

DEATH-DEALING IMAGINATIONS: RACIAL PROFILING, CRIMINALITY, AND BLACK INNOCENCE

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In 1988, the George H. W. Bush campaign saturated the media airways with images, ads, and commercials featuring nightmarish, boogiemaniac-like, and dog-whistling images of Willie Horton.² Horton had raped a white female while he was temporarily released from prison on a weekend furlough program, where he was already serving a life sentence for first-degree murder.³ Through the successful manipulation of this image, Bush was able to align himself with masses of white voters who felt victimized as the gains of the civil rights movement in housing, education, and employment increased diversity in their formerly exclusive enclaves.⁴ Through the use of this image, Bush reached deep

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1. The following is a speech that I presented on October 23, 2015, during the 2015 American Bar Association Fall Criminal Justice Institute panel entitled “The Media’s Role in Fostering Racial Perceptions and What It Means for Criminal Justice Policy.” I would like to thank Judge Bernice Donald, United State Sixth Circuit of Appeals, for the invitation to be a speaker. See also Blanch B. Cook, TED Talk: CAUGHT: Calculating the Moves of Power Our Midst.” Nov. 2, 2016) https://www.youtube.com/watch?v=SziDf7o_HAY.

2. By engaging in dog-whistling politics, playing the race card, or successfully manipulating the parade of black horrors (i.e. immigration, taxes, special interests, welfare, Willie Horton, and the death penalty), just below the surface of visibility and detection, the GOP has captured six of the last nine presidential elections and, most importantly, it has enacted upwardly redistributive economic policies for its most influential constituency, the affluent. See THOMAS BYRNE EDSALL & MARY D. EDSALL, CHAIN REACTION: THE IMPACT OF RACE, RIGHTS, AND TAXES ON AMERICAN POLITICS 172, 220–22 (1992); IAN HANEY LOPEZ, DOG WHISTLE POLITICS: HOW CODED RACIAL APPEALS HAVE REINVENTED RACISM & WRECKED THE MIDDLE CLASS 7–8, 29–30 (2014). Edsall argued that in 1983, when the Republicans realized they needed 70% of the white male vote to offset the black majorities of Democrats, Lee Atwater, who perfected the parade of black horrors, outlined a plan for the Reagan-Bush reelection committee. EDSALL & EDSALL, *supra*, at 220–22.

3. Roger Simon, *How A Murderer and Rapist Became The Bush Campaign’s Most Valuable Player*, BALTIMORE SUN (Nov. 11, 1990), http://articles.baltimoresun.com/1990-11-11/features/1990315149_1_willie-horton-fournier-michael-dukakis; see also Keith Love, *Bush Backers Have Horton Victims Speak*, L.A. TIMES (Oct. 8, 1988), http://articles.latimes.com/1988-10-08/news/mn-2925_1_willie-horton.

4. See Richard Goldstein, *Whiney White Guys*, VILLAGE VOICE, Mar. 1995, at 25.

within the American psyche and heart, successfully launching a presidential campaign against Michael Dukakis. In response to the Bush campaign's use of Willie Horton imagery, Susan Estrich, Dukakis' campaign manager, told a reporter, "[t]here is no stronger metaphor for racial hatred in our country than the black man raping the white woman."⁵ Over the years and decades of dog-whistling politics, powerful interests have been able to exact tax cuts for the wealthy that we have not seen since the Great Depression, and hordes of poor and working people are experiencing diminishing images of their middle class aspirations. Shamefully, Willie Horton may have titillated our psyche, but he will not feed our empty stomachs.

