On the Epidemic of Police Killings

Steve Martinot

On October 9, 2012, Officer Masso of the Oakland (California) Police Department was exonerated by an internal investigation for having killed Alan Blueford on May 6, 2012. He had chased Blueford around the block, pushed him to the ground, and then shot him. Blueford was a black teenager who had been standing with some friends on a street corner when three police officers approached them out of the night. Blueford ran. Three bullets entered his body with an upward trajectory, according to the coroner’s report, meaning that Masso was standing over him. One bullet passed upward through him and grazed the inside of his arm. Therefore, his arm was raised in a signal for surrender. According to one witnesses to the shooting, Blueford cried out, as Masso shot him, “I didn’t do anything.” But Masso fired four times. The fourth bullet hit Masso’s own foot. At first he claimed that Blueford had shot him, but no gun was found. Nevertheless, he stated that he felt threatened by Blueford, and reacted. That was enough to exonerate him.

A parallel story unfolds on the opposite coast. In Florida on February 26, 2012, a man named George Zimmerman got out of his car, followed a black teenager named Trayvon Martin who is talking on his phone to a friend, and shot him. Zimmerman had called the police and told them he had seen Martin and was concerned. Though the police told him not to do anything, he followed Martin anyway. He was so obvious about it that Martin cried out, “Why are you following me?” Zimmerman then shot Martin once in the chest, killing him.

When the police arrived, Zimmerman claimed self-defense. The police declined to arrest him at that moment. They said there was insufficient evidence to determine whether it was self-defense or not. It was of no consequence that a man lay dead in front of them. Three weeks later, a photo

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emerged of Zimmerman with his face bruised and his nose bleeding. At the
time, this photo would have been evidence of his having been attacked.\textsuperscript{4} The police, however, said they had no evidence, indicating that they did
not have that photo on the night of the killing. Had the blood and bruises of that photo been in evidence on the night of the shooting, one can only
imagine the spectacle the press would have made of it, denouncing what
this black guy had done to a respectable citizen.\textsuperscript{5} On July 8, 2013, a jury
acquitted Zimmerman of both the murder and manslaughter.

The parallel is structural. A police officer or a self-appointed vigilante
follows a young black man, shoots and kills him, claims he felt threatened,
and that he killed in self-defense. He is then exonerated for the crime. The
root of the term “exoneration” is honor. But in these cases the concept of
“honor” becomes twisted. What honor is there in killing someone who has
already been overpowered? That is especially so when one is acting in an
official or semi-official capacity (Zimmerman notified the police of his
pursuit). Two unarmed black men are dead without recourse or due process.
This common structure marks a form of event that has reached epidemic
proportions in the United States.

In Oakland on New Year’s Eve, 2009, Oscar Grant was shot in the back
while on the ground. Two BART cops were sitting on him. San Francisco
police shot Kenneth Harding in the back for jumping a $2.00 bus fare (July
16, 2011). Gary King was shot in the back for walking away from an officer
in Oakland. On August 1, 2012, Chavis Carter, a 21-year-old black man,
was killed in Jonesboro, Arkansas. He was in the backseat of a police car,
with his hands cuffed behind his back (the police said he shot himself). On
September 2, 2012, in Vallejo, police shot Mario Romero and a friend seated
beside him in a car. They fired 31 rounds into the car, killing Romero and
wounding his friend (reminiscent of Sean Bell’s killing). Marshall Tobin in
Vallejo (July 5, 2012), Ascension Herrera in Oakland (July 9, 2012), Jared
Huey in Vallejo (July 3, 2012), Derrick Gaines in San Bruno (June 5, 2012),
Darius Kennedy in New York City (August 11, 2012), and Christopher
Middleton in Maywood, Illinois (August 12, 2012) were killed by police.\textsuperscript{6}
All are people of color. The Malcolm X Grassroots Movement tallied the
murders of young people of color by police in 2012. On average, there was
one death every 28 hours,\textsuperscript{7} indicating the order of magnitude of an epidemic.

In an epidemic, an inordinate number of cases of a catastrophic nature
befall people, leaving them dead. It spreads rapidly through certain sectors
of the population, causing massive grief and misery. There is no way of
telling who will fall prey to it next. Each case seems to occur randomly.
As new cases occur, people (and the society) find they have no defense against it. It terrorizes because it remains beyond the power of society to stop it. Since it is an epidemic of murders, the police should be the most immediate cure, but the police are the agents of catastrophe. At times, they shrug and speak of “rogue” elements. Insofar as each case involves officers of the law, exoneration is expected. The media treat each case separately, refusing to connect the dots. Though it spreads throughout the populace, it ceases to be news. Statistics become the measure of its rampant nature.

To understand this epidemic, we must examine the individual cases. In doing so, the possibility exists that in standing separately, they may become denuded of context or social process. But if there is an etiology to be diagnosed, we need to discern the common structure of these killings.

**The Symptoms of the Epidemic**

*Oscar Grant*

Oscar Grant was killed on January 1, 2009. It marked a turning point, the beginning of a wave of killings that reached all the way to the exoneration of George Zimmerman. The cell phone images of Oscar Grant being shot went around the world (see note 6). Grant is lying face down on the Fruitvale BART station platform in Oakland, with two uniformed police on him. A shot rings out and the police stare with stunned expressions at BART officer Johannes Mehserle, who was hovering over them. Many videos show him reaching for his gun and shooting Grant in the back. The footage even made it to network news.

A short film called *Operation Small Axe*, directed by Adimu Madyun, offers the clearest video. Its vantage point is through the train door, where a disturbance had occurred. We see Grant sitting on the platform between two companions, backs to the wall with police guarding them in front. The scene seems stable. From the left side of the frame, a uniformed man suddenly approaches the men under guard. He and another officer lift Grant from the platform and then throw him face down. To break his fall, Grant’s hands move beneath his body. The police struggle with him to get his hands in position for handcuffing. Because they are sitting on him, they are prevented from doing so. With two cops already on Grant, Mehserle appears to be superfluous and unable to participate. Although under no threat, he feels the necessity to act, responding to an arbitrary drive. He draws his gun and shoots Grant. The excuse that he thought he was reaching for his Taser is totally false. His Taser was on the left side of his body and
the gun on the right. The video shows his right hand move seamlessly to
the gun on his right hip.

