ARE POLICE OBSOLETE? BREAKING CYCLES OF VIOLENCE THROUGH ABOLITION DEMOCRACY

V. Noah Gimbel† *& Craig Muhammad*†

On February 5, 2018, Baltimore activists organized a successful "cease-fire weekend," during which no one was killed—and the cops were not to thank. Indeed, as community anti-violence organizers worked to cool hot feuds in order to prove that endless violence was not their destiny, the Baltimore Police Department was sinking ever-deeper into perhaps the most shocking police corruption scandal of the twenty-first century.

The stark contrast between ordinary city residents risking their safety to fight against violence in their community and a corrupt police force committing and propagating acts of violence in the microcosmic streets of Baltimore raises what may appear at first blush an absurdly radical question: are police obsolete? When Angela Y. Davis asked the same of prisons in her germinal 2003 prison-abolitionist manifesto, Are Prisons Obsolete?*, the "prison-industrial complex" was only beginning to enter the lexicon of scholars and activists taking on what was then the*

† Georgetown Law, J.D. 2016. My sincerest thanks to Professor Allegra McLeod for making this collaboration possible and for multiple rounds of helpful comments. Thanks also to Professors Richard Delgado and Jean Stefancic for their invaluable feedback and encouragement, to the members of the Georgetown Law chapter of the National Lawyers Guild for featuring this project in a productive discussion on police abolition, to my wife Maria for incisive feedback at every turn, and to the editors and staff of the *Cardozo Law Review*. Finally, my deepest thanks to my co-author, Craig Muhammad, who has been an inspiration and a great friend whom I hope to see bring his incredible anti-violence work out of prison and into the community.

† Craig Muhammad has been incarcerated for over thirty-six years, during which time he has earned a B.S. degree from Coppin State College (now Coppin State University). Craig Muhammad has spent a considerable amount of time counseling young offenders; being a positive role model; bringing young men out of gangs; establishing peace summits in various institutions; and encouraging members of street organizations to respect their communities. Mr. Muhammad is co-founder of Project Emancipation Now, and currently serves as President of the Lifers Organization at Jessup Correctional Institution and Treasurer of Tubman House Baltimore.

fairly recent phenomenon of mass incarceration. Since then, the very foundations of the U.S. criminal legal system have been shaken by a mass awakening to its racist origins and ends. Today, a new abolitionism is on the rise in the tradition of what W. E. B. DuBois called "abolition democracy"—the project of building up radical community-powered institutions to supplant oppressive social structures inherited from the legacy of chattel slavery.

Until now, that project has set its sights on abolishing the death penalty and mass incarceration. This Article is the first in legal scholarship to seriously imagine abolishing criminal law enforcement as we know it within that larger democratic-abolitionist framework; rather than a negative vision of abolition (i.e. fire all cops), we support the creation of new non-police institutions empowered to supersede the police monopoly on violence reduction. In so doing, we reflect on the structural engines behind the cycles of violence that police are exclusively empowered to combat, and highlight and analyze the parallel work of non-state actors in breaking those cycles. From epidemiologists to community activists to incarcerated individuals, numerous democratic-abolitionist institutions dependent on the non-involvement of the police have taken root in violence-prone communities. Such initiatives hold the potential to empower communities to police themselves. With institutional support from scholars, activists, and policymakers, non-police anti-violence workers can make police obsolete.

TABLE OF CONTENTS

INTRODUCTION

"They were simply put, both cops and robbers at the same time."[1]
—Assistant United States Attorney Leo Wise
Opening Statement in the Baltimore Gun Trace Task Force Trial
January 23, 2018

"Violence is a part of America's culture; it is as American as cherry pie."[2]
—H. Rap Brown
Chair, Student Nonviolent Coordinating Committee (SNCC)
July 27, 1967

As 2017 drew to a close, Baltimore City saw its annual record for per-capita homicides broken for the second time in three years.[3] But on February 5, 2018, residents had something to be hopeful about: a "Ceasefire weekend," organized by local activists, ended without a single killing[4]—and the cops were not to thank. Indeed, as community anti-violence organizers throughout the city worked to cool hot feuds in order to prove to the world—to themselves—that violence was not destiny for their city (despite statistical projections to the contrary), the Baltimore Police Department was sinking ever-deeper into perhaps the most shocking police corruption scandal of the twenty-first century.

Eight members of Baltimore's elite "Gun Trace Task Force" were indicted on federal charges including racketeering, robbery, drug trafficking, overtime fraud, and more.[5] Six pleaded guilty,[6] and two

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1 Justin Fenton, *Baltimore Gun Trace Task Force Officers Were 'Both Cops and Robbers' at Same Time, Prosecutors Say*, BALT. SUN (Jan. 23, 2018, 1:20 PM) [hereinafter *Both Cops and Robbers*], http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-gttf-opening-statements-20180123-story.html.

2 Paul Lee, *Imam Jamil Abdullah Al-Amin (H. Rap Brown) on Violence*, YOUTUBE (Nov. 9, 2009), https://www.youtube.com/watch?v=scYQGiybJbY.

3 Kevin Rector, *Baltimore Has Now Had 343 Homicides in 2017, Sets Record for Killings Per Capita*, BALT. SUN (Dec. 27, 2017, 8:20 PM), http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-per-capita-homicides-20171227-story.html.

4 Kevin Rector, *Organizers Celebrate First Baltimore Ceasefire Weekend Without Killings, 'Keep Trudging Forward'*, BALT. SUN (Feb. 5, 2018, 10:30 AM), http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-ceasefire-success-20180205-story.html.

5 *Both Cops and Robbers*, *supra* note 1.

6 *Id.*

more were convicted following very public trials.[7] Every day of the proceedings brought new details illustrating how police brazenly robbed alleged drug dealers, planted guns on innocent suspects, trafficked stolen guns to known criminals, and defrauded taxpayers by submitting phony overtime claims.[8] The criminal conduct of the Baltimore police also undermined the legitimacy of criminal cases against somewhere between 125 and 3,000 defendants who were either in prison or awaiting trial.[9]

The stark contrast between ordinary city residents risking their safety to fight against the violence in their community and a corrupt police force committing and propagating acts of violence in the microcosmic streets of Baltimore raises what may appear at first blush an absurdly radical question: are police obsolete? When Angela Y. Davis asked the same of prisons in her germinal book on prison abolition in 2003,[10] the "prison-industrial complex" was only beginning to enter the lexicon of scholars and activists taking on what was then the fairly recent phenomenon of mass incarceration.[11] Since then, the very foundations of the U.S. criminal legal system[12] have been shaken by a mass awakening to its racist origins and ends. From Michelle Alexander's *The New Jim Crow* to Ava DuVernay's documentary *13th*; from the mass uprisings and mobilizations of the Movement for Black

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7 *See* Richard Gonzales, *Baltimore Police Officers Convicted in Corruption Scandal*, NPR (Feb. 12, 2018, 8:02 PM), https://www.npr.org/sections/thetwo-way/2018/02/12/585248422/baltimore-police-officers-convicted-in-corruption-scandal [https://perma.cc/22BG-JBAP].

8 Timothy Williams, *In Baltimore, Brazen Officers Took Every Chance to Rob and Cheat*, N.Y. TIMES (Feb. 6, 2018), https://www.nytimes.com/2018/02/06/us/baltimore-police-corruption.html [https://perma.cc/K6XM-WEFH].

9 *Id.* In one particularly egregious case, an officer's body camera footage, which was later published by the public defender in the case, showed him plant a bag of drugs in an alley and pretend to subsequently "discover" the bag he himself had planted. *See, e.g.*, Jacey Fortin, *Baltimore Police Officer Charged with Fabricating Evidence in Drug Case*, N.Y. TIMES (Jan. 24, 2018), https://www.nytimes.com/2018/01/24/us/baltimore-officer-video-drugs.html [https://perma.cc/Y2M8-4CDV].

10 ANGELA Y. DAVIS, ARE PRISONS OBSOLETE? (2003).

11 *See id.* at 84–85 (connecting the terminology of a "prison industrial complex" to the growth of the California penal system in the 1990s).

12 I use the term "criminal legal system" instead of "criminal justice system" to remove the normative assumption inherent in the latter phrase. For the reasons discussed in this Article and more, it is not apparent that the criminal legal system is one of justice, and to imply as much conceals that fact. I thank Allegra McLeod for enlightening comments and conversations on this point.

Lives to NFL quarterback Colin Kaepernick sacrificing his career to protest police brutality, cultural perceptions of policing and imprisonment have undergone a seismic shift in the early part of this young century.

This discursive shift lays the groundwork for a resurgence of what W. E. B. DuBois called "abolition democracy"—the project of building up radical community-powered institutions to supplant oppressive social structures inherited from the legacy of chattel slavery. Angela Y. Davis has used this concept in her advocacy for a positive vision of prison abolition. Far from a simplistic demand to do away with imprisonment in one fell swoop, Davis's abolition democracy calls for "the creation of an array of social institutions that would begin to solve the social problems that set people on the track to prison, thereby helping to render the prison obsolete."[13]

Can the same be done for police? Can the dominant paradigm casting gun-toting cops as the sole guardians of peace and public order still conform to evolving understandings of justice? Facing the twin specters of police violence and street violence, activists and community organizers in cities like Chicago have launched explicitly abolitionist projects, building institutions to replace the police.[14] Public health experts with institutional support from universities, non-profits, and even state and local governments have been successfully mobilizing formerly incarcerated citizens in non-police violence-intervention work for years.[15] Historically, armed professionalized police forces are a fairly recent entrant onto the violence-prevention scene, appearing in a form recognizable to our modern conceptions as late as the nineteenth century, yet they have been endowed with an almost timeless sense of necessity.[16] This Article is the first in legal scholarship to seriously question that sense of necessity, challenging the police's state-granted

13 ANGELA Y. DAVIS, ABOLITION DEMOCRACY: BEYOND PRISON, TORTURE AND EMPIRE 96 (2005).

14 Maya Dukmasova, *Abolish the Police? Organizers Say It's Less Crazy than It Sounds*, CHI. READER (Aug. 25, 2016), https://www.chicagoreader.com/chicago/police-abolitionist-movement-alternatives-cops-chicago/Content?oid=23289710 [https://perma.cc/XLU9-NJ9F].

15 *See infra* Section II.A.

16 *See* Timothy Roufa, *Early History of Policing*, BALANCE CAREERS, https://www.thebalance.com/early-history-of-policing-974580 [https://perma.cc/P3LL-2Z8T] (last updated May 25, 2018).

monopoly on controlling perhaps the greatest challenge to public order—violence.[17]

Violence, when committed by non-state actors, is considered a recourse to the most primitive means of conflict resolution—a failure of reason to temper animal urges. In this worldview, people who commit acts of violence are bad people unfit for or undeserving of life in a civilized society. This understanding of violence as an individual moral failing undergirds the logic of the criminal legal system in the United States,[18] which holds that the only way to protect society from people who commit unsanctioned acts of violence is to forcibly remove them from society. This appears to be the Trump administration's preferred narrative as well; when asked whether easy access to guns played a role in Chicago's ongoing gun-violence problems, current White House Press Secretary Sarah Huckabee Sanders characterized crime as "driven more by morality than anything else."[19]

At the same time, state-sanctioned violence, whether in the form of military intervention, police use of force, or capital punishment, is not only legal—it is often cast as necessary or even heroic. Armed police officers use or threaten to use violence in the name of the state under the pretense of enforcing the law. Not only does the law authorize police to use unlimited, even deadly force in response to *violent* conduct,[20] the police are authorized to escalate relatively low-intensity interactions into potentially deadly confrontations, for example when a motorist fails to

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17 Of course, challenges to the legitimacy of police as the primary institution charged with order maintenance abound. For a recent book-length study on the topic from a sociological perspective, see generally ALEX S. VITALE, THE END OF POLICING (2017). Vitale demystifies the role of police in society, pointing out that "[t]he origins and function of the police are intimately tied to the management of inequalities of race and class. The suppression of workers and the tight surveillance and micromanagement of black and brown lives have always been at the center of policing." *Id.* at 27.

18 Throughout this Article, we consciously use the term "criminal legal system" rather than the commonly used "criminal justice system" in order to treat the subject descriptively and avoid mythologizing.

19 Lynn Sweet & Stefano Esposito, *White House: Chicago Crime 'Driven More by Morality' than Guns*, CHI. SUN-TIMES (June 30, 2017, 8:41 PM), http://chicago.suntimes.com/chicago-politics/ag-sessions-slams-violence-in-chicago [https://perma.cc/N3HZ-EVZN].

20 *See* Tennessee v. Garner, 471 U.S. 1, 11 (1985) ("[I]f the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape . . . .").

pull over.[21] Likewise, the use of military force by the United States and its allies can justifiably—in the State's eyes and with the assent of average Americans—take the lives of noncombatants and even children in pursuit of a military objective determined to be in the national interest.[22] This logic imposes a hierarchy of violence wherein legitimate "rational" or "reasonable" police or military violence is necessary to control illicit criminal violence.[23] Such line drawing conceals an explosive contradiction undergirding the mainstream ideology of American exceptionalism maintained on both sides of the political aisle, which has become increasingly exposed by activists and the media, contributing to the extremely divisive climate that characterizes the so-called Trump era.

But this hierarchy of violence is embedded with a long history of racist beliefs in White supremacy and Black and Brown immorality or amorality dating back to the era of slavery and European colonial conquest.[24] It is not uncommon to hear people who have been convicted

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21 *See* Scott v. Harris, 550 U.S. 372 (2007) (holding that an officer who intentionally rammed a speeding car off a highway and down a ravine acted reasonably). Professor Paul Butler calls this the "super power to kill," granted explicitly by the Supreme Court. *See* Paul Butler, *The System Is Working the Way it Is Supposed to: The Limits of Criminal Justice Reform*, 104 GEO. L.J. 1419, 1452–53 (2016).

22 For an in-depth study of the use of "collateral damage" as a justification for the killing of civilians by U.S. armed forces, see generally MICHAEL MANDEL, HOW AMERICA GETS AWAY WITH MURDER: ILLEGAL WARS, COLLATERAL DAMAGE AND CRIMES AGAINST HUMANITY (2004).

23 This sentiment is a staple of American political discourse. Recently, thanks in large part to the marketing efforts of the National Rifle Association, the state's claim to reason or rationality in its use of force has been supplanted by crude pseudo-morality in the phrase, "the quickest way to stop a bad guy with a gun is a good guy with a gun." Politicians have repeated this cant endlessly. *See, e.g.*, *WATCH: 'The Quickest Way to Stop a Bad Guy with a Gun Is a Good Guy with a Gun,' Pence Says at NRA Convention*, PBS NEWSHOUR (May 4, 2018, 3:13 PM), https://www.pbs.org/newshour/politics/watch-the-quickest-way-to-stop-a-bad-guy-with-a-gun-is-a-good-guy-with-a-gun-pence-says-at-nra-convention [https://perma.cc/G6EU-B95S]. It has also, unsurprisingly, been expressed countless times by law enforcement. *See, e.g.*, Howard Safir, Opinion, *War on Police is Causing Violence to Increase*, TIME (May 13, 2015), http://time.com/3857023/national-police-week-war-on-police [https://perma.cc/PTV5-98L9] (former NYPD Commissioner states, "Police officers stand between civil society and chaos.").

24 For this generation's definitive account of the criminalization of Black communities, see MICHELLE ALEXANDER, THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS (2012). *See also* KHALIL GIBRAN MUHAMMAD, THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICA (2010). For a compelling account of the political and cultural construction of Latino criminality, see Mary

of violent crimes referred to as "animals" or "super-predators,"[25] evoking images of lawless, subhuman people of color threatening the safety and stability of middle-class life. President Donald Trump espoused this view in a speech to law enforcement officials, urging them to be "rough" with people suspected of criminal activity. Speaking of Mexican and Central American immigrants presumed to belong to the MS-13 gang, Trump expounded:

> They butcher those little girls. They kidnap, they extort, they rape and they rob. They prey on children. They shouldn't be here. They stomp on their victims. They beat them with clubs. They slash them with machetes, and they stab them with knives. They have transformed peaceful parks and beautiful, quiet neighborhoods into bloodstained killing fields. They're animals.[26]

Comparing a racially coded group of human beings to animals is dehumanizing, and dehumanization has observable consequences.[27]

Numerous psychological studies have linked the dehumanization of Black people with increased estimates of Black children's ages and criminal culpability; dehumanization "also predicts racially disparate police violence toward Black children in real-world settings."[28] The

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Romero, *State Violence, and the Social and Legal Construction of Latino Criminality: From El Bandido to Gang Member*, 78 DENV. U. L. REV. 1081 (2001).

25 The term "super predators" was popularized in the 1990s by politicians pushing "tough-on-crime" policies. Its origin has been attributed to criminologist John DiIulio in a *Weekly Standard* article from 1995, John Dilulio, *The Coming of the Super-Predators*, WEEKLY STANDARD (Nov. 27, 1995, 12:00 AM), http://www.weeklystandard.com/the-coming-of-the-super-predators/article/8160 [https://perma.cc/E8FH-HP9W], and the concept gained national prominence when Hillary Clinton used the term in a speech supporting Bill Clinton's crime bill in 1996. *See* Kevin Drum, *A Very Brief History of Super-Predators*, MOTHER JONES (Mar. 3, 2016, 5:04 PM), http://www.motherjones.com/kevin-drum/2016/03/very-brief-history-super-predators [https://perma.cc/Q3R2-V8AH] (attributing the concept to DiIulio, discussing DiIulio's influence on the Clintons, and linking to the video of the speech). Mrs. Clinton said, "They are often the kinds of kids that are called 'super-predators'—no conscience, no empathy. We can talk about why they ended up that way, but first we have to bring them to heel." *Id.*

26 Philip Bump, *Trump's Speech Encouraging Police to be 'Rough,' Annotated*, WASH. POST (July 28, 2017), https://www.washingtonpost.com/news/politics/wp/2017/07/28/trumps-speech-encouraging-police-to-be-rough-annotated/?utm_term=.c33e96e637a7 [https://perma.cc/2LKR-EJX4].

27 For a victim-centered study of hate-based violence and intimidation against perceived minorities in the Trump era, see generally AMERICAN HATE (Arjun Singh Sethi ed., 2018).

28 Phillip Atiba Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. PERSONALITY & SOC. PSYCH. 526, 540 (2014). For a comprehensive cataloguing

racism implicit in this "super-predator" view of violence is further expressed in the disproportional rates of imprisonment among Black, Hispanic, and Native American men and women, and in the frequency of police killings of people of color—"[y]oung black men were nine times more likely than other Americans to be killed by police officers in 2015 . . . ."[29] Critics and activists from communities of color and their allies have long spoken out against the trend of hyper-criminalization and imprisonment.[30] But only recently have mass incarceration and hyper-aggressive policing come to be seen as problems rather than solutions among the White political mainstream.[31] For the Movement for Black Lives, these issues have taken on life-or-death stakes. Calls for reforming the criminal legal system have echoed all the way to the White House under the administration of President Barack Obama, and the dominant logic of our criminal legal system is being called into question across the political spectrum.[32]

As the door to reforming the criminal legal system has begun to crack open, the social meaning of violence and the imagined role of

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of psychological studies of dehumanization and its consequences, see PAUL BUTLER, CHOKEHOLD: POLICING BLACK MEN 43–46 (2017) (describing psychological and sociological studies on the association of Black features with criminality).

29 Jon Swain et al., *Young Black Men Killed by US Police at Highest Rate in Year of 1,134 Deaths*, GUARDIAN (Dec. 31, 2015, 3:00 PM), http://www.theguardian.com/us-news/2015/dec/31/the-counted-police-killings-2015-young-black-men [https://perma.cc/E8Q2-C4SK].

30 In a speech delivered on May 5, 1962, Malcolm X mused, "You can't be a Negro in America and not have a criminal record." Donnie Mossberg, *Malcolm X Speech in Los Angeles (May 5, 1962)*, YOUTUBE (Dec. 4, 2012), https://www.youtube.com/watch?v=gpr6PK-Cz3c [https://perma.cc/TGN9-QPR4].

31 In 1995, for example, President Bill Clinton boasted of his 1994 Crime Bill in his State of the Union address, heralding in "longer sentences, 'three strikes and you're out,' almost 60 new capital punishment offenses, more prisons, more prevention, 100,000 more police." *January 24, 1995: State of the Union Address*, U. VA. MILLER CTR., http://millercenter.org/president/clinton/speeches/speech-3440 [https://perma.cc/H58Q-BVN8] (last visited Dec. 31, 2018).

32 President Barack Obama was vocal in calling for criminal justice reform and has noted the bipartisan support for some reform initiatives. *See, e.g.*, Harper Neidig, *Obama Calls for Congress to Pass Criminal Justice Reform*, HILL (Apr. 23, 2016, 6:00 AM), http://thehill.com/blogs/blog-briefing-room/news/277314-obama-calls-for-congress-to-pass-criminal-justice-reform [https://perma.cc/G6RP-9FDM] (reporting on President Obama's weekly address on criminal justice reform in which he said, "[g]ood people from both sides of the aisle . . . are coming together on this issue . . . ."). Groups from the conservative establishment have also come together to support criminal justice reform behind the "Right on Crime" movement. *See* RIGHT ON CRIME, rightoncrime.com [https://perma.cc/AZG5-RM6D] (last visited Dec. 31, 2018).

police in suppressing it are being contested. The Obama Administration, along with many policymakers at all levels of government, moved to reframe the discourse of crime-control, order maintenance, and public safety around "community policing." According to the Department of Justice's Office on Community Oriented Policing Services (COPS Office),

> Community policing begins with a commitment to building trust and mutual respect between police and communities. It is critical to public safety, ensuring that all stakeholders work together to address our nation's crime challenges. When police and communities collaborate, they more effectively address underlying issues, change negative behavioral patterns, and allocate resources.[33]

The administration of President Donald Trump has taken a sharp stance against the reformist position, arguing that restraints on police violence and their advocates have crippled law enforcement and empowered dangerous criminals. In a statement entitled *Standing Up for Our Law Enforcement Community*, the Trump Administration lays out its "Law and Order" philosophy declaratively:

> A Trump Administration will empower our law enforcement officers to do their jobs and keep our streets free of crime and violence. The Trump Administration will be a law and order administration. President Trump will honor our men and women in uniform and will support their mission of protecting the public. The dangerous anti-police atmosphere in America is wrong. The Trump Administration will end it.[34]

Whatever actions the Trump Administration ends up taking to effectuate its stated support for police, the movement for greater community control over law-enforcement continues to advance reforms

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[33] *About the COPS Office*, COMMUNITY ORIENTED POLICING SERVICES, U.S. DEP'T JUST., https://cops.usdoj.gov/aboutcops [https://perma.cc/CKM2-WPKW] (last visited Feb. 17, 2019).

[34] Radley Balko, Opinion, *Trump, Cops and Crime*, WASH. POST (Jan. 20, 2017), https://www.washingtonpost.com/news/the-watch/wp/2017/01/20/trump-cops-and-crime/?utm_term=.b65844bc76ff [https://perma.cc/BG3P-THAQ]. The quote was originally posted on Whitehouse.gov shortly after Trump took office, but the site where it appeared, entitled *Standing Up for Our Law Enforcement Community*, has since been taken down.

throughout the country.[35] The Trump Administration may swing the pendulum towards greater police autonomy at the federal policy level. But it appears unlikely to paralyze reform efforts at the state and local level where most law enforcement policy is made and carried out,[36] and even less likely to decisively settle deep-seeded disagreements over how to address the problem of violence.

Meanwhile, non-state actors from epidemiologists to community activists to incarcerated individuals have launched a number of violence-reduction projects in violence-prone communities that depend for their success on the *non*-involvement of the police.[37] By claiming responsibility for maintaining peace and order from within the community, such alternative programs bear some resemblance to the Black radical tradition of community autonomy pursued by the Black Panther Party,[38] the MOVE Organization,[39] and other radical groups of the 1960s and 1970s. Today, with growing institutional support from universities, non-profits, and state and local governments, these initiatives hold the potential to embody the type of collaboration the

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35 *See, e.g.*, Alan Greenblatt, *Will Trump Kill Criminal Justice Reform's Momentum?*, GOVERNING STATES & LOCALITIES (Jan. 23, 2017, 3:00 AM), http://www.governing.com/topics/public-justice-safety/gov-trump-criminal-justice.html [https://perma.cc/L54Z-JDKF].

