs created at the location after the event were used to impeach witness testimony. Police took photographs from the spot at which witnesses said

they were standing and used them to “prove” that it would have been “very difficult, if not impossible” for them to have seen what they claimed to have seen. However, people are not geometric points. We can and do move our heads, lean or stand on tip-toe to see things. If we look at the two photographs supplied by the district attorney, the point seems unproven: the foliage of the trees does get in the way, but does it make it impossible to see people? Notably, the witness in question also said he had “often” seen Scott reading in that spot before.

Compare this version of the necessity of seeing with the dismissal of what was so very clearly seen in the case of Walter Scott. To indict a police officer, it seems from the Charlotte case, an absolutely clear view of a palpable crime is required. That condition was fulfilled in the case of Walter Scott. However, to convict that officer of murder, there was no visual evidence whatever that could convince at least some white people beyond a “reasonable” doubt. Law and reason necessarily interact in procedural as well as epistemological frames. A person must be held capable of understanding the charges against them in order to be tried, and to know the difference between right and wrong to be convicted. Police Officer Michael Slager asserted, like so many police, that he felt “total fear” in his encounter with Walter Scott. That totality, which eclipsed all reason, becomes the enabler of “reasonable” doubt. In this thinking, fear cannot be doubted, fear becomes reason. None of this can be seen. The calm disposition of the officer as he shot, as seen in the video, and the steadiness of his hand before and after the shooting, the calculated way he moved the Taser to give him a case for the shooting: in court, none of this is enough to counter the officer’s verbal expression of fear. The Charlotte DA stated that a cop named “Wiggins is

observed crouching down, appearing to be reaching with one hand and moving something from near Scott to back between Wiggins' feet, and then standing up." This "thing" is said to be Scott's gun. Nothing here indicates that Wiggins might not have removed it from Scott's ankle holster and dropped it, just as Slager moved the Taser in Charleston. Law enforcement have had success taking their cases to a grand jury—as in the cases of Michael Brown, Eric Garner, Tamir Rice, and others—in considerable part because there is no judge to direct the jury or any lawyer to cross-examine witnesses. The only questions come from grand jurors themselves, and even that slight risk was preempted in the Charlotte case by the DA presenting a case as if to a grand jury but not in fact doing so.

### What matters now?

It used to be said of liberty that once seen, you could never go back. I'm not so certain of that now. What has happened is a double negative. For those that did not fully know, but should have known, the span of death and legal process that extends from Eric Garner and Michael Brown to Alton Sterling and Philando Castile (July 2014–December 2016) was the time to learn to unsee the unseeing imposed on the space of appearance by white supremacy. That is to say, the police demand "move on, there's nothing to see here." It has taken the combination of widespread networked citizen-generated visual documentation of police killings and the additional information provided by machine-generated images to counter this demand. Even so, there have (at time of



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writing) been no convictions leading to jail time for police shootings in this period. White supremacy performatively assumes that police tell the truth, absolutely, and that their fear is equally absolute. That is to say, by naming this fear, it becomes the truth. Such absolutism renders any evidence to the contrary invisible, unseen. It makes blackness visible only as what Simone Browne calls "that nonnameable matter that matters the racialized disciplinary society."<sup>146</sup> For Black lives to matter, that matter must be the point of departure for how we see America. It is far from clear whether it will be.

On the weekend after the presidential election, I participated in a Black Lives Matter march in Long Island in a congressional district that had swung strongly for Trump. The march was confronted by Trump supporters, one of whom held a sign reading "Balls Matter." One Trump slogan often reproduced on memorabilia like T-shirts was "Finally, someone with balls." It was condensed here

<sup>146</sup> Simone Browne, *Dark Matters*, 9.

with the counter-slogan “Blue Lives Matter,” used by supporters of police. Or maybe it simply held that white male misogyny was now what mattered.

The slogan rests on the absolute conviction that power is justified and that force is law. The supremacy of white supremacy is, then, what has been so forcibly revealed over these past tumultuous years. The task of what has become known as the resistance is to undo that supremacy by decolonizing the space of appearance.

### **III. The Space of Nonappearance: The Murder of Michael Brown**

The maintenance of white supremacy relies on the continued existence and exploitation of spaces of nonappearance. When opportunities arise to make such spaces fully visible, they should be taken. After the verdict of “no true bill” against then-Officer Darren Wilson for Brown’s shooting on November 23, 2014, St. Louis prosecutor Robert McCulloch released all twenty-four volumes of transcripts of the grand jury hearings in Ferguson, (formally *State of Missouri v. Darren Wilson*)<sup>147</sup> that began on August 23, 2014. In addition, supplementary witness statements, interview transcripts, forensic reports, media clips, and photographs shown to the grand jury were made available.<sup>148</sup> This, then, created an archive with which to explore the space of nonappearance. In these materials, the relations of force inherent in the racial hierarchy<sup>149</sup> of the United States that the police—meaning the entire apparatus of social control—try to prevent the public from seeing became visible but not transparent. This archive can be used to study how the informal structures of racial hierarchy operate. At the time of the shooting, over 60 percent of Ferguson’s population was black, while no city official was African American. Four out of fifty or so police officers in town were African American,

<sup>147</sup> “State of Missouri v. Darren Wilson Transcript of Grand Jury,” XXIV vols. (St Louis, MO: GorePerry Reporting and Video, 2014). Subsequent references by volume and page number in the text.

<sup>148</sup> See “Documents Released in the Ferguson Case,” *New York Times* (as of December 15, 2014), [http://www.nytimes.com/interactive/2014/11/25/us/evidence-released-in-michael-brown-case.html?&hp&action=click&pgtype=Homepage&module=a-lede-package-region&region=top-news&WT.nav=top-news&\\_r=2](http://www.nytimes.com/interactive/2014/11/25/us/evidence-released-in-michael-brown-case.html?&hp&action=click&pgtype=Homepage&module=a-lede-package-region&region=top-news&WT.nav=top-news&_r=2).

<sup>149</sup> See Eduardo Bonilla-Silva, *Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in America* (New York: Rowan and Littlefield, 2003).

a number that has not changed a year later.<sup>150</sup> I have read the grand jury transcript and supplemented that reading with the additional materials supplied to the jury, as a specific form of persistent looking. Understanding a large archive, observing patterns and contradictions, deducing the dominant and resistant narratives within it, and comparing visual images to the verbal narrative are academic skills well suited to this task. At the end of this reading, we can see that the New Jim Crow creates systemic discrimination that has no remedy because the exercise of power and reason has been ceded to the police.

This is an unprecedented set of materials. A grand jury is rarely the subject of so much attention. In nearly all cases, grand juries reliably indict suspects when requested to do so by prosecutors, with the proceedings remaining sealed.<sup>151</sup> Proceedings are not supervised by a judge, and legal advice comes only from the prosecutor, because the process is designed to produce indictments. No defense lawyers are present, so there is no way to object to inappropriate statements or evidence, let alone to cross-examine witnesses. The unusual hearings, always the key location for determining the operations of power, tend to be cases where prosecutors do not in fact want to indict, especially when involving police officers.<sup>152</sup> The

<sup>150</sup> Monica Davey, "A Year Later, Ferguson Sees Change, but Asks If It's Real," *New York Times*, August 6, 2015.

<sup>151</sup> In 2010, only 11 out of 160,000 Federal grand juries did not return an indictment. Jeffrey Fagan and Bernard E. Harcourt, "Fact Sheet: Questions and Answers for Columbia Law School Students about Grand Juries," [http://www.law.columbia.edu/media\\_inquiries/news\\_events/2014/november2014/Facts-on-Ferguson-Grand-Jury](http://www.law.columbia.edu/media_inquiries/news_events/2014/november2014/Facts-on-Ferguson-Grand-Jury).

