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Anti-Blackness and the Possibility of Legal Change:
An Abolitionist Analysis of the Post-1992-Uprising Reform of the Los Angeles Police Department

DISSERTATION

submitted in partial satisfaction of the requirements for the degree of

DOCTOR OF PHILOSOPHY

in Criminology, Law and Society

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DEDICATION

To Kelly Gissendaner

Your friendship changed the course of my life. I hope I have made you proud.

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ABSTRACT OF THE DISSERTATION

Anti-Blackness and the Possibility of Legal Change:
An Abolitionist Analysis of the Post-1992-Uprising Reform of the Los Angeles Police Department

by

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Doctor of Philosophy in Criminology, Law and Society

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Scholars of criminology and sociolegal studies have long been concerned with the occurrence of anti-Black racism in the context of the criminal legal system, and special attention has been paid to developing policies meant to address empirical findings of anti-Black racism in the law. However, the policy development process is largely atheoretical when it comes to understanding the relationship among policy, anti-Blackness, and the criminal legal system. The purpose of this project is to develop a framework of legal change that theorizes the end of anti-Blackness in the law. To do this, I turn to Black studies theories of Black positionality as I develop the concept of structural abolitionism as one starting place for understanding a) anti-Blackness and subsequent anti-Black racism, and b) what it might mean to sever the relationship between anti-Blackness and the law. Upon the conceptual development of structural abolition, I mobilize the term in a historical context by examining the 1992 Los Angeles uprising and the post-uprising policymaking process. Specifically, I use a method of deconstructive content analysis to analyze archival documents of the Webster Commission, an entity formed to investigate the Los Angeles Police Department's response to the uprising and make recommendations to prevent future uprisings. Though the Commission made a variety of recommendations, their most

prominent was that the LAPD transition to a model of community-oriented policing, a set of policing philosophies and practices primarily developed to address crime and disorder in Black communities while building trust between community members and the police. My analysis reveals that the Commissioners perceived Black communities as dysfunctional and were influenced, in part, by benevolent and paternalistic anti-Black logics as they sought to mobilize police officers as one resource to rehabilitate Black communities. As a result, I demonstrate how community-oriented policing not only failed at addressing the problems facing Black Angelenos, but grew the carceral state while perpetuating racial power. More broadly, by reading the Commission's archive and recommendations alongside theories of Black positionality, I explore the possibilities and limits of policy and other forms of redress for addressing the problem of anti-Blackness in the law.

INTRODUCTION

Where to Begin?: Theorizing Legal Change Before and Beyond Ferguson

> The difference between then and now perhaps might not be as different as we might hope. (Sora Han, *Equal Protection's Dead End, or the Slave's Undying Claim*)

The basic narrative of the 2014 and 2015 Ferguson uprisings is familiar to many. On August 10th, 2014, one day after police officer Darren Wilson shot and killed Black teenager Michael Brown, a large number of residents of Ferguson, Missouri took to the street in protest. Over the next fifteen days, mostly Black residents of Ferguson engaged in looting, arson, vandalism, and varieties of physical violence to an extent that the period came to be understood as an uprising. Participants and bystanders were met with the uprising control strategies of the Ferguson Police Department [FPD], the St. Louis County Police Department, the Missouri State Highway Patrol, the National Guard, and mutual aid officers. Images such as that of Edward Crawford wearing an American flag tee-shirt and throwing a fiery police tear gas canister back toward officers, or Rasheed Davis with his hands up as he is confronted by no fewer than ten officers in military fatigues and riot gear, became familiar to media consumers across the country, as did photos of armed law enforcement and military officers lining Ferguson streets. Scenes such as this continued off and on in Ferguson throughout August 2015 as a grand jury failed to issue a true bill against officer Darren Wilson, as the United States Department of Justice announced it would not pursue a federal prosecution of Wilson, as Freddie Gray was killed by Baltimore police officers, and as residents observed the one-year anniversary of Michael Brown's murder.

Though the Department of Justice [DOJ] chose to not prosecute Wilson for any wrongdoing in Brown's death, on September 4th, 2014 the DOJ opened a civil rights investigation into the FPD to determine whether and to what extent the department had engaged in a pattern or practice Constitutional violation (United State Department of Justice Civil Rights Division, 2015). Six

months later, the DOJ released its findings in a report entitled *Investigation of the Ferguson Police Department,* which came to be known as the Ferguson Report (United States Department of Justice Civil Rights Division, 2015). In regard to race, the report revealed a strong pattern of anti-Black behavior by the FPD, with the DOJ finding, for example, that although Black individuals made up 67% of Ferguson's population, that 85% of vehicle stops, 90% of citations, and 93% of arrests were of Black residents; that Black residents were over two times as likely to be subject to a vehicle search; that Black residents were more likely to receive a citation or be arrested during a stop; that a number of nuisance charges were issued almost exclusively against Black residents; and that nearly all use of force incidents, and all canine use of force incidents, were against a Black resident. In response to the report, the DOJ and FPD issued into a federal consent decree, requiring that the City of Ferguson agree to a lengthy list of reforms to its courts and police department (*United States of America v. The City of Ferguson*, 2016). To address the documented pattern of anti-Black racism, the primary requirement of the consent decree was that the FPD adopt a community-oriented, problem-solving approach to policing, including the implementation of community meetings and youth engagement programs. Additionally, the decree requires that the Ferguson, among other tasks, develop policies and training to promote bias-free policing including implicit bias and cultural competency trainings, develop policies and training to promote legitimate use of force, increase the use of body-worn and in-car cameras, attract diverse applicants that represent the racial demographics of the city, and establish a civilian oversight program. Although not enough time has passed to fully implement and/or produce empirical evaluations of these reforms, there is reason to be skeptical in regard to their potential efficacy for truly addressing the FPD's racist policing practices.

Among scholars and policy-makers, reforms such as these are incredibly common when it comes to responding to empirical findings of racist practices related to policing and punishment.

Indeed, criminological and sociolegal scholars have focused a great deal of attention on producing evidence of what is variably termed anti-Black racism, White supremacy – or more benignly – discrimination and/or Black-White racial disparities. What we have learned, simply put, is that Black individuals generally face a disadvantage when it comes to interactions with the criminal legal system, while White individuals generally inhabit a place of racial privilege. To address these findings, and consistent with the historic policy-based and applied orientation of the criminological and sociolegal traditions, a great deal of attention has been paid to remedying what I will term anti-Black racism or anti-Blackness as it relates to the U.S. criminal legal system. That is, scholars and policymakers have worked to address evidence of anti-Black racism as it has emerged in social science research through the development of practical policy solutions. The purpose of my project is to both theoretically and empirically examine how and why these policies are made, why they are often inadequate, and how they can and do backfire, resulting in the perpetuation of racial power in the U.S. legal system.

The core argument that undergirds my inquiry is that the policymaking process relevant to race and the U.S. legal system is largely atheoretical. Put differently, criminal legal policies related to addressing anti-Blackness are mostly reactionary and are not derived from one or more developed theories of legal change. This is not surprising, as theories of legal change are essentially non-existent when it comes to racism and that law. What I mean by this is that there is not a developed body of literature that both articulates the root causes of anti-Black racism in criminal punishment processes and theorizes if and how those root causes might be addressed. The result is that policies are made addressing the problem as it manifests at the symptomatic level, rather than at its foundation. Further, strategies meant to get beyond the symptom and toward the core issue – for example, the use of training judges in implicit bias as a way of addressing anti-Black outcomes in sentencing – fail to theorize the problem more deeply, such as through the lens of history or

psychoanalysis. Therefore, a theory of legal change as it relates to anti-Blackness in the law must not only work to theorize the possibility of an end to the problem of anti-Blackness but to understand the relationship between anti-Blackness and the law at various levels of analysis, from the concrete and symptomatic to the abstract and structural. Absent this theorization, I argue that the fields fall into a sort of common sense dependence on a seemingly apolitical model of what I term *sociological reformism*, or simply *reformism*, where practical and efficient policy solutions are derived from the readily observable (and oftentimes, quantifiable) social world. Dependence on sociological reformism, however, not only limits political possibilities when it comes to addressing anti-Black racism in the context of the law, but frames the problem of anti-Blackness as one that can be addressed through a series of trainings, sanctions, mandates, or other policy-based strategies.

Although I argue that reformism is the primary mode of legal change when it comes to racism and the law, a secondary but growing area of theorization that rivals reformism has emerged: *carceral abolition*. Within the carceral abolitionist literature (where this variety of abolition is also referred to as, for example, prison abolition, penal abolition, and neo-abolition) we see a challenge to the notion that institutions, policies, and practices can simply be tinkered with as a means of addressing racism. Instead, abolitionists argue that the institutions, policies, practices, and discourses that constitute and undergird the U.S. criminal legal system were created with racist intentions in mind, and thus, must be abolished and recreated if we are to realize racial justice. However, I argue that, like reformism, carceral abolition fails to adequately account for anti-Blackness, and thus, will inadvertently create another world with anti-Blackness as its founding logic. Therefore, throughout the course of my project, I challenge both reformism and carceral abolitionism as I engage in a sustained inquiry of the relationship among policy, anti-Blackness, and the law. Specifically, I work to formulate a framework of legal change that theorizes the end of

anti-Black racism in the criminal legal system, and I do this by examining the nature of anti-Blackness, the ways that anti-Black racism comes to be embedded in the law, and the very possibility of crafting an anti-Black criminal legal system.

My project is situated in and informed by the critical race theory tradition. The critical race tradition emerged during the civil rights movement of the 1960s and 1970s as legal scholars grew disillusioned with the slow pace at which the law was addressing civil rights violations related to race and the seemingly inevitable stalls in the implementation of new civil rights law (Delgado & Stefancic, 2001). As a result, critical race theorists such as Derrick Bell, Alan Freeman, and Richard Delgado began a concerted effort to theorize race and racism in the context of the law and to develop legal remedies – primarily through civil rights litigation – capable of addressing the social, economic, and political problems facing oppressed racial and ethnic groups. Scholars working in the area of critical race theory argue that racism is not only always present in an institution like the criminal justice system, but that institutions and social structures work to re-create racial categories and racial ideologies over time and space. Therefore, critical race scholars do not so much ask if, when, and where racism is present in an institutional process, but why and how it is present as an effect of history. The study of racism, then, shifts from the study of racism only as it is detectable through statistical modeling or even qualitative observation to an examination of the ways that racism is re-embedded in the system through factors such as popular discourses and legal reasoning. The critical race approach is important because it serves a diagnostic function in understanding and addressing racism in the context of the law. In this sense, we might think of research related to disparities as important for the purpose of detecting symptoms of a larger problem, but a critical race approach as necessary for diagnosing the root cause of those symptoms. Having the correct diagnosis provides the necessary foundation for thinking not only about

reversing the growth of the criminal punishment system, but addressing racism as it manifests in the law. It is toward such a diagnosis that this project strives.

Methodological Approach and Project Overview

Conceptual Analysis

I take two methodological approaches to reach the goals of the project. First, I engage in a largely-theoretical, conceptual analysis in which I work to analyze existing concepts related to anti-Blackness, reformism, and carceral abolitionism, as well as to identify or develop concepts and ideas that are generative for theorizing a framework of legal change to address anti-Blackness. The ultimate purpose of the conceptual analysis is to examine current frameworks of legal change (or lack thereof) and areas for additional inquiry, growth, and theorization. As such, the primary purpose of Section I is to engage with relevant existing theoretical literatures in the fields of criminology and sociology of law and their associated terms and concepts. Specifically, in Chapter 1, I engage in a conceptual analysis of reformism in which I make palpable the values and politics underlying reformism as a framework of legal change. To do this, I read an exemplary reformist text, Carroll Seron's 2015 presidential address to the Law and Society Association, alongside Marianne Constable's critique of *sociological jurisprudence* and Dylan Rodríguez's concept of *violent common sense*. In doing so, I reveal the limits and antagonisms of reformism, especially as they relate to interpreting and addressing social scientific evidence of anti-Blackness. In Chapter 2, I conduct a conceptual analysis of *carceral abolitionism* as one alternative to addressing the problems of reformism discussed in Chapter 1. However, I argue that this version of abolitionism has important limitations for fundamentally addressing anti-Blackness. Instead, I propose grounding my framework of legal change in a series of Black studies texts by Frantz Fanon, Saidiya Hartman, and Frank Wilderson that mobilize the concept of social death as a way of theorizing Black positionality and the problem of anti-Blackness. Ultimately, I term the conceptualization of

abolition that emerges from these texts *structural abolition*. By studying these two conceptualizations of abolition alongside one another, I both justify my theoretical departure from the existing sociolegal scholarship on abolition and identify the primary claims of structural abolition as a framework of legal change: a) that the problem facing Black people is their social death at the structural level and the symptoms of social death at the social, political, and economic levels, b) that the solution to social death is the destruction of the existing relational structure and the creation of a new, non-Manichean relational structure, and c) that until then, resistance must be understood as limited redress within the existing racial structure. It is with these claims that I begin the process of theorizing what it might mean to address anti-Blackness in the criminal legal system.

Contextual Analysis

In the second section of the dissertation, which consists of four chapters, I shift to a more stereotypically empirical approach to social science research as I engage in a contextual analysis using the terms identified and developed in Section I. That is, I mobilize the concepts I engage in Section I to understand the relationship among policy, anti-Blackness, and the law in a historic context. Specifically, I examine policy changes requested of the Los Angeles Police Department [LAPD] by an independent commission appointed by the LAPD Board of Police Commissioners in the wake of the 1992 Los Angeles [L.A.] uprising. The work done in this section serves two primary purposes. First, this section demonstrates the dangers of using a reformist approach to legal change when reforms are meant to address anti-Blackness in the criminal legal system. Second, in this section I apply the concept of structural abolition to revisit the 1992 L.A. uprisings as a site of legal change. I do this by re-analyzing the same evidence collected by the independent commission using the analytic of social death as both a structural and material position. In doing so, I not only reframe the uprising, its preceding events and circumstances, and its outcomes in relation to

anti-Blackness but speculate toward what it might mean to mobilize structural abolition as a theory of legal change into the future.

The L.A. context. The basic narrative of the 1992 L.A. uprising is familiar to many. On the afternoon of April 29th, 1992 after the county-level acquittals of the four White and Latinx police officers involved in the March 3, 1991 recorded beating of Rodney King, a large number of L.A. residents took to the streets in protest. Over the next six days, mostly Black and Latinx residents of L.A. engaged in looting, arson, vandalism, and varieties of physical violence to an extent that the six-day period came to be understood as an uprising. Participants and bystanders were met with the uprising control strategies of approximately 2,500 Los Angeles Police Department officers; 400 Los Angeles County Sheriff's Department officers; 900 California Highway Patrol officers; 1,200 federal agents; 9,800 National Guardspersons; 3,500 members of the U.S. Army, Navy, and Marines; and an unknown number of non-LAPD mutual aid officers. Scenes such as the beatings of White truck driver Reginald Denny and Latinx construction worker Fidel Lopez by Black individuals at the intersection of Florence and Normandie in South Central L.A. became familiar to media consumers across the country, as did photos of armed law enforcement and U.S. military members lining L.A. streets. By May 5th, approximately 9,300 emergency incidents were reported to 911, between 700 and 1,000 fires had been set, an estimated $1 billion of property damage was assessed, approximately 5,000 individuals had been arrested, and between 42 and 63 citizens were dead.[1]

On May 11th, 1992, about one week after the uprising's end, the LAPD Board of Police Commissioners adopted a motion that called for an investigation of the previous week's events. The resulting entity – The Office of the Special Advisor to the Board of Police Commissions on the Civil

[1] The reported number of deaths and fires varies by source (Ardalani et al., 2012; C.n.n., 2017; Kim & Suh Lauder, 2017; Richardson & Goodrich, 2011; Webster & Williams, 1992), with the Webster Commission reporting the lowest number of deaths. The remaining figures, including deployments, are those reported by the Webster Commission (Webster & Williams, 1992).

Disorder in Los Angeles – was to be led by former Federal Bureau of Investigation Director Judge William H. Webster, and thus became known as The Webster Commission (herein also referred to as the Commission). The Commission was tasked with a) investigating the LAPD's pre-April 29th uprising preparation, b) investigating the LAPD's response to the uprising, and c) recommending departmental improvements in the case of a future uprising. During the 163-day course of its work, over 100 volunteers – namely legal counsel – worked to prepare their findings and provide suggestions for future departmental activity. The final 222-page report, *The City in Crisis*, was released to the Board of Police Commissions on October 21, 1992, concluding that the LAPD was not solely responsible for the uprising or what many considered a failed law enforcement response to the uprising (Webster & Williams, 1992). Rather, a range of persons and entities, including governmental bodies, community leaders, and the news media – as well as and contextual "inner city" (p. 3) problems such as poverty, strained relationships between the department and those it policed, a "majority of" racial and ethnic "minorities" (p.35), the crack cocaine epidemic, and street gangs – are reported to have turned L.A. into a "tinderbox" (p. 41), vulnerable to ignition with even the smallest of sparks. Recommendations related to this conclusion, totaling 16 core recommendations and 16 sub-recommendations, were organized around the themes of preventing future uprisings, improving emergency preparedness plans, and upgrading emergency response procedures and infrastructure. Though the Commission made a wide range of recommendations, their most prominent and forceful was that the LAPD abandon their law-and-order style of policing and replace it with a community-based style focused on cooperative problem solving between community members and the police. This recommendation in particular is the focus of my analysis.

During its work, the Commission negotiated an agreement with the University of Southern California Special Collections Department to archive the material artifacts it had collected, studied, and produced. The records, which were sealed for a period of 20 years, were given to the

University on October 30, 1992 and are now publicly accessible through the library's Regional History Collection. Housed in 40 boxes that total over 50 linear feet, the collection contains items from 1931 to 1992, including newspaper clippings, scholarly research reports, press releases, interview transcripts and summaries, community meeting summaries and excerpts, LAPD internal affairs documents, legal briefings, recordings of City Council meetings, recordings of televised news stories and radio broadcasts, survey data, and emergency response plans specific to LA and the state of California.[2] Further, the archive contains artifacts specific to the working of the Commission: correspondences, timelines, status reports, report drafts, press releases, budgets, and fundraising letters. It is this collection of documents and artifacts, as well as *The City in Crisis*, in which I base my contextual study.

The uncanny resemblance between the 1991-1992 events in L.A. and the 2014-2015 events in Ferguson is the primary reason why I chose the post-uprising reform of the LAPD as my site of study. In Sora Han's language describing the ongoing legacy of slavery, "the difference between then and now perhaps might not be as different as we might hope" (2015, p. 50). In this vein, a historic context allows us to examine the endurance of anti-Blackness as it manifests in state violence as well as bureaucratic resistance to that state violence via, for example, benevolent policy making focused on community policing – a policing philosophy and set of strategies meant to foster cooperation between police officers and community members as a way of addressing community-level crime and disorder and increasing police-community trust. Additionally, we can see how policy recommendations are recycled even in the face of their ineffectiveness to actually address or redress anti-Blackness. In my chosen context, we can see, for example, an early iteration of the now-repeated recommendation that community-oriented policing be used to sever the relationship between anti-Blackness and the law. By 1996, the LAPD implemented what would

[2] At the time of my data collection, in the summer of 2018, the archive was only available in-person. It has now been fully digitized by the library and is available online.

become the scaffolding for the department's focus on community policing into the future, having created Community Police Advisory Boards across the city and having appointed a Community Policing Coordinator (Public Affairs Section, 1996). To this day, the LAPD promotes itself as "uphold[ing] Community Policing in all its daily operations and functions" and has a thorough section in its strategic plan dedicated to explicating goals related to community policing (Los Angeles Police Department, 2020; Strategic Planning Section, 2019). That L.A. was an early adopter of community policing makes it a prime context for studying what has become a ubiquitous policing philosophy and model (Hyland and Elizabeth, 2019) – and as we see in the DOJ's consent decree with the City of Ferguson, a go-to policy solution for addressing anti-Black racism in the law.

Chapter overviews. I begin my contextual analysis in Chapter 3 as I provide additional justification for selecting the post-uprising reform of the LAPD as a site of study, and give extended details of my contextual method. My methodology consists of several key features that I will discuss here. First, I developed three questions to ask of the archive and *The City in Crisis*. These questions were developed based on the three key claims of structural abolition I identified in Chapter 2 and meant to facilitate a well-rounded analysis of the racial logics both implicitly and explicitly employed by the Commission. Alongside their accompanying chapter numbers and abolitionist claims, they are outlined in Table 1. Next, to gain a holistic understanding of the contents of the archive, I did a preliminary reading of the materials in each box. I then purposefully selected a series of documents, such as interview transcripts and correspondence, that I judged to be most fruitful for answering the questions raised by structural abolitionism. With these purposefully selected documents, I identified themes, patterns, or core arguments within the text. Then, based on these themes, patterns, and arguments, I analyzed excerpts from the chosen documents using a technique of close reading commonly used in critical theory, reading the texts

for qualities such as syntax, word choice, contradictions, subject formation, assumptions, tacit reasoning, and gaps in logic. By doing this, I was able to identify and more deeply understand what

Table I.1: Structural Abolitionism's Key Claims and Their Related Provocations		
Chapter	Structural Abolitionism's Key Claims	Questions Raised
4	The **problem** facing Black people is their social death at the structural level and the symptoms of that social death at the social, political, and economic levels.	How did the Commission understand the **problem**(s) facing Black Angelenos prior to the uprising?
5	The **solution** to social death is a) the destruction of the existing relational structure, and b) the creation of a new, non-Manichean relational structure.	How did the Commission propose **solving** these problems?
6	Until then, **resistance** is limited redress within the existing structure.	How did the Commission understand the achievements of the uprising as a form of **resistance**?

is present within the archive, as well as what is missing, or left unsaid. Further, by reading in this way, I was able to attend to evidence within the archive that resisted the Commission's interpretation, providing alternative perspectives on the relationship between anti-Blackness and the law. Another way I draw out these alternative perspectives is by reading through purposefully selected theoretical lenses. I selected these theoretical frameworks for their ability to help make sense of the patterns, themes, and arguments I found within the documents, as well as their ability to make salient the racial logics employed by the Commission. Specifically, my reading is theoretically oriented by, but not limited to, the key Black studies texts on the racial construction of social death and Black positionality that I discuss in Chapter 2. By using these texts as theoretical lenses, I am able to simultaneously identify the explicit reasoning used by the Commission and highlight and problematize the use of more tacit anti-Black racial narratives in the Commission's

work. In doing so, I offer, in one historic context, an explanation for why policy reforms meant to address anti-Blackness in the law have largely failed.[3]

I begin doing this work in Chapter 4 as I ask how the Commission understood the social problems facing Black Angelenos prior to the uprising. To answer this question I read a series of documents related to a community meeting held by the Commission in South Central L.A., demonstrating that the Commission understood Black Angelenos as facing temporally- and geographically- discrete social, political, and economic factors that were essentially race-neutral. However, because of physical and social disorders within Black communities, Black Angelenos were the most negatively impacted by these factors. I then reconsider the problems facing Black Angelenos through Orlando Patterson's concept of social death, arguing that problems facing Black Angelenos were rooted not in local and transitory factors or the incivility of Black communities but in the ongoing history of slavery. When these two readings are compared, the problems facing Black Angelenos are framed by the Commission as redressable at the level of the Black community, but by structural abolitionism as symptoms of a larger, unredressable problem.

In Chapter 5 I continue my analysis of documents related to the rise of community policing in L.A., asking how the Commission proposed solving the problems faced by Black Angelenos. Broadly, I find that the Commission took two interrelated approaches to addressing these problems: reducing tension between the police and the public, and reducing crime and disorder Black neighborhoods. In both cases, I argue that the Commission was benevolently working to integrate Black Angelenos into civil society. By reading two sets of archival document – a radio transcript discussing state violence committed during the uprising and a list of demands made by the Bloods

[3] In the L.A. context, we see, for example, that 18.2% of fatal officer involved shootings in 2015 and 26.3% in 2016 were committed against Black individuals (The Guardian, 2015). In both of these years, Black individuals made up approximately 8% of the population in L.A. County. This is one example of current anti-Black racism as it exists in relation to the LAPD. Though the shooting data have not been subject to controls, it is important to note that in 2015 two of the four Black individuals killed by the police were unarmed and two were in possession of a knife and that in 2016 no White individuals were killed by the LAPD.

and Crips during an uprising-time truce – through the work of Frantz Fanon, Frank Wilderson, and Steve Martinot and Jared Sexton, I show that this understanding substantially departs from an abolitionist reading of the same documents, which theorize Blackness and civil society as antagonistic, and thus, prioritize the destruction of civil society and the creation of a new relationality. In light of this, I show how the Commission's consent-building approach shaped their recommendation that the LAPD transition to a model of community policing.

In the final chapter I examine how the Commission understood the achievement of the uprising as a form of resistance, as well as how the work of the uprising can be reimagined through a Black studies lens. As earlier chapters will demonstrate, an understanding of Black positionality rooted in social death rejects the possibility of a complete political remedy to anti-Blackness. However, scholars in this tradition have long theorized concrete resistance in the face of social death. Thus, in Chapter 6 I consider two different models of resistance: Saidiya Hartman's conceptualization of redress and Jack Halberstam's notion of queer failure. To do this, I examine a series of archival documents – a draft report, an interview with a local civil rights lawyer, and a scholarly article on urban uprisings – that both inform and resist the Commission's interpretation of the uprising. By examining two different models of resistance rather than offering a prescriptive form of resistance in the face of anti-Blackness, I work to demonstrate what it might mean to gesture toward structural abolition as limited redress rather than toward the end of anti-Blackness as the social, political, or economic levels.

In the manuscript's conclusion, I return to my original provocations as well as the questions that emerged throughout the text: What is the relationship among anti-Blackness, policy, and the law? How might scholars and policymakers respond to evidence of anti-Blackness in the law? Why do policies meant to address racism in the law frequently backfire, resulting in the perpetuation of an anti-Black relational structure? What does resistance look like in the face of social death, and

what can this teach us about current modes of resistance? By responding to these questions at both a local level (i.e. L.A.) and a general level (i.e. at the level of social and political theory), I work not only to offer a refreshed analysis of the 1992 L.A. uprising and its subsequent policy changes, but to speak to our current moment of anti-Black police violence and attempts to address (if not redress) that violence.

Keywords in Racism

I mobilize several key terms throughout the text that are worthy of further definition and discussion. Though the terms *anti-Blackness* and *anti-Black racism* are clearly related and often used interchangeably in scholarship on race and racism, I use them here in different ways. I make this distinction between anti-Blackness and anti-Black racism because, ultimately, how we understand anti-racist legal change will vary whether we are discussing unconscious desire and racial structures or material conditions. To begin, in this project I mobilize the language of *Blackness* to describe a position in the racial structure that stands in irreconcilable opposition to non-Blackness. Blackness, in other words, is not conceived here as a chosen or assigned racial identity but a structural position that "exceeds and anticipates" all of us (Wilderson, 2017). As I will discuss in great detail in Chapter 2, we may also think of this as the opposite of Humanity. As such, Blackness is inseparable from anti-Blackness. Anti-Blackness, then, is often understood as an articulable belief in the inherent inferiority of that which is racialized as Black. However, in this project I am less concerned with anti-Blackness in its explicit form and more so as it exists in an inarticulable manner. Therefore, I use the terminology of *anti-Blackness* in a rather abstract manner to describe an inchoate bundle of desires, drives, pleasures, and passions as they exist libidinally, psychically, and unconsciously and ultimately produce violence against individuals racialized as Black. Our language and worldviews are oriented by anti-Blackness or, as I will discuss in greater detail in Chapter 2, preference for the category of Human and a disdain for the category of Black.

Anti-Blackness, then, (as I use it) plays out first and foremost at the level of the racial structure. It describes the relational structure between Black and White and the semantic field that constitutes and flows from that structure.