36 For example, prosecutorial elections in major cities like Philadelphia and in rural areas like South Texas are heralding in a new set of enforcement priorities geared toward de-incarceration. Henry Gass, *Meet a New Breed of Prosecutor*, CHRISTIAN SCI. MONITOR (July 17, 2017), https://www.csmonitor.com/USA/Justice/2017/0717/Meet-a-new-breed-of-prosecutor [https://perma.cc/H5P6-DE3U]. Indeed, several police departments issued statements condemning the pro-brutality implications of Trump's speech on policing. Bump, *supra* note 26 (quoting President Trump). *See* Chloe Farand, *From New York to Los Angeles Police Departments Denounce Donald Trump's Endorsement of 'Police Brutality'*, INDEPENDENT (July 30, 2017, 11:10 AM), http://www.independent.co.uk/news/world/americas/us-politics/police-departments-new-york-los-angeles-denounce-donald-trump-police-brutality-comment-suffolk-a7867206.html [https://perma.cc/SHF4-L9KK].

37 *See infra* Part II.

38 For a meticulous chronicling of the Black Panther Party's community-oriented "survival programs" from childcare to healthcare to pest control, see generally DR. HUEY P. NEWTON FOUND., THE BLACK PANTHER PARTY: SERVICE TO THE PEOPLE PROGRAMS (David Hilliard ed., 2008). For a more comprehensive history of the Black Panther Party, see generally JOSHUA BLOOM & WALDO E. MARTIN, JR., BLACK AGAINST EMPIRE: THE HISTORY AND POLITICS OF THE BLACK PANTHER PARTY (2013).

39 For a full-length documentary on the tragic fate of the MOVE Organization, see LET THE FIRE BURN (Jason Osder 2013). *See also MOVE Bombing at 30: "Barbaric" 1985 Philadelphia Police Attack Killed 11 & Burned a Neighborhood*, DEMOCRACY NOW! (May 13, 2015), https://www.democracynow.org/2015/5/13/move_bombing_at_30_barbaric_1985 [https://perma.cc/752Z-X43E].

COPS Office called for. They also hold promise for scholars and activists in the prison-abolitionist movement as community-centered replacements for, or alternatives to, the use or threat of police violence and incarceration as the primary means to control and reduce criminal violence.[40] But the legitimacy and effectiveness of these projects depend on their independence from police whom affected communities frequently distrust, putting them in tension with law-enforcement-centric community policing models. In Part III of this Article, we address that tension and examine how non-police anti-violence work can begin to supplant traditional policing.

Public health- and community-based alternatives to policing should and will play an increased role in efforts to break cycles of violence regardless of their cooperation or conflict with law enforcement. The Movement for Black Lives, which gained national prominence in the wake of high-profile police killings of unarmed Black people in Ferguson, Baltimore, Staten Island, and elsewhere, has made community control over police a centerpiece of its national organizing. Number Three on the Movement's list of National Demands calls for "investments in the education, health and safety of Black people, instead of investments in the criminalizing, caging, and harming of Black people."[41] The Movement's policy handbook details that this demand requires "[a] reallocation of funds at the federal, state and local level from policing and incarceration (JAG, COPS, VOCA) to long-term safety strategies such as education, local restorative justice services, and employment programs."[42] Policymakers, legal scholars, and practitioners should educate themselves on the substance of "restorative justice services" as they interact with and shape the creation and enforcement of criminal law and policy. This Article fills an important gap in the legal academic literature on criminal justice reform by shedding light on different types of community-based violence-reduction initiatives offering viable alternatives to (even community-based) traditional policing.

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40 *See infra* Part III.

41 MOVEMENT FOR BLACK LIVES, A VISION FOR BLACK LIVES: POLICY DEMANDS FOR BLACK POWER, FREEDOM, AND JUSTICE 10 (2016), https://policy.m4bl.org/wp-content/uploads/2016/07/20160726-m4bl-Vision-Booklet-V3.pdf [https://perma.cc/4D84-4AEN].

42 *Id.*

Violence remains a serious problem in poor urban communities across the United States even as the United States has experienced a downward trend in violent crime since peak levels in the early 1990s. Gun homicides dropped by 49% between 1993 and 2010; violent non-fatal crime overall decreased by 72% between 1993 and 2013.[43] Despite this dramatic reduction in crime levels, 82% of Americans believed that gun crime rates had gone up or stayed the same over the two decades since 1993.[44] Indeed, popular perceptions—or fear—of high crime rates are likely shaped by media accounts,[45] and perhaps even by the widespread knowledge of the astronomical incarceration rate in this country. This begs the question—*what* violence are we talking about in this Article? By focusing on the problem of violence are we playing into the exaggerated, racist fears of a rampant violence that doesn't really exist? These are important questions to bear in mind amidst any discussion of violent crime, and their premise—that we should adjust our thinking to address the present-day realities of violence—guides our discussion. But the reality is that violent crime remains central to the crisis of mass incarceration and racial inequality in the United States. In his recent book *Chokehold: Policing Black Men*, Professor Paul Butler airs the "ugly fact" that "Black men commit more murders, in absolute numbers, than Latino men, who slightly outnumber them, and white men, who greatly outnumber them," and presents data showing that "[v]iolent crime, much more than drug crimes, is fueling mass incarceration."[46] Our discussion confronts this current of the debate over decarceration, focusing on those areas where violent crime, particularly gun crime, has remained considerably high. We perceive the historically low levels of violent crime in many cities today to enhance the plausibility of the non-police alternatives to violence-reduction we describe and advocate here, and to present a meaningful opportunity to reimagine reform with the abolition of punitive policies on the horizon.

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43 D'VERA COHN ET AL., PEW RESEARCH CTR., GUN HOMICIDE RATE DOWN 49% SINCE 1993 PEAK; PUBLIC UNAWARE (2013), http://www.pewsocialtrends.org/2013/05/07/gun-homicide-rate-down-49-since-1993-peak-public-unaware [https://perma.cc/7FEP-TYNY].

44 *Id.*

45 *See* Dennis T. Lowry et al., *Setting the Public Fear Agenda: A Longitudinal Study of Network TV Crime Reporting, Public Perceptions of Crime, and FBI Crime Statistics*, 53 J. COMM. 61 (2003).

46 BUTLER, *supra* note 28, at 120, 132.

This Article seeks to inform and advance the project of prison abolition that has generated a sizeable body of legal scholarship in recent years. By juxtaposing some of the root causes of violence with effective examples of non-punitive, non-violent intervention, we hope to offer a practical resource for abolitionists to build on in their scholarship and advocacy. And while we do present a theoretical framework for understanding the material reality of violence through its causes and potential cures, we consciously limit ourselves to only one type of violence. The type of violence we are contending with in this Article may be understood as "public," non-state violence. Private domestic violence and child abuse may be susceptible to other forms of non-police intervention including those explored here, but that analysis falls outside the scope of this Article. Similarly, although there is certainly overlap between the violence prevention "cures" we discuss here and restorative justice efforts geared toward reconciliation following violent acts, this Article focuses on violence interruption as a preventive measure against the perpetuation of violent conflict. The abolitionist project must account for all types of violence, all paths to restoring victims, and all means of reconciling communities in order to construct a viable alternative to the force-backed system now in place. Our work here is a tile in that mosaic.

The Article will proceed in three Parts. Part I will trace the cycles of violence faced by marginalized communities of color and identify some of the actors involved in perpetuating those cycles. In Part II, our focus will shift to non-police models for stopping violence. Perhaps the best known of these is the "Cure Violence" model developed by epidemiologists seeking to address violence as a public health crisis. The other non-police paradigm we explore arises from community activism and empowerment, seeking to address violence as a symptom of overlapping political and socio-economic crises. After describing a number of organizations that have grown out of these models, Part III looks to both the future and the historical roots of community-based violence-reduction initiatives. In a fundamental way, such projects demand an affirmative answer to the question "are police obsolete?" They challenge the police monopoly on the maintenance of order in the community and must actively resist association with or cooptation by police in order to maintain their legitimacy in the community. Will law enforcement agencies stand down and carve out space for community peace forces? Or will they hold fast to the punishment model and seek to

delegitimize and displace non-police alternatives in the name of law enforcement?

Before proceeding, we would like to offer a note on the Article's format. Because this Article is the product of a novel form of co-authorship in legal academic writing, it takes something of an unusual form. One of the co-authors of this Article is a lawyer and legal scholar. The other, Mr. Craig Muhammad, is currently serving a life sentence handed down to him in 1982, when he was just twenty-one years old, at Jessup Correctional Institution (JCI) in Maryland, a few miles outside of his native Baltimore. Mr. Muhammad's voice brings a unique fount of authority in his perspective as an incarcerated person. On one hand, Mr. Muhammad is a product of the warlike dynamic between police and drug-trafficking networks in the poverty-stricken West Baltimore of the 1970s and 1980s. He has transformed himself from that fraught upbringing into a longtime leader in prison-based anti-violence work bridging young incarcerated men with support networks of community activists in the high-crime Baltimore areas from which so much of Maryland's prison population hails. To reflect this difference in perspective, and to highlight the contributions of a voice all but absent from legal academic literature on criminal justice reform and violence, `Mr. Muhammad's writings will appear in a different font representative of the prison typewriter on which his writing was done.` The rest of the Article represents the collaborative conversations, research, and insights of the co-authors.

I. CONFRONTING VIOLENCE

Despite the downward trend in violent crime rates in large American cities since urban violence peaked in the 1990s, addressing violence remains a central concern for marginalized communities. Indeed, the correlation between the massive rise in incarceration rates since the 1990s, along with the prevalence of gang violence behind bars, may suggest that mass incarceration serves as an engine of urban violence. In any event, as advocates, activists, and policymakers seek to reduce the prison population and reintegrate incarcerated individuals into their communities without compromising public safety, they must confront violence in order to control it. We will discuss strategies for reducing violence in Part II, but first we will briefly confront violence in this Part. We begin by identifying some of the root causes of pervasive,

cyclical urban violence, before looking to some of the institutions that perpetuate these cycles of violence.

Community safety, particularly in urban areas, has reached the apex of public concern. Traditional programs designed to contain and reduce violence and gang proliferation have not lived up to expectations. Violence and gang activity continue to plague inner city communities in places like Chicago and Baltimore. Homicides in Baltimore reached historic levels in 2015, as 344 murders were recorded.[47] That number decreased only slightly in 2016, to 318.[48] Chicago ended 2015 with 468 homicides.[49] That number rose dramatically in 2016 to an astonishing 762.[50] Most horrific was the brutal killing of a nine-year-old boy who was lured into a Chicago alley in what has been described as a gang-related killing.[51]

The response to this social dilemma of violence and gang activity has been an emphasis on incarceration and the militarization of law enforcement agencies. Yet, the tide of violence and the accretion of street gangs continue as mass incarceration and police brutality—an

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47 Kevin Rector, *Deadliest Year in Baltimore History Ends with 344 Homicides*, BALT. SUN (Jan. 1, 2016, 7:00 PM), http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-deadliest-year-20160101-story.html (reporting that, on a per-capita basis, 2015 was "the deadliest ever in the city . . . .").

48 Kevin Rector, *In 2016, Baltimore's Second-Deadliest Year on Record, Bullets Claimed Targets and Bystanders Alike*, BALT. SUN (Jan. 2, 2017, 6:10 AM), http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-homicides-2016-20170102-story.html.

49 Josh Sanburn, *Chicago Shootings and Murders Surged in 2015*, TIME (Jan. 2, 2016), http://time.com/4165576/chicago-murders-shootings-rise-2015 [https://perma.cc/GZX8-7MKE].

50 Azadeh Ansari & Rosa Flores, *Chicago's 762 Homicides in 2016 Is Highest in 19 Years*, CNN, http://www.cnn.com/2017/01/01/us/chicago-murders-2016/index.html [https://perma.cc/9VY6-CACF] (last updated Jan. 2, 2017, 5:20 PM).

51 Wesley Bruer & Dana Ford, *Chicago Police: 9 Year Old Tyshawn Lee Was Targeted in Gang Shooting*, CNN, http://www.cnn.com/2015/11/05/us/chicago-tyshawn-lee-shooting [https://perma.cc/GRV4-A2Q5] (last updated Nov. 5, 2015, 7:33 PM). The young boy's father was arrested in March 2016, for allegedly shooting and wounding the girlfriend of one of his son's killers as well as two men who were with her. Jeremy Gorner & Annie Sweeney, *Father of Slain 9-Year Old Tyshawn Lee Charged with Shooting 3*, CHI. TRIB. (Mar. 13, 2016, 9:30 PM), http://www.chicagotribune.com/news/local/breaking/ct-tyshawn-lee-father-shooting-met-20160313-story.html [https://perma.cc/Q4EZ-GMPZ].

outgrowth of reactionary politics and racial profiling—surface as new areas of concern. These failures of punishment-based approaches reflect a misunderstanding of the causes of violence, to which we now turn.

A. *Conditions for Violence*

Any discussion of the causes of violence bears significant risks. For one, we risk over-generalizing any cause or set of causes to inapposite instances and contexts of violence. At the same time, we risk being too narrow and leaving out contributing factors that may play a significant role in causing and perpetuating the very types of violence we are talking about. Indeed, what is understood as violence is largely a question of definition, with acts of violence typically committed by the poor and marginalized centered in the mainstream discourse, while structural and economic violence perpetuated by elites is largely accepted as inevitable.[52] With those risks in mind, we seek in this Section to account for a non-exhaustive but substantial set of the factors causing violence in marginalized urban communities today. In any event, that class of violence is mobilized as a justification for the continued policing and controlling of those communities, thereby perpetuating vicious cycles of violence and impeding their emancipation from second-class status.[53] We use the city of Baltimore, focusing on the Sandtown-Winchester neighborhood where Freddie Gray was raised and fatally arrested, and where one of the co-authors was brought up, as an illustrative microcosm of how these factors come together to set cycles of violence in motion.

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[52] For a serious and convincing questioning of the racialized definition of what constitutes violent crime, see generally Richard Delgado, *Rodrigo's Eighth Chronicle: Black Crime, White Fears—On the Social Construction of Threat*, 80 VA. L. REV. 503 (1994).

[53] *See id.* at 514.

> A group that is criminal, vicious, animal-like, with designs on white people's lives and pocketbooks—such a group would need to be controlled. At other periods such an image would not serve society's purposes, for example when blacks (or members of other racial groups) were needed for their labor or for service during wartime.

Id.

1. Poverty

That poverty begets violence is generally accepted as a truism, even if the precise causes of violence in impoverished areas are difficult if not impossible to pin down.[54] The lack of access to economic resources and the resulting political powerlessness to mobilize state investment in marginalized communities feed into the proliferation of illicit economies, and "oppositional cultures that can encourage violence *may* emerge."[55] And persistent racial residential segregation in poor areas exacerbates these effects.[56] But such abstract theorization on the relationship between poverty and violence cannot capture the ways in which the desperation of racially and geographically concentrated poverty, within a society predisposed to dehumanize and undervalue Black lives, translates into cycles of violence. To inform our discussion of potential interventions into those cycles, then, we seek here to provide a more local, human account of poverty's violence.

The state of Maryland incarcerates more people from the poverty-stricken community of Sandtown-Winchester in West Baltimore than from any other area in the state.[57] The community's violent crime rate of 23 incidents per 1,000 people is also one of the highest in the city, well above Baltimore's overall rate of 15 violent incidents per 1,000 residents.[58]

Unsurprisingly, the backdrop for Sandtown-Winchester's high rates of violent crime and incarceration is one of extreme poverty. 38.1% of the Sandtown-Winchester community lives below the poverty

54 For a review of the scholarly literature on poverty and violence covering the competing causal claims for violence among impoverished people, see Robert D. Crutchfield & Tim Wadsworth, *Poverty and Violence*, *in* 1 INTERNATIONAL HANDBOOK OF VIOLENCE RESEARCH 67, 67–82 (Wilhelm Heitmeyer & John Hagan eds., 2003).

55 *Id.* at 77.

56 *Id.* at 77, 80.

57 JUSTICE POLICY INST. & PRISON POLICY INITIATIVE, THE RIGHT INVESTMENT? CORRECTIONS SPENDING IN BALTIMORE CITY 18 (2015) [hereinafter THE RIGHT INVESTMENT].

58 *Id.* at 19.

level.[59] Based on 2012 figures of Sandtown-Winchester/Harlem Park, 52% of its population between 16 and 64 years old was unemployed,[60] 25% of families were receiving Temporary Assistance to Needy Families (TANF),[61] 49% of students in grades 9 through 12 were chronically absent,[62] 33% of residential properties were vacant or abandoned,[63] and life expectancy was 68 years[64]—10 years below the national average.[65] Even more alarming are the results of a 2014 Johns Hopkins University study revealing that teenagers in Baltimore felt worse about their circumstances than their peers in New Delhi, India; Shanghai, China; and Ibadan, Nigeria.[66] That is the face of poverty.

Poverty is the holy grail of mass incarceration and the collateral damage that follows. In 2015, the state of Maryland spent $220 million incarcerating people from just twenty-five communities in Baltimore city.[67] Seven out of every ten Baltimore residents in prison are from one of these "high incarceration communities."[68] A 2015 report published by the Justice Policy Institute and the Prison Policy Initiative found that all twenty-five of these communities share ten characteristics related to

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59 *Sandtown-Winchester Neighborhood in Baltimore, Maryland (MD), 21217 Detailed Profile*, CITY-DATA, http://www.city-data.com/neighborhood/Sandtown-Winchester-Baltimore-MD.html [https://perma.cc/8MX6-DBWT] (last visited Jan. 1, 2019).

60 THE RIGHT INVESTMENT, *supra* note 57, at 18. This is 13% higher than the city unemployment rate of 39%. *See id.* at 18.

61 *Id.* at 19. In Baltimore, only one in nine families receive TANF. *Id.*

62 *Id.* at 12.

63 *Id.* at 19.

64 *Id.* at 12.

65 *See* Larry Copeland, *Life Expectancy in the USA Hits a Record High*, USA TODAY (Oct. 8, 2014, 12:09 AM), http://www.usatoday.com/story/news/nation/2014/10/08/us-life-expectancy-hits-record-high/16874039 [https://perma.cc/N2Q4-5TN5].

66 Kristin Mmari et al., *A Global Study on the Influence of Neighborhood Contextual Factors on Adolescent Health*, 55 J. ADOLESCENT HEALTH S13, S16 (2014) (finding Baltimore youth had the lowest sense of social cohesion, the lowest feelings of safety in their communities, and the highest likelihood to witness community violence).

67 THE RIGHT INVESTMENT, *supra* note 57, at 13.

68 *Id.*

poverty and economic deprivation: high unemployment;[69] long commutes;[70] low incomes;[71] high rates of public assistance; low educational attainment; high rates of school absence; high rates of emergency drug calls; low life expectancy; high rates of vacant houses; and high rates of violent crime.[72] Baltimore's five "higher incarceration communities" are home to one in four Maryland state prisoners, and each of these communities cost taxpayers at least $10 million per year *on incarceration*.[73] These communities show even worse outcomes in all ten of the previously mentioned poverty-related characteristics.[74] They are also deeply affected by high rates of lead poisoning among children caused by lead paint and pipes—the neurological damage done by lead has been associated with impulse-control problems and other risk factors for violence, and further stunts the educational and economic prospects of lead-poisoned children.[75] And Baltimore's inner-city communities are not an exception to nationwide trends of concentrated violence amidst economic devastation.

For decades there has been a steady decline in manufacturing, shipping, and other jobs across the United States that were frequently filled by people of color.[76] Scholars Joe Soss, Richard C. Fording, and

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69 *Id.* at 13–14. For people aged 16 to 64, these communities have 47% unemployment rates. *Id.*

70 Twenty-five percent of community members in high incarceration areas must travel forty-five minutes or longer to get to work. *Id.* at 14.

71 The median income in Baltimore's high incarceration rates is $32,050—more than $8,500 lower than the city average. *Id.*

72 *Id.* The report's authors conclude that the correlation of high rates of violent crime and high rates of incarceration demonstrate the failure of incarceration to curb violent crime. *Id.*

73 *Id.* at 15.

74 *Id.* at 16.

75 *See* Kim Dobson Sydnor & Lawrence Brown, *Tearing Down Vacants and Building Up Baltimore*, BALT. CITY PAPER (Apr. 13, 2016), http://www.citypaper.com/news/features/bcp-041316-feature-lead-commentary-20160413-story.html [https://perma.cc/85RM-2N6D]; Kevin Drum, *Lead: America's Real Criminal Element*, MOTHER JONES (Feb. 11, 2016, 10:58 PM), http://www.motherjones.com/environment/2016/02/lead-exposure-gasoline-crime-increase-children-health [https://perma.cc/R89U-BEY2]; Terrence McCoy, *Freddie Gray's Life a Study on the Effects of Lead Paint on Poor Blacks*, WASH. POST (Apr. 29, 2015), https://www.washingtonpost.com/local/freddie-grays-life-a-study-in-the-sad-effects-of-lead-paint-on-poor-blacks/2015/04/29/0be898e6-eea8-11e4-8abc-d6aa3bad79dd_story.html [https://perma.cc/C7PA-6JJ4].

76 JOE SOSS ET AL., DISCIPLINING THE POOR: NEOLIBERAL PATERNALISM AND THE PERSISTENT POWER OF RACE 60–63 (2011); *see also* WILLIAM JULIUS WILSON, WHEN WORK

Sanford F. Schram succinctly trace the relative economic prosperity of the post-war period through the deindustrialization of the late twentieth century:

> Between 1940 and 1970, Black workers' incomes rose, and the Black-White wage gap fell, as manufacturing jobs proliferated and drove a broader expansion of opportunities and rewards for low-skilled workers. After 1973, deindustrialization and global competition produced an era of income stagnation and declining job prospects for all low-skilled workers in the United States, but the effects on racial minorities were especially severe. As the competition for decent employment escalated, Blacks lost jobs and wages at a faster rate than White workers who had similar demographic and skill profiles. Residential "hyper-segregation," promoted by federal housing policies and banking practices at midcentury, accelerated these dynamics and concentrated their corrosive social effects in poor Black neighborhoods.

At the same time, there has also been an influx of job opportunities in information technology that require a college education and computer literacy.[77] Academic and vocational education expands options. However, as school dropouts increase, employment opportunities decrease for those who are removed from the rolls.[78] Against this backdrop is a stark imbalance in median income between Blacks and Whites. In the predominantly African American city of Baltimore, the average income for Blacks and Whites in 2014 was

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DISAPPEARS: THE WORLD OF THE NEW URBAN POOR 26–28 (2011). Some iteration of this economic narrative is, by necessity, woven into many accounts of the related phenomenon of mass incarceration. *See, e.g.*, ALEXANDER, *supra* note 24, at 50–51 (discussing the outsized effects of deindustrialization on Black communities); Ta-Nahisi Coates, *The Black Family in the Age of Mass Incarceration*, ATLANTIC, Oct. 2015, https://www.theatlantic.com/magazine/archive/2015/10/the-black-family-in-the-age-of-mass-incarceration/403246 [https://perma.cc/6CVH-8BCK].

77 *See* WILSON, *supra* note 76, at 105 ("The decline of the mass production system and the rise of new jobs in the highlight technological global economy requiring training and education have severely weakened the labor-force attachment among inner-city workers.").

78 *See* WILSON, *supra* note 76, at 152–55 ("While educated workers are benefitting from the pace of technological change, less skilled workers, such as those found in many inner-city neighborhoods, face the growing threat of job displacement.").