<sup>152</sup> Reuben Fischer-Baum, "Allegations of Police Misconduct Rarely Results in Charges," *FiveThirtyEight*, November 25, 2014, <http://fivethirtyeight.com/datalab/allegations-of-police-misconduct-rarely-result-in-charges/>.

grand jury in Ferguson, consisting of nine whites and three African Americans, was marked in this way from the beginning. It was conducted by two Ferguson prosecutors, Kathi Alizadeh and Sheila Worley, after a brief introduction from McCulloch. Their claim was that all and every piece of evidence would be shared with the jury, and later the public. Setting aside the adversarial process of US law, in which prosecutors seek to gain indictments and convictions, they claimed only to serve as guides for the grand jury and tried hard to create a "business as usual" feeling with them. McCulloch's smirking manner at the televised verdict announcement was entirely consistent with the conduct of the jury hearing. Prosecutors would leave the room when DVDs were playing, make jokes and comments, point out their own frequent mistakes for laughs, and do everything they could to signal that this was not a serious proceeding because this was the chronicle of an acquittal foretold. Jurors were not sequestered and their comments and questions made it clear that they were fully aware of how the case was being presented in the media and were researching issues on the Internet. Their questions and comments suggest that, as was clearly intended, they quickly formed a presumption of innocence based on such knowledge and their established stereotypes of Ferguson as a "bad" neighborhood. Only toward the very end of the proceedings did some slight doubt creep in.

What many had hoped for when the transcripts were released was to find incriminating evidence against Officer Wilson. While such evidence abounds, the case was framed in such a way by the prosecutors that an indictment was never likely, and a conviction beyond a reasonable doubt would have been all but impossible. As a result, many gave up on the materials but they are



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all the more illuminating for showing us how the appearance of due process is in fact the production of immunity for police as part of a social order where the police produce and supervise a racialized hierarchy. Because of the nontechnical nature of the proceedings, it is entirely reasonable to read these materials as we might any other narrative assemblage of word, image, and object. My reading highlights the techniques by which Wilson's immunity was produced and its subsequent confirmation by the Department of Justice. When the materials were first released, there was still some hope that then-Attorney General Eric Holder would bring civil rights charges against Wilson. Although this hope was disappointed, it is still important to see how the case was made. Prosecutors were supposed to be presenting materials to generate an indictment. Instead, their work from the beginning was intended to have the opposite effect. In order to achieve this result, it was important that they control what a filmmaker would call the *mise-en-scène*,

the very way that jurors would understand the space and time of the event. It was created using extensive crime scene photographs, data from the St. Louis autopsy report, and additional photographs taken at the prosecutor's behest. The effect was to expand space and time, so that what happened seemed like a grand drama, a gunfight at the O.K. Corral, rather than a banal shooting played out over no more than sixty yards in less than a minute.

Prosecutors then located the "truth" of the event in the physical evidence, playing on an audience attuned to *C.S.I.* and other crime dramas in which forensics are infallible, rather than, as I shall show here, a set of data that cannot be used to prove anything one way or the other. In all instances, Darren Wilson's testimony was the standard against which the physical evidence was judged, even when other police testimony contradicted him. If the evidence could support what he had said, then it was true and what he had said was true. By contrast, uncertainty and lies were found in witness testimony, particularly when those witnesses were African American. Careful to avoid the obvious charge of racism, prosecutors allowed a white racist to testify, even though they knew she was lying, in order to be able to take a moral stand against her. This contrast set up the central exculpatory drama, in which the "reasonable" fear for his life attested to by Wilson implicated the unstated "reason" that might have led Brown to attack—his being a young African American man of above average size, who smoked marijuana. Brown's physical size was referred to over and over again, making sure that the long-standing racist stereotype of the violent Black youth had every opportunity to take hold.

These techniques worked to produce the expected

verdict. They combined to discredit the potentially crucial majority witness testimony that Michael Brown had his hands up as he was shot. Prosecutors took this to mean “both hands held high above the head.” Because his right arm was broken and his right hand had been shot, Brown did not meet this standard. Witnesses who glimpsed the three seconds in which Brown did make a gesture of surrender did not fully agree on the posture of his hands. Because witnesses were held to be untrustworthy in the frame of the hearing, it followed that Brown did not raise his hands. This chain of reasoning was so obviously a stretch that it appeared relatively little in the post-publication controversy. However, when the Department of Justice report appeared to endorse the belief that he did not raise his hands, conservative media seized on this detail to cast doubt on the entire Black Lives Matter movement. In this view, the post-Ferguson protests were all criminal activity that has engendered an overall (alleged) rise in crime. In Ferguson itself, eighteen-year-old Tyrone Harris, who was a friend of Michael Brown, was shot in disputed circumstances by police on the anniversary of Brown’s death in 2015.

### Michael Brown

No analysis brings back the person that has been lost: we should begin by remembering Michael Brown, whose presence is elided in the grand jury transcripts. Media reports mostly stressed his six-foot-five-inch height and 289-pound weight, showing the video of him allegedly stealing fifteen dollars’ worth of cigarillos over and over again. Even this detail has now been shown to be questionable.

In a 2017 documentary entitled *Stranger Fruit*, filmmaker Jason Pollock reveals CCTV footage from the day before the shooting. Here Michael Brown is shown trading some marijuana for two boxes of cigarillos. He left them with store clerks, presumably to collect later. Lawyers for the store revealed further footage in which a white store clerk in fact then returned the cigarillos to the shelf.<sup>153</sup> While attempting to exonerate the store, this sequence in fact explains what happened the next day. It is reasonable to surmise that when Michael Brown returned to the store to collect his cigarillos and was denied them, he became angry and took what he felt he was owed. In short, what happened was part of the invisible drug-based economy, in which a young African American man was cheated of his share of the (illegal but ubiquitous) transaction in racially overdetermined fashion.

In the grand jury hearing, Brown was nonetheless depicted as the stereotype of the threatening, criminal Black man. The living Michael Brown was known to locals as the “gentle giant,” and one witness even called him “that baby” (vol. X: 33). His best friend said that he was a “big fun” person (vol. XIII: 110). He usually lived with his grandmother, rather than with one of his parents or stepfather, but had an argument with her and moved into his friend’s sister’s house for a couple of weeks before his death: “he didn’t have nowhere else to go” (vol. XIII: 85). In that time, his grandmother went into the hospital, which is why he was living with his friend on August 9. Michael Brown had also lived with another grandmother in Normandy, where he attended high school. In his friend’s sister’s apartment, four adults and two

<sup>153</sup> Mitch Smith, “New Ferguson Video Adds Wrinkle to Michael Brown Case,” *New York Times*, March 11, 2017. [https://www.nytimes.com/2017/03/11/us/michael-brown-ferguson-police-shooting-video.html?mwrs=Facebook&\\_r=0](https://www.nytimes.com/2017/03/11/us/michael-brown-ferguson-police-shooting-video.html?mwrs=Facebook&_r=0).

children shared the space. He was eighteen years old, having just graduated from a poor-quality local high school and was about to start technical college. He hoped to fix air conditioners, a reasonable aspiration because many people testified that their air conditioning was not working—prosecutors asked if it was on, hoping to establish that the windows were closed so that they could not have heard anything. People mentioned he had been having “teenage” problems but would not say more about them, perhaps referring to his marijuana use. His friend said that the night before he died, “we did a whole lot of talking about God” (vol. XIII: 150) and a white foreman working on a neighboring apartment testified that just before he set out to the store, Michael said to him “The Lord Jesus Christ will help me... through my problems” (vol. XII: 207). This was a teenager with problems, certainly, financial and otherwise, but someone who had given himself a chance of getting past them. Not a violent monster. Many photographs of Michael Brown’s body taken at the scene, at the morgue prior to autopsy, and during autopsy were shown to the grand jury, but have still not been released. However, there are pictures of his body in the street taken by local residents to make up for this deficiency. He appears as a big, chubby boy, recognizably very young, not a hard-bodied football player, as he was described by some witnesses.

Only one official photograph of Michael Brown’s body was released to the public as part of the grand jury documents. It shows him lying in the street, covered by a sheet and surrounded by orange screens. It was the eleventh photograph displayed on the first day of proceedings by the medical investigator. The investigator described how the orange screens around the scene and the sheet over the body were put in place before the



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arrival of the medical investigator to conceal the body from local people, who were outraged and had stormed the scene once already. Two police SUVs were positioned to block onlookers’ view. No attention was focused on the stream of blood flowing away from Michael Brown’s chest, or the way that the sheets were so stained. Very little discussion followed when the crime scene investigator displayed twenty-four photographs of the body at the scene (images 73–97 [not released to the public]. Vol. II: 122ff).

