

Deadly Force and Public Reason¹

Anna Marie Smith

(prepared for the Western Political Science Association annual meeting, March 2013.)

[W]e must acknowledge that as a people — *E Pluribus Unum* — we are on a slippery slope toward economic strife, social turmoil, and cultural chaos. If we go down, we go down together.

Cornel West, *Race Matters*²

The killing of Trayvon Martin is heartbreaking. An unarmed teenager, bearing nothing more than a bottle of iced tea and a snack in a paper bag, is shot dead by a self-appointed 28-year-old Neighborhood Watch captain. Martin was a 17-year old black youth wearing a hoodie. George Zimmerman, the confessed pursuer and shooter, and a local resident, leapt to the conclusion that Trayvon did not belong there (he did), that he was acting suspiciously by looking into people's houses (in a neighborhood designed without any setbacks),³ and that he might be one of the young black men who, according to local rumor, were responsible for local break-ins. Zimmerman concluded that Martin intended to burglarize a home in his neighborhood on the basis of a split-second visual observation.

Any reasonable person in Zimmerman's shoes would have been aware of the fact that his suspicions about Martin's intentions rested on a whole cascade of racial stereotypes and self-serving macho myths. These "just so" stories are professed by white gun-toting guys who pose as "our" thin blue line, the only force that stands between "us" and the dark invasion. "We", their passive domestic booty — their women, kids, and precious consumer goods — are supposed to be thankful that "our real men" are out there on volunteer patrol, heroically furnishing their militarized protection services

for us, free of charge.⁴ Zimmerman's thinking, by all appearances, was unreasonable, but it was certainly coherent. In these reflections, I want to explore the discourse of justification⁵ through which we are prompted to interpret Martin's killing, the distance between that discourse and public reason, and broader questions pertaining to State responsibility.

Zimmerman and Public Reason

The "Stand Your Ground" laws,⁶ including the one currently in effect in Florida, are so heavily tilted in favor of the killer that they ought to be scrapped. But that does not mean that they have essentially cancelled out our murder statutes. Zimmerman was not holding a blank check, in legal terms, when he shot Martin in the chest. Under Florida's criminal code,

A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat if ... He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another.⁷

And further,

A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony.⁸

When Zimmerman first spotted Martin on the evening of 26 February 2012, he called 911. He said to the dispatcher, "Hey, we've had some break-ins in

my neighborhood, and there's a real suspicious guy, uh, it's Retreat View Circle, um, the best address I can give you is 111 Retreat View Circle. This guy looks like he's up to no good, or he's on drugs or somethin'. It's raining and he's just walking around, looking about."²

The dispatcher replies, "OK, and this guy – is he white, black, or Hispanic?"

Zimmerman states, "He looks black." Then he establishes that he is wearing a dark hoodie, jeans or sweatpants, and white tennis shoes.

Zimmerman's next phrase is difficult to understand. It sounds like, "He's seeing around here, he's just staring."

The dispatcher confirms Zimmerman's observation. "OK, he's just walking around the area ..."

Zimmerman adds, "Looking at all the houses."

After the dispatcher replies with an "OK," Zimmerman reports that Martin has noticed Zimmerman watching him.

"Now he's just staring at me."

Zimmerman and the dispatcher have an exchange intended to clarify Zimmerman's location.

Zimmerman then states, "Yeah, now he's coming towards me."

The dispatcher comments flatly, "OK."

Zimmerman says, "He's got his hand in his waistband. And he's a black male."

Then the callers establish that according to Zimmerman's visual observations, he believes that Martin is in his "late teens."

Zimmerman states, "Something's wrong with him. Yup, he's coming to check me out, he's got something in his hands, I don't know what his deal is."

The dispatcher replies, "Just let me know if he does anything, OK?" The callers confirm that an officer is en route to the scene.

Zimmerman adds, "These assholes, they always get away."

More back and forth on location and driving directions ensues.

Suddenly, Zimmerman interjects. "Shit, he's running."

At this point in the call, there are other sounds resembling the noises made by a driver unbuckling his seatbelt, a vehicle's door-open chimes, and a vehicle door slammed shut. The dispatcher replies, "He's running? Which way is he running?"

The quality of the audio changes abruptly, suggesting that Zimmerman has stepped outdoors; the wind is whistling past the microphone on his cell, and Zimmerman is breathing hard.

After further exchanges about location, Zimmerman swears and says something inaudible, in a sharp and aggressive tone of voice. He may have said, for example, "Fucking punks." But it could have been "coons" or "goons" instead of "punks."

The dispatcher asks, "Are you following him?"

Zimmerman replies in the affirmative, and the dispatcher says quite clearly, "OK, we don't need you to do that."

Zimmerman immediately indicates that he has heard and understood this advisory statement, replying "OK."

There is a somewhat confused exchange between the callers at this point, interrupted by several breathing and clacking sounds. Zimmerman reports, "He ran."

At the request of the dispatcher, Zimmerman provides his name, address, and an updated report about his precise location. Zimmerman thanks the dispatcher and ends the call.¹⁰

When Martin took a commonly used pedestrian shortcut, Zimmerman parked his vehicle and continued the pursuit on foot, bringing with him a loaded handgun. The subsequent chain of events leading up to the killing is, of course, the subject of an ongoing dispute.

As Patricia J. Williams insists, Zimmerman does not enjoy, under the Stand Your Ground statute, complete immunity. Under this law, he must demonstrate that he "reasonably believed" that the use of deadly force was "necessary to prevent imminent death or great bodily harm to himself or herself or another." ¹¹ Referring to the statute, Williams writes:

The standard of reasonable belief is not a warrant for total subjectivity. "Reasonableness" is an objective measure in the law; it refers to a public or community standard, not a privatized state of mind.¹²

If the case goes to trial, will Zimmerman be able to demonstrate that a reasonable person would have decided that the use of deadly force was truly necessary to save himself from being killed or from suffering great bodily harm?

We might accept the fact that a reasonable person who is prompted by the 911 dispatcher to build up a visual description of Martin would readily give his opinion as to Martin's race. But why did Zimmerman feel that it was necessary to repeat his racial description?¹³ It was a rainy February evening, Martin was wearing long sleeves and pants, and his hoodie

partially concealed his facial skin. Why didn't Martin contribute more helpful visual details regarding his weight and height, for example?

Was Zimmerman jumped by Martin when he was returning to his vehicle and leaving the scene? Or did Zimmerman himself initiate the physical violence?

Did Zimmerman initiate a verbal confrontation with Martin before the fight broke out? Did he ask Martin to give an account for his presence in the neighborhood? Under the Fifth Amendment and *Miranda*,¹⁴ no one, not even a civilian who is asked to give an account of his presence by a police officer, has the obligation to reply to such a demand. Nevertheless, it is possible that Zimmerman demanded an account from Martin, did not receive what he regarded as a satisfactory reply, and considered Martin's noncompliance as a provocation that justified pursuit and the use of physical force.

When did Zimmerman load a cartridge into his 9 mm handgun, put a round in the chamber, and make his weapon ready to fire by releasing the safety or de-cocker lever?¹⁵ Did he take those steps as he was running after Martin, thereby causing some of the clacking sounds that are audible on the 911 call?

Public Reason and the Sanford Police

Martin was killed on 26 February. After a delay, the state of Florida appointed Angela Corey as a special prosecutor. Corey finally charged Zimmerman with second-degree murder on April 12.

Zimmerman is currently out on bond, awaiting trial. Even though the court proceedings have yet to run their course, intellectual discussion of many aspects of the case is not premature. The matters at hand implicate our justification discourse — especially its racial dimension — and it is not too soon to consider the distance between our community standards of reasonableness and the public reason ideal. The six week delay in

procedure is but one element in a long list of serious failures on the part of the criminal justice system, the Florida legislature, and, more generally, society as a whole, that contributed to Martin's death and the violation of his rights.

At the scene of the killing, Zimmerman readily admitted to the police that he was the shooter, and apparently explained to them that he shot Martin in self-defense. But the Sanford police did not test Zimmerman, the admitted shooter, for drugs or alcohol. By contrast, Martin, the deceased, was subjected to those tests.¹⁶ At the scene, the responding officers took only one photo of Zimmerman's face before the paramedics treated him. Door-to-door canvassing fell far short of the usual standard; the police did not discover the fact that Martin was a local resident's guest and did not even attach his name to his corpse until they matched the "John Doe" body to the description furnished in his parents' missing persons report much later.¹⁷ We can surmise that the Sanford police initially took Zimmerman's homicidal self-defense account at face value, and that it was the dead man, Martin, rather than Zimmerman, who came under police investigation on February 26.

Investigators failed to look into Martin's own cell phone records for weeks after he was killed. Eyewitnesses were not interviewed until days after the event.¹⁸ The Sanford police failed to run a criminal background check on Zimmerman. If they had done so, they would have discovered that he had been in a few scrapes with the law before the shooting. Charges were filed against Zimmerman for felony battery on a law enforcement officer and resisting arrest, pertaining to his interruption of an undercover officer's arrest of a friend. The charges were dropped when Zimmerman agreed to attend an anger management course.¹⁹ On another occasion, Zimmerman and his then-fiancée cross-petitioned the court for restraining orders. The court ordered both of them to stay away from each other for at least a year.²⁰

Williams' First Scenario: A Nearly Adequate Justification Discourse, Noncompliance in the Basic Structure

Williams offers us two possible ways for understanding the gullibility of the Sanford police, and both rely upon the “reasonableness” dimension of the “Stand Your Ground” law. Under Williams’ first scenario, the police disregarded the fact that the Stand Your Ground statute directs the criminal justice system to apply the community standard of “reasonable belief.” The police knew very well that there were ample grounds for suspecting that Zimmerman’s behavior did not conform to the reasonable person’s standard, and, by extension, our shared background norms.