$33,610 and $60,550, respectively.[79] The persistence of income inequality across generations refutes the narrative that the American dream is achievable and assimilation is possible for many impoverished citizens.[80] Indeed, a recent study found that even Black boys born to wealthy households fared worse than their White counterparts.[81] There is a more deep-seated conviction that the narrative is false in that the state of Maryland spends $300 million incarcerating citizens from Baltimore City every year.[82] Poverty can be partly reduced simply by decreasing incarceration numbers, removing obstacles to successful reintegration into the community upon release from prison, reallocating funding to areas that will increase options to success, and by decreasing unemployment and urban blight. This approach will systematically dismantle the causes of violence and gang activity at its root, instead of attempting to effectuate a cure by treating symptoms of the problem. Inner-city incarceration rates, high unemployment, failing schools, and broken homes combine to form a deadly

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79 Jordan Malter, *Baltimore's Economy in Black and White*, CNN BUS. (Apr. 29, 2015, 8:59 PM), http://money.cnn.com/2015/04/29/news/economy/baltimore-economy [https://perma.cc/3ZD4-HNYH].

80 *See* Raj Chetty et al., *Race and Economic Opportunity in the United States: An Intergenerational Perspective* 3 (Nat'l Bureau of Econ. Research, Working Paper No. 24441, 2018) (finding "large intergenerational gaps for blacks and American Indians relative to whites lead[ing] to disparities in earnings for these groups that persist across generations"). The findings of the Chetty report are summarized in a more accessible format by the *New York Times*, Emily Badger et al., *Extensive Data Shows Punishing Reach of Racism for Black Boys*, N.Y. TIMES (Mar. 19, 2018), https://www.nytimes.com/interactive/2018/03/19/upshot/race-class-white-and-black-men.html, and *Vox*, Dylan Matthews, *The Massive New Study on Race and Economic Mobility in America, Explained*, VOX (Mar. 21, 2018, 7:30 AM), https://www.vox.com/policy-and-politics/2018/3/21/17139300/economic-mobility-study-race-black-white-women-men-incarceration-income-chetty-hendren-jones-porter [https://perma.cc/GDR2-YCSZ].

81 Badger et al., *supra* note 80 ("Even when children grow up next to each other with parents who earn similar incomes, black boys fare worse than white boys in 99 percent of America. And the gaps only worsen in the kind of neighborhoods that promise low poverty and good schools.").

82 THE RIGHT INVESTMENT, *supra* note 57, at 3.

cocktail for the frustration, anxiety, and hopelessness that breeds violence, crime, and gang activity.

2. Failing Schools

Schools in impoverished communities of color tend to be under-funded and overcrowded, and lack adequate resources.[83] Budget-driven school closures, which disruptively merge the student bodies of defunct schools into existing schools, have compounded the challenges faced by poor students of color.[84] A recent Stanford University study found that "low-performing schools with a larger share of black and Hispanic students were more likely to be closed than similarly performing schools with a smaller share of disadvantaged minority students," and more than half of

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[83] *See, e.g.*, Gllian B. White, *The Data Are Damning: How Race Influences School Funding*, ATLANTIC (Sep. 30, 2015), https://www.theatlantic.com/business/archive/2015/09/public-school-funding-and-the-role-of-race/408085 [https://perma.cc/BMC3-5PCT] (describing a study finding not only that poorer districts received less funding than rich ones, but also that "[a]t any given poverty level, districts that have a higher proportion of white students get substantially higher funding that districts that have more minority students"). Crowding is especially prevalent in majority-Black schools. *See, e.g.*, April Van Buren, *Which Students Are More Likely to End Up in a Crowded Classroom? You Can Probably Guess*, MICH. RADIO (Sept. 21, 2016), http://www.michiganradio.org/post/which-students-are-more-likely-end-crowded-classroom-you-can-probably-guess [https://perma.cc/7N6H-D3X5] (citing BRIAN JACOB ET AL., UNIV. OF MICH., CLASS SIZE IN MICHIGAN: INVESTIGATING THE RISK OF BEING IN VERY LARGE CLASSES (2016), http://edpolicy.umich.edu/files/class-size-policy-brief-revised.pdf [https://perma.cc/37RM-TC8E]).

[84] I CHUNPING HAN ET AL., LIGHTS OFF: PRACTICE AND IMPACT OF CLOSING LOW-PERFORMING SCHOOLS (2017), http://credo.stanford.edu/pdfs/Closure_FINAL_Volume_I.pdf [https://perma.cc/G58M-WX2R] [hereinafter HAN ET AL., VOLUME I]; II CHUNPING HAN ET AL., LIGHTS OFF: PRACTICE AND IMPACT OF CLOSING LOW-PERFORMING SCHOOLS (2017), https://credo.stanford.edu/pdfs/Closure_FINAL_Volume_II.pdf [https://perma.cc/8GDX-HBXK] Alexandra Tisley, *Subtracting Schools from Communities*, URBAN INST. (Mar. 23, 2017), https://www.urban.org/features/subtracting-schools-communities [https://perma.cc/Z6PC-LEPF] ("Neighborhoods affected by school closures have higher shares of Black residents, lower shares of white residents."). In Chicago, the closing of fifty schools in 2013 was correlated with a drop in academic performance. Lauren FitzPatrick, *Study: CPS 2013 Closings Didn't Keep Promises of Better Academic Opportunities*, CHI. SUN TIMES (May 22, 2018, 8:14 AM), https://chicago.suntimes.com/education/cps-promised-better-academic-opportunities-but-students-saw-test-scores-drop [https://perma.cc/7ZLW-6HMG].

displaced closure students landed in worse school settings.[85] In 2014, at least six schools in Baltimore City were recommended for closure.[86] Moreover, since the No Child Left Behind Act creates incentives based on test scores, low-performing students are strategically pushed out of the system in order to boost overall test results. The practice of cramming classrooms and neglecting low-performing students, combined with zero-tolerance policies that have dramatically increased suspensions and expulsions, create a school-to-prison pipeline that reinforces the cycle of crime, violence, high incarceration, and poverty that is characteristic of most inner-city communities.[87]

Racially disparate school discipline practices and the presence of armed police in inner-city schools reinforce the sense of hopelessness generated by urban poverty in Black communities. Nationally, school suspensions peaked at nearly seven million over the 2011–2012 school year, with expulsions reaching 130,000.[88] A 2014 University of Pennsylvania study revealed that there were 84 Southern school districts where Black children were 100% of the students suspended and 181 districts where Black children were 100% of the students expelled.[89] Disproportionate school suspensions and expulsions have continued even though evidence suggests that students who are suspended or

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85 HAN ET AL., VOLUME I, *supra* note 84, at 4.

86 Colin Campbell & Liz Bowie, *6 City Schools Recommended for Closure amid $980 Million Renovation Plan*, BALT. SUN (Nov. 11, 2014, 9:40 PM), http://www.baltimoresun.com/news/maryland/education/blog/bs-md-city-school-closures-20141111-story.html.

87 For a discussion of racial discipline disparities and the school to prison pipeline, see generally Janel A. George, *Stereotype and School Pushout: Race, Gender, and Discipline Disparities*, 68 ARK. L. REV. 100 (2015).

88 U.S. DEP'T OF EDUC. OFFICE FOR CIVIL RIGHTS, DATA SNAPSHOT: SCHOOL DISCIPLINE 2 (2014), https://ocrdata.ed.gov/downloads/crdc-school-discipline-snapshot.pdf [https://perma.cc/JLX9-7YBK].

89 EDWARD J. SMITH & SHAUN R. HARPER, U. PENN. CTR. FOR THE STUDY OF RACE & EQUITY IN EDUC., DISPROPORTIONATE IMPACT OF K-12 SCHOOL SUSPENSION AND EXPULSION ON BLACK STUDENTS IN SOUTHERN STATES 1 (2015), https://web-app.usc.edu/web/rossier/publications/231/Smith%20and%20Harper%20(2015)-573.pdf [https://perma.cc/D5KG-HX9E].

expelled, and poorly performing students who are pushed out of the system, are more likely to end up in the juvenile and criminal justice system. And the proliferation of armed police in schools has effectively criminalized misbehavior: A 2011 longitudinal study on police in schools reported that "[t]he presence of an officer in the school is associated with more than a doubling of the rate of referrals to law enforcement for the most common crime perpetuated by students in schools—simple assault without a weapon."[90] What once landed kids in the principal's office now lands them in jail. So, amidst conditions of economic depression, schools replicate rather than reverse the criminalization of young people of color.

This is reflected in the enrollment and attendance of Baltimore City Schools. Of Baltimore City public school students, 25% were chronically absent in the 2010–2011 school year; for high schoolers the rate was an alarming 42.2%.[91] School enrollment for grades 7 through 12 in Baltimore City dropped 13.4% between the 2005–2006 and 2014–2015 school years.[92] Also, according to a Brookings Institute Report on crime and incarceration, an African American male dropout from the most recent birth cohort studied has nearly a 70% chance of being incarcerated.[93]

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90 Chongmin Na & Denise C. Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 2011 JUST. Q. 1, 17 (2011).

91 BALT. STUDENT ATTENDANCE CAMPAIGN & ELEV8 BALT., STATE OF CHRONIC ABSENTEEISM AND SCHOOL HEALTH 4–5 (2012), http://www.elev8baltimore.org/site/wp-content/uploads/2012/04/Absenteeism-and-School-Health-Report.pdf [https://perma.cc/M3B9-AYVH].

92 *See* WILLIAM HARTMAN & ROBERT SCHOCH, MD. DEP'T OF EDUC., FINAL REPORT OF THE STUDY OF INCREASING AND DECLINING ENROLLMENT IN MARYLAND PUBLIC SCHOOLS 66 (2015), http://www.marylandpublicschools.org/Documents/adequacystudy/MDEnrollmentReport-Rev111615.pdf [https://perma.cc/M3TK-PXRW].

93 MELISSA S. KEARNEY, BENJAMIN H. HARRIS, ELISA JÁCOME & LUCIE PARKER, BROOKINGS INST., TEN ECONOMIC FACTS ABOUT CRIME AND INCARCERATION IN THE UNITED STATES 11 (2014), http://www.hamiltonproject.org/assets/legacy/files/downloads_and_links/v8_THP_10CrimeFacts.pdf [https://perma.cc/SA72-BB4P]. The latest birth cohort (1975–1979) came of age at a time when mass incarceration had increased substantially compared to earlier birth cohorts.

3. Mass Incarceration and Family Breakdown

When a parent is incarcerated, the child that is left behind becomes collateral damage; the impact is devastating to the child and the community—especially when it is a father that is separated from his son. When a young male is separated from his father due to incarceration, he tends to believe that his father's absence is his fault and his psyche wrestles to adjust to his father's truancy in his life.[94] He begins to grow up feeling isolated, rejected, and worthless. His self-perception and unresolved inner conflict distort his outlook, impair decision-making, and impede his development. He sees the world as an antagonist that can neither provide security nor fulfill any of the other needs that only a father can meet. Consequently, that child is more likely to end up as a negative statistic by finding solace in the streets where gangs, violence, and criminal activity await. When a gang assumes the role of surrogate parent, it exerts a tremendous influence on the youth's value system. Once the gang mentality has been embedded in the child's psyche, all other institutions and influences take a secondary role as a controlling force in the child's life.[95]

Children whose fathers are absent are more likely to use drugs, have behavioral problems, be victims of abuse, engage in gang and other criminal activity, and end up in prison or be the victim of a homicide.[96] Children who experience the love and presence of their parents are more likely to do well in school, have a healthy self-esteem, engage in pro-social behavior, and

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94 CRAIG MUHAMMAD, FROM JERICHO TO JERUSALEM: YOUTH, STREET ORGANIZATIONS & COMMUNITY DEVELOPMENT (2013).

95 *Id.*

96 *Id.*

are more likely to avoid risky behavior and criminal activity that leads to incarceration.[97]

By mid-year 2007, at least 809,000 prisoners were parents of minor children under the age of 18.[98] In addition to being separated from a parent, many of those minors end up in foster care or being cared for in a "skipped generation" household. A "skipped generation" household is a family in which a grandparent raises a child in the absence of both parents. When a single-parent mother is incarcerated, foster care or skipped-generation caregiving are usually the only options for a child that is left behind.[99] Over 500,000 African Americans aged forty-five and over were raising grandchildren in 2001.[100] Overall over 2.4 million grandparents in the United States were raising grandchildren during the same period.[101] And among grandparent caregivers, the indicators of poverty are prevalent: grandparents raising children are more likely to be high school dropouts, live below the poverty line, and receive public assistance.[102]

4. Trauma in Relation to Violence

Whether violence is committed by law enforcement, street gangs, or perpetuated by poverty, it leaves individuals and communities traumatized. Trauma emanates from distressing conditions, witnessing acts of violence, and experiencing direct interpersonal violence. Traumatic events have the potential to

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97 Amber Carlson, *How Parents Influence Deviant Behavior Among Adolescents: An Analysis of Their Family Life, Their Community, and Their Peers*, 2012 PERSPECTIVES J. 42, 44–45 (2012).

98 *Id.*

99 Meredith Minkler & Esme Fuller-Thomson, *African American Grandparents Raising Grandchildren: A National Study Using the Census 2000 American Community Survey*, 60B J. GERONTOLOGY S82, S83 (2005).

100 *Id.* at S84.

101 *Id.* at S82.

102 *Id.* at S84.

intrude into daily life and threaten physical and psychological well-being. The everyday experiences lived by people in most inner city communities like Baltimore and Chicago are often fraught with trauma. Consequently, it is not uncommon for inner city residents to have the intrusive thoughts, flashbacks, nightmares, and disturbing mental images that are symptomatic of Post Traumatic Stress Disorder (PTSD). One study of urban-low income residents of inner-city Atlanta found that nearly 90% had been traumatized, and more than 40% had developed PTSD as a result.[103]

The cluster of characteristics that became known as Post Traumatic Stress Disorder has long been associated with exposure to violence, disaster, and war. The difficulty that many Vietnam War veterans experienced in adjusting to civilian life brought the seriousness of PTSD under renewed scrutiny. Under the Diagnostic and Statistical Manual of Mental Disorders (DSM-V), "PTSD is no longer an Anxiety Disorder. PTSD is sometimes associated with other mood states (for example, depression) and with angry or reckless behavior rather than anxiety. So, PTSD is now in a new category, Trauma- and Stressor-Related Disorders."[104] Additional symptoms of PTSD include, but are not limited to, reenactments, anxiety, panic, lack of trust, poor judgment, and a heightened sense of danger.[105] All of those elements play a significant role in the carrying and deadly use of firearms in many inner city communities.

The relationship between violence and trauma in inner city life has been reflected in rap music since

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103 Charles F. Gillespie et al., *Trauma Exposure and Stress-Related Disorders in Inner City Primary Care Patients*, 31 GEN. HOSP. PSYCHIATRY 505, 511 (2009).

104 Matthew J. Friedman, *History of PTSD in Veterans: Civil War to DSM-5*, U.S. DEP'T VETERANS AFF., NAT'L CTR. PTSD, https://www.ptsd.va.gov/understand/what/history_ptsd.asp [https://perma.cc/9J98-42XN] (last visited Feb. 21, 2019).

105 *PTSD Symptoms & Treatment, Military Veterans*, MAKE THE CONNECTION, https://maketheconnection.net/conditions/ptsd [https://perma.cc/5AHM-V9RS] (last visited Feb. 25, 2019).

its inception. Truth be told, rap music evolved out of the traumatic hardships of inner-city reality. Christopher Wallace (The Notorious B.I.G.) put it this way: "I'm seeing my death and I ain't even took my first step . . . . Still tote your vest man, niggas be tripping. In the streets without a gat? Nah, nigga you're slipping."[106] Within those short verses lies the heightened sense of danger, reenactment of violent acts, lack of trust, and emotional numbness that is typical of PTSD. His uncanny lyrics foreshadowed his untimely death. Christopher Wallace was murdered before he reached his twenty-fifth birthday.

A survey of 209 students at the Baltimore Renaissance Academy revealed that violence is a prevalent factor in their lives.[107] "Forty-three percent said they witnessed physical violence at least once a week."[108] "[Thirty nine] percent said they knew someone who had been killed before they reached their 20th birthday."[109] The survey was conducted as students of the Renaissance Academy had been attempting to cope with increasing violence. Three teenagers that attended the Academy were killed between December 2015 and February 2016. That includes a seventeen-year-old pupil who was killed by another student in a classroom at the academy.[110] In response to the students' deaths, school officials raised concerns that "the deaths and violence will wear on the students' psyches."[111] The school partnered with Promise Heights, a community-focused program based at the University of Maryland's School of Social Work, but the program director stressed how the

106 THE NOTORIOUS B.I.G., *Respect*, *on* READY TO DIE (Bad Boy Records 1994) (unofficial transcript available at http://genius.com/The-notorious-big-respect-lyrics).

107 Kevin Rector et al., *For Renaissance Academy, Another Loss to Violence*, BALT. SUN (Mar. 1, 2016, 3:31 PM), http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-teen-killed-20160229-story.html.

108 *Id.*

109 *Id.*

110 *See id.*

111 *Id.*

power of community violence frustrates community development through trauma: "[t]he fear is people become numb to the violence, and students, because they are young, start to feel like their choices will not make a difference, that the violence will get them anyway and that they don't have personal control over their destiny."[112]

Emotions influence how people perceive their environment and relate to others. When emotions are under extreme, prolonged duress, it can distort perception and disrupt interpersonal relationships.[113] When people become emotionally numb to violence, they become indifferent to violence as it escalates around them. Violence apathy also concedes that aggression is an appropriate response to resolve conflict. Consequently, violence and trauma evolve into the self-perpetuating cycle that is evident by high incidents of violence in many high poverty inner-city neighborhoods.[114] An emerging body of research on what has been called "embodied inequality" has linked racially disparate rates of stress and its negative consequences—from life expectancy to infant mortality to resistance to diseases like breast cancer—to the experience of racism itself.[115] The depth of the problem is overwhelming, and it calls for new and creative solutions.

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We have covered only a few of the interrelated conditions that give rise to cyclical violence in poor communities of color. Though not mentioned as a separate cause, racism undergirds the poverty, failing schools, mass incarceration, and trauma that defines and delineates the

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112 *Id.*

113 Cynthia Gillikin et al., *Trauma Exposure and PTSD Symptoms Associate with Violence in Inner City Civilians*, 83 J. PSYCHIATRIC RES. 1, 9 (2016) ("Patients with PTSD report lower levels of empathic concern, decreased perspective taking and difficulty recognizing social relationships.").

114 *Id.* at 7 ("[B]oth childhood and adult trauma and PTSD burden were highly associated with being a perpetrator of interpersonal violence.").

115 *See* Jason Silverstein, *How Racism Is Bad for Our Bodies*, ATLANTIC (Mar. 12, 2013), https://www.theatlantic.com/health/archive/2013/03/how-racism-is-bad-for-our-bodies/273911 [https://perma.cc/8K4S-895G] (collecting and describing studies).

life opportunities for many Black children born into high-crime and high-violence communities. Michelle Alexander's germinal book, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, expertly traces the racialized caste system enforced today through the criminal justice system to its brutal roots in slavery and Jim Crow-era anti-Black terrorism.[116] Central to her analysis of mass incarceration as a mechanism of racial control is the post-Civil Rights era rise of the so-called War on Drugs—another engine of violence we have not yet discussed. And Alexander's well-supported argument that the drug war serves the agenda of racial oppression was even vindicated by one of its architects: Richard Nixon's Assistant for Domestic Affairs, the convicted Watergate conspirator John Ehrlichman. He explained to journalist Dan Baum:

> The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.[117]

This is all to say that the causes of violence are not *accidentally* prevalent in Black communities, but rather conditions conducive to cyclical violence are the result of the ongoing codification of America's racial caste system through criminal law enforcement policies and the inequitable distribution of public resources.[118] We now turn to identify

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116 *See* ALEXANDER, *supra* note 24, at 16 (describing "the control of African Americans through racial caste systems, such as slavery and Jim Crow, which appear to die but then are reborn in new form, tailored to the needs and constraints of the time").

117 Dan Baum, *Legalize It All: How to Win the War on Drugs*, HARPER'S (Apr. 2016), https://harpers.org/archive/2016/04/legalize-it-all [https://perma.cc/WZT5-MBN3].

118 In Baltimore, reflective of other cities with high economic inequality, the movement of money through the city government tells a stark tale of upward redistribution of wealth from the poor to the wealthy. For example, the city spends three times as much on police as on education; though the population of Baltimore shrank by nearly half as industrial production centers left the city over the second half of the twentieth century, the size of the police force doubled. *See Swimming in Baltimore: How Poverty Works*, REAL NEWS NETWORK (Mar. 6, 2016), https://therealnews.com/stories/sjanis0302swimming [https://perma.cc/AQG8-DEHJ].

three major institutional actors involved in perpetuating cycles of violence.

B. *Purveyors and Perpetuators*

This Section identifies and discusses a non-exhaustive set of institutional actors responsible for perpetuating cycles of violence in marginalized urban communities. We first focus on the increasingly militarized police forces tasked with enforcing the (disproportionately drug-oriented) criminal laws, whose use of deadly force has come to the fore of national attention. We then turn to street organizations, or gangs, whose turf wars and back-and-forth revenge killings take hundreds of lives each year. And finally, we examine the role of prisons themselves in pushing inmates towards, rather than away from, gang affiliation and violent behaviors.

But we would be remiss if we failed to acknowledge the culture of violence embedded in America's national identity and political history. The Black Liberation and Civil Rights movements of the 1960s recognized the centrality of violence to American life. America's culture of violence was evidenced domestically by the brutality wrought against nonviolent protestors by police and the Ku Klux Klan, and abroad by the graphic images of the Vietnam War. In his 1963 *Message to the Grassroots*, Malcolm X called out the hypocrisy of the expectation of Black nonviolence:

> If violence is wrong in America, violence is wrong abroad. If it's wrong to be violent defending black women and black children and black babies and black men, then it's wrong for America to draft us and make us violent abroad in defense of her. And if it is right for America to draft us, and teach us how to be violent in defense of her, then it is right for you and me to do whatever is necessary to defend our own people right here in this country.[119]

Meanwhile, the city has subsidized the construction of high-end buildings in the tourist-friendly Inner Harbor area while housing in Baltimore's poorest neighborhoods is unfit for living. *See id.*

119 Malcolm X, Message to Grassroots (Nov. 10, 1963), http://teachingamericanhistory.org/library/document/message-to-grassroots [https://perma.cc/YF4Y-ZN53].

Even the champion of Black nonviolence, Martin Luther King, Jr., was dubbed by the FBI as "the most dangerous and effective Negro leader in the country" after he delivered his conciliatory *I Have a Dream* speech in 1963.[120] As King was poised to receive the Nobel Peace Prize in 1964, the FBI sent him an anonymous letter urging him to commit suicide.[121] But it was not until three years later that Martin Luther King, Jr. came out as anti-war in his controversial *Beyond Vietnam* speech; in it he resolved, "I could never again raise my voice against the violence of the oppressed in the ghettos without having first spoken clearly to the greatest purveyor of violence in the world today: my own government."[122] Exactly one year later, he was assassinated. And the times have not much changed with respect to America's abiding belief in state's prerogative to justify the use of force. As he received the Nobel Peace Prize, Barack Obama acknowledged that "the instruments of war do have a role to play in preserving the peace."[123] State violence is revered while street violence is reviled, but the line dividing them blurs when you look closely.

1. Militarized Police

The most visible practitioners of state violence inside the United States today are police officers. Even before the increased focus on police violence following the police killing of Michael Brown in Ferguson, Missouri, images of police use of force—especially against Black people—have become normalized in the American psyche. And as the War on Drugs has escalated, local police forces have become militarized, receiving billions of dollars in tactical equipment ranging

120 Jen Christensen, *The FBI's Secret Memos Show an Agency Obsessed with "Neutraliz(ing)" MLK*, CNN (Nov. 14, 2014, 7:20 PM), http://www.cnn.com/2014/11/14/us/fbi-and-mlk [https://perma.cc/WSC3-SM9A].