## Space and Time

The first sessions of the hearing, which began on August 20, 2014, eleven days after the shooting, saw a set of illustrated lectures from the crime scene investigators and the forensic pathologist. The set of images (not all of which have been released to the public) gives us a material sense of how the police divide up an event into a set of measurements and objects to create a scenario. The cinematic term is intentional: defining the space and time defines the event. To those reading the transcript alone, it might seem that these are almost random pictures. In fact, they illustrated the narrative supplied in what Alizadeh called State's Exhibit Number 1, as if it were a trial, the "Narrative Report of Investigation" by the St. Louis County Office of the Medical Examiner. In two short paragraphs, this supposedly nonjudgmental document contains the first of Darren Wilson's versions of what happened. The report states that when Wilson pulled up to tell Michael Brown and Dorian Johnson (not named in the report) to get out of the street, the "deceased became belligerent towards Officer WILSON." During a "struggle," Wilson's gun "became unholstered" and the "weapon discharged." Wilson gave chase as Brown ran off and "as the deceased began to run towards him he discharged his service weapon several times."<sup>154</sup> Later Wilson modified many details of this account, but the framework of assault and noncompliance was set. Alizadeh asked a long set of procedural questions before

getting to the events at hand, which would have given jurors time to read the short document.

Photograph after photograph was then placed on a stand in a darkened room, a format that reduces questions. Jurors saw a long display of photographs of the area, Wilson's vehicle, blood splatter, and bullet casings without human subjects, often including a ruler or an identifying placard. Prosecutors used these pictures to form a visual narrative of the killing, creating a dramatic space, literally and metaphorically, devoid of its principal actors but covered with material evidence. High-resolution, wide-angle photographs presented the appearance of clarity and authority, while making the space in which the action played out seem larger than it really was. This technique broke up the short event into an extended series of objects, following the precedent of the Rodney King trial in 1989. The apparently conclusive video of the beating of King by George Holliday was broken into a set of short sequences to tell a very different story in which King's refusal to "comply" drove the events. In the Ferguson case, the long sequence of crime scene photographs, detailing twenty evidence points, constituted what would be considered "reasonable" evidence, privileging the visible and measurable over any words other than those of Wilson himself. The crime scene investigator displayed their sequence of photographs, taken to give an overall sense of the scene, a midrange view, and then a close-up, apparently technical terms, which were not in fact defined. Unlike the revelatory insight often provided by photographs in the TV police dramas that we watch, there is nothing special about these pictures. Instead they turn horror into data: measured, calibrated, and categorized. Prosecutors spent a long time discussing the plastic placards with the investigator, taking the

<sup>154</sup> "Narrative Report of Investigation: Michael Brown 2014-5143," Saint Louis County Health: Office of the Medical Examiner, August 9, 2014, <http://int.nyt.com/newsgraphics/2014/11/24/ferguson-evidence/assets/reports/2014-5143-narrative-report-01.pdf>.



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eyes of the jury away from the blood and bullet casings to the restoration of order.

The visual mapping of the killing that began the hearings returned at the end with prosecutors supplying the jury with a map of the scene, indicating where all the witnesses said they were and a set of 210 photographs of the scene (vol. XXIII: 246-63). These photographs were taken to create panoramic views from three locations: the front left tire of Darren Wilson's SUV, the place where Michael Brown's left foot lay when he died, and (more controversially) the furthest point that Brown was said to have reached (vol. XXIV: 29-75). The third point was inferred by assuming that the most distant place where Michael Brown's blood was found marked the farthest point he had reached. However, it is clear that a person being struck by large caliber bullets at relatively close range might spill blood away from where they are standing. Further, Brown suffered a deep wound to the thumb and palm that medical examiners testified would

have bled profusely. When he turned around (as everyone agrees that he did, whether to surrender or to confront Wilson), blood would no doubt have been scattered. These assumptions were never questioned and, like the entire proceedings, were not subject to cross-examination.

The photographs were displayed to the jury, often in the wrong order, providing a machine-rendered 360-degree panoramic overview of the crime scene. For the purposes of the jury deliberation, the photographs were attached to five easels with removable tape so that they could move them around if they wanted to do so (vol. XXIV: 2; 29). A set of photographs is not directly equivalent to human sight. In one instance, Alizadeh used a straight edge to "prove" to a witness that she or he could not have seen Wilson's vehicle as they claimed (vol. XVII: 133). A person moves and sees in three dimensions, rather than two, and can adjust their position. While it was certainly established that some local witnesses were mistaken or even misrepresenting what they saw, police testimony was equally flawed. To turn witness testimony into geometry is to give those measuring the ultimate authority, a formation media scholar Allen Feldman has called the "actuarial gaze," whose "political character is explicit in its hierarchical distance from everyday life structures, and in its devaluation of everyday experience and immediacy in favor of the prognostics of expert knowledge."<sup>155</sup>

Despite all this extended visual apparatus to define the space, it took "less than a minute," by his own estimate, for Wilson to kill Michael Brown.<sup>156</sup> The timing of the event can be specified quite precisely. Darren Wilson

<sup>155</sup> Allen Feldman, "The Actuarial Gaze", *Cultural Studies* 19, no. 2 (March 2005), 203-26, 206.

<sup>156</sup> "State of Missouri v. Darren Wilson Transcript of Grand Jury." Subsequent references by volume and page number in the text.

put his car sharply into reverse after a real or imagined slight from Michael Brown, who was walking in the road with his friend Dorian Johnson. The car almost hit Brown, causing him to push back at the car door as Wilson tried to open it into his body. A brief tussle at the car window followed, causing Wilson to shoot twice: one of these shots may have fatally wounded Brown. A witness, who was on the spot of the encounter at the car, estimated that it lasted for fifteen seconds. Allow Wilson ten seconds to get out of the car after Michael began running, consistent with his running at most fifty to sixty yards. An audio track was played during the hearings from a Glide video text made by a local person at the time of the shooting (vol. XIX: 263-65), which lasted for eleven seconds, meaning that the entire conflict lasted about thirty-six seconds. It recorded (by accident) the shots after the first two at the car in two bursts, consisting of a single shot followed a second later by five shots; a pause lasting three seconds; and a second set of firing in which one shot was followed by three.<sup>157</sup> The grand jury hearing investigated that minute's worth of action, taking place over sixty yards of narrow roadway, for three months.

### The Death of Michael Brown

The transcripts contain three forensic pathology reports on the body of Michael Brown. The first is by the local St. Louis County medical examiner. The second was carried about by an Air Force pathologist from Dover Air Force Base at the request of the Department of Justice, and the

<sup>157</sup> Police radio transcript, St. Louis Public Radio, <http://apps.stlpublicradio.org/ferguson-project/audio.html>.

third was by Dr. Michael Baden, an eighty-year-old New York specialist and Fox News contributor, commissioned by the Brown family. Put together, it is possible to create an alternative narrative of what happened to that of the police. In less than one minute, Michael Brown suffered six to eight “entrance wounds,” one “tangential” wound, and one “graze” from the Sig Sauer P229.40 weapon carried by Darren Wilson (vol. XX: 109). The St. Louis forensic pathologist displayed fifty-nine photographs of his wounds (not released) prior to removing his clothing and a further fifty-two after its removal (vol. III). His discussion concentrated on the trajectory of the bullets, the precise dimension of the holes in Brown's body, and the resulting damage. The wounds were all to his upper body, mostly on the right-hand side. As soon as they were mentioned by the pathologist, prosecutor Alizadeh jumped in with an absurd diversionary remark: “I'm not a doctor but I play one on TV” (vol. III: 122). And with each major wound other than the one incurred when he was shot through the brain, questions followed as whether a person “could be mobile for a while?” (vol. III: 144, 150, 159). As the answer was “yes,” the prosecutor minimized the devastating impact of the bullets.

One wound to his right hand was said to be marked with soot (although Dr. Baden did not agree) suggesting that it was inflicted at relatively close range (vol. III: 116). Estimates by the pathologists ranged from two to twelve inches. The Department of Justice asserted that “the close-range gunshot wound to Brown's hand establish[es] that Brown's arms or torso were inside the SUV.”<sup>158</sup>

<sup>158</sup> *Department of Justice Report Regarding the Criminal Investigation into the Shooting Death of Michael Brown by Ferguson, Missouri Police Officer Darren Wilson* (Washington, DC: Department of Justice), 7. Dated March 4, 2015. Hereafter cited as DoJ in the text.