Willie Horton is a paradigmatic example of how images inform political discourse and how political discourse informs carceral policy.⁶ The use of the criminal justice system to police and control the black body is hardly new.⁷ What is new is both the scale and political

5. Andrew Rosenthal, *Bush Campaign Called 'Racist,'* PITT. POST-GAZETTE, Oct. 24, 1988, at 3.

6. See NAZGOL GHANDNOOSH, THE SENTENCING PROJECT, RACE AND PUNISHMENT: RACIAL PERCEPTIONS OF CRIME AND SUPPORT FOR PUNITIVE POLICIES 6 (2014). Far from being antiquated, presidential candidate Mitt Romney used dog-whistle politics to deflect legitimate concerns about dwindling middle class opportunities onto welfare, particularly at the uncivilized hands of President Barack Obama. In the 2012 presidential campaign, "Romney ran more campaign ads about welfare than any other issue." Cynthia Lee, *Making Race Salient: Trayvon Martin and Implicit Bias in a Not Yet Post-Racial Society*, 91 N.C. L. REV. 1555, n.32 (2013) (citing Ezra Klein, *Race and the 2012 Election*, WASH. POST, Aug. 28, 2012, at A12). Romney's ads claimed that "[u]nder Obama's plan, you wouldn't have to work[;] . . . they would just send you your welfare check." Jamelle Bouie, *In New Ad, Mitt Romney Repeats False Attack on Obama's Welfare Policy*, THE WASH. POST (Aug. 13, 2012, 9:45 AM), http://www.washingtonpost.com/blogs/plum-line/post/in-new-ad-mitt-romney-repeats-false-attack-onobamas-welfare-policy/2012/08/13/92cda562-e547-11e1-9739-ee99c5fb285_blog.html. Pointing out the irony of scapegoating the poor as unwilling to work, Klein noted that in 2012, most people understood that millions of Americans could not find work. Nevertheless, "[i]n modern politics . . . when a campaign begins doubling and tripling down on an unusual line of attack, it's because it has reams of data showing the attack is working." *Id.* Political scientist Michael Tesler observed that Romney's welfare ads stoked racial resentment, arguing that the ads worked particularly well "if the viewer [was] racist, or at least 'racially resentful.'" *Id.* By using dog-whistling on welfare, Romney provided an unspoken nod and wink to those inclined to see black people as lazy "welfare queens." See generally Franklin D. Gilliam, Jr., *The 'Welfare Queen' Experiment: How Viewers React to Images of African-American Mothers on Welfare*, NIEMAN REP., 1999, at 49 (examining the use of black women as welfare mothers unwilling to work because they cannot recognize core American values). Through the use of dog-whistling, Romney could align himself as a savior to those experiencing white supremacist hatred toward blacks generally and the presence of a black body in the white house in particular. See *id.*

7. See Taja-Nia Y. Henderson, *Property, Penalty, and (Racial) Profiling*, 12 STAN. J. CIV. RTS. & CIV. LIBERTIES 177 (2016). Dr. Taja-Nia Henderson writes about slave

consensus surrounding mass incarceration. America's prison population increased from 300,000 in the early 1970s to 2.3 million people today, not because of ideas, but because of political will.⁸ The dog-whistling politics of Horton contributed to the political consensus that gave rise to mass incarceration. Horton and the site of the black body as the location of menace ignited the flames of hyper-racism.

Without doubt, the media is a mainstream instrument that racializes crime by reproducing racial profiles of criminality and innocence. Like other instruments of power, domination, and exploitation, the media uses the black body as a canvas for criminality and the white body as a portrait of goodness, righteousness, and entitlement. Without doubt, the use of racial profiles of black menace and white innocence increases the vulnerability of black bodies. The media participates in death by imagery when it uses the black body as evidence of crime and the white body as evidence of innocence. The media, however, is not the source of the problem. We are a nation of supply and demand. The media merely gives us what we crave. The question becomes, why do we racialize innocence and criminality? Why are these images titillating to our psyches and consciousness?