121 *See id.*

122 *See* Martin Luther King, Jr., Beyond Vietnam (Apr. 4, 1967), https://kinginstitute.stanford.edu/king-papers/documents/beyond-vietnam [https://perma.cc/X8LD-ADJ5]; *Beyond Vietnam*, STAN. KING ENCYCLOPEDIA, https://kinginstitute.stanford.edu/encyclopedia/beyond-vietnam [https://perma.cc/6BSK-CY9A] (last visited Jan. 1, 2019).

123 Barack H. Obama, A Just and Lasting Peace (Dec. 10, 2009), http://www.nobelprize.org/nobel_prizes/peace/laureates/2009/obama-lecture_en.html [https://perma.cc/EVM3-744L].

from armored vehicles to helicopters.[124] Even President Obama acknowledged that equipping police with "militarized gear sometimes gives people a feeling like they are an occupying force as opposed to a part of the community there to protect them."[125] The omnipresence of militarized police in poor urban communities perpetuates violence in at least two important ways—one atmospheric; the other intentional. First, visible patrols of heavily armed police who frequently stop, frisk, and mistreat residents in the streets of urban communities instill a heightened sense of fear, danger, hopelessness, and victimization in those communities.[126] Once those young people "graduate" into some level of unlawful activity, law enforcement practices that coerce would-be low-level offenders into informing on their higher-ups, or turn one street gang against another, discourages dialogue and promotes cycles of retaliatory violence between feuding factions.[127]

Constant run-ins with law enforcement are endured by Black youth as a feature of everyday existence. Even high-income, well-educated Black people are subject to police harassment—"driving while black" is common parlance.[128] But for Black youth in marginalized low-

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124 For a comprehensive review of the militarization of the police, see AM. C.L. UNION, WAR COMES HOME: THE EXCESSIVE MILITARIZATION OF AMERICAN POLICE (2014), https://www.aclu.org/sites/default/files/field_document/jus14-warcomeshome-text-rel1.pdf [https://perma.cc/KC6C-MQC8].

125 David Nakamura & Wesley Lowery, *Obama Administration Bans Some Military-Style Assault Gear from Local Police Departments*, WASH. POST (May 18, 2015), https://www.washingtonpost.com/news/post-politics/wp/2015/05/18/obama-to-visit-camden-n-j-to-tout-community-policing-reforms [https://perma.cc/HL58-SQCB].

126 *See, e.g.*, BUTLER, *supra* note 28, at 96–97 (describing the psychological effects of stop-and-frisk).

127 For a book-length exploration of the dynamics of informant culture, see ALEXANDRA NATAPOFF, SNITCHING: CRIMINAL INFORMANTS AND THE EROSION OF AMERICAN JUSTICE (2009). Natapoff's work includes discussion on the cycles of violence that may be perpetuated by police use of informants. *Id.* at 39–43.

128 Frequently mentioned is the incident in which internationally famous Harvard Professor Henry Louis Gates, Jr. was arrested for disorderly conduct after being accused of attempting to break into his own home in Cambridge, Massachusetts. *See* Krissah Thompson, *Arrest of Harvard's Henry Louis Gates Jr. Was Avoidable, Report Says*, WASH. POST (June 30, 2010), http://www.washingtonpost.com/wp-dyn/content/article/2010/06/30/AR2010063001356.html [https://perma.cc/J6YW-6JKS]. For a moving video account of Black parents explaining to their sons the racial implications of their certain future encounters with police, see Geeta Gandbhir & Blair Foster, Opinion, *'A Conversation with My Black Son'*, N.Y. TIMES (Mar. 17, 2015), http://www.nytimes.com/2015/03/17/opinion/a-conversation-with-my-black-son.html?_r=0 [https://perma.cc/6H3U-62WF] (video embedded).

income neighborhoods, the everyday experience of police harassment can be emotionally devastating. Kami Chavis Simmons notes that police tactics like "stop and frisk" cannot be justified by the law enforcement goals they fail to achieve, and must instead be examined as something like a "racial tax" on non-Whites:

> Not only do police rarely find the weapons for which they purportedly have a "reasonable suspicion" to exist, but these police-citizen encounters inflict needless violence on law-abiding citizens who are merely going about their daily routine. The individuals who have been subjected to this policy live in constant fear that they will be stopped, harassed, and physically harmed by the very police officers who are responsible for protecting their communities.[129]

This banal police violence, whether experienced verbally or physically, causes children to distrust and even despise the police and the laws they supposedly enforce.[130] Additionally, members of heavily policed communities are subject to heightened feelings and expressions of aggression through what social psychologists call the "weapons effect."[131] The effect can only be heightened when the weapons being brandished are so numerous, powerful, and large as to overwhelm the

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129 Kami Chavis Simmons, *The Legacy of Stop and Frisk: Addressing the Vestiges of a Violent Police Culture*, 49 WAKE FOREST L. REV. 849, 850–51, 865 (2014).

130 *See id.* at 866–68 (discussing empirical findings of decreased perceptions of police legitimacy caused by aggressive tactics). For powerful interview footage of Black teenagers describing their interactions with the police, see *Swimming in Baltimore: How Poverty Works*, *supra* note 118. One girl describes her first encounter with the police that took place right on her front porch:

> Officer drives up and stops in front of my house. And we're sitting on the steps. It was me, a girl, and a guy. He . . . starts talking to the guy, like, what are you doing out here? It's past curfew. And you don't belong out here. And he lived right next door to me. So he's like, I'm home. I live right there. And I'm just like, he didn't even do anything. He's like, you need to shut up and go in that house. Y'all can go to jail. Y'all should not be out here, it's past curfew. So then he tries to, like, grab us, and like, come on, come on, y'all want to be smart. Get back in the paddywagon, get back in the paddywagon.

Id.

131 *See, e.g.*, Brad J. Bushman, *The Weapons Effect*, 167 JAMA PEDIATRICS 1094, 1094–95 (2013) (summarizing the literature on the weapons effect and how it applies to all age groups, including young children).

senses.[132] Compounding all of the conditions that conduce to cyclical violence described in the previous Section, the combination of the degradation experienced at police hands, the hopelessness to do anything about it, the omnipresence of deadly weapons, and the association of power with violence does not deter young people from committing acts of violence—it practically compels them to.[133]

In addition to the slow and steady erosion of young peoples' self-esteem, respect for the law, and control over aggressive impulses affected by the strong militarized police presence in many low-income urban communities, the police inspire violence through their involvement as a warring party in conflicts around illicit economic activity. As will be described below, street organizations operating illegal economies in drugs and other contraband exist in tension with one another, settling disputes through violence. In this atmosphere described as "low-level warfare" by Baltimore community activist, Dominque Stevenson, Director of the American Friends' Service Committee's Friend of a Friend Program, the police do not act as peacekeepers. Stevenson connects modern-day police tactics to the political subterfuge carried out against Black activist groups under the FBI's Counter Intelligence Program (COINTELPRO) in collusion with local police departments during the 1960s and 1970s:

> [T]he police have played a role in the spread of street organizations . . . . They use the same tactics with street organizations that they used with the movements—the Counter-Intelligence Program [COINTELPRO] moved . . . over here [under the guise of] law enforcement's war on drugs. They have *agents provocateurs* and informants in the street organizations, but they also turn *agents provocateurs* and informants with a charge—"Okay, we just got you with a kilo of dope, what' you gonna do?" And so what they do—and

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132 Former Black Panther and forty-four-year political prisoner Marshall "Eddie" Conway, who now works as a community organizer and journalist in Baltimore's Sandtown-Winchester neighborhood, described the current "Vietnam-type rage of the police, flying overhead in helicopters and so on." Interview with Eddie Conway, former Black Panther currently working for the Real News Network & Dominque Stevenson, American Friends Service Committee's Friend of a Friend Program (Apr. 14, 2016) (on file with author).

133 *See* Daryl Meeks, *Police Militarization in Urban Areas: The Obscure War Against the Underclass*, 35 BLACK SCHOLAR 33, 38–39 (2006) (describing the "oppositional culture" that forms in response to police tactics mirroring military occupation in non-White urban neighborhoods).

> they were even doing this back in the day against the [Black] Panthers—is to create hostilities from one group to another group, and in turn they would initiate some violence somewhere and blame it on this group. And that's the way they control.[134]

COINTELPRO represented a complex operation involving central control of local law enforcement activities by the FBI.[135] It frequently enlisted police officers and other government agents in acts of organized violence against their targets, like the well-known assassination of Black Panthers Fred Hampton and Mark Clark by Chicago police in 1969.[136] But today, police departments in the war on drugs can simply use the drug laws to coerce collaboration. A police department need not be corrupt, though some have certainly been exposed as such in the past,[137] to claim a stake in the continuation of the war on drugs and the violence frequently used to justify its aggressive policies. For one, "they need the violence—they need the overtime, and the presence, and the control."[138] Moreover, much of local revenue comes from seizures of the valuable fruits of the drug trade,[139] not to mention the fines and fees assessed upon people convicted of crimes.[140] So, regular police work in the war

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134 Interview with Eddie Conway & Dominque Stevenson, *supra* note 132.

135 For an insider's account of the FBI's war against the Black Panthers, see MARSHALL "EDDIE" CONWAY, THE GREATEST THREAT: THE BLACK PANTHER PARTY AND COINTELPRO (2009). For a collection of primary government documents related to the program, see *COINTELPRO*, FBI, https://vault.fbi.gov/cointel-pro [https://perma.cc/XCQ8-FF4T] (last visited Jan. 2, 2019).

136 For an exhaustive account of the assassination, see JEFFREY HAAS, THE ASSASSINATION OF FRED HAMPTON: HOW THE FBI AND THE CHICAGO POLICE MURDERED A BLACK PANTHER (2010).

137 The Marshall Project keeps an ongoing collection of links to stories about police corruption at *Police Corruption: A Curated Collection of Links*, MARSHALL PROJECT, https://www.themarshallproject.org/records/2528-police-corruption [https://perma.cc/X3NU-3UCN]; *see also* sources cited *supra* notes 7–9 and accompanying text for one particularly strong example from Baltimore.

138 Interview with Eddie Conway & Dominque Stevenson, *supra* note 132.

139 *See, e.g.*, Radley Balko, *The Drug War's Profit Motive*, WASH. POST (Feb. 17, 2014), https://www.washingtonpost.com/news/the-watch/wp/2014/02/17/the-drug-wars-profit-motive [https://perma.cc/B4W2-RGNY].

140 For a good account of the payments exacted from prison inmates, see Lauren-Brooke Eisen, *Paying for Your Time: How Charging Inmates Fees Behind Bars May Violate the Excessive Fines Clause*, 15 LOY. J. PUB. INT. L. 319, 319–20 (2014). For an account of the fees charged to probationers, see HUMAN RIGHTS WATCH, PROFITING FROM PROBATION: AMERICA'S "OFFENDER-FUNDED" PROBATION INDUSTRY (Feb. 2014), https://www.hrw.org/sites/default/files/reports/us0214_ForUpload_0.pdf [https://perma.cc/D224-28DF]. Publicly administered

on drugs generates violence itself—police officers talking to kids on the street will raise suspicions of snitching, a police raid will confirm those suspicions in someone's mind, which will, in turn, generate violent reprisals, and so on. But police could not keep this cycle going by themselves.

2. Street Gangs[141]

An estimated 33,000 gangs exist in the United States with a membership of approximately 1.4 million.[142] Street gangs have long been considered a major purveyor of violence in urban communities, with the FBI finding gangs responsible for an average of 48% of violent crime in most jurisdictions.[143] Poverty-stricken communities are perfect breeding grounds for street gangs. Within the dynamics of poverty are the ingredients that compel youth to join gangs. Two of those elements are "poor judgment" and a "heightened sense of danger" as typically seen in people who have PTSD.[144] A "heightened sense of danger" is a powerful force that attracts people to gangs where they find a sense of security.

Since the ranks of street organizations primarily consist of youth and members who entered the organization as a youth, it is important to consider the culpability of youthful members of street organizations when devising effective strategies to confront their proliferation.

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probation programs also exact fines and fees from probationers. *See* Fiona Doherty, *Obey All Laws and Be Good: Probation and the Meaning of Recidivism*, 104 GEO. L.J. 291, 314 (2016).

141 The terms "street organization," "street gang," and "gang" are used interchangeably throughout this Article. Much of the material in this Subsection is derived from the personal knowledge and experience of Craig Muhammad.

142 *See* FBI, 2011 NATIONAL GANG THREAT ASSESSMENT: EMERGING TRENDS (2011). https://www.fbi.gov/stats-services/publications/2011-national-gang-threat-assessment [https://perma.cc/X678-GLWP] [hereinafter FBI NATIONAL GANG THREAT ASSESSMENT].

143 *See id.*

144 *See supra* notes 104–05 and accompanying text.

The Supreme Court decisions in *Roper v. Simmons*,[145] *Graham v. Florida*,[146] and *Miller v. Alabama*[147] highlight the significance of taking into account a youth's "lessened culpability" and "greater capacity for change" for sentencing purposes. The Court stated in *Roper* and *Graham* that "juveniles have diminished culpability and greater prospects for reform."[148] The Court relied on studies from social scientists and psychologists citing the lack of maturity, underdeveloped sense of responsibility, vulnerability to negative influences, peer pressure, and a youth's limited control over his environment as factors that diminished culpability for decisions juveniles make, however tragic the decision may be. The Supreme Court's position reflects a possible thawing of the status quo approach to dealing with serious social issues primarily through the criminal justice system. Approaching gang activity, as well as violence, exclusively from a law and order perspective is indicative of the futile attempt to legislate and incarcerate gang activity and violence into an abyss. Over the years, legislatures across the country have enacted harsher laws aimed at curtailing gang activity by incarcerating violent offenders for longer periods of time and expanding the use of life sentences.[149] In Maryland, the Gang Prosecution Act of 2007 and the Safe Schools Act of 2010 are just the tip of the iceberg of legislation aimed at gangs.[150]

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145 543 U.S. 551 (2005).

146 560 U.S. 48 (2010).

147 567 U.S. 460 (2012).

148 *See id.* at 471 (discussing the Court's commentary in *Roper* and *Graham*).

149 *See* THE SENTENCING PROJECT, LIFE GOES ON: THE HISTORIC RISE OF LIFE SENTENCES IN AMERICA (2013), https://www.sentencingproject.org/publications/life-goes-on-the-historic-rise-in-life-sentences-in-america [https://perma.cc/UU33-CALS].

150 *See* MD. CODE ANN., EDUC. § 7-424.2 (West 2018); MD. CODE ANN., CRIM. LAW § 6-301 (West 2018); MD. CODE ANN., CRIM. LAW §§ 9-801–806 (West 2018); MD. CODE ANN., CORR. SERVS. § 6-112 (West 2018).

In spite of these legal prohibitions, gangs in Maryland, particularly in Baltimore City, are increasing in number. In 2008, 1,800 gang members were identified in Baltimore City.[151] Nationally, gang membership increased 40% between 2009 and 2011.[152] Street organizations have de facto control over large areas in Baltimore's inner-city. That does not mean they control every vein of illegal activity and are responsible for every act of violence that occurs. However, because of their organizing savvy and influence, they hold tremendous sway in the streets they call "hoods" and "regimes." Their presence is a contributing factor to a social dilemma that is destroying lives and communities. In 2016, Baltimore ranked number 19 on a list of the 100 most dangerous cities in the United States.[153] In 2015, it was home to two of the top ten most dangerous neighborhoods in the country, one of which ranked number one.[154] Whereas a person has a 1 in 49 chance of becoming a victim of violent crime in Baltimore;[155] in the city's (and country's) most dangerous neighborhood, that probability goes up to 1 in 11.[156]

Street organizations are responsible for a significant amount of violence that transpires in inner city neighborhoods. In Baltimore City there are

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151 *See* MD. DEP'T OF LEGISLATIVE SERVICES, CRIMINAL GANGS IN MARYLAND 9 (2009), http://dls.maryland.gov/pubs/prod/CourtCrimCivil/Gangs.pdf [https://perma.cc/R6G2-XCEU].

152 *See* FBI NATIONAL GANG THREAT ASSESSMENT, *supra* note 142, at 11.

153 *NeighborhoodScout's Most Dangerous Cities – 2016*, NEIGHBORHOODSCOUT (Jan. 1, 2016), https://www.neighborhoodscout.com/blog/top100dangerous-2016 [https://perma.cc/R83T-R9M2].

154 *NeighborhoodScout's Most Dangerous Neighborhoods – 2015*, NEIGHBORHOODSCOUT (Jan 1, 2015), https://www.neighborhoodscout.com/blog/25-most-dangerous-neighborhoods-2015 [https://perma.cc/7EP7-QF5J]. The most dangerous neighborhood was in the Harlem Park area of Baltimore, discussed *supra* Section I.A.1, with a violent crime rate of 93.79 per 1,000 neighborhood residents. *Id.*

155 *Baltimore, MD: Crime Rates*, NEIGHBORHOODSCOUT, https://www.neighborhoodscout.com/md/baltimore/crime (last visited Jan. 21, 2019).

156 *NeighborhoodScout's Most Dangerous Neighborhoods – 2015*, *supra* note 154.

approximately 170 gangs.[157] More astonishing, though, is the number of gang members who are incarcerated in Maryland prisons.[158] In the Maryland prison system, the most prominent gangs are Bloods, Crips, the Black Guerilla Family (BGF), Dead Man Incorporated (DMI), and Murder Incorporated.[159] There are also elements of the Aryan Brotherhood present. With the exception of Bloods and Crips, they are organized in a vertical chain-of-command structure. Bloods and Crips operate from a horizontal chain-of-command structure because those organizations consist of loosely interlaced sets.[160] Gangs such as Bloods and Crips are also aligned with other street organizations such as P. Stones and Hoovers, respectively. It is often difficult to distinguish a Crip from a Hoover or a Blood from a P. Stone because they "stack" almost identically and often fly the same colors.

In prison, gang membership may actually be a risk-averse strategy to integrate into prison society and seek protection from harm that prison officials may not provide to inmates.[161] But in the streets, it is much more difficult to establish an equilibrium. Reflecting on the greater potential for gang violence outside of prison walls, Eddie Conway noted, "the challenges are enormous because you don't have a closed society. And so anybody at any time can challenge control for territories. You don't even have a way of knowing who the players are from day to day."[162]

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157 *See Gangs 'Testing' Carroll County*, WASH. EXAMINER (Mar. 2, 2007, 12:00 AM), https://www.washingtonexaminer.com/gangs-testing-carroll-county [https://perma.cc/2FPN-R8PF].

158 In this paragraph and throughout this Article, much of the information on gang activity in Maryland prisons is based directly on Craig Muhammad's experience of having spent the past thirty-six years incarcerated in Maryland prisons and working extensively with current and former gang members to understand and interrupt cycles of violence.

159 MD. DEP'T OF LEGISLATIVE SERVICES, *supra* note 151, at 3.

160 *See* HERBERT C. COVEY, CRIPS AND BLOODS: A GUIDE TO AN AMERICAN SUBCULTURE 37–39 (2015).

161 For a book-length examination of how gangs may actually provide more order than chaos in penal institutions, see DAVID SKARBEK, THE SOCIAL ORDER OF THE UNDERWORLD: HOW PRISON GANGS GOVERN THE AMERICAN PENAL SYSTEM (2014).

162 Interview with Eddie Conway & Dominque Stevenson, *supra* note 132.

Still, the criminal activity of some gang members in the streets and prisons does not mean that all members of street organizations are involved in illicit activity. That is certainly not the case. Nevertheless, the task of counteracting the magnetism of street gangs becomes complicated when it is promoted by gang affiliated celebrities like Lil Wayne. In "I'm Blooded," Lil Wayne says, "I got Bloods on stage, Bloods at my shows. Fuck with my Bloods got blood on your clothes. And I'm Blooded."[163] In light of these complexities, progress is being made every time a member of a street organization drops his flag and reintegrates back into the community.

The prison setting can provide a powerful set of motivational factors to induce young gang members to drop their flags, and we will discuss one prison activist network seeking to capitalize on that opportunity in Part II. But unfortunately, as we will now discuss, prison policies often serve to enable and encourage the solidification of gang ties behind bars and leave prisoners with little opportunity to build skills and networks outside of gangs to facilitate their reintegration into society upon release.

3. Prisons and Jails: Strengthening Gangs, Spreading Violence[164]

More than a century ago, the influential Russian anarcho-communist Peter Kropotkin famously called prisons "universities of crime" where "the prison education is directed precisely towards killing every manifestation of will."[165] (Incidentally, another famous Russian, Vladimir I. Lenin, "liked to think of prison as a university for

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163 LIL WAYNE, *I'm Blooded*, *on* DA DROUGHT 3 (Young Money 2007) (unofficial transcript available at http://genius.com/Lil-wayne-im-blooded-lyrics).

164 Like the previous Subsection, this discussion draws heavily on the personal knowledge and experience of Craig Muhammad.

165 Peter Kropotkin, *Prisons: Universities of Crime*, *in* ANARCHY!: AN ANTHOLOGY OF EMMA GOLDMAN'S MOTHER EARTH 274, 276 (Peter Glassgold ed., 2012).

revolutionaries"[166]—a prospect we will consider in Part II). The routine dehumanization, degradation, monotony, and barely-compensated labor that characterize prison life seek to indoctrinate obedience, but ultimately push prisoners further into the margins of society. "What can remain of a man's will and good intentions after five or six years of such an education?" Kropotkin asks,

> And where can he go after his release, unless he returns to the very same chums whose company has brought him to the jail? They are the only ones who will receive him as an equal. But when he joins them he is sure to return to the prison in a very few months. And so he does. The jailers know it well.[167]

This statement is just as true today with respect to American prisons and the prevalence of gangs as social organizations therein. We have discussed how gangs in competition with one another over illegal economic activity perpetuate violence, but that picture would not be complete without a discussion of the role that prisons themselves, and the policies by which they are administered, contribute to the gangs' recruitment and retention of young offenders. Today, if not "universities of crime," prisons are initiation centers for gangs. We will now identify some of the ways in which prisons perversely perpetuate cycles of gang violence, turning our sights once again to the experience in Maryland prisons.

Prison-focused gang policies have their roots in the Clinton-era crime bills. The 1994 Violent Crime Control and Law Enforcement Act[168] first made gang membership a federal crime.[169] The Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA) [170] also included measures directed against gangs in and out of prisons. In the wake of the omnibus crime bills, funding for gang intelligence programs increased. Gang intervention activity employing those funds in prisons across the United States is primarily aimed at gang suppression

166 Michael Hardt, *Prison Time*, 91 YALE FRENCH STUD. 64, 64 (1997).

167 Kropotkin, *supra* note 165, at 276.

168 Pub. L. No. 103-322, 108 Stat. 1796 (1994).

169 *See* 18 U.S.C. § 521 (2018).

170 Pub. L. No. 104-132, 110 Stat. 1214 (1996).

efforts that do little to reduce gang activity.[171] Gang suppression consists of identifying or "validating" gang members, assigning them a "Security Threat Group" status, and attempting to force them to renounce gang membership.[172] Coercive tactics include placing them in solitary confinement; restricting or prohibiting recreation, visits, phone access, program participation, and employment privileges; and transferring gang leaders to more secure facilities, if necessary. As we will now show, such an approach is antiquated, ineffective, and yields few results in reducing gang membership.

a. "Controlling" Gangs as Security Threat Groups

The concept of "Security Threat Group" (STG) originated in the Department of Homeland Security (DHS). The STG system is modeled after the DHS National Gang Unit's international database, known as ICEGangs, used by various law enforcement agencies to track gang members.[173] The database is partly used to identify and track gangs in the U.S. prison system.[174]

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171 *See* CHARLES M. KATZ & VINCENT L. WEBB, POLICING GANGS IN AMERICA 269 (2006) ("We concluded that the police agencies were often not well-positioned to respond efficiently or effectively to their gang problems with their gang units. Once the gang units had been created, abundantly staffed, and given ample resources, their autonomous organizational structures and operational strategies rapidly became entrenched within the agencies.").