The police were cognizant of the fact that most of us would have looked upon the situation as neither life-threatening nor likely to produce great bodily harm. The police took one look at Zimmerman’s condition when they arrived at the scene, and it was immediately apparent to them that Zimmerman and Martin had been involved in a minor scuffle, rather than a fight to the death. The reasonable person standard does not actually work in Zimmerman’s favor, and the Sanford police officers knew that from the start.

To rephrase Williams’ first scenario in Rawlsian terms, we are working with a nearly adequate set of justificatory standards.²¹ Despite the fact that we are endowed with a collective legacy that includes slavery and Jim Crow segregation, our community’s way of thinking about social cooperation and the use of coercive State action has been transformed by the civil rights movement. In this hypothetical, blacks, whites, and Latinos alike generally endorse the principles of equal rights and liberties and equal access to sufficient all-purpose means necessary for exercising these freedoms. Where the constitutional essentials and matters of basic justice are concerned, we engage in deliberations in which we almost adequately recognize each other as free and equal, and we achieve at least a threshold standard where the values of impartiality, reciprocity, and anti-racist solidarity are concerned.

Serious violations of justice nevertheless occur because our basic structure institutions, such as the Constitution, the state and federal legislatures, the police, the public prosecutors, the courts, and the prison system, lag

behind. The Sanford police did not really treat Martin as a random “John Doe.” When they saw that the victim of Zimmerman’s shooting was a young black male wearing jeans and a hoodie, the Sanford police already knew everything they wanted to know. In their eyes, Martin was already branded, thanks to racial profiling, the racially biased war on drugs, the failing public schools located in urban low income black majority neighborhoods, and the relative attractiveness of criminal careers for young members of the black underclass, as a super-predator. The police viewed Zimmerman, by contrast, as more-white-than-Martin.

Given the prevalence of residential segregation,²² the police were particularly willing to give Zimmerman the benefit of the doubt, because he lived nearby. From their perspective, young black men wearing gangbanger clothes do not “belong” in a decent white majority middle-class neighborhood like Retreat View Circle, Twin Lakes. In their eyes, Zimmerman had good cause to take strong exception to Martin’s presence. The Sanford police were so incompetent, so disrespectful of Martin and his family, and so admiring of Zimmerman, or both incompetent and bigoted, at the same time, that they disregarded their obligations under the Stand Your Ground statute to assess Zimmerman’s account from the reasonable person perspective. In this instance, we, the people, are achieving a nearly adequate justificatory discourse, but we are failing to hold the basic structure institutions accountable for their failure to give adequate expression to our shared principles of justice.

Williams’ Second Scenario: The Racial Contract

Williams then offers a second scenario. In this hypothetical, there are two antagonistic groups, whites and people of color. Each group has its own normative framework, and the two frameworks are deeply opposed to one another. The justificatory discourse that is upheld by almost all whites is clearly unjust. Thanks to racial domination, the basic structure institutions that shape everyone’s life chances are governed by the white community’s principles.²³ On this view, the police acted as if they did not have to question Zimmerman’s account at all because they “instinctively shared

Zimmerman's vision, establishing being frightened to death by a young black man as a *reasonable community norm*."²⁴

Under the terms of Williams' second hypothetical, a super-majority of whites has collectively authorized the police to violate Martin's rights simply because he is black. The social contract is profoundly exclusionary. The individual can only become a party to the contract by gaining recognition as white. The purpose of this racialized social contract—what Charles Mills refers to as the “racial contract”—is to establish and defend white privilege, to relegate blacks to a subordinate civil standing, and to systematically hoard socioeconomic opportunities for the enjoyment of whites alone.²⁵

From this hypothetical perspective, the police interpellated Zimmerman at the scene of the crime as more-white-than-the-black-gangbanger. White individuals bear duties and obligations only where other whites are concerned. Whites may not injure other whites without good cause, and, where whites are concerned, they may not harm the innocent. On the basis of whites' recognition of each other's shared humanity, they bear the duty to give aid and respect to one another.²⁶ Moreover, as fellow members of the whites-only social contract, they must fulfill civic obligations to one another: they must cooperate with each other on reasonable terms and they must give to each other the justice they are due. When the police looked at Zimmerman, the local resident, and compared him to Martin, they lent him at least some of the authority that is routinely conferred upon whites. It is certainly true that they might have stripped him of that same status on another occasion, given his Latino identity, but for that moment and for their purposes, the police loaned Zimmerman just enough white symbolic capital to establish his immunity.

To be black under the racial contract is to live a life subject to omnipotent white authority. A white person's exercise of this arbitrary power against a person of color is already endorsed in advance by virtually the entire white community. The law will stand behind the least respected and poorest white when he or she testifies that the State must reprimand, punish, or

even put to death any black person to protect and advance the public good. As Robert Gooding-Williams has pointed out, this is precisely the justificatory logic of a republic that legally enforces the slave contract.²⁷ Under these terms, a white officer of the law will routinely take a white citizen “at his word” when the latter claims that he needed to use force to restore the racial order. Such a restoration might involve the removal of a black male interloper like Martin from a neighborhood like Twin Lakes, or the collection of a fugitive slave from a free state. The private white actor, such as the slave catcher, should enjoy the full support of the law when he declares his intention to return an unruly black person to his proper subordinate place. The black man being subjected to restorative action, by contrast, has no rights; should he foolishly resist corrective force, he is in no way authorized to claim that he acted in self-defense.²⁸

In Williams’ second scenario, then, the police temporarily loaned just enough white symbolic capital to Zimmerman on the basis of his local residence such that he escaped their suspicion. A white person only bears duties and obligations when he or she is dealing with a fellow white. Whites do not owe to blacks any recognition of their shared humanity; therefore, they do not have natural duties where blacks are concerned. In addition, whites have deliberately fenced blacks outside the social contract, so they do not bear any obligations toward blacks. All whites are parties to the racial contract, even those who expressly dissent, since we all benefit from its promotion of white privilege. As Mills observes, “The moral and juridical rules normally regulating the behavior of whites in their dealings with one another either do not apply at all in dealings with nonwhites or apply only in a qualified form.”²⁹

By offering her two hypothetical scenarios, Williams is issuing a challenge to us. What is the status of our justificatory discourse and our basic structure institutions? What is the meaning of the “reasonable person” standard in Florida’s Stand Your Ground laws? Can it perform any salutary work by restricting the law’s bias in favor of the killer? If our justificatory discourse were almost adequate, then we would have to ask

why Zimmerman was taken at his word. Are we failing to ensure that our laws and executive agencies are accurately expressing our values, making our commitment to racial equality manifest, and enforcing the right to life and physical security where blacks are concerned?

Alternatively, do white Americans affirm a type of justificatory discourse that is clearly and thoroughly unjust? Are American whites perpetuating a racial contract that is virtually the same as the one that provided for legal slavery in the South and the enforcement of the Fugitive Slave Laws in the “free” states and territories? Did the Sanford police act faithfully on our behalf when they applied their racial metric, certified Zimmerman as deserving immunity, and dismissed Martin as just one more disposable thug?

Perhaps a more nuanced view of American society is required. From this perspective, white Americans have, by and large, adequately responded to the black civil rights movement in at least some respects. If we focus on a restricted set of rights and liberties, it could be argued that the justificatory discourse affirmed by white Americans is almost good enough. Unlike the justificatory norms most white Americans endorsed under slavery and Jim Crow, virtually all whites now readily affirm blacks’ right to freedom of occupation and movement, right to free speech, and right to vote. We oppose, by overwhelming majorities, anti-miscegenation law and *de jure* school segregation laws. To be sure, a significant minority of whites seem reluctant to endorse the idea that blacks have the right to hold our highest public office, that of the Presidency.³⁰ In any event, it is still significant that much sharper oppositions emerge among white Americans on other key matters pertaining to race and the constitutional essentials, especially where whites would have to make material and symbolic sacrifices in order to bring about social justice. Only a minority of us maintains progressive views on affirmative action, race-conscious employment schemes, redistricting and the reforms necessary for guaranteeing substantively equal political rights, the official policies required to achieve genuine school desegregation, poverty assistance, and the criminal justice system,

for example.³¹ Under this third scenario, American society is stalled at a transitional stage, and a complex assessment of the plural justificatory discourses affirmed by white Americans is warranted.³²

A minority of white Americans explicitly reject the racial contract. We are nevertheless being interpellated, against our will, by the Sanford police, and, more broadly, by all the vestigial forms of white privilege that are systematically conferred upon us. We continue to reap the benefits that are arbitrarily distributed to us as a result of racial discrimination and structural racism's disparate impact.³³ What are the moral duties and obligations that bind all American whites, including the racial dissenters, in this combined and uneven transitional formation?³⁴

The state of Florida speaks once again in the name of all American citizens and residents through special prosecutor Corey's affidavit of probable cause. Corey argues that Zimmerman "profiled" Martin and "assumed Martin was a criminal."³⁵ Zimmerman, according to the affidavit, should not enjoy the presumption of having used deadly force in a reasonable manner. On the contrary, Zimmerman behaved in a biased manner from the very start; Zimmerman illegitimately leapt to the conclusion that Martin "did not belong in the gated community" on the basis of a quick glance alone. Corey represents Zimmerman as if his prejudice and thirst for revenge got the better of him.