The varying distance estimates show that this was an interpretation, not a fact. If Brown's hand was a foot away, it was unlikely to have been inside Wilson's car. If it was as close as two inches, perhaps it was inside the car. It is also possible that Brown stuck his hand out toward the gun in a defensive gesture when he saw Wilson deploy the weapon. The physical evidence alone cannot determine what happened.

Where did that bullet that hit him in the hand then go? Two bullets hit him in the right lung. In one instance, his lung was punctured directly, causing a two-centimeter hole. Both external medical examiners concurred that this was a reentry wound, caused by a bullet traveling downward through the forehead, out of the eye, and into the shoulder. In the other instance, the lung was punctured by his eighth rib, causing a half-centimeter hole (vol. III: 143, 147; Autopsy report). Both wounds would have been fatal absent immediate medical attention, leading to the victim passing out within ten to fifteen seconds, because the accumulating blood in the chest cavity immobilizes the heart and the victim cannot draw breath. The autopsy found four hundred milliliters of blood in his pleural cavity (about two cups) so at least one of the wounds occurred some time before death (Autopsy). Once he had been hit in the chest, Michael Brown was seconds from losing consciousness, and then life. When Dorian Johnson described the scene at the car, he said that the first shot "struck Big Mike in the chest" (vol. IV: 106). He was standing right next to Brown and says he saw blood from the chest area. The Ferguson police sergeant who took Darren Wilson's first statement noted that Wilson also believed that his first shot struck Brown in the stomach (vol. V: 33). As no shot did in fact hit the stomach, this might have been the chest. Wilson later changed his story,



4.04

saying he did not know where Brown was hit. So Brown may have been struck in the chest at the car, from which moment he had seconds to live.

No shots were found in Brown's back, but one was in the back of his upper arm, which suggested to all three external medical examiners that he had been shot from behind. When the St. Louis pathologist mentioned this, prosecutor Alizadeh immediately acted out a variety of scenarios in which a person moving forward could have the back of their arm positioned to the front (vol. III: 99). From a common-sense point of view, either the bullet passed through Brown's arm from behind, or he had his hands raised high enough that he could have been shot from the front and have the bullet pass through the back of the arm. The prosecution denied both possibilities, stretching the bounds of reasonable assertion to the point where if anything could have happened, then it cannot be excluded. Fifteen witnesses said that Wilson fired on Brown from behind, compared to five who said

he did not. In the case of this shot, Dr. Baden supported the majority: “I interpret that as being from behind” (vol. XXIII: 66). The witnesses were wrong only in that just one bullet fired from behind passed through his body in the salvo of five shots, suggesting that Wilson was not a particularly good shot. However, that wound would have been intensely painful as it shattered the bone in his upper arm. Johnson described how: “he [Brown] kind of jerked and that’s when he stopped running. He just kind of stopped and turned around at the officer. And now he’s face-to-face with the officer, but not so close” (vol. IV: 120). The moment that all agreed took place, where Brown stops and turns is perhaps when he realized that he was severely injured. Perhaps too, if he had been struck in the chest, he sensed his wounds were catastrophic, imminently fatal. Many witnesses said something to this effect: “I guess the guy did get his cause he turned around back towards facing the cop, kinda walking back towards him slow, curled up” (vol. VI: 20).

Brown was by now seriously wounded with one arm broken. He turned around, raised the uninjured hand, staggered back the way he had come perhaps a few feet, a maximum of twenty-five. The audio track indicates a pause of three seconds. According to Wilson, Brown resumed his “charge” in that pause. As he lost consciousness or even died, he fell into a second volley of shots. The “step” toward Wilson that Johnson saw (vol. IV: 124) was described by many witnesses as “staggering” (vol. VIII: 119) or even “slow motion” (vol. X: 29), but it became a “charge” in the policeman’s eyes (vol. V: 109). One witness, who happened to be white and did not know the community (vol. VI: 191), also used the term “charge” and was the first witness to testify in person after Wilson (vol. VI: 167). Six witnesses supported this overall, but five

did not. Wilson expected the multiply wounded youth to become entirely still, which is what the police call compliance. When he did not, after a pause of three seconds, a second volley of shots rang out, all of which likely struck him, suggesting by comparison with the first round of shots that Brown was no longer a moving target.

Indeed, by the last three shots Michael Brown was already falling, dead, dying, or unconscious. A bullet passed at a downward angle through his forehead, out of his eye and entered his shoulder, breaking the clavicle and puncturing the right lung again. As Dr. Baden put it: “at the time he was shot his right side of his chin of the jaw was against the collar bone near the midline” (vol. XXIII: 62). It means that his head was resting completely on the shoulder, a very unlikely pose while running or even walking. He must have passed out. Another person, in one of the cars parked on the street “just saw him drop” (vol. VIII: 168). Wilson mistook a dying man for a phantom of his imagination, the demonic black alter-ego of Hulk Hogan that he notoriously evoked in his testimony. A final shot hit Brown in the top of the head—remember that he was six feet, five inches tall, so even if he was bending over in a “charge,” the shot would have been impossible in a conscious posture. Although this was designated the fatal shot, there is no other explanation as to why he was hit there, other than that he had already fallen, a view shared by Dorian Johnson (vol. IV: 125).

By contrast, when first asked if he wanted to go the hospital, Wilson said no. However, after speaking with the attorney provided by the Fraternal Order of Police, he did request to go to the Emergency Room (vol. V: 248). He testified to the grand jury that Brown hit him twice with a “full swing” (vol. V: 213) and felt that “the third could be fatal” (vol. V: 216). In his initial report to St. Louis County

Police, it was claimed that “Brown struck P.O. Darren Wilson in the face several times with a closed fist” *after* the first shots had been fired, when (the right-handed) Brown had already been wounded in the right hand.<sup>159</sup> In figure 4.04 that Wilson himself says best depicts his injuries, it’s very hard to look at his face and see the impact of two or more punches from a person of Brown’s size. Brown’s hands had no bruising, broken blood vessels or cuts that one might expect to be caused by punching. In the photograph that he selected, Wilson is pink all over his face. It was hot, he was in trouble, he was angry. He has circles under his eyes, but he had begun work that day at 6:30 am, so they may have been caused by tiredness. There were no cuts or even broken blood vessels. In the photographs of him taken a few days later, no damage of any kind, even discoloration, can be seen in the twenty pictures. Contusions (such as those caused by a punch) would normally become highly visible in this time. The physician’s assistant who attended Wilson noted that his redness might have been caused by rubbing his face too hard with his hands or by an arm rubbing against his face (vol. XXII: 88, 95). He was prescribed the equivalent of two Aleve in response to his claim to be in pain.

However violent this encounter was, it caused no damage or tears to Wilson’s shirt, which still had his ballpoint in its pocket when examined (vol. VIII, p. 199). Wilson also claimed that while the blows were raining in, he held off Brown with his left hand (who was suddenly not so strong) and calmly reviewed the “force triangle” that would dictate his response. The officer who trained Wilson in the use of the force triangle specified how it

works: “the suspect is who decides what happens.” Even not moving is considered noncompliance (vol. XXII: 34). Wilson had mace but was concerned that it would get in his eyes. He said he had no Taser, although Ferguson Police Department were found to be habitual and excessive users of the device by the Department of Justice. Indeed, 90 percent of cases involving Tasers were against African Americans.<sup>160</sup> Wilson turned in his duty belt as evidence to St. Louis police—where the Taser would have been—and yet it somehow ended up in the trunk of his car until September 12, 2014, when he returned it after the grand jury hearings had begun.<sup>161</sup> In other words, it is not possible to be sure whether he had a Taser that day or not. To return to the scene, Wilson claimed that he could not use his flashlight or baton. So he went for the gun, or, to use his carefully tutored phrasing: “My gun was already being presented as a deadly force option while he was hitting me in the face” (vol. V: 232). Given the time frame, this “review” cannot have lasted for more than a few seconds.

### Truth and Lies

In trying to determine the production of “truth” in these hearings, it is best to first consider how the supposedly decisive physical evidence was deployed. A DNA technical

<sup>160</sup> Department of Justice, *Investigation of the Ferguson Police Department: United States Department of Justice Civil Rights Division*, March 4, 2015, 28.

<sup>161</sup> Alice Speri, “The Strange Case of Darren Wilson’s Mysterious Disappearing Duty Belt,” *Vice*, January 28, 2015, <https://news.vice.com/article/the-strange-case-of-darren-wilsons-mysterious-disappearing-duty-belt>. As Speri notes, I worked with her on this piece.