Relatedly, I use the terminology of *anti-Black racism* more concretely to describe anti-Blackness as it manifests materially and systemically. In other words, it is how anti-Blackness plays out in contexts such as the economy, politics, and social relations. Anti-Blackness, then, can be thought of as the root cause of anti-Black racism. I think of anti-Black racism as different from anti-Blackness in that it is quantifiable and variable across contexts. We might say, for example, that anti-Black racism is present in police vehicular stops as Black individuals are more likely to be stopped and subject to investigatory searches than White individuals (Baumgartner et al., 2018; Epp et al., 2014; Fagan et al., 2016), or as Black individuals are more likely to pay more for a mortgage or experience other adverse housing outcomes (Boehm et al., 2006; Clarke & Rothenberg, 2018; Desmond, 2012; Reid et al., 2017) but that these outcomes vary by location and time. Anti-blackness, however, precedes and produces these results, but cannot be measured. Further, its presence is invariable. We all possess anti-Black desire at the level of the psyche regardless of our racialized bodies, and this desire plays out, for instance, at the level of policy (Sexton, 2010). Of course, the distinction that I am making here is imperfect. There are, for instance, scenarios in which both anti-Blackness and anti-Black racism are at play. In these cases, I have worked to select the most appropriate term, realizing that these terms (and others) often fail us.

Contributions

The primary contribution I make to the fields of criminology and sociolegal studies through this project is a sustained engagement with the idea of legal change. To date, a developed literature on purposeful anti-racist legal change does not exist. That is, the fields generally lack guidance on what to do when findings of anti-Blackness in the law are realized throughout the course of

empirical research. A possible exception to what I identify as a gap in theory is the small but growing body of literature on carceral abolition.[4] However, as I will argue, this literature focuses more on economic and political inequality beyond race than it does on the problem of racism itself. Further, while carceral abolitionists sometimes claim that abolition is capable of addressing anti-Blackness and/or anti-Black racism, so far carceral abolitionists have failed to offer an explanation of how and why this is to occur. As a result, carceral abolition stands as a framework for legal change that aspires to address racism (anti-Black or otherwise) but does little to clarify this goal from a theoretical perspective. While I cannot claim that my project will fully propose and advance an anti-anti-Black framework of legal change, it takes one step toward advancing this conversation and building the associated literature.

Second, I contribute to the fields' engagement with theories of race and racism through an in-depth and expanded mobilization of the Black studies conceptualization of social death and Black positionality. Although the concept of social death has appeared in criminological and sociolegal scholarship (Guenther, 2013; Price, 2015; Reiter & Coutin, 2017), it is typically from an experiential or phenomenological perspective rather than one rooted in questions of positionality, being, and ontology (Chavez, 2019). Further, mobilization of the concept of social death has been race neutral in that it conceptualizes racism broadly rather than regarding the particularities of anti-Black racism. This differentiation is important because the necessary modes of redress and resistance in the face of social death vary wildly. In the current context, which is that of the law, a conceptualization of social death oriented first and foremost to the experiential would require, or call for, for a theory of legal change oriented toward reformism or carceral abolition; it would

[4] It might also be argued that Critical Race Theory [CRT] provides a framework of legal change that addresses anti-Blackness. In many ways, this is true. However, CRT acts more as an orientation toward understanding the co-constitutive relationship between racism and the law. Further, CRT theorists have historically focused their attention on developing legal strategies in the contexts of specific civil rights cases, rather than in the context of criminal law.

change people's experiences. On the other hand, as I explore in this manuscript, a conceptualization of social death oriented toward the ontological would require not only the end of the law as we know it, but the end of the entire relationship structure that constitutes the modern world. As such, the latter approach leaves us with more questions than answers, which can be frustrating (if not unscholarly) in fields heavy with applied research.

Lastly, and as will become obvious by the end of the manuscript, I wrestle with – and thus, hope to create a text that helps the fields reckon with – the possibility that anti-Blackness can never be unstured from the law. I did not start the project with this ambition, but as the notion emerged, it became an integral aspect of the work. The consequences for theorizing legal change are radical and informed my conclusions in ways that I never would have expected when the project began. In short, the theories that I mobilize in this text lead us not toward the end of anti-Blackness or even the end of anti-Black racism, but to the question of what it means to seek redress in a world where redress is out of reach.

CHAPTER 1

Anti-Blackness, Jurisprudential Nihilism, and the Problem of Reformism

> To those who hear, as to those who would heed Zarathustra's call to look where the state ends, something other than the law of sociology shows itself. (Marianne Constable, *Genealogy and Jurisprudence: Nietzsche, Nihilism, and the Social Scientification of Law*)

In 2015, Carroll Seron gave a presidential address to the Law and Society Association focused on the role of the social science researcher in effecting legal change. Seron specifically calls on sociolegal scholars to recommit to the Law and Society Association's scholarly history of producing research relevant to the problem of social inequality. For Seron, this type of scholarship works in concert with the ideal of the law, or "law's promise to insure an equal and equitable society" (2016, p. 18). To achieve equality and equitability, Seron advocates for the development of "pragmatic policy." Specifically, Seron argues that social scientists must commit themselves to conducting research that has the potential to influence public policy, as well as assuring that the presentation of their work is legible and accessible to policymakers. For Seron, forsaking the legacy of the founding of the Law and Society Association and failing to produce and disseminate this variety of pragmatic scholarship has dire social consequences.

The general argument put forth by Seron is not new or marginal in the fields of criminology and sociolegal studies, but exemplary of a disciplinary norm in which scholars produce research that analyzes and seeks to address social problems. When faced with the resultant research findings, typically empirical in nature, the disciplinary norm is the development and promotion of recommendations oriented toward legal reform. Reformist policy recommendations are familiar to many; they manifest, for example, as bias control training for legal actors, hate crime legislation, and the use of body-worn cameras by police officers. Seron promotes this variety of legal change by advocating, for example, for the provision of legal representation to those facing eviction

(Desmond, 2012) or by racially diversifying courtroom actors in criminal cases (King et al., 2010; Ward et al., 2009). So, while Seron contributes to the discussion of the role of sociolegal scholarship by advocating for a particular type of policy recommendation – the *pragmatic policy* – the provision of policy reforms is as old as the field of criminology and law and society themselves (Garth & Sterling, 1998; Koehler, 2015). As the norm, or "common sense" in the social sciences and in popular culture more broadly, the adoption of reformism – understood here as a belief in modifying an otherwise defensible institution or practice – is seen as natural. It is no longer seen as a choice but an inevitability. In this face of this common sense, theories of legal change – reformism included – are left under-theorized and their associated values and politics are left under-examined. In this chapter, I engage in a conceptual analysis of reformism in which I make palpable the values and politics underlying reformism as a framework of legal change. In doing so, I reveal the limits and antagonisms of reformism, especially as they relate to confrontations with anti-Blackness.

My analysis is structured as follows. First, I read Seron's presidential addresses alongside Marianne Constable's (1994) concepts of the *sociologization of law* and the *disappearance of justice* to understand the normalization of reformism in this jurisprudential moment, or how reformism has become sociolegal common sense. Specifically, I build on Constable's analysis, arguing that the abolition of the metaphysical "real world" leads to an understanding of law as a socially constructed phenomenon, and thus, fosters modes of legal change that are rooted in the social scientific values of measurability, efficiency, and practicality. I then begin to destabilize the concept of reformism by arguing that these values are not harmless but associated with politics that necessarily limit possibilities of legal change. I continue my reading of Seron as I turn to Dylan Rodríguez's (2010) conceptualization of *violent common sense* to problematize reformism and its associated values. I propose that reformism not only fails to address, but perpetuates, an anti-Black

politics in the US legal system. Lastly, I return to Constable to explore the possibility of a Nietzschean overcoming of jurisprudential nihilism to begin thinking toward an alternative theory of legal change.

Sociological Law, Sociological Reformism

The focus of Constable's (1994) work that I take up here is to understand the relationship between the law and the social sciences. To do this, her analysis extends beyond the readily observable, arguing that the relationship between fields exceeds questions of *if* and *how* legal actors engage with social scientific research – for example, the ways judges account for empirical research findings when making legal decisions. Rather, Constable asks how a sociological lens has informed, and continues to inform, American legal thought – or what we might think of as legal doctrine, jurisprudence, or social theory and research related to the law. As an analytic resource, Constable roughly maps the history of legal thought onto Nietzsche's history of metaphysics (1889/1990). In other words, Constable examines how legal thought corresponds to historic shifts in what is determined *real* and what is determined *apparent.* In particular, Constable tracks the concept of *justice* alongside Nietzsche's conceptualization of *truth* as they both relate to philosophical understandings of the real and apparent worlds. In doing so, Constable questions the possibilities of modern law, which she associates to the final stages of Nietzsche's history, asking whether sociologized law is bound to result in a nihilistic understanding of justice or if the jurisprudential nihilism can be overcome.

Platoism occupies Nietzsche's first stage, where truth exists as reason, and reason corresponds with the ideal. In the second stage, Christendom, and the third stage, Kantianism, truth resides, respectively, in the divine – unknowable and unachievable in full to those who constitute the apparent world – and in the duty or obligation brought forth by the categorical imperative, which is also sensitive to the unattainability of divine knowledge. For Constable, the history of

jurisprudence – and specifically, the genealogy of justice – coincides with the conceptualizations of truth, as justice transitions from being understood through the virtue of the wise citizen, to natural or divine law, and again to moral law. In each case, those concerned with justice look beyond the readily observable for insight. In this sense, the first three stages in Nietzsche's history of metaphysics situate truth, or justice, in "the real world." For the social scientist, the concept of the real may draw forth only that which can be understood empirically. However, for Nietzsche, the real is synonymous with the illusory, and at times the divine or the natural. It is the world that lies beyond or above the apparent, or phenomenal, world. Accordingly, humans act justly only to the extent that they are able to comprehend and practice the unobservable and unattainable.

This spatiality of the real world begins to change in the fourth stage, as the apparent world and the real world become nearer in proximity. Like the Kantians who questioned the possibility of a knowable divine law, the positivists of Nietzsche's fourth stage questioned the sensibility and knowability of Kant's moral law. For the positivists, a conceptualization of truth and justice rooted in morality still relied on an unknowable "beyond." For positivists the real world "comes down to earth" (p. 562), becoming knowable through human perception. Accordingly, an important difference emerges in this stage. For the Kantians, one could strive for morality via duty and obligation. In the fourth stage, truth was understood as that which was utilitarian, assessed through a calculation of pleasure and pain. Put otherwise, what is true, moral, or just is that which reduces pain and increases pleasure. In this stage, the possibility of an ideal manifests in the apparent, disorienting the boundary between the real and the phenomenal. The concept of justice, therefore, also begins to rely on a framework of the ideal within the apparent, as positive law gains favor. With positive law, now most commonly associated with Bentham, justice can be deciphered and realized in the phenomenal world, as empirical or sociological knowledge is used to improve

society. Thus, while there remains a conceptualization of the ideal or the moral, its knowability is no longer out of reach.

This blurring of the distinction between the real and apparent comes to full fruition in the fifth stage as a desire for a universal real world is undermined and condemned. Just as in Nietzsche's conceptualization of the fifth stage in which the real world is no longer of any use in determining the truth ("let us abolish it!" (Nietzsche, 1889/1990, p. 50)) it is of no use in Constable's mapping of justice. Rather, truth and justice are constructed as and through social knowledge. This is the modern unfolding of jurisprudential nihilism, as public policy, social policy, and socially constructed procedures and institutions *become* justice; justice is fully sociologized. Here, sociological law is understood in stark contrast to natural law, such that there is barely longer a distinction between *is* and *ought*. What *is* becomes *ought*, as science trumps metaphysics. Or rather, *ought* becomes the sociological perception of *ought*. Therefore, if a higher normative quality is absent from justice, Constable argues that the law is a social system in which goods are distributed based on the empirically observable values of people in society. Law, then, is "the norms of a population; management of risks and interests; policies enforced by officials in the context of belief in the justice of state violence" (p. 588). This is the sociological jurisprudence of Pound and the legal realism of Holmes, in which justice deals not with universal truths but with outcomes and consequences.

This conceptualization of law as representative of social norms and values is constitutive of jurisprudential nihilism. For Nietzsche, the fifth stage brings the disappearance of the real world, and for Constable, the disappearance of justice. The law no longer strives for justice in the traditional sense – as an unobservable ideal – but toward a purposeful altering of social reality based on the perceptible ideals of a society. In this way, sociology *becomes* the real, even while claiming to be the apparent, and in the absence of the real, the apparent becomes the real.

Constable argues that while there is not a complete collapse of *is* and *ought* among all those who study and theorize the law, that the law as sociological – meaning that the law is a social phenomenon – has become sociological common sense. Constable terms this fifth stage the *sociologization of law,* where the law begins to think with logics of social science. No longer is a universal truth preferred to a socially constructed truth. Consequently, many scholars have committed themselves to answering questions about the law through sociology's methodological resources and epistemological and ontological assumptions. This is Seron's charge, to know the law through social science and to disseminate that knowledge to those capable of making legal change.

Constable repeatedly makes clear that this mapping is not a strictly chronological one. Aspects of the first four stages are certainly still present in the fifth stage and the stages themselves do not have clear temporal boundaries. However, what Constable's analysis demonstrates is the clear dominance of sociological logics in contemporary American legal thought. Seron's presidential address exemplifies this tradition of sociological jurisprudence. Seron not only narrates the relationship between law and social science in a nearly identical manner as Constable, but encourages sociolegal scholars to double down on their commitment to sociological jurisprudence such that the logics of social science not only measure the *law in action* but also inform the *law on the books*. Therefore, while I engage in a close reading of Seron's address, my intent is not to comment on Seron as an individual but the ways in which the ideas expressed in the address more broadly represent reformism and the social scientification of law.

Like the positivists and economists of Nietzsche's fourth and fifth stages, Seron conceptualizes law's ideal not as coming from outside the phenomenal world, but within it. The law is, in sociological terms, socially constructed, observable in the institutions, practices, and actors that now define the law. The law does not come from on high, but is a reflection of the values and norms of a society. When Seron speaks of "law's promise to insure an equal and equitable society,"

(p. 18) or society's failure to "live up to the "law on the books"" (p. 12), what emerges is a conceptualization of law as a network of institutions, practices, and actors who work to insure equality. This conceptualization of law is not ambivalent, but intentional in its ends. Throughout, Seron frames the purpose of law – and accordingly, sociolegal scholarship – as the facilitation of equality. Justice, or equality, is framed as statistical fairness in areas such as "wealth, social mobility, and opportunity" (p. 11). Injustice, then, is conceptualized as *in*equality – or the perception of inequality – whether it works in accordance with (e.g. wealth attainment) or is consequential of (e.g. racially disproportionate police stops) the law. True to Nietzsche's fifth state, Seron makes the case that sociolegal scholars actively work to detect social inequalities and ameliorate them through the formulation of public policy. In other words, their goal is to bring legal policy in accordance with *law's promise*.

For Seron, distributive policy is rooted in the logic of rights. Seron's notion of rights is consistent with the Universal Declaration of Human Rights, where individuals are granted, among other rights, the right to "housing, health, education" (p.29), and "access to justice" (p. 19). As "internationally accepted" (United Nations, 2016), these rights represent not divine or natural law, but socially agreed-upon values and norms; they are functionally, rather than theoretically, universal, presumably knowable through an analysis of social values as they are expressed individually and by the law. Another way of saying this is that the law *ought to* insure each individual's equal rights because these rights represent dominant social values. The *ought* of Seron's law is the same *ought* of Nietzsche's fifth stage in which justice is equated with "*the facts of its perception*" (Constable, 1994, p. 575, italics original). Ought, then, is the perception of ought, both in its naming and in its execution.

Seron's sociological notion of the law is further evidenced by framing inequality as a consequence of "political decisions" (p. 11) and the "[structural] complicity" of "legal institutions"

(p. 20). Inequality is "embedded in structural and systemic processes" (p. 17). The law itself, socially constructed and sociologically perceptible, is unindicted. Rather, negative legal outcomes – namely inequality – are understood as a departure from the values and norms that inform the law. Therefore, when Seron juxtaposes "law's promise to insure an equal and equitable society" and "law's role in reproducing those very inequalities" (p. 18), it is not the law itself, but human actors with political goals that run counter to the ideal of equality. Alternately, inequality is the product of an unintentionally flawed legal institution, practice, or policy – "unintended consequences of promising beginnings" (p. 12). Accordingly, *law's promise* of equality is synonymous with the social value of equality and equitability, and *law's role* is synonymous with flawed human actors and policy.

Because the sociological version of law is constructed in the phenomenal world, it is fully knowable. Unlike conceptualizations of law that constituted Nietzsche's first through third stages of metaphysics, sociological law does not exist apart from those who seek to know it. The ideal law is socially constituted and we can *know* the law and its constitutive values through empirical analyses of the social world. With a sociological lens, we can know that "over the last several decades, surveys of Americans show greater tolerance for blacks and other ethnic minorities" (p. 16), that society's commitment to equality, or at least tolerance, has grown. In addition to knowing the ideals of law, we can *know* justice. Indeed, justice itself is conceptualized as equality, knowable through empirical knowledge of the social world, which is also how we *know* that even in a society of increased tolerance "we continue to live in "hypersegregated" cities and communities" (p. 16). It is this type of knowledge production that Seron argues must be matched with movement toward pragmatic policy. This is markedly different from Nietzsche's framing of metaphysics in which the ideal world was unperceivable and unachievable in the apparent world. The real has become the

apparent world. Again, we see justice as knowable and realizable, as sociological. It is this logic that I argue is the foundational logic of modern legal reformism.

A Reformist Framework of Legal Change

Though the crux of Constable's work is not to understand the particularities of legal change – but to more broadly theorize shifts in modern legal thought – Constable highlights Black's (1989) work on *sociological justice* to demonstrate how sociological jurisprudence brings forth legal reforms that are grounded in the phenomenal, rather than ideal, world. Constable argues that Black, in rejecting an external notion of the law, adopts a conceptualization of justice that is based on "no more than *the fact of its perception*" (p. 575, italics original). Justice is present if it is perceived as being present. The task of the reformer, then, is to either create policy that brings the law in accordance with sociologically identifiable social values and norms, or to alter social perception. In either case, "justice disappears" (p. 572) and is replaced with the perception of justice, just as the social scientification of law has replaced an ideal truth for a phenomenal truth. Constable situates Black's jurisprudential nihilism as an extreme example of this disappearance of justice. Black, for example, accepts discrimination as a sociological truth – a social norm knowable through sociological inquiry – that can never be eliminated from social interaction. Rather, it can be managed through technologies such as computerized courtrooms and legal cooperatives that level access to justice for "haves" and "have nots" (Galanter, 1974). While Seron does not explicitly express such a bleak outlook on the occurrence of discrimination and inequality, the legal reforms put forth by Seron often mirror those of Black. For example, Seron advocates for providing free legal representation to indigent defendants in civil court to decrease the occurrence of eviction (Seron, Frankel, Van Ryzin, & Kovath, 2001). We also see a disappearance of an external, ideal justice in Seron's empirical work on police misconduct, where a just policing is measured as a

citizen's or judge's perception of a particular officer's particular behavior (Seron et al., 2004, 2006; Seron & Pereira, 2011).

Using this sociological framework, legal change is minimal, if it occurs at all. The possibility of transformation is rooted in what is known or knowable through a social scientific lens, such that existing legal institutions, practices, and norms inform what is possible; the ideal *beyond* has been abolished. Rather, modern law works to "create and recreate itself in its own sociological image" (Constable, 1994, p. 589), where the procedures or institutions themselves serve to inform the possible. In this sense, sociological law *is* reformist, as reformism *is* sociological. If understood this way, an analysis of the sociologization of the law is at once an analysis of reformism. Their values and politics are co-constitutive; they bleed into and inform one another to such an extent that they are indistinguishable. To combine terms, we might think of a legal change framework that relies on sociology as *sociological reformism*.

While the social scientific model of knowledge production tends to strive for or claim some variety of neutrality, it is not neutral regarding its values or its politics. The value-ladenness of any jurisprudence is perhaps no more evident than when looking to the past, as the metaphysical values of eternality and externality become salient to those who rely on the sensational and the perceptible. The values underlying sociological jurisprudence, however, are rarely made salient, especially as they relate to proposed legal reforms that are derived from empirical research findings. In Constable's terms, sociology shapes U.S. legal thought – the very thoughts we use to think law. What values shape sociological law, and thus sociological reformism? I argue that sociological reformism – and in particular the legal thought that thinks legal reforms intended to address anti-Blackness in the U.S. legal system – are associated, at a minimum, with the values of measurability, efficiency, and practicality.

With the collapsing of *is* and *ought*, a conceptualization of law as unobservable is traded for a conceptualization of law as perceptible. Truth and justice can be *seen* by observing the social world; they are objective phenomena. Perhaps, then, the foundational value of sociological reformism is *measurability* – or being able to observe, and therefore evaluate, the law. Measurability, of course, undergirds the ontology of social science. What is knowable, and therefore manageable, is foremost that which is phenomenal. In other words, the law is a "quantitative variable" (Black, 1989, p. 8) that can be observed and empirically analyzed. Measurability operates under cause and effect logics, or being able to observe the law both before and after the enactment of a reform. Justice, then, can increase or decrease based on a given intervention. When Seron reflects on scholarly work that makes a "positive difference" or "concrete contribution" (p. 10), it is this cause and effect logic that is implied. The contribution is concrete in the sense that it can be observed, operationalized as data, and submitted to "systematic and rigorous analysis" (p. 19). In doing so, social scientists can determine whether a society is a more or less just – a more or less equal – place. If this justice were immeasurable, it would be conjectural, as unknowable and unachievable as the divine law of Christendom.

Measurability is not a sufficient value to sustain reformism. It relies also on *efficiency*. Efficiency here implies progress, or a valuing of incremental change. Society can *become* just through the enactment of social policy and procedure. For those who value efficiency, the scope of progress is perhaps less important than its mere occurrence; any progress is better than no progress. This variety of efficiency is at the heart of Seron's *pragmatic policy*. Empirical research findings that informed a "modest, if pragmatic" (p. 19) policy intervention meant to reduce racial disparities in police stops serves as Seron's leading example of how "our scholarship can effectively confront" (p. 18) the problems of inequality. Here we see efficiency as purposeful and rational, or reasonable. Indeed, an unintentional reform is not a reform for the social scientist, but a natural experiment, and

an irrational reform is not a reform at all, but utopian or naïve. Surely, Seron takes great care throughout to clarify that pragmatic policy is not intended to "solve all problems" (p.12) and is not capable of "undoing the root causes of economic, racial, ethnic, or gender inequalities" (p. 12), but "promise[s] to ameliorate or avoid crises" (p. 12) or "place obstacles in the path" (p. 29) of unjust social policy.

In addition to progress, efficiency implies an accounting of human and material resources. What is efficient is that which reduces costs while increasing benefits. Seron is clear, however, that the efficiency of a distributive policy should not be evaluated solely via "cost-benefit analysis and other narrow metrics of policy evaluation" (p. 28). Cost seems to matter little to Seron who instead advocates for a "more robust vision of rights" (p. 28) – presumably, that which prioritizes the benefit of an intervention no matter its cost. In analyzing the efficiency of a policy, Seron focuses on the right to be equal before the law – for example, in investigatory stops by police officers (Epp et al., 2014) or when facing eviction (Desmond, 2012) – and the law's facilitation of equality – for example, in reducing employment discrimination (Best et al., 2011; Kalev et al., 2006). The economic cost of such interventions goes unmentioned by Seron. Instead, Seron promotes a vision of justice that claims to prioritize law's ideals over economic cost.

The third reformist value that I consider – *practicality* – is perhaps the most explicit of Seron's text. Practicality is synonymous with Seron's pragmatism; legal change is practical if it is definable and terminable, measurable and efficient. Seron argues that, "our scholarship may suggest reasons to indict the whole system and start from scratch, but that is not practical – and we need to be practical if we are to be effective" (p. 12). Seron is not clear about the *im*practicality of starting from scratch, yet a minimum, starting from scratch troubles the value of efficiency, where minor progress is preferred to *undoing the root cause of inequalities*. Further, starting from scratch disorients the policy analyst – for what am I to measure? What is the cause, and what is the effect?

To when and where am I to compare my observations? Thus, measurability and efficiency matter for legal reform only when understood alongside practicality. Beyond these considerations, a policy is practical if it is prudent in regard to perceptions of human and economic resources. Indeed, while explicitly rejecting a certain type of cost-benefit analysis – one that quite literally calculates whether a legal change results in economic benefit – Seron's pragmatism *must* account for cost and benefit to some extent. In rejecting a complete overhaul of the legal system, we see that Seron is skeptical about the benefits of starting from scratch, cautious about the cost of starting from scratch, or both. Otherwise, we are led to assume that Seron, in a grand but practical gesture of pragmatism, would support a reconsideration of the entire legal system.

Each of these values is consistent with the social scientific conceptualization of evidence-based practices – policies or practices that are demonstrated, through a randomized controlled experiment or other analyses deemed methodologically rigorous, to produce an intended effect. This type of evidence base is what Seron seeks – "cumulative evidence, replicated across multiple studies organized around a collective enterprise among scholars" (p. 26). Equipped with the results of such studies, scholars and practitioners are able to know "what works" in regard to legal change. Of course, a researcher will only know "what works" if they can quantify their proposed reform, if the reform is efficient in regard to costs and benefits, and if the reform is practical enough to be enacted. Oppositely, legal change efforts that are perceived as immeasurable, inefficient, and impractical are deemed risky and unscientific. Neither their enactment nor their assessment will "work." So, in addition to the limitations imposed by *creating itself in its own image*, a reformist framework of legal change is limited by adherence to the sociological values of measurability, efficiency, and practicality, as only measurable, efficient, and practical interventions are worthy of consideration. Yet the consequence of this adherence extends beyond the limitation

of political and liberatory possibility. By valuing measurability, efficiency, and practicality, sociological reformism ultimately supports the very inequalities it claims to address.

The Problem of Reformism

The politics associated with reformism, like its values, are largely unnamed and unexamined. Rather, sociological reformism's values are framed as relatively apolitical epistemological resources for knowing and altering the law. Understood this way, reformism's values appear rather tame. Indeed, what is the political harm in a framework of legal change that values measurability, efficiency, and practicality? When read through Rodríguez's (2010) conceptualization of *violent common sense*, reformism's politics are made discernible, and ultimately troubling to the extent that reformism promotes a political agenda that does not actually confront, but perpetuates, anti-Blackness.

Rodríguez's conceptualization of violent common sense emerges in an analysis of the prison's relationship to the university classroom. Rodríguez argues that the prison regime – a concept used to situate the prison not as a spatially locatable institution, but as a social arrangement that creates anti-Black and White supremacist physiological domination, produces systemic violence, and constructs knowledge pertaining to the prison as both an institution and metaphor – informs not only how a government administers social control, but all aspects of society. As such, the influence of the prison regime is in "structural symbiosis" (p. 9) with the *schooling regime*, resulting in the occurrence of prison-like conditions and practices in school settings, e.g. campus police forces. The particulars of Rodríguez's argument, however, focus less on the administrative policy of schools, and more on pedagogy, or *what* is taught in the classroom and *how* it is taught. For Rodríguez, the teachings of the prison regime occur not only in prison cells, courtrooms, and the back of police cars, but also in educational spaces, including the university classroom. Dissemination of knowledge that supports the prison regime is not typically noteworthy and

explicit, but is pervasive and inherent. Put otherwise, a normative pedagogical practice is founded by the logics, values, and politics of the prison regime. Therefore, if an educator does not overtly reject the prison regime and its associated pedagogy, it will provide the discursive and theoretical foundation of that educator's classroom.

Rodríguez argues that a normative pedagogy, i.e. a pedagogy grounded in the prison regime, is rooted in three epistemological assumptions: 1) that state violence is necessary to achieve social order, 2) that the maintenance of civil society requires the incapacitation of people deemed criminal and/or dangerous, and 3) that the flaws of state actors and institutions are generally alterable, and if not, justifiable or pardonable. Therefore, the implicit task of the educator is to teach their students how to live in a carceral state. In particular, the normative educator teaches their students how to live as a "free" individual in civil society, thereby "participat[ing] in the *creation* of free student-citizens" (p. 12). To reiterate, this pedagogy need not be – and indeed, is usually *not* – explicit. It is the "common sense" that undergirds the university classroom. For Rodríguez, this common sense is not innocent, but *violent,* promoting and perpetuating the existence of the racist prison regime, and it must actively be rethought and resisted if one's pedagogical practice is to adopt alternate epistemological assumptions.