Corey's affidavit begins to meet Williams' challenge. In this public document, we, the American people, demonstrate our profound respect for Martin and his family, and the fact that the deceased is young, black, and male does not diminish our concern one iota.³⁶ It is highly unlikely that I could find any further grounds for consensus on social justice matters with Corey, a Republican elected prosecutor. But when we take into account the way that the Sanford police originally situated us on February 26, it is fair to note that Corey has made an absolutely outrageous situation significantly better.

The heavy lifting in *State v. Zimmerman*, however, was performed by civil rights activists and leaders. Their protests and petitions called our public servants to give an account of their conduct. Without their activism, it is not at all clear that we would have had an investigation on the part of the FBI and the Justice Department, or Governor Rick Scott's appointment of a competent prosecutor.³⁷

Public Reason and the Jury: Comparative Statutory Law

Racial contract theory usefully interrupts sectionalism; that is to say, it urges us to question the smugness of white liberals residing in the Northeast who distance themselves from the Deep South. "Tut-tut," they say, "Stand Your Ground laws, racially biased police officers, vigilante violence — well, its central Florida; what do you expect?" From this perspective, it seems obvious that injustice largely resides elsewhere, and that the task of addressing it belongs to others. By comparing state laws on self-defense and justification, however, we can bring several disturbing similarities and continuities to the fore.

With the *State v. Zimmerman* coverage, the nation is brought together by our shared immersion in a racialized criminal justice tutorial, reminiscent of the O.J. Simpson trial. A tiny fraction of us will serve as members of literal juries in trials involving justification arguments. However, when the corporate media picks up a criminal case like *Zimmerman* and makes it notorious, we find ourselves gleaning snippets of the law as it is compressed into corporate media sound bites. We immediately start weighing the factual claims contained in the press accounts as if they were trial exhibits and witness testimony. In spite of the distortions and gaps in the corporate media's sensationalistic treatment of the case, we are interpellated by the coverage — and, of course, by the saturation of our entire popular culture with police procedural narratives — as Zimmerman's deliberating jury.³⁸ It is particularly important, then, that we subject our laws to a thorough and comprehensive critique at this juncture.

In New York, persons charged with second-degree murder can opt to stand trial, and to seek the protection of various statutory affirmative defenses, including self-defense. At first glance, the self-defense justification permitted under the New York penal law appears to differ entirely from that established under Florida's Stand Your Ground law. Through its general definition of justified self-defense, New York requires the defendant to demonstrate, under the preponderance of the evidence standard, that the conduct was an "emergency measure to avoid [sic] an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor."³⁹ If the defendant bears responsibility, in whole or in part, for the circumstances that gave rise to the assailant's seriously threatening behavior, then the justification is not permitted.

Moreover, under the general definition governing any use of the self-defense affirmative defense in New York, the gravity of the threat posed by the assailant must be, according to the "ordinary standards of intelligence and morality," so great that the "desirability and urgency of avoiding such injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue."⁴⁰ This introductory section to New York's justification statutes, therefore, establishes several overarching interpretive elements, including imminence, reasonable belief about harm, the non-provocative conduct of the defendant, and proportionality.

Where the defendant alleges that he used physical force as part of a self-defense strategy, he bears the burden, under New York's law, of showing that it was necessary for his own defense, and that he had, at that moment, a reasonable belief that the assailant was using or was imminently poised to use unlawful physical force. New York disqualifies the defendant from the justification, however, if the defendant provoked the assailant's conduct, and the defendant engaged in that provocative behavior with the purpose of causing physical injury to another person.⁴¹ Alternatively, New York makes the defendant ineligible for the justification if he was the initial

aggressor in the confrontation.⁴² Once it is proven or stipulated that the defendant was the initial aggressor, he can only qualify for a self-defense justification if he also further demonstrates that he had “withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened imminent use of unlawful physical force.”⁴³ Self-defense on the part of a civilian defendant may not entail the use of deadly force against an assailant unless the defendant “reasonably believes” that the assailant is using or about to use deadly physical force.⁴⁴ But even under these circumstances, the defendant cannot seek protection under New York’s justification if “he or she knows that with complete personal safety, to oneself and others, he or she may avoid the necessity of so doing by retreating.”⁴⁵

In New York, the burden of demonstrating that the option of retreat was not available to the defendant who used deadly physical force is lifted in only a small number of carefully enumerated circumstances. If, for example, the defendant was located within his “dwelling” at the time, and it is established that he did not retreat, he may nevertheless have access to the self-defense justification.⁴⁶ Even then, however, the defendant who was present in his own home becomes ineligible for the self-defense justification if he cannot show that he was not the initial aggressor.⁴⁷

But what if the defendant in a New York murder trial was a homeowner who came upon a person who appeared to be imminently poised to commit a property crime at his own residence? New York and Florida begin to resemble each other much more closely when we probe more deeply into the special immunities granted to civilian witnesses to a burglary in progress. Under Section 35 of the New York penal code,

A person in possession or control of, or licensed or privileged to be in, a dwelling or an occupied building, who reasonably believes that another person is committing or attempting to commit a burglary of such dwelling or building, may use deadly physical force upon such other person when he or she reasonably believes such to be necessary

to prevent or terminate the commission or attempted commission of such burglary.⁴⁸

Of course, the New York defendant wishing to enjoy this justification must meet a very high standard of proof, namely that the use of deadly force was “necessary” to prevent the burglary. In addition, the defendant must show that he has an intimate relationship to the residential property. He must be either the owner of the home, a guest of the homeowner, or a licensed security guard working on his behalf. By contrast, a civilian homeowner who uses deadly force to stop a burglary of another property, including a dwelling belonging to his next-door neighbor, is not eligible for this justification in New York.

When we consider the capaciousness of the “burglary” category that is used in Section 35, the problematic laxity of New York’s law comes to the fore. A person commits burglary in the third degree, for example, when he or she knowingly enters or unlawfully remains in a building with the intent to commit a crime therein.⁴⁹ A New York prosecutor seeking a burglary in the third degree conviction does not have to show, in addition, that the thief was armed, that he injured anyone in the course of the burglary, or that an observer could have come to the reasonable conclusion that he was poised to injure someone. By extension, a homeowner who killed an unarmed intruder with the intention of stopping a burglary could assert, under New York’s law, the self-defense justification.

Florida grants an even greater degree of immunity. Under its criminal code, “A person is justified in the use of deadly force and does not have a duty to retreat if ... he or she reasonably believes that such force is necessary to prevent ... the imminent commission of a forcible felony.”⁵⁰ Forcible felonies can include kidnapping and rape. However, some property crimes, such as robbery, rise to the level of a forcible felony. Furthermore, the Florida law establishes that the civilian witness to a robbery is eligible for the legal justification under Section 776.012 even if he is not the owner of the property where the robbery is taking place.

Florida goes even further in its Section 776.013. Any person is presumed to

[h]ave held a reasonable fear of imminent peril of death ... when using defensive force that is intended ... to cause death if the person against whom the defensive force was used was in the process of unlawfully and forcefully entering, or had unlawfully and forcibly entered, a dwelling, residence, or occupied vehicle, or if that person had removed or was attempting to remove another [sic] against that person's will from the dwelling, residence, or occupied vehicle; and the person who uses defensive force knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act was occurring or had occurred.⁵¹

True, the Floridian civilian witness must take care to get the facts straight about ownership. If he uses deadly force against the suspected thief but later finds out that the alleged wrongdoer was actually the owner of the dwelling or vehicle, then he loses this immunity.

Nevertheless, Florida's Section 776.013 (3) restates the Stand Your Ground principle found in Section 776.012, and appends, yet again, the witness-to-a-forcible felony provision.

A person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony.⁵²

Again, the Florida statute does not permit the defendant to ignore the requirement of showing "reasonable belief;" the defendant may not succeed if he cites an utterly eccentric thought process instead of showing that his perceptions and judgments tracked the community standard well enough. But the defendant in a Florida court does not have to show that the

burglar was targeting his own home. He is authorized to use deadly force to stop any robbery of any property at any location.

New York's statute employs the continual present tense; the homeowner using deadly force against a burglar must be witness to that person's actions as he "is committing or attempting to commit a burglary" to enjoy the justification provided under Section 35.20 (3). The Florida law has no such temporal restriction. The civilian witness using deadly force merely needs to show that it was necessary to "prevent the commission" of felony robbery at some unspecified future time. Florida also gives the civilian witness access to another permissible narrative. The civilian witness can use deadly force against the alleged thief retroactively, after the act of forcible theft has been completed. Stand Your Ground justifications can be invoked by the civilian witness who had reason to believe that the unlawful and forcible entry or act "had occurred" at some unspecified moment in the past.⁵³

Despite these differences, the laws of both states ought to be subjected to extensive debate and criticism. In both cases, the jury is instructed by the relevant statutes to treat the homeowner, his guests, and his agents with a tremendous amount of deference where the use of deadly force is concerned. Both states effectively transform the homeowner who can meet this reasonable belief burden from civilian to deputized sheriff, a subject officially authorized to mete out rough frontier justice on the spot.