<sup>159</sup> Saint Louis County Police Department Investigative Report 14-43984, 14, <http://int.nyt.com/newsgraphics/2014/11/24/ferguson-evidence/assets/reports/14-43984-care-main.pdf>.

leader from the St. Louis County Police Department testified that DNA testing of Michael Brown's palm produced an "inconclusive" result, in which Brown's own DNA was mixed with that of another person. It was deemed ninety-eight times more likely that this was Darren Wilson than someone else (XIX: 173). While this may sound conclusive to a layperson, the technician noted that these ratios are drawn against all other possible matches in the human population of six billion, so this is a rather low figure. Other instances in the case were of the order of 2.1 octillion, or thirty-four sextillion times, more likely to be a mix of Brown and Wilson (XIX: 181, 188). Further, no trace of Darren Wilson's DNA could be found on the back of Brown's hands, despite the assertion of a prolonged struggle and repeated punching. The technician suggested that might be because all the blood on Brown's hand was obscuring the trace. Or, as a grand juror asked in response to the technician's agreement, "it could not have been there at all?" (vol. XIX: 196). In short, the DNA was not conclusive as to whether Brown had touched Wilson. However, in the summary of the Department of Justice report, the section most likely to be read by journalists, it is stated that "Wilson's DNA [was] on Brown's palm," cited as "corroborat[ing]" the claim that "Brown... punched and grabbed Wilson" (DoJ: 6). Only later would a careful reader notice that the full Department report reads: "[a] DNA mixture from which Wilson's DNA could not be excluded was found on Michael Brown's left palm" (DoJ: 21). That is a very different way of expressing the issue—from a declarative statement of the presence of Brown's DNA to a legalistic nuance that it could not be excluded. This is not trivial detail: that Brown assaulted him, requiring him to defend himself, is the key to Wilson's defense.

In this context, much emphasis was placed on Brown supposedly grabbing Wilson's gun. DNA evidence was used to support this contention. However, after Wilson fired his first shot, he had Brown's blood on his hands (vol. V: 224). Although this is not specified, it must have been Brown's blood, because Wilson had no cuts observed at the hospital (vol. V: 176). Given that twelve subsequent shots were fired by Wilson with Brown's blood on his hand, we cannot know whether Brown's blood got on to the gun because he was touching it when it was fired, whether it came off Wilson's hand, or indeed whether it spilled from Brown's body on to the gun. The same applies to Brown's sweat, because Wilson himself testified to grabbing Brown's arm and fending off blows with his hands. Despite the claim that he grabbed the gun, Brown's fingerprints were not found on Wilson's duty belt or other equipment (vol. XI: 125). The gun itself was not fingerprinted, only tested for DNA, which was found from his blood (vol. XI: 131). Brown's neck and chest were not tested for DNA to test the claim that Wilson had grabbed him there. In short, none of the physical evidence can be relied upon to confirm Wilson's story, unless you assume a priori that it is true.

Perhaps because of this assumption, the physical evidence was collected sloppily and inappropriately. The St. Louis police did not secure the gun in a normal "take-down" procedure, which involves no fewer than three officers, and should have been photographed (vol. V: 90-91). Incredibly, Wilson drove himself back to Ferguson police station unaccompanied (vol. V: 29). He washed all the blood off his hands, carefully cleaning even his cuticles, because he feared that Brown's blood was a "biohazard" (vol. V: 172). Although he was not questioned on this point, he presumably meant that he expected Brown's blood to

be infected with disease, which the autopsy proved to be false. Wilson then put the gun, not in a plastic evidence envelope, but in a standard manila envelope, which he kept with him and later took to the hospital. Only then was it turned over (vol. III: 31-2). He kept on the trousers that he wore during the crime to and from the hospital, finally surrendering them at the police station only on his second stop there, despite the fact that blood had been seen on them (vol. III: 27-8).

Police testimony was similarly contradictory. A Ferguson police sergeant arrived at the scene on August 9, 2014, to take control. He testified that he found Darren Wilson sitting in his car (vol. V: 25). Later that day, Darren Wilson testified that he did not reenter his vehicle after killing Brown (vol. V: 235). He might have brought Brown's blood into the car then, or otherwise altered things, whether by accident or design. When the same sergeant first testified on tape about the statement Wilson gave him, he did not mention the provocative phrase "you're too much of a pussy to fight me," later attributed to Michael Brown. At the grand jury hearing, he claimed that Wilson had told him that Brown uttered the phrase after the first shot had been fired, when he turned around (vol. V: 34). The sergeant said he had no notes on this and had just remembered it. Wilson himself, however, testified that Brown said, "you're too much of a pussy to fight me" while they were struggling with the gun in the car, after he had warned of his intention to shoot (vol. V: 214), but before a shot was fired. Wilson's word was presumed to be true, even against that of other police officers. Further, he changed his story as to whether he was aware of the earlier incident in which Brown was alleged to have stolen some cigarillos from the local store. All of the characterization of Brown as a criminal or even a "thug" depends

on this alleged petty crime. When Wilson first spoke to the Ferguson police sergeant, "[h]e did not know anything about the stealing call" (vol. V: 52). Questioned about this by prosecutors, the sergeant noted that Wilson had confirmed this (vol. V: 58). However, according to the St. Louis detective, who later that day conducted the preliminary "cursory interview" (also without notes), Wilson now claimed to have heard the "stealing in progress" call, complete with a description of the clothing worn by the suspect—to wit, black shirt, brown shorts (vol. V: 99 and 202). In fact, the call had identified a man wearing a white shirt. By the time Wilson testified to the FBI and later to the grand jury, in remarks that are all but identical, the robbery was the key to the whole incident. Prosecutor Alizadeh dealt with all these issues by suggesting to Wilson: "do you think that if there are additional details that you may not give initially, do you think that's because you're just now remembering them because you are putting so much thought into what happened?" (vol. V: 273). But Wilson's version of events was not questioned in any depth, despite all these glaring contradictions.

For local witnesses, that latitude was never an option. It was suggested that their testimony had come from "people talking about it" (vol. XII: 138). Or they were asked: "you didn't just make this up today?" (vol. XII:146). A grand juror opined to the key eyewitness Dorian Johnson, who spent that fatal morning with Michael Brown, "I think you don't have as much of a good vision as you say" (vol. IV: 110). Eyewitnesses were minutely questioned about the thirty-six seconds in which Wilson pursued Brown: How far did each person go? In what compass direction were they heading? How many shots were fired? In what order? How high were Michael Brown's hands? Unsurprisingly, not every account was consistent with

what was later discovered, but there was a consistent majority across each question against Wilson's account.<sup>162</sup> A second tactic was to impeach witnesses by association with criminal or protest activity. Prosecutor Sheila Whirley drew out a remark from Johnson referring to his police record that had been discussed in the media in order to have him fully detail all his interactions with the police, including incidents where he was not charged (vol. IV: 171–76). As she must have known, that was enough to have his evidence discounted by the jury. Indeed, the Department of Justice later cited his convictions as grounds for discrediting his evidence (DoJ: 47), as well as those of other witnesses. The possibility of “impeaching,” which is to say, discrediting, witnesses due to prior convictions is an under-recognized distortion of the criminal justice system in the era of mass incarceration. Canfield Green is 95 percent African American, with a median income below 27,000 dollars.<sup>163</sup> It is likely then that many residents may have had prior convictions, especially in arrest-happy Ferguson, where the Municipal Court heard 12,018 cases in 2013 in a suburb of 21,000 people.<sup>164</sup> Very late in the hearings, Dr. Baden, the experienced Brown family forensic pathologist, noted that witness canvassing needs to be done in the first forty-eight hours to be effective (vol. XXIII: 94-5). The St. Louis police report shows that the

<sup>162</sup> Laura Santhanam and Vanessa Dennis, “What Do the Newly Released Witness Statements Tell Us about the Michael Brown Shooting?,” *PBS Newshour*, November 25, 2014, <http://www.pbs.org/newshour/updates/newly-released-witness-testimony-tell-us-michael-brown-shooting/>.

<sup>163</sup> Ben Casselman, “The Poorest Corner of Town,” *FiveThirtyEight*, August 19, 2014, <http://fivethirtyeight.com/features/ferguson-missouri/>.