The term “drive” is psychological, but I use it in a situational sense. We
cannot read Mehserle’s mind, but the situation he was in is clear. So are
his actions in response to it. The situation made no demands on him, either
as an officer or as a person in need of defending himself. Thus, his actions
have wholly internal origins. The term “drive” names that unspecifiable
internal need to act. We have seen this many times before, though rarely
named as such. Four officers confronted Amadou Diallo in New York City
in the middle of the night on February 4, 1999, as he entered his apartment
building from the street. They shot at him 41 times, hitting him with 19
bullets. There was no thought of disarming him (he had no gun), detaining
him, or identifying or stopping a threat to society. Their primary concern
was with shooting him. Such was their obsession that the last two bullets
to enter Diallo’s body did so through the bottom of his feet. It constituted a
desire or mode of operation for them, one totally divorced from the situation’s
reality and the act of detaining him.

Sean Bell’s death in 2006 came as he was sitting in his car talking to
friends after a bachelor party the night before his wedding. Plainclothes
police and undercover NYPD officers shot the three men 50 times (see note
2). In Los Angeles, Tyisha Miller was passed out in the front seat of her car,
which was parked in a gas station. Early in the morning, four police officers
approached the car and banged on the window. When she opened her eyes,
they opened fire. The unifying factor driving their actions (other than that all
the victims were people of color) was the absence of any external necessity.

Alan Blueford

This structure of drivenness characterizes officer Miguel Masso’s shooting
of Blueford. Three high school students were standing on a street corner
waiting for some friends when two police officers approached for no apparent
reason and without probable cause. Alan Blueford ran, and Masso chased.
When Masso killed him, Blueford was already incapacitated. According to
witnesses, he was lying on his back with his hands up. Blueford’s body was
left on the ground under police guard for four hours, assuming he was dead.
Masso was quickly taken to the hospital with a foot wound. The coroner’s
autopsy found no gunshot residue (GSR) on Blueford’s hands (see note 1).

Regardless of actual circumstances (such as surrender or incapacitation),
Masso decided arbitrarily to shoot Blueford (and perhaps himself). Like
Mehserle, his actions were irrelevant to the situation. His focus was not on his job, on what constituted criminal activity, or the possibility of his own criminality. Blueford had been reduced to an object for him. He followed his own drive in shooting this black man, abstractly and fixatedly. Did Blueford run because he had an intuition of that fixation? Living in East Oakland, perhaps he was no stranger to such police behavior.

For four months, successive improbable stories flowed from police spokespersons. Hundreds of irate citizens appeared before the Oakland City Council to support the Blueford family’s demand for truth and accountability. The final police report exonerated Masso, saying that he saw a gun, felt threatened, and fired in self-defense. None of the witness testimony about the shooting appears in the report.

_Ramarley Graham_

A similar structure appears in the killing of Ramarley Graham in the Bronx. Across the United States, components of a common social process were being manifested. Graham was a black teenager sitting on the stoop of his building on February 2, 2012. A policeman driving by decided, all by himself, that Graham was armed. Graham saw the officer stop, turned, and went into his home. The policeman broke down the door and shot Graham in the bathroom. No sanctuary existed for Graham in the story the policeman invented about him. He was simply an object to be noticed, chased, and shot. He ordered Graham to open the door, and when he refused to obey, he killed him.

The familiar components are noticing, suspecting, chasing, commanding, confronting disobedience, and killing. The officer creates the situation he is in by enacting these components, and is the subject of these actions—verbs that take an object. Their object is a person of color, who is reduced to an inescapable grammatical category. In Blueford’s case, the police created the situation by arbitrarily approaching three teenagers on the street at night. When they demand obedience (to whatever command), its very gratuitousness makes disobedience possible (and perhaps inevitable). Following disobedience (chasing Blueford, knocking him down, and shooting him) is a show of force that is a reaction to a situation created by the police.

The BART police who picked Oscar Grant out and threw him onto the platform did so as a show of force. They could have said, “stand up, we’re going to handcuff you, you’re being arrested.” Instead, they threw him down. The only struggle or resistance was that created by the police
themselves. Grant was to be handcuffed as the victim of an arbitrary police action. He appeared to resist handcuffing because the police had his hands pinned under his body. He appeared to be disobedient because the police had created his disobedience for him. Mehserle’s act was unnecessary and totally disconnected from reality. The other officers, aware of that disconnection, were stunned by his actions. All Mehserle could think of was how to make himself a force toward the body on the platform.

Acting arbitrarily, giving oneself permission to do so against all reality, law, and training, is to be fixated on that action. Mehserle’s behavior did not have anything to do with Grant as a person. He had done nothing and had simply become an object to satisfy Mehserle’s self-generated need. Blueford, Graham, and Diallo died confronting a raw show of force. Drivenness offered a cloak of permissibility to killing that no longer fit the category of “murder.” Under fixation, it became something else, a situation in which obedience could be simultaneously demanded and countermanded.

Kenneth Chamberlain

The structure under discussion consists of a situational non-necessity, a suspicion raised to the level of fixation, an arbitrary command, and a self-oriented drive requiring a show of force to engender another’s disobedience. Given this self-drivenness, the victims of police actions are collateral damage, innocent bystanders in events that did not concern them. They had done nothing.

