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1619 Project Discussion Article Packet

1619 Project A New Origin Part 7
October 11 & 13, 2022
Slavery, Police, and Self-Defense
Tuesday on Zoom
Thursday in person at Lee Road

Upcoming 1619 programs

Two Chances to attend

Tuesday Oct. 11, 2022 Zoom ID: 823 648 5349

Pass: 691353

Wednesday Oct. 13, 2022 IN PERSON 7:00 - 8:30

Topics subject to change.

November 10, 2022

1619 Project: New Origin Part 8

Race, Politics, and Progress

Please check our 1619 Discussion homepage at:
https://heightslibrary.org/services/1619-project/

The Library's 1619 topic interviews are on Youtube
https://www.youtube.com/hashtag/1619projectdiscussion

Unpacking 1619 Podcast
New episode every other Wednesday
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Contact: John Piche' at jpiche@heightslibrary.org

This month, the 1619 Project Discussion Group is offering two ways to attend the discussion: in person and via Zoom.

The same packet is discussed at both sessions.

You can choose which group best fits your comfort and need.

The Zoom meetings will be held the second Tuesday of each month at 6:30 p.m.

The In-person meeting will be held the second Thursday of each month at 7:00 p.m.

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Bryan Stevenson is a lawyer, a professor, and founder of the Equal Justice Initiative an organization that fights to eliminate excessive sentencing and wrongful incarcerations. He is the author of *Just Mercy: A Story of Justice and Redemption.*

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SELF DEFENSE
BY CAROL ANDERSON

One night in February 2014, Jessie Murray, Jr., was with his wife at a bar on Old Dixie Highway in Jonesboro, Georgia, just twelve miles from downtown Atlanta. It may have been the twenty-first century, but it felt more like good ol' Dixie to Murray, who is African American and was being harassed by a group of four or five drunken white men. They were loud, obnoxious, and rude and didn't seem to like it that Murray's wife, Tracie, was white. They bumped into the couple, interrupting their conversation. One of the men, Nathan Adams, allegedly told Jessie not to get near him again. Finally, Murray left Tracie at the bar and went to get his gun.[1] He knew he needed to get her out of there, and he figured he might need protection to do so. Returning from his car, he was approaching the door of the bar when suddenly the white men surrounded him and fist after fist after fist pounded his face. It's not entirely clear what happened next, but when the unforgettable sound of gunfire shattered the air, the fighting stopped. Adams, who turned out to be a former police officer, was dead.[2]

Murray, with blood streaming down his black skin, knew that he had responded in self-defense.[3] And he knew that, as an American, he had a right to do so. Like a lot of states, Georgia had adopted a Stand Your Ground law, crafted by the National Rifle Association during the 2000s. The law gave a person the right, when faced with a perceived threat, to be "justified in using force which is intended or likely to cause death or great bodily harm only if he or she reasonably believes that such force is necessary to prevent death or great bodily injury to himself or herself or a third person or to prevent the commission of a forcible felony."[4] It also eliminated the previous requirement

to retreat from danger if threatened, which was supposed to make lethal violence the last resort, not the first. Stand Your Ground laws, however, were designed to keep gun owners who shot someone from having to face criminal charges and to ensure that their actions were presumed legally justifiable as the starting point for any investigation.[5] The laws were buttressed in 2008 and 2010, when the U.S. Supreme Court struck down strict gun-control laws in Washington, D.C., and Chicago on the grounds that a *"central component"* of the Second Amendment was "the inherent right of self-defense."[6]

The Court could have gone back even further than that. The United States has long embraced a legal tradition rooted in seventeenth-century English common law, which established the "castle doctrine": if one's home was invaded, the owner had the right to ward off the intruder.[7] The Enlightenment philosopher John Locke laid out what the legal scholar David B. Kopel describes as "the natural right of self-defense . . . the natural right to control and protect one's body and property."[8] But as Jessie Murray would soon find out, this natural right is not universal—and has never been.

In the colonial era, Black people, whether enslaved or free, were explicitly prevented from carrying weapons or defending themselves against white violence.[9] The Second Amendment of the Bill of Rights granted citizens of the new country the right to bear arms in order to provide for a "well regulated militia." But the enslaved were not considered citizens, and in most states, even free Black people struggled to exercise their citizenship rights. The citizenship of free Black people was so contested that a series of laws, judicial decisions, and policies culminated in the 1857 *Dred Scott* U.S. Supreme Court decision, which asserted that Black people had never been citizens of the United States; if they were, Chief Justice Roger Taney wrote, they would have the right "to keep and carry arms wherever they went."[10] Moreover, in the South, which had large enslaved populations, everyone understood that one of the purposes of the Second Amendment's "well regulated militia" was to suppress uprisings of the enslaved. Though it did not explicitly say so, the Second Amendment was motivated in large part by a need for the new federal government to assure white people in the South that they would be able to defend themselves against Black people.

This was codified in a number of state laws in the antebellum period; these were supported by a series of court decisions, such as an 1843 case in Maryland that described free Black people as "a dangerous population" that could not have access to guns even to defend their religious gatherings from attack.[11] The 1846 *Nunn* decision by the Georgia Supreme Court ruled that a law

curtailing open carrying of guns for white people violated the Second Amendment's "*natural* right of self defence"[12] but kept in place an 1833 law banning free Black people from carrying any type of gun whatsoever.[13]

In the modern era, gun violence most often occurs within racial groups, and state self-defense laws aren't explicitly racist in the ways those in the colonial and antebellum periods were. But when interracial violence does occur, these laws can end up protecting white people—but leaving Black people vulnerable to white violence. You don't have to look any further than the infamous case of George Zimmerman and Trayvon Martin. In 2012, in Sanford, Florida, Zimmerman, a twenty-eight-year-old white Hispanic man, called 911 as he stalked Martin, a Black teenager, through a gated community. Zimmerman, who was carrying a loaded nine-millimeter pistol, had previously made repeated calls to 911 about Black men in the neighborhood. He ignored the instructions from the 911 operator not to follow the teen, claiming that Martin looked "suspicious," that his type "always get away." He ultimately put a bullet in Martin's chest. Although Zimmerman was the one with the gun and Martin was unarmed, the trial judge framed the jury's instructions around the tenets of Stand Your Ground: Zimmerman could use deadly force if the disparities in the physical capabilities between him and Martin caused the gunman to fear for his life. The jury ruled that the killer had acted in self-defense.[14]

Two years later, as Jessie Murray stood in a Jonesboro parking lot with a dead white man at the end of his gun, Georgia's Stand Your Ground law was some comfort. But that evaporated as soon as the police arrested Murray and charged him with felony murder. At his trial, the very rock of his defense crumbled as the judge, Albert Collier, dismissed the Stand Your Ground defense. He ruled that because the gun had gone off accidentally, it was impossible to claim that Murray had been standing his ground; in other words, one could not accidentally stand one's ground. Second, and equally important, Collier explained, Murray clearly couldn't have felt threatened by the white men who were beating on him. Those men were not doing anything to make Murray "reasonably believe that deadly force was necessary to prevent death or great bodily injury to himself or a third party."[15] Before the trial was over, Murray had pleaded guilty to a weapons charge and been sentenced to five years' probation.

The difference between the Zimmerman and Murray cases exposes the harsh reality that even in the modern era, the enforcement of self-defense laws varies widely according to race. Like many previous such laws, Stand Your Ground depends on the perception of threat, and research shows that

Black people are often linked with danger in the minds of white people. In her 2019 book *Biased*, the Stanford University psychology professor Jennifer Eberhardt shows that African Americans are consistently perceived as a threat.[16] In one 2004 study, she and her colleagues cued subjects with pictures of African American faces, white faces, or no facial images at all, then progressively unblurred images of various objects, including weapons, and asked them to identify what they saw. The results found that subjects more quickly identified the weapons when cued with Black faces than they did when prompted with white faces. Eberhardt summarizes this study, noting "the stereotypic association between blacks and crime influences not only how we see black people but how we see guns."[17] Another set of studies, this one from Phillip Atiba Goff, a psychologist now at Yale, documents how Black boys are perceived as older and less innocent than white boys of the same age.[18] Finally, the research of Anthony Greenwald, a University of Washington psychologist, reveals how in computer simulations, Black people are more likely to be shot than white people who dress and act similarly.[19] This may be why, as shown in study after study, white people are decidedly more successful in invoking Stand Your Ground as a defense than are African Americans.[20]

Stand Your Ground laws are only the latest form of self-defense legislation to be applied unequally. Since the nation's founding, our legal and political architecture has privileged the safety and self-defense of white people over that of Black people. As a consequence, the right to self-defense, so quintessential to American identity, has been experienced unequally by Black and white people. White people continue to use self-defense laws to protect themselves from perceived harm from African Americans; Black people often cannot use self-defense to protect themselves from actual harm by white people.

The results have been devastating.

The War of Independence against Britain revealed the colonies' widespread fear of arming Black people, and the differences between the North and the South in this regard. During the first few years of the war, the colonies banned Black people from joining the Continental Army. The pressure of a series of British victories and the ongoing and worsening reluctance of white men to enlist finally compelled a number of states in the North to offer freedom to their enslaved men in exchange for military service.[21] But the Southern states, with vastly greater populations of enslaved people, were not so moved. Virginia agreed that free Black people could join the army, but the last thing they

wanted was to give weapons to all those enslaved Black men they were holding against their will. Even when faced with overwhelming British force, the Southern states resisted arming enslaved people.

After the British occupied Georgia and seized Savannah, they set their sights on South Carolina. In November 1779, the state had only 750 white men available to fend off the attack.[22] George Washington sent an emissary to Charleston to ask the state to arm thousands of the enslaved people who lived there to fight off the British. This request would be one of many. South Carolina resisted. Washington's people kept pressing. Exasperated by years of pressure from Washington's military commanders, in 1782, Edward Rutledge, the former governor's brother, reported, "We have had another hard Battle on the Subject of arming the Blacks. . . . I do assure you I was very much alarmed."[23] Despite the pleas, despite the British overrunning Charleston, the South Carolina government flat out refused to enlist the enslaved. The state's leaders said they would rather surrender to the British (and take their chances with the king as traitors) than to see those whom they held captive armed.[24]

The Patriots prevailed, but that chasm between the protection of slavery at all costs and the creation of an independent nation predicated on the principle of equality would bedevil the founders. In 1787 in Philadelphia, at what would later be called the Constitutional Convention, James Madison and a group of fifty-four delegates came together to unite a federation of disparate states on the brink of collapse under one Constitution and to create a much stronger central government.