172 Several states and/or prisoner advocates in those states have posted information on the validation process used in their prisons. *See, e.g.*, Memorandum from Prison Law Office on Security Threat Group (Gang) Validation, Placement, and Debriefing (Jan. 2018), http://prisonlaw.com/wp-content/uploads/2018/01/GangLetterJan-2018.pdf [https://perma.cc/X32D-JS33] (describing California's STG system); *Security Treat Group FAQs*, ARIZ. DEP'T CORRECTIONS, https://corrections.az.gov/public-resources/inspector-general/security-threat-group-unit/security-threat-group-faqs [https://perma.cc/73Y5-RHM2] (last visited Mar. 1, 2019); MONT. DEP'T OF CORR., POLICY DIRECTIVE: SECURITY THREAT GROUP AND STREET GANG IDENTIFICATION AND MANAGEMENT, https://cor.mt.gov/Portals/104/Resources/Policy/Chapter3/3.1.24.pdf [https://perma.cc/DF7L-TCB7] (last updated Jan. 2, 2013).

173 An agency document describes the database as "a web-based system utilized by the U.S. Immigration and Customs Enforcement (ICE) National Gang Unit to record, track, and analyze information on gangs, gang activities, and suspected or confirmed gang members, and their associates." U.S. DEP'T OF HOMELAND SEC., REQUEST FOR RECORDS DISPOSITION AUTHORITY (July 23, 2010), https://www.archives.gov/files/records-mgmt/rcs/schedules/departments/department-of-homeland-security/rg-0567/n1-567-10-007_sf115.pdf [https://

DHS, of course, was created in the wake of the September 11th terror attacks as the domestic agency charged with fighting the so-called War on Terror.[175] But the role of DHS expanded to include fighting street gangs, as transnational gangs became more sophisticated, mounting concern that gangs, in general, could threaten national security if they formed an alliance with international terrorist organizations.[176] For years, there have also been increasing calls to define street gangs as domestic terrorist organizations in accordance with the domestic terrorism statute[177] and the USA PATRIOT Act.[178] Those concerns may be politically motivated, since the racially coded label

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perma.cc/2SC8-5D7Y]. For information on the history and objectives of the National Gang Unit, see generally *National Gang Unit*, U.S. IMMIGR. & CUSTOMS ENFORCEMENT, https://www.ice.gov/national-gang-unit [https://perma.cc/G7KF-2E7X] (last visited Jan. 3, 2019).

174 U.S. DEP'T OF HOMELAND SEC., PRIVACY IMPACT ASSESSMENT FOR THE ICEGANGS DATABASE 5 (2010), http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_ice_icegangs.pdf [https://perma.cc/UGL2-FT6H] [hereinafter ICEGANGS PRIVACY IMPACT ASSESSMENT] ("ICE agents and support personnel also collect information from prisons about gang members in their populations on an ad hoc basis.").

175 For a conventional account of the founding mission of the DHS, see Rick "Ozzie" Nelson, *Homeland Security at a Crossroads: Evolving DHS to Meet the Next Generation of Threats*, CTR. STRATEGIC & INT'L STUD. (Feb. 1, 2013), https://www.csis.org/analysis/homeland-security-crossroads-evolving-dhs-meet-next-generation-threats [https://perma.cc/3W9N-GT57].

176 *See* FBI NATIONAL GANG THREAT ASSESSMENT, *supra* note 142.

> Gang members' vulnerability to radicalization and recruitment for involvement in international or domestic terrorism organizations is a growing concern to law enforcement. Gang members' perceptions of disenfranchisement from or rejection of mainstream society and resentment towards authority makes them more susceptible to joining such groups and can be attractive and easy targets for radicalization by extremist groups.

Id.

177 18 U.S.C. § 2331 (2018).

178 Pub. L. No. 107-56, 115 Stat. 272 (2001). Federal law defines domestic terrorism, in part, as:

> activities that[] involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; appear to be intended[] to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or kidnapping.

18 U.S.C. § 2331(5) (2018).

of "super predator" has already been used to define young Black and Brown men in urban communities.[179] Nevertheless, they continue to be raised.[180] For example, in 2017, then–Attorney General Jefferson Beauregard Sessions, III, called for labeling the notorious MS-13 gang a terrorist group.[181]

Meanwhile, the DHS National Gang Unit and the FBI's National Gang Intelligence Center are intricately linked with law enforcement and prison intelligence units at the local, state, and federal levels.[182] The partnership between these agencies was displayed to the public in March 2016 when DHS launched Project Shadowfire. Under Project Shadowfire, 1,100 suspected gang members were arrested, including some who were already in prison.[183]

In Maryland, prison authorities classify gangs as STGs, and their members as belonging to an STG. Prisoners who are not actual gang members but are considered to have close ties to gangs are often classified as being an associate of an STG. In 2008, there were 2,937 prisoners classified under STG status.[184] In total, Maryland's twenty-four prisons and pre-release centers housed approximately 22,100 prisoners, indicating that over 10% of all prisoners are classified as gang-affiliated. At the medium-

179 *See* sources cited *supra* note 25 and accompanying text.

180 The specter of Mexican drug cartels teaming up with Islamic terrorist organizations is the most popular form of the gangs-as-domestic-terrorists label today. *See, e.g.*, Greg Sargent, *Tom Cotton: Terrorists Collaborating with Mexican Drug Cartels to Infiltrate Arkansas*, WASH. POST (Oct. 7, 2014), https://www.washingtonpost.com/blogs/plum-line/wp/2014/10/07/tom-cotton-terrorists-collaborating-with-mexican-drug-cartels-to-infiltrate-arkansas [https://perma.cc/K4LE-TAJV].

181 Cristiano Lima, *Sessions: MS-13 Gang Could Be Labeled a Terrorist Organization*, POLITICO (Apr. 18, 2017, 10:34 PM), http://www.politico.com/story/2017/04/sessions-salvador-gang-terrorists-237345 [https://perma.cc/R8BM-4P7Q].

182 *See* ICEGANGS PRIVACY IMPACT ASSESSMENT, *supra* note 174, at 2 ("ICEGangs facilitates the sharing of gang information between ICE and other law enforcement agencies.").

183 Press Release, ICE, ICE Arrests More than 1,100 in Operation Targeting Gangs (Mar. 28, 2016), https://www.ice.gov/news/releases/ice-arrests-more-1100-operation-targeting-gangs [https://perma.cc/WAE6-FUAE].

184 DEP'T OF LEGISLATIVE SERVS, *supra* note 151, at 2. Two thousand four hundred twenty-three were validated gang members and 514 were validated associates. *Id.* at 3.

security JCI situated just a few miles from Baltimore, an estimated 400 of approximately 1,900 inmates are involved in gang activity—more than 20% of its population. Yet of the over $70 million set aside for JCI,[185] very little money was directed toward positive programs aimed at gang prevention or intervention. Instead, gang intelligence units expend resources on the "validation" of gang members in attempts to suppress gang activities behind bars.

b. The Gang Validation Process

The definition of a Security Threat Group varies from state to state. Local law enforcement agencies also have varying criteria to define a gang member. For example, the Maryland Department of Public Safety and Correctional Services' Intelligence Unit validates a person as belonging to an STG if the prisoner scores at least 10 points on a validation worksheet. The criteria include, but are not limited to, personal admission of gang affiliation (8 points); possession of gang symbols or logos (4 points); tattoos (6 points); possession of gang documentation (2 points); law enforcement intelligence (8 points); and information developed through an investigation and/or surveillance (6 points).[186] The complete STG validation policy and procedures are security sensitive and confidential. Therefore, the entire investigation process is unknown to prisoners and general prison staff. What is indisputable is that the process of validating gang members lacks oversight. Consequently, not only are many prisoners unjustly flagged, but the process of having the STG flag removed is incredibly difficult. It

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185 MD. DEP'T PUB. SAFETY & CORRECTIONAL SERVICES, http://msa.maryland.gov/msa/mdmanual/22dpscs/html/dpscs.html [https://perma.cc/K6QU-RJF4] (last visited Feb. 1, 2019).

186 *See, e.g.*, OKLA. DEP'T OF CORR., SECURITY THREAT GROUP (STG) VALIDATION FORM, http://doc.ok.gov/Websites/doc/Images/Documents/Policy/040119aa.pdf [https://perma.cc/7HX4-Y7LR] (last visited Feb. 1, 2019).

is also worth noting that a sizeable number of gang-affiliated prisoners elude validation.

c. Renouncing Gang Membership and Removal from STG Status

A substantial number of prisoners who are STG-flagged are never informed beforehand of the label. Usually, a prisoner will discover the flag when certain privileges are suddenly restricted, an unfavorable parole decision has been rendered, or classification to a lesser security level has been denied based on the prisoner's status as an STG member.[187] Once a prisoner has been tagged, the label will follow him into the community as parole officials and local law enforcement are notified of the STG member's release. If the ex-offender cannot have the STG status lifted, it will follow him for the rest of his life.[188]

The investigative process to have a Security Threat Group tag removed is shrouded in as much secrecy as the process of designating a prisoner as a STG. What is known for sure is that the prisoner in question must divulge information about gang activity, which most prisoners are reluctant to do. Behavior consistent with the STG validation worksheet must also be avoided. Even when an STG member conforms to the letter of expectation in order to have the label removed, the process can still take years—if it is removed at all. Therefore, some prisoners who find themselves tagged under STG status seek redress in court. Even when courts are reluctant to rule in favor of the plaintiff—which is most of the time—a civil complaint challenging the STG flag can sometimes compel prison authorities to lift the flag before the final stage of litigation. It is suspected that this is done in order to avoid the

187 *See* Ali Winston, *You May Be in California's Gang Database and Not Even Know It*, REVEAL (Mar. 23, 2016), https://www.revealnews.org/article/you-may-be-in-californias-gang-database-and-not-even-know-it [https://perma.cc/2BBJ-PTW3].

188 This discussion is based largely on Craig Muhammad's experience working with current and former gang members in Maryland prisons.

possibility of the courts setting a precedent that will limit the unbridled authority of gang intelligence units in the prison system. A classic example of how redress in the courts can compel gang intelligence officials to lift a prisoner's STG status is *Tibbs v. Hershberger*.[189] Although the court dismissed Tibbs's civil action by awarding summary judgment to the respondent, gang intelligence still removed the flag. Nevertheless, the majority of prisoners who meet resistance to having a flag removed do not possess the legal know-how to file a civil complaint. Over 90% of prisoners who seek judicial redress file pro se complaints.[190] In addition the process is lengthy and costly.

d. Membership Retention in the Shadow of the STG

Since the majority of incarcerated gang members will return to their communities, any sensible approach to reducing the gang threat must start behind prison walls. But the punitive suppression-focused approach taken by STG classification helps keep people in gangs. While there is no documented evidence that prison authorities seek this perverse outcome, the reality is that gangs in an institutional setting can often benefit corrections officers who would prefer to have inmates looking at each other with animosity instead of looking at them.[191] The irony is that gangs keep prisoners divided and at odds with each other instead of uniting to advocate for their shared interests. Hence, a certain amount of gang violence is tolerated.[192] Gang activity also guarantees funding for gang intelligence units whose funding is contingent on the ebb and flow of gang engagement. In addition, gang suppression in the prison context is counterproductive

189 2014 WL 3956308 (D. Md. Aug. 8, 2014).

190 Hon. Jerome B. Simandle, *Enhancing Access to ADR for Unrepresented Litigants*, DISP. RESOL. MAG., Spring 2016, at 6, 7 & n.1, https://www.americanbar.org/content/dam/aba/publications/dispute_resolution_magazine/spring2016/3_simandle_Enhancing_access.pdf [https://perma.cc/9SNK-K5LN].

191 CHRISTIAN PARENTI, LOCKDOWN AMERICA: POLICE AND PRISONS IN THE AGE OF CRISIS (2000).

192 *Id.*

because it strengthens a gang member's resolve to gangbang.

Consequently, most gang members spend their time in prison attracted to the underworld, which is a microcosm of the social world in which they grew up. In almost every major prison in the state of Maryland, gangs control conveniences such as phones, showers, and even recreation space where they map out their territory. Many gang members are also involved in the contraband trade and extortion. That is evident by a 2014 scandal that took place at the Baltimore City Detention Center. When the scandal surfaced, it was revealed that Tavon White, a member of the Black Guerilla Family, made thousands of dollars in drug sales and impregnated several female officers.[193]

Although punishment must be considered when prison rules are broken, treating gang members differently from general population prisoners is counterproductive because it strengthens a gang member's resolve to remain in the gang and reinforces recidivism by returning the gang member to a community ill-equipped to survive independent of the gang. A biased corrections approach is no more successful than the anti-gang policing tactics of the former Community Resources Against Street Hoodlums (CRASH) Unit of the Los Angeles Police Department (LAPD) that operated out of the LAPD's infamous Rampart Division. CRASH officers took gang suppression to a dastardly and sinister level by engaging in assassinations of gang members, drug trafficking, undermining gang truces, and racketeering.[194] The cooperation of Rafael Perez, a former CRASH officer, implicated thirty officers in the

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193 Betsy Kulman & Adam May, *The Baltimore Jail that Was Run by a Gang*, AL JAZEERA AM., http://america.aljazeera.com/watch/shows/america-tonight/articles/2015/4/23/baltimore-jail-gang.html [https://perma.cc/NRV3-ZNX5] (last updated July 30, 2015, 7:16 PM).

194 For an in-depth account of the "Rampart Scandal," see Peter J. Boyer, *Bad Cops*, NEW YORKER (May 21, 2001), http://www.newyorker.com/magazine/2001/05/21/bad-cops [https://perma.cc/7MX5-BP62].

scandal that tainted so many criminal cases that scores of convictions had to be overturned.[195]

An effective anti-gang measure must empower the gang member to renounce his affiliation. Renunciation can only be achieved if a gang member realizes there are reasonable alternatives. And since too many corrections departments adopt an anti-gang model based on retribution and punishment instead of rehabilitation and integration of the offender back into the community, alternative options seem to be off the table. With limited options, gang members have few alternatives to escape the only way of life they know and to avoid working themselves back into the system, causing the cycles of violence associated with the prevalence of street organizations to continue.

Despite the growing membership numbers discussed above, gangs are not deeply entrenched in Maryland prisons compared to other states. Prior to the mid-1990s they were almost non-existent as organized entities. Since gang proliferation in Maryland prisons has not reached the scale that haunts corrections officials in other jurisdictions like California, the gang problem can be contained, and an effective gang reduction system can be implemented if the proper resources can be secured.

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Discussing the root causes and institutional perpetuators of urban violence in American cities serves to humanize the exponents of both sides of the argument over what is undoubtedly a serious social problem facing our society today, and one we will need to contend with—a problem that must be addressed as we embark on a sustained project of decarceration. Generations of liberal reformers have accepted the premise that people—even people convicted of violent crimes—are products of their environments, and that prevention is the best approach to controlling violent and other anti-social behaviors.[196] But

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195 *Id.*

196 *See, e.g.*, 9 JEREMY BENTHAM, CONSTITUTIONAL CODE (1830). Professor Allegra McLeod discusses Bentham's project itself and the unrealized potential of non-police crime-prevention

by and large the liberal consensus on criminal justice reform has failed to follow that premise to its logical conclusion, accepting the continued existence of punitive imprisonment—even for life—as a justifiable public safety measure.[197]

Our goal with the preceding Part was to highlight the cognitive dissonance inherent in attempting to fight street violence with sanctioned violence carried out by police and prisons. We sought instead to prevent street violence by repairing structural violence—carried out by poverty, neglect, and racism. We brought together two disparate perspectives on the root and intermediate causes of violence to highlight the view on violence from inside prison walls with the objective of giving meaning to violence prevention. And now we move in the next Part to give substance to violence prevention by highlighting some of the non-police work being done in that space.

II. STOPPING VIOLENCE

Different theories of violence yield different approaches to stopping it. As discussed in the previous Part, the dominant mode of understanding American street violence is based on an individualized condemnation of violent offenders. Hyper-aggressive policing and the establishment of police control over violent areas do not effectively reduce violence.[198] They may even have the effect of perpetuating cycles of violence in impoverished communities as police become another warring party in a conflict zone. For this reason we limit our discussion

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policies in nineteenth century Great Britain. *See* Allegra M. McLeod, *Prison Abolition and Grounded Justice*, 62 UCLA L. REV. 1156, 1220–23 (2015).

197 *See* McLeod, *supra* note 196, at 1160 & nn. 14–15 (citing other sources).

> [D]espite persistent and increasing recognition of the problems that attend incarceration and punitive policing in the United States, criminal law and criminological scholarship almost uniformly stop short of considering how the professed goals of the criminal law . . . might be approached by means entirely apart from criminal law enforcement. Abandoning carceral punishment and punitive policing remains generally unfathomable.

Id.

198 For a compilation of research into the outcomes of aggressive policing tactics, see *Aggressive Policing Strategies*, ONT. MINISTRY CHILD., COMMUNITY & SOC. SERVICES, http://www.children.gov.on.ca/htdocs/English/professionals/oyap/roots/volume5/preventing02_policy_strategiesi.aspx [https://perma.cc/5BM8-QEFW] (last visited Mar. 1, 2019).

of stopping violence to reformist projects that share recognition of the unsustainability of the status quo and seek to implement alternatives to policing that may succeed where the punitive model has failed.

Having measurable success in reducing violent crime is contingent on the approach used. A successful approach must see violence in inner cities as a symptom of underlying issues and incorporate solutions geared towards reforming the perpetrator, interrupting violent acts before they occur, and directing resources toward eliminating the conditions that breed violence.

Thus, in this Part, we describe two distinct but related reformist explanations of urban violence and the violence-reduction strategies associated with each. We begin with the public health model of understanding and combatting violence as an epidemic. This decidedly non-police approach frames violence as a communicable disease that must be cured, combining the epidemiological expertise of medical professionals and public health officials with the violence-interrupting potential of street-credible community mediators. Then we will examine grassroots community-based anti-violence initiatives. Under the latter approach, stopping violence is understood as a political task to be undertaken by the affected communities themselves with state and institutional actors playing little to no role. This discussion will focus in particular on anti-violence projects based inside prisons that seek to stem cycles of violence and empower communities devastated by mass incarceration by bridging the gap between prisoners and the communities to which they will eventually return. After describing these alternatives to police-based violence control, we will analyze their meaning and potential within the context of broader criminal and racial justice reform movements.

A. *Public Health Intervention*

"It has been said for a long time that violence begets violence, but it is *just as tuberculosis begets tuberculosis, or flu begets flu, that violence begets violence*."

—Gary Slutkin[199]

To treat violence as an epidemic akin to a communicable disease shifts the paradigm by which governments interact with communities and by which laws are made and enforced. For years, this paradigm shift has already been underway in the fields of public health and epidemiology. It has taken concrete form in cities across the United States and around the world in collaborations between scientists and community leaders, often funded and supervised by municipal health departments.[200] This Section describes the public-health understanding of violence as epidemic and describes a few of the programs through which it has been instrumentalized in high-violence areas.

1. Understanding Violence as a Disease

"[B]efore discovering what was causing epidemics of leprosy, plague, tuberculosis, cholera, and other infectious diseases, we frequently treated the people affected as 'bad people'; we blamed them for the problem, and in particular lamented their moral character."[201]

Advances in the fields of social psychology, brain science, and infectious disease epidemiology have shed new light on outbreaks of urban violence and have offered new pathways toward reducing it. Even the World Health Organization (WHO) has identified violence as a public health problem.[202] Essentially, the public health model seeks to

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199 Gary Slutkin, *Violence Is a Contagious Disease*, *in* CONTAGION OF VIOLENCE: WORKSHOP SUMMARY 104 (2013) (emphasis in original).

200 For a list of programs implementing the Cure Violence model, see *Impact of Cure Violence in Multiple Regions*, CURE VIOLENCE, http://cureviolence.org/results/impactworldregions [https://perma.cc/4K2C-QTVM] (last visited Mar. 2, 2019).

201 Slutkin, *supra* note 199, at 94.

202 *See generally* WORLD HEALTH ORG., WORLD REPORT ON VIOLENCE AND HEALTH (Etienne G. Krug et al. eds., 2002), http://apps.who.int/iris/bitstream/handle/10665/42495/9241545615_eng.pdf;jsessionid=CF3A0E357F10BE9E0754E679858904C0?sequence=1 [https://perma.cc/AB9P-R67Z]. Other mainstream global organizations have also recognized

define violence as a disease. A disease is "an impairment of the normal state of the living animal or plant body or one of its parts that interrupts or modifies the performance of the vital functions, is typically manifested by distinguishing signs and symptoms, and is a response to environmental factors . . . ."[203] And the WHO defines violence as "[t]he intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group of community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation."[204] Paraphrasing the public-health view of violence, epidemiologist Gary Slutkin ties the two concepts together:

> [T]he characteristic signs and symptoms of violence are the behavioral actions that cause or attempt to cause physical injury to another person or to one's self, and that these constitute a disease. I would add that anyone who has suffered physical injury as a result of violence, and in some cases been traumatically threatened, may also be considered infected, or diseased. In other words I am suggesting that both what is called perpetrator and what is called victim in the current literature be considered as *violence infected* or having the violence disease.[205]

Slutkin, who worked for the WHO for several years combatting disease epidemics in Africa,[206] has instrumentalized the public-health view in the form of Cure Violence, an organization seeking to implement and promote community-based violence interruption programs in high-risk

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the value of the public-health view of violence. For the World Bank's adoption of the public-health approach, see Mark L. Rosenberg et al., *Interpersonal Violence*, *in* DISEASE CONTROL PRIORITIES IN DEVELOPING COUNTRIES 755, 755 (2d ed. 2006) ("Although criminal justice systems have traditionally focused on capturing perpetrators of violence and punishing them for their actions (typically through incarceration), the public health system attempts to prevent violence from occurring and concentrates on identifying ways to keep people from committing acts of violence.").

203 *Disease*, MERRIAM-WEBSTER MED. DICTIONARY, http://www.merriam-webster.com/medical/disease [https://perma.cc/G7SF-XH7W] (last visited Jan. 3, 2019).

204 WORLD HEALTH ORG., *supra* note 202, at 5.

205 Slutkin, *supra* note 199, at 105 (emphasis in original).

206 *Gary Slutkin, MD*, CURE VIOLENCE, http://cureviolence.org/post/staff/gary-slutkin [https://perma.cc/GJK3-4X3H] (last visited Jan. 3, 2019).

areas.[207] But before turning to the work of Cure Violence and other public-health anti-violence programs, we will look more closely at the diagnostic side of the public-health model to more thoroughly describe violence-as-epidemic.

The public-health view of violence is based on scientific studies observing the characteristics of contagious diseases as experienced by both entire populations and individuals in patterns of violence. Most importantly, violence has been shown to be transmittable from person to person, allowing it to spread through an entire community. Just as a person infected with a disease experiences the same symptoms as the person who transmitted the infection, "people who are exposed to violence—either by observing, witnessing, or being subjected to violence themselves—are more likely to become what is called a perpetrator of violence."[208] And transmission of violence occurs across different types, or "syndromes," of violence: for example, "exposure to *community* violence (outside the family unit) leads to an increased likelihood of *family* violence, both against intimate partners and abuse of (or violence against) children, as well as an increased risk of violence *against self* or suicide."[209] Not surprisingly, cyclical retaliatory gang violence is one of the surest means of transmitting the "violence disease."[210]

The consequences of the violence epidemic plaguing many U.S. cities are not hard to imagine. Most directly, violence ends and ruins thousands of lives each year. In 2014 alone, more than 50,000 lives were taken by violence.[211] And young people are disproportionately prone to victimization by violent crime: homicide by firearm was the second

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207 *Essential Elements*, CURE VIOLENCE, http://cureviolence.org/the-model/essential-elements [https://perma.cc/9TVF-HPGQ] (last visited Mar. 2, 2019).