The structure in Kenneth Chamberlain’s case was a collectivity. A number of officers came to Chamberlain’s home, demanded entry, broke down the door, and shot him to death. Only one police officer did the shooting, but the others did not attempt to stop him. Chamberlain was a war veteran with a bad heart. A device he wore monitored his condition and could signal a medical emergency to a local health care office. In the middle of the night, his device accidentally sent a signal. The health care dispatcher had no doctors to call at that moment, so the police were called instead. They came to the door and demanded entry. When Chamberlain said he was all right, and that they should go away, they forced their way in and shot him.

The police raised suspicion about what was happening inside this black man’s house, refusing to accept what Chamberlain had told them through the door. Their arbitrary story constituted a collective drive that called for a show of force. The mistaken medical alert disappeared, leaving only their repudiation of Chamberlain’s refusal to open the door as the basis for a show of force. Later they claimed it was their duty to pursue their
suspicion, thus admitting that their personal drive had been transformed into an element of law.

A video made by a person inside his Cotati, California, home offers insight into this collectivity as the police broke in. A man, who is white, was arguing with his wife. When it got a little loud, a neighbor called the police. After the argument was long over, the police appeared on the front lawn with guns drawn. The man began to video them through the window, announcing that he was doing so. They holstered their guns and discussed what to do. One officer approached and peered through the window. Viewing people in the room, he asked why he could not come in, with the response being, “because this is not a police state and we are not under martial law.” After conferring, the police broke down the door and tasered the man and his wife, who had registered outrage and resisted this invasion of their home. The video ends with the wife screaming in pain. The fixation of the police on entering, regardless of who would be harmed, was clearly a collective decision.14

On July 10, 2012, police in Wichita, Kansas, shot and killed Karen Jackson, a crippled African-American grandmother who lacked the strength to lift her own grandchild. Officers claimed that she had attacked them with a knife, a whiskey bottle, and a fire igniter all at once, while carrying her purse in her hands. Jackson was shot four times in the chest. Already subdued by all the things she was allegedly carrying, it could not be claimed that they could not restrain her. Also in Wichita, police shot DeJuan Colbert, who they had caught robbing a Dollar Store. Three officers came to the door and stopped. Colbert dropped his knife and said, “I give up.” Then they shot him 13 times.15 When the police are intent on shooting a black person, a black man (or woman) cannot surrender. White men can surrender, as the Aurora (Colorado) killer did, after killing many in a movie theater. For black people confronted with a drive to shoot them, that right is not an option.

Kenneth Harding was on a bus and could not produce a receipt for his fare. The police could have simply issued a citation. Instead, they hauled him off the bus and pushed him to the ground. He broke free and fled. The police shot him in the back. They claimed to have shot him in the leg, with Harding shooting himself in the head with his own gun. No gun or GSR was detected. Gary King’s case was similar. He was hanging out on a street corner with some friends when the officer drove by, stopped, came over, and began harassing King. When King walked away, he was shot in the back. The officer said he saw King reach for his waistband, and felt threatened (see note 6).
Such flimsy excuses have become a hallmark of these cases. Chavis Carter, a 21-year-old black man, was shot while sitting in the back of a police car in Jonesboro, Arkansas. The police said he shot himself while handcuffed behind his back. On September 26, 2012, Hayward police shot and killed Edgar Alvarez. They said the California resident matched the description (while sitting in his car) of someone suspected of firing a gun in a bar several blocks away. They shot him for putting his car in gear and backing up.\textsuperscript{16}

Since not one officer has been charged with murder, these excuses constitute pro forma exercises. Together with "feeling threatened," they are lines in a report needed to legitimize a show of force in tandem with demanding and countermanding obedience. Departmental administrators give credence to officer claims of feeling threatened by unarmed people (grandmothers, surrendering individuals, teenagers, or people walking away). Thus, the process of approbation is already in place. Exoneration means that due process and accountability have been negated.\textsuperscript{17} In effect, it places a collective hand on the gun.

Constituting a repeating structure are the arbitrary creation of a situation, an absence of necessity, a drive to force obedience, reduction of the subject to the status of an object, and rendering lethal force permissible. The gratuitousness of the killing implies that each show of force follows a demand for obedience that instigates disobedience, thus making lethal force possible. It is not a matter of law but a structure of police procedure. We can interpret this as an etiology, but the concept of an "epidemic" is a metaphor. Its character is social rather than biological and it appears as an epidemic because no social defense or political prophylaxis is extant against the onset of each case. Society's immune system, which subsumes the Constitution and legislative or local police oversight, is powerless against it.

Rules should exist to disarm, if not indict, those who commit crimes of force under cover of officialdom. The investigative process in such crimes must be transferred from the police to independent investigators, but the Police Officer's Bill of Rights insulates all police officers today.\textsuperscript{18} Like an autoimmune disease, society's immune system has become the source of catastrophic illness. Though popular protest exists, protest itself is being criminalized.

The Role of the Media

As a rule, the mainstream media report the police version of events, with very little independent investigation. Rarely is the police account questioned,
however fantastic it may appear. In most cases, the victim is demonized. Johannes Mehserle’s story that he had mistakenly reached for his taser received approbation from the media and his department. In contrast, Oscar Grant’s police record from his teen years was revealed and he was portrayed as having taunted and agitated against the police. In the Blueford case, the media repeated that he had had a gun and shot first. In the Chamberlain case, the officers’ suspicion was valorized as “probable cause.” Even a year later, the media uncritically reported that Kenneth Harding had shot himself in the head after the police shot him in the leg (none of which was true according to the coroner’s report). In the Chavis case, the media reiterated the official story that he shot himself in the backseat of a police car with his hands cuffed behind his back.

One exemplary comparison captures a sense of the various media manipulations. On April 2, 2012, an Asian man who was studying at Oikos College in Oakland brought a gun to school and killed seven people. Some victims were white, with the others mostly from Asia. He had been unable to find his target, a white administrator. TV network news spent considerable time on the lives of some victims, as well as that of the administrator. Who were they? What were they doing? What were their families like? What have other people lost by their deaths? Only the shooter’s motive occupied the media: what had led him to single out certain white people on this very diverse campus? Six days later, on April 8, in Tulsa, Oklahoma, two armed white men drove into a black neighborhood and randomly shot people on the street. They killed three and wounded two. The media’s interest focused not on the victims, or what their families and friends had lost due to these murders, but rather on the shooters. Who were they? What were their families like? Where did they come from? There was not one word about the victims’ families or their lives in this black neighborhood.19 The media thus granted humanity and personhood to white people, while withholding it from nonwhites.