This would not be easy. Madison recognized that though all the delegates were determined to create a viable nation, there were two divergent agendas under the surface. The Deep South was intent on strengthening the slaveholders' power and protecting the institution of slavery. Meanwhile, the other delegates were motivated by a variety of moral, economic, and philosophical reasons. The asymmetry allowed the dream of the United States of America to be held hostage to the tyrannical aims of enslavers.[25]

When, for example, Gouverneur Morris, who represented Pennsylvania, blasted the Atlantic slave trade as "cruel" and "in defiance of the most sacred laws of humanity," John Rutledge of South Carolina issued an extortionist warning about any attempt to curtail it: "If the Convention thinks that North Carolina, South Carolina, and Georgia will ever agree to the plan [for a Constitution] unless their right to import slaves [from Africa] be untouched, the expectation is vain."[26] Those threats worked to secure twenty additional years of the Atlantic slave trade, the Three-fifths Clause, and the Fugitive Slave

Clause. And they left a lasting impression on James Madison about how fragile the tendons were that bound the United States of America together.[27]

When it came time to debate federal control of state militias, the issue initially didn't draw much fire. The proposed constitutional language gave Congress the power "to provide for organizing, arming, and disciplining the militia," and deploying the various state militias in service to the United States to deal with invasions and insurrections.[28] After the militia clauses made it into the draft, however, the trouble started with just a few days remaining in the Constitutional Convention. The strongest objection came from the Anti-Federalists—in both the North and the South—who rejected the idea of a stronger central government. They argued against congressional control of the militia, believing that it was the pathway to a standing army, tyranny, and the destruction of democracy.[29]

Initially, the Federalists, like James Madison, prevailed. They had seen the ineffectiveness of the state militias during the War of Independence and believed that strong federal control was necessary. This was codified in Article 1, Section 8, Clauses 15 and 16, which gave Congress the power to summon for battle and organize the state militias.[30] But as Pauline Maier notes in *Ratification*, Madison also explained, as a sop to the South, that the militia clause in the Constitution "gave the states a 'supplementary security' by allowing Congress to enlist the help of other states in suppressing insurrections (including slave uprisings) or resisting invasions."[31]

But Madison's assurances did not mollify the Southern Anti-Federalists as they geared up for the state ratification conventions. For them, the state militias had a very specific purpose. They were key to crushing revolts by enslaved people and buttressing enforcement of the slave codes, laws that maintained the racial hierarchy by banning Black people's access to firearms, literacy, and unfettered movement. Southern delegates worried that placing control of the militias in the hands of Congress was risky because the federal government could decide not to fund or arm the state militias. In this situation, white people would be defenseless against those they enslaved, an unthinkable proposition. This anxiety was driven in part by arguments that had been made during the Constitutional Convention by delegates from the North, such as Gouverneur Morris, who questioned the morality of forcing militias from the North, where numerous states had begun to legally end slavery, to travel south to crush enslaved people's freedom rebellions.[32]

The Southern Anti-Federalists' angst became more apparent as each state brought the document to its ratifying convention. In some, a dangerous movement of resistance to the Constitution began to emerge. By early 1788,

the progress toward ratification was grinding to a halt.[33] George Washington raised the alarm and insisted that Madison go to Richmond and use his persuasive powers to bring Virginia into the fold.[34] In June, Madison and 169 others gathered at a convention in Virginia with ratification of the Constitution hanging in the balance.

Madison quickly discovered that the hero of the American Revolution Patrick Henry and George Mason, another prominent enslaver, stood in the way. They strenuously objected that Madison had put control and arming of the militia in the hands of a federal government dominated by Northern states, such as Pennsylvania and Massachusetts, that had already begun to end slavery. Henry and Mason made clear that this equivocation on human bondage meant that the central government could not be trusted with authority over the militia. The question hanging in the air at Virginia's ratifying convention, as the historian David Waldstreicher notes in his book *Slavery's Constitution*, was: "What would keep a Congress dominated by Northerners from refusing to defend the state from a slave rebellion?"[35] Mason predicted that the enslavers would be left "defenseless," according to the legal scholar Michael Waldman.[36] "They'll take your niggers from you," Patrick Henry warned the members of the Virginia legislature.[37] "Slavery is detested" in the North, he fulminated.[38] In the end, Virginia narrowly ratified the Constitution but only with amendments, including the right to "a well regulated militia," based on the 1776 Virginia Declaration of Rights.[39]

Only a few days earlier, New Hampshire had ratified the Constitution, making it the nation's official charter.[40] But three of the thirteen colonies had yet to ratify, and even some of those that did, like Virginia, made clear that they were doing so with reservations. In fact, many were clamoring to rewrite the Constitution in a new national meeting. Henry and his allies were also calling for a Bill of Rights to rein in the power of the federal government and give more authority to the states. They specifically wanted the language about the militia to limit how long state forces would be under national control and to place strict rules on how Congress would use the state militia.[41] In other words, they did not want to be left defenseless.[42]

The intense anger that erupted in Richmond during the ratifying convention would push Madison to take a different tack in future negotiations. Over the next few months, as he ran for Congress, Madison decided that he needed to quell the discontent by crafting a Bill of Rights that would mollify the Anti-Federalists and enslavers, yet still leave the national government's power in place.

After his electoral victory, Madison set out during the First Congress to

craft a Bill of Rights. With everything at stake, he was like a man possessed. Congressman Theodore Sedgwick of Massachusetts thought Madison was so fixated on a Bill of Rights because he was "constantly haunted by the ghost of Patrick Henry," who had made it so clear at Virginia's ratifying convention that he could not abide the idea that the federal government would control the militia. Pennsylvania senator Robert Morris was also convinced that whatever had happened at the convention had made Madison "so cursedly frightened . . . that he dreamed of amendments ever since."[43]

The Bill of Rights, which focused on the limits of federal power, shut down the phalanx of opposition to the Constitution. The Second Amendment, in particular, which declared, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed," short-circuited Mason's, Henry's, and other Southerners' worries "that the federal government would, in one way or another, render the militia impotent as a slave control device."[44] The scholar Carl T. Bogus writes in a law review article, "The Hidden History of the Second Amendment":

> As a Virginian, Madison knew that the militia's prime function in his state, and throughout the South, was slave control. His use of the word 'security' [in the Second Amendment] is consistent with his writing the amendment for the specific purpose of assuring the Southern states, and particularly his constituents in Virginia, that the federal government would not undermine their security against slave insurrection by disarming the militia.[45]

The Second Amendment, ratified in 1791, codified for white citizens the right to bear arms and to protect themselves. If there were any doubts about who these rights pertained to, they were put to rest in 1800, when Virginia governor James Monroe called out several regiments of the state's militia to thwart, before it could begin, a widespread revolt planned by an enslaved man named Gabriel, and then to hunt him and the other participants down. As the historian Herbert Aptheker wrote in "American Negro Slave Revolts," as word of Gabriel's revolt spread, the "nation, from Massachusetts to Mississippi, was terror-stricken."[46] The response was to double down and make more explicit through legislation the prohibitions on Black people owning guns.[47] One Virginian wrote in the local newspaper that "we must re-enact all those rigorous laws which experience has proved necessary to keep [slavery] within bounds. In a word, if we will keep a ferocious monster in our country, we must keep him in chains."[48]

A little more than a decade before the Constitution was written, John Adams had worried that the colonies were so different, especially the ones with agriculturally based economies dependent on enslaved labor, that "it would be a Miracle, if Such heterogeneous Ingredients did not at first produce violent Fermentations."[49] The uneasy union he had anticipated between the North and the South started to crack not long after it was forged. The slaveholding states demanded greater Northern complicity in maintaining human bondage, threatening secession unless Congress passed laws that made it the responsibility of others to return those who fled enslavement. The Fugitive Slave Act of 1850, in particular, meant that even Black people who were born free, or had managed to buy their freedom or escape slavery, had no legal right to that freedom and limited legal means to defend themselves. But many in the North hated these laws and often refused to comply.[50] It was this tension that led to an unusual situation in the small town of Christiana, Pennsylvania, where for a rare moment Black people were allowed to defend themselves.

Pennsylvania had begun a gradual process of abolition in 1780. Christiana was in Lancaster County, which bordered Maryland, a state that allowed slavery. A small community of Quakers and free Black people, some of whom were fugitives, lived in Christiana. Black people had come together to create a self-defense community to fight off anyone trying to bring them back to bondage.[51] In September 1851, an enslaver from across the state line in Maryland, Edward Gorsuch, went up to Christiana to retrieve his human property, four men who had fled north.[52] He brought along his son, his nephew, and a U.S. marshal, all of whom found themselves in a pitched battle with residents armed with pistols and farm equipment. Surrounded by approximately eighty Black people wielding whatever kinds of weapons they could find, Gorsuch was killed and his son and his nephew wounded. The marshal fled the scene, looking for safety.[53]

After the killing, although some of the Black residents of Christiana escaped to Canada, authorities rounded up a group of others, including a white man, Castner Hanway, and charged them with treason. In the eyes of the state, violating the Fugitive Slave Act of 1850 was the equivalent of waging war against the United States. In his opening statement, the prosecutor did admit that the law was "obnoxious." But he patiently laid out how the group at Christiana, overwhelmingly Black with a smattering of white people, had knowledge of the statute and had refused to aid the U.S. marshal in capturing Gorsuch's runaways.

The judge's instructions to the jury, however, emphasized that those in what would be called the Battle of Christiana were just trying "to protect one another from what they termed kidnappers." Slave catchers, the judge told the jury, had invaded homes and snatched people away, and it didn't matter if they were "a free man or a slave." This "odious" business, spurred by the greed of rewards, had driven Black people to "resist . . . aggressions." This wasn't about treason; this was about self-defense compelled by an unjust law. In fact, after that clear repudiation of the Fugitive Slave Act, no one was ever convicted for Edward Gorsuch's death or the wounding of his son and his nephew.[54] The *Republican and Daily Argus of Baltimore* railed that Gorsuch's murder "remains unatoned for and unavenged."[55]

Shortly after the verdict, a slave catcher, Thomas McCreary from Elkton, Maryland, came across state lines into Chester County, near Christiana, and snatched a ten-year-old free Black girl named Elizabeth Parker. He gagged her and sold her to a slave broker in Baltimore, who shipped her to New Orleans to be enslaved in the Deep South.[56] McCreary then came back and grabbed her sister Rachel, who worked for a white farmer named Joseph Miller. Miller witnessed the kidnapping from afar and took off in hot pursuit. He and a group of his neighbors followed McCreary into Maryland to rescue Rachel. Instead, Miller was taken, tortured, poisoned with arsenic, and hanged. His body was found days later, strung up in a tree.[57] *Frederick Douglass' Paper* stated that the kidnapping scheme was a plot by "blood-thirsty Marylanders" to lure Pennsylvania abolitionists across the state line, where they could "wreak their vengeance upon them without mercy."[58] And without justice. A judge dismissed the kidnapping charge against McCreary, and Miller's killers were never arrested.[59] The judicial proceeding echoed like a tit-for-tat retaliation: Miller for Gorsuch, freedom for slavery.

In the 1860s, the "violent Fermentations" that John Adams had predicted erupted into the Civil War, leading to emancipation and the resulting amendments that ended slavery and codified citizenship for African Americans. This was not freedom given; this was freedom earned. Some 179,000 Black men, 10 percent of the Union army, fought in the war. An additional 19,000 served in the navy.[60] Black women participated too, most notably one well-armed conductor on the Underground Railroad, Harriet Tubman; a Union spy, she led as many as 300 Black soldiers in destroying a Confederate supply depot on the Combahee River on June 2, 1863.[61] The legal status African Americans had fought hard for should have provided the standing to "protect one's body and

property" that had not been available to Black people before.[62] But this is not what happened.