If we are honest with ourselves, our world demonizes blackness and valorizes whiteness. If we are honest with ourselves, our nation criminalizes black bodies and presumes the innocence of white ones. If we are honest with ourselves, we select our neighborhoods based on how white they are and sell our homes when our communities become unbearably black. If we are honest with ourselves, we protect and reproduce our white images and legacies in our families, while relegating black bodies to domestic service and protection of that birthright. If we are honest with ourselves, our only interest in blackness is the way it affirms our own images of ourselves.

masters sending their slaves to the local prisons to be broken and seasoned for working on the plantation. *Id.*; see also HEATHER ANN THOMPSON, BLOOD IN THE WATER: THE ATTICA PRISON UPRISING OF 1971 AND ITS LEGACY (2016). Dr. Heather Thompson examines the manner in which prisons and jails were used during reconstruction to control black bodies. One Georgia prison literally turned overnight from white to black. Once the black body itself was free, white heteropatriarchy had to control the space in which the black body could operate through the force of the law, specifically Jim Crow mandates. Four landmark civil procedure cases paradigmatically exemplify the use of the criminal justice system to control the bodies of the newly emancipated slaves, now that the body of the slave itself was free. *Id.*

8. BRYAN STEVENSON, JUST MERCY: A STORY OF JUSTICE AND REDEMPTION 15 (2015). Currently, there are nearly six million people on probation or parole. One out of every fifteen people born in the United States in 2001 is expected to go to jail or prison; one in every three black males born in this century is projected to be incarcerated. *Id.*

The media did not invent the dog-whistling politics of Willie Horton or the racial demagoguery of black boys in hoodies. The media merely feeds our insatiable appetite for vulnerable flesh. Although the media participates in and informs public discourse, the media cannot create images that do not already reside in our heads and hearts. In reproducing racial images of criminality and goodness, the media reaches into the deeper folds of our cerebral cortex and titillates deeply held convictions about white goodness and black menace. In projecting these images of criminality and goodness, the media is merely reproducing a page from a much larger narrative—that narrative is the legacy of white supremacy.⁹

It is fundamentally vital that we ground our discussion about the media's role in creating racial profiles of criminality and innocence in the larger theoretical framework of white supremacy. White supremacy is the motive. The criminal justice system is its instrument. The media is merely taking a Polaroid of white supremacy's performance of domination, rule, and exploitation on bodies of color.

Under the narrative of white supremacy, the black body is itself the evidence of crime and the white body is itself evidence of innocence. Historically, criminalizing the black body has always been a justification for exploitation. From free labor, to cheap labor, to fodder for the school-to-prison pipeline, and to possible obsolescence (because there are new bodies of color to fill the need for cheap labor), the criminal justice system and the law, as expressions of power, have consistently made the black body its captive. Imprisonment does the work of disenfranchisement, arrests do the work of subordination, and sentencing does the work of domination.

As a racial formation or project, white supremacy has had two historical aims: conquest and exploitation.¹⁰ White supremacy occupies, totalizes, and usurps unrestricted space and relegates certain bodies to places where the conditions of vulnerability to exploitation abound.¹¹ For example, the colonial empire discovered America and relegated the indigenous populations outside the protections of citizenship into areas

9. See ROBERT M. ENTMAN & ANDREW ROJECKI, *THE BLACK IMAGE IN THE WHITE MIND: MEDIA AND RACE IN AMERICA* (2001).

10. See JUAN F. PEREA ET AL., *RACE AND RACES: CASES AND RESOURCES FOR A DIVERSE AMERICA* 1 (3rd ed. 2015) ("The principal racial issues confronting the Framers were the conquest of Indian nations and the perpetuation of black slavery.").