The "Reasonable Person" Standard, Amour-propre, and the Anxious Petit-Bourgeois Gaze

The rationality of the private property owner, as Jean-Jacques Rousseau establishes in his *Discourse on the Origin of Inequality*,⁵⁴ is often pathologically narcissistic and paranoid in nature. In Rousseau's evolutionary account, human beings were free-roaming members of loosely-knit subsistence communities at the primitive stage. Property ownership only becomes possible with civilization: linguistic developments, new materialistic forms of social cooperation, scientific

discoveries, technological advances, labor-saving devices, legal inventions, and so on. Where primitives lived in a condition of peaceful coexistence, the civilized private property owners find themselves embroiled inside an endless series of quarrels and conflicts with their neighbors. The sense that one's home might be adequate, where basic needs are concerned, fades away. The private homeowner neurotically dedicates himself to anxious comparison exercises: he measures his own wealth against that of his neighbors, over and over again.⁵⁵

The ideal typical private homeowner in Rousseau's narrative is also a heterosexual male who is competing with his counterparts for the most desirable female. The original sexual contests between men took place in the first settled communities; there, young male rivals began to "take the difference between objects into account, and to make comparisons; they acquired imperceptibly the ideas of beauty and merit, which soon gave rise to feelings of preference."⁵⁶ To see each other often was to see each other constantly.⁵⁷ Each competitor sought a form of recognition deeply distorted by the desire to dominate, namely his rivals' acknowledgement of his own superiority. The first distinctions in public esteem were thereby established as a result of the masculine heterosexual contests over women. The men who prevailed became vain and contemptuous, while the defeated were imbued with a sense of shame and envy.⁵⁸ Similarly, in a modern capitalist society, the ideal typical homeowner is a heterosexual male who also regards himself, at the same time, as the head of the household. As the father, he is always seeking to invest in the positional goods held by his children, in order to rig competitions for positions and wealth in their favor.⁵⁹ In addition, he is always looking over his shoulder for potential male interlopers — if he happens to be white, his suspicious gaze is immediately drawn towards the men with dark skins — who are bent on stealing the affections of his wife and daughters.

For Rousseau, the invention of private property historically coincides with the triumph of jealousy and discord. Each person evaluates the positional goods of the other, and every intended injury is taken not only as a

deduction from one's holdings but also as hostile act against the self, an aggressive demonstration of profound disrespect.⁶⁰ Civilized societies consisting of private property owners may enjoy the fruits that flow from modern social cooperation, but they do so at the cost of *amour-propre*, jealousy, and hatred. For Rousseau, each private homeowner is imbued with an "insatiable ambition" to enhance his fortune relative to that of the others.⁶¹ Calculations are made not on the basis of genuine need but out of deep competitive urges.⁶² Private property ownership is an institution that lies at the core of the market society; it incites bitter rivalries as each is driven by a raging desire to make a profit by degrading the other.⁶³ With this background structure, there can be no private home ownership without tremendous anxiety; to gain a title to a dwelling is to become acutely aware that one is now captured within the envious gaze of the others.⁶⁴ The wealthy fear the starving multitudes of the poor. The individuals with modest holdings can always imagine that there is someone out there who is even worse off and who is therefore busily plotting violent usurpation.

Rousseau holds that the social contract that is established in this moment — that is, the state of bitter competition that is typical among private property-owners who remain strangers to each other, divided as they are by vast differences in wealth, status, and worldviews, and for whom the guidance of the wise Legislator, the experiences of collective deliberation, undistorted recognition, social cooperation on just terms, and the profession of a common civil religion, remain unknown⁶⁵ — takes the form of an ideological device that is craftily deployed by the wealthy to secure their domination. Given the unbearable nature of the "horrible state of war,"⁶⁶ the rich have little difficulty in luring their less fortunate neighbors to endorse the "rules of justice and peace, to which all without exception may be obliged to conform."⁶⁷ The competitors agree to collect their forces together in a "supreme power" because nihilism seems to be the only alternative. Under these desperate terms, they run "headlong into their chains, in hopes of securing their liberty."⁶⁸ The wealthy who initiate this social contract promise to their adversaries that its new rules of justice and

peace will subject the strong and the weak equally. They promise that it will impose reciprocal obligations onto each party for the purpose of making “amends for the caprices of fortune” and maintaining “eternal harmony among us.”⁶⁹ Ultimately, however, this contract places “new fetters on the poor and [gives] new powers to the rich,” fixes forever the “law of property and inequality,” converts “clever usurpation into unalterable right, and, for the advantage of a few ambitious individuals, [subjects] all mankind to perpetual labor, slavery and wretchedness.”⁷⁰

We can put Rousseau’s critique to good use even as we remain skeptical about the emancipatory potential of his civic republicanism.⁷¹ As they stand, the laws of New York and Florida are working at cross purposes. On the one hand, our private property laws support and perpetuate a ruthlessly competitive social structure in which it is entirely rational for the individual to cultivate utterly self-regarding attitudes. The ability of a reasonable citizen to exercise moral judgment in an adequately impartial and fair manner will vary, depending upon the context. That capacity will, in all probability, sink to its lowest degree when the citizen in a capitalist society is placed in the position of the private property owner who spies an unwelcome person near his home and experiences a rush of anxiety about the security of his material goods. On the other hand, a democratic society should respect and promote the right to life and the right to be free from bodily harm, and it should do so equally, without discrimination. Moreover, the principle of impartiality requires the exclusion of any person with a conflict of interest from standing in judgment of the accused. The homeowner who alleges that his home has been robbed would not be permitted to serve on the jury at the trial of the accused thief, for example, precisely because we value impartiality. With these principles in mind, why should we grant immunity to the homeowner who says that he killed an unarmed person in order to stop a mere property crime?

It is also remarkable that under the New York and Florida laws, the homeowner asserting self-defense does not have to specify what kind of private property appeared to be threatened by the putative robber. The

laws of both states are written as if the public interest is furthered by the securing of any privately owned material goods against theft. The homeowner who stands poised to use deadly force to protect his property does not have to make a moral distinction between, say, the community's understanding of the value of a flat-screen television and that pertaining to a life-sustaining medical apparatus that is actually serving to keep a family member alive. These laws teach us, on the contrary, that what matters is the security of any and all of our material possessions. The life of the putative robber is nothing more than small change, in comparison. We are reminded by these laws that in our society, the homeowner deserves to be taken at his word, for his property deed certifies him as a highly respected member of society. He ought to be authorized by us in advance to make a split-second judgment and, where he deems it necessary to secure his holdings, to put a fellow citizen to death.

In any liberal democratic society based on private property ownership, there will be serious tensions between its justification discourse and self-regarding market rationality.⁷² The affirmative defense statutes of New York and Florida, however, constitute a particularly illegitimate solution to that antagonism. Moreover, these statutes contribute to our official discourse and make our underlying principles manifest. They remind the jury about our putative consensus: what we are supposed to collectively value, to whom we are required to show respect, what ends we are encouraged to regard as our most weighty social priorities, which crimes deserve the full glare of our public attention, and which crimes ought to be left in the shade.⁷³

There are many ways in which the homeowner could suffer a deduction in his holdings, ranging from property crimes targeting his privately owned consumer goods to the harms caused by a mortgage market massively stacked in favor of wealthy speculators and private financial institutions. Neither New York nor Florida permits the "underwater" homeowner to march into his mortgage company's annual shareholder meeting and to gun down its executives in cold blood. These laws speak instead only to the

homeowner's interest in defending himself against the types of theft that are carried out by the criminals whose modus operandi require their personal presence at close physical proximity, before his anxious domestic gaze. The statute quaintly invites the citizen-homeowner to adopt a petty-bourgeois attitude, overemphasize the visual register, and misrecognize the individuals responsible for the most serious assaults on our material well-being.

There is, of course, a grain of truth in these laws' invocation of petty-bourgeois optics. In a society in which the distribution of security is itself based upon the ability to pay, the sports cars, super-yachts, and mansions belonging to the super-wealthy are probably the least vulnerable types of tangible private property. In a capitalist society, violent face-to-face scuffles about privately held material goods will be overwhelmingly concentrated within the segregated neighborhoods that house the least advantaged.⁷⁴ This kind of property crime will spill over, from time to time, into the areas occupied by the moderate-income families who are desperately trying to defend their superior status from degradation, as they cling to their precarious perches just one or two thin steps above the poorest of the poor.⁷⁵

Perhaps John Rawls is correct when he argues that we can realistically hope to establish a democratic society in which we would have social cooperation on just terms, and would each give to the other the justice that is due, while retaining laws and policies largely oriented towards private property ownership.⁷⁶ Unlike a welfare-state capitalist society, Rawls's "property owning democracy" would not just guarantee a generous social minimum for the least advantaged; it would also ensure the "widespread ownership of productive assets and human capital" at the beginning of each and every economic cycle.⁷⁷ Its distribution of educational opportunities would be much more egalitarian. Moreover, it would adopt robust measures to guard against the formation of a political oligarchy in which the most advantaged would dominate the rest. These measures would include, for example, severe restrictions on campaign donations and

spending, public financing of elections, equal advertising budgets for all viable candidates, democratic re-districting that attends to both race and wealth, and so on. Racist antagonisms and masculinist aggression would probably be greatly reduced by these institutions, given their egalitarian effects and their salutary incentive structures. Even further, when we compare Rawls's ideal basic structure institutions to the best possible welfare-capitalist institutions, the former are much more likely to establish the conditions in which individuals from various racial and ethnic backgrounds would recognize each other as persons of equal status. It may very well be the case that the citizens of Rawls's ideal society would be strongly disposed towards the endorsement of his ideal conception of political justice while participating in the "full and diverse internal life of the many free communities of interests that the equal liberties allow."⁷⁸

In our contemporary circumstances, however, in which severe inequality, racial domination, and patriarchal heterosexism are the order of the day, the private homeowner is all too often enthralled by extreme self-interestedness and bias, a condition that Rawls would himself diagnose as pathological.⁷⁹ The inclusion of the "reasonable person" standard in our affirmative defense statutes is supposed to foreclose the arbitrary use of the self-defense immunity. However, given the problematic character of our prevailing norms, the "reasonable person" standard may be too weak to fulfill this purpose. We should expect to find that in our society, an otherwise reasonable person will usually make very poor judgments, including racially biased judgments, when, in the heat of the moment, he comes face to face with a person who appears to pose a physical threat to his home. Nevertheless, it is also likely that he will be taken at his word by a jury of his peers. Florida's Stand Your Ground laws ought to be repealed. However, we should not neglect the fact that New York's statutes granting special immunity to homeowners cannot be justified.