Following Rodríguez's logic, the prison regime and its violent common senses can be used as a conceptual framework for understanding not only the university classroom, but also the social scientification of law. In fact, the relationship between the law and social sciences itself can be understood through a pedagogical framework, in which the logics and findings of social science research are applied to a broadly conceptualized teaching and learning of the law. Accordingly, the epistemological assumptions of the prison regime and its normative pedagogy – state violence, incapacitation, and redeemability – also inform sociological jurisprudence. They are the "common sense" of Nietzsche's fifth stage, in which *is* informs *ought*. The existing prison regime informs the

future prison regime; existing law informs future law. Using this framework, the values of measurability, efficiency, and practicality become indistinguishable from the assumptions of the prison regime, in which what is measurable, efficient, and practical is understood in relation to what already is – a state, and its legal system, formed through anti-Black violence.

While Rodríguez uses the language of *epistemological assumptions*, we can also read sociological jurisprudence's relationship to legitimate state violence, incapacitation, and redeemability as the very politics of sociological jurisprudence. These assumptions are tenets of how a government structures itself, how power is distributed in society, and the state's relationship to its citizens. In short, they have political implications. In many ways, if not precisely, these are then the politics of sociological reformism, and thus, can be read as the underlying politics of Seron's pragmatic policy. Though offering many examples of pragmatic policy, in one move Seron demonstrates the politics of state violence, incapacitation, and redeemability. Upon reviewing research findings that suggest Black drivers are more likely to be pulled over in investigatory police stops, but that traffic-safety stops are racially proportionate (Epp et al., 2014), Seron writes:

> Not only do investigatory stops impose "substantial" and "unrecognized" costs on African Americans, the benefits of this practice in terms of reducing crime are modest at best. Based on this careful analysis of the culture and institution of policing and its consequences, [the authors] propose that all police departments should take steps to end the practice of investigatory stops, implement oversight practices to enforce the new practice, and rewrite guidelines to prohibit stops except in those instances where there is clear probable cause that a crime has been committed. In view of the complex linkages between policing, courts, and incarceration, they acknowledge that this is a modest, if pragmatic, policy proposal. Derived from systematic and rigorous analysis of data, the proposed policy may persuade even skeptical police chiefs. (p. 19)

A given interpretation of these research findings is not inevitable, but is informed by the politics of the interpreter. Seron's politics, while not explicitly stated, can be read as the same politics that inform the U.S. prison regime, and that of reformism more broadly. Here, Seron assumes that state actors – in this case, the police – play a role in the facilitation of social order. The social *dis*order of concern to Seron at the particular moment is crime, or what we might translate

more broadly as law breaking, and must be met with state force, or what Rodríguez terms culturally legitimated state violence. For Seron, the politic of state violence carries over into the politic of incapacitation as the police are conceptually connected to prisons. The *complex linkages* that Seron speaks of presumably relates to the social problem presented earlier in the paragraph – "the causes of disparities and outcomes for white-black police encounters" (p. 19). Seron describes the outcomes, or costs, as both *substantial* (i.e. criminal sanctions) and *unrecognized* (i.e. perceptions of the police and of one's citizenship). That is, among other outcomes – and it is these other, unrecognized, outcomes that are the consistent focus of Seron's empirical work – racial disparities in police encounters can lead to racial disparities in incarceration. The social problem for Seron is not the practice of incapacitation but its fair racial distribution.

At this point, Seron's third politic – that problems in the legal system are redeemable, and if not, forgivable – is likely apparent. Throughout the address, the actors, practices, and institutions associated with U.S. law are seen as necessary or inevitable, even if sometimes imperfect (à la Black's nihilistic perception of discrimination). They are, therefore, necessarily reformable or forgivable. Without exception, Seron presented the civil and criminal courts, police, and legislatures as institutions in need of reformation, redeemable even in the face of empirical evidence that *may indict the whole system*. This is the politic that informs Seron's *modest, if pragmatic, policy proposal* of prohibiting investigatory stops; the institution of policing can be redeemed if the practices of police officers are reformed. If Seron did not see the role of police in society as redeemable we would expect substantively different implications to flow from Epp et al.'s research findings, for example, a complete concession to state violence, or oppositely, a call to *start from scratch*. More broadly, if Seron did not see the system as redeemable, social science research findings related to the occurrence of inequality in the U.S. legal system, or the U.S. legal system's

role in reproducing those very inequalities, would not become associated with strategic efforts to redeem the U.S. legal system but would demand an altogether different framework of legal change.

For Rodríguez, these politics are not unintentional and unsystematic, but purposeful in their anti-Blackness and White supremacy. They are constituted by, born of, anti-Blackness and serve to maintain the same racial order that structured racial chattel slavery and racial apartheid/segregation, and that continue to structure racial policing, criminalization, and incarceration. That is, a social order of White over Black – of [insert any racial category] over Black – is maintained and perpetuated through the use of culturally legitimated state violence, incapacitation of those deemed criminal, and a belief in the redeemability of flawed laws, legal institutions, and legal practices. Following this line of reasoning, to adopt these politics, whether deliberately or unwittingly, is to participate in and support an anti-Black racial hierarchy. This is not to say that sociological reformists necessarily maintain, yet work to disguise, a conscious or articulable anti-Blackness. Still, anti-Blackness inheres within the politics of reformism. U.S. histories of state violence, criminalization, and democratic perfectibility cannot be understood except in relation to anti-Blackness. But reformism does not question this co-constitutive relationship. In an instance where reformists might attend to the relationship, they necessarily – at least to some extent – tolerate it. Otherwise, they would cease being reformists, demanding a strategy of legal change that is committed to the absolute eradication of anti-Blackness rather than the possibility of its progressive reduction.

I return to reformism's values of measurability, efficiency, and practicality. In light of the reformism's politics, how might these seemingly apolitical values be understood as necessarily political? In what ways can sociological reformism be read in relation to the politics that inform it? How do anti-Black politics adhere to Seron's skepticism of starting from scratch, who instead advocates for *modest, if pragmatic* policy solutions? In many ways, these questions are not analytic

provocations but serve as points of summary. In valuing the measurable, the efficient, and the practical, sociological reformism measures, makes efficient, and makes practical, a legal system that *is*, a legal system informed by the racial politics of state violence, incapacitation, and redeemability. What is at risk, then, in starting from scratch, is not so much an assurance of at least reducing racial inequality, but the very existence of the U.S. legal system. Thus, an anti-Black social order is tolerable to the extent that it is the cost of maintaining a sociological ideal of law. The benefit of maintaining what *is*, what is perceptible, is of greater benefit than the possibility of a law, or a non-law, that refuses to be constituted by anti-Blackness.

Enter Zarathustra

For Nietzsche history does not end with the fifth stage. Nietzsche points to the possibility of a sixth stage – the "end of the longest error" – in which the nihilism of the fifth stage is overcome (1889/1990, p. 51):

> We have abolished the real world: what world is left? the apparent world perhaps…But no! *with the real world we have also abolished the apparent world!*
>
> (Mid-day; moment of the shortest shadow; end of the longest error; zenith of mankind; INCIPIT ZARATHUSTRA.)

For Nietzsche, the end of metaphysics, or the end of a distinction between the real and apparent worlds, provides not an end but a beginning. Using the figure of Zarathustra, Nietzsche points toward a new world that has no need for metaphysics. What Zarathustra envisions is the overman, a figure not determined by metaphysics, but by strong will to power. The figure of the overman stands in opposition to the human as we know them, who in the face of God's death and the abolition of the apparent world, do not concede to meaningless. Rather, the overman overcomes nihilism, acting on the abolition of the real and apparent worlds as an opportunity to *give* life meaning. The overmen are the "free spirits" that "run riot" in Nietzsche's fifth stage, enthralled by the possibility to interminably question everything – to imagine a world that is constricted neither by the real nor the apparent. In foregoing a desire for the universal, the human subject disintegrates.

Social values are no longer based on truth, nor are they individually derived as in the pleasure-pain calculation. Rather, they are "part of a whole" (Constable, 2007, p. 42). The thought of this is inconceivable, perhaps why Nietzsche envisioned the overman through speculative fiction.

Like Nietzsche, Constable envisions a sixth stage in the history of legal thought. In Constable's sixth stage, jurisprudential nihilism is overcome as legal thinkers exploit the space left by the abolition of the real world. For Constable, this space provides the opportunity for a "radical change" (p. 582) in which "something other than the law of sociology shows itself" (p. 590). Constable is open, non-prescriptive, and largely non-normative about how *a joyous possibility of overcoming* sociological jurisprudence might manifest. Such an overcoming, in its rejection of both illusory and individualized truth, necessarily *cannot* be prescribed. This too is why Rodríguez's imagining of an overcoming of violent common sense does not offer a safe alternative. Rodríguez argues that a liberatory teaching act is non-formulaic and experimental rather than programmatic and disciplined. In his unimaginable future, Rodríguez also adopts the term *abolition*, though in a manner opposite of Constable. For Constable, abolition occurrence quite passively – abolition of the real world has happened, though not in an organized or intentional manner. For Rodríguez, abolition is active and future-oriented, meant to address past and current injustices. Aside from the rejection of violent common senses in educational spaces, the means of abolition are largely left unspecified by Rodríguez, as are the particulars of a future in which the prison regime has been abolished.

We are left then to ask for ourselves what is possible when we depend neither on notions of illusory law nor sociological law. What might the sixth stage look like? What *radical change* is possible when we are left not with the dictates of the real and the apparent world, but with one another? How might we think about the law when we do not think with sociology? How can nihilism be used toward "our greatest liberation" rather than become our "our heaviest burden?"

(Constable, 2007). In the chapters that follow, I take up the language of abolition to speculate toward one possibility of overcoming. In the absence of the ideal *and* the phenomenal, I choose to be guided by a theoretical framework that rejects reformism's values and politics, instead relying on values and politics that are purposive in their confrontation with anti-Blackness. In the next chapter, I begin to conceptualize this framework – what I term a structural abolitionist framework of legal change – that will guide my contextual analysis of the Webster Commission archive.

CHAPTER 2

Abolition of What?: Constructing an Abolitionist Theory of Legal Change

> Slavery is the threshold of the political world and genuine abolition is the interminable radicalization of every radical movement against it. (Jared Sexton, *Abolition Terminable and Interminable*)

The term *abolition* as it is mobilized by Rodríguez is not original to Rodríguez's work but born of a centuries-long intellectual and activist history of responding to oppressive social institutions. Historically associated with the abolition of the trans-Atlantic slave trade, the concept of abolition has also been applied to legal institutions and practices such as the death penalty, prisons, and policing. As I write this chapter, the Trump administration's immigration policies – including the policy of family separation – have been accompanied by calls to abolish US Immigration and Customs Enforcement (Seitz-Wald, 2018). Rodríguez (2010) uses the term in a more capacious manner, advocating for the abolition of all practices, discourses, and common senses that make prisons a social reality. Rodríguez connects his use of the term to the abolition of the slave trade, arguing that the Thirteenth Amendment recodified the slave as a prisoner. In other words, the institution of slavery, once abolished, was replaced with the institution of prisons, which must also be abolished. For Rodríguez, Black freedom must entail an abolition of the master/slave relationship as it is defined in the Thirteenth Amendment – as allowable in the context of carceral control. Conceptualizations of abolition that appear in the criminological or sociolegal literature tend to be on par with Rodríguez's conceptualization, focused to a great extent on prisons and their associated logics and discourses. However, for the reasons discussed in this chapter, I do not use this body of literature as my foundation for theorizing an end to the carceral state. For reasons that will become clear, I have found the existing social science literature on abolitionism to focus not on anti-Blackness, but on institutions and discourses that create a broad spectrum of anti-Black oppression.

The purpose of the chapter, then, is to conceptualize a theory of legal change that is responsive to anti-Blackness in the US legal system. Put otherwise, this chapter is the first step in the process of constructing a theory of legal change – importantly, a non-reformist theory of legal change – that can be used to address anti-Blackness as it manifests in the growth of the carceral state. In this sense, the theory that I seek to develop is a theory of practice. That is, it will not be a theory meant to explain a particular cause-and-effect relationship, but a theory meant to interpret the social world at various levels of abstraction. I begin this work by inductively reading the existing social scientific literature on abolitionism alongside a body of Black studies texts on Black positionality and social death. I respectively term these two conceptualizations *carceral abolitionism* and *structural abolitionism*. By identifying important, and what I argue are irreconcilable, differences between these two literatures and their particular conceptualizations of abolitionism, I discuss why the dominant framework of abolitionism in the social sciences – that akin to Rodríguez's abolitionism – cannot serve as an appropriate foundation for constructing an abolitionist theory of legal change that radically addresses anti-Blackness, and why I instead draw my foundational theoretical resources from a particular Black studies tradition of theorizing Black positionality. To close, I draw on my discussion of these theories of Black positionality to identify the necessary foundational positions of structural abolitionism, and thus, the foundational logics of an abolitionist theory of legal change.

Abolitionism in the Social Sciences

Broadly, discussions of abolitionism in the social science[5] literature – specifically, in the fields of criminology and sociolegal studies – are overwhelmingly oriented toward abolitionism as a political project of emancipating the carceral subject. In this vein, abolitionist legal change is

[5] I broadly identify the literature that I discuss as originating in the social sciences, though many of these works come from fields outside sociology – for example, philosophy and law. What I mean to imply is not that all of the authors I discuss are based in or identify with the social sciences, but that their work akin to the variety of abolitionism that has emerged in the social sciences.

framed as the abolition of formally carceral spaces or institutions, the abolition of the social conditions that create the possibility of a carceral state, and the creation of economic, political, and social institutions that prevent crime and holistically address interpersonal harms when they do occur. Because of its particular interest in carceral logics and practices I use the terminology of *carceral abolitionism* to describe this conceptualization of abolitionist legal change.[6] While the body of texts on carceral abolitionism in the social sciences is relatively small compared to work emerging from other theoretical traditions, carceral abolitionists have certainly made their mark on the literature through a well-established and ever-growing body of texts.[7] To more fully understand carceral abolitionism and its mobilization in the social sciences, I discuss several exemplary texts. That is, I have selected these texts not because they are anomalous in their respective fields, but because they are representative of the existing literature. I have intentionally excluded texts that focus on the abolition of a particular institution or practice (e.g. abolition of the death penalty, prisons, the police, or drug laws). Although these texts are important and have many times adopted and expanded the framework of social scientific abolitionist thought, it is a broader conceptualization of abolition – one capable of speaking to the entirety of the US legal system in its range of logics and practices – that is of use to my current project.

I begin with Allegra McLeod's (2015) thorough conceptualization of abolitionism, which McLeod identifies as the first extensive engagement with the idea of prison abolition in legal scholarship. McLeod's prison abolitionism is rooted in an argument that the stated goal of criminal law – i.e. the need to address certain harms – is not met through incarceration and other technologies and institutions of criminal law enforcement. For McLeod, an attempt to address the

[6] This is also the language put forth by Piché and Larson (2010) to describe the work of the International Conference of Penal Abolition.

[7] (Brown & Schept, 2017; Byrd, 2016; Calathes, 2017; Carrier & Piché, 2015; Chancer & Bell, 2014; Coyle, 2016; Coyle & Schept, 2017; Davis & Rodriguez, 2000; Dilts, 2017; Dobchuk-Land, 2017; Heiner, 2007; Law, 2011; Martinot, 2014; Mathiesen, 1974, 2016; Mayrl, 2013; McDowell, 2017; McLeod, 2015, 2018; Petersen, 2019; Piché & Larsen, 2010; Price, 2017; Quinney, 2006; Rodríguez, 2010; Russell & Carlton, 2013; Saleh-Hanna, 2015, 2017; Seigel, 2017; Shaw, 2009; Stanley et al., 2012; Sudbury, 2015; Whalley & Hackett, 2017)

occurrence of crime involves negative abolition, or the gradual closure of formally carceral spaces. However, the goal of reducing and addressing harm also requires positive abolition, or an imagining of alternatives to existing forms of law enforcement. McLeod proposes *grounded preventive justice* as a framework through which abolition can be mobilized. Grounded preventive justice, as opposed to a dominant conceptualization of preventive justice, does not involve law enforcement engagement with particular individuals perceived as dangerous, but works to prevent crime at an institutional or social level. In brief, grounded preventive justice would prevent crime through projects such as increasing permissible economic opportunity, redesigning urban spaces, and target hardening through environmental design. Further, a project of grounded justice would decriminalize less serious crimes (while working to prevent more serious crimes), and develop restorative, non-retributive models of redress. More broadly, this variety of grounded justice works to "strengthen the social arm of the state and improve social welfare" (p. 1161) as a method of decarceration.

McLeod makes clear that her conceptualization of abolitionism is neither idealistic or naïve, but imaginable and thinkable. She does this, in part, through proposing an abolitionism that values gradual, rather than sudden, change. That is, McLeod works to confront the assumption that the abolitionist project is not simply one of simultaneously closing all prisons and other formally carceral spaces. This gesture makes abolition a rational alternative to reliance on, or proliferation of, criminal law enforcement. In other words, it makes the end of prisons believable, even perhaps for skeptics. McLeod roots this perspective in Du Bois's (1935/1962) theorization of Reconstruction as a project of positive abolition – what he terms *abolition-democracy* – incorporating the ex-slave into civil, political, and social life through the provision of educational opportunities and land ownership. Indeed, Du Bois argues that the abolitionist project of emancipating slaves would be unfinished if it did not ensure the civil rights of Black individuals. In this vein, McLeod also cites

Davis (2005), who takes up Du Bois's conceptualization of abolition-democracy to draw a connection between the failure of Reconstruction and the modern prison. Specifically, Davis argues that like Reconstruction, attempts to abolish the prison will be incomplete if the negative abolition of prison closure is not partnered with a positive abolition that emphasizes incorporating carceral subjects into the "social order" (p. 91) – that is, the civil society of the un-incarcerated and the non-criminal. McLeod cites the work of the abolitionist organizing group Critical Resistance as one fathomable demonstration of abolition-democracy in practice. While Critical Resistance has historically, and continues to, campaign for the closure of formerly carceral spaces, their work is more expansive, focusing on "build[ing] healthy, self-determined communities and promot[ing] alternatives to the current system" (Critical Resistance, 2020). Accordingly, while abolition may not seem immediately practical to some, or even most, it is framed as achievable given the appropriate political will.

Citations of Du Bois, Davis, and Critical Resistance appear consistently across the social science literature on abolitionism, frequently in a similar manner as McLeod – as a way of practicalizing abolition (Coyle & Schept, 2017; Law, 2011; Mayrl, 2013; Price, 2017; Sudbury, 2015). Michelle Brown and Judah Schept (2017), in their work advocating for a greater recognition of and engagement with abolitionism in the field of criminology, are no exception. As they trace a rough genealogy of abolitionism in the field of criminology, Brown & Schept, like McLeod, conceptualize the abolitionist project not only – or even mainly – as developing alternatives to incarceration, but as addressing the socio-economic conditions that foster crime. In doing so, Brown and Schept take another approach common to social science abolitionism – citing Gilmore (2007) and Mathiesen (Mathiesen, 1974, 2016), who are often discussed as taking up Gorz's (1967) concept of *non-reformist reforms* as a way of framing abolitionism as a plausible alternative to reformism (Coyle & Schept, 2017; Russell & Carlton, 2013). Brown and Schept do not explicitly

associate Gilmore and Mathiesen with the concept, but more broadly with the abolitionist strategy of organizing for tangible and gradual change. In referencing non-reformist reforms, Brown and Schept make clear that these efforts must not reinforce what they term *the carceral state*. For example, the authors cite hate crime laws as a reformist attempt to reduce violence against protected classes. However, like others (e.g. Spade, 2015), the authors argue that hate crime laws sustain, rather than reduce, the carceral state by producing new criminal subjects and enhancing criminal penalties. Carceral abolitionism is meant to hinder this possibility, minimizing, rather than increasing, the power of the carceral state.

In focusing their critique on the state – specifically, the carceral state – Brown & Schept further expand their conceptualization of abolitionism to include a thorough and explicit critique of criminology's historic relationship to state agencies and use of state definitions of criminological keywords. Accordingly, the authors argue that scholars of criminology ought to dismantle and repoliticize terms such as safety, victim, and rehabilitation. In doing so, they challenge the state's production and oppression of *the carceral subject* (p. 445). Brown and Schept root their conceptualization of the carceral subject in Marxism, understanding the subject of abolition as surplus labor – of "surplus life" (p. 45) – the one who makes capitalism possible. While the carceral subject can be racialized, they are essentially race-neutral. Thus, while Brown and Schept emphasize race and racialization to a greater extent than McLeod, they situate the carceral state and its racialized subjects as a byproduct of capitalism. The abolition of prisons, then, is tied to the abolition of slavery as the emancipated slave is framed as moving from one type of bondage, as chattel, to another, as prisoner. These "new forms of carceral subjection" (Brown & Schept, 2017, p. 452) exploit, and perhaps at times create, racialization, but are ultimately rooted in political economy, neglected, in McLeod's terms, by the political arm of the state. This type of subjectivity is perhaps the most common among carceral abolitionists (Calathes, 2017; Price, 2017; Seigel, 2017).

And when not identified as an exploited laborer, the carceral subject is typically identified as a variably-racialized and/or gendered other, oppressed by systemic racism and/or misogyny (Price, 2017; Russell & Carlton, 2013). This subject – always the prisoner (in its various manifestations), at times racialized, but not necessarily raced – is the consistent subject of abolition in social scientific abolitionism.

As a third and final example of the mobilization of abolitionist theory in the social sciences, Michael Coyle (2016) also focuses on the racialized carceral subject. For Coyle, the relationship between race and carcerality is understood at the discursive level, whereby racist discourses and criminal justice discourses (as well as misogynistic and classist discourses) inform and are informed by the other. Consequently, they perpetuate and are perpetuated by the other. For my purposes here, the noteworthy aspect of Coyle's conceptualization is this engagement with discourse. Coyle argues that terminology such as deviance, criminal behavior, and crime do not simply describe human behaviors or subject positions but create and direct them. Therefore, Coyle's desire to liberate the carceral subject would occur through the abolition of criminal justice discourse – the language that is the condition of possibility for the carceral subject. Aside from the negative consequences of criminal justice language, Coyle argues that the language of crime and deviance is simply inaccurate – that law-breaking and other forms of "deviance" are not deviant at all, but the social norm. In place of criminal justice discourse, Coyle proposes that harm ought to be discursively framed not as deviance but as difference. That is, society needs to determine what differences are unacceptable and how to respond in a way that does not create further social harm, rather than inconsistently and erroneously labeling and differentially policing certain behaviors as criminally deviant. Consistent with other abolitionist texts, Coyle argues that this linguistic shift will need to be accompanied by "new cultural institutions and practices" (p. 19). While exactly what this would entail is left to the reader's imagination, we can assume that at the least it includes what McLeod,

Brown, and Schept propose: the closure of formally carceral spaces and a broader transformation of civil society.

Taken together, three major themes, or characteristics, emerge from what I have identified as a carceral conceptualization of abolitionism. The first is that of the subject of abolition, which can be variably thought of as the subject in need of liberation or the subject position in need of eradication. For carceral abolitionism, this subject is the carceral subject. That is, although the language of abolition is rooted in the abolition of chattel slavery, the subject of carceral abolition is the variably-raced captive of the carceral state. Though this subject is often framed as unfree via formal incarceration, for the carceral abolitionist, the carceral subject can also be understood more broadly as the subject controlled by carceral logics. Though these subjects are disproportionately Black, their number majority is White (Kushner, 2019). So, while Black individuals are disadvantaged in and by the criminal legal system, most carceral subjects are non-Black. The second theme is that the carceral subject's suffering can be remedied, even if not in the immediate future, through transformation of the political and economic systems that structure civil society. In other words, the means of abolition is the transformation of social systems, institutions, and discourses, and the subsequent integration of the currently unfree or conditionally-free carceral subject into this rehabilitated society. Often, though not always, this occurs through a confrontation with the state. Here, the state is urged to concede to the better angels of its nature, bolstering its technologies of social welfare and repressing its support of a harmful capitalist political economy. Thus, the abolitionist project is conceptualized as practicable and, to a certain degree, imaginable, even if not immediate. Finally, the purpose of abolition is the end of carceral spaces and carceral logics, including their accompanying discourse of crime and criminality. This is often framed as creating a society that is liberated from the concept of crime – a society in which interpersonal

harms are radically minimized, and when interpersonal harms occur, they are addressed through non-punitive and rehabilitative means.

It is for these reasons that I conceptualize the dominant theory of abolitionism in the social sciences as a political one. In other words, carceral abolitionism primarily emphasizes abolition at the political level – a dismantling of the current distribution of power and social hierarchies, and the creation of a new political organization. Inevitably, this involves the economy and the state, both supporting the possibility of civil society. While I am interested specifically in the social scientific literature, it is important to note that this three-pronged conceptualization of abolitionism as political is rooted in – and thus, a reflection of – grassroots abolitionist organizations such as Critical Resistance, INCITE! Women of Color Against Violence, and Black Youth Project. Each is a well-cited abolitionist organization who mobilizes a political conceptualization of abolitionism, demonstrating that the dividing line between social scientific theories of abolition and dominant abolitionist activism is porous, if even existent. So while I focus on social scientific texts, these same themes are also found at the level of praxis: to create political, social, and economic change as a way of liberating, and eventually undoing the existence of, the carceral subject.

Abolitionism and Black Positionality

I now want to hold this body of literature in tension with another – that which theorizes Black positionality. By reading these literatures alongside one another – each interested in the project of abolition – I demonstrate that abolitionism as it is conceptualized in the social sciences is ultimately irreconcilable with abolitionism as it is conceptualized by these Black studies scholars. In other words, abolitionism's conceptualization in the sociolegal literature is troubled when read alongside Black studies, especially as it relates to the possibility of addressing anti-Blackness. I begin with a brief description of the works of Frantz Fanon (1952/1994), Saidiya Hartman (1997), and Frank Wilderson (2010). I then relate their conceptualizations of abolitionism – including the

means of abolition, the subject of abolition, and the purpose of abolition – to my conceptualization of carceral abolitionism. In doing so, the limitations of carceral abolitionism are made apparent, and I demonstrate why and how a conceptualization of abolitionism that fundamentally addresses anti-Blackness must depart from the disciplinary norm. Like my discussion of carceral abolitionism, I focus my discussion here on exemplary texts, examining Fanon, Hartman, and Wilderson for the ways that their texts are representative of a larger conversation in Black studies, one also taken up by scholars such as Sora Han, Joy James, David Marriot, Achille Mbembe, Jared Sexton, Christina Sharp, and Hortense Spillers.

I begin with Fanon's (1952/1994) analysis of the Black psyche as it exists in the context of colonization. For Fanon, Blackness is an artifact of European colonization and a necessity of civilization. Put otherwise, Blackness is configured as the opposite of civilization – a collection of bodies without culture, civilization, or history. Therefore, colonized Black individuals are unidentifiable and unassimilable to White colonizers (p. 161). That is, "the black is not a man" but a biological figure who inhabits physical space (p. 8). Though recognized by White individuals as having a physical human body, the Black body is not a Human body. For Fanon, this means that Blackness is non-ontological, a not-self (p. 161). Accordingly, Black individuals experience not a "feeling of inferiority" but a "feeling of nonexistence" (p. 139). To exist would require that Black becomes White – "to prove the existence of a black civilization" (p. 34) – and Fanon argues that this is the conundrum that haunts the Black psyche. To become Human is to become White (p. 216). However, as a nonbeing, Black individuals can never become White, which is also to become civilized. The nonbeing can only become "closer to being a real Human being," (p. 18). Thus, for Fanon, the only remedy available to Black individuals who desire liberation is a "restructuring of the world" (p. 82) that can only be brought about by "the end of the world" (p. 216), producing

"the liberation of the man of color from himself" (p. 8). In other words, the racial structure, or the relationship between Blackness and Humanity, must be abolished.