208 Slutkin, *supra* note 199, at 100.

209 *Id.* at 104 (citing Christopher W. Mullins et al., *Gender, Streetlife and Criminal Retaliation*, 42 CRIMINOLOGY 911 (2004); Karen Devries et al., *Violence Against Women is Strongly Associated with Suicide Attempts: Evidence from the WHO Multi-Country Study on Women's Health and Domestic Violence Against Women*, 73 SOC. SCI. & MED. 79 (2011)).

210 *Id.* (citing Scott H. Decker, *Collective and Normative Features of Gang Violence*, 13 JUST. Q. 243 (1996)).

211 CTR. FOR DISEASE CONTROL & PREVENTION, 10 LEADING CAUSES OF INJURY DEATHS BY AGE GROUP HIGHLIGHTING VIOLENCE-RELATED INJURY DEATHS, UNITED STATES – 2014, http://www.cdc.gov/injury/images/lc-charts/leading_causes_of_injury_deaths_violence_2014_1040w760h.gif [https://perma.cc/6EYE-KVBH] (last visited Jan. 3, 2019). The number cited above represents the sum of homicides and suicides.

leading cause of death among youth ages fifteen through twenty-four.[212] Beyond its direct effects on victims and their friends and families, violence has disastrous economic and social consequences for affected communities.[213] Not least among the negative consequences of community violence, of course, is its tendency to perpetuate further violence. Thus understood as a public health issue, violence is a disease calling out for a cure. But thus far, according to the public-health model, it has been treated with the wrong medicine in the form of punitive policing and imprisonment. We now turn to the epidemiological alternative prescription: Cure Violence and its affiliates, which seek to prevent violent incidents before they occur.

2. Curing Violence

With or without the support of local police, anti-violence projects operating under the public-health approach to violence have made significant impacts in cities across the country. The largest coordinated implementation of the public-health approach has taken place under the organizational guidance of Cure Violence, founded by Gary Slutkin out of the University of Illinois–Chicago in 2000.[214] Based on principles from medical interventions into disease epidemics, Cure Violence now operates in some fifty U.S. communities, as well as eight different countries around the world.[215] The workers employed at local sites—the "violence interrupters"—all come directly from the communities they serve, and many have histories of violence and incarceration. The model stresses the importance of trust between the interrupters and their "clients"—people either directly involved or at a high risk of getting involved in violent conflict.[216] That element of trust is almost always

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212 *Id.*

213 *See generally* Hugh Richard Waters et al., *The Costs of Interpersonal Violence—An International Review*, 73 HEALTH POL'Y 303 (2005) (surveying studies of the economic costs of violence, ranging from medical expenses to victim compensation to lost productivity). For a discussion of the two-way causal relationship between neighborhood disinvestment and crime, see Erica Raleigh & George Galster, *Neighborhood Disinvestment, Abandonment, and Crime Dynamics*, 37 J. URB. AFF. 367 (2014).

214 *About Us*, CURE VIOLENCE, http://cureviolence.org/the-model/about-us [https://perma.cc/5VYW-A5AJ] (last visited Jan. 3, 2019).

215 *Id.*

216 *Essential Elements*, *supra* note 207.

lacking for police, even where community-policing initiatives have been implemented. But Cure Violence also recognizes a role for law enforcement in collaborating to reduce violence, imagining that police departments will share data and intelligence with Cure Violence affiliates and coordinate efforts to control violence among the highest-risk areas and individuals.[217]

Leveraging the trust and credibility of the violence interrupters within the neighborhoods in which they operate, all Cure Violence affiliates proceed on the same three core components: (1) to "detect and interrupt potentially violent conflicts"; (2) to provide personal support to the highest-risk individuals; and (3) to "[m]obilize the community to change norms."[218] The first component is materialized by interrupters keeping apprised of local feuds, developing networks within the community, and immediately responding to the scene of an argument to prevent it from turning violent.[219] They use social networks to collect information about and respond proactively to possible "trigger situations"—events like the release of a shooter from prison, the anniversary of a conflagration, or even a party bringing together rivals—that carry a high potential for violent outbreaks.[220] Under the second component, outreach workers work as part mentors, part case managers in helping "clients" navigate social services to obtain a degree of material stability in their lives, and to facilitate risk-reduction through behavior change.[221] Finally, the third component seeks to enlist the community at large to create a supportive environment for at-risk youth. One powerful element of this last component is the mobilizations of community

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217 *The Health Approach & Law Enforcement*, CURE VIOLENCE, http://cureviolence.org/the-model/implementation/the-health-approach-law-enforcement [https://perma.cc/HFZ9-W6FH] (last visited Jan. 3, 2019).

218 *Essential Elements*, *supra* note 207.

219 *Id.*

220 *See* Charles Ransford et al., *Cure Violence: A Disease Control Approach to Reduce Violence and Change Behavior*, *in* EPIDEMIOLOGICAL CRIMINOLOGY: THEORY TO PRACTICE 232, 236 (Eve Waltermaurer & Timothy A. Akers, eds., 2014). This type of word-of-mouth-generated "small data" stands in an interesting comparative light with "big data" generated by mass surveillance and utilized by police departments to plan strategic interventions pursuant to "predictive policing" models. For an account of the collection and use of surveillance data in predictive policing, see Andrew Guthrie Ferguson, *Big Data and Predictive Reasonable Suspicion*, 163 U. PA. L. REV. 327 (2015).

221 *See* Ransford et al., *supra* note 220, at 237.

members in response to neighborhood shootings.[222] This unity around a sense of shared loss and a strengthening of shared identity carries the potential to empower communities when it takes hold.

And Cure Violence has produced results. As we will now illustrate, the neighborhoods where Cure Violence affiliates have been established have experienced dramatic reductions in shootings. But its two pillars of support—legitimacy among community members and institutional funding and oversight—have come into tension with one another, raising fundamental questions about whether public-health violence-reduction programs are ultimately alternatives or supplements to law enforcement activity. In the next Section, we will explore more consciously grassroots, community-based anti-violence initiatives, and in Part III we will look ahead to how the different approaches presented compliment and conflict with one another. But first we will briefly survey the experiences and effectiveness of two of the many Cure Violence affiliates active in American cities today.

a. CeaseFire Chicago[223]

CeaseFire Chicago was launched as a pilot program of the University of Illinois's School of Public Health in 1995 with the narrow goal of reducing shooting deaths in some of Chicago's deadliest neighborhoods.[224] It was first operationalized in the West Garfield Park neighborhood in 2000, where its first year saw a 67% reduction in shootings.[225] CeaseFire deployed violence interrupters and outreach workers out of a decentralized network of program sites throughout the city to mediate potentially violent disputes and neutralize some of the

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222 *Id.* at 238.

223 CeaseFire Chicago changed its name to Cure Violence in 2012. Melanie Eversley, *CeaseFire Changes Name to Cure Violence*, USA TODAY, http://content.usatoday.com/communities/ondeadline/post/2012/09/13/ceasefire-cureviolence/70000310/1 [https://perma.cc/V4CC-QADR] (last updated Sept. 14, 2012, 1:18 PM).

224 *See* WESLEY G. SKOGAN ET AL., EVALUATION OF CEASEFIRE-CHICAGO 1-1 (2009), http://www.ncjrs.gov/pdffiles1/nij/grants/227181.pdf [https://perma.cc/BU8V-US2L].

225 Jamie Chamberlin, *Cease Fire*, 42 MONITOR ON PSYCH. 84, 84 (2011). CeaseFire Chicago subsequently grew into CeaseFire Illinois, with operations in more than a dozen Chicago neighborhoods as well as the cities of Rockford, East St. Louis, and others. *See Cure Violence Illinois*, CURE VIOLENCE, http://cureviolence.org/partners/us-partners/illinois-partners [https://perma.cc/V6FH-CXEB] (last visited Feb. 1, 2019).

highest risk individuals.[226] In addition, the program sought the support of local communities by organizing anti-violence mobilizations, distributing public-education violence-awareness materials, and involving clergy as hosts and advocates for CeaseFire activities.[227] Finally, and most controversially, the program initially promoted stricter gun laws and aggressive prosecution and sentencing for shooting-related offenses to further deter its targets from perpetuating cycles of gun violence.[228]

The program was the subject of numerous studies by teams of university-based researchers, all of which found substantial positive results.[229] Gun violence and homicide during the first several years after CeaseFire came into effect went down across the city, with significantly greater rates of reduction in shots fired observed in four out of seven CeaseFire program areas.[230] When CeaseFire was employed by the city government in a 2012 pilot program focused on two police districts,[231]

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226 SKOGAN ET AL., *supra* note 224, at 1-8–1-9. These central features reflect the core components of Cure Violence discussed *supra* Section II.A.

227 *Id.* at 1-9–1-11.

228 *Id.* at 1-11.

229 The first and most comprehensive review was conducted by researchers from Northwestern University's Institute for Policy Research with a grant from the Department of Justice. *See* SKOGAN ET AL., *supra* note 224. More recently, researchers from the University of Chicago's School of Social Service Administration conducted a qualitative study of CeaseFire's impact in the communities it serves, see DEBORAH GORMAN-SMITH & FRANKLIN COSEY-GAY, RESIDENTS AND CLIENTS' PERCEPTIONS OF SAFETY AND CEASEFIRE IMPACT ON NEIGHBORHOOD CRIME AND VIOLENCE (2014), http://cureviolence.org/wp-content/uploads/2015/01/ceasefire-qualitative-evaluation-9-14.pdf [https://perma.cc/L8RA-JW3T], and a quantitative study of the violence-reduction impacts in two neighborhoods where CeaseFire was contracted by the City of Chicago to run a pilot program under the Department of Health, see DAVID B. HENRY ET AL., THE EFFECT OF INTENSIVE CEASEFIRE INTERVENTION ON CRIME IN FOUR CHICAGO POLICE BEATS: QUANTITATIVE ASSESSMENT (2014), http://cureviolence.org/wp-content/uploads/2015/01/McCormick-CeaseFire-Evaluation-Quantitative.pdf [https://perma.cc/9L6E-BK6T].

230 SKOGAN ET AL., *supra* note 224, at 7-46. The researchers report on a number of factors limiting the strength of their quantitative analyses, especially the spillover effects of CeaseFire activities outside of the demarcated program areas: any positive effects in the "comparison areas" adjacent to CeaseFire program areas would lower the difference between the reduction in program areas and comparison areas thus diluting the quantitative assessment of the program's effectiveness when studied only with respect to the specific program areas. *See id.* at 7-39 ("[O]nly half of the clients surveyed indicated that they lived or hung out in a targeted zone.").

231 Press Release, City of Chi., CeaseFire Pilot Program Begins Today (July 13, 2012), www.cityofchicago.org/city/en/depts/cdph/provdrs/violence_prev/news/2012/jul/ceasefire_pilot_programbeginstoday.html [https://perma.cc/9SBU-ZF82].

homicides dropped in those areas by 31.4%.[232] Equally indicative of the program's potential for success is the personal effects it has on community members, recorded in a 2014 qualitative study that interviewed several at-risk CeaseFire clients and non-clients: respondents emphasized the powerful impact of violence-interrupter led mediations in conflict situations as well as the long-term impact of the mentorship, job-placement assistance, and positive role modeling CeaseFire employees provided.[233]

CeaseFire Chicago rose to fame outside of the Windy City as well, but that has not protected the organization from state and local politics. In 2009, CeaseFire was featured in the DOJ's National Institute of Justice Journal.[234] The program's success was documented in the 2011 PBS Frontline special, *The Interrupters*, putting the public health model in the national spotlight.[235] Yet despite its notoriety and documented successes, CeaseFire's contract with the city of Chicago was not renewed after the 2012 pilot program, citing a lack of cooperation on the part of its workers with law enforcement.[236] In 2015, the Republican governor of Illinois cut off the state's key funding for CeaseFire, causing it to shrink operations and close down several of its neighborhood offices even as Chicago murder rates began to climb once again.[237] CeaseFire's employment of ex-offenders as violence interrupters and community

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232 HENRY ET AL., *supra* note 229, at 5.

233 GORMAN-SMITH & COSEY-GAY, *supra* note 229, at 8. The interview responses reported in the study especially emphasize the role of the interrupters' credibility in influencing the behaviors of target individuals and clients. One client said, "Once I saw [the violence interrupter] doin' a different path, I wanted to do a different path. . . . I saw one of my brothers able to change, and he helped me change . . . ." *Id.* at 10.

234 Nancy Ritter, *CeaseFire: A Public Health Approach to Reduce Shootings and Killings*, 264 NAT'L INST. JUST. J. 20 (2009), https://www.ncjrs.gov/pdffiles1/nij/228386.pdf [https://perma.cc/4T83-PTVZ].

235 The film is available for free online at: THE INTERRUPTERS (PBS 2012), http://www.pbs.org/wgbh/frontline/film/interrupters.

236 Jeremy Gorner, *CeaseFire Shut Down in 2 Communities*, CHI. TRIBUNE (Sept. 14, 2013), http://articles.chicagotribune.com/2013-09-14/news/ct-met-cease-fire-contract-20130914_1_ceasefire-illinois-2-communities-domestic-violence-charges [https://perma.cc/WU9U-BNHD].

237 *See* Patrick Torphy, *Why Chicago is Shuttering Anti-Violence Programs amid Spike in Shootings*, CHRISTIAN SCI. MONITOR (Oct. 9, 2015), http://www.csmonitor.com/USA/Justice/2015/1009/Why-Chicago-is-shuttering-anti-violence-programs-amid-spike-in-shootings [https://perma.cc/2RGR-ZBAQ]; *Anti-Violence Programs Shut Down as Chicago Shootings Climb*, CHI. TRIBUNE (Oct. 9, 2015, 2:08 PM), www.chicagotribune.com/news/ct-ceasefire-funds-frozen-as-chicago-shootings-climb-20151009-story.html [https://perma.cc/AY9E-885G].

outreach workers, as well as its non-affiliation with the rightly distrusted Chicago Police Department,[238] are thought of as assets in the program's credibility with the community it serves. But these assets seem like liabilities with respect to its dependency on government funding; after its funding was cut by the state, thirteen of its fourteen locations shuttered.[239]

But the unfortunate shutdown of CeaseFire operations only confirmed its effectiveness. After state government funding was cut, "[t]he only districts that didn't experience a surge [in homicides] were two that found funding elsewhere."[240] Following the high rates of homicide experienced in 2016 and 2017, funding was restored to CeaseFire and gun violence in covered districts dropped by 30%.[241]

b. Safe Streets Baltimore

The Baltimore City Health Department (BCHD) launched Safe Streets in two of Baltimore's most violent neighborhoods in 2007 on the

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238 The scandals emerging from the Chicago Police Department are legion, but among other alleged structural failures, the Department has been criticized for racially disparate use of force, Mark Peters & Aruna Viswanatha, *Justice Department Opens Probe of Chicago Police Department*, WALL ST. J. (Dec. 7, 2015, 2:38 PM), http://www.wsj.com/articles/justice-department-opens-probe-of-chicago-police-department-1449505506 [https://perma.cc/2YG4-7EB7], unlawful interrogations, torture, and even murder of arrestees, Spencer Ackerman, *The Disappeared: Chicago Police Detain Americans at Abuse-Laden 'Black Site'*, GUARDIAN (Feb. 24, 2015, 4:43 PM), http://www.theguardian.com/us-news/2015/feb/24/chicago-police-detain-americans-black-site [https://perma.cc/TB5X-W7VH], widespread torture of Black "suspects," Michael E. Miller, *Cop Accused of Brutally Torturing Black Suspects Costs Chicago $5.5 Million*, WASH. POST (Apr. 15, 2015), https://www.washingtonpost.com/news/morning-mix/wp/2015/04/15/closing-the-book-on-jon-burge-chicago-cop-accused-of-brutally-torturing-african-american-suspects [https://perma.cc/VZJ5-4L7W], and recently covering up the police killing of Laquan McDonald, Justin Glawe, *Lawyers Went to Rahm Emanuel, Then Quashed the Laquan McDonald Video*, DAILY BEAST (Jan. 6, 2016, 11:10 PM), http://www.thedailybeast.com/articles/2015/01/06/exclusive-lawyers-went-to-rahm-then-quashed-the-laquan-mcdonald-video [https://perma.cc/N65R-2TZZ].

239 Ann Givens, *On Patrol with Chicago's Last Violence Interrupters*, TRACE (Feb. 6, 2017), https://www.thetrace.org/2017/02/chicago-homicides-cure-violence-interrupters [https://perma.cc/XG2V-T7CQ].

240 Clarence Page, Opinion, *A Cure for Chicago Violence Right Under Our Noses*, CHI. TRIBUNE (Aug. 10, 2018, 3:50 PM), http://www.chicagotribune.com/news/opinion/page/ct-perspec-page-ceasefire-gary-slutkin-rahm-emanuel-0812-20180810-story.html [https://perma.cc/2BPX-43B6].

241 *Id.*

model of CeaseFire Chicago.[242] The U.S. Department of Justice provided the initial grant of $1.6 million to BCHD to work with Slutkin and the Cure Violence team on the planning and implementation of the model in Baltimore.[243] Between 2007 and 2009, BCHD contracted with community groups to operationalize the program in several neighborhoods.[244] Safe Streets program sites showed early and strong signs of success: A report published by the Center for Disease Control and Prevention (CDC) and researchers from Johns Hopkins School of Public Health found "statistically significant program-related reductions in at least one of the two measures of gun violence in all four neighborhoods where *Safe Streets* was implemented" and "[s]ignificant program-related reductions in gun violence . . . in areas bordering *Safe Streets* sites."[245] In the Cherry Hill neighborhood, Safe Streets oversaw a reduction in homicides of 56%.[246] In East Baltimore, results were somewhat mixed, with the most positive results concentrated in the McElderry Park neighborhood. For one, McElderry Park was the only one of the three East Baltimore sites that enjoyed strong support from neighborhood organizations.[247] Additionally, the teams for all three East Baltimore sites worked under a single site director, outreach supervisor, and violence prevention community coordinator, all based in McElderry Park, and outreach workers were even sent into communities outside of

242 Press Release, Stephanie Rawlings-Blake, Mayor of Balt. City, Mayor Stephanie Rawlings-Blake Announces Expansion of Program Credited with Reducing Gun Violence in City Neighborhoods 1 (Jan. 11, 2012), http://health.baltimorecity.gov/sites/default/files/011112%20Safe%20Streets%20Release.pdf [https://perma.cc/U8FE-JGN8] [hereinafter Mayor's Press Release].

243 DANIEL W. WEBSTER ET AL., INTERIM EVALUATION OF BALTIMORE'S SAFE STREETS PROGRAM 2 (2009), http://health.baltimorecity.gov/sites/default/files/2009_01_13.SafeStreetsEval.pdf [https://perma.cc/P9AC-KCJX] [hereinafter INTERIM EVALUATION].

244 The first Safe Streets site was in the McElderry Park neighborhood of East Baltimore, followed by Union Square in Southwest Baltimore, additional East Baltimore sites in Elwood Park and Madison-Eastend, and Cherry Hill in South Baltimore. DANIEL W. WEBSTER ET AL., EVALUATION OF BALTIMORE'S SAFE STREETS PROGRAM: EFFECTS ON ATTITUDES, PARTICIPANTS' EXPERIENCES, AND GUN VIOLENCE 2 (2012), https://www.jhsph.edu/research/centers-and-institutes/center-for-prevention-of-youth-violence/field_reports/2012_01_11.Executive%20SummaryofSafeStreetsEval.pdf [https://perma.cc/32PE-WBMJ].

245 INTERIM EVALUATION, *supra* note 243, at 23.

246 *Id.* at 3. "When homicide and [nonfatal shooting] events are combined, Cherry Hill's *Safe Streets* program was associated with a 45% decrease in these key outcomes." *Id.* at 20.

247 *Id.* at 23.

their home sites.[248] As a result, the other two program sites were closed so that the East Baltimore team could focus on McElderry Park, resulting in a 53% drop in homicides during the months that the neighboring program sites were suspended.[249]

The successes of Safe Streets were recognized as a solid basis for expanding the program. In 2010, the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) awarded a $2.2 million grant to be used in part to expand Safe Streets into two additional communities.[250] The Greater Mondawmin Coordinating Council contracted with the City to expand the program into West Baltimore in 2012.[251] The Northwest Baltimore neighborhood of Park Heights opened its Safe Streets site in early 2013.[252] Since the program's expansion, its successes have been even more noteworthy: In 2015, when Baltimore City experienced its deadliest year ever in terms of homicides per capita—a total of 344 killings[253]—Safe Streets' four program sites saw only thirty *shootings*, fatal and nonfatal combined.[254] During Memorial Day weekend, there were thirty-two shootings in Baltimore City; not one of those was in a Safe Streets coverage zone.[255] 2016 saw similar success with just thirty-two shootings taking place in the four neighborhoods where Safe Streets was active.[256]

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248 *Id.*

249 *Id.* at 3.

250 *See* Mayor's Press Release, *supra* note 242.

251 Justin Fenton, *Safe Streets Violence Mediators Coming to West Baltimore*, BALT. SUN (Mar. 19, 2012, 8:13 PM), http://www.baltimoresun.com/news/breaking/bs-md-ci-mondawmin-safe-streets-20120319-story.html.

252 Jonathan Hunter, *'Safe Streets' Programs Aimed at Curbing Violence in Park Heights Area*, AFRO (May 14, 2014), https://afro.com/safe-streets-programs-aimed-at-curbing-violence-in-park-heights-area [https://perma.cc/S586-SV2F].

253 Kevin Rector, *Deadliest Year in Baltimore Ends With 344 Homicides*, BALT. SUN (Jan. 1, 2016, 7:00 PM), http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-deadliest-year-20160101-story.html.

254 BALT. CITY HEALTH DEP'T, SHOOTING INCIDENTS BY POST IN 2015, http://health.baltimorecity.gov/sites/default/files/ShootingIncidents2015.pdf [https://perma.cc/X4BX-JEM8] (last visited Jan. 3, 2019).

255 Dan Rodricks, *In Baltimore's Bloody May, Safe Streets Keeps the Peace*, BALT. SUN (May 27, 2015, 7:24 PM), http://www.baltimoresun.com/news/maryland/bs-md-rodricks-0528-20150527-column.html.

256 BALT. CITY HEALTH DEP'T, SHOOTING INCIDENTS BY POST 2016, http://health.baltimorecity.gov/sites/default/files/ShootingIncidents2016.pdf [https://perma.cc/FR6A-V2DA] (last visited Jan. 3, 2019) [hereinafter SHOOTING INCIDENTS BY POST IN 2015].

The Baltimore City Council has provided outspoken support for the successful program, even when local government funding has come under fire.[257] That public financing, plus institutional support from the Abell Foundation,[258] have so far insulated Safe Streets from the type of political gamesmanship that has led to CeaseFire Chicago's financial woes. And the program continues to expand, with a new location opened under the direction of Catholic Charities of Baltimore in March, 2016, in the Sandtown-Winchester neighborhood.[259] In the first seven months of 2017, Sandtown saw only six shooting incidents, representing a more than 50% reduction from the same period a year before.[260] Most recently, after initially excluding funding for Safe Streets from the 2018 city budget and prompting outcry from the Council and the community, Mayor Catherine Pugh announced that the program would be expanded to cover six more neighborhoods, firmly entrenching it in the city's anti-violence landscape.[261]

But Safe Streets Baltimore has not been free of obstacles. One of the program's original sites, in Southwest Baltimore's Union Square neighborhood, was never fully established and was discontinued after less than a year due to the community group's failure to implement the model.[262] While lack of infrastructure to execute a complex

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257 Jessica Anderson, *Baltimore City Council Members Say Budget Must Include Safe Streets Funding*, BALT. SUN (May 19, 2017, 7:33 PM), http://www.baltimoresun.com/news/maryland/baltimore-city/politics/bs-md-ci-safe-streets-funding-20170519-story.html.

258 *Safe Streets Baltimore*, ABELL FOUND., https://abell.cg-devel.com/case-studies/safe-streets-baltimore [https://perma.cc/7BQ9-YTV7] (last visited Mar. 2, 2019).