Vigilante Violence, State Responsibility, and International Human Rights Law

When Zimmerman confronted Martin, he enjoyed the support of a highly flawed form of justification. Under our laws and prevailing norms, only the most flagrant types of racial segregation measures are impermissible. Far too many whites believe that young black males naturally belong within hyper-segregated neighborhoods, and that they owe any white person an explanation for simply taking up space on a public sidewalk outside these zones. Official discourse and predominant popular opinions pertaining to race, property, and criminality are enormously biased. As a result, when the police arrive at a gated community murder scene, where the victim appears to be a young black gangbanger, and the confessed shooter resembles a clean-cut local homeowner, they are all too likely to take the word of the shooter at face value.

Further, the United States' gun laws are grossly inadequate. The National Rifle Association and the American Legislative Exchange Council, a conservative lobbying organization, were quite active during the two Bush Administrations. Between 2000 and 2008, they managed to press for the adoption of Stand-Your-Ground-type statutes in about half the states. At the same time, the states widely embraced new measures that reduced restrictions on the possession and carrying of firearms.⁸⁰

The Brady Campaign for Gun Control ranks each state according to the strength of its regulation of firearms. California garners the highest score, 81 out of a possible 100, for its relatively restrictive policy; it subjects prospective gun purchasers to a background check, orders gun merchants to retain purchase records, limits gun buyers to one handgun purchase per month, and bans assault weapon clips. The Campaign assigns New York a score of 62, given its failure to adopt several of California's laws. At the other end of the spectrum, Arizona, Alaska and Utah come in last with a score of 0. Florida currently garners a score of 3 out of 100.⁸¹

The state of Florida should be held accountable for Martin's death in several respects, ranging from its adoption of the Stand Your Ground law to its failure to establish a competent criminal justice system that is free from racial bias.⁸² When it neglected its duty to control the sale, circulation,

possession, and use of lethal weapons like the 9 mm handgun, it failed to value the right to life of every person under its jurisdiction. This negligence is all the more serious where vulnerable persons like Martin are concerned.

Moving into more speculative territory, it is striking that with *Zimmerman*, we have a temporal coincidence, namely the simultaneous occurrence of lethal vigilante violence and neoliberal austerity. The libertarian approach to government spending threatens to become the norm in the United States. The least advantaged have never enjoyed their fair share of public goods, including the kind of decent policing that responds to genuine community needs, upholds constitutional rights, and remains closely governed by citizen review mechanisms. The debates about policing that take place in the corporate media typically revolve around the question of whether the police are overstepping their authority by using excessive or arbitrarily targeted force. In actuality, the legitimate complaints about policing voiced by low income blacks residing in the most segregated neighborhoods in the United States are complex in nature. They rightly claim that the interventions by the police in their communities are both excessive and insufficient, by turns, such that low income blacks are enduring harsh war-on-drugs-style crackdowns but are also largely left to fend for themselves where domestic violence, rape, assault, and murder are concerned.⁸³ Meanwhile, the prospects for a more egalitarian form of racial/ethnic solidarity are surely diminished when middle-class white Anglos begin to feel less secure, either because the reduced police budgets actually contribute to an increase in their exposure to violent crime, or because they imagine themselves more at risk in the face of a growing Hispanic population, unemployment, structural adjustment, collapsing housing values, rising student debt, and shrinking pension accounts.⁸⁴ It is entirely possible that muscular vigilante solutions to the threats that are allegedly posed by the figures of the black criminal and the undocumented immigrant will become more attractive for otherwise law-abiding whites in these conditions.

Under international law, it is well established that a decent society cannot allow its criminal justice policy and police budgets to be determined by bare-knuckle political bargaining when the outcome falls below the human rights threshold. Because the right to life and personal security and the right to due process are at stake, a decent society must fulfill its obligation to maintain an adequate criminal justice system. One way to approach these questions is to locate the United States on the moderate end of a libertarian social policy continuum, and to consider the conditions of a country like Guatemala that is situated at the continuum's other extreme.

Thousands of extrajudicial killings have taken place each year in Guatemala since the Peace Accords were adopted in 1996.⁸⁵ The murders are part of a pattern involving the "social cleansing" or summary executions of "undesirables": the lynching and killing of alleged gang members, lethal homophobic and transphobic attacks, prison violence, and a systematic campaign designed to eradicate human rights advocates. Some of the perpetrators are public employees, such as police officers and prison guards who are carrying out the explicit orders of their senior commanding officers. The rest of Guatemala's murders are being perpetrated by private individuals. These vigilantes are acting on their own initiative, but they are doing so in a systematic manner intended to further their material and security interests.

The state of Guatemala and the ruling elite bear a certain degree of responsibility for the vigilante murders. Since 1996, Guatemala's criminal justice system has never achieved a conviction rate for murder exceeding 10 percent. From the perspective of the United Nation's Special Rapporteur, Philip Alston, the problem is neither insufficient state capacity nor lack of awareness, but a deficit in political will.⁸⁶ Alston holds that Guatemala's ruling elite is effectively choosing not to build up a professionally staffed and democratically accountable criminal justice system that would adequately uphold threshold human rights standards. It is deciding, instead, to advance its interests by resorting to "militarized justice, the execution of suspects by the police, and impunity for vigilante

justice.”⁸⁷ In the midst of the ensuing social chaos, wealthy Guatemalans are purchasing security for themselves and their families in the private market, such that the burden of insecurity falls disproportionately on moderate and low income families. Alston estimates that “the rich can protect themselves, up to a point, but the rest of the society lives with the fear that a random killing could affect them or their loved ones at any moment.”⁸⁸ In 2006, private Guatemalan individuals employed about 100,000 security guards to protect civilian families and non-public assets. There were five private security guards for every police officer within Guatemala’s sovereign territory that year.⁸⁹ When pressed to give an account for their self-serving toleration of vigilante violence, members of Guatemala’s elite usually invoke sanitized libertarian justifications. They routinely claim that the “the State has very limited responsibilities to society, and that it is wholly appropriate for even security and justice to be private rather than public goods.”⁹⁰

Against this libertarian consensus, Alston argues that the state of Guatemala has an obligation to uphold what are sometimes called the “negative rights” of the persons residing under its jurisdiction. The failure of a State to offer protection against vigilante violence implicates the right to life.⁹¹ To fulfill its legal obligations under the International Covenant on Civil and Political Rights (ICCPR), the State must both respect and ensure the right to life of all persons residing under its jurisdiction.⁹² Both Guatemala and the United States have ratified the ICCPR. Under the treaty, each State party is obliged to adopt the basic criminal statutes necessary to give effect to the right to life.⁹³ Where the right to life is violated by a private actor, insofar as an individual residing within the jurisdiction of the State party is “arbitrarily deprived of his life” by a civilian,⁹⁴ the State party must “ensure that any person whose rights or freedoms as herein recognized [including the right to life] are violated shall have an effective remedy.”⁹⁵

This obligation becomes especially significant where a pattern of vigilante murders is clearly established and yet the State fails to adopt adequate

criminal statutes, hire and train the police to investigate the alleged crimes, and effectively prosecute appropriate suspects in a well-functioning court. The ICCPR requires the State party to “ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy.”⁹⁶ It is obligated to “ensure that the competent authorities shall enforce such remedies when granted.”⁹⁷ The fulfillment of these obligations plainly requires substantial public spending and legislative and executive action, including the adoption of new laws, the allocation of governmental funds, the hiring and training of police officers, public prosecutors, and judges, the holding of these public officials accountable, and so on.⁹⁸ It follows that the State party is also obliged to forego a whole range of actions that would bring it into violation of the ICCPR, including the adoption of excessively permissive affirmative defense statutes — such as Florida’s Stand Your Ground laws — that give legal immunity to homicidal vigilantes.