In many ways, if not demonstrated through citation, Hartman (1997) takes up the language and legacy of Fanon in her study of pre- and post-emancipation notions of freedom. For Hartman, the abolition of slavery is a necessarily unfinished project. This is because abolition did not undo the relationship between the master and the slave but reoriented it, just as the end of legal colonization in Fanon's context is not enough to remedy the structural position of Black individuals as non-Human. Thus, slavery, though abolished as an institution, lives on in an afterlife (Hartman, 2007, p. 6). For Hartman, this means that the subject of abolition – the slave – was not fully liberated in the event, or "nonevent" of emancipation (1997, p. 116). Hartman's discussion of the slave's freedom is not grounded in critiques of, for example, the Thirteenth Amendment's allowance of forced carceral labor, or development of postbellum Slave Codes and their relationship to convict labor, but in a more fundamental analysis of the subject of abolition. Like Fanon, Hartman bases her analysis on an understanding of Black nonbeings as existing in opposition to the Human subject. That is, the subject position of the Human is constituted – made possible – by Black nonbeings, or negation. In this sense, Black individuals are *not* subjects, but nonsubjects, or objects, constituted by what Hartman identifies as fungibility and accumulation. So, while the project of abolishing slavery attempted to turn the unfree subject (the Slave) into the free subject (the citizen) it did not transform Black nonsubjects into Human subjects. Or rather, Black individuals were only made Human subjects for the purposes of criminalization. In all other contexts, the slave is socially dead, marked by natal alienation, general dishonor, and gratuitous violence (Patterson, 1982). Therefore, for Hartman, the failure of abolition is not only, or even mainly, a systemic failure, but an impossibility, as Black nonbeings remain socially dead, the condition of possibility of the Human. It is this impossibility that structures the *nonevent* of

abolition – the impossibility of making Black individuals into Human subjects – and that permits slavery its afterlife. And it is this impossibility that leads Hartman to conclude that redress is only possible through everyday acts of resistance, incapable of engendering full political emancipation, but essential as a way of enunciating collective pain, caring for the pained body within the zone of nonbeing, and seeking pleasure in the midst of violence.

Wilderson (2010) builds upon Hartman's theorization of Black nonsubjecthood and social death to understand the contents of Black politics and the possibility of Black liberation. This work is a "radical return to Fanon" in the sense that Wilderson expands Fanon's theorization to instances beyond European colonization, where Black individuals remain, perpetually, socially dead (p. 31). That is, even as formal colonization has ended, Black individuals remain non-Human – an ontological impossibility to the Human. For this reason, the "nonontology" of Blackness is not a conflict but an antagonism (p. 5). In other words, anti-Blackness is not a problem that could be solved or even posed, but an "irreconcilable struggle" whose resolution requires "the obliteration of one of the positions" (p. 5). Thus, the Slave of Hartman's *Scenes of Subjection* could never be emancipated if emancipation is conceptualized as political liberation. Rather, emancipation – for Wilderson – must entail obliteration of either the master – which is the Human, the White, the non-Black – or the Slave, who is always Black. In the absence of such obliteration, the nonsubject position of Black individuals will always be that of the Slave, a socially dead nonbeing unfree through the nonevent of emancipation, forever fungible and accumulable. For Wilderson, like Fanon, abolition is not a political project but a structural one. In other words, liberation of the Slave can only be achieved through abolition of the antagonistic structure that has made the Human possible.

When Read Together

This conceptualization of abolitionism troubles the politically-oriented conceptualization of carceral abolitionism in three interrelated ways. First, Black studies troubles carceral abolitionism in that the subjects of abolition are irreconcilable. That is, carceral abolitionism recognizes racialization as a factor in, but not the foundational logic of, carceral logic. Thus, the carceral subject of carceral abolitionism is sometimes, but not always, and not mostly, Black. However, the conceptualization of abolitionism that emerges from this Black studies tradition takes as its subject the Black nonsubject, or rather, the relationship between Blackness and Humanity. When read together, the plight of the contemporary Black prisoner – framed by carceral abolitionism as a racialized carceral subject – is seen as altogether different than the plight of any other prisoners. The Human prisoner, even in their civil death, can be reincorporated into civil society; they can achieve recognition. However, the Black prisoner, in their social death,[8] can never be reincorporated into civil society, nor can any other Black nonsubject. They are unincorporable. For Wilderson, this means that the modern prisoner is not analogous to the Slave, for the Slave is "without analog" (Wilderson, 2010, p. 38). In other words, the institution of slavery did not morph into the institution of the prison, both framed by carceral abolitionists as a result of capitalism's exploitation of race in generating economic class, for slavery is *without analog*. Rather, chattel slavery was one venue in which the fungible and accumulable Black nonbeing made Humanity possible. And the fungible and accumulable Black nonbeing, prisoner or not, continues to make Humanity possible – to make civil society possible – through their mere structural position.

This relates to the second irreconcilability of these abolitionism – the purpose of abolition. The goal of carceral abolitionists is to prevent interpersonal harm, and when interpersonal harm

[8] The language of social death has been taken up in the carceral abolitionist literature (e.g. Heiner, 2003), though in a manner that is more consistent with conceptualizations of civil death. That is, carceral abolitionism mobilizes social death in a different manner from how it is mobilized by the Black Studies theorists I engage in this chapter. See Chavez (2019) for a detailed discussion of the differences between civil and social death.

does occur, to prevent disintegration of the Human prisoner-to-be. This can be more simply stated as the end of crime – as an event, a relationship, and a discourse. The purpose then, is a society shaped and organized around the values of, for example, inclusion, liberty, and cooperation rather than punitive values like imprisonment and retribution. Alternately, the purpose of abolition derived from theories of Black positionality is a new relationality. That is, the structure and its associated violence that makes Humanity and Blackness possible would need to be abolished. In Sexton's (2016) terms, then, abolition is a "perverse affirmation of deracination" (p. 593) – not a deracination brought forth by colorblindness, multiracialism, or multiculturalism, but through an abolition of the racial structure of Black and non-Black. It is "the emergence of new ontological relations and a new episteme" (Wilderson, 2010, p. 38). It is a relationality without "any order of determination," interminable, for as soon as an order takes place, that too will require abolition (Sexton, 2016, p. 593, 2018). Han (2014) frames this variety of abolition as the end of self-possession, or the notion of the self that could have anything at all. Of course, this ontology is unimaginable; we cannot think outside of the existing structure; "there is nothing outside of the text" (Derrida, 2016). However, the unimaginability of an abolitionist future does not denote that attempts cannot be made to name the means of abolition. It simply means that the aftermath of abolition is beyond comprehension and its means necessarily violent, for this purpose cannot be achieved without at least ontological and epistemological, if not also physical, injury.

Accordingly, the means of abolition between these two conceptualizations are irreconcilable. Carceral abolitionism seeks the transformation of and integration into civil society while structural abolitionism seeks its destruction. This difference puts the carceral abolitionist in an uncomfortable position. By advocating for the maintenance of civil society in this way, carceral abolitionism recreates the subject positions of the Human and the Black. In Patterson's language, which is taken up by Wilderson, civil society is parasitic on Blackness; it derives its stability from

Blackness (Patterson, 1982; Wilderson, 2010, p. 27). This idea parallels that of Spillers, that civil society "needs" a Black nonsubject, "and if I were not here, I would have to be invented" (Spillers, 2003, p. 203; Wilderson, 2010, p. 95). Indeed, Spillers (2003) argues, like Fanon, that Blackness tells society what the Human is *not;* it is the "vestibule" or "passage between the human and the non-human world" (p. 155). Therefore, for Black individuals, integration into civil society is not the ideal means of emancipation but a state of emergency (Wilderson III, 2010, p. 79). That is, Black individuals, in their fungibility, will not be emancipated with the abolition of carceral spaces and carceral logics, but will experience new forms of suffering and accumulation. This suffering – not the suffering of the prisoner but the suffering of Black individuals – will continue to constitute Humanity, Whiteness, and with these, civil society. Put otherwise, the only prisoner who can be politically emancipated and reintegrated is the Human prisoner. Therefore, to either use the state, a requisite of civil society, to foster new economic and political systems, or to abolish the state, economy, and politics, and re-create them in the shell of the old, would necessarily ignore Black suffering. For Fanon, Hartman, and Wilderson, this is because Black freedom does not occur at the experiential level, but the ontological level, and antagonistically so. Freedom would require "freedom from the world, freedom from Humanity, freedom from everyone (including one's Black self)" (Wilderson III, 2010, p. 23). That is, Blackness can never be integrated into civil society because Blackness is the very condition of possibility of civil society; civil society would not exist without Blackness. For this reason, the Black individual is not simply the exploited and alienated laborer of Marxism, but the fungible and accumulable Slave –the *anti-Human* (Wilderson III, 2010, p. 11), the nonbeing of Hartman's *Scenes*. Accordingly, abolition as it is conceptualized by Fanon, Hartman, Wilderson, and other thinkers in this tradition could not occur through reconciliation with civil society, but would necessarily mean that modernity, civility, and Humanity as we know them would cease to exist. It can only be understood as the "abolition of one zone," not as

communication between the zones (Fanon, 1961/2005). This means that abolition can only be understood as the losing of "one's Human coordinates", that is, dying and becoming Black (Wilderson III, 2010, p. 23). It can only be understood as destroying the world (Césaire, 1939/2001; Fanon, 1952/1994; Wilderson, 2015). Until then, abolition must be thought as a practice of resistance – often stealthy resistance – within the structure, brought forth in "everyday practices, rather than traditional political activity" (Hartman, 1997, p. 13).

Beyond Optimism, Success, and Cooperation

If we are to develop an abolitionist theory of legal change that is fully responsive to the relationship between anti-Blackness the carceral state it must account for this tradition of theorizing social death. What this tradition points toward is an abolitionist theory of legal change that takes as its subject Blackness, or the relationality of the Human and non-Human; its means are the destruction of structural positionality; and its purpose is a new relationality. Because this tradition is one whose focus is not the political, but the structural antagonism that makes the political possible, I follow the lead of Wilderson and term this conceptualization that emerges from Black studies *structural abolitionism*. To be clear, by structure, I do not mean the economy or politics, but the racial antagonism that is the scaffolding that supports the modern liberal subject. Indeed, the language of structure is often used by carceral abolitionists – such as in the aforementioned pieces by McLeod and Brown and Schept – but in a manner that is qualitatively different than by theorists such as Wilderson. While for Brown and Schept, the language of structure is mobilized in the context of the "conditions of survivability" (p. 450), and for McLeod regarding "structural reform" of crime prevention (p. 1167), for Wilderson, structure implies the relationship between the racial categories of Black and non-Black. This positionality cannot be reconciled, but rather, is antagonistic and must be abolished. In this sense, structural abolitionism presses against the bounds of sociology – the study of how human societies function – and humanistic inquiry more broadly.

This is because it does not take for granted the creation and maintenance of the Human by beginning with a presupposition of the homo sapien as necessarily Human. Rather, structural abolitionism begins by making apparent the erased or negated figure – the Black nonsubject – as a requisite non-being that functions in relation to the Human. Accordingly, a study of, or with, structural abolitionism is not a study of Human society but of the interaction between non-Black society and the non-society of Blackness.

Based on this reading, I want to name three core positions of structural abolitionism: a) that the problem facing Black people is social death at the structural level and the symptoms of that social death at the social, political, and economic levels, b) that the solution to social death is the destruction of the existing relational structure and the creation of a new, non-Manichean relational structure, and that c) until then, resistance must be understood as limited redress within the existing structure. This can be juxtaposed with carceral abolitionism, where a) the problem is one of racialized carceral logics, b) the solution to the problem is the reorganization of civil society, and c) resistance must be understood as practical and gradual steps taken to reform civil society. Of course, not all thinkers whose work flows from the carceral abolitionist tradition would identify personally with each of these statements. For example, in making this generalization, I do not mean to imply that all thinkers who identify with a carceral conceptualization of abolitionism whole-heartedly value civil society, or that anti-social ideals are not at times present in carceral abolitionism, but that civil society is not itself regularly and pointedly critiqued as one aspect of the necessary and necessarily harmful scaffolding of anti-Blackness. In making stark distinctions like these, I set up an ideal type as a way of clarifying both what structural abolitionism *is* and what it is *not.*

I am describing structural abolitionism and its positions in this way as a starting place for thinking about a theory of legal change that is responsive to evidence of anti-Blackness in the law. I

continue this iterative process by considering structural abolitionism's key claim in a particular historical context. This contextual application occurs in Section II of this project through a reading of the Webster Commission's recommendation that the LAPD transition to a model of community-oriented policing after the 1992 L.A. uprising. By reading structural abolitionism in this context, I put into practice this abolitionist theory of legal change, asking how the theory (broadly) and its theoretical positions (specifically) map onto the material world. In doing this, I ask both what the theory can reveal about the world, and what the world can reveal about the theory. In other words, even as this deductive process is meant to demonstrate the theory's use in interpreting and addressing anti-Blackness, it is meant to clarify and hone my initial conceptualization of structural abolitionism. Of course, with practice comes the hope of improvement, meaning that a theory of abolitionism will – and necessarily must – remain incomplete. It is in this spirit that I begin my contextual analysis.

CHAPTER 3

Reading (with) the Uprising

I call myself a theory Puritan and a methods slut. (Ruth Wilson Gilmore, *Beyond The Prison Industrial Complex*)

To this point, my conceptualization of structural abolitionism has been carried out at a relatively high level of abstraction. However, the ultimate purpose of this work is to imagine and mobilize a theory of legal change that is responsive to empirical findings of anti-Blackness. To this end, I engage structural abolitionism in a historical context. Specifically, I use the concept of structural abolitionism as a theoretical lens to a) understand the reforms made to the Los Angeles Police Department [LAPD] after the 1992 L.A. uprising, and b) reimagine an interpretation of and response to the uprising rooted in a theoretical understanding of Black positionality. The purpose of this chapter, then, is to describe my methodological approach to this contextual study. I begin by situating the archive as an appropriate site for critiquing reformism and theorizing structural abolitionism. Beyond the materiality of the archive, I situate the convergence of the uprising and its multidimensional state response as fitting elements of this site of study. Next, I outline my strategy of deconstructive content analysis which integrates a humanistic method of close reading with qualitative social science methodological resources. Specifically, I outline what it means to read *with* the Commission and *against* the Commission as I seek to understand the Commission's perspective, as well as to critique that perspective. I close with a discussion of my positionality as a researcher, with a focus on the political commitments that motivate and inform my work.

The Archive as a Site of Study

Informed by what I identify as the key characteristics of structural abolitionism, Section II of the dissertation takes up the following three sets of questions, in each case, applying, or practicing, an abolitionist framework of legal change and critiquing the Commission's employment of reformism:

- How did the Commission understand the problem(s) facing Black Angelenos prior to the uprising?
- How did the Commission propose solving these problems?
- How did the Commission understand the achievements of the uprising as a form of resistance?

In asking and answering these questions, I reimagine the Webster Commission as a team of social scientists tasked with gathering data, interpreting data, and developing conclusions based on data. Like the social scientist who produces a peer-reviewed journal article or academic press book, the Commission also disseminated a rough accounting of its data and interpretations, as well as its conclusions, in the form of *The City in Crisis*. The archive, on the other hand, contains the data that informed the Commission's final report. These data come in the form of, for example, interview transcripts, academic materials, news reports, police activity logs, and survey results. Further, the archive includes the Commission's interpretations of these data in the form of, for example, internal correspondence and interview summaries. No different than any other archive, however, this one is incomplete. There are lost data and lost record of the interpretation of those data – interviews summarized rather than transcribed; unrecorded conversations that occurred over lunch; the uncitable theoretical, political, and ideological lenses used by each member of the Commission. However, the purpose of this project is not to reconstruct a causal relationship between the data and the conclusions, as though such an inevitable relationship exists. Rather, it is to understand, to the extent possible, the empirical evidence that the Commission was working with as they wrestled with how to create legal change in a police department and a city that continually made its anti-Blackness manifest. And in doing so, I ask how these artifacts might be wrestled with in different ways and toward different ends. In some ways, then, Section II is my own version of *The City in Crisis* – my own final report – in which I interpret the gathered data and develop conclusions based on that data. As will be seen, those who participated in the uprising, the uprising

itself, and the aftermath of the uprising will be interpreted in a manner wildly different than the Commission.

My reasons for selecting the Webster Commission archive as my particular historic site of study are multiple. At the most basic level, I sought a site a) focused on an event or artifact that could be conceived of as an abolitionist form of resistance to the law, b) involving substantial state response to that resistance, c) ultimately featuring reformism as the primary theory and modality of legal change. Put otherwise, I wanted to ground my contextual study in the convergence of resistance, state power, and state-sanctioned reformism. That the Commission archive includes each of these elements – the subject of the uprising as a form of resistance, met with a powerful state response both during and after the event, in which a state response *to* the state response was founded in reformism. Serendipitously, and consistent with Carroll Seron's perspective of pragmatic policy, the Commission was seen by some as liberal and hostile to the police in general. In fact, some distrusted the Commissioners, many of whom were criminal defense or civil rights attorneys (e.g. Wysocki, 1992). The convergence of these factors presented a theoretical, political, and methodological capaciousness that eclipsed other research sites I considered. And while I largely perceive the Webster documents as an archive produced by the state, an abolitionist desire for legal change and the state's reckoning with that desire is frequently, if not always, present in the artifacts collected by the Commission.

Beyond these basic specifications, I sought a site of study that contained both dominant and resistive texts (Leavy, 2007). While the methodological approach that I outline below advocates for a close reading practice that discerns the unapparent within dominant texts, I also desired to more actively notice and engage the words and actions of those actively resisting anti-Blackness. I certainly do this with texts external to the archive as I interact with the abolitionist texts discussed in Chapter 2, or with the theory I engage in Chapters 4 through 6. However, I also wanted to hear

from – in a variety of formats – those who resisted the work of the Commission, either before or after its inception. And while I would largely consider the archive a collection of dominant texts, it is not void of resistance; resistive texts are not only present, but abundant. They appear in, for example, the proposal documents circulated by the Bloods and Crips during their uprising-time truce; community meeting transcripts where residents attribute the uprising to the ongoing subjugation of Black citizens by law enforcement officers and the legal system more broadly; and the transcript of a radio broadcast by William M. Mandel that considers the state response to the uprising a lynching massacre. Surely, these resistive texts seem to have been peripheral in the eyes of the Commission, as evidenced both by their lack of inclusion in *The City in Crisis*, and as I discuss in Chapter 6, in the Commission members' use of language that points toward a disinterest in these texts. Still, resistive texts are present, and in the course of my work I intentionally look for them above, against, and beyond the archive's dominant texts.

Despite the favorable concurrence of these inclusion criteria in the Webster archive, I believe it is important to note that the massive scale and notability of the uprising, state response, and subsequent reformism initially gave me pause. In the month that I chose to engage the archive, several documentaries and news specials were released as a 25th anniversary recounting of the uprising. Most of my readers likely watched news coverage of the uprising as it occurred, or were residents of L.A. at the time. Such factors led me to question whether the uprising was over-studied, sensationalized, and tiresome. Clearly, I have chosen to assume these risks, ultimately deciding that the theoretical and methodological nature of my work allows me to engage this site of study in a new way, both as I critique the state response to the uprising and as I discern abolitionist desires for legal change. Additionally, the relative newness of access to the Commission archive means that while the Commission's report has been in circulation for 25 years and has informed scholarship on "evidence-based public order policing" (Waddington, 2007), theorization of racial tension

engendered by immigration (Bergesen & Herman, 1998), and media reporting of uprising events (Monroy et al., 2004), less is known about the artifacts influencing the generation of the report. Therefore, existing scholarly works have relied solely on an understanding of the uprising and the state response to the uprising as it was presented in final form in *The City in Crisis*. And while scholars of sociology and public policy do not broadly cite the report, its tenure of existence has coincided with ongoing interest in community policing as a reformist strategy (e.g. Goldstein, 1990; Walker & Archbold, 2014) and with critiques of police militarization, spatially-oriented policing, budget inflation, and anti-crime legislation (Balko, 2014; Clear, 2007; Murakawa, 2014; Simon, 2009). Through an in-depth exploration of documents related to these areas – primarily community-based policing, in my case – I shed light on the processes that brought forth these practices. However, rather than solely offering a cause-and-effect accounting of policing reforms, I work to provide a deep critique of such processes and to craft a theoretical resource for interpreting what are often presented as apolitical documents and research findings. In this sense, it is my hope that my readers' possible familiarity with the uprising will be of assistance, rather than a hindrance, to my project in speculative theory building.

Deconstructing the Archive

In the context of a speech on abolitionist organizing against the prison industrial complex, Gilmore (2011) identifies herself as a "theory Puritan and a methods slut." In doing so, Gilmore argues that abolitionist praxis may sometimes involve the same strategies used by reformists. However, she goes on to say that, "the difference between abolition and reform is purpose, not means." By reading these two statements in relation to one another, we learn that Gilmore has a strong commitment to, or is puritanical in, her abolition, which she describes as a movement to end systemic violence at all scales of analysis (2011, 2014). However, she is open, or slutty, regarding possible strategies for abolitionist organizing. Here, I apply Gilmore's ends-means differentiation

not to my broader discussion of abolitionist theory and praxis, but to my research methodology. In this sense, Gilmore's abolitionist work is to her organizing strategies as my abolitionist theorizing is to my research practices. That is, my research practices are a means for developing an abolitionist framework for legal change, as Gilmore's organizing methods are a means for enacting abolitionist goals. Indeed, the methodology that I am soon to describe may be considered slutty – promiscuous though discerning – while my devotion to the theory-making and knowledge production demanded by my research aims is puritanical. Like Gilmore, I seek to match my end with an appropriate means, even as those who strive for other ends may use the same means. In this sense, I am a methodological pragmatist (Morgan, 2013), or one whose methodological decision-making is driven by theoretical and political aims rather than a belief in the inherent superiority of one method over another. I act this out in two ways, each while recognizing that all methodological decisions come with limits, risks, violences, and impossibilities (Hartman, 1997, 2008). Broadly, I do not shy away from methodological resources common to the social sciences even as I engage a stereotypically humanistic method of close reading. Additionally, rather than relying on one theoretical framework for contextual analysis, I engage a variety of frameworks. This is particularly true as my content analysis gathers and employs multiple theoretical lenses – Black radical study, queer study, psychoanalysis – to understand the archive's artifacts broadly and deeply, and as simultaneously normative and resistive.

With and Against the Archive

My methodological approach can most accurately be characterized as a deconstructive content analysis, as it is described by Leavy (2007). This method, born largely of postmodern and poststructural theory, is common among critical theorists for its utility in conducting textual analyses that observe and relate not only elements of the subject that are readily perceivable in the text, but also those that are "missing, absent, or silent" (p. 228). Though not described by Leavy as

such, deconstruction as a general philosophic gesture is attributed to Derrida who famously describes it as impossible to define and impossible in its nature (Derrida & Caputo, 1997). Despite this ambiguity in definition, and Derrida's insistence that deconstruction is not a method, the purposes of a deconstructive context analysis – to analyze a text by way of deconstruction, as the name implies – are relatively clear. When using this variety of analysis, the scholar's intent is not to make an argument that what is missing, absent, or silent, ought to be more visible and vociferous. The purpose is not reconstruction. Neither is the purpose to redirect the existing theory toward a more suitable subject. Rather, it is a sort of tilling, of laying bare the text's oftentimes tacit foundational logics, politics, and assumptions for the purpose of exposing new theoretical and political terrain. Alternatively, Leavy describes this variety of analysis through Irigaray's (1985) language of "jamming the theoretical machinery" (p. 78), of disrupting the text's production of knowledge.

I take this methodological approach, which will be given further structure and substance below, for analyzing the artifacts present in the Webster Commission archive based on my project's goals of theorizing the possibility and form of framework of legal change responsive to anti-Blackness. Broadly, as I have engaged in the work of "creating new thoughts to think thoughts with" (Haraway, 2016; Strathern, 1992), especially as these thoughts relate to knowledge production in the interdisciplinary study of the law, I have sought a methodology that allows for revelation and creativity. In the case of my work, the jamming and tilling described by Leavy and Irigaray is not intended to make an argument about what the Commission *should have* concluded. Indeed, due to its task of reforming, rather than dismantling, the state, the Commission was essentially and functionally barred from being abolitionist in its objectives. Further, my deconstructive content analysis is not intended to make new truth claims about the uprising, the LAPD, or the Commission, even as at times my analysis may demand fact-stating. Nor is my task to

develop a theory of, or explanation for, the emergence, constituent elements, or recurrence of uprisings. Rather, I employ this method with the intention of creating "theoretical and political space" (Nash, 2014) for thinking outside reformism as the dominant framework of legal change, and for pushing the bounds of carceral abolitionism as an increasingly popular radical theory of legal change.

In rejecting the dominant framework of reformism and seeking to challenge and expand carceral abolitionism, I move through my work knowing that the documents included in the archive archive were crafted or collected by an organizational entity that was produced and sanctioned by the government for a particular purpose: reform of the LAPD. Therefore, the logics and organization of the documents – both conceptually and physically – are oriented toward the work of the Commission. Given my overall disinterest in developing a descriptive analysis of the uprising and the Commission (though, at times, I inescapably offer such descriptions, such as in the introduction to this chapter), I am somewhat protected against the concern that I would take as fact the narration presented in the archive. My more pressing concern regarding state-produced documents deals with the broader intent and character of these documents. That is, I am aware that the archive was constructed with a particular purpose – reformation of the LAPD and the making of L.A. an uprising-proof city. Therefore, if I interpret these documents through the lens of the Commission, I am bound to reach the same conclusions as the Commission: that 16 reforms and 16 sub-reforms could prevent a future uprising, or at least make the state better able to prepare for and respond to the emergence of a future uprising. However, in a Latourian sense, the archive as a "thing" is more than a "thing;" it is a social entity that engages with its reader and is capable of "striking back" against the reader's expectations or interpretations (Latour, 2000). The question then becomes whether the reader allows the text to object to the reader's conclusions. In what ways the Commission allowed themselves to be objected to by their documents is unknowable in the

context of this project, though the extent to which the Commission accounted for its documents' resistance appears minimal. Rather, they maintained their political aim of reformism in spite of their documents' resistance. For this reason, I mobilize the method of deconstructive content analysis to allow the archive to strike back. To do this, I first read *with* the grain of the archive, continually accounting for the Commission's interpretation. Second, I read *against* the grain of the archive, continually asking how the archive resists the Commission's interpretation. By engaging in both reading practices, I am able to understand and critique the work of the Commission while exploiting the *theoretical and political space* that the critique makes possible (Butler, 1993; Derrida, 2016; Haley, 2016; Hartman, 1997, 2008; Nash, 2014; Şincan, 2012; Stoler, 2010).

What, then, does it mean to read with accompanying normative and resistive lenses? In the poignant context of visually reading the video recording of the beating of Rodney King by four LAPD officers, Butler (1993) described a normative reading – or reading *with* the grain – as a reading that, within the social context in which the artifact is read, is seemingly neutral and universal. In the case of King's brutalization by LAPD officers, the visual field was already racialized, and thus read by many through a racist schema that perceives Black bodies as inherently violent. In other words, when left to the "hegemonic and forceful" (p. 17) devices of White perception, the beating of Rodney King will always be understood as an incident of self-defense by justified state actors. Further, if actively encouraged to read this way, as the defense team of the four officers asked the jury to do, it is difficult to see otherwise. The White perception that Butler cites is not unique to the trial of those who brutalized King. This White episteme is pervasive, and thus also present in the context of the Webster archive: that violent Black individuals attacked L.A. and that innocent, non-violent citizens and material property (both publicly and privately owned) required protection through state violence. This is one way of reading the archive *with* the grain. More broadly, I understand reading with the archival grain as reading alongside, or complying with, the

Commissioners (Hartman, 1997). While this would appear to require some guesswork, the Commission did not leave us solely to speculate on how they interpreted their collected artifacts – they pointedly told us in *The City in Crisis* and, at times, in their archival documents. For example, in draft report sections the Commission often cites particular materials within the archive that they used to reach their conclusions and craft recommendations. Therefore, to read with the grain is to read *with* the Commission, as they perceived the uprising and the state. In the context of my project, such a reading primarily serves to provide a foundation for engaging in a deep critique of reformism. Further, a normative reading assists my comprehension of what those who participated in the uprising – as well as non-participating resisters – were in opposition to, even if thorough documentation of their reasoned opposition was not included in the archive.