259 Jessica Anderson, *Catholic Charities to Operate Safe Streets Location in Sandtown-Winchester*, BALT. SUN (Jan. 27, 2016, 5:51 PM), http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-safe-streets-20160127-story.html.

260 *Compare Shooting Incidents by Post 2017*, SAFE STREETS, https://health.baltimorecity.gov/safestreets [https://web.archive.org/web/20180201003550/https://health.baltimorecity.gov/safestreets] (last visited Feb. 1, 2018), *with* SHOOTING INCIDENTS BY POST IN 2015, *supra* note 256.

261 Kevin Rector, *Mayor Says Safe Streets Anti-Violence Program to be Expanded, Relocated Under Criminal Justice Office*, BALT. SUN (Dec. 20, 2017, 10:40 PM), http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-safe-streets-shift-20171220-story.html [https://perma.cc/QYT4-C5K8].

262 WEBSTER ET AL., *supra* note 244, at 9. The community group at issue, Communities Organized to Improve Life (COIL), continued to operate a Safe Streets program even after its funding was cut off in 2008, and was subsequently infiltrated by two high-level members of the Black Guerilla Family gang who sought to use the program as a front for heroin trafficking. *See* Peter Hermann, *Youth Counselor Gets 14 Years for Leading Gang*, BALT. SUN (Jan. 20, 2011),

epidemiological program at the grassroots level is certainly a recurrent issue communities are likely to face, especially as federal funding for social programs is annihilated by the Trump administration,[263] a more systemic threat to such programs comes, ironically, from one of their biggest theoretical beneficiaries—police. Safe Streets offices have been suspended repeatedly after police raids on workers and sites have uncovered guns, drugs, and a lack of willingness to divulge confidential information obtained through violence-interruption work.[264] But at least one of those raids, which led to the closure of the Mondawmin Safe Streets program in West Baltimore, was recently revealed to have been based on an illegal search conducted by a convicted member of the Baltimore Police Department's notorious Gun Trace Task Force after Safe Streets worker Levar Mullen refused to provide officers with information Mullen had obtained in the field.[265] The prolific criminality of the Task Force calls into question the other police actions against Safe Streets as well.[266] And it epitomizes the deep tension between police reform and radical re-imaginings of police functions that we will address in Part III. Meanwhile in Baltimore, the overall trajectory for Safe Streets appears to be steady expansion following positive results despite these setbacks.

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http://articles.baltimoresun.com/2011-01-20/news/bs-md-gang-leader-sentenced-20110120_1_safe-streets-improve-life-inc-ronald-piper.

263 *See, e.g.*, Dylan Matthews, *Trump's 2019 Budget: What He Cuts, How Much He Cuts, and Why It Matters*, VOX (Feb. 12, 2018, 4:10 PM), https://www.vox.com/policy-and-politics/2018/2/12/16996832/trump-budget-2019-release-explained [https://perma.cc/QKT6-QZDT] (reporting proposed federal budget cuts "totaling nearly $2 trillion over 10 years . . . to the non-defense discretionary budget").

264 *See, e.g.*, Kevin Rector & Justin Fenton, *East Baltimore Anti-Violence Group Work Suspended After Guns, Drugs Found in Raid*, BALT. SUN (July 14, 2015, 9:19 PM), http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-safe-streets-raid-20150714-story.html (detailing a raid on an East Baltimore site uncovering contraband and resulting in the site's suspension); Justin George & Justin Fenton, *W. Baltimore Safe Streets Work Suspended amid Criminal Allegations*, BALT. SUN (Dec. 11, 2013, 7:32 PM), http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-safe-streets-mondawmin-shut-down-20131211-story.html.

265 Justin Fenton, *Former Safe Streets Worker Arrested by Baltimore Police Gun Task Trace Force Officers to Be Released from Federal Prison*, BALT. SUN (Jan. 18, 2018, 5:30 PM), http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-mullen-gttf-release-20180118-story.html.

266 *See* sources cited *supra* notes 1–7 and accompanying text.

B. *Violence Reduction as Community Empowerment: Disrupting Cycles of Violence Under Incarceration*

The public health approach to violence reduction and prevention holds significant promise as a means to generate community engagement in anti-violence activities and to protect the lives and liberty of high-risk individuals. But the Cure Violence approach's principal aims stop there—the model seeks to halt the spread of the violence epidemic but does not pretend to offer solutions to the underlying social problems giving rise to pervasive violence in the first place. This Section looks to another model for understanding and combatting violence in marginalized urban communities based in grassroots political organizing and community empowerment.

Initiatives taking shape under the community-empowerment model seek to engage directly with the root causes of violence, and to stem the perpetuation of cycles of violence by targeting people currently incarcerated and recently released from incarceration. As discussed, the prevalence of violent street organizations inside prisons tends to turn the experience of incarceration into one that incentivizes violent behaviors instead of rooting them out.[267] The more prisons serve gangs as fertile ground for recruiting and initiating young members who will carry a high risk of violence upon release, the harder the work of violence interrupters—and indeed law enforcement—becomes. Moreover, the harder it becomes for communities to reverse vicious cycles of crime, over-policing, and economic blight. With this in mind, community activists both inside and outside prison walls have focused their anti-violence efforts on educating, politicizing, and supporting young offenders. We now turn to highlight the work of some such initiatives.

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267 *See supra* Section I.B.

1. Project Emancipation Now

A novel initiative begun in the Maryland prison system was co-founded by this Article's co-author, Craig Muhammad.[268] Project Emancipation Now (PEN) arose in response to the proliferation of gang violence in Baltimore and the opportunities inside prisons and jails to help young offenders avoid recidivism and bring positive change to the communities into which they reintegrate upon release. Having measurable success in reducing violent crime in the inner city of Baltimore is contingent upon seeing violence as a symptom of deeper underlying issues. Anti-violence work must take a multi-directional approach that incorporates reform of the perpetrator, interrupting violent acts before they occur and directing resources toward eliminating the conditions that breed violence. As discussed above, a very large number of incarcerated people either deepen or form gang bonds in prison. Since the majority of incarcerated gang members will be returning to their communities, any sensible approach to reducing the gang threat must start behind prison walls.

There are few active programs designed to have a hands-on approach to interrupt gang violence before it occurs in prison. PEN adopts similar techniques of violence interruption to those developed by the Cure Violence model. However, PEN is distinguished from other methods by its concentration on emancipating prisoners from street gangs and its direct efforts to politicize participants before they return to the community empowered to lead. PEN is independent of any assistance or recognition by prison administrators. All expenses incurred by PEN are paid by PEN.

PEN was created in 2013 by a group of Maryland prisoners who felt a need to give back to the community in a way that could be felt and most needed. The PEN

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268 The information regarding Project Emancipation Now is largely the original work of Mr. Muhammad and his collaborators and can be found in CRAIG MUHAMMAD ET AL., PROJECT EMANCIPATION NOW: CURRICULUM AND PARTICIPANT AGREEMENT (on file with authors).

Initiative was initially founded to bring individuals out of street gangs, politicize them, and send them into the community as activists. Since its founding, PEN has incorporated violence interruption as a major part of its platform. As of this writing, PEN has emancipated dozens of gang members in the Maryland prison system, and not a single one of them has returned to a gang. Moreover, as PEN leaders have been released from prison in recent years, they are establishing a presence in Baltimore City and expanding emancipation operations in the larger community. We will now describe PEN's structure, its methodology of emancipation, and its post-emancipation support network that ensures participants' positive reintegration into the community as active agents for change.

a. PEN Mediators

PEN mediators are chosen based on their street and prison credibility. Reputation is key. The success of violence interruption and negotiating the release of a gang member depends heavily on a mediator's reputation and power of persuasion. PEN personnel must also have a thorough knowledge of how gangs are structured and operate. That includes a comprehensive knowledge of gang leadership across the Maryland prison system. Mediators are also exposed to a specialized curriculum in conflict resolution and negotiations.

b. Target Individuals

PEN targets gang members for emancipation when certain signs are detected. Those flags include, but are not limited to, a gang member approaching a PEN mediator and asking for help in getting out of a gang; a PEN mediator identifying a gang member who participates in self-help programming; a PEN mediator identifying a gang member who has a humble demeanor; or a PEN mediator identifying a gang member who demonstrates a desire for education. Generally

speaking, PEN mediators look for signs that alert them that someone is prime for possible emancipation.

Once a target individual is identified, he is approached by a PEN mediator. Although circumstances differ, the mediator usually begins the process by exposing the target individual to community activism projects. This is done by enrolling the target individual in grassroots programs that give him a sense of the value of community. As discussed, providing community is one of the purposes for which street organizations were created in the first place, and is part of what makes them so attractive to young people without stable family and social lives. After an individual begins the process of re-education, he is carefully observed before PEN makes the decision to confront him about leaving the gang. Sometimes a target individual is observed for months before the decision is made to approach him for emancipation.

c. The PEN Intervention

Every PEN mediator has a line of communication with the leadership of the major street organizations that operate in the Maryland prison system. Those organizations are Bloods, Crips, and the Black Guerilla Family. When a gang member has been identified for possible emancipation, one or more mediators arrange a meeting between the mediator and the representative of the street organization to which the target individual belongs. Only on rare occasions is the target individual present at the first meeting. And it is not rare for a gang member to be emancipated without being present at any stage of the negotiation process. What is most important is that the Emancipation Points be clear so that there is no misunderstanding about the terms of emancipation.

PEN's unique method of bringing men out of gangs marks an innovation in prison-based anti-violence work. But negotiated release is not PEN's only tactic in dealing with gangs. In their dealings with gang

leaders, PEN mediators encourage them to "open the door" and allow gang members whose release may not have been individually negotiated by a PEN mediator to leave. "Opening the Door" is a term that some street organizations use when they present a rare opportunity for members to leave the gang without repercussions. Street organizations usually enact the policy to allow disgruntled members to leave. As discussed above, gangs are typically hostile to members' exiting and frequently take violent retributive actions including murder against defectors.

d. The Post-Emancipation Process

Once a person has been emancipated, he is entirely debriefed. The individual is then taken through a rigorous process of re-education that is designed to politicize, shape him into a social activist, and to break the gang/criminal mentality. In addition, he is required to take advantage of every self-help program that a prison has to offer.

When the emancipated person is released from prison, PEN uses its resources to connect him to employment. PEN is constantly expanding its network in order to assist in job placement. Currently, the PEN network consists of several grassroots community organizations. PEN also connects former gang members to community-based organizations that are active in providing needed services in blighted communities. PEN believes that it is the responsibility of every former gang member to begin the process of making amends to the community by becoming involved in community-based organizations that provide an important service.

e. Providing a Pathway to Community Reconciliation

For every member of a street organization that PEN emancipates, an opportunity is created for the emancipated person to return to his community to augment the work that is being done toward community development. A significant amount of that work is

directed toward community reconciliation. As such, PEN collaborates with existing grassroots organizations on Community Conferencing initiatives. Community Conferencing is designed to give aggrieved parties the opportunity to find closure to their grievances by confronting those responsible for their distress in a mediated setting. Many Community Conferencing forums have been conducted in conjunction with the Nation of Islam (NOI), which holds tremendous sway in the streets, and with grassroots community-based organizations. The scope of the NOI's influence in the streets came to light during the 2015 uprising in Baltimore City. During and after the mayhem, then-Mayor Stephanie Rawlings-Blake and the media acknowledged the NOI's role in protecting lives and property.[269] Nearly a year after the uprising was extinguished, PEN and the Nation of Islam's Baltimore Mosque continue to sponsor Community Conferencing forums to bring healing to Baltimore's inner-city communities. Nearly all of the forums are held without fanfare and in secret.

f. Community Engagement and Empowerment

Although PEN uses gang emancipation as a major interventionist tool, its overall technique closely corresponds with existing public health interventionist tactics and overlaps with them in many ways. For example, several PEN mediators in Maryland's prison system are also mentors for the Friend of a Friend (FOF) program. FOF was created by former Black Panther and political prisoner Marshall "Eddie" Conway before his release after fourty-four years of incarceration in Maryland prisons. FOF is a conflict resolution and personal development program that teaches participants to use non-violent means to deal with conflict and anger. The Friend of a Friend program targets young

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269 Jehron Muhammad, *Jehron Muhammad: Baltimore Mayor Thanks Nation of Islam for Helping Keep Peace*, INQUIRER (May 11, 2015, 9:54 AM), http://www.philly.com/philly/blogs/jehron_muhammad/303275881.html [https://perma.cc/6XYZ-FGA6].

offenders and imparts them with skills that are necessary to increase their opportunities and options in life. The Friend of a Friend curriculum guide's chapter on "Street Organizations" was developed by Community Conscious Rap, Incorporated, which is an affiliate of PEN. PEN also collaborates with Friend of a Friend personnel on community projects. When community service is a negotiated part of an emancipation contract of a former gang member, the service is usually conducted through the FOF network.

Whether violence interruption and gang intervention is directed by Cure Violence, PEN, Safe Streets, or any number of other activist organizations, the ultimate goal is to save lives and create an oasis in urban communities so people will feel safe and be able to develop in an environment that fosters growth and success. Achieving that goal will not only require the continued effort of courageous men and women who work the halls of prisons and the streets of urban communities to intercept violence and intervene in gang proliferation. It will also require vision, the building of stronger coalitions, and the ability of intervention organizations to remain relevant by expanding their services to increase effectiveness.

Long-term growth may only be obtainable by linking organizations like PEN with government apparatuses as several Cure Violence affiliates have done with state and local health departments. Moreover, since PEN supports grassroots community patrols in lieu of traditional policing, then consultation with local police departments and the mayor's office is inevitable. However, collaborating with law enforcement on any level must be done with caution and full transparency. Law enforcement has a history of using any means at its disposal in an attempt to discredit ex-offenders, prisoners, and former gang members who legitimately endeavor to work themselves back into the system. And the ranks of organizations such as PEN, Safe Streets, and Cure Violence are filled with ex-

offenders and former members of street gangs who are passionate about violence prevention. In addition, ensuring that any relationship between law enforcement and PEN remains pellucid is critical to preserving the trust between PEN and street organizations. Trust is key to emancipation.

III. REVOLUTION OR REFORM? THE FUTURE OF NON-POLICE ANTI-VIOLENCE WORK

The same goes for non-police peace forces: proximity to and support from the state and other mainstream institutions is in tension with legitimacy among constituents. On one hand, there is a distinct value in leveraging political and financial support for community-based anti-violence work, the way Cure Violence has, in order to continue generating data on the effectiveness of such programs. The continued successes of non-police work will increasingly force policymakers to grapple with the reality of viable alternatives to policing, opening the door to real community control over matters of public safety. But advocates of non-police alternatives must not merely rely on the state to experiment with community-based programs until the obsolescence of police is made self-evident: That day will never come.

Whatever their ancillary public safety functions, police and the criminal legal system they serve are tools of social control responsible for enforcing the racialized caste system that keeps the capitalist order running smoothly.[270] Community-based anti-violence workers must not merely lay claim to the public safety functions of police; they must also call for an end to the project of oppressive social control that police exercise. Doing so requires a long-term commitment to eradicating the marginalization and criminalization of communities of color through economic and environmental neglect, the war on drugs, administrative

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270 *See, e.g.*, BUTLER, *supra* note 28, at 126–28 (discussing "Black men and the construction of 'crime,'" and remarking, "one need not be paranoid to think that subordination of black men is deeply embedded in American crime and punishment. Too often the concept of danger as embodied in the criminal law is being used not for public safety purposes but to do some other kind of work—controlling black men."). *See generally* VITALE, *supra* note 17.

penalization,[271] and the disintegration of the welfare state. It requires abolitionist aspirations. And, as we will discuss, it requires roots in the resistance of past generations against racial oppression.

This Part shifts our focus from the present to the future of community efforts aimed at stopping violence. We will first discuss how lessons from the limitations of present initiatives inform future policy planning with respect to the roles of government, private, and grassroots actors. After this discussion of practice we will turn to theory, looking to radical Black liberationist movements to ground our subject matter within a broader abolitionist project.

A. *Working Together? Imagining Symbiosis Between Grassroots and Government*

Throughout this Article, we have identified several substantial challenges to reversing cyclical violence in marginalized and economically isolated communities of color. It is difficult to imagine sustainable reductions in violent conflict without also effecting deep structural changes to the conditions that push violence levels up in the first place. This conundrum makes the decision between directing resources at the symptoms or the structural causes of violence seem absurd, but it is probably necessary in a neoliberal political order that prioritizes thrift, efficiency, and economic growth over human development. By way of summary, this Section will extract some of the key limitations of the public health and grassroots approaches to stopping violence in U.S. cities and imagine possible ways that different actors may cooperate to promote viable alternatives to policing.

Grassroots, prison-based social movements for community empowerment hold promise to mobilize local communities to reject violence as a means of resisting police aggression and political marginalization. But these organizations are limited by their lack of access to financial resources, economic opportunities, and political

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[271] For a meticulous and devastating analysis of how the "New Policing"—consisting of over-enforcement of monetary penalties for low-level misdemeanors and administrative infractions—has become the "new segregation," see generally Jeffrey Fagan & Elliott Ash, *New Policing, New Segregation: From Ferguson to New York*, 106 GEO. L.J. ONLINE 33 (2017).

power.[272] However well-educated and politically sophisticated a man may be upon his release from prison into the community, the stigma of a criminal conviction makes it extremely difficult for him to find steady, sustainable employment. And the high demands on released inmates' time and energy just to secure economic survival make it difficult to dedicate oneself to advocating for change in the community. Moreover, prison-based organizations are subject to the structures and whims of the prison and post-release systems: segregating prison housing by age and perceived threat level blocks activists from accessing the most violence-prone young inmates; relocation of imprisoned activists may break up mentoring relationships and support networks; prison officials may ban outside activists from meeting with program participants inside; and conditions of supervised release, like prohibiting association with criminals, limit the types of activism in which members of emancipatory prison-based groups can engage. While grassroots groups are unique in their overt political orientation towards community empowerment and autonomy from the police state, they may stand to benefit from some form of collaboration with other groups that enjoy public or private institutional backing.

Meanwhile, the public-health approach to violence-reduction—as implemented in the Cure Violence model—has demonstrated real success in reducing shootings and homicides. However, it is limited in its effectiveness by three built-in characteristics. First, as the designers of the program acknowledge, it has no political agenda[273] and is not designed to cure root causes of violence—like poverty or unequal access to educational opportunities—it seeks only to eliminate killings and

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272 The 2018 nationwide prisoners' strike is a case in point of the limits of prison organizing. Few mainstream media outlets provided substantive coverage of the strike. *See* Alexandra Ellerbeck & Avi Ascher-Schapiro, *Amid Nationwide Strike, Media Access to Prisons Is Limited*, COLUM. JOURNALISM REV. (Sept. 6, 2018), https://www.cjr.org/analysis/prison-strike.php [https://perma.cc/V4D6-WZJR]. Authorities took devastating repressive measures against organizers to silence their demands. *See* Arvid Dilawar, *'It's a Fight for Human Rights': An Interview with a Prison Strike Organizer*, PAC. STANDARD (Sept. 13, 2018), https://psmag.com/social-justice/fight-for-human-rights-an-interview-with-a-prison-strike-organizer [https://perma.cc/2JBY-V28H] ("[A]uthorities have jammed cell phones in South Carolina; put facilities on lockdown in New Mexico; moved participants into isolation in Ohio, Indiana, and Texas; and punished suspected leaders in Ohio, Florida, and Texas.").

273 A Cure Violence pamphlet posted online by the organization describes it as "non-partisan." CURE VIOLENCE, U.S. HANDOUT (2018), http://cureviolence.org/wp-content/uploads/2018/06/US-Handout-v09.6.pdf [https://perma.cc/5FSG-VDEC].

violent outbreaks one neighborhood at a time. Second, the public-health approach is fundamentally data-driven, meaning its sites depend on delivering results for survival. If violence were to fail to decrease in a community, its Cure Violence affiliate site would likely be shut down by politicians wary of blowback. Spikes in violence caused by structural forces outside the scope of Cure Violence's mandate may register as program ineffectiveness and push policymakers to double down on traditional policing. This reality is closely related to the third limiting characteristic of the public health approach—it is expensive to administer and therefore highly dependent on financial support from governments, universities, or foundational or corporate sponsors. On the positive side, the support of such institutional actors confers mainstream legitimacy on the program, provides job opportunities for violence interrupters and outreach workers from within depressed communities, and generates data useful in developing and perfecting strategic approaches to reducing violence. However, the political goals and organizational agendas of the institutions on which Cure Violence affiliates depend are often independent of the community's and may even come into conflict with the community's best interests. This phenomenon is most evident in the case of CeaseFire Chicago, where, despite the program's success, the city's law enforcement agenda endangered CeaseFire's community-centric approach to violence interruption.[274]

The most frequent charge leveled against programs modeled after Cure Violence—brought by proponents of the punitive approach to criminal justice—proceeds as follows: the "street credible" community members working for Cure Violence affiliates are not really "clean" of criminal activity and use the program as cover for illicit gang activity and drug trafficking. This critique finds evidence in events like the high-profile conviction of a Chicago CeaseFire worker for felon gun possession,[275] and raids of Safe Streets sites in Baltimore that yielded

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274 *See supra* Section II.A.2.a.

275 *See* Mitchell Armentrout, *CeaseFire Worker Gets 27 Months in Prison for Federal Gun Conviction*, CHI. SUN-TIMES (Apr. 10, 2018, 4:20 PM), https://chicago.suntimes.com/crime/ceasefire-worker-gets-27-months-in-prison-for-federal-gun-conviction [https://perma.cc/V8G6-97U9].

drugs and guns and resulted in arrests.[276] Allegations that the Bloods used a New York City Cure Violence program as a drug-trafficking front similarly cast a pall on the entire ex-offender-based approach.[277] The institutional response has been that those events merely reflect the actions of a few bad apples.[278] While pains must be taken to prevent criminal infiltration of these programs, efforts to generalize individual incidents to attack non-police violence-reduction efforts invoke the myth of the class-wide incorrigible criminality of poor people of color and smack of the same racism as the "super-predator" view of Black youth discussed in the introductory portion of this Article.

But there is a deeper tension revealed by what we will call the "criminality critique" of Cure Violence, reflective of the program's own structural limitations. Given the dependence of high-violence communities on illicit economies, it may be impossible to "cure violence" without enabling, or at least tolerating, some law breaking. It would be impolitic for Cure Violence administrators to answer the criminality critique by calling for the decriminalization of drugs. However, decriminalization may well be a necessary element in creating violence-free communities. Public Health officials can and should continue to advocate for shifting the discourse about drugs from the register of crime and punishment to health and safety in the same way they seek to shift the discourse on gun violence, and in the same way that the discourse on the predominantly White opioid epidemic has begun to be treated.[279] At the same time, politicians and other activists

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276 *See* Rector & Fenton, *supra* note 264; Ian Duncan, *Safe Streets Prevention Program Faces Questions After Indictment*, BALT. SUN (Dec. 4, 2013, 7:58 PM), http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-safe-streets-20131204-story.html#page=1.

277 *See* Simone Weichselbaum, *Gangs of New York*, MARSHALL PROJECT, https://www.themarshallproject.org/2015/04/03/gangs-of-new-york#.jZg6JrN5M [https://perma.cc/8HJC-WHBP] (last updated Apr. 3, 2015, 8:14 PM).

278 *See* Opinion, *Preventing Gun Violence*, BALT. SUN (Mar. 18, 2016, 3:50 PM), https://www.baltimoresun.com/news/opinion/editorial/bs-ed-safe-streets-20160318-story.html ("It's unfortunate but perhaps inevitable that, given the background of many of the program's employees, authorities will periodically turn up a few bad apples.").