**Troy Davis: The Collective Hand as Institutional**

The commonality in these threads, which indicates a social structure rather than individual intentionalities, suggests that these killings belong to an institutional domain that precedes the immediacy of police interaction. In the case of Troy Davis, a black man convicted and executed in Georgia for murder, we see a collective institutional drive to kill him. Davis had been convicted of a murder that occurred in the parking lot of a shopping mall late one night in 1989. When he arrived at the mall, a man he knew was
arguing with another. A security guard sought to break up the argument and was shot and killed. Davis testified that he had left the parking lot before the shooting because of what he knew about the man in the argument. During the trial, no physical evidence tied him to the killing. There was no ballistics evidence, or a positive test for GSR on Davis. His conviction relied on the testimony of seven witnesses, five of whom were not at the scene. The media characterized the trial as fair, an instance of equality before the law, while denigrating and demonizing Davis as an unemployed vagrant who was often in trouble with the police (without mentioning the profiling of black people).²⁰

Davis’s appeals occurred with minimal funds. In his three attempts to articulate the absence of a case against him, he was unable to make a full argument. That would have involved interviews, a reinvestigation of witnesses, police statements, and an examination of police reports and evidence. The Georgia Resource Center assisted his first appeal, but its involvement was truncated due to a 70 percent funding cut during the process. After that, Davis depended on pro bono lawyers.

Each appeal failed because only a partial case was made. For instance, when he filed for habeas corpus with the US District Court in 2001, he presented affidavits showing that six of the witnesses against him had recanted their testimony, claiming that the police had pressured them to tell a different story than what they saw or knew. But Davis lacked sufficient funds to bring them to court to testify, or to protect them against police retaliation. The court ruled against him on the grounds that the witnesses needed to be present (Whoriskey 2007). One witness, who had been arguing in the parking lot, refused to recant. The police did no ballistics or GSR testing on him either, but simply believed his testimony over Davis’s.

Davis confronted a judicial system that refused to assemble his entire argument. In the interest of justice, a mass movement formed to get his sentence commuted or his execution delayed. A petition calling for a retrial garnered a million signatures. The NAACP, Amnesty International, and the Southern Poverty Law Center pleaded for clemency, but the Georgia judicial system refused. In March 2012, the state executed Davis.

In effect, for 20 years Georgia’s judicial system united around a corrupt and insubstantial process of conviction, based on coerced testimony (later recanted), to kill this man. Aside from some arcane and noxious sense of revenge, the state had no need to kill Davis and nothing to prove by doing so in the face of recanted testimony and the absence of concrete evidence. Nothing in the case was “beyond a shadow of a doubt.” Each
appeal was denied on the basis that proper procedure had been followed. There was simply a gratuitous need and drive to kill this man, reflected in a refusal to reconsider the content of the case—or perhaps to punish him for “disobedience” with respect to “procedure,” since his insistence on appealing refused its legitimacy. The upper levels of the judicial machine were actively complicit over two decades in this collective fixation on killing this black man.

The Structure’s Cultural Nature

A complex relationship exists between the one who pulls the trigger and the institutionalities that join the collective hand on the gun. The relationship is not political, because no policy is made. It is not economic, because there is no gain or asset created. It is a cultural relationship. In the sense that there was no extant necessity for the killing, that cultural relation allows the killer to assume a social value for his act. It provides some confidence that institutional solidarity will protect that value with a shield of procedure. That confidence, at the moment the killer reaches for his gun, speaks to tacit approval as an aspect of cultural identity.

The killer cannot make the same assumption regarding a white person as a potential victim. The police do not arbitrarily shoot white people. It does happen in hostage situations, or in emergencies in which the subject is threatening someone or a police officer with a weapon (in some cases, a camera counts as such a weapon). With respect to a person of color, the victim is already beyond the limits of humanity. Nothing need hold the killer back. The killer will be breaking no taboo.

The confidence that killing a black person will not result in condemnation has a long history in the United States, one that provides many role models. As late as the 1950s in Mississippi, 95 percent of the murders in that state were never investigated. Upon the discovery of a black man’s body that was riddled with bullets on the side of the road, the coroner would declare the cause of death to be “heart failure.”21 In the wave of lynching during the first decades of the 20th century, thousands were killed as officialdom assisted or stood at a distance. Grace Hale (1998) in Making Whiteness details two lynchings that delimit a process of spectacle that dotted the decades before World War I. In the first, in 1899, the newspapers announced the forthcoming event in a small Georgia town and the railroad scheduled additional trains. Thousands arrived to watch the man (Sam Hose) be tortured and burned to death. The second lynching, in Waco, Texas, was announced weeks in
advance, as a mob looked for the accused. When he was found, the time of the event was announced and 15,000 people showed up to watch the ritual. In both cases, pieces of the victim’s body were taken as trophies, perhaps to serve as membership cards in whiteness (Hale 1998, 210–13, 216).

Thus, two cultural relations are involved in each killing. The first positions a person of color as the object of a cultural fixation. The second positions the killer within an assumed institutional valorization before pulling the trigger. These two relations constitute a structure of impunity and white collectivity. Through institutional impunity, the police become a law unto themselves, beyond social accountability. Beyond police procedure, each killing becomes a form of performance, part of a social ritual. Its permissibility does not refer to a juridical process, but to an unspoken cultural norm—a social practice that can take on epidemic proportions. Its common elements, the gratuitousness of the killing, the impunity of the act, the assumption of political approbation, collectivity of the killer, and the judicial immunity for the killer, conjoin in a collective meaning.