Given my broader work of thinking legal change through the analytic resource of structural abolitionism, my project does not end with a normative reading of the archive. Butler also argues that the visual – and here, textual – is "contested terrain" (p. 17) and must be read aggressively *against* the grain if we are to see otherwise. Options for reading otherwise are infinite, and may vary by discipline – by comparing the text to other texts on the same topic, by prioritizing the perceptual framework one develops through a lifetime, by analyzing artifacts outside the sanctioned archive, by identifying and analyzing the text's specific contradictions, and so on. Some of these strategies are implicit in my methodology. At the most fundamental level, deconstruction as a general analytic framework – noticing absences, contradictions, and hauntings, for example – certainly provides a broad, though ambiguous methodological resource for reading otherwise.

In addition to these varieties of counterreading, I also desired a technique that provided more guidance for reading against the grain, or put otherwise, for reading with the uprising. I do this primarily by developing research questions in Chapters 4, 5, and 6, that are conducive to exploration and experimentation. Each question is narrow in the sense that it focuses on what I

have identified as core elements of structural abolitionism. That is, while the particular texts I examine within the archive may point me in a certain direction, the contextual application of these characteristics is situated and limitless, defying what social scientists may refer to as reliability. for this reason, I would not expect that any other researcher would answer the questions in the same way that I do. This is partially due to my positionality as researcher, but also due to two other factors – the texts that I select for close reading, and the additional theories that I engage in each chapter. For example, in Chapter 6 I ask how the uprising as a form of resistance might be understood as limited, if not unproductive – that is, unsuccessful and irrational in normative terms. I answer this question partially through Halberstam's (2011) work on queer failure, or how failure offers an alternative framework for how to live in the world. Of course, applying the concept of limited redress alongside queer failure will result in a different reading than were I to read it alongside any other theoretical resource. And various interpretations would emerge given which documents in the 40-box collection are selected for close analysis. This open-endedness, of course, is consistent with the very idea of conducting a contextual analysis since the variety of factors in any context (e.g. subject, location, time) will mean that the theory – in my case, structural abolitionism – will behave in unique ways.

Non-empirical scientification

The majority of my methodological training has occurred in academic programs that identify strongly, or completely, with the social sciences. Of note, I have been thoroughly trained in a circular conceptualization of research in which the researcher either tests theory or develops hypotheses for future testing. A humanistic methodology of close reading does not fit into this cycle. A close reading practice, while intent on deeply understanding a given topic or artifact, is generally not in the business of hypothesis development or empirical generalization. It has other ends. However, I have grown quite fond of some of the methodological resources social scientists

use to guide their work, even as I apply these resources to a research context considered unholy to the social scientist of Constable's (1994) fifth stage of U.S jurisprudence. My methodological promiscuity, therefore, is largely defined by my simultaneous attraction to and engagement with humanistic practices of close reading *and* social scientific practices of qualitative research.

The integration of these practices occurs most visibly as I adopt an adapted version of the circular model. I take an inductive approach to theory development in Section I as I use a body of theoretical texts as empirical objects for building a theory of legal change that is responsive to anti-Blackness. That is, it is scrutiny of these texts that provides the foundation for structural abolitionism. Then, in Section II, I take a deductive approach by applying my theory in a historic context. Of course, neither the inductive or deductive state is exemplary of the circular model. Typically, the inductive stage of the research cycle involves empirical data that is representative of the target population, and therefore generalizable. My "data" (i.e. theories) are not representative, but purposefully selected. The deductive stage typically involves collecting empirical data – again, representative of the population – to test whether the theory can be proven false. Thus, in both cases I depart from the methodological norm of generalizability. This is because, even as I consider my work inductive in nature, the ultimate purpose of the project is not falsification of a theory or hypothesis.

I adopt two additional resources from the social sciences, this time, particular to qualitative research practices – theme development and saturation. The practice of theme development is often used in qualitative research as a means of tracking patterns and topics that appear in a dataset. The resultant themes are then used to provide structure to an empirical account of the phenomena, often with the ultimate purpose of theory building. My theme development practice has markedly different aims, though is similarly rooted in the tracking of patterns. I do this in two instances. Like qualitative research, in each of these instances I move from the specific data toward general ideas,

but with the ambition of speculation, not description or generalizability. In Chapter 2 I identify what I perceive as the primary and characteristics of structural abolitionism that serve, in many ways, as the ultimate guides of my analysis. Their persistent presence in my project reminds me what abolitionism is, as well as what abolitionism is not, and holds my understanding of legal change accountable to broader Black studies traditions of abolitionist theory and practice. Second, I use a loose model of coding and theme development when working with particular documents. That is, I search documents for specific qualities that are of interest to the question at hand, and develop themes out of those categories. For example, in Chapter 4 I highlight *The City in Crisis* for any instance in which the document explicitly or implicitly refers to the problems facing Black Angelenos prior to the uprising. I also highlighted any instances in which the Commission discussed the problems facing other groups of Angelenos, or Angelenos in general. By reading these highlighted sections (or "codes") together, I am able to recognize patterns and develop a holistic understanding of the Commission's interpretation of their evidence. I then present the elements of this interpretation (or "themes") in narrative form.

Saturation, as a research standard common to qualitative research, helps guide the amount of time a researcher spends in the field – or in the case of interviews, the number of interviews conducted. That is, when the researcher can begin to predict what their participants might say next, or how they might behave, they cease data collection. There is presumably nothing new left to learn, or nothing so new as to dramatically sway the study's conclusions. By reaching saturation, the researcher suggests that their findings are a thorough, and therefore trustworthy, account of the phenomena under investigation. While my project is not stereotypic fieldwork, I mobilize the resource of saturation with a similar aim. Aside from the perhaps obvious decision to examine every folder within the 40 boxes housing the Webster documents, within each case study I work to identify and account for all possible artifacts that relate to the question asked in each chapter. And

while all available artifacts may not be explicitly cited in their corresponding chapters, I consider each of them in relation to the chapter's given objective. I do this, first, to convince my reader that I thoroughly and diligently engage the archival materials, and indeed use them – rather than my personal ideals – as a contextual basis for understanding legal change. Second, I use this variety of saturation as a means of exposing contradictions, silences, and marginalized materials within the archive. For example, what does it mean that those who participated in the uprising and post-uprising resisters engaged in a clash with state powers, while also at times calling for persistent police presence in their neighborhoods? If I were to focus solely on documents that contain the former (for it is most consistent with an abolitionist perspective), I miss the opportunity to engage resisters' complex and sometimes contradictory visions of the future. Saturation, in this case, works with deconstruction to exploit the newly uncovered theoretical and political terrain.

Prior to practicing this variety of saturation in each chapter, I used saturation as a guiding framework in selecting which of the Commission's recommendation(s) would be the focus of my contextual analysis. To do this, I first read the recommendations given by the Commission in *The City in Crisis*. Second, while reading through each of the archive's 40 boxes, I recorded topics in the archive that seemed important to the Commission or those it interacted with, even if those topics did not feature prominently in the final report. Using saturation, I recorded topics – or areas of policy interest – until I saw no additional topics to record. I did this in order to identify a focus area that would provide the most *theoretical and political space* for imagining a certain type of legal change. This focus ultimately became the Commission's recommendation that the LAPD adopt community policing as a guiding framework for how the department is operated. This happened to be the Commission's most prominent recommendation. However, by developing a list of possible focus areas rather than simply selecting the most prominent topic, and exhausting all possibilities of

what this list could contain, I remained immersed and attentive to the artifacts in a way that may not have been possible had I adopted a sufficiency based model of selecting a policy.

The View from a Body

In social science research, it is common for among researchers, in an effort to achieve an objectivity considered more legitimate than that of scientists who claim neutrality, to give an accounting of one's social identities and how those social identities interact with the social identities of the people, things, or places that are the focus of the study. As a well-established evaluative standard for qualitative (and less frequently quantitative) research, this type of reflexivity often accompanies research rooted in the basic tenets of the scientific method, but acknowledges the researcher as necessarily non-neutral. In this sense, inquirers of positionality are usually interested in determining whether the researcher is cognizant of how their social identity may influence project development, selection of methodology, interaction with research subject-objects, and interpretation of findings. In this vein, a researcher's positionality can serve as a resource to the researcher who recognizes and mobilizes their subject position to do things like ask meaningful questions and make unique observations (Collins, 1986; Harding, 1993; Hirsch & Olson, 1995). With such an understanding of positionality as a resource, inquiring about one's positionality is not necessarily a request for a list of embodied social positions, but an invitation to reflect on one's unique role in empirical knowledge production. Though I do not describe my project as empirical, I am certainly engaging in the task of knowledge production, and ought to be reflective about my subject position and its influence on my work. However, rather than focusing this discussion on an accounting of my social identities (e.g. I am racialized as White, I am gender non-conforming, I identify as queer in both my gender and sexual orientation), I take another approach.[9] First, I

[9] I would argue that such an accounting is more meaningful in the context of an ethnographic study where the researcher interacts with their subject-objects of study.

consider the role of intersubjective relations in my broader project of knowledge production, and second, I examine the intellectual and political commitments that guide my analysis.

First, I understand my positionality as mainly relevant in relation to someone else's. This conceptualization is informed by Haraway's (1988) understanding of knowledge production as locatable, partial, and critical. Based on a metaphor of vision, Haraway argues that sight is always situated, and thus, objectivity – the more complete knowing of the subject-object – can only be increased by connecting with other seers.[10] Nothing can ever be objectively known by one neutral observer – i.e. one who sees from both nowhere and everywhere – or by the marginalized observer who has been privileged by some standpoint epistemologists. Further, no observer can adopt another's vision, or even fully comprehend their own vision. Rather, those with dissimilar fields of social sight can, in relation to one another, produce knowledge more objectively than one observer could produce on their own. I understand this as the difference between *seeing with* and *seeing as*. *Seeing as*, of course, is the strategy employed by alleged neutral observers who claim, in a sense, to see as God. And it is certainly employed by observers who perceive their social location as more dominant or sufficiently different than that of their subject-objects of study, and thus attempt to see as or see *on behalf of* the marginalized other. By seeing with, one need not claim another's sight or depend solely on one's own sight. Indeed, it is through the relational concept of *seeing with* that I do not claim that my work should be understood as a final theorization of abolitionist legal change, but rather, as part of a larger and cooperative project in imagining abolition and its relationship to anti-Blackness. Therefore, I understand my positionality primarily in relation to those who are doing the similar work of a) theorizing the relationship between anti-Blackness and the law, and b) theorizing beyond reformism. These relationships are contextual and evolving positionalities – or

[10] Of course, this is not to promote a sort of intellectual relativity whereby any observation is seen as a valuable contribution to the truth-seeking project at hand. Rather, it is to desire the totality of perspectives in order to understand not only the subject-object of study, but how that subject-object is understood from diverse viewpoints.

one's "view from a body" (Haraway, 1988, p. 589) – and can only be accounted for within these relationships, which are emergent, evolving, context-specific.

The second accounting of my positionality addresses not my view from a social body, but rather, what and how I am seeing *toward*. These are the intellectual and political positionalities that guide my analysis, my reasons for seeing *with*. Understood analytically, these positionalities, or commitments, inform my work at every stage and are necessary to understand my work as an intellectual and political project. Three of these core positionalities guide my work. First, based on my interest in state violence and resistance to violence, I am most obviously committed to matching my analytic critique of dominant systems and institutions with an understanding of varieties of resistance. Here, I understand resistance as multi-modal, and as both destructive and creative. This commitment is not driven by a sociological curiosity, but by my political "desire for a liberated future" (Hartman, 2008, p. 11). That is, my work is necessarily political – part of and in support of resistant, liberatory movements against anti-Blackness and the carceral state. This desire drives my second commitment. In imagining a *liberated future*, I am committed to using analytic resources that reject violent common sense (Rodríguez, 2010) and anti-Blackness. It is for these reasons, I have argued, I work to undo reliance on reformism. In rejecting reformism, I turn toward abolitionism as the analytic framework I understand as having the greatest political and theoretical liberatory potential. It is in this spirit that I engage abolitionism, and in the same spirit that I would engage other frameworks should they present the same expansiveness. My commitment to abolitionism relates to my final commitment: a commitment to the analytic centering of anti-Blackness. I narrow my liberationist focus to anti-Blackness as a resource in moving beyond what Butler (1993) terms *White perception* whenever and however possible. I understand White perception here as more than the perceptive position of individuals racialized as White, but as a resource in constructing the Human in relation to Blackness, or the non-Human (Fanon, 1961/2005,

1952/1994). Further, I understand state violence and the violence of reformism as rooted in anti-Blackness, though often masqueraded as rationality and practicality. A confrontation with Whiteness, and therefore anti-Blackness, is essential if one desires a *liberated future* – an abolitionist future – even as it is "first performed on the page" (Hartman, 2008, p. 10).

CHAPTER 4

We Were Somebody: Redress and the Social Death of Nobodies

And so it was that freedom came into the world. (Orlando Patterson, *Slavery and Social Death: A Comparative Study*)

In series of single-authored articles dated between 2008 and 2013, Fred Moten and Jared Sexton engage in a dialogue about some of the Black radical tradition's key concepts and what the conceptualization of these terms mean for Black Studies as a discipline and for Black study as a lived experience (Moten, 2008, 2013; Sexton, 2011, 2012). The two lines of inquiry represented by Moten and Sexton – respectively, Black optimism and Afro-pessimism – currently constitute what is perhaps the liveliest intellectual debate in the field of Black studies. The point of departure is not the basic premise of the tradition of studying Black positionality, which is that Blackness is social death, but the questions that flow from this premise. And what is at stake in the conversation is not the resolution of a "highly technical dispute" (Sexton, 2012, p. 2), but a clarification of the unique intellectual projects, or questions, taken up in Afro-pessimism and Black optimism. I rather crudely summarize the relevance of this complex exchange to the project at hand in this way:
Afro-pessimists inquire into "the fact of Blackness," while Black optimists inquire into "the lived experience of Blackness" *(Sexton, 2012, p. 7)*; Afro-pessimists question what nothingness is, while Black optimists question what can be done – what is done – with that nothingness; Afro-pessimists ask what it means to have nothing, while Black optimists ask "what it is that the ones with nothing have" (Moten, 2013, p. 776); Afro-pessimists think upon anti-Black fantasies, while Black optimists think upon the fantasies of Blackness; Afro-pessimists focus on the concept of slavery, or how the law of slavery operates, while Black optimists focus on the concept of fugitivity, or how Blackness escapes the law; Afro-pessimists wrestle with what it means to not have a self, while Black optimists wrestles with what it means to not want to have a self; Afro-pessimists ask what it means to live without a standpoint, while Black optimists ask what it means to live without the desire for a

standpoint. Put much more succinctly, Afro-pessimists work to understand social death, while Black optimists work to understand social life in the midst of social death.

The reason that I begin with this exchange and the ongoing questions it clarifies and poses, is because I have argued that a structural abolitionism position is rooted in the belief that the problem facing Black people is their social death at the structural level. Implied in the problem statement is that anti-Blackness is permanent, or unresolvable. This is a stereotypically pessimistic outlook but is agreed upon, using different terminology at times, for many scholars of Black positionality. Thus, what I hope to demonstrate is that although the language of pessimism is not uncontest in Black studies, at least some of that contestation occurs at the level of the signifier, and less so at the level of what is being signified: social death. That is, Afro-pessimists and Black optimists largely agree that Blackness is social death, that anti-Blackness is unresolvable in the world as we know it, and that the world as we know it must end for anti-Blackness to end. The implication of social death as a conceptual characteristic of abolitionism consequential for how anti-Blackness in the US legal system must be addressed. The purpose of this chapter is to consider these consequences. I take as a starting place that structural abolitionism identifies the problems facing Black people as a) their social death at the structural level, and b) the symptoms of social death that manifest at the social, political, and economic levels. I consider the question engendered by this starting place: how did the Commission understand the problems facing Black Angelenos prior to the uprising? Another way of framing this question is to ask how the Commission understood the reasons that Black Angelenos rose up after the April 29th acquittal of the officers who beat Rodney King. To answer this question, I analyze the Commission's final report, *The City in Crisis*, as well as a series of documents related to a community meeting held by the Commission in South Central L.A. I then consider how this, and other, archival evidence points to an alternate understanding of the problems facing Black Angelenos by re-reading the evidence through an

engagement with the concept of social death. By comparing these two readings, I demonstrate that the Commission's interpretation identified the problems facing Black Angelenos as temporally- and geographically- discrete, and exacerbated by the incivility of Black communities. I draw a connection between this understanding and the Commission's sense that the problems facing Black Angelenos were resolvable at the level of policy.

The Matchstick

The purpose of the Webster Commission was not to investigate the problems facing Black Angelenos - the problems that led Black Angelenos to be at the forefront of the uprising. Rather, the work of the Commission was to investigate how the state responded to the uprising that began on the evening of April 29th in South Central L.A., and by nighttime had spread to other areas of the city. Therefore, to ask how the Commission understood the reasons that Black Angelenos rose up is to inquire beyond the official scope of the inquiry. However, there is evidence both in *The City in Crisis* and in the archive to gain insight into how the Commission understood the grievances of Black Angelenos and how these grievances informed the Commission's final recommendations. Indeed, they noted that their report "would be inaccurate and incomplete if it were to ignore the City-wide context in which these events transpired" (Webster & Williams, 1992, p. 175). And the picture painted in *The City in Crisis* of pre-uprising L.A. is a bleak one. The city had experienced population growth and become home to a wide range of cultures, languages, races, and ethnicities. However, at the same time, the city was in the midst of a national economic recession. Therefore, relationships between Angelenos of different races and ethnicities were characterized as tense and hostile, as the city failed to develop a "common civic culture" (p. 35). Los Angeles was experiencing stark economic stratification, poverty, unemployment, and homelessness, especially in Black neighborhoods. Because of this, lifelong Black Angelenos were suspicious of newcomers, resentful that immigrants were competing for scarce jobs or receiving bank loans to start

businesses. The crack cocaine trade was in full swing, gang violence tore through neighborhoods, and graffiti lined the city streets. Angelenos' relationship with the LAPD had grown increasingly hostile as a result of law-and-order style policing marked by aggressive crime-fighting strategies. Non-White Angelenos felt disrespected by officers on account of their race, even at times being denied police protection or being victim to excessive use of force. Black Angelenos and Korean-American Angelenos were both dealing with grief and resentment toward one another after a Korean-American grocery store owner who shot and killed a 15-year-old Black girl, Latasha Harlins, on March 16, 1991 was given a relatively light sentence. Overall, one gets the sense that L.A. had failed to adapt to a post-industrial and globalizing economy, with the greatest impact falling on the shoulders of Black Angelenos, causing anger and frustration among the city's most marginalized residents. In light of this, the city was bound to turn on itself at any moment; it had become a "tinderbox, reading to explode with the striking of a single match" (p. 3). Then, on April 29th, 1992 at 3:00 p.m., a long-awaited verdict was announced; the four officers who were caught on camera beating Rodney King were acquitted of all charges. Black Angelenos, who were living in less-than-ideal conditions and had existing hostility toward the legal system, began to rise up. While all Angelenos were frustrated and afraid, once the match was struck in a Simi Valley courtroom, it was Black Angelenos – those who had a particular investment in the outcome of the case against the LAPD officers who beat King – who carried that flame through the city's streets, destroying everything in their path.

Aside from noting the context in which Black Angelenos began and further participated in the uprising – poverty, a strained relationship with the LAPD, and several high-profile legal injustices – the Commission does not speak much about Black Angelenos in particular. That is, the report rarely discussed *any* specific racial categories, instead using language such as "racial intolerance" (p. 175) or "minority communities" (p. 14). Overall, "the core of civil unrest" was

attributed to “poverty, racial intolerance, lack of opportunity, crime, drugs, […] loss of hope” and “changes in demography” (p. 175). Taken together, the report leaves an impression on its reader that the uprising occurred because L.A. was facing a period of economic, political, and social turmoil, and as a result, Angelenos were not being a cohesive multi-ethnic and multi-racial community. However, perhaps due to carrying a particularly heavy economic burden, having a particularly strained relationship with the LAPD, and because of disorders internal to Black communities, Black communities were not resilient to this turmoil. For the Commission, it is for this reason that Black neighborhoods became hubs of hostility and tension, and it was this hostility and tension that would need to be defused should L.A. hope to prevent future uprisings. Given that it was the Commission’s task to recommend improvements to the LAPD’s policies and procedures, the tactics used to alleviate tension would necessarily involve the police, the very people who the target of ire from Black Angelenos. While the Commission did not use overtly racialized language in making these recommendations, more subtle language indicates that the shift to community policing was predominantly meant to address problems internal to Black neighborhoods. Of note, the Commission’s conceptualization of community policing is rooted in the goals of community policing expressed by James Q. Wilson.

> (1) preventing crime is as important as arresting criminals; (2) preventing disorder is as important as preventing crime; (3) reducing both crime and disorder requires that police work cooperatively with people in neighborhoods to identify their concerns, solicit their help and solve their problems. (*The City in Crisis*, p. 169)

According to this “problem solving” model, community policing is meant to improve “quality of neighborhood life” and “prevent neighborhood crime” (p. 169). Therefore, community policing efforts would be directed at either a) maintaining quality of life and low crime in some neighborhoods, or b) improving quality of life and decreasing crime in others. Elsewhere in the report, quality of life issues are associated with “urban America” (p. 175), places of “human carnage” and waste and despair” (p.175). More blatantly, the Commission notes that there are

higher levels of poverty, homelessness, and unemployment, in Black neighborhoods (p. 14, 41) and that "gangs, crime, crack cocaine, poverty, and homelessness" were "problems of the inner city" (p. 42). Based on contextual indicators such as these, it is clear that community policing efforts were to primarily be directed at "improving quality of life" and "preventing crime" in Black neighborhoods.

Community Meeting No. 1

During a two-week period throughout September 1992 – the month before the Commission released its final report – a series of seven public hearings were held throughout the city to gather comments and opinions on the LAPD's response to the uprising. Included in the appendix of *The City in Crisis* were excerpts selected from each meeting. I take these excerpts to be representative of the comments and opinions that the Commission used in making their final recommendations. Or perhaps, because final sub-team reports were already being submitted to Judge Webster by the beginning of September, these excerpts are representative of the evidence that supported the Commission's already developed interpretations of earlier-collected data. In either case, the 21 pages of excerpts included in the final report are extracted from over 600 pages of meetings transcripts.[11] The archive includes two- to four-page summaries of six of the seven meetings, and a full, 104-page transcript of one meeting – that of the first meeting, held on September 8 at Foshay Junior High School in South Central L.A (Office of the Special Advisor of the Los Angeles Police Department, 1992a, 1992b). For two reasons, in this chapter I focus on the documents related to the Foshay meeting. First, the Foshay meeting is the only meeting for which all three documents – excerpts, a summary, and a transcript – are available. By moving between the three documents available in the report and archive, I am able to gain a sense of what information the Commission found important in making their final report. Then, by examining sections of the transcript that were

[11] Excerpts include a transcript page number; the highest page number given for an excerpt is 609.

not included in the summary or excerpts, I am able to easily locate and analyze archival evidence that has the greatest likelihood of contradicting the Commission's interpretation. The second reason, serendipitous in nature, is that this meeting was the closest to the intersection of Florence and Normandie, the "flashpoint" of the uprising. Demographically, the census tract of the meeting was relatively similar in percent Black population (60%) to the two census tracts on either side of the flashpoint (73 and 80% Black), thus racially representative of the population most involved in and impacted by the uprising (U.S. Census Bureau, 1990).

The excerpts selected by the Commission from the Foshay meeting, are in many ways, accurately representative of the comments made by attendees. Most speakers voiced concerns about the lack of opportunity for Black Angelenos, poor police response in uprising-affected areas, a pattern of ongoing disrespect by LAPD officers toward Black Angelenos, and an overall dissatisfaction among Black residents toward the police and court system. Excerpted comments such as these are frequent:

> We pay taxes just like everyone else does, and we deserve the right when we pick up the phone and call 911 for someone that is trained, not a rookie that's been on the job for two weeks, to come out and see if there is an actual cry for help. (Cynthia Snordon, p. 23)[12]

> Black people in the US through 200 years or more have never received justice in any court in this country, and until that starts we will have more uprisings and more uprisings. (Berenice Tolliver, p. 24)

> It's not basically a problem of the police. It's a problem of the community, people being unemployed. (Keepan Damisha, p. 29)

> Black people are fed up…We have been disrespected everywhere…I don't say the rest of the pledge of allegiance to the flag because it's a blatant lie. This is not one nation under God, indivisible with liberty and justice for all. It is not. It is one nation under white people with liberty and just for those we've got money and are lucky. (Julie Ansley, p. 34-35)

[12] All quoted materials are replicated here as they appeared in the Commission documents. In some instances, it is unclear whether a typographical error was made by the transcriptionist, or if this was the language used by the speaker. At times, I include parenthetical information about my perception of what were typographical errors that may impact the meaning of the quote. The transcript of the meeting was written in all capital letters. They are replicated here in sentence case, and therefore, include my own decisions to capitalize certain words.

> It seems like you're teaching them to think with their fists instead of with their brains because they do not have the common sense to talk to us like we are human. (Paya Johnson, p. 44)

Many non-excerpted comments express similar sentiments:

> Black people have been so long to – referred to as dogs. People talk down to us. We are tired of being talked down to. We feel that we have the same right as a White citizens, as a Mexican citizen, as a Korean citizen. (Cynthia Snordon, p. 22)

> Black people in the courts, the federal courts, the state courts, the local courts, have not received the kind of justice that they deserve, and once we do that throughout America I think relationships would improve. (Berenice Tolliver, p. 25)

> I want some of these problems resolved so that we don't have to go to the streets to resolve them, and our community is under constant attack, not only by the policemen but every American institution that exists in that city. (Esther Lofton, p. 27)

> You cannot expect people to respect them because they have a uniform on, because we don't. Because they don't respect us. Not because we're Black but because we're human beings. They're out there to protect and to serve, not to beat the crap out of us, okay? (Jan Hardy, p. 101)

Though the picture painted by the Commission is present in these testimonies, we also see a markedly different rendition of what *The City in Crisis* names as racial intolerance. That is, *The City in Crisis* attributes the uprising to tension and hostility among Angelenos that arose from a difficult economy, and hostility toward the LAPD due to a perceived pattern of racial discrimination. In this analysis of the evidence, the frustration of Black Angelenos arose from either a period of social instability, a season of aggressive policing tactics, or a high-profile event. This interpretation does not account for the above-noted excerpts, many of which explicitly name long-standing anti-Blackness in the legal system or in society more broadly. Berenice Tolliver, for example, expresses a grievance that is 200 years-old and Julie Ansley situates anti-Black racism as existing not just in L.A. and not just as a result of the LAPD's policing style, but *everywhere.* For these speakers, the core issue is not their inability to get along with Angelenos of other racial or ethnic categories, or even one-time anger about the Rodney King verdict, but a strong sense that in

various ways their life chances and opportunities, especially as they relate to encounters with the legal system, have been limited on account of their race. This sentiment did not fully escape the Commission – or at least not the counsel responsible for writing the summary of the Foshay meeting[13] – who recognized the speakers as attributing both the cause of the uprising and the lack of police response at Florence and Normandie to a lack of respect for Black Angelenos. Still, the speakers' emphasis on experiencing anti-Blackness across greater swaths of time and space is largely obscured by the overarching interpretation that the uprising was caused by social problems specific to a post-industrial L.A.

Just one speaker discussed at any length the problems internal to Black communities that were later identified by the Commission in their final report. At first, the speaker discusses why they were glad the police took a long time to respond to the epicenter of the uprising in South Central

> First of all, on the response the police have is no different – I'm glad that it happened that way so the rest of the community, people that live north of Washington or wherever South Central starts, see how when we on a daily basis call the police this is the response that we get from them. And I'm glad that it happened this way so that everyone could see what happens when we call – when drug addicts are in front of a house – a man got beat the other day to death. The police called me 20 times to ask me what everybody was wearing. (Keepan Damisha, p. 29)

For Damisha, the lack of police response is consistent with non-uprising attention to the problems facing Black neighborhoods. That is, the police are not interested in helping the communities prevent crime, but are fully present when it comes to enforcing laws once a crime has already taken place. Damisha goes on to argue that, in addition to bringing city-wide attention to the lack of proactive policing in South Central, the delayed response also caused neighborhood blights, such as liquor stores, to be destroyed.