279 Treating drug addiction as a public health issue instead of a criminal issue has long been a priority in targeted communities but is only now gaining more mainstream support as the opioid epidemic has affected majority-White communities throughout rural and suburban America. *See, e.g.*, Earl Ofari Hutchinson, *The Opioid Crisis in Black and White*, HUFFPOST (June 21, 2017, 11:38 AM), http://www.huffingtonpost.com/entry/the-opioid-crisis-in-black-and-white_us_594a90d1e4b07cdb1933bed5 [https://perma.cc/VDM3-9J8W].

advocating for the decriminalization of drugs should make the connection between the illegal nature of the drug trade and violent crime, not to vilify violent offenders, but to contextualize their actions.[280]

The question then arises as to whether community-based alternatives to policing fit into an incremental reformist agenda, or whether they fit more properly into an abolitionist project seeking nothing short of dismantling the American carceral state. Reformers at the highest echelons of power have held up Cure Violence initiatives as positive steps toward improving public safety and fighting crime. In a 2009 address to the White House Conference on Gang Violence Prevention and Crime Control, then-Attorney General Eric Holder included CeaseFire Chicago as an example of "[a] rational, data-driven, evidence-based, smart approach to crime—the kind of approach that this Administration is dedicated to pursuing and supporting."[281] In his 2019 State of the City Address, New York City Mayor Bill de Blasio called Cure Violence "a crucial part of the equation" for crime-reduction.[282] This type of powerful support for community-based programs should be harnessed so that such initiatives can thrive and proliferate around the country. But the limitations of these programs discussed above suggest that that should not be the end goal. The passion of grassroots anti-violence workers, as well as many of those employed as violence interrupters by public health organizations, demonstrates that there are loftier aspirations behind their efforts than controlling unlawful activity. Indeed, the enforcement of the criminal laws may not be a concern at all in what is essentially a community-

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280 Notably, Senator Corey Booker's public remarks surrounding his recently released bill that would decriminalize marijuana at the federal level have not explored the possibility that underground economies built around illegal drugs are at least partially responsible for violent crime. *See, e.g.*, Matt Friedman, *Booker Introduces Bill to Legalize Marijuana Nationwide*, POLITICO (Aug. 1, 2017, 10:22 AM), http://www.politico.com/states/new-jersey/story/2017/08/01/booker-seeks-federal-marijuana-legalization-113716 [https://perma.cc/4BEZ-KWHT] (describing the bill and Booker's video address introducing it).

281 Eric Holder, U.S. Att'y Gen., *Attorney General Eric Holder at the White House Conference on Gang Violence Prevention and Crime Control* (Aug. 24, 2009), https://www.justice.gov/opa/speech/attorney-general-eric-holder-white-house-conference-gang-violence-prevention-and-crime [https://perma.cc/K2VA-VHFY].

282 Bill de Blasio, Mayor, City N.Y., Mayor Bill de Blasio's Sixth State of the City Address (Jan. 10, 2019), https://www.norwoodnews.org/id=27599&story=transcript-mayor-bill-de-blasios-sixth-state-of-the-city-address [https://perma.cc/YG77-ZWQV].

empowerment focused social justice project. This project may be understood through what Professor Allegra McLeod has called a "prison abolitionist framework."[283] Through an abolitionist lens, violence-reduction is not only an end in itself, it is a means to generating the type of power in unified numbers that can bring about a change in the conditions that enable cycles of violence to perpetuate in poor communities of color; the type of power that can displace punitive policing, imprisonment, and the racial caste system they impose.

B. *Abolition Democracy: Rooting Resistance in the Black Radical Tradition*

Abolition ought not to be understood as a call for the immediate shuttering of all prisons, jails, and precincts, but as "a gradual project of decarceration, in which radically different legal and institutional regulatory forms supplant criminal law enforcement."[284] This project is identical to what W. E. B. DuBois called "abolition democracy" in his definitive historical volume, *Black Reconstruction in America, 1860–1880*.[285] As Angela Y. Davis explains:

> DuBois argued that the abolition of slavery was accomplished only in the negative sense. In order to achieve the *comprehensive* abolition of slavery—after the institution was rendered illegal and black people were released from their chains—new institutions should have been created to incorporate black people into the social order.[286]

Because any such institutions were destroyed in the restoration of White power in the South after reconstruction, the mark of slavery was institutionalized through several other social, economic, and political

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283 *See* McLeod, *supra* note 196, at 1161.

284 *Id.*

285 W.E.B. DUBOIS, BLACK RECONSTRUCTION IN AMERICA: 1860–1880 182 (1935) ("[T]wo theories of the future of America clashed and blended just after the Civil War: the one was abolition-democracy based on freedom, intelligence and power for all men; the other was industry for private profit directed by an autocracy determined at any price to amass wealth and power.").

286 *See generally* ANGELA Y. DAVIS, ABOLITION DEMOCRACY: BEYOND EMPIRE, PRISONS, AND TORTURE 95 (2005). *See also id.* at 73 ("DuBois pointed out that in order to fully abolish the oppressive conditions produced by slavery, new democratic institutions would have to be created.").

mechanisms, which are exemplified most clearly today in the criminal legal system. Davis thus adapts the notion of abolition democracy in articulating her vision for prison abolition:

> In thinking specifically about the abolition of prisons using the approach of abolition democracy, we would propose the creation of an array of social institutions that would begin to solve the social problems that set people on the track to prison, thereby helping to render the prison obsolete. There is a direct connection with slavery: when slavery was abolished, black people were set free, but they lacked access to the material resources that would enable them to fashion new, free lives. Prisons have thrived over the last century precisely because of the absence of those resources and the persistence of some of the deep structures of slavery. They cannot, therefore, be eliminated unless new institutions and resources are made available to those communities that provide, in large part, the human beings that make up the prison population.[287]

To Davis, drawing on DuBois, democratic control over public resources is a means to empower such community-centered abolitionist institutions.

In that sense, then, the types of alliances with state actors discussed in the previous Section—or, more accurately, the democratic takeover of state institutions—will be necessary to advance alternatives to policing. But as these alliances and popular movements are forged, and non-police anti-violence work becomes a major feature of the state's law enforcement toolbox, its proponents must not lose sight of the racial ends the law enforcement apparatus has come to serve. To seek reform as an end in itself is ultimately to cede the power of narrative to "reformers" in governmental and capital-rich institutions. But, as Dominque Stevenson insists, grassroots organizations must "maintain full integrity" in their dealings with establishment forces, assuring that the agenda of the least well-off is not railroaded by mainstream politics of self-aggrandizement.[288] Her activist skepticism itself has a long history, originating in the Black radical tradition, taking form in abolition democracy, and pervading the Black radical movements of the

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287 *Id.* at 96–97.

288 Interview with Eddie Conway & Dominque Stevenson, *supra* note 132.

twentieth century.[289] In this Section, we look to the Black radical tradition to root today's reformist efforts in the broad-based and internationalist historical resistance to oppressive structures of power. For non-police anti-violence workers, roots in resistance are essential to the development of community autonomy, the avoidance of state cooptation, and the transformative commitment to abolition. Without these roots, such work is vulnerable to assuming permanent adjunct status to police forces whose law enforcement priorities are incompatible with transformative community empowerment.

Rooting non-police work as part of a multi-generational liberationist struggle consists primarily of understanding the political context in which such work contends with the more authoritarian police-based status quo. One insight of the Black radical tradition with fundamental implications for the framing of non-police violence-reduction is the un-belonging of marginalized groups to the mainstream liberal American project of incremental progressivism. The idea of a colonized Black political unit distinct from the American nation dates back to at least David Walker's 1829 *Appeal*,[290] developing through revolutionary and Black nationalist movements in the nineteenth and twentieth centuries, finding clear expression in Malcolm X's reflections on newly liberated African nations in 1964, and the subsequent adoption of Malcom's revolutionary ideology by the Black Panther Party.[291]

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289 For an expansive take on the development of the Black radical tradition as an independent ideological movement, highlighting the works of DuBois alongside those of C.L.R. James and Richard Wright, see generally CEDRIC J. ROBINSON, BLACK MARXISM: THE MAKING OF THE BLACK RADICAL TRADITION (1983).

290 DAVID WALKER, APPEAL, IN FOUR ARTICLES; TOGETHER WITH A PREAMBLE, TO THE COLOURED CITIZENS OF THE WORLD, BUT IN PARTICULAR, AND VERY EXPRESSLY, TO THOSE OF THE UNITED STATES OF AMERICA 18 (1829) ("Our sufferings will come to an *end,* in spite of all the Americans this side of *eternity*. Then we will want all the learning and talents among ourselves, and perhaps more, to govern ourselves.—'Every dog must have its day,' the American's is coming to an end.").

291 As Joshua Bloom and Waldo Martin explain in their political history of the Black Panther Party, Panther co-founders Huey P. Newton and Bobby Seale were exposed to the anti-colonialist conception of Black liberation through their involvement in the Revolutionary Action Movement (RAM) prior to founding the Party. BLOOM & MARTIN, *supra* note 38, at 32 ("Drawing on a line of thought reaching back at least to the mid-1940s and the black anticolonialism of W.E.B. Du Bois, Paul Robeson, and Alpheaus Hunton, RAM argued that Black America was essentially a colony and framed the struggle against racism by blacks in the United States as part of the global anti-imperialist struggle against colonialism.").

In his final speech before his assassination, Malcolm X spent a great deal of time detailing the global nature of the Black anti-imperialist struggle and the connections between decolonization in Africa and Black liberation in America.[292] In a matter-of-fact way, he described the global nature of Western imperialism:

> And I might point out right here that colonialism or imperialism, as the slave system of the West is called, is not something that's just confined to England or France or the United States. But the interests in this country are in cahoots with the interests in France and the interests in Britain. It's one huge complex or combine, and it creates what's known as not the American power structure or the French power structure, but it's an international power structure. And this international power structure is used to suppress the masses of dark-skinned people all over the world and exploit them of their natural resources.[293]

Framing the struggle for equal rights as one against an "international power structure," Malcom rejected notions of American exceptionalism as he deconstructed the idea of American national identity built on liberty and equality:

> Just because you're in this country doesn't make you an American. No, you've got to go farther than that before you can become an American. You've got to enjoy the fruits of Americanism. You haven't enjoyed those fruits. You've enjoyed the thorns. . . . You have worked harder for the fruits than the white man has, but you've enjoyed less. When the man put the uniform on you and sent you abroad, you fought harder than they did.[294]

Malcolm took these two insights—the global structure of imperialism and the vacuity of the myth of American inclusivity—to militate in favor of two interrelated goals: (1) globalizing resistance on human rights, rather than civil rights, terms, and (2) organizing locally to take political power by and for the community:

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292 Malcolm X, After the Bombing/Speech at Ford Auditorium (Feb. 14, 1965), http://www.malcolm-x.org/speeches/spc_021465.htm [https://perma.cc/4HEW-3WQ4].

293 *Id.*

294 *Id.*

> [O]ne of our first programs is to take our problem out of the civil rights context and place it at the international level, of human rights, so that the entire world can have a voice in our struggle. If we keep it at civil rights, then the only place we can turn for allies is within the domestic confines of America. But when you make it a human rights struggle, it becomes international, and then you can open the door for all types of advice and support from our brothers in Africa, Latin America, Asia, and elsewhere. So it's very, very important – that's our international aim, that's our external aim.
>
> Our internal aim is to become immediately involved in a mass voter registration drive. But we don't believe in voter registration without voter education. We believe that our people should be educated into the science of politics, so that they will know what a vote is for, and what a vote is supposed to produce, and also how to utilize this united voting power so that you can control the politics of your own community, and the politicians that represent that community.[295]

In this one speech, then, we find both an articulation of the theoretical basis of, and a plan of action for Black radical politics.

The Black Power movement that came into being after the assassination of Malcolm X, perhaps most prominently in the form of the Black Panther Party, further expounded upon Malcolm's premises and conclusions both in theory and in practice. The original Ten-Point Platform and Program of the Black Panther Party evokes both the internationally focused anti-imperialist discourse and the Black autonomous self-conception that Malcolm stressed so soon before his untimely death.[296] The Panthers' revised 1972 demands were:

> (1) We want freedom. We want power to determine the destiny of our Black and oppressed communities.
>
> (2) We want full employment for our people.

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295 *Id.*

296 For an overview of the Black Panther Party's politics and their roots in Malcolm X's radical thought, see Michael X. Delli Carpini, *Black Panther Party: 1966–1982*, *in* THE ENCYCLOPEDIA OF THIRD PARTIES IN AMERICA 190, 190–91 (2000). For a comparison of the panthers' ten-point program with Malcolm X's 1963 ten-point program for the Nation of Islam, see BLOOM & MARTIN, *supra* note 38, at 70–73.

> (3) We want an end to the robbery by the capitalist of our Black and oppressed communities.
>
> (4) We want decent housing, fit for the shelter of human beings.
>
> (5) . . . We want education that teaches us our true history and our role in the present-day society.
>
> (6) We want completely free health care for all Black and oppressed people.
>
> (7) We want an immediate end to police brutality and murder of Black people, other people of color, all oppressed people inside the United States.
>
> (8) We want an immediate end to all wars of aggression.
>
> (9) We want freedom for all Black and poor oppressed people now held in U.S. . . . prisons and jails. We want trials by a jury of peers for all persons charged with so-called crimes under the laws of this country.
>
> (10) We want land, bread, housing, education, clothing, justice, peace and people's community control of modern technology.[297]

The relationship expressed in these demands between knowledge,[298] autonomy,[299] security,[300] and solidarity[301] is clear.

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297 *History of the Black Panther Party*, STAN. U., https://web.stanford.edu/group/blackpanthers/history.shtml [https://web.archive.org/web/20180730114948/http://web.stanford.edu/group/blackpanthers/history.shtml] (last visited July 30, 2018).

298 "If a man does not have knowledge of himself and his position in society and the world, then he has little chance to relate to anything else." *Id.*

299 "We believe that Black and oppressed people will not be free until we are able to determine our destinies in our own communities ourselves, by fully controlling all the institutions which exist in our communities." *Id.*

300 "We believe that the racist and fascist government of the United States uses its domestic enforcement agencies to carry out its program of oppression against Black people, other people of color and poor people inside the United States. We believe it is our right, therefore, to defend ourselves against such armed forces, and that all Black and oppressed people should be armed for self-defense of our homes and communities against these fascist police forces." *Id.*

301 "We believe that the various conflicts which exist around the world stem directly from the aggressive desires of the U.S. ruling circle and government to force its domination upon the oppressed people of the world." *Id.*

The Panthers were also able to mobilize resources to create community-based alternatives to state institutions they decried as racist and illegitimate. From civil dispute resolution and drug addiction treatment to the famous free health clinics and Free Breakfast for Children Program, the Black Panther Party staked its growth and legitimacy on its service to and connection with local Black communities in Oakland and throughout the country.[302] But because the Panthers' community service efforts were part of a larger radical political project, "[l]ocal police and the FBI worked to undermine the Party's health clinics and the Panthers' health care activism," as well as their other institution-building endeavors.[303] The American state apparatus perceived the Panthers' attempts at abolition democracy as a direct threat to be neutralized thanks to the coherent anti-imperialist message the Panthers effectively conveyed and the autonomous non-state institutions the Panthers sought to develop to displace official bureaucratic resources. Indeed, FBI Director J. Edgar Hoover famously called the Panthers "the greatest threat to the internal security of the country" and directed field agents to "attack programs of community interest such as the 'Breakfast for Children'" because they were "actively soliciting and receiving support from uninformed whites and moderate blacks."[304] The combination of radical politics and community appeal was unacceptable to the FBI and other organs of social control, placing the Panthers in the crosshairs of the United States government. And today, there is little reason to believe that an effective organization pairing a radical critique of institutional power with the organizational means to take and displace the power of oppressive institutions would be spared the harshest reprisals by state actors. But after the decline of the Black Panthers, these interrelated elements of the struggle for social justice largely faded from the consciousness of the American Left.[305]

Legal scholar Aziz Rana has held out the Black radical thought of the Black Panther era as a revived insistence on America's history and identity as a settler colonial nation.[306] But this conception of America as

302 *See* BLOOM & MARTIN, *supra* note 38, at 179–88.

303 *Id.* at 188, 211.

304 *Id.* at 210–11.

305 *See* Aziz Rana, *Colonialism and Constitutional Memory*, 5 U.C. IRVINE L. REV. 263, 287 (2015).

306 *Id.* at 269.

an agent in the European imperialist project is not widely shared among Americans. Instead, Rana argues, most Americans subscribe to the idea of "American exceptionalism"—the belief that the American constitutional order is authentically grounded on principles of liberty and equality.[307] This understanding of the United States "as a civic polity . . . erases, almost entirely, the colonial structure of the American past."[308] This erasure is detrimental to social movements and reformist projects bent on racial and economic justice because it allows such movements to see themselves as partners, rather than opponents, of the very forces behind mass incarceration and militarized policing—as torch-bearers of the so-called "national interest." As Professor Butler cautions, "[t]he system is now working the way it is supposed to, and that makes Black lives matter less. That system must be dismantled and the United States of America must, in President Obama's words, be 'remade.'"[309] For non-police anti-violence workers, this means that strategic partnerships with governments, although indispensable, must be carefully calibrated to maintain community control over outcomes with an eye always on the abolitionist horizon.

And that horizon must be broad if the lessons of Malcolm X's latter-day internationalism are to be recovered today. The global impact of state violence and the stakes for its targets from Mexico to Afghanistan, from Yemen to the Philippines, have never been higher. The continuing connections between U.S.-backed military aggression overseas and military-style police aggression in urban communities cannot be understated. The United States is, by far, the world's biggest military spender,[310] as well as the global leader in incarceration. Suffice it to say that to expect the type of reinvestment in marginalized communities that would be necessary to alter the conditions facilitating and perpetuating cycles of violence discussed in Part I without a concomitant de-escalation of U.S. military projection around the world is woefully unrealistic. Indeed, the violent connection between U.S.

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307 *Id.* at 275.

308 *Id.* at 267.

309 BUTLER, *supra* note 28, at 200.

310 In 2015, the United States spent $596 billion in military expenditures, well over twice the expenditures of its closest rival, China, measuring $215 billion. Press Release, Stockholm Int'l Peace Research Inst., World Military Spending Resumes Upward Course (Apr. 5, 2016), https://www.sipri.org/media/press-release/2016/world-military-spending-resumes-upward-course-says-sipri [https://perma.cc/9ZGA-UCJY].

militarism and the deprivation of poor communities of color has become explicit in President Trump's proposed budget, promising to pay for a $54 billion increase in military spending by cutting funding for education, environmental protection, and other federally funded social welfare programs.[311] Among the ways President Trump hopes to put those $54 billion to use around the world is to kill the families of suspected terrorists,[312] a campaign promise the president has kept with respect to American eight-year-old Nawar al-Awlaki, whose father Anwar al-Awlaki was killed by a drone strike under President Obama for producing pro al-Qaeda propaganda.[313]

The struggle for racial and economic justice—for human rights—remains fundamentally global and framing it as such is critical. Imagine turning the tables on the abolition skeptic: to her question, "how do you fix the problems at the root of urban violence like poverty, failing schools, etc. on a limited budget?" You answer: "How do you *not* fix the problems at the root of urban violence with a community reinvestment of less than 20% of the military budget—$100 billion?" Racial and socioeconomic injustice is not just a domestic issue. The prison-industrial complex is patronized by many of the same corporate entities as the military-industrial complex, and indeed through the militarization of police departments, the two complexes begin to fold into one another. Policymakers, reformers, and activists working for racial and economic justice should thus expand their transformative

311 The budget would eliminate "the Low-Income Home Energy Assistance Program, which disburses more than $3 billion annually to help heat homes in the winter. It also proposed abolishing the Community Development Block Grant program, which provides roughly $3 billion for targeted projects related to affordable housing, community development and homelessness programs, among other things." Damien Paletta & Steven Mufson, *Trump's First Budget Increases Military Spending at Expense of Federal Programs*, CHI. TRIBUNE (Mar. 15, 2017, 11:33 PM), http://www.chicagotribune.com/news/nationworld/politics/ct-trump-budget-20170315-story.html [https://perma.cc/TLC5-WWAC].

312 Adam Taylor, *Trump Said He Would 'Take Out' the Families of ISIS Fighters. Did an Airstrike in Syria Do Just That?*, WASH. POST (May 27, 2017), https://www.washingtonpost.com/news/worldviews/wp/2017/05/27/trump-said-he-would-take-out-the-families-of-isis-fighters-did-an-airstrike-in-syria-do-just-that/?utm_term=.85033e7b694b [https://perma.cc/3TJX-JBG6].

313 Spencer Ackerman et al., *Eight-Year-Old American Girl 'Killed in Yemen Raid Approved by Trump'*, GUARDIAN (Feb. 1, 2017, 9:58 AM), https://www.theguardian.com/world/2017/feb/01/yemen-strike-eight-year-old-american-girl-killed-al-awlaki [https://perma.cc/2ZQX-DEWQ].

vision beyond U.S. borders, taking heed of the Black radical framing of struggle on a global stage.[314]

CONCLUSION

This Article has described some of the non-police anti-violence work being done by public health professionals, community members, grassroots activists, and prisoners. Although each approach taken alone suffers from certain limitations, the proliferation of multiple non-police forces with community ties holds great potential not only to reduce violence, but also to empower communities to bring about the type of fundamental change necessary to attack structural and cyclical violence at their roots.

Levels of violent crime may be declining generally, but shootings related to gang feuds, police interventions, and illicit economies continue to bring suffering to some of the most vulnerable and marginalized communities in the country—communities where Black and Brown youth become indoctrinated into a culture of violence at a young age, often by the very police officers charged with protecting them. Incarceration is expected of the young people growing up in these communities, and we have discussed throughout this Article the ways in which the logic underlying the mass incarceration apparatus has its roots in racism. Imprisonment and punishment, then, is not only an ineffective way to reduce violence; it is illegitimate.

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314 The Movement for Black Lives has come some way towards recognizing the global nature of the struggle against racial oppression and police brutality that forms the subject of the movement's demands, echoing the Black Panthers' call for an "end to all wars of aggression" in 1972. The movement's platform states:

> While this platform is focused on domestic policies, we know that patriarchy, exploitative capitalism, militarism, and white supremacy know no borders. We stand in solidarity with our international family against the ravages of global capitalism and anti-Black racism, human-made climate change, war, and exploitation. We also stand with descendants of African people all over the world in an ongoing call and struggle for reparations for the historic and continuing harms of colonialism and slavery. We also recognize and honor the rights and struggle of our Indigenous family for land and self-determination.

Platform, MOVEMENT FOR BLACK LIVES, https://policy.m4bl.org/platform [https://perma.cc/Y6HC-RHMK] (last visited Mar. 2, 2019).

There is a pressing need for alternatives to policing, but to meet that need, we must also lower the perceived need for police themselves. This may mean decriminalizing some or all drugs and re-framing addiction as a public health issue. It may mean intervening in cycles of violence through strategic work informed by epidemiology. Or it may mean de-escalating gang violence by engaging with and emancipating gang-affiliated prisoners primed for political action upon release. It certainly means improving the educational and economic prospects of the people most at risk to commit acts of violence and end up incarcerated. And whatever the discrete tactic or policy reform, it should be informed by an abolitionist ethic seeking to supplant punitive responses to criminalized conduct with community-focused restorative justice. It should be rooted in resistance to the systematic oppression meted out on Black people, Latinos, American Indians, and other marginalized groups generation after generation. To question the legitimacy of the struggle against oppression, to cite empirical concerns about controlling crime, is ultimately to blame the victim. As Martin Luther King, Jr. said in 1964 against the segregationist argument that integration would expose Whites to crime,

> Criminal responses are not racial, but environmental. Poverty, economic deprivation, social isolation and all of these things breed crime, whatever the racial group may be. And it is a torturous logic to use the tragic results of racial segregation as an argument for the continuation of it. . . . [S]o it is necessary to see this and to go all out to make economic justice a reality all over our nation.[315]

To abolish today's iteration of segregation, indeed, we must go all out.

315 *Newly Discovered 1964 MLK Speech on Civil Rights, Segregation & Apartheid South Africa*, DEMOCRACY NOW! (Jan. 16, 2017), https://www.democracynow.org/2017/1/16/newly_discovered_1964_mlk_speech_on [https://perma.cc/M5UJ-WVAY].