Shortly after the war, President Andrew Johnson granted amnesty to many in the Confederate leadership. Free from the threat of the gallows for committing treason, these white men—such as General Benjamin Humphreys, who had fought against the Union at the Battle of Gettysburg and then became governor of Mississippi—assumed positions in the newly formed state governments and passed legislation known as the Black Codes. These laws were designed to reinstall something close to slavery. They required African Americans to sign a yearly labor contract to work for a white employer, blocked their ability to testify in court against a white person, and banned freedpeople's access to and ownership of guns under the threat of a public whipping of thirty-nine lashes.[63]

African Americans pushed back. Many had held on to their wartime firearms and resisted the neo-Confederate government's demand to disarm. They fought back as white state militias and paramilitary organizations worked closely with local governments to seize their weapons.[64] Black people asserted, in publications such as *The Christian Recorder* of the African Methodist Episcopal Church and *The Loyal Georgian*, that they had Second Amendment rights and that stripping them of their guns was denying them the right to self-defense. *The Loyal Georgian* quoted a report by an officer of the Freedmen's Bureau saying that disarming Black people would be "placing them at the mercy of others."[65]

As Black people defied disarmament, they scored some victories, but far too often they were outgunned, and they suffered brutal repercussions as they ran up against the unwillingness of federal officials and local Republican governments to enforce Black citizenship. The slaughter was facilitated by President Johnson's removal from the South of Black troops, which had been a significant part of the occupying army and the line of defense between the freedpeople and white violence. In late 1865 to mid-1866, all the Black troops were removed from the South's interior and sent to coastal fortifications, and by January 1867 they had been expelled altogether.[66]

The result was catastrophic. After the war, President Andrew Johnson had sent a former general, Carl Schurz, to tour the South and report back on conditions there. Schurz unveiled a travelogue of death. He documented hunting parties where Black men were chased down and shot, with dogs left to devour their faces.[67] Near Montgomery, Alabama, he wrote, "negroes leaving the plantations, and found on the roads, were exposed to the savagest treatment." At Selma, he relayed the report from Major J. P. Houston that twelve "negroes

were killed by whites."[68] In Choctaw County, Alabama, on separate occasions, Black men were roasted alive; one of them was "chained to a pine tree and *burned to death*."[69] Then there were the "'gallant young men' [who] make a practice of robbing [Black people]. . . . If any resistance is made, death is pretty sure to be the result."[70] Between 1865 and 1868, white people murdered more than one thousand African Americans in one area of Texas. In Pine Bluff, Arkansas, white people "set fire to a black settlement and rounded up the inhabitants. A man who visited the scene the following morning found 'a sight that apald (sic) [him] 24 Negro men woman (sic) and children were hanging to trees all round the Cabbins.'"[71] As Black people tried to defend themselves, white people massacred African Americans in Memphis; New Orleans; Colfax, Louisiana; and Hamburg, South Carolina.

The historian Annette Gordon-Reed called the carnage a "slow-motion genocide."[72] It was clear that anytime a Black person tried to fulfill their right to leave an employer or reunite with their family or demand payment for their labor, they could be violently attacked. The rise of the Ku Klux Klan and similar domestic terrorist organizations like the Knights of the White Camelia and the Red Shirts meant that the precarity of Black life was the defining condition in post–Civil War America. Despite the subsequent repeal of the Black Codes; the rise of Radical Reconstruction, helmed by the U.S. Congress; the advent of the right to vote for African American men in 1867; the ratification of the Fourteenth and Fifteenth Amendments; and the passage of the third Enforcement Act, a law that criminalized white domestic terrorism, the Klan and other vigilante groups were undeterred. The bloodshed was so intense and the lack of justice so evident, despite the fact that Black people were now voting and holding office, that in the mid-1870s President Ulysses S. Grant painfully acknowledged that the slew of murders meant that white people clearly had "the right to Kill negroes . . . without fear of punishment, and without loss of caste or reputation."[73]

Things were no different in the twentieth century. In Atlanta in 1906, white men went on a killing spree against Black people in the city. On trolleys, in barbershops, in hotel lobbies, on street corners, African Americans were hunted down and slaughtered. State militia members, in their own way, were part of the mob. They rampaged through Atlanta, chanting, "We are rough, we are tough, we kill niggers and never get enough!" In the face of this terror, Black people had no stable right of self-defense. In Brownsville, a Black neighborhood, residents took up their guns and prepared to defend themselves from the onslaught. As policemen approached the neighborhood, African American sentries fired, thinking it was the mob attacking. Instead, one po-

lice officer died and four others were wounded. The state militia descended upon Brownsville and ransacked homes, terrorized the inhabitants, and confiscated every gun it could find.[74]

White brutality remained a steady fact of life for Black people during this era. But some moments were set apart, such as the orgy of violence known as the Red Summer, which began ramping up as World War I was winding down. The National Association for the Advancement of Colored People and others identified "at least 25 major riots and mob actions . . . and at least 52 black people . . . lynched. Many victims were burned to death" between April and November 1919.[75]

In Arkansas that year, African American sharecroppers in the town of Elaine placed armed sentries outside a church to guard their union-organizing meeting. They knew, as one of the Black men declared, that if their effort to join a labor union was discovered "the whites . . . are going to kill us." Despite the sharecroppers' stealth, as feared, the wealthy landowners had caught wind of the mobilization and sent a local deputy, a detective for the railroad, and a Black prison trusty, Kid Collins, as one participant in the meeting said, "to break up the meeting or to shoot it up." The sentries spotted them. The ensuing gun battle left one white man dead, the other wounded, and Kid Collins running back to town to alert the authorities. The political leaders defined the Black sharecroppers' act of self-defense as the onset of a plot to kill all the white people in the county and, perhaps, the state. The governor called in the U.S. Army, which machine-gunned and shot hundreds of Black residents.[76]

That same year in Knoxville, Tennessee, a white mob gathered in a Black neighborhood to kill as many African Americans as possible after a local sheriff thwarted the lynch mob's plans to hang a Black man arrested for murdering a white woman. In order to hold off the aggressors from laying waste to their neighborhood, Black residents overturned a gravel truck, created makeshift barricades, shot out the streetlights, and fired their rifles and pistols as the white mob attacked. Enraged that Black people had the audacity to defend themselves, white officials called in the 4th Tennessee Infantry Regiment, which then leveled one machine-gun blast after the next into Black homes and businesses.[77]

The next year another incident demonstrated the cost to Black people of exercising their rights to participate in the political process and to protect themselves. When Black residents in Ocoee, Florida, attempted to vote in the 1920 presidential election, white residents there tried to stop them. Poll workers challenged Black voters' registration and payment of the poll tax and required that they get their voting status certified by the town's notary, whom white leaders had deliberately sent out of town on a fishing trip. When one Black man nevertheless tried to cast a ballot and was twice turned away, he began to document the disenfranchisement of African American voters, which enraged a white mob that had been hanging around the polling station intimidating Black voters. The mob threatened to kill him. He fled for refuge to the home of one of the most prominent African Americans in Ocoee, July Perry. The armed mob followed. Perry was warned that they were coming. The men and women in Perry's household had guns, so they set themselves up to defend their home and their lives. But they couldn't repel the onslaught that came their way. A mob of around one hundred white men broke down the door of Perry's home. The residents inside leveled their guns and fired. At least one white man went down. The battle had just begun as white reinforcements poured in from the surrounding counties. Perry's act of self-defense was met with more violence: a white mob lynched him that night, and over the next several days, white people murdered or ran out of town some five hundred Black residents. Ocoee remained an all-white town for five decades.[78]

Nearly a generation later, during the height of the Second World War, Lena Baker, an African American woman in Cuthbert, Georgia, would also experience the lethal consequences of having no right to self-defense. Baker, a forty-four-year-old mother of three children, had been hired to care for a white man, Ernest Knight, who was twenty-three years older than her and had broken his leg. As Lela Bond Phillips writes in *The Lena Baker Story*, Knight would keep the woman captive in his mill house for days and repeatedly rape her. His son was scandalized and almost "beat her half to death" to compel "that bitch to stay away" from his father.[79] But it was Knight, as a white man in rural Jim Crow Georgia, who had the power. Late on the night of April 29, 1944, while her children were already in bed asleep, he went to Lena Baker's house, demanding that she come with him to his grist mill. She didn't want to go, but he took her anyway.[80] The inevitable sexual violence was delayed, however, because he had promised one of his sons that he would go to church with him, so he locked her inside. When he came back a few hours later, on April 30, he insisted on getting what he wanted.[81] What she wanted, however, was to leave. She went for the door, and Knight pulled out a gun. They struggled over it.[82] It went off, and a single bullet struck Knight in the head.

After the shooting, Baker claimed self-defense. The prosecutor charged her with murder. The trial didn't even take a full day. The jury deliberated for less than half an hour and delivered a guilty verdict. The judge sentenced Lena

Baker to death, the first and only woman to die in "Old Sparky," Georgia's electric chair. Lena Baker's last words were "What I done, I did in self-defense, or I would have been killed myself."[83]

Systemic violence against Black people was not just a Southern phenomenon. In California in the 1950s and '60s, the Oakland police force was notorious for brutally beating and killing unarmed African Americans. In one series of episodes, officers harassed and humiliated a young Black married woman by subjecting her to three days of venereal disease tests; beat an African American man severely after they learned his wife was white; killed a Black man they had arrested for loitering; and claimed justifiable homicide for gunning down a man who they insisted had been burglarizing a building that showed no signs of forcible entry.[84] This violence created a demand in the Black community that something be done. In 1966, Huey P. Newton and Bobby Seale answered that call and formed the Black Panther Party for Self-Defense (BPP).

The BPP had a swagger and a militancy that resonated with a besieged community. Dressed in their "uniforms" of leather jackets and berets, the Panthers openly carried rifles and .45s while monitoring Oakland police officers making arrests. As an act of community self-defense, they policed the police. This was unsettling to many white people. A headline to a 1967 article in the *San Francisco Examiner* exclaimed, "Oakland's Black Panthers Wear Guns, Talk Revolution." Even more frightening: "It's All Legal."[85]

The police inveighed upon conservative California assemblyman David Donald "Don" Mulford to change the state's gun laws to make the open carry of firearms illegal and, thus, undermine the Panthers' community self-defense strategy. Mulford readily agreed.[86] He was bolstered in his efforts by the National Rifle Association, the guardians of the Second Amendment. An NRA representative, E. F. "Tod" Sloan, helped draft new gun-control legislation, California Assembly Bill 1591.[87] Mulford adamantly denied that the bill was aimed at African Americans and offered assurances that "there are no racial overtones to this measure."[88] He publicly asserted that AB 1591 was designed to cover the Klan and the Minutemen, covert right-wing groups that, while well-armed, did not openly carry weapons in the state.