> It's just, you know, it's very frustrating to want to tell you what the problem is with the police when it's not basically the problem of the police. It's a problem of the community, people being unemployed. I'm glad that they took a long time coming for one reason because I'm glad the liquor store around the corner from my house is gone because now it's

[13] The summary was written by Darrell D. Miller. Mr. Miller was not listed as an attendee at the Foshay meeting, nor was he listed in *The City in Crisis* as a Commission counsel.

> quiet. Okay. The little kids that go to 36th Street School don't have to worry about being harassed by drunks. Okay? I mean it's two-fold. It's sad that it took so long for people that own businesses, but then it's a good thing so the world could see how people in South Central are really treated. You know, it's just as simple as that. When the problem is just like when Caucasians say, "Oh, gee, what do Black people want?" The same thing you want. We want our kids to be able to go to school without being harassed, without seeing people shoot dope in corners, on the corners, turning tricks and everything else. We want the same thing that everybody else wants. Just because we happen to live in a certain area doesn't make us any different in needs and desires. (Keepan Damisha, p. 29-30)

Clearly, the problems internal to Black communities are of great concern to Damisha. However, despite Damisha identifying issues such as prostitution and public drug and alcohol use as relevant problems facing Black Angelenos, Damisha frames these problems within the broader economic structure, specifically the unemployment common among South Central residents. That is, for Damisha these problems in the community would not exist if people had opportunities for legally-sanctioned work. In absence of such employment, Damisha seems to argue that the increased policing of these problems would improve the quality of life in Black communities. Later in their testimony Damisha responds to a meeting facilitator's question about what the police could do to address these problems by saying, "Walk the beat and get to know the people in the neighborhood" (p. 31). For Damisha, the appropriate response to the problem should not involve policing techniques that were reactive in nature or oriented by an ideology of punishment, but should focus on building a healthy and productive relationship between South Central residents and the police. The result of such a relationship would be a decrease in visible disorders in Black communities.

Consistent with this, and because the Commission understood the grievances of Black Angelenos as temporally and spatially restricted, their recommendations for how to address these grievances were focused on reducing discrete incidents of anti-Blackness while rehabilitating the communities where the grievances arose. The core of this approach was to implement a proactive, community-based style of policing. Like Damisha, many speakers – both excerpted and

non-excerpted – saw community policing and other reforms to police style and practice as meaningful ways of addressing the frustration felt by Black community members.

> I feel that LAPD needs to be educated in ethics, especially in diversities which we get in our major companies. (Cynthia Snordon, p. 21, non-excerpted)
>
> Walk to the beat and get to know the people in the neighborhood. (Keepan Damisha, p. 31, excerpted)
>
> I think one of the things we can do is to establish a police reform – police review committee similar to the one that operates in Berkeley, California. (Gary Farwell, p. 54, excerpted)
>
> LAPD needs to hold some community open houses at their police station. (Julie Ansley, pgs. 91-92, excerpted)
>
> There's a need to include the representatives of the affected community in the final decision-making process. (Ivonne Allen, p. 65, non-excerpted)

Solutions such as these were also offered by community members who, at the same time, expressed skepticism about the possibility of remedying anti-Blackness. One speaker, in particular, Kakuwana – whose testimony before the Commission spanned roughly seven and a half pages of the transcript – shared such a perspective. Kakuwana spoke before the Commission at two points during the night. During his first time at the microphone, Kakuwana attempted to inform the Commission about his experience being present at the flashpoint of the uprising. Through numerous interruptions and attempts to deter his comments toward "what could have been done better" (Mr. Askey, moderator, p. 16), Kakuwana stated, "You say you going to give me three minutes to tell me about something that happened all my life" (p. 19), never offering recommendations for improvement. When he returned to the microphone, he first clarified that nothing could be done to prevent or respond to a future uprising, but then offered one solution.

> You ask about what we can do about the police department. We can't do anything about the police department. When the police – you basically – it's like what that lawyer asked that policeman, "How were you trained?" And he gave an answer, "We were trained by the manual." Unless you change that manual, the same thing can happen over again. You can't blame those policemen because, like he said, "We were trained by the manual. We could take a man and beat him to death because the manual tell us we can." But you first of all got

> to change the police manual, how they're being trained to work on us. (Kakuwana, p. 75-76)

Of his seven and a half pages of combined testimony, the Commission excerpted only one of Kakuwana's sentences: "…you first of all got to change the police manual, how they're being trained to work on us." That the Commission did not choose to highlight Kakuwana's comment that *we can't do anything about the police department* is not surprising given the Commission's charge. However, it does obscure evidence suggesting that the grievances of Black Angelenos extend beyond discrete and identifiable instances of anti-Blackness, that the uprising was an uprising against long-standing anti-Blackness, or that the LAPD is irreformable in regard to manifestations of anti-Blackness in its policies and practices.

Two other speakers more explicitly correlated the uprising and long-standing anti-Blackness, also offering what could be read as prescriptions for redressing anti-Blackness:

> What the LAPD can do is the LAPD can get out of the way when the territorial prerogative takes place. What happened as far as the targeting of the Korean grocers was a class and a territorial prerogative – I'm not talking about Snow Darters[14] or Spotted Owls. I'm talking about human beings who occupy a community or a territory…the Black people are going to take back their community (p. 58-59)…I wasn't looting, and I don't care to loot. But I think – in the realm of revolt it was the proper solution and it will be repeated if indeed the territorial prerogative is not exercised and Black people can maintain and contain these communities. (Tut Hayes, p. 58-60)

> Two wrongs don't make a right, but it damn sure don't make it wrong because we been forced to come over here, eat the paths of the swine and all these other things. We've been put down in our own communities, beat and, like she said, putting guns to our head…It's all about respect. If you respect me, I'll respect you. You know what I'm saying? Like Rodney King said, "We can all get along." (Zeke Hall, p. 98)

For Hayes, the LAPD needed to allow Black Angelenos to assert something like sovereignty over Black territory. Assuming that Hayes did not testify at Foshay expecting that they would take seriously his call to respect the territorial sovereignty of Black Angelenos by withdrawing law enforcement from South Central L.A., questions are raised as to whether Hayes was relaying a more

[14] Given its pairing with the Spotted Owl, I assume this should read Sand Darter, an endangered fish species.

cryptic message to the Commission. Hall's testimony is similarly perplexing as he holds in tension the enormity of the uprising's cause – slavery and its legacy – alongside an incredibly simple solution – shows of mutual respect. The mismatch between these statements leads us to ask whether Hall was truly offering a concrete solution to prevent future uprisings, or if he was working to reveal something deeper about the redressability of anti-Blackness. Taken together, Kakuwana, Hayes, and Hall suggest that the problem at hand is not racial tension, but an antagonism that operates at a much more abstract register than the Commission discerned.

Hall was not the only speaker at the Foshay meeting who explicitly referenced the history and experiences of Black individuals as chattel slaves in the United States.

> What you saw was the people saying, "I am somebody." This is the feeling in every human being that breathes. "I am somebody. My children are somebody. I come from a race of people that go back before a White person walked this earth because Africa is the birthplace of society." We were somebody until we came to the shores of America, and we didn't ask to be brought here, and we have been degraded and humiliated under the flag, (inaudible) in God, as long as we've been here, and we're fed up with it. Just as simple as that. (Julie Ansley, p. 38)

> We've been brought up with history. It's just what it says. "His story," not "our story." Our story states something that we – we never hear about it in school, the Holocaust. We always hear about the Jews getting killed. Now, the biggest holocaust there was was when the Blacks came across here on the slave ships getting thrown over millions at a time dying from, you know – and they didn't even want to come here. They didn't want to come. They had to[15] reason to come here. They was happy in their life. History. You never hear anything about history, you know, with us. Never. Never. (Willie Baker, p. 67)

> Like a lot of people have said earlier, we didn't want to be brought here. We were forced to come here. And we worked the plantations for the White men and we still don't get nothing out of life. (Paya Johnson, p. 86)

What Hall, Ansley, Baker, and Johnson each note is the forced removal of Black individuals from the African continent and their subsequent enslavement and abasement – at times resulting in physical death – at the hands of slave traders and slave owners. Hayes notes this, too, as he notes

[15] I assume that *to* is a typographical error and should read *no*.

that fish and owls are treated with greater care than Black Angelenos.[16] What each of these speakers enunciates it is that something about Blackness – as well as the association between anti-Blackness and slavery – that explains what even the Commission acknowledged amidst their mostly-ambiguously racial analysis of the uprising: that Black Angelenos were responsible for the destruction of property and violent assaults on non-Black Angelenos that marked the uprising's inception (Webster & Williams, 1992, p. 23). In other words, Blackness and the legacy of slavery had everything to do with the uprising. What, then, is the relationship between contemporary anti-Blackness and chattel slavery? Why did Hall, Ansley, and Baker reference slavery in their testimonies before the Commission? How did slavery play a role in understanding the uprising's inception? How does slavery relate to the possibility of redressing anti-Blackness in post-uprising L.A. and relate to the cynicism expressed by speakers like Kakuwana, Hayes, Hall, Ansley, and Baker? To answer these questions, I apply to these testimonies the analytic of social death as it is taken up by theorists of Black positionality, ultimately arguing that when Blackness is conceived of as social death, anti-Blackness could never be redressed by the Commission. Nor could it be redressed at all, if redress is understood as the righting of a wrong or the complete resolution of a problem.

No Place for the Freedman

The term social death was proposed by Orlando Patterson as a way of understanding the social existence of the slave (Patterson, 1982). Based on a sweeping history of slavery across the globe, Patterson identifies natal alienation – or the failure to belong to any social order – as one of three constituent elements of slavery (along with violent domination and general dishonor). Patterson uses the language of *natal* to signify a rupture of social heritage. That is, the Slave as a

[16] Other speakers also noted the dehumanized status of Black people, arguing for example, that Black people were referred to by police officers as "gorillas in the mist" (Willie Baker, p. 72), that Black neighborhoods were considered "jungles" by police officers" (Willie Baker, p. 72; Nicky Smith, p. 78), and that Black people are not spoken to "like we are humans" by police officers (Paya Johnson, p. 44).

natally alienated object has a history – just as "sticks and stones" have a history (p. 5) – but does not have a heritage. For Patterson, this includes alienation from parents and other blood relations, as well as ancestors and descendants. Fanon makes a similar point, that the Black subject "has no culture, no civilization, no "long historical past"" (Fanon, 1952/1994, p. 34). Practically, this occurs as the slave is defined in relation to their master, and this is the only of the slave's relationships that is perceived as legitimate by civil society. Thus, the slave is socially dead – a "social nonperson" (p. 5). Objects aren't Humans, they are things, only understood in symbolic relation to the Human. Because of this lack of social existence, the slave is barred from being judged as honorable; the slave "has no public worth…no name of his own to defend" (Patterson, 1982, p. 10).

Patterson's study of slavery is not limited to the U.S. chattel slavery, or even to the trans-Atlantic slave trade more broadly. His characterization of slavery is based on extensive data collection about varieties of slavery across time and space. However, his identification of the universal attributes of slavery at times involves typologies that differentiate the experiences of some slaves from others. In two cases, Patterson notes that both the enslavement and disenslavement of the Black slave is qualitatively different from other slaves. First, Patterson argues that in the Americas, as well as other geographic regions, Blackness was and is associated with slavery, even while some people that Patterson identifies as slaves are not Black. This is true even of the disenslaved Black who is permanently associated with slavery. Therefore, manumission is also qualitatively different for the Black slave, and Patterson notes this as he develops a typology of the social reception of liberated slaves. The typology, broken into six categories, is based on factors such as race, social formation of the community, and the demographics of the community to which the slave is liberated. In the first five types of slave-holding societies, the ex-slave is able to gain some variety of social status, sometimes within the slave's own lifetime. This is especially true in societies where the slaves were the same race as the masters. In societies with White slave owners

and Black slaves, something was different. In some of these societies, less phenotypically Black ex-slaves were, like non-Black slaves, able to gain some social status. However, this status occurred only at the experiential level since the "free coloreds" were permanently marked by their Black ancestry no matter their place in the social order. Thus, the ex-slave remained a social nonperson even as they operated businesses or held political office or owned property. In the sixth and final type of slave-holding society, the ex-slave is bound to remain always outside civil society. Only one society in all of history, the United States, is a member of this type. Here, the ex-slave is perpetually scapegoated and always perceived as dangerous, no matter their social status. Their social nonpersonhood is salient. Patterson theorizes this in sociological terms – that White men felt guilt for violating the social order by raping enslaved Black women, which offended the puritanical restrictions on fornication, miscegenation, and patriarchal family life. Therefore, the ex-slave was a constant reminder of the ex-master's sin and degradation of the White woman's honor. Regardless of the reason, what Patterson makes clear is that "there was literally no place for the freedman in this slave formation" (p. 259).

This typology troubles what Patterson means when he says *permanent* in the context that "slavery is the permanent, violent domination of a natally alienated and generally dishonored persons" (p. 13). The use of this word is perplexing given his argument that many liberated slaves lose the mark of slavery within as little as one lifetime. For these slaves, the violent domination, natal alienation, and general dishonor were permanent until they weren't. They *experienced* slavery but also *experienced* liberation. When Patterson argues that the Black slave is never liberated from association with slavery, he points away from experience and toward the ontological. There is something about their structural position – not the economy or the political system or the law – that renders them a permanent nonbeing. That is, slavery was permanent at the level of the being; one could never escape slavery, even upon their emancipation. Therefore, for the Black slave, slavery

was both an experience *and* a structural position. The Black ex-slave would never have a name of their own to defend, never escape violent nomination, never have a heritage. Patterson (p. 259) quotes Berlin (Berlin, 1976), that "they were slaves without masters." *There was literally no place for the freedman*.

Though Patterson's study is unique in that it involved systematic data collection, his work is not the only to theorize the structural position of the Black slave as a permanent nonperson. As noted, Patterson's work is reminiscent of Fanon's in its contestation that the Black subject exists within the social order. Others also follow this line of inquiry, like Saidiya Hartman, who mobilizes Patterson's conceptualization of social death to understand the nonevent of emancipation, and Frank Wilderson, who theorizes Patterson's constituent elements of slavery as also descriptive of Blackness. Wilderson labels Patterson, Hartman, Fanon, himself and others in this tradition Afro-pessimists. This is the tradition represented in Sexton and Moten's conversation on the related projects of theorizing social life and social death. Of course, not all of the theorists that Wilderson identifies as Afro-pessimistic – Lewis Gordon, Joy James, Ronald Judy, Kara Keeling, David Marriott, Achille Mmembe, Jared Sexton, Hortense Spillers, and George Yancey – necessarily identify themselves as such, yet like Moten and Sexton, agree that Blackness is structured in relation to, and always outside of, the world of the Human. Therefore, Blackness as a structural position is not self-determined but determined in relation to non-Blackness, or Whiteness. The Human exists because the Black exists. Therefore, scholars in this tradition argue that Black liberation cannot occur if the structural positions of the Human and the Slave persist. No amount of changing the law or granting legal rights or recognition can dismantle the structure because social death occurs at the ontological, not experiential level. That is, the Black subject is socially dead and cannot become socially undead. It is this assertion that Wilderson argues makes Afro-pessimists

pessimists, and which I argue must be accounted for when interpreting evidence of anti-Blackness in the law.

Social Death and Structural Position

Though the speakers at the Foshay meeting did not use the language of social death, the concept can be traced throughout the testimonies. When read with the variety of pessimism that flows from a theorization of social death, what some might call the cynical or skeptical testimonies of Kakuwana, Hayes, Hall, Ansley, and Baker are revealed to express something much deeper than tension or hostility toward the LAPD. These speakers were not expressing, like the Commission's interpretation, that Black Angelenos were unable to embrace L.A.'s changing demographics or were frustrated by a series of law enforcement scandals and court decisions, but that they recognized Blackness as social death. That is, Black Angelenos were not experiencing a season of social death – a season of hardship – but *were* socially dead. Another way of framing this is that Black Angelenos were Slaves in the sense that Patterson discusses the Black slave as socially dead, or incorporable in the social order. Ansley, Baker, and Hall specifically draw this connection between chattel slavery and the afterlife of slavery. In Ansley and Hall's cases, the speaker's testimony lacks a linguistic transition between slavery and its afterlife, excerpt perhaps as grammatical interpretation by the transcriptionist in the form of a period. For Hall, "we've been forced to come over here, eat the paths of the swine, and all these other things. We've been put down in our communities, beat and, like she said, putting guns to our head" (p. 98). There is a continuity between these afflictions that is unruptured by legal emancipation, the dominance of any particular policing style, or a particular city's racial demographics. The same is true for Ansley who testifies that "we didn't ask to be brought here, and we have been degraded and humiliated under the flag, (inaudible) under God, as long as we've been here" (p. 38). For Ansley, the entire timeline between being enslaved and present day has involved general dishonor.

This continuity is expressed by Baker as well. In the previously excerpted portion of Baker's testimony, he discusses how the history of the trans-Atlantic slave trade is largely erased in history lessons, overshadowed by travesties such as the Holocaust. In that excerpt, he focuses solely on the past. However, just moments before, Baker testifies about his diminished life chances as a Black male. While presented in reverse chronological order, Baker also links contemporary anti-Blackness to chattel slavery. Combined, his testimony reads (previous excerpt in italics):

> I stand here as an endangered species. I'm 34 years old, Black male, never been to jail. You know, I have a two-year-old son. I want to make sure that he grows past that age of Black men 17 years old right now, you know, because that's all they get out here in California. All around the world, that's all they get. 17 years old. You're usually out of here. It's not just the police department. It's the whole government. It's government as a whole, you know. *We've been brought up with history. It's just what it says. "His story," not "our story." Our story states something that we – we never hear about it in school, the Holocaust. We always hear about the Jews getting killed. Now, the biggest holocaust there was was when the Blacks came across here on the slave ships getting thrown over millions at a time dying from, you know – and they didn't even want to come here. They didn't want to come. They had to reason to come here. They was happy in their life. History. You never hear anything about history, you know, with us. Never. Never.* (Willie Baker, p. 66-67)

The recitation of this history seems to serve two purposes for the speakers – to articulate the reason why many Black Angelenos rrose up, and to argue that the reason why many Black Angelenos rose up had been obscured. In the case of the former, slavery is conceptualized as still playing an active role in the lives of Black Angelenos – what Hartman (2007) would call *the afterlife of slavery*. The latter purpose of incorporating slavery's history in relation of the uprising is particularly true of Baker, who preemptively warns the Commission about the danger of erasing the history of slavery by drawing an analog between slavery and other forms of violence motivated by racial or ethnic animosity. He asserts that slavery is not the same as genocide, but that it is analogous to his current experience as an "endangered species." Baker, in this sense, seems to pick up where Ansley left out, pointing out that the erasure of slavery's history meant that ex-slaves remained nobodies while other racial or ethnic minorities were allowed to be somebodies. In both readings, Black Angelenos are not once situated as being positioned at the bottom of a social hierarchy. Rather, they are framed

as incapable of even earning a place in civil society – in a perpetual state of domination. In Patterson's language, we might say that Black Angelenos, like chattel slaves, are a) violently dominated, with *guns to their head*, b) natally alienated, *forced to come here*, and c) generally dishonored, having been *humiliated and degraded* for no reason but their Blackness. In other words, they are still slaves. And if they are Slaves, they are socially dead.

It is this permanent enslavement that Ansley exposes when she claims that "I am somebody" (p. 38) even as the world makes her and her children nobodies. But the *somebody* that Ansley was before the trans-Atlantic slave trade is not legible to non-Black Angelenos. It cannot even be identified – let alone accessed – by Ansley. She states that "I come from a race of people that go back before a White person walked this earth because Africa is the birthplace of society" (p. 38). Ansley seems to yearn for a return to the time *before a White person walked this earth*, before Africa birthed society. But in the absence of such an option, she can only proclaim – tirelessly, perpetually, fruitlessly – that her and her children are somebody. This history is also not lost to Baker who seems to not so much be protesting the lack of schoolchildren's education about chattel slavery as he is mourning the loss of the happy lives of Africans before they were forcibly brought to the U.S. He states that "they were happy in their life. History. You never hear anything about history, you know, with us. Never. Never." (p. 67). Existing outside of the social order, Baker is unable even to tell the story of his own African heritage. It is ""his story," not "our story"" (p. 67). *You never hear anything about history* not because it is disrespected or disregarded but because it does not exist. If the structural position of the Human did not exist before it was birthed by Africa, there is no Human history to tell before *a White person walked this earth*. Africa – not as a land mass but as a "conceptual framework" (F. Wilderson, 2009) – did not exist before it was needed to symbolize the non-Black. Put oppositely, because Africa was conceived in order to structure the

Human, there is no African history to speak of. This denial of Humanity is what Patterson speaks of when he speaks of social death.

We can also read this loss of heritage – of social existence "in his own right" (Patterson, 1982, p. 5) – into Hayes's statements regarding territory. What precisely Hayes means by territory here is unclear, though on its face we can read the statement as having to do with a geographically mappable zone – something with boundaries like a neighborhood or census tract. When read this way, what Hayes suggests is that the LAPD should not have jurisdiction over a place like South Central and that law enforcement, however that manifests, should be determined and enacted by those with rightful control over the jurisdiction. Consistent with Patterson's concept of social death, we can also read Hayes's use of territory as a subject position rather than a geographic location. In this case, what Hayes expresses is a desire for sovereignty over self-definition – the right to name oneself, the right to *maintain and contain* Blackness as a self-determined subject position. By having a legitimate place in the social order, Black Angelenos would no longer exist in relation to non-Black Angelenos but would belong in a social order in their own right. By demanding this, Hayes is inherently demanding an end to the world. Put differently, what Hayes points toward is an antagonistic relationship between Blackness and non-Blackness that cannot be remedied through social mediation but would require destruction of a world where Blackness as a conceptual framework is maintained and contained by White society. Such a reading is not to rewrite Hayes' intentions, but to interpret his testimony in light of his testimony's complexity and nuance – to refuse to reduce Hayes' insight to a mere recommendation that the police do not interfere with interracial conflict among spatially locatable and demographically unique neighborhoods. Regardless of whether Hayes was making what he determined a practical and executable solution, his recommendation appeared largely unintelligible to the Commission who responded to Hayes's assertion that "Black people are going to take back their community" by asking if he was "talking

about something similar to community-based policing" (p. 59). Hayes responds indirectly, that "there is no way you can control a population that is disturbed and angry," framing the possibility of Black community-level sovereignty – including a right to not have an outside police force interfere with the resolution of conflict – as less absurd than a program of police walking the beat and hosting open houses. In the language of Césaire, we might say that "the End of the world" is less absurd than its reformation (Césaire, 1939/2001).

These, and other, speakers at the meeting not only portrayed Blackness as a social position related to slavery, but pointed toward something that is the opposite of slavery. That is, the Black subject is only one element constituting the structure.

> You begin today to retrain your police to give them a different image of themselves and have them respect the minority community more than they have demonstrated that they do in the past, and once they have gotten past that pathology that they have they can come into this area and handle people any way they wish. Then we will begin to see some amelioration of the tensions. (Dr. Dan Morgan, p. 33)
>
> Your policemen have been trained from infancy to see people of color as people who are substandard, less than equal. (Julie Ansley, p. 36)
>
> Hey, all police aren't bad, just like all Blacks aren't bad. All Whites aren't bad. All Mexicans aren't bad. It's just how you perceive them, how you were growing up to see, "Hey, that's how they are here. They're violent people." On my job, when the riot started, it was like, "Oh, they're fighting, oh, in the ghetto, in the ghetto, they're fighting." (Willie Baker, p. 73)

In each of these testimonies police officers represent the opposite of the Slave. It is the police officer who is re-creating Blackness, framing Black individuals as violent, substandard, and as unworthy of respect. For these speakers, however, the prejudiced behavior of police officers is not attributed to individual-level officers who acted out of step with social norms or department policy, but to their embeddedness from birth in a racist structure. For Morgan, police officers have an image of themselves that is pathological, causing them to demean Black people. Noting that this condition can in a way be cured, Morgan likens anti-Blackness to a social contagion that one

acquires and which shapes their entire worldview, including their image of themself as a superior being. Ansley also constructs the problem of anti-Blackness as social and pervasive, noting that police officers have been *trained from infancy* to see themselves as superior to Black individuals. Baker does the same, acknowledging that police officers have been conditioned throughout their life to see Black individuals as violent. Through these testimonies the speakers acknowledge the flipside of social death, which is constituted in anti-Blackness. In this sense, although each speaker references police officers, Blackness's structural opposite is the Human. A parallel is drawn between the police officer and the Human, with police officers serving as a proxy for the Human.[17]

Social Death and Redress

Amidst the ways in which the speakers articulated the relationship between chattel slavery and contemporary anti-Blackness, each speaker can be read as expressing a pessimistic outlook about the possibility of redressing the grievances of Black Angelenos. We see this pessimism from Patterson when he notes that Black freedpersons, unlike other freedpersons, were forever marked by their position as Slave. Unable to be incorporated into society, Black individuals remained not at the bottom of the social ladder, but completely disconnected from it. There was nothing the freedperson could do to step onto the ladder, only to wait for the day that the ladder was dismantled. It is for this reason that the speakers repeatedly reference slavery even as slaves had been emancipated over one hundred years before. Slavery was not an experience that Slaves could be liberated from; it was the *permanent, violence domination of natally alienated and generally dishonored person*, and it was this position that played a role in the uprising's inception and that staged a pessimistic outlook about remedying anti-Blackness.

There was little hope, at least for some of the speakers, that substantive change would occur, and that anti-Blackness would be eradicated. In this vein, the speakers expressed in various

[17] The role of the police officer, and other state actors, in the structural relationship between the Human and the Slave will be taken up in greater detail in Chapter 5.

ways that anti-Blackness would inhere in the LAPD and in civil society more broadly. Based on this, the speakers, each in their own way, articulated that what Black Angelenos experienced as anti-Blackness would not be resolved by enacting a program of community-based policing or by training officers in cross-cultural communication. This sentiment is perhaps most clear in Kakuwana's testimony, even as he suggests alteration to the police manual. When the Commission chose to excerpt Kakuwana as saying, "you first of all got to change the police manual, how they're being trained to work on us" (p. 76) rather than his earlier statement that "we can't do anything about the police department" (p. 75), they frame his recommendation as concrete and imaginable. Why, then, would Kakuwana state that nothing can be done about the police? To answer this, we can read his recommendation to revise the manual as rhetorical and speculative. When accounting for the sentiment of not being able to *do anything about the police*, a recommendation to change the police manual can be read as a recommendation to fundamentally reimagine the role, or even the existence, of the police in society. If the police manual were to be changed so that the police *worked* on Black people differently, in a way oriented toward the abolition of social death, the police would necessarily no longer be capable of enforcing the laws of civil society – the laws that are the condition of possibility for Blackness. In this sense, a rewriting of the police manual is either an erasure of the police or an erasure of Blackness, either capable of being the end of the world. We also see this type of contradiction from Hall who offers a suspiciously simple solution to the problem of social death: to increase signs of respect between police officers and community members. In juxtaposing a complex problem with a simple solution, Hall's testimony begs the question whether he is suggesting that the legacy of chattel slavery can be redressed through positive interactions between Black Angelenos and police officers, or if his comments could be read as hyperbole, meant in part to reveal the futility of the Commission's efforts to address the grievances of Black Angelenos. Indeed, the police showing more respect for

Hall and other Black Angelenos has little to do with removing the metaphoric and literal gun from their head. Because of the permanence of social death, the gun can never *not* be held to the head of the Slave.

Of course, a reading of the Foshay meeting through the lens of social death is not meant to suggest that community members were not proposing explicit, practical reforms. In other words, the suggested reforms cannot only be read as rhetorical, but must also be taken as literal, and urgently so. Many did propose concrete recommendations and they should not be discounted as naively optimistic in the face of social death. However, their ultimate purpose can be understood not as intended to resolve the grievances of Black Angelenos, but to mitigate the material impact of anti-Blackness as it manifests in interactions with police officers. For example, when Gary Farwell suggested that a police review committee be formed, he did so with the hope that such a panel would deter police officers from acting on their anti-Black biases.