Trayvon Martin

The killing of Trayvon Martin, brought to national attention by massive outrage at the refusal of the police to arrest Zimmerman, reveals the same structural aspects. Zimmerman phoned the police, got out of his car, and stalked Martin. When Martin confronted him, Zimmerman shot him. Zimmerman then calmly claimed self-defense. The police declined to arrest him in the absence of evidence concerning Zimmerman’s claim. The Florida attorney general phoned the Sanford police and told them not to charge him. Though massive demonstrations demanded an indictment and caused the federal government to step in, it took 44 days to charge him (see note 2).

We encounter the arbitrary creation of a situation toward a black person who was doing nothing unusual. Yet he was noticed and a gratuitous intention was enacted against him (stalking with malicious intent).22 This was done on Zimmerman’s own account, constituting a self-generated fixation on this black person. His phone call to the police reflects his assumed connection to institutional authority, a confidence that it would valorize him. After the fact, the police department, the media, the political administration, and civil society in the form of the jury granted permissibility to his act, since he was “standing his ground.” The Stand Your Ground law in Florida holds that defense against attack can be by any means necessary. At the time of the
killing, the media raised it, as did the judge during the trial. Zimmerman’s lawyer never did (Sullivan 2013).

In short, police across the country have afforded themselves permissibility (as impunity), which has moved beyond them and become generalized as a role model for others. Part of that template is a demand for obedience, which Martin evidently violated simply by being where he was. Two additional aspects of this killing can now be articulated: (1) It was a racializing act; and (2) Zimmerman’s acquittal revealed the colonialist nature of the “stand your ground” principle.

Racializing

By singling Trayvon Martin out, stalking him, and notifying authorities that he was doing so, Zimmerman did something he does not do to others, thereby creating the raciality of the situation. His actions made Martin a black man and not just a man. But Martin was a generalized black person insofar as Zimmerman did not know him, and he had no interest in knowing him. He asked him nothing and expressed no concern that he was out alone on a rainy night. By bringing himself to Martin’s attention, Zimmerman attempted to reverse the attention he was giving to Martin, making his position self-defensive. He provoked Martin into speaking first (“Why are you following me?”).

Trayvon Martin was not killed because he was black. He was killed because Zimmerman is white, and intent on creating a raciality in the situation. He does so by enacting it, the subject of an arbitrary interaction for which Martin is the arbitrary object.

Race is not something inherent in people. It is something that one group of people does to others, that white people do to those they define as “other” in order to define themselves as white. In other words, race is more properly understood as a verb, rather than a noun. The verb is “to racialize.” Race exists not because there are white people and black or brown people, but because there are racializers and the racialized. Racializing is a collective endeavor.

Though Zimmerman claims a “mixed-race” heritage for himself (white and Native), his position assumes an inherency to race, something one is born with. But black people are not born black, they are made black by white supremacist society and its cultural practices. Similarly, white people are not born white, they are made white by white supremacist society, in performing its cultural practices. Zimmerman is white because he acts to
make Martin black, and by that means to assume the mantle of whiteness, which he does through violence. For such an endeavor, he knows he has the permissibility, the impunity, to make other people black by treating them as such. He has spoken to the police, and they have shown no concern for what he might do.

Zimmerman was not a hunter stalking his prey. His attention to Martin has a different social meaning. It is a relation of identities, that of the racializer (his own) to that of the racialized (the one rendered an object). He chose to make himself part of the white racializing process by racializing Martin as black. The process of racializing includes contempt, hostility, exclusion, deprivation, disenfranchisement, derogation, and violence. And it has always included the creation by whites of a felt sense of threat against themselves, eliciting a need for defense against those made a deprived, disarmed, excluded, and exploited “minority.”

The dimensions of whiteness in the United States rest upon a sense of being threatened by black people, the production of self-defensive violence against that threat, and a collectivity in that violence. That is evident in the slave codes of the 1680s, the writings of George Fitzhugh in the 1850s, those of Henry Brady in the 1880s, the lynch mobs of the 1920s, in the attacks on civil rights workers, marchers, and freedom riders in the 1960s, and now in the police and vigilantes of the 2010s (see Martinot 2008, 2009). William Faulkner continually observes in his novels that white people use violence to establish membership and a sense of belonging for themselves with each other. They define others as not-white and themselves as white through them.

Racial profiling—with its traffic stops, security guards following people of color around supermarkets and department stores, real estate segregation, bank redlining, and a vast system of victimless crimes—is not an effect of race, but a process of racializing. One is racialized by being noticed and then treated differently in social standing, human repute, and juridical treatment, wherein one can be harassed, jailed, and killed on the basis of which the noticing is then rationalized. Deprivation, administered daily and hourly in countless minute, universal, or suddenly ambushing ways, racializes.

Profiling, then, is the opposite of law enforcement. In legitimate law enforcement, when a crime is committed the police investigate to find and arrest a suspect. In racial profiling, the police commit an act of suspicion toward a person and then investigate whether a crime can be attached to that suspect. This inversion permits endless harassment of those certain (noticed) sectors of the populace, by replacing law enforcement with raw
police power. It is the same process as stalking and provoking someone to claim that one’s invasion of their space is self-defense and the other constitutes a threat. Zimmerman was acquitted by a jury of manslaughter after admitting that he had slaughtered a man because he appeared to simply be following the role model established by the police.

Coloniality

The “Stand Your Ground” law (SYG) is the link between the aggression orientation of whiteness and its inversion as a self-defense mechanism. Under SYG, Zimmerman’s use of a gun was considered legal. Martin, who was unarmed, was being stalked and “standing his ground” against someone invading his space. Due to his social standing, however, SYG was not available to him. Standing one’s ground only pertains to white men. In 2011, a “companion” case in Florida involved Marissa Alexander, a black woman, who attempted to defend herself and her house against invasion by her estranged husband. She had a restraining order against him, and when he entered and threatened her, she demanded that he leave. He refused, so she got her gun from the garage and repeated her demand. He finally left after she fired a warning shot into the ceiling. Although she was standing her ground against an invader in her own home, she was convicted of attempted murder and sentenced to 20 years in a Florida prison. The judge excluded a plea of self-defense because she left the house to fetch her gun and then reentered it. As such, she was the aggressor. In his opinion, self-defense required her to flee the house rather than repel the invader.