Willie Brown, a Black assemblyman from San Francisco, saw through the subterfuge, noting that Mulford had opposed similar legislation "until Negroes showed up in Oakland—his district—with arms."[89] And Mulford's private correspondence demonstrated that the Black Panthers were the target of his bill. He explained to Governor Ronald Reagan that the "Black Panther

movement is creating a serious problem." And that AB 1591 had, therefore, been "introduced at the request of the Oakland Police Department."[90] For his part, Reagan, through his legislative secretary, informed Mulford that a prominent district attorney "emphasizes the danger of the carrying of firearms by groups such as the Black Panthers and the need for control in this area."[91]

Many white people in America, in fact, saw the Panthers and the uprisings in Watts, Detroit, and Newark not as protests against police violence but as indications of dangerous Black pathology. A white woman in Joliet, Illinois, remarked, "When I see on TV these demonstrations it makes me think of them as savages."[92] Indeed, 57 percent of white people who lived in large urban areas said that the riots made them feel "unsafe."[93] A woman in New Jersey explained, "People have become afraid of Negroes. When you see them in groups you think they're going to start a riot."[94]

Reagan and other officials quickly realized there was a political gold mine in white fear. Identifying African Americans as criminals, "thugs," and "mad dogs" and as an imminent threat to white communities, white lives, and white prosperity allowed the racialized "public safety" policies of Jim Crow to survive in the post–Civil Rights era.[95] It drove election campaigns steeped in the rhetoric of "law and order" and successfully fueled "soft on crime" charges leveled against opponents.[96] In this political environment, where Black people were *the* threat, the violence that rained down on them seemed justified. Self-defense was not. A machine operator in California actually remarked, "I think there should be more police brutality, more martial law. Then they would have more respect for the law. Martial law is shoot now and ask questions later."[97] As the scholar Susan D. Greenbaum noted in *Blaming the Poor,* the "subtext" of news reports and policy studies was "that African Americans were dangerous, that poverty combined with inept upbringing and untamed rage were all coming to the surface in the successes of the Civil Rights movement."[98] As the perceived threat grew, the focus of self-defense law was to protect white Americans; Black people were left exposed and vulnerable to white violence.[99]

In December 1984, on a subway car in New York City, a thirty-seven-year-old white man, Bernhard Goetz, said he feared that he was going to be mugged by four young African Americans who had asked him for a cigarette and tried to bum five dollars. He pulled out his unlicensed gun and fired five bullets, hitting all his targets, leaving one teen paralyzed and with brain damage, and then left the train. When Goetz turned himself in to the police nine days later and the prosecutor charged him with attempted murder, he became a "hero" to many: the "subway vigilante."[100] He represented the besieged white Ameri-

can who felt threatened by Black people. Indeed, Goetz said he feared for his life, although there was virtually no hard evidence that the teens had tried to attack him before he pulled his gun and fired.[101] Nonetheless, he claimed self-defense. The jury agreed.

Behind the cases of Bernhard Goetz, George Zimmerman, and Jessie Murray, Jr., is a legacy of laws originally created to make it easier for white people to defend themselves against the Black people they enslaved, who were defined as "dangerous" because they wanted desperately to be free. But when they won their freedom, Black people did not also win the right to defend themselves. That has remained elusive to this day. In 2020, the U.S. Commission on Civil Rights reported on the racial implications of Stand Your Ground laws: the criminal justice system is ten times more likely to rule a homicide justifiable if the shooter is white and victim is Black than the other way around.[102] In fact, the report notes that when a white person kills an African American, it is 281 percent more likely to be ruled a "justifiable homicide" than a white-on-white killing.[103] A joint analysis by the Giffords Law Center and the Southern Poverty Law Center, citing the U.S. Commission on Civil Rights Report, summed up the results: "the consequences are predictably deadly and unequal."[104]

PUNISHMENT
BY BRYAN
STEVENSON

A decade ago, I was in court fighting for the release of a Black man named Matthew who had been condemned to die in prison because of a crime that occurred when he was sixteen. A legal aid organization I'd founded, the Equal Justice Initiative (EJI), was representing Matthew, as well as many others who had been sentenced to life imprisonment without parole when they were children. When EJI was started, in 1989, its purpose was to provide legal representation to people on death row. Over the years, our mission expanded to include providing legal aid to people wrongly convicted or unfairly sentenced. We also began representing condemned children, some as young as thirteen, serving sentences of life without parole. Today, we seek an end to mass incarceration and to the abusive and punitive way our legal system responds to trauma, addiction, and mental illness.

The focus of our work—like the work of so many other individuals and organizations that have arisen throughout the nation's history to fight for and deepen our founding principles of justice and equality before the law—is the particularly punitive nature of the American legal system. The United States has the highest rate of incarceration of any nation on earth: this country contains 4 percent of the planet's population but 20 percent of its prisoners.

This is a relatively recent development. In the early 1970s, our prisons and jails held fewer than 350,000 people; since then, that number has increased to about 2.3 million, with 4.5 million more on probation or parole.[1] In 1980, there were roughly 40,000 people incarcerated for drug offenses; today that number is about 450,000. For more than three decades, our country has spent billions of dollars every year not only on constructing prisons and jails but also on policing and funding a carceral system that has ensnared millions.[2] More

than 200,000 Americans are currently condemned to life sentences or virtual life sentences (fifty years or longer).[3]

Disproportionately, those affected by the system are Black. Racial disparities in sentencing are found in almost every crime category. For instance, researchers have repeatedly established that the race of the victim is the greatest predictor of who gets the death penalty in the United States.[4] A study from the 1980s found that in Georgia, Black defendants convicted of killing white people were almost twenty-two times more likely to be sentenced to death than people convicted of crimes against Black victims, a racial disparity that the United States Supreme Court accepted as "inevitable" in a controversial 1987 case, *McCleskey v. Kemp*. And determinations about whether children are prosecuted as juveniles or adults and what kind of punishments are imposed reveal some of the most dramatic racial disparities. In 2008, EJI established that *all* of the thirteen- and fourteen-year-old children in this country sentenced to life in prison without parole for non-homicide offenses were Black, Latino, or Native.[5]

We began representing these children and challenging what we call "death in prison" sentences across the country. Eventually, two of the cases, *Sullivan v. Florida* and *Graham v. Florida*, ended up in the United States Supreme Court. In 2009, I argued to the justices that telling any thirteen-year-old child, "You are fit only to die in prison" is cruel and that these sentences cannot be reconciled with what we know about child development or basic human rights. The Court agreed and declared that life without parole sentences imposed on children convicted of non-homicide offenses are unconstitutional.

The *Graham* decision and a 2012 case we took to the Supreme Court, *Miller v. Alabama*, which banned imposing mandatory sentences of life without parole on children, created the possibility of release for thousands of imprisoned people who had been condemned as minors. However, obtaining parole or release was not guaranteed. Legal appeals would have to be filed, and judges and parole boards would have to be persuaded to grant relief. That's how I met Matthew.

At the time that we represented him, Matthew had been imprisoned for more than forty years. He was one of sixty-two Louisiana prisoners serving life in prison for non-homicide offenses committed when they were children; 89 percent of the condemned were Black. Some had been in prison for nearly fifty years. Almost all had been sent to Angola, a penitentiary that at the time was considered one of America's most violent and abusive.[6] Angola is immense, larger than the island of Manhattan, covering land once occupied by plantations where enslaved Black people were forced to labor. Some of our

clients had worked in the fields for years while imprisoned under the supervision of horse-riding, shotgun-toting guards who forced them to pick crops, including cotton.

Even after Supreme Court rulings, securing the release of these men usually required navigating parole review boards, which are highly discretionary. A prisoner's disciplinary record is often one of the most significant factors in parole decisions, and I was worried that some of our clients would be denied release. Some had records documenting that when they had refused to pick cotton or had failed to pick it fast enough, they had been punished with time in "the hole," where food was restricted and inmates were sometimes teargassed. Still, some Black prisoners, including Matthew, considered the despair of the hole preferable to the unbearable degradation of being forced to pick cotton at the end of the twentieth century on the site of a former plantation for enslaved people. Because of disciplinary infractions like this, some of our clients were denied parole.

Incarcerated people in most states have no right to counsel for post-conviction appeals, so EJI ended up taking on close to sixty cases in Louisiana. In other states, because of mandatory sentencing and three-strikes laws, I have found myself representing people sentenced to life without parole for stealing a bicycle or for simple possession of marijuana. For a nation that prides itself on being exceptionally committed to freedom, America has produced an endless list of harsh, extreme, and cruel sentences, across the fifty states, for minor and major crimes.

How did it come to this? How did we arrive at a point of so much over-incarceration, abusive policing, and excessive punishment? Why are racial disparities so pronounced throughout this system? We cannot answer these questions without understanding the legacy of slavery and the harsh, racialized instinct for punishment our history has created.

It took only a few decades after the arrival of enslaved Africans in Virginia before white settlers demanded a new world defined by racial caste. The 1664 General Assembly of Maryland decreed that all Negroes shall serve *durante vita*, hard labor "for life."[7] This enslavement would be sustained by the threat of brutal punishment. By 1729, Maryland law had authorized punishments of enslaved people including "to have the right hand cut off . . . the head severed from the body, the body divided into four quarters, and head and quarters set up in the most public places of the county."[8] Enslaved people were punished for learning to read, for questioning their enslavement, or when rumors of

escape or rebellion surfaced. In 1740, South Carolina lawmakers restricted some of the most barbaric punishments that had emerged and imposed civil fines on enslavers who "cut out the tongue, put out the eye, castrate, or cruelly scald, burn, or deprive any slave of any limb or member," but it still authorized "whipping or beating with horse whip, cow skin, switch or small stick, or putting irons on, or confining or imprisoning."[9]

Even emancipated and free-born Black people were often considered to be presumptive fugitives to be hunted, captured, and sold into slavery. As one nineteenth-century court ruled, "The presumption arising from the color of a person indicating African descent is, that he is a slave."[10] Some Northern states and territories, including Illinois, Indiana, and Oregon, banned the immigration of free Black people; some Southern states required that enslaved people who obtained freedom from their enslavers leave the state, to avoid any confusion about what Black people represented in American society.

American slavery evolved into a perverse regime that denied the humanity of Black people while criminalizing their actions. Bondage itself was only one part of the system; the myth of racial difference and a belief in white supremacy were another. As the Supreme Court of Alabama explained in an 1861 ruling, enslaved Black people were "capable of committing crimes," and in that capacity were "regarded as persons," but in most every other sense they were "incapable of performing civil acts" and considered "things, not persons."[11]

The Thirteenth Amendment is credited with ending slavery, but it stopped short of that. It made an exception for those convicted of crimes: "Neither slavery nor involuntary servitude, *except as a punishment for crime whereof the party shall have been duly convicted*, shall exist within the United States, or any place subject to their jurisdiction" (emphasis added).[12] And it could not abolish the true evil of American slavery, which was the belief that Black people are less evolved, less human, less capable, less deserving, less trustworthy than white people. Reconstruction may have challenged the existing paradigm with changes to the Constitution aimed at enforcing equality before the law but it was short-lived and could not overcome the commitment to white supremacy evident in so many jurisdictions. The existing racial hierarchy was sustained by myths about Black criminality, which led many white people to insist that only the threat of extreme and brutal punishment could preserve order where Black people were concerned. After emancipation, Black people once seen as less than fully human "slaves," were now seen as less than fully human "criminals."