11. See YI FU TUAN, *SPACE AND PLACE: THE PERSPECTIVE OF EXPERIENCE* (1977). The doctrine of discovery, manifest destiny, treaties, worker programs, immigration visas, internment camps, legacy of lynchings, and slavery. How the law creates hierarchy: California's Proposition 187 and similar federal legislation targeting legal and illegal immigrants, California's Proposition 209, and unprecedented proposals to deny birthright citizenship to the United States-born children of undocumented immigrants. *Id.*

of genocide. As another example, the Founding Fathers proclaimed a constitutional democracy and relegated the black body outside the borders of citizenship to auction blocks where they were vulnerable to the wildest and most pathological desires and whims.¹²

In its latest incarnation, white supremacy has morphed into explicit and implicit bias like a multi-headed, tenacious, and highly adaptable hydra refusing interruption and having outlasted racism and intolerance. Traditionally, implicit bias is defined as the subconscious associations we make between races and social attributes, like goodness and whiteness and menace and blackness.¹³ There is, however, nothing new about implicit bias. Implicit bias is white supremacy by any other name. What is new is the cognitive studies and neuroscience that allows us to capture and map the operations of white supremacy in the mind and its manifestations in the world. It is the perversion of perception produced by our privilege. It is the architectural structure of the brain, the default position of the mind. It is an implicit imperative so deeply held and convicted that it eludes scrutiny.¹⁴ It is the filter through which we experience reality. It is the framework through which we see evidence, including police officers, federal agents, prosecutors, grand jurors, judges, petite jurors, and the public at large. It is the way pathology always sticks to the black body and goodness clings to the white body.

12. In situating blacks outside the protections of citizenship and denying them recourse to the courts for protection, Justice Taney, writing for the majority, poignantly and candidly summarized the agenda of white heteropatriarchy, whose legacy endures, as follows:

They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position in society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion.

Dred Scott v. Sandford, 60 U.S. (19 How.) 393, 407 (1856).

13. Lee, *supra* note 6, at 1559–60. “Implicit bias is unintentional bias arising from attitudes or stereotypes that affect our understanding, decision-making, and behavior, without our even realizing it.” *Id.* (quoting Jerry Kang et al., *Implicit Bias in the Courtroom*, 59 UCLA L. REV. 1124, 1126 (2012) (internal quotation marks omitted)).

14. See STACEY M. FLOYD-THOMAS & JUAN M. FLOYD-THOMAS, *THE ALTARS WHERE WE WORSHIP: THE RELIGIOUS SIGNIFICANCE OF POPULAR CULTURE* (2016).

Implicit biases are the schema, consistent pairings, stereotypes, and associations we automatically draw between whiteness and power, entitlement, goodness, virtue, righteousness, intelligence, innocence, trustworthiness, industriousness, and boundlessness. By contrast, implicit biases are the associations we make between black bodies and worthlessness, unworthiness, evil, immorality, criminality, ignorance, guilt, slothfulness, lasciviousness, enslavement, and servitude.¹⁵

In video game shooter simulations, implicit bias testing indicates that we are more inclined to see black bodies holding guns when they are actually holding relatively innocent things like flashlights, and that we are less likely to see white bodies holding guns when in fact they are armed.¹⁶ These simulations also indicate that we are more inclined to shoot black bodies, as opposed to white bodies, regardless of what the bodies are holding.¹⁷

I urge all of you to go to Project Implicit, a Harvard University-run website, where you can take the Implicit Associations Test ("IAT").¹⁸ The IAT is a simple ten-minute test that measures the amount of time individuals take to make an association with an image or word they view on a computer screen.¹⁹ Over fourteen million IATs have been taken.²⁰ Seventy-five percent of those who have taken the race IAT have demonstrated implicit racial bias in favor of whites.²¹ Given that 75%

15. Implicit bias testing operates through cognitive psychology "priming," as seen in dog-whistling: It is a stimulus that has an effect on an unrelated task that triggers associative networks, which can include stereotypes and can influence decision-making, as well as behavior. IMPLICIT RACIAL BIAS ACROSS THE LAW 10 (Justin D. Levinson & Robert J. Smith eds., 2012).

16. See Lee, *supra* note 6, at 1582.

17. *Id.* at 1583–84 (citing Joshua Corell, et al., *The Police Officer's Dilemma: Using Ethnicity to Disambiguate Potentially Threatening Individuals*, 83 J. PERSONALITY & SOC. PSYCHOL. 1314 (2002)).