If Martin had had a gun, it probably would not have helped. Teenage bravado was all he had to confront Zimmerman’s weapon. An analogy would be the US invasion of Afghanistan in 2001. The invader bombed villages with B-52s from 30,000 feet, conducted helicopter raids, and deployed tank battalions against an opponent equipped with little more than machine guns mounted on pickup trucks. After seizing control of Afghanistan, US forces arrested anyone who defended the country and imprisoned them in Bagram or Guantanamo as aggressors or terrorists against the United States. As with Zimmerman, technology provides the power to define defenders as aggressors and its own aggression as self-defense. Hundreds of persons in Guantanamo remain uncharged, because they cannot be charged with defending their country against aggression. Since only the aggressor can invoke the concept of self-defense, those they capture must be tortured into confessing to something other than self-defense. The United States can claim
it was standing its ground in Afghanistan and Iraq, and in that sense SYG is a colonialist principle. Domestically, the police have become the primary hierarchical sector of society against which one cannot stand one’s ground.

**Militarization of the Police**

This relation between Zimmerman, the police, and recent US military invasions raises the issue of the militarization of the police and its implied militarization of US society. Most commentaries on militarization of the police focus on the adaptation of military technology, weaponry, and surveillance to its operations, as applied to the civilian domain (see Balko 2006; Cassidy 1997; Parenti 1999). Police departments are opting to buy drones and deploy SWAT teams. Their operations begin at a high level of violence, even when just used to serve warrants. Houses are broken into with weapons drawn. Many people have been killed in these events (Wilson 1997, 22; see also Martinot 2003b, 205–24).

The essence of military institutions is discipline and an unquestioned obedience to a command hierarchy. Neither police manuals nor law enforcement legislation establish a command hierarchy for civilians. Nevertheless, obedience statutes have been strengthened as part of the technology of police operations, becoming a factor in the epidemic under discussion here. As Kenneth Chamberlain’s death reveals, the police can establish the obligation to open one’s home to them whenever they want. Police enter violently with weapons drawn, throw people to the floor, and handcuff them. For SWAT teams, the existence of a warrant constitutes de facto disobedience on their target’s part, indicating the necessity of a violent “response.”

The act of walking away is not a threat, but doing so dismisses the command to “stop.” For a police officer to decide that shooting the person is warranted, under the assumption that it can be painted as self-defense, signifies that the other’s independence has put something much more important in question. In Troy Davis’s case, the institutional insistence on defeating all his efforts to clear himself spans of a desperation that goes beyond procedure. It points to a deeper social concern, a fearfulness to which a lethal demand for obedience is only a partial response. What is the nature of this obedience, since it exists as more than mere procedure?

All demands for obedience are by nature partial demands for social regimentation. The strict (and lethal) demand for obedience established by the police institutionalizes social regimentation and requires that its
power hierarchy be recognized. The heightened obedience statutes passed in most states reinforce this ethos by establishing police commands as unquestionable and only criminally ignorable. Such statutes enable the police to criminalize anyone at will. They need only issue a command that the person considers humiliating or disrespectful, and whatever the person does in defense of their self-respect or dignity constitutes disobeying an officer, possibly followed by "resisting arrest" and probable violence.\textsuperscript{27} The police in this sense become a law unto themselves. In practice, they create situations arbitrarily in which demands for obedience can be imposed; this is grounded in a show of force, almost as a first response. Against this, mere surrender becomes a meaningless gesture (as it was for Blueford and for DeJuan Colbert in Wichita).

The demand for obedience is not psychological. It represents positionality in a social hierarchy. Regardless of how civilians or the media see these enhanced obedience statutes, they now govern the collective actions of the police as a dimension of the culture of policing.\textsuperscript{28} Yet, it is an act that hides behind a technological advantage. There is cowardice in it, represented by a political refusal to grant the other equality or even human status. But that technology is the ineluctable basis for the inversion of aggression and self-defense. Therein lies the foundation for making the demand for obedience lethal.

What rationale exists for this degree of regimentation? These laws and procedures—with their ratification of police impunity, de facto dismissal of due process, and institution of warrantless searches and seizures—establish social conditions that violate human rights and the Constitution.\textsuperscript{29} It matters little that the society calls itself "democratic," or that the Supreme Court proclaims the procedure "constitutional." If that procedure directly contradicts constitutional propositions (as the National Defense Authorization Act contradicts the clause in Article I that "Congress shall make no laws abridging habeas corpus"), then such a Supreme Court decision should be considered null and void. Unfortunately, there is no institutional way for that to happen. The unconstitutionality of legal and judicial procedures (of mass incarceration, extrajudicial execution, indefinite solitary confinement, torture, and granting impunity to the police, etc.) is precisely what requires civilian obedience. Only a demand for absolute obedience can justify civil norms that violate the innermost ethic of a society. This implies that each officer is given a hierarchical place with respect to civil society, the defense of which is the officer's prerogative and an institutional need. These police killings appear unneeded and gratuitous because each marks the defense
of something wholly extraneous to the policing situation, but in which the police culture is enmeshed.

In sum, the lethal demand by the police for obedience relates to the militarization of the police and the militarization of the entire society through the police. A legal and political structure that strays from constitutionality and violates human rights requires absolute obedience and thus faces a desperate and self-generated need for legitimacy. As aggression hides behind technological advantage, so illegitimacy hides behind regimentation.