Formal slavery may have ended in 1865, but the social, legal, economic, and

olitical system built in the South to sustain slavery survived by evolving into ew forms. Laws governing slavery were replaced with laws governing free lack people, making the criminal legal system central to new strategies of ıcial control. As the provisional governor of South Carolina declared in 1865, mancipated Black people had to be "restrained from theft, idleness, vagrancy ıd crime . . . and taught the absolute necessity of strictly complying with ıeir contracts for labor."[13] An 1866 editorial in the Macon *Daily Telegraph* said: There is such a radical difference in the mental and moral constitution of the ·hite and black race that it would be impossible to secure order in a mixed ɔmmunity by the same legal sanction."[14] And these beliefs were not limited › the South. The slogan of the 1868 Democratic National Convention, which ɔminated former New York governor Horatio Seymour as its candidate for resident, was: "This Is a White Man's Country; Let White Men Rule."[15]

These strategies intensified whenever Black people asserted their indeendence or achieved any measure of success. Even before Reconstruction ıded, white Americans countered the emergence of Black elected officials ıd entrepreneurs with mob violence. After Reconstruction, rejection of ra-al equality intensified with convict leasing, a scheme in which white policy ıakers invented offenses—congregating after dark, vagrancy, loitering—ıat could be used to arrest Black people, who were then jailed and "leased" › businesses and farms, where they labored under brutal conditions. An 87 report in Mississippi found that six months after 204 prisoners were ased to a white man named McDonald, dozens of them were dead or ying, the prison hospital filled with men whose bodies bore "marks of the ost inhuman and brutal treatment . . . so poor and emaciated that their ɔnes almost come through the skin."[16] The death rate in some of these ·ison camps was close to 45 percent. As historian Douglas A. Blackmon's ılitzer Prize–winning book documents, it was *Slavery by Another Name*.[17] ıt unlike slavery, in which enslavers at least had a financial interest in :eping enslaved people alive and functional, convict leasing stripped im-·isoned people of any protection and made them completely replaceable ıd easily discarded. In that sense, convict leasing was, as the sociologist avid Oshinsky titled his book, *Worse Than Slavery*.[18]

It is not just that this history fostered a view of Black people as presumpvely criminal; it also cultivated a tolerance for employing any level of brutal-/ to maintain the racial hierarchy. In 1904 in Mississippi, a Black man was .cused of shooting a white landowner who had attacked him. A white mob ptured him and the woman with him, cut off their ears and fingers, drilled ɔrkscrews into their flesh, and then burned them alive, while hundreds of

white spectators enjoyed deviled eggs and lemonade. The landowner's brother, Woods Eastland, presided over the violence. He was later elected district attorney of Scott County, Mississippi, a position that launched his son James Eastland, an avowed white supremacist, to the U.S. Senate; he served six terms, and was president pro tempore from 1972 to 1978.

In the eyes of white people, Black criminality was broadly defined. Anything Black people did to challenge the racial hierarchy could be seen as a crime, punished either by the law or by lawless lynchings, which were an epidemic in the South but also took place in the West and the North. In 1916, a white mob lynched Anthony Crawford in South Carolina for being successful enough to refuse a low price for his cotton. In 1918, Mary Turner complained about her husband's murder and the mistreatment of sharecroppers in Georgia and a white mob lynched her, too. In 1920, a white mob of up to ten thousand people gathered in Duluth, Minnesota, and lynched three Black men. In 1933, a white mob lynched Elizabeth Lawrence near Birmingham for daring to chastise white children who were throwing rocks at her.

This appetite for harsh punishment has echoed across the decades. Many of the well-dressed Christians and clergy members who took part in the 1955 Montgomery bus boycott were beaten, battered, and bloodied in nonviolent civil rights protests.[19] By the 1960s it was less acceptable to employ the same forms of extralegal racial terrorism that had been used to constrain previous forms of Black protest. But white resistance to racial equality remained strong. A new politics of fear and anger emerged and gave rise to the era of mass incarceration. Richard Nixon's war on drugs, mandatory minimum sentences, three-strikes laws, children tried as adults, "broken windows" policing—these policies were not as expressly racialized as the Black Codes, but their implementation involved many of the same features. Today, it is Black and other nonwhite people who are disproportionately targeted, stopped, suspected, arrested, incarcerated, and shot by the police or prosecuted in courts.

Hundreds of years after the arrival of the first enslaved Africans, a presumption of danger and criminality still follows Black people everywhere. New language has emerged for the non-crimes that have replaced the Black Codes: driving while Black, sleeping while Black, sitting in a coffee shop while Black. All reflect incidents in which African Americans have been mistreated, assaulted, or arrested for conduct that would be ignored if they were white. In schools, Black children are suspended and expelled at rates that vastly exceed the punishment of white children for the same behavior.

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The smog created by our history of racial injustice is suffocating and toxic. We are too practiced in ignoring the victimization of any Black person tagged as "criminal"; like Woods Eastland's crowd, too many Americans remain willing spectators to horrifying acts of extreme punishment, as long as they are assured that it is in the interest of maintaining order. Today, in courtrooms across America, advocates and lawyers representing Black people cannot effectively assist many of their clients without recognizing that, contrary to the legal doctrine, those clients are presumed guilty and burdened by assumptions of criminality that have been shaped over centuries. The job of the advocate then becomes convincing the court and the jurors of a client's innocence, rather than just defending the client against accusations of guilt, an inversion of the presumption of innocence written into American law. The advocate who fails to understand this reality can actually imperil the life of his or her client.

Recognizing the unbroken links between slavery, Black Codes, lynching, and our current era of mass incarceration is essential. Like generations before, we must struggle for an end to bigotry. We must fight to repair the damage created by centuries of racial injustice. We must commit to a new era of truth and justice, one in which we honestly confront our past so that we can understand what remedies are needed to achieve healthy communities and justice for people who have been unfairly excluded and targeted. Our nation must acknowledge the four hundred years of injustice that haunt us. Truth-telling can be powerful. In many faith traditions, salvation and redemption can come only after confession and repentance. In Germany, there has been a meaningful reckoning with the history of the Holocaust; this sort of reflection and remembrance has been largely absent in America, where many people resist confronting the most disturbing and difficult parts of our past.

With this in mind, in 2018, EJI founded a museum in Montgomery, Alabama, dedicated to the legacy of slavery; the grounds also feature a memorial honoring thousands of Black victims of lynching. Since we've opened, hundreds of thousands of people have visited. I've seen many of them reduced to tears after bearing witness to the traumas of our past; but I've also seen them, before they leave, resolve to make a difference. They understand, perhaps, that we are at one of those critical moments in American history when we will either double down on romanticizing a false narrative about our violent past or accept that there is something better waiting for us, if we can learn to deal honestly with our history.

I sometimes speak with our Angola clients who have now been released, including Matthew. They are grateful to have survived the fields and the hole,

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to have endured harsh punishment amid an uncertain future. They sometim talk about what it was like to be told, "You are beyond hope, beyond redem tion, and you must stay in prison until you die." We share our convictions th people are wrong when they reduce other human beings to nothing mo than their worst act. It is powerful to see individuals I met when they we condemned behind bars living unchained lives that carry the hope and pc sibility of restoration. But it is also clear to me that for Matthew and othe being outside Angola's haunted plantation gates doesn't mean total freedo Condemnation frequently leaves a mark, an injury, a trauma that weighs (you. And the conditions that gave rise to unjust condemnation for the peop I represent still exist. Black people still bear the burden of presumptive gui

A society recovering from a history of horrific human rights violatio must make a commitment to truth and justice. As long as we deny the lega of slavery and avoid this commitment, we will fail to overcome the racia biased, punitive systems of control that have become serious barriers to fre dom in this country. It's tempting for some to believe otherwise, but mu work remains.

No, Modern Policing Did Not Originate with Slavery

By DAN MCLAUGHLIN National Review

April 21, 2021

Nikole Hannah-Jones's latest provocation is, once again, rooted in historical confusion.

Nikole Hannah-Jones of the New York Times' 1619 Project is at it again in her effort to paint everything in America as a product of slavery. This time, she is trying to tie "modern policing" to antebellum citizen slave patrols. This fundamentally misunderstands what "modern policing" means.

Here is what Hannah-Jones told CBS News, which framed her quote as proving that "what we're seeing now has a disturbing link to the past:"

In certain parts of the country, modern policing has direct lineage to the slave patrols. The slave patrols deputized white Americans to stop, to question, to search any black person who was walking about, to ensure that enslaved people were not escaping, or going in places where they weren't supposed to be.

When challenged on Twitter to offer support, Hannah-Jones cited a 2019 blog post by Chelsea Hansen on the National Law Enforcement Museum website:

When one thinks about policing in early America, there are a few images that may come to mind: A county sheriff enforcing a debt between neighbors, a constable serving an arrest warrant on horseback, or a lone night watchman carrying a lantern through his sleeping town. These organized practices were adapted to the colonies from England and formed the foundations of American law enforcement. However, there is another significant origin of American policing that we cannot forget — and that is slave patrols. . . . After the Civil War, Southern police departments often carried over aspects of the patrols. These included systematic surveillance, the enforcement of curfews, and even notions of who could become a police officer.

The problem with Hannah-Jones's argument is that it entirely ignores what makes modern policing *modern*: the creation of professional, full-time, paid, uniformed, hierarchical police forces designed to replace citizen enforcement. The *institution* of police in America has a very different history from what Hannah-Jones told CBS News. To the extent that modern police forces took over the job of enforcing racist laws, that is simply because enforcing the laws is what police do. The fault for that lies in the laws and the people who make them, not in some idea that policing is tainted by having been preceded by slave patrols. In fact, modern policing has a distinct and well-known origin outside of the slaveholding South.

Policing in some form has existed for as long as there has been civilization, and it was typically led by a few government officers — a sheriff, a magistrate, a constable, perhaps a local feudal lord. But the old English tradition, which came down to the American colonies, relied heavily on community volunteers. Hansen's post relied on an article by Gary Potter that begins:

The development of policing in the United States closely followed the development of policing in England. In the early colonies policing took two forms. It was both informal and communal, which is referred to as the "Watch," or private-for-profit policing, which is called "The Big Stick." . . . The watch system was composed of community volunteers whose primary duty was to warn of impending danger. Boston created a night watch in 1636, New York in 1658 and Philadelphia in 1700. The night watch was not a particularly effective crime control device. Watchmen often slept or drank on duty. While the watch was theoretically voluntary, many "volunteers" were simply attempting to evade military service, were conscript forced into service by their town, or were performing watch duties as a form of punishment. Philadelphia created the first day watch in 1833 and New York instituted a day watch in 1844 as a supplement to its new municipal police force . . .

As you can see, had Hannah-Jones actually read the sources she cites, she would not have sniped to critics on Twitter, "This was a news program about America, not England. Maybe the law enforcement museum is lying, too." The English and American experiences are closely tied together, as the law-enforcement museum's own sources acknowledge.

Professional police forces find their beginnings in France, which employed gendarmes as far back as 1700. But the creation of professional, uniformed police departments can be traced directly to British home secretary (later prime minister) Robert Peel, who introduced them in London on September 29, 1829. Indeed, the "bobbies" are called this even today after Robert Peel. Peel's role is very well-known and well-documented in policing history. One can find references to Peel's "nine principles" of policing today on the websites of the U.S. Department of Justice, the Ottowa Police, and the Law Enforcement Action Partnership. Even the *New York Times* reprinted them in 2014, quoting New York City police commissioner William Bratton: "I carry these with me everywhere. My bible." Those principles:

PRINCIPLE 1: "The basic mission for which the police exist is to prevent crime and disorder."

PRINCIPLE 2: "The ability of the police to perform their duties is dependent upon public approval of police actions."

PRINCIPLE 3: "Police must secure the willing cooperation of the public in voluntary observance of the law to be able to secure and maintain the respect of the public."

PRINCIPLE 4: "The degree of cooperation of the public that can be secured diminishes proportionately to the necessity of the use of physical force."

PRINCIPLE 5: "Police seek and preserve public favor not by catering to the public opinion but by constantly demonstrating absolute impartial service to the law."

PRINCIPLE 6: "Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient."

PRINCIPLE 7: "Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence."

PRINCIPLE 8: "Police should always direct their action strictly towards their functions and never appear to usurp the powers of the judiciary."

PRINCIPLE 9: "The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it."