18. *Preliminary Information*, PROJECT IMPLICIT, <https://implicit.harvard.edu/implicit/taketest.html> (last visited March 4, 2017).

19. *About the IAT*, PROJECT IMPLICIT, <https://implicit.harvard.edu/iatdetails.html> (last updated 2011).

20. Lee, *supra* note 6, at 1572 (citing MAHZARIN R. BANAJI & ANTHONY G. GREENWALD, *BLINDSPOT: HIDDEN BIASES OF GOOD PEOPLE* 69 (2013)).

21. See Banaji & Greenwald, *supra* note 20, at 47. For the claim that blacks have implicit bias, see Melinda Henneberger, *Out, Damned Spot: The 'Mindbugs' of Bias that Sneak into our Brains*, WASH. POST (Feb. 7, 2013), https://www.washingtonpost.com/blogs/she-the-people/wp/2013/02/07/out-damned-spot-the-mindbugs-of-bias-that-sneak-into-our-brains/?utm_term=.79d8e0686c02 (noting that Banaji and Greenwald's research found that about 40% of African Americans have a pro-white bias, 40% have a pro-black bias, and 20% are neutral); see also Robert W. Livingston, *The Role of Perceived Negativity in the Moderation of African Americans' Implicit and Explicit Racial Attitudes*, 38 J. EXPERIMENTAL SOC. PSYCHOL. 405, 411 (2002) (discussing the relationship between blacks' implicit and explicit racial attitudes and finding that blacks

figure, implicit bias makes the case for omnipresent racial hostility in a world that believes it has achieved post-racialism.²²

Emancipation was met with Jim Crow. The Civil Rights Movement was answered by the school-to-prison pipeline. The election of President Obama gave rise to the Tea Party. While the Ferguson protestors engaged in resistance, Darren Wilson amassed at least \$400,000. The march toward social justice is a constant dialectical tension between progress and retrenchment, a movement forward and an equally aggressive movement backward.²³ Much like Sisyphus condemned to rolling a boulder up a hill, the movement toward social justice must anticipate the gravitational pull toward resistance.

The racially coded dog-whistling politics and racial demagoguery of Willie Horton arguably gave rise to the popularity of Donald Trump in the public square.²⁴ Elite power brokers seized the image of Willie

who perceived negativity from whites showed a positive correlation with in-group explicit bias and a negative correlation with ingroup implicit bias); see also Nosek et al., *Harvesting Implicit Group Attitudes and Beliefs From a Demonstration Web Site*, 6 GROUP DYNAMICS THEORY RES. & PRAC. 101, 105 (2002) (analyzing the overall IAT effect revealing respondents' "automatic preference for White relative to Black").

22. Kevin Sack & Megan Thee-Brenan, *Poll Finds Most in U.S. Hold Dim View of Race Relations*, N. Y. TIMES (July 23, 2015), https://www.nytimes.com/2015/07/24/us/poll-shows-most-americans-think-race-relations-are-bad.html?_r=0:

A New York Times/CBS News poll conducted last week reveals that nearly six in 10 Americans, including heavy majorities of both whites and blacks, think race relations are generally bad, and that nearly four in 10 think the situation is getting worse. By comparison, two-thirds of Americans surveyed shortly after President Obama took office said they believed that race relations were generally good.

Id.

23. In capturing this dialectical tension, Crenshaw cites Bell and states:

The 'Living the Dream' directive aptly illustrates Professor Derrick Bell's observation that most Americans, black and white, view the civil rights crusade as a long, slow, but always upward pull that must, given the basic precepts of the country and the commitment of its people to equality and liberty, eventually end in the full enjoyment by blacks of all rights and privileges of citizenship enjoyed by whites.

Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1333–34 (1988) (citing DERRICK BELL, *RACE RACISM, AND AMERICAN LAW* § 1.2, at 7 (2d ed. 1981) (internal quotations omitted)).