In undertaking to respect and to ensure to all individuals subject to its jurisdiction the right to life, the State party may not make discriminatory distinctions “of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.”⁹⁹ Political philosophers have further argued that because the State bears the responsibility of respecting, upholding and promoting the right to life and physical security of all persons residing under its jurisdiction, it also has an obligation to raise a threshold amount of public revenues necessary for the establishment and maintenance of these government apparatuses.¹⁰⁰

The State that signs and ratifies the ICCPR must give priority to its fulfillment of its ICCPR obligations, regardless of the configuration of power among its domestic political forces. Instead of placing an illegitimate constraint upon democratic procedures, however, the primacy of the State’s ICCPR treaty obligations is the condition of possibility for

democracy. Consider a hypothetical case in which the State party has a threshold liberal democratic form of government, and a political party championing “Tea Party”- or ALEC-style libertarian perspectives on governmental responsibility and the provision of public goods is swept into power in an election that is minimally free and fair. If it then adopts a criminal justice policy that violates the ICCPR, then it deserves to be “named and shamed.” The violation may be caused by the State party’s neglect of duty and silence, rather than its actions and explicit decisions. In any event, the violation is still significant. The fact that this State party’s violation originated in the statutes passed by its elected legislature, rather than the unilateral commands of a dictator or a military junta, is largely beside the point. If it fails to take the rudimentary steps outlined in the ICCPR to safeguard its population against assault and homicide, the State party cannot be excused on the grounds that libertarian values happened to be in vogue among its electorate at the time, and the agendas of its executive and legislative branches were shaped by corresponding voting trends.¹⁰¹ This is also not to say that any country’s existing criminal statutes, police force, criminal courts, and prisons actually meet threshold human rights standards. It is to point out, instead, that each State party to the ICCPR bears substantial responsibility under international human rights law where vigilante violence is concerned.

Conclusion

Local government layoffs account for the largest number of public sector jobs lost during the 2008–2011 recession, and the cuts fell upon both public school teachers and employees working outside the education sector.¹⁰² Local governments are not just making do with less. They are now delivering fewer public goods overall as they slash library hours, lengthen the intervals between garbage and recycling pickups, press teachers to accept larger classes, close parks, leave potholes unfixed, assign smaller teams of fire fighters to each truck, and reduce community policing.¹⁰³

The social crisis of recession places extraordinary strains on families and informal social networks. The needy and the vulnerable would readily find

aid in the guise of entitlements and well-funded public institutions in a decent society. In the United States, we already fell far below the adequacy threshold before the recession began. Now, our safety net is threadbare.

When a housing boom goes bust, and the middle-income homeowners residing in micro-mansion townhouse developments like Sanford's Retreat at Twin Lakes face layoffs, collapsing family incomes, and unmanageable mortgage payments, the original residents are often replaced, through foreclosures, short sales, and rental contracts, with a much more transient lower-income population. Further, even if the neighborhood had accumulated some trust and goodwill on an informal basis during the boom, it is highly likely that the recession conditions caused this goodwill account to plummet into the red ink. All this occurred in central Florida, a region that has never worked through its own horrific legacy of racial caste divisions, brutal sharecropping contracts, white race riots, lynching, and other forms of white supremacist terrorism.¹⁰⁴ Under these conditions, the State's fulfillment of its obligation to protect the right of all of its citizens to go about their personal business in safety, without discrimination, becomes all the more critical. It is precisely at this moment that organizing behind a progressive consensus — one that values social cooperation on fair terms and promotes social solidarity, rather than the anti-social discourse of rigging market competition in favor of the wealthy, libertarian governance, and indifference towards racial domination — could support salutary diagnoses of the crisis, inspire the defeat of right-wing forces who will inevitably launch their own bids to fill the political void, and prepare the ground for emancipatory interventions.¹⁰⁵

Even though public opinion in the United States remains much more firmly opposed to vigilante violence than is the case among Guatemala's ruling elite, we should consider the possibility that by reducing community policing, our neoliberal austerity budgets are creating more opportunities for violent criminals, especially where their victimization of the most vulnerable is concerned. The United States differs with Guatemala in another particularly striking manner. Local police chiefs across the United

States are eagerly seeking to replace union workers with cheap volunteer labor. When a spokeswoman for the Seminole County Sheriff's Office was asked about the 46 calls that Zimmerman placed to the police between 2004 and 2012, reporting incidents ranging from an open garage door, alarms, noise disturbances, reckless driving and children playing in the street to suspicious persons, she replied:

I would not consider that excessive. That's typically what we encourage, is if [sic] anyone in the community sees something out of the ordinary, concerning, or suspicious, we would want for them [sic] to call.¹⁰⁶

In modest residential areas, where the number of thriving businesses is quite low, local governments cannot turn to the private-public solutions for supporting the police that have been developed in urban high-end retail and tourist zones. They cannot, for example, imitate the Times Square business improvement district that has hired its own private security guards to supplement the city police.¹⁰⁷

There are two kinds of police volunteers in the United States. First, we have the civilians who participate in the official volunteer programs organized and supervised directly by the police. A local police department can obtain federal funds¹⁰⁸ to recruit and train community members to staff the local police station's records bureau and crime scene unit, run information tables at public events, publish newsletters about local policing, and mount organized patrols.¹⁰⁹ According to Linda Bailey, Volunteer Coordinator for the Mesa, Arizona Police Department,

Incorporating volunteers into a law enforcement environment allows the police department to achieve the best possible public safety product, beyond what a department's budget can purchase.¹¹⁰

Working on a more informal basis, civilian community members can also sign up for shifts with their local Neighborhood Watch organizations. "USA On/Watch," the parent national organization, boasts that

Neighborhood Watch is one of the “oldest and best known crime prevention concepts in history.” It was created to “unite law enforcement agencies, private organizations, and individual citizens in a massive effort to reduce residential crime.”¹¹¹ Each local chapter is supposed to operate in partnership with its local law enforcement agency.¹¹²

The Retreat at Twin Lakes’ homeowners’ association decided to create its own Neighborhood Watch chapter in August, 2011. George Zimmerman was the only resident who stepped forward to volunteer. He complied with national USA On/Watch protocols by inviting an official from the Sanford police department to provide a cursory training session at a homeowners’ meeting. That official in turn explicitly told the attendees at an August, 2011 Retreat homeowners’ meeting that Neighborhood Watch volunteers “do not possess police powers; they should not be armed; and they should be the eyes and ears for the police — but not vigilantes.”¹¹³ Zimmerman was present at that meeting.¹¹⁴

The state of Florida openly celebrates its lax gun control laws that granted Zimmerman the authority to carry a loaded 9mm handgun. Having contributed to the very breakdown in social order that serves in turn to encourage otherwise self-regarding homeowners to form paramilitary militias, Florida hypocritically dispatches a father figure to their meetings, ostensibly for the purpose of keeping the volunteers in line.¹¹⁵ Let’s grant, for the sake of the argument, that Florida sincerely wanted its Neighborhood Watch adjuncts to go unarmed into the night, and that it really wanted Zimmerman to give up his pursuit of Martin. Even then, Florida ought to be charged with bad faith. Once a State establishes an inegalitarian background structure, allows racial hatred to fester, incites the circulation of lethal weapons, accelerates the powerful symbolic economies of domination and submission, and bestows its official blessing onto its heroic masculine volunteers, it rarely manages to maintain complete disciplinary control over its revved up cadres. With an ample historical record at its disposal — ranging from its own history of white supremacist terror to national examples, such as the assassinations of abortion doctors¹¹⁶

and the hate incidents targeting blacks, Arabs, Muslims, Jews, Latino/as, immigrants, and lesbians, bisexuals, gays and transgendered persons¹¹⁷ — Florida should have anticipated the dangerous consequences.

Notes

1. This is a revised version of an essay that originally appeared in the online journal, *theory and event* (15:3, 2012). For their thoughtful comments and generous encouragement, I would like to thank Neil Roberts, Jodi Dean, Davide Panagia, Philip Alston, Patricia J. Williams, Brandon Terry, Charles Mills, Megan McLemore, Dorothy Roberts, Desmond Jagmohan, Lawrie Balfour, Aziz Rana, Odette Lienau, Bernadette Meyler, Alex Livingston, Samantha Majic, Cristina Beltrán, Gwen Wilkinson, Michael Jones-Correa, Matthew Evangelista, Nancy Love, Zillah Eisenstein, and the two anonymous reviewers for the journal. Nolan Bennett and Aaron Gavin asked me to return to teaching critical race theory before I was scheduled to do so; I am very grateful to have received their inspiring request. Many thanks as well to Lucia Rafanelli for her research assistance.

2. Cornel West, *Race Matters* (New York: Vintage Books, 1993), 4.

3. See <http://www.407re.com/RetreatatTwinLakes>.

4. See Iris Marion Young, "The Logic of Masculinist Protection: Reflections on the Current Security State," *Signs* Vol. 29, No. 1, Autumn 2003, 1–25.