As you can tell, these principles were seen at the time as a great progressive step forward from policing by a deputized citizen-volunteer posse or by vigilantes — precisely the form of pre-modern policing that the slave patrols represented. The history of vigilantes and citizen lynch mobs is not one that Hannah-Jones would find to be friendlier to African Americans.

Historians are more or less unanimous on the direct influence of Peel's innovations on the establishment of modern American police forces. As Jürgen Osterhammel writes in *The Transformation of the World*, his comprehensive global history of the 19th century, Peel's model had global influence, including in the United States:

The police in the United States had its roots in England: first in the old tradition of community night watchmen transferred to the American colonies, then in the important modernization that gave rise in 1829 to the [London] Metropolitan Police Force and its uniformed bobbies. This basic model was adopted with a delay of two or three decades by large cities in the United States, and it was only in the 1850s that those in the East provided themselves with uniformed policemen on a permanent payroll.

Law-enforcement historian Eric Monkkonen's "History of Urban Police" likewise explains the importance of Peel's innovations:

Police are relative newcomers to the Anglo-American criminal justice system. The Constitution does not mention them. Early city charters do not mention them, either, for the simple reason that, as we know them, police had not been invented. Instead, cities had loosely organized night watches and constables who worked for the courts, supplemented by the private prosecution of offenders through lower-level courts. . . . The night watch and day constable, dating from the Middle Ages, were familiar comic figures in Shakespeare's plays and were not replaced until the 1820s, when London police were reorganized by Robert Peel. The police precedent for the United States, as is well known, came from the establishment of the Metropolitan Police of London in 1829. Peel used his military experience in Ireland to create a social control organization midway between a military and a civil force.

The American adoption of police from Peel's model began in the cities, mainly on the East Coast and including some southern cities:

New York City uniformed its police first, in 1853, after an earlier short-lived attempt in the 1840s. The cities of Savannah, perhaps Albany, Charleston, Jersey City, Philadelphia, Baltimore, San Francisco, Chicago, Washington, Boston, Cincinnati, Manchester, New Hampshire, and Utica, New York, in that order, complete the list of those cities which followed in the 1850s.

As Monkkonen details, modern American police were distinct from the old system:

"There are four important innovative features of the new police as created in the United States in the nineteenth century. First, the new police had a hierarchical organization, with a command and communications structure resembling the military. This gave them an ordered and centralized hierarchy. . . . Second, increasing functional differentiation in revised city governments located the police under the executive rather than the judicial branch–previously, constables and watches had been part of the lower courts. . . . Third, the uniforms made the police visible, hence accessible, to all, whether neighbors or strangers, and this essentially made them the first and, for a long time, the only officials easily seen by the public. . . . Fourth, the police were conceived to be active: that entailed patrol (they were expected to discover and prevent crime), regular salaries and lines in the city budget, and free prosecution of criminal offenders. Conceptualized as bringing regular and more effective crime prevention to the city, this new activity contrasted with the constables' responsive, fee-based work.

These are precisely the characteristics that distinguished police forces, particularly in big cities, from citizen slave patrols. Of course, American policing has its own heritage as well. American police were employed mainly by local governments, not by the national government as in much of Europe. Regional disparities created space for private detective agencies such as the Pinkertons. America has a much longer history of vigilante action, especially in the West, where police were scarce. Keith Williams notes some of the distinctions, which led 19th-century American police to be tied to urban political machines:

American leaders knew a good thing when they saw it and, when faced with similar elements of social disorder, 'borrowed' some of the fundamental tenets of the London police. The early American police forces modelled themselves after the London police force, but not in its entirety. Deployment for preventive patrol carried over and was supposed to be the major facet for the US police. Apart from a few other parallels, such as a similar military-model structure and beat patrols, the police forces were dissimilar in all respects. Perhaps the most important difference was that the American police agencies found themselves to be reflective of the communities that they policed.

Monkkonen notes that antebellum southern states — unsurprisingly — used their new police forces to take over the jobs of the old slave patrols, but that they adapted their structure from elsewhere:

Clearly the major metropolises took the initiative in the creation of the uniformed police, New York and Boston explicitly imitating London. The early innovators not in the group of leading metropolises had two or three characteristics which account for what may be termed their premature change to the uniformed police. First, some of the early innovators were virtual suburbs of New York City — Jersey City, for instance. Other cities were regional centers with many of the characteristics of primate cities — Charleston or San Francisco, for instance. Finally, many of the early innovators were southern, slave cities, where the police were very much in the military mode of slave control. Richard Wade, for instance, has asserted that southern cities had virtual standing armies in the form of police to control slaves. This thesis deserves more research, for the early uniforming of non-slaveholding San Francisco's police suggests that southern cities may have innovated more because of their roles as regional centers rather than for slave control alone.

Nevertheless, this sequential list of cities suggests that the timing of innovation in urban police followed an important basic pattern in the urban network, determined primarily by size, but also heavily influenced by region.

History is rarely as simple as the sorts of narrative Hannah-Jones peddles, in which anything that was ever used by a slaveholder is transmuted into a creation and legacy of slavery. London-style policing, when imported into slave states, naturally adapted to the needs, desires, and worldview of slaveholders and slaveholding societies, just as it adapted to the needs, desires, and worldview of big cities with political machines run by Irish immigrants. But that tells us nothing about the "lineage" of "modern policing."

About 8:30 one Thursday evening in Detroit, Tony Murray was getting ready for bed ahead of his 6 a.m. shift at a potato chip factory. As he turned off the final light in the living room, he glanced out of his window and saw a half-dozen uniformed police officers with guns drawn approach his home.

As the officers banged on the door, Murray ordered Keno, his black Labrador retriever, to the basement. As Murray let the officers in, one quickly pushed him to the floor and at least two others ran to the cellar, he said. "Don't kill my dog. He won't bite you," Murray pleaded. The sound of gunshots filled the house. Keno's barking, the 56-year-old recalled, morphed into the sound of "a girl screaming."

Officers searched Murray's home for nearly an hour, flipping his sofa and emptying drawers. Outside, Murray approached the officers standing by their vehicles. One handed him a copy of the search warrant, which stated they were looking for illegal drugs. Murray noticed something else: The address listed wasn't his. It was his neighbor's.

Months after the 2014 raid, Murray, who was not charged with any crimes, sued Detroit police for gross negligence and civil rights violations, naming Officer Lynn Christopher Moore, who filled out the search warrant, and the other five officers who raided his home. The city eventually paid Murray $87,500 to settle his claim, but admitted no error by police.

That settlement was not the first or last time that Detroit would resolve allegations against Moore with a check: Between 2010 and 2020, the city settled 10 claims involving Moore's police work, paying more than $665,000 to individuals who alleged the officer used excessive force, made an illegal arrest or wrongfully searched a home.

Moore is among the more than 7,600 officers — from Portland, Ore., to Milwaukee to Baltimore — whose alleged misconduct has more than once led to payouts to resolve lawsuits and claims of wrongdoing, according to a Washington Post investigation. The Post collected data on nearly 40,000 payments at 25 of the nation's largest police and sheriff's departments within the past decade, documenting more than $3.2 billion spent to settle claims.

The investigation for the first time identifies the officers behind the payments. Data were assembled from public records filed with the financial and police departments in each city or county and excluded payments less than $1,000. Court records were gathered for the claims that led to federal or local lawsuits. The total amounts further confirm the broad costs associated with police misconduct, as reported last year by FiveThirtyEight and the Marshall Project.

The Post found that more than 1,200 officers in the departments surveyed had been the subject of at least five payments. More than 200 had 10 or more.

The hidden billion-dollar cost of repeated police misconduct

By Keith L. Alexander Steven Rich and Hannah Thacker

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The repetition is the hidden cost of alleged misconduct: Officers whose conduct was at issue in more than one payment accounted for more than $1.5 billion, or nearly half of the money spent by the departments to resolve allegations, The Post found. In some cities, officers repeatedly named in misconduct claims accounted for an even larger share. For example, in Chicago, officers who were subject to more than one paid claim accounted for more than $380 million of the nearly $528 million in payments.

The Post analysis found that the typical payout for cases involving officers with multiple claims — ranging from illegal search and seizure to use of excessive force — was $10,000 higher than those involving other officers.

Despite the repetition and cost, few cities or counties track claims by the names of the officers involved — meaning that officials may be unaware of officers whose alleged misconduct is repeatedly costing taxpayers. In 2020, the 25 departments employed 103,000 officers combined, records show.

"Transparency is what needs to be in place," said Frank Straub, director of the National Police Foundation's Center for Mass Violence Response Studies, adding that his organization has called for departments nationwide to publicize cases with settlements. "When you have officers who have repeated allegations … it calls for extremely close examination of both the individual cases and the totality of the cases to figure out what's driving this behavior and these reactions and to see if there is a pattern in an officer's behavior that triggers these cases."

Defenders of police have a different view.

City officials and attorneys representing the police departments said settling claims is often more cost-efficient than fighting them in court. And settlements rarely involve an admission or finding of wrongdoing. Because of this there is no reason to hold officers accountable for them, said Jim Pasco, executive director of the National Fraternal Order of Police, the nation's largest police labor union with more than 364,000 members.

"If there's never been a finding of guilt or anyone's fault, why put that in an officer's record?" Pasco said. "That would be such a glaring omission of due process where in the legal system in the United States, a person is innocent until proven guilty."

The Post reached out to scores of officers named in claims that led to payments. Some were no longer working for the departments. Most had no comment or, like Moore, did not return phone calls.

Two officers in Boston who had the highest number of claims settled have since retired. But both said the allegations — ranging from excessive force to wrongful arrest — did not accurately portray their work while on the force.

Paul Murphy, who was named in four lawsuits totaling about $5.2 million in payments, said he "tried to do the best I could" as an officer. But he added, "sometimes things happened." He declined to elaborate.

Gerald Cofield was named in three lawsuits that totaled about $306,000 in payments. Cofield said he wished the city had fought the claims instead of settling because he believed city attorneys would have won, and his name and reputation would have been cleared. "We are not the bad guys these lawsuits paint us to be," he said.

One Detroit officer said he wished the city had fought the lawsuits because he believed the cases had no credibility and those making the allegations had been armed or resisting arrest. "It's called the Detroit lottery," said the officer, who spoke on the condition of anonymity because he had not received permission to speak publicly. "People have been convicted and are in prison filing lawsuits knowing they can get paid."

Multimillion-dollar settlements regarding allegations of police misconduct often generate headlines. Minneapolis paid $27 million to the family of George Floyd, and Louisville paid $12 million to Breonna Taylor's family.

Those cases are the exception: The median amount of the payments tracked by The Post was $17,500, and most cases were resolved with little or no publicity.

Many of the officers who had the highest number of claims against them were participating in task forces targeting gangs, drugs or guns, records show.

Pasco said he is not surprised that these officers would be the subject of multiple lawsuits, given the assignments. And given, he said, that the nation has become a "litigious society."

"It's the cost of policing," he said. "That's the reason crime, until recently, has declined."

New York, Chicago and Los Angeles alone accounted for the bulk of the overall payments documented by The Post — more than $2.5 billion. In New York, more than 5,000 officers were named in two or more claims, accounting for 45 percent of the money the city spent on misconduct cases. In New York, four attorneys who have secured the highest number of payments for clients separately said the high rate of claims is because of poor training, questionable arrests and a legal department overwhelmed by lawsuits.