24. As President Lyndon B. Johnson famously said, "[i]f you can convince the lowest white man he's better than the best colored man, he won't notice you're picking his pocket. Hell, give him somebody to look down on, and he'll empty his pockets for you." Bill D. Moyers, *What a Real President Was Like*, WASH. POST (Nov. 13, 1988), https://www.washingtonpost.com/archive/opinions/1988/11/13/what-a-real-president-was-like/d483c1b3-d0da-43b7-bde6-04e10106ff6c/?utm_term=.9d6eb2e81bbd.

Horton to give themselves a greatly needed cosmetic facelift, morphing from a party of the rich to the champion of the victim, particularly those individuals who experienced victimization and trauma from the inclusive gains of the civil rights movement.²⁵ Willie Horton became a clarion call for those who saw dwindling value in their racial real estate as once formerly exclusive enclaves in boardrooms, lunchrooms, and boudoirs gave way to increasingly more diverse spaces.

As a vision of triumph, power, and success, Donald Trump taps into the day-to-day realities of the white masses. He is the Barbie doll of the American dream. In Trump's world, the white masses act out their fantasy of making it rich through popularity, superiority, and celebrity. In perfecting his power, celebrity, and platform, Trump is able to spew racist vituperative vitriol and be embraced as a champion of white victimization, trauma, and vindication. In Trump, we see a perfect storm of a power amassing celebrity launching a political platform of racist vitriol and civil rights resentment.

In fixating on Willie Horton and championing Donald Trump, the white masses have failed to realize that their middle-class aspirations have been stolen away.²⁶ Neither Willie Horton nor drug dealers collapsed our economy. However, we have had a war on drugs and not on unregulated banking practices. The criminalization of the black body immunizes us from other forms of criminality and treachery when white bodies commit crimes.

When we fixated on the black menace and answered the civil rights gains with the school-to-prison pipeline, we turned away from America as the Great Society and the New Deal, and instead embraced the collective loss of our humanity.²⁷ The dehumanization of the black body necessitates an equal loss of humanity in the dominator.²⁸

The question becomes: Why should we break the cycle of replicating and reproducing racially coded images of criminality and goodness?

25. Race politics and the successful manipulation of wedge issues have enabled the GOP to win five of the seven presidential elections from 1980–2004 and, most importantly, to enact upwardly redistributive economic policies for its most influential constituency, the affluent. See EDSALL & EDSALL, *supra* note 2, at 172, 220–22; see Blanche Bong Cook, *A Paradigm for Equality: The Honorable Damon J. Keith*, 47 WAYNE L. REV. 1161, 1171 n.28 (2002); see also Blanche Bong Cook, *Stepping into the Gap: Violent Crime Victims, the Right to Closure, and A Discursive Shift Away from Zero Sum Resolutions*, 101 KY. L.J. 671, 694 n.108 (2013).

26. Moyers, *supra* note 24.

27. GHANDNOOSH, *supra* note 6, at 8.

28. “No man can put a chain about the ankle of his fellow man without at last finding the other end fastened about his own neck.” Frederick Douglass, *The Civil Rights Case*, in AFRICAN-AMERICAN SOCIAL AND POLITICAL THOUGHT: 1850–1920, at 301 (Howard Brotz ed., 1992).

Why should we abort the legacy of white supremacy? Why should we embrace the cause of inclusivity and greater human flourishing? Why should we interrupt the collective loss of our humanity? I suggest the following answers:

Because the criminalization of black bodies and the over valorization of whiteness turns police officers into warriors and enemy combatants in black communities, and protectors and allies in white neighborhoods.²⁹

Because death by imagery increases the instances of police violence and excessive use of force against bodies of color, cheapens black existence, increases danger for black lives, and dehumanizes all that fall within its gaze.