What accounts for the arbitrary creation of situations in which disobedience can be potentiated, permitting a response with lethal power? That people of color are involved in most cases is not insignificant. It signifies something about the construction of white, racialized identity, in relation to a policing culture. The police impose their demand for obedience most absolutely and lethally with respect to people of color. That is, there is a different demand for obedience from people of color than from white people; it is a two-tiered structure of regimentation. For that reason, unconstitutional and extralegal norms can be structured and legitimized without the white population raising massive objections. In Michelle Alexander’s conception, this is the new Jim Crow (see note 24). It is not metaphorical. In exercising their power to criminalize at will, with impunity, the police serve as a selection mechanism that separates those whose humanity will be discounted and disrespected (the profiled) from those who will be respected. Through the power to profile, this ability to select constitutes a division between whites (not profiled) and others. In practice, the police become a new color line, an instrumentality that circumscribes a resurrected form of racial segregation. In this circumstance, class ceases to matter. Henry Lewis Gates discovered that when an officer in Cambridge, Massachusetts, arrested him while trying to enter his own house, with a full range of identity papers on his person.30

White people array themselves in various ways behind this color line. Police violence persuades some that black and brown criminality is real. Others unquestioningly accept a traditional sense of the police. A few join protests against police brutality. In general, because of criminalization of people of color through police activity, mass imprisonment, and contemporary political rhetoric and ideology, white people tend to support the police as defenders in a war against a social enemy. They accept their own regimentation, enforced by social opprobrium attached to protest as evidence of being “soft on crime.” White support for the police is a demand for white obedience. Militarization of the police, and of civil society through
them, also represents a regimentation of the white population, through the criminalization and segregation of people of color.

Enforcement of the old Jim Crow system depended upon the support of the broad mass of white people since its ethic and structure were too complex for police departments to handle alone. Likewise, the approbation Zimmerman received signifies an invitation to participate in the template for police procedures. This invitation bestows legitimacy by “signing” onto “Stand Your Ground” laws.

This institutional practice is of historical significance since it aims to roll back the democratic gains of the movements for civil rights. The structure of this process is the end itself, the re-racialization of US society, that is, the reconstruction and rehierarchization of whiteness. Procedure is its political content. Insofar as white people turn to each other in solidarity behind police power, they reconstruct white racialized identity. The underlying cultural goal is to roll back gains in equality and justice won by the movements for civil rights.

Re-segregation takes two forms: a quotidian practice on the street and the expanded prison system. The prison system has grown to 2.4 million prisoners, the largest in the world. The United States accounts for 5 percent of the world’s population and 25 percent of the world’s prisoners. In the United States today, 75 percent of prisoners are people of color (Sabol et al. 2006). Crime rates are roughly equal between white communities and those of color (who comprise roughly one-third of the population). Since people of color make up three-quarters of the prison population, they have a nine to one chance over whites of being incarcerated. The prison wall thus represents the concrete appearance of segregation, all the while hiding it from public view. In terms of any real ethic of democracy, the prison wall is more of a crime than the ostensible crime problem for which it is supposedly the solution.

Prisons “concretize” the color line, while representing the generalization of state violence. They were established to punish wrongdoers, but today 70 percent of the prison population are there because they were charged with violating a victimless crime law. In short, most of those being punished are the victims of government activity and the judicial machine. Imprisonment is a violent act, one of revenge (even disregarding the beatings inside, solitary confinement, and other forms of torture and dehumanization). An ethic of revenge doubles the violence of society by responding to acts of violence with more violence. An ethic of justice designed to heal the social wounds caused by criminality becomes impossible. Instead, impunity and
willfulness in treating people violently become the norm. Furthermore, the ability to withhold human rights from prisoners becomes the sign that human rights are only contingent in civil society. Rather than a response to social violence, prisoners as social violence become a major source of it—to say nothing of the rage on the part of those subjected to this violence (generally poor and working-class people).

The existence of this machine, the institutional divide between those granted humanity and those deprived of it, constitutes a separation between the state and the people who are ostensibly its constituency. This inverts the sense of a people forming government for itself into a government that forms its people for itself. Its complex process of regimentation (its demand for obedience) implies a loss of human connection—even discarding the meaning of the “human.” This separation implies that the police are beyond the pale of social accountability; it negates the logic and the possibility of accountability.

Police power thus assumes a profound political significance. The ability of police to kill with impunity, in direct contradiction to the role of policing as service, implies that policing has been subordinated to its political character. Police departments say they are dedicated to “serving and protecting” the people, yet their real mission is to preserve and protect themselves as police. Thus, a collateral problem of social violence is that the social institutions to which people can turn for protection against criminal violence are a primary source of that violence. If this is not the definition of a police state, it is at least the first clause in that definition.

NOTES


5. The next day, February 27, 2012, a video surfaced (and was aired on CBS network news) showing Zimmerman walking into the police station that night, with no wounds on his head or blood on his face. Three weeks later, when the photos surfaced, he was shown
with wounds on his head, but no bumps, an anomaly since swelling appears immediately in scalp wounds.


7. The Malcolm X Grassroots Movement report on police killings for 2012 is called “Operation Ghetto Storm,” and can be downloaded at www.operationghettostorm.org/.


11. At www.38thnotes.com/2012/05/22/justice-for-alan-blueford-and-oakland-police. No witness statements appeared in the coroner or police reports.

17. Due process supposedly grants personal sanctity and defense in the face of state action against a person’s life or property. To mean anything, it must occur before the event. This has been undermined and compromised, shifted to a position of response and appeal. In the case of asset forfeiture, for instance, property is seized and the victim of this seizure
must then appeal for restitution, making a mockery of the concept. In the case of police killing, only permisibility remains.

18. There are 10 major propositions concerning internal departmental investigations of police actions, but others concern insulating personnel files and records from public scrutiny. See http://en.wikipedia.org/wiki/Law_Enforcement_Officers’_Bill_of_Rights.