In Philadelphia, six officers in a narcotics unit generated 173 lawsuits, costing a total of $6.5 million. In 2014, those officers were federally charged with theft, wrongful arrest and other crimes but eventually acquitted at trial. Some 50 additional lawsuits are pending, many alleging misconduct dating back more than a decade, said Andrew Richman, a spokesman for the city's legal department.

In Palm Beach County, Fla., officials paid out $25.6 million in the past decade: One-third of that was generated by 54 deputies who were the subject of repeated claims.

The data provided by cities included no demographic information about the people who filed the claims. But Chicago attorney Mark Parts, who has handled scores of lawsuits against police, said most of his clients have been Black or Hispanic.

"The folks who are aggressively policed and confronted by officers in the course of their daily lives are people of color," Parts said. "I have found the majority of those whose rights are repeatedly violated are African Americans and Hispanics."

In the D.C. region, more than 100 officers have been named in multiple claims that led to payments.

In Prince George's County, Md., 47 officers had their conduct challenged more than once, resulting in at least two payments each accounting for $7.1 million out of $54 million paid within the decade. Two in five payments involved an officer named in more than one claim. The totals are skewed by a $20 million payment to the family of 43-year-old William Green, who was fatally shot while his hands were cuffed behind his back in the front seat of a police cruiser.

Cpl. Clarence Black was the subject of four settled cases, the most in the department. In 2010, the county paid $125,000 to a husband and wife who alleged Black assaulted them. In 2013, a Temple Hills family received $60,000 after alleging Black and four other officers illegally entered their home. In 2014, a woman got $10,000 after alleging Black punched her shoulder. And in 2019, a man collected $190,000 after alleging that Black illegally handcuffed him as he retrieved a bottle of water.

Black, a former officer of the year who joined the force in 2002, was indicted in August on two counts of second-degree assault and two counts of misconduct in office after being accused of assaulting a driver during a traffic stop in Temple Hills. Black's attorney did not return calls requesting comment. He has pleaded not guilty and is scheduled to go to trial in July.

In the District, 65 officers have been named in repeated claims, accounting for $7.6 million of the more than $90 million in claims paid — the fifth-highest overall of the 25 cities surveyed. That total includes $54 million paid on four claims involving officers who were named in no other cases.

Officer Fredrick Onoja was the subject of five cases that led to payments from 2014 to 2019 totaling $116,000, the most of any officer on the force. Five Black men separately sued Onoja accusing him of wrongful arrests and harassment. They alleged that the 44-year-old Onoja — who has been on the force since 2011 — fabricated evidence against them in the 5th District neighborhood he patrolled.

Dustin Sternbeck, a D.C. police spokesperson, said Onoja had been "disciplined" for his actions, but declined to elaborate. Onoja, through the department, declined to comment. In a statement, Sternbeck said the department investigates allegations against officers made in lawsuits. "If the investigation sustains misconduct, the department takes appropriate action, ranging from retraining to termination, depending on the nature of the misconduct sustained," he wrote.

In Fairfax, the county settled seven cases, totaling $6.1 million. Two of the cases involved five officers and led to $5 million in payments. Only one officer was named in more than one claim.

Officer Hyun Chang, who has been with the department since 2010, was the subject of a claim that resulted in a $750,000 settlement in 2018 with the family of a 45-year-old autistic man who died in 2016 as he was subdued by Chang and another officer. According to police, the victim, Paul A. Gianelos, of Annandale, Va., became combative as the officers tried to return Gianelos to his caretakers. A Virginia medical examiner determined Gianelos died as a result of a heart attack related to the restraint.

In 2014, Chang was one of a dozen officers named in a $190,000 settlement after a Hispanic woman charged the officers with excessive force, false arrest, unreasonable search of her home and racial profiling. He did not return requests for comment through a Fairfax police spokesperson.

In general, the government officials in many of the cities who were interviewed said the decisions to settle claims are made on a case-by-case basis.

In Chicago, officials "evaluate cases for potential risk and liability, and to take appropriate steps to minimize financial exposure to the city," said Kristen Cabanban, spokesperson for the city's Law Department.

It is often cheaper to settle a case than pay attorneys' fees "that in many cases dwarf the actual damages award," said Casper Hill, a spokesman for the city of Minneapolis.

Even when payments are covered by insurance claims, taxpayers ultimately still pay as those claims drive up the cost of the insurance.

The Post found that few cities publicize their payments or make it easy for the public to identify the officers involved. Of the 25 cities surveyed, four reported tracking payment information. The others declined to answer or said they were unaware of any city department that did such tracking.

Minneapolis, Palm Beach County, Fairfax County and Detroit were among the few places that recorded payments by officers' names in the records provided to The Post. Portland organized cases by the officers' badge numbers.

Most cities reported payments by the name of the person who filed the claim or, if the case led to a lawsuit, the number assigned in court. The Post identified the officers involved in tens of thousands of cases by reviewing individual claim summaries and court records.

There are disincentives to such tracking, legal and policing experts said.

"If an officer has multiple lawsuits, then the city is in jeopardy of negligent retention," says Stephen Downing, a retired deputy chief with the Los Angeles Police Department and current adviser with the Law Enforcement Action Partnership, a criminal justice reform group. "Few cities want to risk retaining that information to avoid being part of an even more costly lawsuit."

Policing experts also noted that prosecutors rely on officers to testify in criminal cases; settlement tracking could be used by defense attorneys to challenge an officer's credibility.

In Portland, Officer Charles B. Asheim, 40, was the subject of three payments costing the city $40,001. The city spent more than $90,000 in legal fees fighting those three claims and $250,000 defending three other claims involving Asheim that resulted in no payments, according to Heather Hafer, a spokeswoman with the city's Office of Management and Finance. In 2014, Marqueeta Clark and her then-boyfriend, Jahmarciay Barr, were leaving Barr's aunt's house on their way to the movies in Barr's blue 1991 Chevrolet Caprice. At the time, Clark was a 19-year-old early-childhood education major at Western Oregon University, and Barr was a 20-year-old community college student and UPS employee.

As the couple drove along the highway, they saw a police cruiser heading in the opposite direction.

Seconds later, Clark said, they noticed the cruiser make a U-turn and begin to follow them. Barr stopped at a traffic light with the cruiser behind them. When the light turned green, as they pulled away, the cruiser's lights came on and police pulled them over.

Asheim, an officer with the gang unit, told the couple they were stopped because Barr had changed lanes without using his turn signal, Clark said. She said she disputed the claim, telling police she could hear the blinker's ticking.

Then Asheim, she said, one of three officers at the scene, told the couple that police had pulled over the car because there was a green, pine-tree air freshener dangling from the car's rearview mirror. The air freshener, Asheim told them, obstructed the driver's line of sight and created a driving hazard, she said.

Barr, still seated in the car, grew angry and refused to cooperate with Asheim when the officer asked for his driver's license and registration, she said.

Sitting in the passenger seat, Clark said she begged the officers to allow her to reach into the glove compartment to pull out Barr's documents. But Asheim refused and continued to argue with her boyfriend, she said. "In my head, I was thinking these gang task forces are going to treat us as gang members. … I was terrified," she said.

Asheim then pulled Barr through the driver's side window and placed him in handcuffs, she said.

In his official report, Asheim gave a different account: He wrote that he and his colleagues unhooked the driver's

seat belt, opened the door and forced Barr to stand up outside the vehicle. Asheim added that Barr accused police of stopping him because "he was Black." The officers, according to Asheim's report, "calmly and simply" explained the reason for the stop, but the boyfriend "continued screaming."

Asheim also noted that Barr was becoming more "threatening and unpredictable," and that he threatened to "kick our f---ing ass."

Clark denied that Barr threatened the officers. "I remember watching Asheim laughing at us. It was really humiliating, embarrassing and frustrating."

The officers searched the car and found nothing illegal, according to the police report.

Police arrested the couple. Clark was charged with interfering with a police officer and disorderly conduct. Barr, who could not be reached for comment, was charged with failure to carry and present his license, disobeying an officer and disorderly conduct. He pleaded guilty to failure to carry and present a license and was ordered to pay $250 in fines. Prosecutors dismissed the other charges against him.

Clark chose to fight her charges. Eventually, the judge dismissed the case.

Still, Clark remained furious. She and Barr sued the city, alleging that the stop by Asheim — who is White — and his two colleagues was part of a pattern of racially discriminatory police tactics. "I really wanted people to know how the majority of the Black community was being treated by police," she said. "It was never about the money for me."

Growing up in Portland, Clark said being stopped by police and having guns drawn was "the norm for us." She said that she and her boyfriend were stopped by police about a half-dozen times in a four-year period.

In 2017, the city agreed to settle their claims, eventually paying Clark and Barr $5,000 each. Officials did not apologize or admit wrongdoing.

They were among the city's 89 payments for alleged police misconduct during the past decade. Of the more than $7.5 million spent, nearly half of it has involved officers named in more than one claim.

"What Asheim did, stopping people for having an air freshener hanging from the rearview mirror, was the practice of the gang enforcement team," said Gregory Kafoury, Clark's attorney. "These officers were driving around and obviously looking for Black faces."

Kafoury said he has represented dozens of people in lawsuits against Portland officers, the majority of his clients people of color.

"Historically, officers who are sued are never penalized, even when the city has to pay large settlements or verdicts for their misconduct," Kafoury said. "The officers who are the most brutal and the most dishonest tend to

move up in the ranks because they are seen as trustworthy and they are admired for their physicality. And that culture gets strengthened as these types of bullies move up and control the culture of the police department."

Sgt. Kevin Allen, a Portland police spokesman, denied Kafoury's assertions. "Our promotions process is extremely competitive and thorough and includes a 360-review in most ranks, taking in the candidate's discipline record, commendations, community engagement and more," Allen said.

Asheim has been with the force for 13 years and is a detective, Allen confirmed. He declined to answer questions about Asheim or the cases that led to settlements. Allen said he forwarded The Post's request for comment to Asheim, who has not responded.

Early one evening in March 2014, Gregory Williams, 34, was walking to buy cigarettes at a gas station on the west side of Chicago. A man rushed up behind him, hit him on the head with a gun and pushed him against a fence, Williams said. He thought he was being robbed.

The man, however, was a Chicago police officer in plain clothes.

An unmarked police car pulled up. Inside was Officer Armando Ugarte — who from 2010 through 2020 would be a subject of 16 payments totaling more than $5 million for claims that included excessive force and wrongful arrests.

That night, Ugarte and two other officers told Williams, a father of two and student at Strayer University, that they were arresting him for distributing a controlled substance: heroin. They drove Williams to a precinct called Homan Square, a former Sears and Roebuck warehouse that police used as an interrogation site.

While he was handcuffed, Williams said, Ugarte and the other officers pressed him to identify heroin dealers. When he said he could not, he alleges that they grabbed him by his neck, put him in a chokehold, threw him to the floor and punched and kicked him.

"I'll never forget him," Williams said about Ugarte.

In the arrest report, Ugarte wrote he had purchased drugs from Williams as part of a "controlled buy" that night while working undercover. Williams was charged with two counts of felony manufacturing or delivering a controlled substance.

At the time, Williams had been on parole for less than a year following a conviction for heroin possession. He said he believes this is why the officers targeted him to be an informant or face a return to prison.

After a year in jail, Williams went to trial. In court, Ugarte and two other officers testified that they had purchased heroin from Williams. But there were no other witnesses or evidence, according to the lawsuit. The jury acquitted Williams.