Because Natasha McKenna, aged thirty-seven, died after police officers tazed her four times while she lay naked and shackled with handcuffs and leg restraints.³⁰

Because police officers subjected Alexandria Randle and Brandy Hamilton to full blown cavity searches in the middle of the day in full view of a public highway after a traffic stop.³¹

Because black men are seven times more likely than white men to die by police gunfire while unarmed.³²

29. Robert Barnes states:

A 2014 Washington Post-ABC News poll revealed that blacks and whites live in different worlds when it comes to perceptions of justice. Only 1 in 10 African Americans said blacks and other minorities receive equal treatment with whites in the criminal justice system. In contrast, 6 in 10 white Americans had confidence that police treat the races equally.

Robert Barnes, *Supreme Court to Examine Racial Divide in Jury Selection*, WASH. POST (Oct. 25, 2015), https://www.washingtonpost.com/politics/courts_law/supreme-court-to-examine-racial-divide-in-jury-selection/2015/10/25/005sec56-774d-11e5-a958-d889faf561dc_story.html.

30. Martin Weil, *Death Of Woman Shocked By Stun Gun In Fairfax Jail Is Ruled An Accident*, WASH. POST (Apr. 28, 2015), https://www.washingtonpost.com/local/crime/death-of-woman-shocked-by-stun-gun-in-fairfax-jail-is-ruled-an-accident/2015/04/28/7bc85f36-edfc-11e4-a55f38924fca94f9_story.html?utm_term=.2067d7d0e518.

31. Breanna Edwards, *Texas Women Subjected to Full Body Cavity Search on Highway*, ROOT (May 30, 2014), http://www.theroot.com/articles/culture/2014/05/texas_women_subjected_to_full_body_cavity_search_on_highway.html.

32. Sandhya Somashekhar et al., *Black and Unarmed*, WASH. POST (Aug. 8, 2015), http://www.washingtonpost.com/sf/national/2015/08/08/black-andunarmed/?utm_term=.52d67a6a1122. As of August 2015, police had shot and killed twenty-four unarmed black men, averaging one every nine days. *Id.* In 2012 alone, police officers, security guards, or vigilantes took the lives of 136 unarmed black men and boys. *Id.* In ten of the incidents, the killers were not charged with a crime, and most of those who were charged either escaped conviction or accepted reduced charges in exchange for a guilty plea. Robin D.G. Kelley, *The U.S. v. Trayvon Martin: How the System Worked*, HUFFINGTON POST (July 15, 2013, 1:40 PM), http://www.huffingtonpost.com/robin-d-g-kelley/nra-stand-your-ground-trayvon-martin_b_3599843.html (last updated Sep. 14, 2013).

Because the dog-whistling effect of feasting on black flesh distracts us from the treachery of focusing greatly needed resources on denigration and imprisonment, rather than human uplift.

Given those reasons, what resolutions do we propose? How do we break the legitimizing role the media plays in racializing crime? How do we get the press to stop embracing the theme of white innocence and black denigration? How do we shift the normative gaze from the black body to the conditions that give rise to tyranny, subjugation, and domination as it is raced, gendered, and classed?

In answer to these questions, I would like to propose two categories of solutions: (1) one category directed at the media itself as an institution and (2) the other category requesting a partnership with the media in a call to action.

I should note that given the ubiquitous and omnipresent nature of explicit and implicit imperatives,³³ our responses must be equally robust and comprehensive. The following suggestions, therefore, are not an exhaustive list.

As to the first category:

- Greater diversity throughout the ranks of law enforcement and the media. By increasing the diversity of bodies within the ranks of both law enforcement and the media, we can increase the life experiences and points of view of our institutions. Diversifying these institutions will enhance their intentionality, dialogue, and activity.
- Require implicit bias training throughout the ranks of law enforcement as well as the media. If we are truly committed to full human flourishing, we must all become aware of how our thought processes lead to action, which is sometimes fatal and damaging to others.