> Now, do you want to know some solutions? I think one of the things we can do is to establish a police reform – police review committee similar to the one that operates in Berkeley, California. You can talk to Ron Nelson. He hates that thing. He's a former chief of police up in Berkeley. He hates it because it makes his work more difficult because it puts police on the line. They become very responsive to the community. What they do wrong becomes public record for all to see, for all to hear, and the police don't like that. What the response – the fact that they've been pulled before the police commission goes in their personnel files to be considered when they are up for promotion. This needs to be done in Los Angeles. It is past overdue. (Gary Farwell, p. 54)

What Farwell is suggesting here is clearly not hyperbole, nor does it need to be read as such. His recommendation is meant to reduce the number of incidents in which Black Angelenos are harmed by the police. Earlier in his testimony he says:

> If the police do come on the scene, what they do is overreact. So what we get in South Central is either no response or an overreaction to an incident. All right. If they see these young people walking down the street together on their way home tonight, they'll probably get pulled over. Maybe one of them, you know, will get hurt. I mean, that's just common. We know, as a young boy growing up myself, you just knew if four or five of you were walking together down a street, you're liable to get stopped and hurt by the police. They would overreact not because we're doing anything but because of their perceptions. (Gary Farwell, p. 52)

While it is easiest to focus on Farwell's words, it is also important to note what he does not say. He argues for the formation of a review commission as a way of reducing the number of police overreactions, but nothing in Farwell's testimony indicates that he believes a police review commission will change the anti-Black perceptions of police officers or that Black people will no longer be harmed by the police. However, he also recognizes the need for young people in his neighborhood to be able to walk down the street without being injured by the police. Taken together, he is simultaneously pointing toward social death and toward his immediate and material interest in a reduction of suffering. This is certainly not a naïve proposal. But it cannot be labeled optimistic if optimism is understood as liberation from an anti-Black society. This is true of all speakers at the Foshay meeting. Not one speaker indicates that the LAPD could ever be free of anti-Black bias, and this is not because they are the police, but because they exist within a society that was formed as the antithesis of Blackness.

The Problem of Blackness

When the Commission's understanding of the problems facing Black Angelenos is compared to the understanding of the problem oriented by the analytic of social death, several key differences emerge. Namely, the scope or scale of the problems varies wildly between the two readings, as does the possibility of redress. For the Commission, Black Angelenos were facing problems that were unique to the time and place of early-1990s L.A. Specifically, the economy was in recession and the population was experiencing a rapid demographic transition. Additionally, the LAPD was using a professional model of policing, which engendered several high-profile use of force incidents, including the beating of Rodney King. Lastly, Black communities faced problems less common to non-Black communities such as gangs, drugs, and crime, and graffiti. In each of these cases, we can see the ability of a Black Angeleno to escape their problems by either moving to a different city or perhaps being transported to a different time in L.A.'s history. Of course, the

Commission did not suggest that Black Angelenos should simply relocate. They did, however, see the problem as redressable through a series of social, economic, and political reforms. Counter to this, an abolitionist reading suggests that Black Angelenos were facing social death at the structural level, and symptoms of that social death at the bodily level (i.e. extreme violence from police officers). Thus, Black Angelenos were facing the same problems faced by all Black people at all times and in all places. Because of this, geographic and temporal relocation would not undo the problems facing Black Angelenos when understood through the lens of social death.

Who bears the responsibility for addressing Black Angelenos' problems also varies across readings. The Commission's reading ultimately locates responsibility in the hands of Black Angelenos. That is, if Black Angelenos did not have intra-community problems that weakened their collective resilience to social and economic hardship, they would have been able to deal with these hardships. In other words, Black communities (like non-Black communities) were facing social and economic hardships that were out of their control, but they were unable to deal with these hardships (unlike non-Black communities) because of hardships that were within their control. Further, Black communities were framed by the Commission as being difficult to police, creating extra burden on police officers and more opportunities for tense interactions. Based on the logics and assumptions related to the particular dysfunction of Black communities as sites of uprising, the Commission recommended a solution based on a model of facilitated self-help. That is, LAPD officers would facilitate opportunities for Black communities to solve the internal problems that threatened their social resilience and engendered hostility between Black communities and the police.[18] The logic that underlies this strategy is not unlike – indeed, it is a variety of – the reasoning that Black

[18] As an added benefit to solving problems such as crims, gangs, and graffiti, the Commission saw that "community policing will ensure police accountability to the community as well as the department and will promote a better understanding by the community of the realities of police work" (Webster & Williams, 1992, p. 169). What the latter half of this sentence implies is that Black Angelenos will come to see the issues present in their community as the police see them. And how the police see them – and how the Commission sees them – is as "human carnage cause by [a] cycle of waste and despair" (Webster & Williams, 1992, p. 175).

communities remain socially and economically marginalized due to the occurrence of "Black-on-Black crime." Such an interpretation functionally removes Black communities from their broader structural contexts, attributing the grievances of Black Angelenos not to a broader anti-Black society, but to themselves.

These logics stand in stark opposition to those oriented by the concept of social death – one in which the problems facing Black Angelenos are foundationally locatable at the structural, rather than social, political, or economic levels. The cause of the uprising, if we think of *cause* as the factors that contextualized the uprising, is the permanent exclusion of Black Angelenos from civil society. In such a reading, pre-uprising conditions and their relationship to the motives of Black Angelenos to begin and further participate in the uprising, are attributed to the structure itself, and how that structure manifests at the levels of the social, the state, and the economy. That is, blame cannot be placed on dysfunctional Black communities, but on a society that is structured by anti-Blackness. Accordingly, the invitation given to Black communities to engage in a state-facilitated program of rehabilitation deflects guilt from an anti-Black society and toward Blackness. The deflection does not solely have an impact on policy (i.e., to implement a program of community policing), but on the very meanings of Blackness and the Human. In other words, the structural division of Blackness and Humanity was reinforced as the Commission proposed a prevention strategy that first placed Black L.A. outside of civil society, and second, extended an invitation to join civil society. Of course, this invitation is merely symbolic under a framework of social death, given that Black Angelenos must necessarily be outside civil society for civil society to continue to exist. It is this problem that I take up in the following chapter.

CHAPTER 5

Civilizing Black Los Angeles

> Black Africa is looked upon as a wild, savage, uncivilized, and lifeless region. (Frantz Fanon, *The Wretched of the Earth*)

> For Black people, civil society *itself* — rather than its abuses or shortcomings — is a state of emergency. (Frank B. Wilderson III, *The Prison Slave as Hegemony's (Silent) Scandal*)

Directly before the final chapter of *The City in Crisis*, where the Commission presented their final conclusions and policy recommendations, they wrote a chapter entitled *New Priorities.* It is in this chapter that the Commission makes its most pointed case for the LAPD to transition from a model of professional policing to a model of community policing. The logic associated with this broad recommendation is visualized in a photograph included in the chapter, captioned "A National Guardsman helps a cleaning crew cross 85th Street and Manchester Avenue in Los Angeles" (Webster & Williams, 1992, p. 166) (see *Figure 5.1*). The cleaning crew, positioned in front of barred windows and white walls that are covered in Black graffiti in South Central, is primarily constituted by Black individuals – mostly women and children – carrying shovels, brooms, and trash bags. A state actor (the National Guardsperson) stands paternalistically at the front of the group, ensuring their safe passage as the group presumably moves on to clean their next site of *waste and despair*.

By including this photograph in the section of the report on the merits of community policing, the Commission portrays, both literally and figuratively, community members taking personal responsibility for rehabilitating their community as they collect and dispose of the material aftermath of the uprising.[19] Indeed, it is this personal responsibility that the Commission asks Black communities to take in order to remedy the pre-uprising problems that threatened their resilience in

[19] That it is the seemingly least culpable members of a community (women and children) taking personal responsibility for the bad behavior of Black men is worthy of its own discussion.

the first place. Although the National Guardspersons would be defederalized around May 9th, the work that is portrayed in this image – providing support to Black communities as they collected and disposed of their self-inflicted harms – would be taken up by LAPD officers as the department shifted to a community-based model of policing. Additionally, by using a photograph that features

Figure 5.1: Image featured in *The City in Crisis*

A National Guardsman helps a cleaning crew cross 85th Street and Manchester Avenue in South Los Angeles.

both Black and non-Black Angelenos, the Commission promotes the possibility of interracial and interethnic cooperation, if not co-misery, for dealing with the aftermath of the uprising, as well as the broad social and economic problems that pre-existed the uprising. One gets the sense that we are all in this together, that we can all get along, that non-Black Angelenos are ready to accept Black Angelenos into civilized society, and even help them do it, if they would only make that choice. Therefore, while this line of reasoning places a substantial portion of the hostility and

tension that faced L.A. at the feet of Black Angelenos, it places that blame with generosity – with an offer of rehabilitation and integration.

In this chapter I explore the reasoning behind the Commission's recommendation to address the problems facing Black Angelenos through a model of community policing. To identify the logics and assumptions that informed the Commission's recommendations, I analyze the *The City in Crisis* and several archival documents that seem to support the Commission's understanding. Based on this reading, I argue that the Commission perceived Los Angeles as a failed melting pot of multi-racial harmony that could be redeemed through the integration of Black Angelenos with Angelenos of other races. In other words, civil society was read as a cooperative space where a common civic culture could be co-created between Angelenos of all races, and that the creation of this common civic culture would prevent Black Angelenos from rising up in the future. I highlight archival evidence to suggest that even the most seemingly radical documents that the Commission collected in the course of their work advocated for a solution that paralleled that of the Commission – ones that relied on a logic of rehabilitation and integration. Then, mobilizing a structural abolitionist understanding of the relationship between civil society and Blackness that emerges primarily in the work of Frantz Fanon (1961/2005, 1952/1994) and Frank Wilderson (2010; 2003; 2003), I argue that the Commission was extending a fraudulent invitation to Black Angelenos to participate in civil society, or to become civilized. Ultimately, I argue that the Commission not only failed to understand the structural relationship between civil society and Blackness, but exploited it. Because the relationship between the Black and civil society is not conflictual, but antagonistic, Black Angelenos were set up to be further portrayed as creators of their own misery.

A Common Civic Culture

The ultimate purpose of the Commission's work was to prevent – and if not prevent, to develop a strategy to better respond to – future uprisings. For the Commission, much of reaching

this goal depended on creating “a common civic culture” (Webster & Williams, 1992, p. 35), one in which Angelenos of all races and ethnicities were able to get along with one another as well as with the police. Creating this culture was imperative for the Commission, since the lack of such a culture makes a city difficult to govern, and especially difficult to police (p. 35). Presumably, therefore, the presence of a common civic culture would mean that Angelenos would be easier to govern, easier to police, and less likely to rise up against one another or the state. What the Commission meant by *a common civil culture* is unclear, though it seems to have something to do with cooperation and consent. In the section where the breakdown of the civic culture is noted as a factor influencing the uprising, the Commission discusses “explosive” population growth and demographic changes (p. 34). In other words, the problem was not that Angelenos of various races and ethnicities were living alongside one another, but that these groups had different ideas about how to live. The strategy taken by the Commission, however, was not directly to build consent among Angelenos about the best way to live well together. Rather, their primary recommendation to prevent a future uprising was that the LAPD transition from a reactive, professional model of policing to a proactive, community-based model of policing. The Commission argued that while some of the social problems related to the unrest (e.g. unemployment, poverty, loss of hope) are not the responsibility of the police to solve, other problems could be addressed through a shift in policing style. This shift involved dismantling specialized units and redirecting the work of these officers to particular neighborhoods. Within these neighborhoods, the police would work to prevent crime and to address other problems of concern to the residents of each particular community.

As it related to preventing future uprisings, the Commission saw the model of community policing as productive toward two, interrelated ends. First, community policing could reduce the tension between the police and Black communities. To these ends, the Commission recommended training officers in areas such as cultural competency, bias-control, and cross-cultural

communication as a way to reduce excessive use of force incidents, minor displays of disrespect by officers, or the withholding of police services. By doing this, the tension between Angelenos and the police would be diminished and Angelenos would have the opportunity to see police officers in a new light. Yet despite the strong relationship between the uprising and the beating of Rodney King, the reduction of negative encounters was a relatively minor aspect of the Commission's recommendations. Instead, the Commission focused on increasing positive encounters between Black Angelenos and the police. For the Commission, this relationship was fully realizable and could be accomplished through a cooperative "problem-solving partnership" at the neighborhood level (p. 177). This is expressed by the Commission pointedly as they wrote, "The police and public do not have to be antagonists; they can work together to fight crime and to improve the lot of Los Angeles residents as well, and possibly even more effectively, by working together in partnership" (p. 170).

This sentiment points toward the Commission's second aim of community policing – to solve the problems internal to Black neighborhoods. Specifically, the Commission intended community policing to reduce crime and disorder in Black communities via community cooperation with the police. As noted in Chapter 4, the goal of mobilizing the police to rehabilitate Black neighborhoods was rooted in a sense that Black communities were not resilient to changes in the city's economy and population, or to high-profile incidents such as the beating of Rodney King, and this is the reason Black Angelenos (rather than non-Black Angelenos) were the first to participate in the uprising. Further, the level of policing required to address crime and disorder in Black communities created hostility and tension between Black Angelenos and the LAPD. However, the police and Black Angelenos could work together to solve problems such as gang involvement, drug use, and intra-community violence. Black Angelenos were asked to become partners with the LAPD to solve neighborhood-level problems, and thus, would be able to improve

the quality of life in Black communities. Of course, the outcome of addressing the "daily human carnage" (p. 175) of Black communities would ultimately benefit non-Black Angelenos who would no longer live under a reduced threat of both routine crime and large-scale uprisings. Further, it would benefit the police, who would have civilian partners in crime control. The Commission notes this pointedly when they argue that community policing will "[lessen] the burden for the police" (p. 170). The Commission even notes that community policing "will promote a better understanding by the community of the realities of police work" (p. 169). What the Commission seems to be suggesting here is that Black Angelenos will develop a sense of how difficult they themselves are to police, and thus, be quicker to forgive the police for their wrongdoings. Thus, we see the Commission's goal of rehabilitating Black communities is intimately tied to their goal of building positive relationships between the police and Black Angelenos. In both cases, the Commission is working to increase consent within Black communities.

Overall, I summarize the Commission's logic related to the need to rehabilitate Black communities while building positive relationships with the police as follows:

- Black Angelenos would not have risen up, despite their frustrations, if Black communities were more resilient.
    - Black communities were not resilient to broader social problems because they had a strained relationship with the LAPD.
        - Police can play a role in improving this relationship by increasing positive encounters with the Black Angelenos.
        - The police can increase positive encounters with Black Angelenos by working together to solve problems in Black neighborhoods.
        - Working together to solve problems in Black neighborhoods will prevent a future uprising by Black Angelenos.
    - Black communities were not resilient to broader social problems because they were burdened by crime and disorder.
        - Crime and disorder can be reduced if Black communities and the police work together.

- Reducing crime and disorder in Black communities will help prevent a future uprising by Black Angelenos.

Both of these strategies ultimately return to the need to solve problems in Black communities. For the Commission, this problem-solving was to be centered on the reduction of crime and disorder.

In this line of reasoning, then, a future uprising could be prevented by addressing problems internal to Black communities. This strategy relates, implicitly, back to the Commission's assertion that Angelenos had failed to develop a common civic culture. Given the focus on Black communities, it is not, however, that Latinx Angelenos and Asian Angelenos, or White Angelenos and Asian Angelenos, or Latinx and White Angelenos, had failed to develop a common civic culture, but that Black Angelenos and non-Black Angelenos had failed to develop a common civic culture. Because of this, Black neighborhoods are framed as at odds with the rest of the city in that they are defined by crime and disorder. Black neighborhoods are unable to enter into a common civic culture because of this difference. However, black neighborhoods are also framed as not having a common civic culture among themselves. Rather, they are framed as places of interpersonal disorder and violence. Therefore, there is not a common sense *between* Black Angelenos and non-Black Angelenos about what is moral and good, nor is there a common sense *within* Black communities about what is moral and good. To frame this oppositely is to say that Black communities are without a civic culture, which is also to say that they are not part of civil society, which is also to say that they are uncivilized. Thus, Black communities need to become civilized in order to make common cause with non-Black Angelenos. I argue that it is this logic that ultimately undergirded the Commission's recommendation that the LAPD transition to a model of community policing.

The Voices "Out There"

On July 10, 1992, three commissioners interviewed Bert X. Davila, who at the time was Director of the Specialized Gang Supervision Program of the Los Angeles Probation Department

(Davila et al., 1992). Though the primary purpose of the Davila interview was to gain intelligence about the role of gang members in initiating the uprising,[20] Davila offered a series of recommendations related to the integration of gang members into society. These recommendations were grounded in Davila's belief that "gang members would like to become members of the community, earn a decent living, and escape the dangers which accompany gang life" (p. 6). This desire is exemplified perhaps no more poignantly than in a document attached to Davila's interview summary — a series of demands made by the Bloods and Crips in a truce that was brokered just before the uprising began (Krikorian & Krikorian, 1997). Though Davila only cites it in passing, the truce document includes a series of demands related to education, policing, the economy, and human welfare that if met, would lead gang members to cease targeting police officers and to reinvest income from drug sales into community projects. Although I did not observe any evidence to suggest the Commission accounted for the truce document in making their final recommendations, and although the truce document is far more expansive and detailed than the Comission's final recommendations, the document is in many ways a parallel to the Commission's logic regarding the integration of Black Angelenos into civil society. Namely, in both instances, the recommendations — or demands, in the case of the truce documents — reveal a belief that Black Angelenos could *become members of the community* if Black communities were strengthened and if Black Angelenos had better relationships with the police.

The demands made by the Bloods and Crips are extensive, each aimed at "reduc[ing] the possibilities of repeated insurrection." The document is radical and far-reaching, aiming to give Black Angelenos every possible resource to move up the metaphoric social ladder. Too many to list

[20] A range of documents within the archive suggest that in its early months, the Commission worked to determine whether, and to what extent, the uprising was facilitated by local gangs. Ultimately, the Commission concluded that although gang members were certainly involved in the uprising, there was little evidence to suggest that the uprising was precipitated in an organized manner by gangs or gang members (Webster & Williams, 1992, pp. 23–24). This conclusion was based largely on the testimony of several law enforcement officers who had intimate knowledge of L.A. gangs.

here, the demands include items as fine-detailed as repainting the hallways and restrooms of all L.A. School District schools, creating loans for Black business-owners that do not exceed 4% interest, and establishing 24-hour programming in L.A. parks. Totaling over $3.7 billion, they demand educational tutoring, day care, advanced science and math class, business coaches, dental clinics, AIDS research, the return of manufacturing jobs, green landscaping, and so on. In all cases, the demand is made to contract with minority-owned businesses for construction and development, and to hire employees and consultants from within the community. They close the document with the proclamation, "GIVE US THE HAMMER AND THE NAILS, WE WILL REBUILD THE CITY" (capitalized in original text), suggesting a desire to both rehabilitate the physical infrastructure of Black communities and to be recognized as legitimate and productive members of the community.

Further, the document advocates for changes to police practice. Specifically, the group demanded that Black communities be policed by individuals who live in the community, and that commanding officers be long-time residents of the community. More radical than this, the truce document outlines a new model of policing within Black communities.

> Former gang members shall be given a chance to be patrol buddies in assisting in the protection of the neighborhoods. These former gang members will be required to go through police training and must comply to all of the laws instituted by our established authorities. Uniforms will be issued to each and every member of the "buddy system", however, no weapons will be issued. All patrol units must have a buddy patrol notified and present in the event of a police matter. Each buddy patrol will be supplied with a video camera and will tape each event and the officers handling the police matter. The buddy patrol will not interfere with any police matter unless instructed by a commanding officer. Each buddy patrol will also be supplied with a vehicle.

Although the details of police reform vary from those put forth by the Commission, both focus on the police working with community members to meet the needs of Black Angelenos. Both assume the need for police officers and the need for accountability of those officers by the community. Both express a belief that the tension between the police and Black Angelenos can and should be reduced. What is radical about this proposal, then, is not its purpose or goals, but its strategy of

mobilizing ex-gang members as police officers. We see here, even among the most marginalized residents of L.A. a desire to *become members of the community* and to participate in the *common civic culture*.

In a second set of archival documents appears a similar demand for inclusion, this time including written commentary from a member of the Commission. On June 18, 1992, Stanley Sheinbaum, President of the Board of Police Commissioners sent the transcript of a radio broadcast that aired on May 18, 1992 on KPFA in Berkeley, California to Commission General Counsel and Staff Director Richard Stone, Special Advisor William Webster, Deputy Special Advisor Hubert Williams, and Police Commissioners Anne Reiss Lane and Jesse Brewer (Wysocki, 1992). Attached was a memo that reads:

> The enclosed by one William M. Mandel is the kind of thinking that lurks "out there", but is hard to deal with directly. However, I do think you and your colleagues should be keeping this sort of thing in mind.

On June 22nd, Stone responded with a markedly different tone: "Thanks for sending the material from Mr. Mandel. We are trying hard to be sensitive to the full spectrum of views" (Stone, 1992).

In the radio transcript, entitled *What Los Angeles Means: "Negroes are Lynched in America"*,[21] Mandel — a White broadcast journalist, Soviet expert, and Marxist (whose middle name is Marx) — makes an impassioned argument that the killings of Black Angelenos by police officers during the uprising were "lynch justice," unnecessary to protect anything or anyone. The nature of these killings are Mandel's proof that the LAPD was not gun-shy or absent during the uprising, like reported by the media, but acting as an extra-judicial lynch mob. The LAPD, in other words, was providing further evidence that what Black Angelenos said about them — that they were anti-Black and acted beyond the rule of law — was true. But clearly, Mandel's account was

[21] The subtitle of the radio broadcast is borrowed from a Russian newspaper article published on May 4, 1992 that read, "The events of the past few days in Los Angeles, the 'city of angels,' confirmed that which our political figures and world-affairs commentators had said for long years and which our readers and listeners had long ceased to believe: Negroes are lynched in America."

inconsistent with what Sheinbaum believed the LAPD to be: likely, a misled police force that needed new leadership, new policy, and renewed public faith. Even for Sheinbaum – a known leftist who often expressed suspicion of the state (Woo, 2016) – Mandel's views exceeded reason. Stone reacts, however, by resituating Mandel's argument as incorporable with other reasonable views, even if unnerving to the Commissioners. Perhaps Stone took heart in Mandel's closing paragraph, which to some extent legitimizes Mandel's perspective and makes it reasonable, or legible, to the Commissioners.

> A new radical American Left can perform no more noble service, can do nothing more effective to build a bridge to the most downtrodden and suppressed, than to bend its efforts to establishing the true picture of Los Angeles 1992 as police brutality at the level of massacre. This must make clear to the public that its initial reaction to the Rodney King verdict was correct. America's police forces must some day truly be made the protectors of the people. As a first step, they must be brought under control, with criminals in blue fired and prosecuted. The rest must be re-educated against racism, and ethnic proportions at all levels must be brought fully into accord with the demographics of each community.

About halfway through this paragraph, Mandel switches tones, departing from his two-page exposition on the LAPD's lynch-mob mentality and prescribing straightforward reforms that could salvage the LAPD for good. It is this reconcilability that allowed Stone to position Mandel's text on *the spectrum of views* being expressed about the uprising and the LAPD. In this moment, Black Angelenos' resistance to the LAPD (as it is relayed by Mandel) becomes resolvable. To do this, Mandel expresses a similar strategy to the Blood and Crips: hiring police officers that are racially/ethnically-representative of the community they police and developing a mechanism through which the police can be held accountable. In doing so, Mandel expresses a belief similar to that expressed in the Bloods/Crips truce: that Black people are indeed incorporable in civil society. For Mandel, non-Black Angelenos can do this by building a metaphoric bridge to Black Angelenos, which begins with developing a common perspective about the bad behaviors of the LAPD.

While there is a point of departure in how each party framed the causes and consequences of Black exclusion, it is at this point of remedy that Mandel and the Bloods and Crips reconverge with the work of the Commission. For each party, the police would serve an important role in facilitating Black integration. For Mandel, Black Angelenos could be restored to civil society if instances of anti-Black violence were dramatically reduced among police officers, if not fully eradicated. For the Bloods and Crips, the LAPD could employ community members — including ex-gang members — as law enforcement officers. For the Commission, the police could help change Black Angelenos' perceptions of the LAPD. Despite their differences, in each case the LAPD could be one vehicle through which Black Angelenos could move out of the margins and into the commons. The benefit of this move for the Commission would be a decreased possibility of future uprisings, while for Mandel and the Bloods and Crips, it would be decreased state violence and increased economic capital.

The Fantasy of Inclusion

Throughout his *Prison Notebooks (1971)*, Gramsci frames civil society as the social terrain on which a class war would take place. Although Gramsci uses different language throughout the texts to describe civil society, he most predominantly frames civil society as one superstructural aspect of the State (the other being political society), which supports the economic structure. That is, the State is civil society plus political society, or hegemony plus domination, or "hegemony protected by the armour of coercion" (p. 532). Unlike political society, which relies on coercive and often bodily techniques such as punishment, civil society relies on consent. For Gramsci, this consent is built within individuals in a field of social relationships. Put differently, civil society is the field of relationships where common sense circulates. In these relationships, which can occur in spaces such as school, work, the media, church, or around the dinner table, individuals are introduced to a collective common sense about what is true and moral and good. It is this common

sense that acts as a defensive “trench” (p. 489) around the State and the economic structure. Because this trench is occupiable space, hegemony, or common sense, can be re-produced as counter-hegemony and a new common sense. When this happens, the State and the economic base can be revolutionized, bringing about new social, political, and economic orders. Important to the current context, for Gramsci civil society is inclusive in regard to race, and a social bond can presumably be created between Black and non-Black individuals given their common exploitation as workers.

The opposite is true for Fanon (1961/2005, 1952/1994), who frames civil society as one half of a Manichean relational structure. This structure was founded at the psychic level where Black individuals were (and are) scapegoated to reconcile the “antinomy that coexists” in the Human psyche (1952/1994, p. 2). For Fanon, this antinomy, or psychical sense of alienation, was projected by White individuals to a physical other, the Black individual. Another way of saying this is that the internal opposition between the unconscious and the ego/super-ego was externalized. Thus, the antagonism plays out at both the psychical and political levels. Both are driven by, and manifest in, language. Namely, the antagonism centers on the association between Whiteness and goodness, purity, and civilization, and between Blackness and evil, impurity, and incivility. To be Black, then, is to be without culture or civilization. Rather, the Black individual is a savage. In this process, the White individual remains alienated as they continually work to assert their Whiteness, and the Black individual is alienated as they seek to reconcile their structural position of Blackness with the compulsion to become White. The commonality among both species is the desire to be White, to be Human, to be unalienated. Thus, Whiteness and Blackness are both pathological states of being. It is for this reason that Fanon describes the Black individual as “alienated (duped) and the White individual as “no less alienated (duping and duped)” (1952/1994, p. 29). Both strive to be Human.

For Fanon, this relational structure does not exist only in the psyche and in language but manifests materially and spatially. That is, just as individual-level psychic conflict becomes symptomatic at the level of the body, the externalized psychic conflict becomes symptomatic at the level of the social body. Fanon, then, moves between the psychical and the socio-political when he describes the two sectors (1961/2005), or zones (1961/2005) in which the "native" and the colonist live. The colonist's zone (which Fanon also refers to as the White zone) is described as clean, hardy, well-lit, and well-serviced. Oppositely, the colonized's zone is over-populated, under-resourced, diseased, and run-down. It is for this reason that Fanon argues the world is a "compartmentalized world," a world "divided in two" (1961/2005, p. 5). Despite there being clear social, economic, and political differences between these worlds, it is a world not divided by class but by race, or put otherwise, by species. For Fanon, these two species are irreconcilable. The Black individual cannot become White or be understood as civilized. This is because the structure depends on the antagonism that exists between Black and non-Black.