21. Personal report to the author by a political science professor at the University of Mississippi in 1957.

22. What Zimmerman said to the police is instructive. Here are some excerpts:

“This guy looks like he’s up to no good or he’s on drugs or something. It’s raining and he’s just walking around looking about.... Now he’s staring at me.... Yeah, now he’s coming toward me. He’s got his hands in his waistband. And he’s a black male.” Every stereotype is present from the examples above. We know that Martin was on the phone to a friend and was carrying groceries, so Zimmerman could not have seen this scene clearly. His viewpoint is that of the cop who shot Gary King, or Diallo, who had pulled out his wallet immediately before being killed. Zimmerman added: “Yep, he’s coming to check me out. He’s got something in his hands.... These assholes. They always get away.” He can’t decide whether to present Martin as preparing to aggress or to escape. Finally, the dispatcher (D) stated: “Are you following him?” Z: “Yeah.” D: “OK. We don’t need you to do that.”

23. For a history of the production of the structure of racialization in the United States as it evolved in the Virginia colony, see Allen (1994) and Martinot (2003a).

24. Racial profiling was even sanctioned by the Supreme Court. Decisions such as Terry v. Ohio legitimized the use of “color” as “suspicious behavior,” as Michelle Alexander (2010) has explained.

25. At www.latimes.com/news/nation/nationnow/la-na-ann-george-zimmerman-marissa-alexander-20130717,0,4248003.story. According to Sullivan (2013), Alexander should have been covered under the “stand your ground” law. “It’s a law that allows people to stand their ground—pretty much anywhere—instead of retreating if they reasonably believe doing so is necessary to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony.” In short, after the law was passed, people could defend themselves even outside their homes—with deadly force if necessary—if they believed someone was trying to kill them or seriously harm them.” But Marissa Alexander is black. A massive movement to free her has formed, calling for her acquittal on the same grounds as Zimmerman’s. The case was brought to a Florida Appeals Court, which overturned her conviction on the basis of incorrect jury instructions. The state reindicted her and the trial begins in March 2014. Out on bail, she is confined to her house.

26. Two recent cases like this were caught on video. In DeKalb, Georgia, police came to the wrong house, demanded entry, and were asked why they were there. They refused to answer and when finally admitted to the house, violently treated the inhabitants. The police are heard saying that if they request admission, they must be allowed to enter. At www.huffingtonpost.com/2013/08/08/dekalb-county-cane_n_3727241.html. The other case, in Cotati, California, is noted above.
27. The demand for absolute obedience occurs out of sight, as the number of people who die in police custody demonstrates. When police invade a home, they demand compliance, even in the case of a medical or mental health problem. People have died while resisting being manhandled by the police, subdued by quiet and odorless force. See www.eastbayexpress.com/SevenDays/archives/2013/03/04/how-did-kayla-moore-die.

28. See Paul Takagi (1979). In another article, Takagi and colleagues (Harring et al. 1977) refer to a 1977 report that shows a clear correlation between police homicides and neighborhoods in which impoverishment is measured by concrete aspects of people’s lives, such as having no access to a car, living in houses without hot water, receiving food stamps, etc. The high level of police killings in those neighborhoods suggests that they are aware of what they are doing and have greater confidence in the presence of a collective hand on their guns, making such practices acceptable.

29. Evidence of the torture of prisoners in police stations is mounting (see Taylor 2006). The extended hunger strike by California prisoners for basic human rights includes the demand to prohibit indefinite solitary confinement (which constitutes torture by international agreement), pursuant to treaties to which the United States is a signatory. The hunger strike started on July 8, 2013.


31. There is much disagreement on the 70 percent figure. The Libertarian Party claims the number is 86 percent in federal prisons. Cf. Michael Sudee, September 29, 2011, at www.libertariannews.org/2011/09/29/victimless-crime-constitutes-86-of-the-american-prison-population/. The rate would be higher in state prisons, since most victimless crime laws are passed at the state level. The “Democratic Underground” estimates that one-third of all prisoners are imprisoned for victimless crimes. See www.democraticunderground.com/discuss/duboard.php?az=view_all&address=389x5808579.

Writing for the Community Impact Panels for the Midtown Community Court, Robin Campbell (2000) argues that declaring an act illegal implies that its commission will have repercussions among other people in terms of their social freedom that would not exist in the absence of its illegality. Before 1970, most convicted offenders were in prison for violent crimes or crimes against property. As such, the process of mass incarceration depended on victimless crime prosecutions (the war on drugs). The 70 percent figure thus seems reasonable, since it parallels the shift in policy and its eightfold increase in the prison population.

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The Possibilities of Open and No Borders

Harald Bauder

Human mobility is regulated through selective and exclusionary border practices. An important contribution that critical scholarship can make toward free human mobility is not only to problematize border regulations and practices but also to offer fresh imaginations of human migration and territorial belonging. In this article, I examine the imaginations of open borders and no border that would permit the unconstrained migration of people, and I explore the possibilities associated with these imaginations.

International migration is currently controlled not only at the physical border but also at transit points, airports, and trucking routes before migrants reach the border, as well as in workplaces, public spaces, and even private homes after the migrants have crossed the border (Balibar 2002; Coleman 2007; Nevins 2002; Rumford 2008; Vaughan-Williams 2008). Therefore the notion of human mobility I use here is associated with more than simply crossing the physical border line; it also addresses other aspects of the border, including, for example, the unconstrained mobility of people within a territory after crossing its border, and the ability to engage in society and the labor market as equal members (Bauder 2011b).

While I develop an argument for open borders based on the contemporary context of Western liberal-democratic nation-states with territorial borders, I also contemplate a no-border scenario, which entails the transformation of the ontologies that underlie contemporary political configurations. The open-borders imagination affirms the territorial nature of political organizations and the existence of territorial borders. Conversely, no-border advocates would prefer to eliminate borders altogether. In this article, I thus bring open-borders and no-border literatures into dialogue with each other.

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