As to the second category of solutions, we ask the media to join us in a partnership on the following calls to action:

- Bring constitutional policing in line with racial justice. We are asking the media to engage in responsible reporting by focusing its attention on policing and policing strategies that are not in lock-step with the Constitution. Around the nation,

33. FLOYD-THOMAS & FLOYD-THOMAS, *supra* note 14.

there are countless images of racial profiling that lead to disastrous consequences.

- As an example of socially responsible reporting, National Public Radio, the Washington Times, and CNN reported that in 2013, the municipal court in Ferguson, a city of 21,135 people, issued 32,975 arrest warrants for non-violent offenses, mostly driving violations.³⁴ That is approximately 1.6 arrest warrants for every Ferguson citizen.³⁵ Blacks make up 67% of the city's population, but were 86% of motorists stopped by police.³⁶ Whites make up 29% of the population, but 12.7% of vehicle stops.³⁷ Last year, Ferguson collected \$2.6 million in court fees and fines, and it was the city's second biggest source of income of the \$20 million it collected in revenues.³⁸
- Eliminate the criminalizing of black bodies for profit from private prisons to excessive traffic and parking fines.
- Eliminate the use of immigration policies as opportunity policing.
- Explore the possibilities of using implicit bias tests as screening devices in law enforcement.
- Demand greater transparency in operations of law and justice, including a call for mandatory data collection of racial profiling.
- Finally, the use of body cameras in law enforcement.

In summary, if we maximize the benefit of full human flourishing, we minimize the cost of supremacist pathology. The denigration of millions destroys the psyche of all. In generations to come, our offspring

34. Joseph Shapiro, *In Ferguson, Court Fines and Fees Fuel Anger*, NAT'L PUB. RADIO (Aug. 25, 2014), <http://www.npr.org/2014/08/25/343143937/in-ferguson-court-fines-and-fees-fuel-anger>.

35. *See id.*

36. *Id.*

37. *Id.*

38. *Id.*

will measure our humanity not by exaltations of white innocence, but by ascriptions of black guilt. As we condemn past generations for engaging in the diabolical treachery that was slavery, we might ask ourselves how future generations will judge our sending one in every three black men to prison.³⁹

39. Saki Knafo, *1 in 3 Black Males Will Go To Prison in Their Lifetime*, *Report Warns*, HUFFINGTON POST (Oct. 4, 2013), http://www.huffingtonpost.com/2013/10/04/racial-disparities-criminal-justice_n_4045144.html. In remarking on the emptiness of the Fourth of July for a slave, Fredrick Douglass stated the following, which may resonate a singular shame from the present-day school-to-prison pipeline:

Fellow citizens, I will not enlarge further on your national inconsistencies. The existence of slavery in this country brands your republicanism as sham, your humanity as a base pretense, and your Christianity as a lie. It destroys your moral power abroad; it corrupts your politicians at home. It saps the foundation of religion; it makes your name a hissing and bye-word to a mocking earth. It is the antagonistic force in your government, the only thing that seriously disturbs and endangers your Union. It fetters your progress; it is the enemy of improvement; the deadly foe of education; it fosters pride; it breeds insolence; it promotes vice; it shelters crime; it is a curse to the earth that supports it; and yet you cling to it as if it were the sheet anchor of all your hopes. Oh! be warned! be warned! a horrible reptile is coiled up in your nation's bosom; the venomous creature is nursing at the tender breast of your youthful republic; for the love of God, tear away, and fling from you the hideous monster, and let the weight of twenty millions crush and destroy it forever!

Frederick Douglass, *The Meaning of July Fourth for the Negro* (July 5, 1852); see also Justin Wolfers, *1.5 Million Missing Black Men*, N.Y. TIMES (Apr. 20, 2015), <https://www.nytimes.com/interactive/2015/04/20/upshot/missing-black-men.html> ("Black women who are 25 to 54 and not in jail outnumber black men in that category by 1.5 million, according to an Upshot analysis. For every 100 black women in this age group living outside of jail, there are only 83 black men. Among whites, the equivalent number is 99, nearly parity.").