5. Each political society tends to produce a discourse of justification: its "way of formulating its plans, of putting its ends in an order of priority and of making its decisions accordingly." John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), 212. In an aristocratic society, this is an elite discourse; the elite will be guarded against radically disruptive antagonisms from within its ranks as long as its members continue to affirm its principles. *Ibid.*, 213. An imperfect and yet stable liberal democratic society expresses a justificatory discourse that has gained at least some sort of popular appearance. Justificatory discourse in such a formation will claim that the norms it expresses can be affirmed by all of its citizens, as free and equal individuals, and it will further assert that these norms govern the institutions that form the society's basic structure: its constitution, statutes, criminal justice system, financial system, employment market, family law, and so on. For the special case of the ideal liberal democratic society, justificatory discourse takes the form of "public reason." In the ideal society, the principles expressed therein would earn the affirmation of virtually every citizen, according to a political conception of justice. Moreover, the basic structure

institutions would be properly governed by them. Individual citizens would recognize their counterparts as free and equal subjects, and would endorse the idea that social cooperation ought to be organized in fair terms. Further, they would stand ready to “propose principles and standards as fair terms of cooperation and to abide by them willingly, given the assurance that others will likewise do so. Those norms they view as reasonable for everyone to accept and therefore as justifiable to them; and they are ready to discuss the fair terms that others propose.” Rawls, *Political Liberalism*, 49. See also *ibid.*, 49, note 2. “Public reason” does not exhaust the entire normative field in an ideal liberal democratic society: a reasonable citizen who affirms any one of the plural comprehensive doctrines professed by her fellow citizens would also affirm a political conception of justice that is freestanding. An ideal political conception of justice establishes equal rights and liberties for all of its members, without discrimination, and guarantees access to the all-purpose means required for the effective realization of these freedoms. *Ibid.*, *passim*. See also Rainer Forst, *The Right to Justification: Elements of a Constructivist Theory of Justice*, trans. Jeffrey Flynn (New York: Columbia University Press, 2012). In criminal law, “justification” refers to a much narrower normative field, namely the permissible defenses to a criminal charge. Where a defendant confesses that he has killed another person, but asserts that the killing was justifiable under a self-defense statute, he is claiming to have committed “justifiable homicide.” In both cases, however, justification implies intersubjectivity; its meaning depends upon the community’s normative standards in some shape or form. With a criminal case, the validity of an asserted self-defense justification will be determined by the wording of the legislature’s statute, the judicial doctrine and precedent, the judge’s instructions to the jury, the jury’s verdict, the decision of the appellate court, and so on. Justification in the broader sense rests upon grounds that are — or, in the case of highly imperfect liberal democracies, appear to be — much more closely related to the popular will. In a model of adequately democratic communication, for example, the deployment of coercive State power would be deemed justifiable only if it earned the people’s endorsement through free, egalitarian, sincere, and inclusionary deliberations.

6. Backed by the National Rifle Association and the right-wing think-tank, the American Legislative Executive Council, Stand Your Ground state laws increase the legal protections for the individual who uses deadly force in self-defense. They have been adopted by about half of the states. Erica Goode, “N.R.A.’s Influence Seen in Expansion of Self-Defense Laws,” *New York Times*, 12 April 2012. Many of these statutes were adopted in 2006. See Harry J. Enten, Gabriel Dance, and Karen McVeigh, “Rise in Justifiable Homicides Linked to Weak Gun Control Laws,” *The Guardian*, 5 April 2012.

7. § 776.012. This is the passage from the criminal code that is cited by Patricia J. Williams, “The Real Injustice at the Heart of the Trayvon Martin Case,” *The Nation*, 18 April 2012.

8. § 776.013.

9. See <http://www.youtube.com/watch?v=mOpGAOXL5Uk&feature=endscreen&NR=1> for an audio recording of Zimmerman’s 911 call.

10. Ibid.

11. § 776.012.

12. Williams, “The Real Injustice.”

13. There has been some speculation about the relationship between Zimmerman’s identity as a Latino immigrant and his personal views about blacks. As striving newcomers occupying a liminal position within the United States’ social hierarchy — so the story goes — Latinos overwhelmingly tend to adopt the United States’ white superiority discourse as their positional metric. Therefore, they aim to achieve social distinction by becoming assimilated with whites and by earning a social standing ranked well above that of blacks. See Isabel Wilkerson, “In Florida, A Death Foretold,” *New York Times*, 31 March 2012. The popular opinion data, however, are indeterminate; many Latino immigrants reject the invitation to identify as white, and regard themselves as members of a distinct social group, one that is neither white nor black. Moreover, Latino youth are often subjected to discriminatory racial/ethnic profiling that contributes to serious bias within our criminal justice system. My thanks to Michael Jones-Correa for discussing this point with me.

14. *Miranda v. Arizona*, 384 U.S. 436 (1966).

15. See <http://www.youtube.com/watch?v=VpSk0FUwR4s&noredirect=1> for directions on how to load a 9 mm handgun and prepare it to fire.

16. Williams, “The Real Injustice.”

17. Serge Kovalski, “Trayvon Martin Case Shadowed by Series of Police Missteps,” *New York Times*, 16 May 2012.

18. “Trayvon Martin Case Spotlights Florida Town’s History of ‘Sloppy’ Police Work,” *Huffington Post*, 9 April 2012, online at:

http://www.huffingtonpost.com/2012/04/09/trayvon-martin-cops-botched-investigation_n_1409277.html.

19. Tom McCarthy, "George Zimmerman to be Released on Bond—Friday 20 April," *The Guardian*, 20 April 2012.

20. David Ovalle, "Trayvon Martin's Shooter Had a Domestic Violence Altercation in 2005," *The Miami Herald*, 21 March 2012.

21. Compare the structure of Williams' two hypotheticals to that used by Rawls in John Rawls, *A Theory of Justice: Revised Edition* (Cambridge, MA: The Belknap University Press of Harvard University Press, 1999), 309; see also Tommie Shelby, "Justice, Deviance, and the Dark Ghetto," *Philosophy and Public Affairs* Vol. 35, No. 2, 2007, 126–60.

22. Non-Hispanic African-Americans generally reside in areas in which few whites have homes; they are much more segregated from whites than Latinos and Asian-Americans. About half of all blacks in the United States live in "hyper-segregated" census tracts. Only 9 percent have homes in neighborhoods featuring a black-white ratio that demographers describe as moderately or least segregated. See Elizabeth Anderson, *The Imperative of Integration* (Princeton: Princeton University Press, 2010), 25–6.

23. Again, compare Rawls and Shelby; see [note 21](#).

24. Williams, "The Real Injustice." Emphasis added.

25. Charles Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1997), 11.

26. See Rawls, *Theory of Justice*, 94, on natural duties.

27. Robert Gooding-Williams, "Fugitive Slave Mentality," *New York Times Opinionator*, 27 March 2012, www.nytimes.com.

28. For a riveting account of the court's disqualification of a slave woman from the right to assert a self-defense justification after she murdered her slave owner, see A. Leon Higginbotham's discussion of *State v. Celia*, in Higginbotham, "Race, Sex, Education and Missouri Jurisprudence: *Shelley v. Kraemer* in a Historical Perspective," *Washington University Law Quarterly*, Vol. 67, 1989, 673–708. See also Evelyn Brooks Higginbotham, "African-American Women's History and the Metalanguage of Race," *Signs*, Vol. 17, No. 2, Winter, 1992, 251–74.

29. Mills, *Racial Contract*, 11.

30. Todd Donovan; "Obama and the White Vote," *Political Research Quarterly*, Vol. 63, No. 4, December 2010, 863–74; David Redlawsk, Caroline Tolbert, and William Franko, "Voters, Emotions, and Race in 2008: Obama as the First Black President," *Political Research Quarterly*, Vol. 63, No. 4, December 2010, 875–89; Jarret T. Crawford and Anuschka Bhatia, "Birther Nation: Political Conservatism is Associated with Explicit and Implicit Beliefs that President Barack Obama is Foreign," *Analyses of Social Issues and Public Policy* 12: 1 (Wiley Online); Matthew Hughey, "Show Me Your Papers! Obama's Birth and the Whiteness of Belonging," *Qualitative Sociology*, 35 (2012): 163–81.

31. See Desmond S. King and Rogers M. Smith, "Strange Bedfellows? Polarized Politics? The Quest for Racial Equity in Contemporary America," *Political Research Quarterly* Vol. 61, No. 4, December 2008, 686–703; Martin Gilens, *Why Americans Hate Welfare: Race, Media, and the Politics of Antipoverty Policy* (Chicago: University of Chicago Press, 1999); Donald R. Kinder and Nicholas Winter, "Exploring the Racial Divide: Blacks, Whites, and Opinion on National Policy," *American Journal of Political Science* Vol. 45, No. 2, 2001, 439–53; Nicholas Winter, *Dangerous Frames* (Chicago: University of Chicago Press, 2008); Paul M. Sniderman and Edward H. Stiglitz, "Race and the Moral Character of the Modern American Experience," *The Forum*, Vol. 6, No. 4, 2008, 1–15; Mary F. Katzenstein, Leila M. Ibrahim, and Katherine D. Rubin, "The Dark Side of American Liberalism and Felony Disenfranchisement," *Perspectives on Politics*, Vol. 8, No. 4, December 2010, 1035–54; Michael Tonry, "The Social, Psychological, and Political Causes of Racial Disparities in the American Criminal Justice System," *Crime and Justice* Vol. 39, No. 1, 2010, 273–312; Michael A. Neblo, "Meaning and Measurement: Reorienting the Race Politics Debate," *Political Research Quarterly*, Vol. 62, No. 3, September 2009, 474–84.

32. Shelby, "Justice, Deviance," citing Scanlon, 158. See also Michael Omi and Howard Winant, *Racial Formation in the United States: From the 1960s to the 1990s* (New York: Routledge, 1994).

33. Douglas S. Massey and Nancy A. Denton, *American Apartheid* (Cambridge, MA: Harvard University Press, 1993); Anderson, *The Imperative of Integration*.

34. See Stuart Hall, "Race, Articulation, and Societies Structured in Dominance," *Sociological Theories: Race and Colonialism* (Paris: UNESCO, 1980), 305–45.