While in jail, Williams lost his personal assistant job with the Chicago Department of Human Services and dropped out of Strayer University, where he was pursuing a degree in business administration. "They took all that away from me because I wouldn't work for them. I wouldn't be a snitch," he said.

In 2018, he filed a lawsuit in federal court alleging that Ugarte and the five other officers and their supervisor had violated his civil rights through unlawful search and seizure, excessive force and malicious prosecution. "I don't think they really understand how hard it is coming from that place, coming out of prison," he said.

After more than two years of hearings and lengthy court filings, the city settled the case in 2020 for $85,000, but denied any wrongdoing.

In records provided to The Post, Chicago officials had not recorded Ugarte's name with Williams's settlement. The Post identified him as an officer involved in the case through Williams's attorney, the amount and date of the payment and court records.

Williams's attorney, Torreya L. Hamilton, said the case was the second one she had handled involving Ugarte. In 2017, the city paid $88,500 to a man she represented who also alleged that Ugarte wrongfully arrested him and was part of a team of officers that fatally shot a dog in front of a 12-year-old child.

"This same team of officers was busting into people's homes and killing dogs. In front of kids," said Hamilton, who began her career as a prosecutor and now focuses on police misconduct and whistleblower cases. In the past five years, Hamilton said 95 percent of her clients who have sued Chicago police for excessive force or wrongful arrests have been Black or Hispanic.

"Why are they still working?" Williams asked. "There's no punishment. They can do what they want. There are no repercussions behind it."

The Post's analysis found Chicago had the highest rate of misconduct claims involving officers named in multiple cases. More than 70 percent of the city's roughly 1,500 payments over the decade involved at least one officer with repeated claims.

Ugarte, 47, was "relieved of police powers" in October and reassigned to the department's alternative response section, according to Anthony Spicuzza, a police spokesman. The division handles non-emergency calls. Spicuzza declined to answer questions about Ugarte's work or the payments involving him. Ugarte joined the force in 2005, according to the Citizens Police Data Project, a Chicago-based nonprofit that tracks information about officers, including use of force, complaints and awards.

Ugarte did not return a Post reporter's calls. Spicuzza did not respond to requests for a response from Ugarte. "Due to a pending investigation, we will not comment further," Spicuzza said.

In Detroit, after receiving questions from The Post about the repeated payments involving Officer Moore and the raid at Murray's home, police officials said they have begun to use the city's claims data to monitor which officers are repeatedly named in lawsuits, to determine if they need additional training or should be reassigned or removed from the force.

Christopher Graveline, director of the professional standards unit for Detroit police, said his department as of September is working closely with the city's legal department to identify officers with more than two lawsuits or claims and make sure they are "flagged" in the department's risk management system.

Since The Post started asking the city about its repeat officers in September, 13 officers have been "flagged" for being sued multiple times and have been subject to "risk assessments," according to a department spokesman.

"There wasn't a good communication between the city law and police department. We weren't being aware of settlements and potential judicial findings touching upon our officers," Graveline said.

Graveline, who oversees internal affairs, said the department was often unaware of findings in civil cases, including determinations that officers had withheld evidence.

From 2010 to 2020, Detroit made 491 payments on behalf of officers, totaling nearly $48 million, records show. More than half were on behalf of officers with more than one claim.

In addition to the 10 payments on claims involving Moore in that time, The Post also documented three before 2010 and one in 2021. During Moore's 23 years on the force, Detroit paid 14 claims arising from his police work.

Moore was part of the city's narcotics unit, a division that conducts many search warrants, Graveline said.

Graveline declined to comment on Moore's lawsuits but acknowledged other officers in the unit were not named in as many lawsuits. "That's one of the reasons we are taking steps to actively identify officers with similar patterns with multiple lawsuits," he said.

During a deposition in the lawsuit following the search of Murray's home, Moore testified that he had always intended to raid that residence. He said the wrong address on the warrant was a typo.

Moore said an informant told him about drug dealing at Murray's home. Moore also noted in his report that police found two tiny bags of marijuana during their search, which Murray disputes.

In a separate report, one of Moore's colleagues wrote that he shot Murray's Labrador because the dog charged them and was "showing teeth and growling." Also in the report, the officer misidentified Murray's dog as a "grey pit bull."

"We are not just going into these houses killing people's dogs for no reason. That would be ridiculous and absurd," said Moore, who was in the house when his fellow officers killed Keno. "Unfortunately, I've killed quite a few dogs. I would say I've killed over 10, 15 animals in the course of my career."

In response to questions from Murray's attorney, Kenneth Finegood, Moore testified that while he was with the drug unit, he had been the subject of internal investigations "once or twice a month." Moore, 49, also said he had never been found guilty of the accusations, which he said happened "constantly" when he was in narcotics.

Personnel records obtained through a public records request show Moore joined the department in 1996 and has received seven awards or commendations.

The records also show that Moore was reprimanded for failing to fill out a use-of-force report during a 2010 arrest and was suspended for five days for "willful disobedience of rules or orders" during a 2015 police chase. An investigation determined that Moore failed to notify the dispatcher of the initial traffic stop and then failed to broadcast the speed of the vehicle being pursued. The suspension was later overturned in arbitration.

Moore left Detroit in 2019 and is now an officer at the nearby Oakland County Sheriff's Department, according to Detroit police and the sheriff's department. The sheriff's department did not answer follow-up questions.

Since Moore's departure from Detroit, allegations about his conduct when he was an officer have continued to cost the city financially.

Last year, Detroit officials settled a man's claim that Moore and three other officers tackled and injured him in 2016 as he stood on his front porch. Police said they were searching for a shooter who allegedly fit his description, according to the lawsuit. The city settled for $150,000.

Detroit reached a second settlement concerning Moore in 2020 when the city paid $10,000 to resolve a claim by two men who alleged that Moore and other officers illegally handcuffed and searched them in 2016.

During the encounter, Moore and his colleagues confiscated $579 from one of the men, according to the complaint.

Moore wrote he searched the man and found six Baggies of a "leaflike substance." Police arrested the man on drug-related charges and towed his friend's car.

The car's owner had to pay $350 to retrieve his vehicle from the impound lot, the suit alleged.

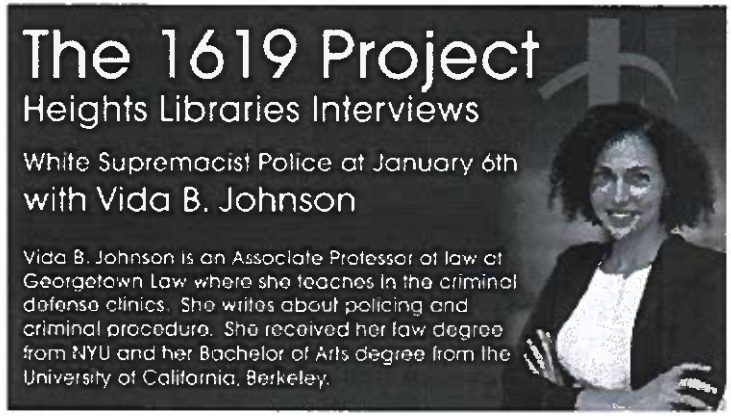
In addition to the drug charge — which was later dropped — Moore gave the man a citation for loitering, a misdemeanor offense. Moore wrote the man was in a "known narcotics location."

The man, according to the lawsuit, was standing in the driveway of his home.

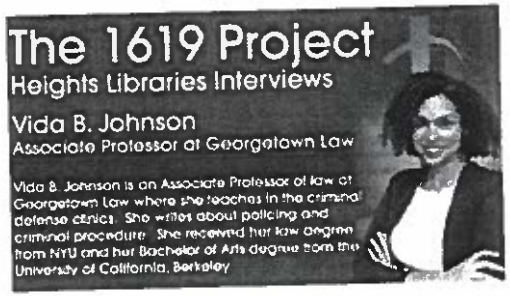
Alice Crites, Nate Jones, Jennifer Jenkins and Monika Mathur contributed to this report.

Heights Library's Unpacking 1619 Interviews on Police and Slavery

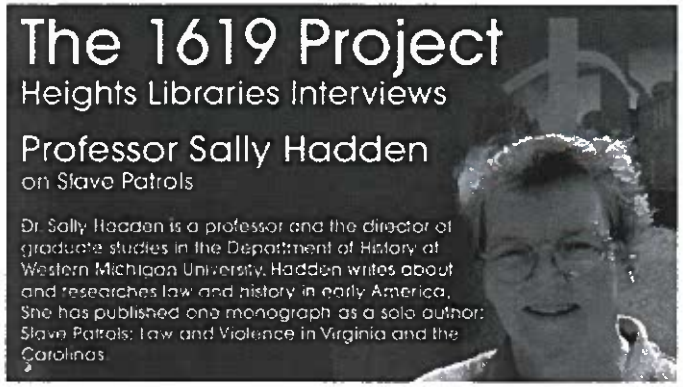
Vida Johnson on White Supremacist Police



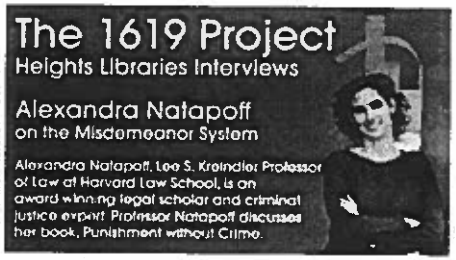
Vida Johnson on Police Testimony



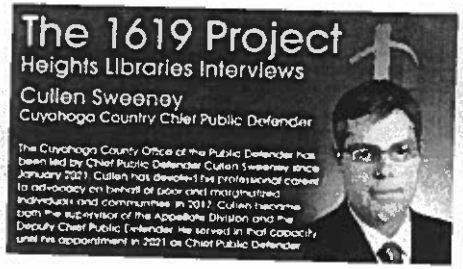
Sally Hadden on Slave Patrols



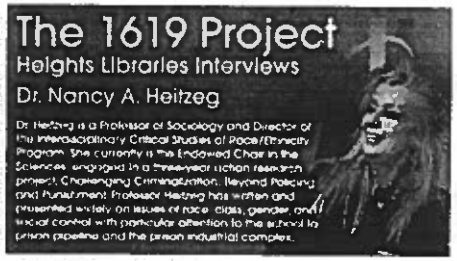
Alexandra Natapoff on the Misdemeanor System



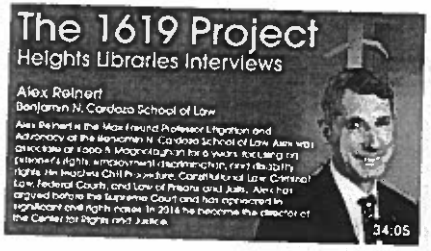
Cullen Sweeney Cuyahoga County Chief Public Defender



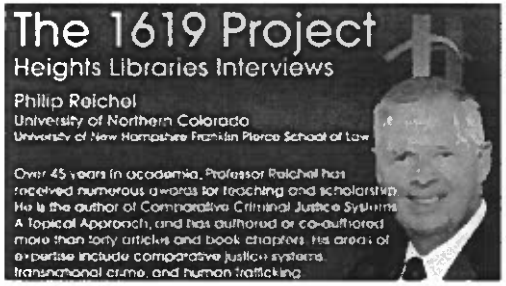
Nancy Heitzeg on the School to Prison Pipeline



Alex Reinert on the History of the 8th Amendment



Philip Richel on the history of Slave Patrols



Alexis Hoag on the Death Penalty