<sup>164</sup> Gwynn Guilford, “These Seven Charts Explain how Ferguson—and Many Other US cities—Wring Revenue from Black People and the Poor,” *Quartz Media*, August 28, 2014, <http://qz.com/257042/these-seven-charts-explain-how-ferguson-and-many-other-us-cities-wring-revenue-from-black-people-and-the-poor/>.

attempted canvas on the day of the shooting was often unsuccessful in contacting residents. Interviews were being conducted as late as October, two months after the events. None of these failings were ever mentioned in the intensive questioning of witnesses.

## Fear and Reason

Criminal cases hinge on the question of reason: Is the issue proved beyond a reasonable doubt? Is the defendant mentally fit to stand trial? Did she or he have a reason to commit the alleged crime? Indictment requires much less certainty, just the assertion of probable cause. The Supreme Court ruled in 2014: “Probable cause, we have often told litigants, is not a high bar: It requires only the ‘kind of “fair probability” on which reasonable and prudent [people,] not legal technicians, act.’”<sup>165</sup> However, prosecutor Alizadeh set out what appeared to be a formidable bar to indict on the last afternoon: “You must find probable cause to believe that Darren Wilson did not act in lawful self-defense, and you must find probable cause to believe that Darren Wilson did not use lawful force in making an arrest” (vol. XXIV, p. 141). In this framing, Michael Brown has disappeared. It’s all about Darren Wilson. Probable cause has become, in effect, “beyond a reasonable doubt.” The Department of Justice went still further. Although the statute they cited requires only that “the admissible evidence will *probably* be sufficient to sustain a conviction,” they interpreted that to mean “we *must* prove the charges beyond a reasonable doubt”

<sup>165</sup> Fagan and Harcourt, “Fact Sheet” quoting *Kaley v. U.S.*, 134 S. Ct. 1090 (U.S., 2014).

(DoJ: 4, my emphasis). Indeed, “reasonable” was often stretched beyond reason to mean a place where no conceivable doubt could be entertained, a possibility that changes the meaning of the term.

No reason why Brown attacked Wilson was ever advanced. The closest prosecutors came to accounting for it was to blame his being high. One of the most-cited pieces of “physical” evidence was that Michael Brown had levels of THC in his blood indicating marijuana use. He was measured at twelve nanograms per milliliter of blood, a level that the toxicologist claimed represented a “massive dose” (vol. XIX: 63), equivalent to a “hallucinogen” (vol. XIX: 64) that might induce “paranoia and psychotic episodes” (vol. XIX: 67). Remarkably, the suggestion was that smoking marijuana caused Brown to have a violent or psychotic episode. The toxicologist noted that in Colorado, drivers with a THC blood level of 0.05 can be ticketed for DUI. Although Dr. Baden tried to refute this claim by saying that it was a “relative small amount [that] doesn’t make people go crazy” (vol. XXIII: 79), on the last day of the hearings the St. Louis County detective stated that the marijuana “could have potentially caused a loss of perception of space and time and there was also the possibility that there could have been hallucinations” (vol. XXIV: 64). These “reefer madness” allegations are very unusual. Colorado’s limit is set to a level “that affects the person to the *slightest degree* which fails to meet the level for DUI impairment.”<sup>166</sup> It is very hard to be precise about marijuana’s effects, because different people metabolize it in different ways. However, the National Highway Traffic Safety Administration notes: “peak plasma concentrations of 100–200 ng/ml are routinely encountered....

Significant THC concentrations (7 to 18 ng/ml) are noted following even a single puff or hit of a marijuana cigarette.”<sup>167</sup> The level found in Michael Brown might have come from one puff. The level of THC was far short of even routine “highs” and very unlikely to have caused him to become psychotic.

Against this imprecision was set the very clear “reason” why Wilson shot Brown: fear. In the hearings, Michael Brown was reduced to the stereotype of the “dangerous black youth.” As highlighted in the media reports, Darren Wilson characterized him as looking “like a demon” (vol. V: 224) who lived in a dangerous neighborhood. Wilson also saw him as a “Hulk Hogan,” a cartoon-like wrestler-entertainer (vol. V: 212). Of all Wilson’s testimony, these were in fact the parts that rang most true. In his narrow world, church and television formed the imaginary possibilities. The overweening belief in white supremacy has always been interfaced with the fear of black force and masculinity, so it may very well be that Wilson could only “see” Michael Brown as nonhuman, speaking in what he called a “grunting, like aggravated sound” (vol. V: 228), unable to comprehend that the young man was mortally wounded. Wilson did not even try to take a pulse after Brown collapsed, or call for an ambulance. No emergency medicine was offered at the scene. His body was removed in an SUV, not an ambulance, and only after crowd protest had prevented police from placing it in the trunk of a car. Early in hearings, a juror characterized the Canfield Green area of Ferguson, where Brown lived and died, as being “known for gangs, violence, and guns” (vol. V: 186). At this early point, on the fifth day of hearings, the juror already referred to the person under investigation for murder as

<sup>166</sup> “Colorado Drugged Driving,” Norml, <http://norml.org/legal/item/colorado-drugged-driving>

<sup>167</sup> <http://www.nhtsa.gov/people/injury/research/job185drugs/cannabis.htm>.

“Darren.” Later that day, Wilson was careful to refer to the neighborhood as “an antipolice area for sure” (vol. V: 238), citing the presence of gangs, drugs, guns, and violence.

Even by this early stage, a narrative was set: a (white) police officer had been set upon in a bad (African American) part of town, feared for his life, and responded with judicious use of deadly force. It is a narrative that has served both the old and the new Jim Crow well in many places at many times. The double bind here is that the law as it stands might allow this as self-defense: Wilson did perhaps fear for his safety, if not his life. This combination of Christian fundamentalism, mass entertainment, and white supremacy is perhaps the only convincing part of his testimony, the only time that his own voice seems to come through. Can a racist worldview be admissible as a defense? Because it is presumed in a white supremacist society to be reasonable to be afraid of a large African American man, of whatever age, it follows that any police officer who claims to have felt fear is not castigated as a coward, but upheld for acting according to reason.

This thinking clearly registered with some of the grand jury. On the sixth day of hearings, after a white witness testified that “racial slurs” had allegedly been used against him (all redacted from the transcript), the very next question from a grand juror was whether “the police officer’s life was potentially in jeopardy?” (vol. VI: 207). That is to say, Black anger makes it reasonable to assume danger and fear becomes rational. When a white workman who had spoken with Michael Brown before he went to the shop recalled his conversation with Brown, he characterized himself as calling him “boy,” even though he also said that he thought Brown was twenty-five to thirty years old (vol. XII: 163.) The racist term passed without question, unlike the long discussion of supposed verbal

attacks on white people. Prosecutor Alizadeh asked a witness whose account cast Wilson as the aggressor if they had attended the protests in Ferguson (vol. VII: 193), a line of questioning that she repeated from then on, as if this would somehow invalidate the testimony. She then drew the line of questioning toward the NAACP (vol. VII: 196-98), long blamed for causing “outside agitation” in the South. In this frame, protest and resistance are held to be “unreasonable” and therefore invalidate all other testimony.

At the same time, a picture of Ferguson residents living in poverty and fear under police rule emerges, despite the intent of the prosecutors, which was later substantiated by the Department of Justice report on Ferguson Police Department. Michael Brown’s best friend remembered that neither of them had any money that Friday night (vol. XIII: 101). Young people describe bouncing from house to house, doing as best they can. Parents and children live apart. Jobs are scarce and short-lived. Many witnesses need medication but can’t afford it. Often people giving evidence testified to being nervous and scared. This is not simply the “bad” neighborhood of police description, but a low-serviced, low-employment area, where people struggle against poverty and their lack of health care provision every day. Ferguson emerges as a police-dominated white supremacy: “I’ve seen the Ferguson police do some really awful things” (vol. XVII: 32). Witness after witness testifies to police violence and harassment (vol. XIII: 182); that the police are “bullies” (vol. XV: 60); or simply, “Ferguson police, I’m scared y’all” (vol. XVII: 215). One woman described their tactics when they arrived at her house. Even though she had called them, she was threatened: “we search your name, you probably have a traffic ticket” (vol. XVII: 35). By which the police

meant that if the ticket has not been paid, there would be a bench warrant for her arrest and multiple accrued fines. As has now been widely documented in the media, Ferguson and other St. Louis County municipalities used such fines as a major source of revenue.<sup>168</sup> Under these circumstances, one wonders if the three African American jurors felt unafraid to express their opinions, knowing that, to quote the Department of Justice, “Ferguson’s approach to law enforcement both reflects and reinforces racial bias... [including] FPD’s use of force.”<sup>169</sup> This is the real reason Michael Brown resisted Darren Wilson: he was afraid of him, and he had good reason to be.