35. *State of Florida v. George Zimmerman*, 18th Judicial Circuit Ct., Seminole County, Florida, “Affidavit of Probable Cause: Second Degree Murder.” Angel Corey, State Attorney. 11 April 2012.

36. See also Ta-Nehisi Coates, blogging at theatlantic.com, on *Zimmerman*.

37. CNN Staff, “Timeline of events in Trayvon Martin Case.” http://articles.cnn.com/2012-04-23/justice/justice_florida-zimmerman-timeline_1_gated-community-gunshot-martin-punches?s=PM:JUSTICE

38. Cf. Michel Foucault, *Discipline and Punish* (New York: Vintage Books, 1995), 286–92.

39. § 35.05.

40. § 35.05.

41. §35.15 (1) (a).

42. §35.15 (1) (b).

43. Id.

44. §35.15 (2) (a).

45. Id.

46. §35.15 (2) (a) (i).

47. Id.

48. § 35.20 (3).

49. § 140.20.

50. § 776.012.

51. § 776.013.

52. §776.013 (3).

53. § 776.013.

54. Jean-Jacques Rousseau, "A Discourse on the Origin of Inequality," in *The Social Contract and Discourses*, trans. G.D.H. Cole (New York: Everyman's/J.M. Dent and Sons, 1979), 27–114.

55. *Ibid.*, 81–105.

56. *Ibid.*, 81.

57. *Ibid.*

58. *Ibid.*

59. See Harry Brighouse and Adam Swift, "Legitimate Parental Partiality," *Philosophy and Public Affairs*, Vol. 37, No. 1, 2009, 43–80.

60. Rousseau, "Discourse on the Origin of Inequality," 82.

61. *Ibid.*, 87.

62. *Ibid.*

63. *Ibid.*

64. *Ibid.*, 87–8.

65. Compare, for example, the corrupt compact based on the tyrannical "rules of justice and peace" (*ibid.*, 89) to Rousseau's ideal society, as the latter is constructed in Rousseau, "The Social Contract," in *The Social Contract and Discourses*, trans. G.D.H. Cole (New York: Everyman's/J.M. Dent and Sons, 1979), 164–278.

66. Rousseau, "Discourse on the Origin of Inequality," 88.

67. *Ibid.*, 89.

68. *Ibid.*

69. *Ibid.*

70. *Ibid.*

71. Iris Marion Young, "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship," *Ethics*, Vol. 99, 1989, 250–74.

72. Cf. Karl Marx, "On the Jewish Question," *Early Works*, trans. Rodney Livingston and Gregor Benton (New York: Vintage, 1975), 211–42.

73. Foucault, *Discipline and Punish*, 276–7; see also *ibid.*, 109–14.

74. Anderson, *The Imperative of Integration*; Massey and Denton, *American Apartheid*; Ruth Peterson and Lauren Krivo, "Macrostructural Analyses of Race, Ethnicity, and Violent Crime: Recent Lessons and New Directions for Research," *Annual Review of Sociology*, Vol. 31, 2005, 331–56; Mary E. Patillo, "Sweet Mothers and Gangbangers: Managing Crime in a Black Middle-Class Neighborhood," *Social Forces*, Vol. 76, No. 3, March 1998, 747–74; David S. Kirk and John H. Laub, "Neighborhood Change and Crime in the Modern Metropolis," *Crime and Justice*, Vol. 39, No. 1, 2010, 441–502; Jeffrey D. Morenoff and Robert J. Sampson, "Violent Crime and the Spatial Dynamics of Neighborhood Transition: Chicago, 1970–1990," *Social Forces*, Vol. 76, No. 1, Sept. 1997, 31–64.

75. Pierre Bourdieu, *Distinction: A Social Critique of the Judgment of Taste* (Cambridge, MA: Harvard University Press, 1984).

76. John Rawls, *Justice as Fairness: A Restatement* (Cambridge, Mass.: The Belknap Press of Harvard University Press, 2001), 135–40.

77. *Ibid.*, 139.

78. Rawls, *Theory of Justice*, 477.

79. Rawls, *Political Liberalism*, 51.

80. Enten, Dance, and McVeigh, "Rise in Justifiable Homicides."

81. See <http://www.bradycampaign.org/>.

82. The U.S. Constitution is silent on local government; the prerogative to control local government is reserved by the states and the people under the Tenth Amendment. Each local government is regarded by state and federal courts as a "creature" of its state government. Ultimately, the state of Florida bears responsibility for the conduct of the Sanford police department.

83. See, for example, United States Department of Justice, Civil Rights Division, "Investigation of the New Orleans Police Department," (Washington, D.C., 16 March 2011).

84. Cf. Stuart Hall et. al., *Policing the Crisis: Mugging, the State, and Law and Order* (London: Macmillan, 1978).

85. Philip Alston, "Mission to Guatemala," United Nations Human Rights Council /A/HRC/4/20/Add.2, 19 February 2007, 2.

86. Ibid.

87. Ibid.

88. Ibid., 5.

89. Ibid., 21.

90. Ibid., 21–2.

91. Henry Shue, "Basic Rights," in *Contemporary Political Philosophy: An Anthology* ed. Robert E. Goodin and Philip Pettit (Malden, MA: Blackwell, 2006), 302–16.

92. International Convention on Civil and Political Rights, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* 23 March 1976. Art. 2, sec. 6.

93. Art. 2, sec. 2.

94. Art. 6, sec. 1.

95. Art. 2, sec. 3 (a).

96. Art. 2, sec. 3 (b).

97. Art. 2, sec. 3 (c).

98. Alston, "Mission to Guatemala," 6–7.

99. Art. 2, sec. 1.

100. Shue, "Basic Rights," 303.

101. A democratic State party to the ICCPR could also be brought into non-compliance by its unelected judicial branch. The U.S. Supreme Court has ruled in two landmark cases that the individual who resides under the United States' jurisdiction does not enjoy a federal right to police protection when his or her life is threatened by a

homicidal private actor, such as an extremely dangerous child abuser (*DeShaney v. Winnebago County*, 489 U.S. 189 (1989) or a lethal perpetrator of domestic violence. (*Castle Rock v. Gonzales*, 545 U.S. 748 (2005). (See also *Jessica Lenahan (Gonzales) v. United States*, IAHR Report no. 80/11, Case 12.626 (2011).) Alston ("Mission to Guatemala") is effectively arguing that under the international human rights law defined by the ICCPR, both of these landmark federal cases were wrongly decided.

102. Nelson A. Rockefeller Institute of Government, Data Alert, 17 February 2012. See <http://www.rockinst.org>.

103. Michael Cooper, "Budget Woes Prompt Erosion of Public Jobs," *New York Times*, 19 February 2012.

104. See Isabel Wilkerson, *The Warmth of Other Suns: The Epic Story of America's Great Migration* (New York: Random House, 2010.) See also John Dollard, *Caste and Class in a Southern Town* (New Haven, Conn: Yale University Press, 1937.)

105. Compare Paul Krugman and Robin Wells, who comment that the libertarian Tea Party movement has successfully promoted the idea that the 2008 economic crisis was caused by the civil rights movement's capture of the federal government. According to its narrative, the federal government responded to that capture, in turn, by encouraging private banks to dole out special mortgage deals to unqualified minority home buyers. Krugman and Wells, "Getting Away With It," *New York Review of Books*, 12 July 2012, 6–8.

106. Amy Green, "Zimmerman's Twin Lakes Community Was on Edge before Trayvon Shooting," *The Daily Beast*, 28 March 2012.

107. Karen De Witt, "Panel Plans Special Services District for Times Sq.," *New York Times*, 27 July 1990; Joseph Berger, "Trying to Reverse Post-9/11 Slump in Chinatown, Jostling Hub of Gems and Foot Rubs," *New York Times*, 20 September 2011.

108. The Volunteers in Police Service Programs is supported by President George W. Bush's Citizen Corps, the Department of Homeland Security program established in the wake of the September 11, 2001 attacks. See <http://www.policevolunteers.org/about>.

109. These formal patrols are staffed by trained but unarmed volunteers bearing the auxiliary colors for their local police force; most conduct patrols by vehicle, while a few navigate their routes on foot, or with the aid of bikes, horses, golf carts and Segways. In Palm Beach, Florida, the police department employed 80 sworn officers and 58 civilian employees in 2007. It also boasted 85 volunteers who contributed 4,636 unpaid hours

that year. "Citizen Police Academies: Introducing Law Enforcement to the Community," *VIPS in Focus* (March 2008), online at: <http://www.policevolunteers.org/pdf/Citizen%20Police%20Academy.pdf>

110. Ibid.

111. See <http://www.usaonwatch.org>.

112. See <http://www.usaonwatch.org>.

113. Dan Berry, "Race, Tragedy and Outrage Collide After a Shot in Florida," *New York Times*, 1 April 2012.

114. Ibid.

115. On the creeping accumulation of fascist elements in Western popular culture, see Susan Sontag, "Fascinating Fascism," *New York Review of Books*, 6 February 1975. My thanks to Nancy Love for bringing this reference to my attention.

116. See Joe Stumpe and Monica Davey, "Abortion Doctor Shot to Death in Kansas Church," *New York Times*, 31 May 2009.

117. See the roster of hate incidents in the United States compiled by the Southern Poverty Law Center: <http://www.splcenter.org/get-informed/hate-incidents>.