### Hands Up

As people look back on the hearings, the matter has become reduced to a single question: Did Michael Brown raise his hands in surrender or not? The local belief that he did formed part of the protest movement that followed, especially through the chant “Hands Up, Don’t Shoot” (see Chapter Two). During the hearings, prosecutors pushed back against this idea as hard as they could, culminating in the Department of Justice report strongly implying that it did not happen. This idea electrified conservative opinion. In April 2015 a controversial play by

<sup>168</sup> Radley Balko, “How Municipalities in St. Louis County, Mo., Profit from Poverty,” *Washington Post*, September 3, 2014, <http://www.washingtonpost.com/news/the-watch/wp/2014/09/03/how-st-louis-county-missouri-profits-from-poverty/>.

<sup>169</sup> Department of Justice, *Investigation of the Ferguson Police Department*, 4–5.

Irish filmmaker Phelim McAleer opened in Los Angeles,<sup>170</sup> using selected portions of the grand jury testimony to claim that Brown did not raise his hands. Although nine of the original cast of thirteen walked out when they realized what the play involved, McAleer claimed to have raised enough money to stage it in Ferguson.<sup>171</sup> Instead, he went on to write for Breitbart News, the extreme-right website whose editor, Stephen Bannon, is now a White House advisor to Donald Trump.

By contrast, Dorian Johnson testified (as a representative statement from the majority of witnesses) about the moment when Brown turned to face Wilson: “at that time Big Mike’s hands was up, but not so much up in the air because he had been struck already in this region” (vol. IV: 22). Yes, “hands up,” but no, not above his head because he could not have lifted them so high, due to his injuries. Recall that his right arm was broken near the shoulder and his right hand was bleeding severely. The majority of witnesses (sixteen out of twenty-nine)<sup>172</sup> also testified to this pose (vol. XI: 149–50), although some did not. Interminable questions were asked about the position of Brown’s hands, in order to establish that his hands were not above his head, even though Dorian Johnson had said just that. For as the prosecutor says, “you know how important some of this gesturing has been” (vol. VIII: 116). Even the meaning of “hands up” was now revised to mean “high in the air,” a position that would have been impossible for Brown, in order to discredit “Hands Up, Don’t Shoot.” Long cross-examination of witnesses sought to cast doubt

<sup>170</sup> Phelim McAleer, “Ferguson: The Play,” Indiegogo, [fergusontheplay.com](http://fergusontheplay.com).

<sup>171</sup> Matt Pearce, “Actors Quit L.A. ‘Ferguson’ Play, Question Writer’s Motives,” *Los Angeles Times*, April 23, 2015.

<sup>172</sup> Santhanam and Dennis, “What Do the Newly Released Witness Statements Tell Us about the Michael Brown Shooting?”

on those who testified in court that Brown's hands were up, especially if his hands' position had not featured in other statements they had made (vol. XII: 135–38). For the Department of Justice, the witnesses were “inconsistent” and thus could not be relied on (DoJ: 8).

This judicial hypercaution led to journalists like the *Washington Post*'s Jonathan Capehart publishing revisionist articles headlined (in his case): “‘Hands up, don't shoot’ was built on a lie.”<sup>173</sup> This assertion was built on the grounds that one witness called by Ferguson prosecutors withdrew on the stand an earlier statement about what they had seen in regard to Michael Brown's hands. This evidence was apparently presented solely for the purpose of discrediting “Hands Up.” It certainly had nothing to do with the indictment of Darren Wilson. However, the claim that Brown was neither shot from behind nor had his hands up leads to a crucial inconsistency: these are the only two positions in which it is reasonable (meaning likely or probable, rather than technically possible) to assume that he got shot in the upper arm. The Department of Justice thus articulated the Ferguson prosecutors' unsupported, albeit unspoken, assertion that he was (in effect) not shot at all: a bullet unaccountably just passed through his arm.

### Keep Looking

At this crucial point—and many others—the suspension of disbelief created by the staging generated by the Ferguson prosecutors breaks down. They claimed

to show a sharp-edged, 3-D presentation anchored by precise data. But they cannot account for how a bullet passed through Michael Brown's arm, shattering the bone—physical evidence, by definition. The force of the police's “reasonable” fear of the Black youth overcomes any reason that might want to ask how the injury occurred, let alone why it was necessary to fire ten more shots at a wounded teen over minor altercation. What comes irresistibly to mind here is not a motion picture but a cell-phone video of the kind we have seen all too often since Ferguson. It is all too easy to imagine. A police car reverses up to an African American teenager. The opening door comes so close to the young man that he pushes the door back, hitting the officer. From this moment on, he's in deep trouble. The cop grabs at him, he resists, the cop fires his gun. A short, shuffling run. More shots. The teen turns around, stumbles and staggers and the cop unloads a final barrage. Banal in the sense of all too familiar, and shockingly short. Less than a minute. As we know, that video does not exist. Instead, we have these tens of thousands of words, designed to prevent us from seeing that simple sequence, but revealing so much more in the process. Keep looking.

<sup>173</sup> Jonathan Capehart, “‘Hands Up, Don't Shoot’ was Built on a Lie,” *Washington Post*, March 16, 2015.

## Afterword

Black Lives Matter is a dialogic formation: Black people hear it as affirmation, while for non-Black people it is an enjoinder and reminder. As Zora Neale Hurston famously said: “I feel most colored when I am thrown against a sharp white background.” In a conversation that preceded the Black Lives Matter movement about the meaning of “black” in relation to performance, Thomas F. DeFrantz described black as “the manifestation of Africanist aesthetics... This black is action: action engaged to enlarge capacity, confirm presence, to dare.” Black here is tied to people of African descent in key ways. In response, Anita Gonzalez argued: “If black identity is constructed and articulated by those outside of the ‘race’ then performances of blackness are created in response to these imagined identities as well as to cultural retentions and Africanist histories... I view black as a dialogic imagination.”<sup>174</sup> Black is here in dialogue with the constructed forms of blackness (to use Gonzalez and de Frantz’s lower case). In the slogan “Black Lives Matter,” that dialogue takes on urgent form. By saying that Black Lives Matter, spaces of appearance are made visible in which the uneven encounter of those identifying as Black and their others can take place. This making visible of Blackness is in counterpoint to the self-evident fact that the people being killed by the police and others are targeted because they are visibly Black. To say “Black Lives Matter” is to reopen the dialogue about blackness, while taking action to insist on the presence and value of Black people.

What happens if there is no dialogue to be had? On January 20, 2017, Donald J. Trump ended it from his new position as President of the United States. His inaugural

<sup>174</sup> Thomas De Frantz and Anita Gonzalez, eds., “Introduction: From ‘Negro Experiment’ to ‘Black Performance,’” in *Black Performance Theory* (Durham, NC: Duke University Press, 2014), 5–6.

address upheld his belief in “America first.” Here he referenced the 1930s era white supremacy movement that hoped to keep the United States out of the war against fascism. The pilot Charles Lindbergh, who advocated for this anti-Semitic policy, wrote in a *Reader’s Digest* article from 1939: “it is time to turn from our quarrels and to build our White ramparts again.” When Trump speaks about building a wall, this is what he means. There already are over seven-hundred miles of wall or fence on the US-Mexico border, so he is not complaining about the lack of physical barrier. The wall is not a barrier. It is a structure of feeling. The wall is whiteness. It forms a space of nonappearance in which, once again, people are dying. The visa ban initiated within days of Trump taking power was of a piece with this concept of protecting “America” by keeping nonwhite people out. Now the space of nonappearance for those not designated “white/American” is imagined to be coextensive with the physical boundaries of the republic.

In his inaugural address, Trump contrasted “America First” with the “American carnage” that is supposedly rampant within the country. This dog-whistle phrase was combined with a disparaging reference to so-called black-on-black crime, especially in Chicago, Trump’s favorite dystopia. He was further alluding to the number of police allegedly being killed by Black people as a result of the so-called “Ferguson effect.” In *The New Jim Crow*, legal scholar Michele Alexander has shown how Black neighborhoods in Chicago have such a high population of felons that mainstream social life is extremely difficult. Barred from public housing, welfare, education or voting, felons also find it extremely difficult to get work. Even living in these neighborhoods constitutes a potential offense because felons are not supposed to associate

with each other, something that can scarcely be done when 80 per cent of the adult Black male workforce fall into the category.<sup>175</sup> Who, then, is truly responsible for the “American carnage” in Chicago?

The result of the regime change has been to sustain and extend the space of nonappearance across the country. 104 people were killed by police in the United States during January 2017 and 139 more died in this fashion in February.<sup>176</sup> At least twenty-two of those who died in January were African American, while February saw thirty-two Black deaths. Deaundre Phillips was shot in Atlanta, apparently because he was smoking marijuana in his car.<sup>177</sup> Fifty-year-old Marvin Washington was shot after a traffic stop in Oklahoma, for no apparent reason.<sup>178</sup> Mentally-ill Armond Brown, twenty-five years old, was killed while holding kitchen knives.<sup>179</sup> Jahlire Nicholson, a twenty-eight-year-old homeless man, was shot while holding a screwdriver in Queens.<sup>180</sup> Darrion Barnhill, twenty-three years old, from Jackson, Tennessee, was shot after knocking loudly on a door, while unarmed

<sup>175</sup> Alexander, *The New Jim Crow*, 188.

<sup>176</sup> Killed by Police 2017, <http://www.killedbypolice.net/>.

<sup>177</sup> Vince Sims, “Demonstration Forms at Scene Where Man was Shot and Killed by Atlanta Police Officer,” CBS46, January 26, 2017, <http://www.cbs46.com/story/34359129/police-investigate-shooting-in-atlanta>.

<sup>178</sup> James Beaty, “One Dead in Kiowa Officer-Involved Shooting,” *McAlester News-Capital*, January 30, 2017, [http://www.mcalesternews.com/news/one-dead-in-kiowa-officer-involved-shooting/article\\_af628ae0-e717-11e6-a073-37d55a5b7721.html](http://www.mcalesternews.com/news/one-dead-in-kiowa-officer-involved-shooting/article_af628ae0-e717-11e6-a073-37d55a5b7721.html).

<sup>179</sup> “Armed Man with Mental Illness Shot, Killed by Kenner Police after Lengthy Standoff,” 4WWL, January 24, 2017, <http://www.wwtv.com/news/local/jefferson/mentally-ill-man-fatally-shot-after-charging-at-police/392077868>.

<sup>180</sup> Rana Novini, “Cops Shoot, Kill Man who Threatened Mom with Screwdriver in Queens: NYPD,” 4 New York, January 14, 2017, <http://www.nbcnewyork.com/news/local/Cops-Shoot-Kill-Man-Who-Threatened-Mom-With-Screwdriver-in-Queens-NYPD-410718035.html>.

and with outstanding warrants for failure to appear.<sup>181</sup> JR Williams, thirty-eight years old, was shot in Phoenix while fleeing from police after the driver of a car in which he was a passenger was arrested for failure to register as a sex offender.<sup>182</sup> Unarmed seventeen-year-old Trevon Johnson was killed in Chicago by multiple gunshot wounds after a 911 call.<sup>183</sup> In the other cases, police allege a gun was involved or pointed at them, or that the deceased was a “suspect” in one offense or another. None of these deaths were filmed or, at least, no video has been released. In any event, these deaths have passed largely unremarked, even in their localities. The equation of the space of representation with white supremacy is again overt. Black Lives Matter has allied with Standing Rock and with the movement against the travel ban. This decolonial alliance is likely to be its best future direction.

Under the new regime, the alliance within the informal movement known collectively as Black Lives Matter may come undone. For the movement has generated very different sets of solutions to the problems of white supremacy. Derae Mckesson and Johnetta Elie, among others, have formed a pressure group called Campaign Zero to create legislative change in order to end police violence. Their ten-point agenda includes community involvement, police use of body cameras, and independent

<sup>181</sup> Miranda Faris, “Man Killed in Officer-Involved Shooting in Reagan, Jackson Sun, January 11, 2017, <http://www.jacksonsun.com/story/news/crime/2017/01/11/tbi-investigates-fatal-officer-involved-shooting-henderson-county/96436130/>.

<sup>182</sup> Yihyun Jeong, “Phoenix Police: Officers Fatally Shoot Man during Foot Chase,” January 9, 2017, <http://www.azcentral.com/story/news/local/phoenix-breaking/2017/01/09/phoenix-police-shooting-35th-avenue-dunlap/96369682/>.

<sup>183</sup> <http://www.azcentral.com/story/news/local/phoenix-breaking/2017/01/09/phoenix-police-shooting-35th-avenue-dunlap/96369682/>

investigations into police misconduct.<sup>184</sup> As the campaign itself recognizes, such goals are going to be very difficult to attain under the pro-police, law-and-order regime now in office. The Movement for Black Lives, by contrast, has compiled what it calls a “visionary agenda,” knowing that neither major party would adopt its proposals. Compiled by fifty Black organizations working together, including the thirty-six chapters of the formal Black Lives Matter Network, their proposals are directed instead toward “liberation.”<sup>185</sup> Electoralism and liberation movements can form related threads in the braid of resistance, but tend in different directions.

Activist Grace Lee Boggs had long called for “visionary organizing” from her vantage point in Detroit. Having witnessed the decline of the auto industry alongside the onset of climate change, Boggs realized that the classic revolution of the industrial working class was no longer a viable form for social change in the United States. The Detroit movement in which she was so influential instead calls for (r)evolution, a different way of living our lives so that the habitat in which we live might itself survive. This work has been based on what might be called microactivism, ranging from urban farming to local schools and struggles to defend blocks against wholesale abandonment and subsequent takeover by corporations or gentrification. This grounded (r)evolution is clearly in the lineage of the antislavery revolutions of Haiti and Reconstruction. It makes an urban commons out of largely abandoned urban space. Similar projects are underway in cities like Buffalo, Chicago, and Houston. Many of the police killings that engendered Black Lives

<sup>184</sup> See *Campaign Zero* for more details: <https://www.joincampaignzero.org/#vision>.

<sup>185</sup> *The Movement for Black Lives*: <https://policy.m4bl.org/about/>.

Matter have taken place in such urban margins. What visionary organizing attempts to render the temporary space of appearance created in Black Lives Matter actions sustainable, even permanent. That permanence would constitute a permanent (r)evolution.

Certainly, we feel far from that condition now. The 2016 presidential election was underscored by the unspoken question: do Black Lives Matter? Its result reaffirmed that for the white majority, the answer remains “no,” or at best, “only once we have everything we need.” These changes are indicative of a systemic collapse in the hegemonic postwar concept of the social, mirrored by the ongoing implosion of social democratic parties across the West. Majorities of white people in the United States and the UK, and significant minorities of whites in other Western countries no longer accept the anti-racist formation of the social. That is a politer way to say that they do not accept people of color and indigenous populations as belonging to their society, so they have attempted to displace the concept of society with that of race. “Race” is now being deployed to mean a nation of culturally and ethnically homogenous individuals, who accept the need for strong leadership as the means of coherence in everyday life. If that sounds like fascism, so be it. It is where we are now. Against that violence, I want a space in which to appear—whether an institution or public space—that doesn’t reproduce white supremacy, that doesn’t represent a prison, in which there isn’t expropriated labor, there isn’t extinction, and there isn’t genocide. What would that look like?

Under the Trump regime, Black Lives Matter finds itself “in the wake,” to use the literary scholar Christina

Sharpe’s trenchant phrase.<sup>186</sup> We are, in different ways, now “in the wake” of Black Lives Matter, adrift from its intended course and seeking direction. There is an ongoing wake for Black Lives Matter, in the sense of memorial, a remembering of its intentions and energies with a determination that its goals not be lost. And there is a recoil, one of the less well-known meanings of “wake.” For Trump voters it takes the form of a “whitelash,” meaning a rejection of what Black Lives Matter stands for. For its supporters, the recoil comes in learning how much racism and racial hatred remains in the peculiar state of the union. The wake continues. Stay woke.

<sup>186</sup> Christina Sharpe, *In the Wake: On Blackness and Being* (Durham, NC: Duke University Press, 2016).



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