In a series of texts, Frank Wilderson (2010; 2003; 2003) mobilizes the work of Fanon to offer a Black Studies critique of Gramsci's theorization of civil society. Reading Fanon against Gramsci, Wilderson makes two arguments. The first is that civil society, as conceptualized by Gramsci, is not a site for Black liberation. Wilderson challenges Gramsci for his erasure of the Slave's plight in this theorization of civil society as a site of liberatory potential. For Wilderson (via Fanon, as well as Patterson), the Slave exists outside of civil society, even as the Slave exists in the world. Because of this, it is only possible for Human subjects (e.g. workers, immigrants) to contest the common sense of civil society as a way to eventually re-politicize the State and re-organize the economy. However, this possibility is not available to the Slave. This is because the birth of civil society required the creation of the Slave.[22] As the positive term of Blackness, civil society is the

[22] It is for this reason, also, Wilderson breaks with Gramsci and argues that anti-Blackness, and not capital, is society's structural base.

opposite of the primitive and the uncivilized. In this sense, civil society is synonymous with Whiteness, which is synonymous with the Human. Civil society is what it means to be civilized, and to be civilized is to not be Black. It is for this reason Wilderson argues that the Slave cannot be incorporated into civil society. Not only this, it is for this reason that Wilderson argues (via Fanon (1961/2005) via Martinot and Sexton (2003) that to strengthen or reconfigure civil society is to strengthen and reconfigure White supremacy. For Martinot and Sexton, this is because, in part, the state co-opts anti-racist work that occurs at the level of civil society as a sign of "white social order" (p. 179). This, in turn, reinforces White supremacy. They write,

> The foundations of US white supremacy are far from stable. Owing to the instability of white supremacy, the social structures of whiteness must ever be re-secured in an obsessive fashion. The process of re-inventing whiteness and white supremacy has always involved the state, and the state has always involved the utmost paranoia. Vast political cataclysms such as the civil rights movements that sought to shatter this invention have confronted the state as harbingers of sanity. Yet the state's absorption and co-optation of that opposition for the reconstruction of the white social order has been reoccurring before our very eyes. White supremacy is not reconstructed simply for its own sake, but for the sake of the social paranoia, the ethic of impunity, and the violent spectacles of racialisation that it calls the 'maintenance of order', all of which constitute its essential dimensions. The cold, gray institutions of this society — courts, schools, prisons, police, army, law, religion, the two-party system — become the arenas of this brutality, its excess and spectacle, which they then normalise throughout the social field. (p. 179-180)

The State and civil society work hand-in-hand to re-create Whiteness. Because of this, Wilderson argues that civil society is not a place of liberation, but a space in which Whiteness is reconstructed. And because this reconstruction is utterly mundane, it does not register to the public, or even to most anti-racists, as anti-Black. This banal foundation of anti-Blackness is as much, if not more than, an urgent matter for the Slave than spectacular forms of anti-Black violence. It is for this reason that Wilderson argues civil society and civil stability do not hold the promise of freedom for Black individuals, but are a state of emergency (2010, page 79; 2003, page 19). That is, civil stability requires the policing of Blackness, which results in violence against the Black body. But this policing does not manifest mainly as spectacular police killings of unarmed Black individuals.

For Wilderson via Martinot and Sexton, this policing is not solely carried out by legally deputized officers, but by White people generally, who are "ipso facto, deputized in the face of Black people, whether they know it (consciously) or not" (Wilderson 2010, page 80).

Based on this antagonism between civil society and Blackness, Wilderson makes a second argument: that the invitation to Black people to participate in civil society is a gesture that is cruel in light of its impossibility. The cruel aspect of the logic of integration is that although an invitation is extended to Black individuals to join civil society, the invitation is fraudulent. It is like counterfeit money, circulated unknowingly until its detection. Wilderson (2010) calls this invitation to join civil society a "faux interpellation" (p. 25) given the inability of a Black individual to ever take on a social identity that would remedy their contradictory status as Slave. For Wilderson, Black individuals are bombarded with cultural messages — in film, for example — that civil society is "infinitely inclusive" (p. 24) and that there is an ongoing invitation (at least, we can assume, since the end of the Civil War) to civilize one's Black self. Yet for Wilderson, to be Black is to attempt to civilize one's self and still be Black, to behave and still face exclusion, to cooperate and still die. This is the very antagonism that undergirds the relationship between the Human and the Slave.

A New Species

If integrating Blackness into civil society is not only impossible but undesirable, what can be done to solve the problems facing Black people? Fanon (Fanon, 1961/2005) uses Biblical language to describe his solution to anti-Blackness. He writes,

> [Decolonization] infuses a new rhythm, specific to a new generation of men, with a new language and a new humanity. Decolonization is truly the creation of new men. But such a creation cannot be attributed to a supernatural power: The "thing" colonized becomes a man through the very process of liberation. Decolonization, therefore, implies the urgent need to thoroughly challenge the colonial situation. Its definition can, if we want to describe it accurately, be summed up in the well-known words: "The last shall be first." Decolonization is a verification of this. (p. 2)

We see two primary elements in this description of decolonization. First, Fanon describes the abolition of the Manichean relational structure. We see a challenge to the existing order of the world. For Fanon this is constituted by language, which engenders a sense of being in the world. Therefore, our current sense of being must be destroyed. Second, he describes the creation of a new, non-Manichean way of being in relation to one another and with ourselves. In this process, a *new* H*umanity* is established and a *new language* is adopted. Elsewhere, Fanon describes this as the creation of a new species (1961/2005, p. 1) or as the invention of "man in full" (1961/2005, p. 236). Given that Fanon is limited by the same social text as the rest of us, he attempts to describe this new species in the form of a parable. That is, he cites language from the Bible as a vision of this new world, one in which the last shall be first and the first shall be last. At first reading, we might conclude that Fanon is envisioning an inversion of the existing relational structure, such that Blackness becomes associated with goodness, purity, and civility, while Whiteness becomes associated with darkness, evilness, and savagery. In this way, the last (those who are Blackened) would become first (Whitened), and the first (those who are Whitened) would become last (Blackened). Yet if we return to the parable in the Bible where Jesus speaks these words, a different vision emerges. In this parable, Jesus describes a vineyard owner who hires workers early in the morning, at 9:00am, and again at 12:00pm, 3:00pm, and 5:00 pm. The parable continues:

> When evening came, the owner of the vineyard said to his foreman, 'Call the workers and pay them their wages, beginning with the last ones hired and going on to the first.' The workers who were hired about five in the afternoon came and each received a denarius. So when those came who were hired first, they expected to receive more. But each one of them also received a denarius. When they received it, they began to grumble against the landowner. 'These who were hired last worked only one hour,' they said, 'and you have made them equal to us who have borne the burden of the work and the heat of the day.' But he answered one of them, 'I am not being unfair to you, friend. Didn't you agree to work for a denarius? Take your pay and go. I want to give the one who was hired last the same as I gave you. Don't I have the right to do what I want with my own money? Or are you envious because I am generous?' So the last will be first, and the first will be last. (Matthew 20: 8-16, New International Version)

What we see in the parable is that the inversion of first and last is a temporary status. That is, the

last workers are paid first and the first workers are paid last. However, beyond this point the original categories of determination (i.e. first and last) as well as the inverted categories of determination (i.e. the last who have become first and the first who have become last) are ultimately flattened as the workers are each paid the same amount. The last and the first become one in the same. Therefore, rather than the last becoming first occurring as an event that is spatially- and temporally-locatable, the first becomes last and the last becomes first in an interminable process, such that the categories of first and last are never able to take hold. It is for this reason that Fanon describes this decolonized world as "a zone of non-being" (1952/1994, p. 8) or as a new species. A decolonized world is not a world in which the structural positions of the existing species are inverted. Rather, it is a world in which a sense of self is never able to take hold in relation to another. The radical nature of Fanon's vision, then, is not a world where Black and the White are equal, but where Black and White would cease to exist as categories of self-definition and determination. That is, White individuals would no longer scapegoat Black individuals in order to affirm their Whiteness, undoing the need for the concepts of Whiteness and Blackness. We see this clarified as Fanon writes that decolonization requires "the liberation of the man of color from himself" (1952/1994, p. 8). As importantly, White individuals are liberated from themselves, or from the desire to be White. All are deracinated. As such, it is not the end of racism but the end of race.

For Fanon, however, the new world is not something that can be intentionally brought forth, at least not in full. It is not something that can be willed, planned, strategized, prescribed, or even imagined. Our efforts to do so, like Fanon's description of the violent process of decolonization, may change the structure but they do not destroy it. This is because, for Fanon, we have been inscribed upon by the social text at the level of the psyche. Therefore, no matter how much we attempt to reframe the relational structure in our conscious minds, our unconscious understanding

of the world as divided between Black and White remains. Further, no matter our efforts to challenge the relational structure at the level of politics, we cannot challenge it at the unconscious level. It is for this reason Fanon argues that "challenging the colonial world is not a rational confrontation of viewpoints" (1961/2005, p. 6). Fanon portrays the relational structure as completely *ir*rational, and thus, both beyond the scope of language to fully describe and beyond the scope of conscious action to fully remedy. Rather, the destruction of the existing relational structure and the creation of a new species will be an "explosion" (Fanon, 1952/1994, p. 1), a process of "total disorder" (1961/2005, p. 2). It cannot be brought forth by an uprising, nor a Commission, nor any variety of social, economic, or political reform. And if these events and reforms are part of the disorder, they likely won't be meaningful in the way that we expect.

Reconstruction

Reading civil society through the lens of Fanon deeply troubles the Commission's recommendations in two prominent ways, both relating to the Commission's underlying logic that Black Angelenos needed to be, and could be, integrated into civil society. First, the work of Fanon and his noted contemporaries challenges the logic that the problems of Black Angelenos could be addressed by civiling Black communities, thereby incorporating Black Angelenos into non-Black civic culture. This logic, and its associated assumption – that Black Angelenos *could be* incorporated into civil society – first assumes that incorporation into civil society is in fact desirable. It would allow Black Angelenos to "increase the quality of life" in their neighborhoods and become invested in their "communal well-being" (Webster & Williams, 1992, p. 170). The argument I want to make is that these rationalizations (by the Commission, Mandel, or the Bloods and Crips) are not racially innocent, but rooted in the idea that there is a society from which Black people are excluded, and that it would be desirable for Black Angelenos to be integrated into this society. It is a society that is not marked by "waste and despair" (Webster & Williams, 1992, p.

175), but common sense and cooperation. There is an embedded assumption here that civil society (which is also civilized society) is preferable to its opposite — the unknowable world of Black nonsociety. And further, there is an assumption that the economic and political structures that this society protects are worth defending. Neither the Commission nor the Bloods and Crips nor Mandel can be faulted for this preference. It is a non-option, a choice between something and nothing. What I mean to say is that the choice was not one between civilization and the stereotypic Black world of violence, drugs, urban filth, and family violence. Of course, no one would choose the latter. But it is a choice between what is known to be possible (i.e. civil society) and an unthought and unthinkable alternative to civil society. Instead, each party made the political demands, or recommendations, that were available to them, taking the very concept of civil society for granted. However, when the desire to integrate Black individuals into civil society is pushed to its limit and disrobed of its liberal multi-racialism and integration-based agenda, it is shown to contain the notion that Black individuals can and should be civilized, that Black can and should be White. Built upon this paternalistic supremacy, the Commission (by way of the police and *as* the police) extends an invitation to Black Angelenos to un-Blacken themselves. Yet if this invitation is unfulfillable as Fanon tells us it is, its mere existence situates Black Angelenos as unwilling or unable to un-Blacken. This further engenders the idea that Black Angelenos' suffering was, in large part, their own doing. Consequently, the invitation re-Blackens its recipients, again framing Black Angelenos as uncivilized if not uncivilizable.

Related to the reconstruction of Blackness, the Commission's recommendations are troubled to the extent that they reconstruct and strengthen Whiteness. This happens as civil society is framed as inclusive, progressive, patient, and welcoming. Martinot and Sexton (2003) describe this as the state's "absorption and co-optation" of opposition (p. 179). The State – in this case, the Commission – presents itself as making order out of chaos, rationality out of foolishness. It regards

itself as benevolent, kind, and cooperative. And each mundane time this happens anew, by the Commission or otherwise, civil society is framed as less barbaric and more sophisticated than it once was. It tells us it has become more humane, more White. If read in this way, we see that rehabilitation and integration do not remedy the social death of Black Angelenos but perpetuate it. As the categories of Blackness and Whiteness are reconstructed again and again, White is always situated as Human and the Black as Slave. Mobilizing Fanon's conceptualization of anti-Blackness, this reconstruction will continue until, in some historic moment beyond our imagination, it doesn't.

CHAPTER 6

Of Pain and Praxis: Abolitionist Resistance as Limited Redress

They sought redress among themselves. (Saidiya Hartman, *The Anarchy of Colored Girls Assembled in a Riotous Manner*)

A vision of the end of anti-Blackness rooted in the work of Frantz Fanon might be read as grim, if not debilitating. If anti-Blackness is founded in the psyche and circulates both within and beyond the space of politics, individuals or even collectives cannot will or organize anti-Blackness out of existence. However, this diagnosis of the problem of anti-Blackness does not mean that structural abolitionism does not, or cannot, offer insight into resisting the structure that makes Blackness a position of social death. Another way of saying this is that although anti-Blackness cannot be fully remedied at any level of analysis, seeking redress for anti-Blackness is not futile. Rather, theorists of Black positionality teach us that resistance – which is at times non-resistance – is productive toward ends other than resolution. For this reason, I argue that structural abolitionism is partially constituted by the provocation that resistance to anti-Blackness must be understood as limited redress within the existing racial structure. What then does it mean to push back within, and perhaps against, a structure that cannot be willfully toppled? What are the logics and consequences of such resistance? At what level or venue can change actually be effected? It is these questions that I take up in this chapter. To do this, I first look at how the Commission understood the underlying purpose, or logic, of the 1992 L.A. uprising. That is, I ask how the Commission understood the uprising as a form of resistance, and I argue that the uprising was understood by the Commission as a sort of release valve for Black rage. Next, in two parts, I ask how the uprising as a form of resistance could be re-read as a limited form of redress within the existing structure. Specifically, I mobilize Saidiya Hartman's *Scenes of Subjection* (1997) and Jack Halberstam's *The Queer Art of Failure* (2011) to re-theorize the redressive work of the uprising and to think more broadly toward the potential of abolitionist redress. By taking multiple approaches and

demonstrating the open-endedness of structural abolitionism in this way, I ultimately fail to offer a blueprint for what might be called abolitionist redress. Rather, I experiment with two different, yet complementary, frameworks for how unproductive resistance might be understood. In this sense, this chapter is more imaginative or speculative than it is prescriptive. In many ways, then, this chapter serves as a gateway to future work on abolitionism, anti-Blackness, and the law.

The Two Waves

If one were to only read *The City in Crisis (Webster & Williams, 1992),* they might leave with the false impression that the uprising was a multi-racial, multi-ethnic, multi-cultural activity. In a 12-paragraph summary of the uprising, the report mentions the races of those who participated in the uprising just twice – once in the second paragraph to identify the race of the individuals who infamously beat White motorist Reginald Denny at the intersection of Florence and Normandie (Black), and again in the second to last paragraph to note the race of those identified as the initial uprisers (Black). In the second instance they write,

> The perpetrators of this violence were not confined to any single racial or ethnic classification. Although the initial violent incidents immediately following the verdicts appear for the most part to have involved African-American males, members of all racial groups were involved in the spreading physical assaults and looting. People of all ages and gender participated in the looting, although the preponderance of participants were young males. In one widely publicized incident on the second day of the violence, for example, men, women and children of all ages and races could be seen lining up in order to loot an enormous Fedco store in Culver City. (p. 23)

This section of the report concludes with the following, race-neutral summary:

> The disturbance seems to have largely begun with explosive outbursts of physical assaults and property destruction that took place as a result of pent-up anger and frustration. However, once the violence began and it became evident that the police were not able to check the lawbreaking, others apparently joined in, fueling the expansion of the disturbance. (p. 24)

The facts of the Commission's account are not necessarily incorrect; Black Angelenos were documented as having engaged in the first acts of violence and property destruction, and later,

Angelenos of all races were documented engaging in various activities related to the uprising. However, their effort to diminish the uprising as a form of resistance by Black Angelenos by framing the uprising as a multi-racial, multi-ethnic event obscures both the nature of the problem that Black Angelenos were responding to and the purpose of using interpersonal violence and destruction of property as a form of resistance. This obscuration was explored in part in Chapter 4 as I analyzed the Commission's framing of the uprising as a problem of economy, demography, and incivility in Black neighborhoods rather than a problem of social death. Here I want to focus more narrowly on how the Commission understood the uprising as a method of resistance by examining how the Commission discussed those who participated in the uprising, what activities participants were engaging in, and what participants ultimately hoped to achieve.

The Commission's broad account of the uprising's timeline suggests that the uprising was started by Black Angelenos and then Angelenos of other races began to participate. A more nuanced version of this timeline appeared in the study report of the Commission sub-team charged with obtaining information from public officials and the community.[23] Like *The City in Crisis,* the study report from the public officials and community team describes "African-Americans start[ing] the first wave of violence" (p. 92). This violence is attributed to "fits of rage" and "pent-up anger" where uprisers were "expressing their anger through all forms of personal assault and property destruction" (p. 80, 92). In this sense, the uprising acted like a release valve for the uncontrollable emotions of Black Angelenos; it allowed Black Angelenos to get some of their rage out. The team noted that much of this rage and frustration was eventually directed at Korean Angelenos, as Black Angelenos were described as looting and setting fire to Korean-owned businesses. The report does not, however, theorize the interracial violence perpetrated by Black Angelenos against Angelenos of other races. For example, the motives of the Black individuals who infamously beat Reginald

[23] All sub-team reports were submitted to the Writing Team on or around September 14, 1992 and were used to draft the final report, *The City in Crisis.*

Denny (White) or Fidel Lopez (Latinx) at the intersection of Florence and Normandie were not discussed in *The City in Crisis*, or based on my analysis, in any document in the archive. That Black Angelenos were the first to participate is framed as a coincidence, or otherwise, as Black Angelenos being the vanguard of a larger, multi-racial struggle to express frustration at the legal system. A third possible conclusion to be drawn from the Commission's report is that Black Angelenos, in their anger, were unable to articulate their grievances and to non-violently advocate for their desired policy changes. Each of these conclusions is on par with broad racial stereotypes of Black individuals as emotive, impulsive, aggressive, and therefore, dangerous.

A different story of method and motive is told of the second wave of participants. Unlike *The City in Crisis*, the team report attributes the second wave – and in particular, looting – to Latinx Angelenos. The actions of these uprisers were documented as being utilitarian rather than emotive, with looters taking "sustenance items" (p. 93) such as food and batteries. Further, the second wave of the uprising – regardless of the race of participants – is attributed to "opportunism," "mob-mentality," or a lack of "fear of reprisal," where individuals took advantage of the LAPD's lack of police response (p. 90). Thus, while it is likely correct that individuals from all races, genders, and age groups participated in looting, the racialized patterns that occurred throughout the uprising are largely obscured in favor of a narrative that attributes the uprising to Angelenos of all races and ethnicities. Such an analysis is consistent with the Commission's framing of the problem that uprisers were responding to as fairly similar across race and ethnicity (see Chapter 4).

These seemingly benign interpretations have important consequences at the level of policy, as demonstrated by the Commission's overall recommendation that the LAPD transition to a model of proactive, community-based policing. That is, if the actions of Black Angelenos were framed as being at the forefront of the uprising, and if the actions of non-Black Angelenos were framed as dependent upon Black Angelenos, it is logical to direct policing resources at influencing and

controlling the future behavior of Black Angelenos. And by ultimately emphasizing the multiple races and ethnicities of participants, especially in the second wave of the uprising, the Commission ignores the immediate motives of the Black Angelenos who participated and the reasons that an uprising was mobilized as a form of resistance. Thus, a theoretical analysis that emphasizes Black resistance was unimagined by the Commission, or if imagined, left on the cutting room floor. Indeed, I did not find any archival evidence suggesting that the Commission considered an alternative interpretation of the uprising as a form of resistance, and as demonstrated below, the archival materials that may have prompted an alternative interpretation were swept aside.

These consequences of the Commission's interpretation of the uprising become apparent when read alongside an alternative interpretation of those who rose up, their activities, and their immediate motivations. In the next section I explore three alternative interpretations and speculate how these interpretations may have resulted in policy proposals that centered the problem of anti-Blackness rather than the imagined problem of Black incivility.

Rethinking Resistance

One: The Pained Body

> What shape does resistance or rebellion acquire when the force of repression is virtually without limit, when terror resides within the limits of socially tolerable, when the innocuous and the insurgent meet an equal force of punishment, or when the clandestine and the surreptitious mark an infinite array of dangers? (Saidiya Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America*)

A significant portion of Saidiya Hartman's *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (1997) is devoted to understanding how resistance and redress were practiced and performed by chattel slaves through everyday acts. Hartman contextualizes her inquiry in an understanding that these acts were informed by – and therefore, took advantage of and pushed back on – conditions of domination. In doing so, Hartman rejects the

concepts of pure agency and pure domination. That is, Hartman argues that slaves neither had access to any form of resistance that they chose (at least without a likely consequence of abuse, torture, and/or death) nor that their resistance was void of agency and will. Rather, Hartman considers how slaves practiced resistance from their structural position of social death. Based on this structural context, Hartman understands resistance by the slave as necessarily occurring outside the political realm. Because the slave is what makes the individual, liberal subject possible, the slave does not have political agency; there is no place for the slave in the political realm. Further, Hartman argues that no available forms of redress – either sanctioned or illegitimate – were capable of remedying "the enormity of the breach" (p. 51) that was and is enslavement and social death. Based on this context, resistance to slavery occurred outside politics, in ways that, unlike something as visible as Nat Turner's rebellion, were stealthy and indiscernible to non-slaves. For example, Hartman cites as examples of resistance the sneaking between cabins or plantations in the nighttime to visit one's lover, using slave-owner-sanctioned Saturday night dances to reminisce about Africa, and the collective singing of liberation-oriented songs perceived by the slave owner as gibberish. In each of these acts, the purpose of resistance was not to remedy the problem of slavery or to otherwise make right a wrong. Instead, Hartman understands resistance as an act of agency aimed at multimodally caring for one's fleshly and social bodies. Reconceptualizing redress as something other than compensation or repair, Hartman writes,

> First, redress is a re-membering of the social body that occurs precisely in the recognition and articulation of devastation, captivity, and enslavement. The re-membering of the violated body must be considered in relation to the dis-membered body of the slave – that is, the segmentation and organization of the captive body for purposes of work, reproduction, and punishment. This re-membering takes the form of attending to the body as a site of pleasure, eros, and sociality and articulating its violated condition. Second, redress is a limited form of action aimed at relieving the pained body through alternative configurations of the self and the redemptions of the body as human flesh, not beast of burden. Third, redress concerns the articulation of needs and desires and the endeavor to meet them. (p. 77)

Here, redress is conceptualized not as remedy or redemption but as re-membrance, relief, articulation, and endeavoring. This distinction matters at the historiographical level by rejecting narratives that frame slaves as passive subjects in their own oppression or as simplistic organisms grateful to be shepherded by a kind and generous protector. In other words, by theorizing resistance more expansively than overt rebellion Hartman implicitly and proactively responds to the question, "If slavery was so awful, why didn't more slaves fight back?" In doing so, Hartman returns agency and will to the slave, whose agency and will is only otherwise understood in the context of criminal law. At the same time, this gesture provides a theoretical lens for understanding acts of resistance that are oriented by motives other than remedy – those aimed at restoring affiliation, alleviating pain, challenging authority, and seeking pleasure. I use this lens to shed light on the 1992 L.A. uprising as a form of resistance. Of course, an uprising is not an everyday act, and thus, in some ways exceeds Hartman's theorization. However, by applying Hartman's understanding of resistance and redress to the actions of the Black Angelenos who rose up, I work to understand how actions that appear as irrational, impractical, and ineffective (e.g. destroying the physical infrastructure of one's own community) are productive to ends other than remedy.

Over the course of its work, the Commission interviewed 381 individuals to gather information related to its task of either preventing, or improving the LAPD's response, to a future uprising. Of these interviews, 206 were conducted with law enforcement personnel, 116 were conducted with local, state, or federal officials, and 59 were conducted with community members, many of which worked for non-profit organizations. Correspondence between Commissioners on June 1, 1992 lists 20 key issues that were to be addressed during these interviews (Clark, 1992, p. 2). The list included inquiry into anticipation of the verdict and response to the verdict, sharing of intelligence regarding probably reactions to the verdict, the adequacy and implementation of

emergency plans, what overall lessons were learned, efficacy of community-based policing,[24] anticipation of future violence, and the "nature of the violence." This last area of inquiry, elaborated here, included four sub-issues to be addressed:

What was the nature of the violence?
a. Who participated?
b. What kind of activities?
c. To what extent planned or spontaneous?
d. To what extent based on:
   i. general economic conditions;
   ii. rage at verdict/system; or
   iii. opportunism?

Throughout the interviews, similar themes emerged in response to these questions[25] – many of which were discussed in the previous section: that the first participants were Black, the Latino Angelenos participated in opportunistic looting, that the initial Black participants were letting out pent-up rage, and that people of all races participated in the violence and looting. In applying Hartman's theorization of resistance and redress, I want to narrow in on one of these interviews that simultaneously echoed these observations and offered a more thorough accounting of the actions of Black uprisers. This interview occurred on July 10, 1992 with Troy Smith (Smith & Blasi, 1992). At the time, Smith was the Director of the Greater Watts Justice Center, a branch of the Legal Aid Foundation, which provided legal assistance to individuals with mortgage problems and those who had problematic encounters with the police. Smith, a resident of South Central L.A., had previously worked as the City Attorney for the City of Compton, and through these experiences, was able to provide insight into the uprising that many police personnel or city officials were unable to provide. I quote at length an excerpt of the summary of Smith's interview, which was written under the

[24] The presence of the Commission's consideration of community-based policing this early in their work (June 1st) suggests that the recommendation did not emerge from the community itself, but from members of the Commission.
[25] It is important to note that all but one of these interviews – that with former Chief of Police Daryl Gates – were not transcribed by the Commission. Rather, the archive includes a Commissioner's summary of each interview including "questions and comments, together with my mental impressions, conclusions, and opinions" (Memorandum from General Counsel and Staff Director Richard J. Stone to All Deputy General Counsel, June 1, 1992).

heading “Anticipation of Verdict and Response,” and also includes information related to the Commission’s inquiry about *the nature of the violence*.

> Smith states that had anyone in official position asked him prior to the King verdict what would happen if the officers were acquitted, he would have “absolutely guaranteed” a very great outbreak of violence. He notes that several clients and others in the African-American community had said words to the effect that “if the cops get off on this one, this town is going to burn down.” In addition, he reports that in the months prior to the disorders, he sensed generally a tremendous increase in the rage and frustration in the community he serves and believed it was only a matter of time before the pent-up rage exploded. This he explains as follows: virtually everyone in the African-American community has either experienced police mistreatment directly or has close friends and family who have such experiences. The result was a tremendous reservoir of anger at the police. Added to this is a general sense that neither the justice system nor the political system work for the African-American community, and that there are thus no legitimate channels to seek redress peacefully.
>
> The metaphor we discussed was a reservoir behind a dam, composed of the results of individual maltreatment by the police, with no perceived legal or political remedy. It was this tremendous potential energy that was released in the disorders. To continue the metaphor, the King verdict broke the dam. While the pressure was the cumulative result of years of perceived abuse, that abuse had happened over time and to different people at different times. The King verdict effectively “happened” to the entire African-American community at once, causing virtually simultaneous expressions of rage throughout the African-American community. (p. 1-2)

Much of Smith’s testimony, as it is recounted by a Commissioner, sounds similar to the Commission’s narrative about the nature of the uprising. At times they share exact language (i.e. “pent up rage”). Indeed, the public officials and community sub-team cited Smith as one source from which they derived their conclusion that “the first day, people essentially exploded into fits of rage, expressing their anger through all forms of personal assault and property destruction” (Public Officials and Community Team, 1992, p. 80) (Special Advisor’s Study Report re Information Obtained from Public Officials and the Community, p. 80). However, the summary of Smith’s testimony includes insight that were not recounted by the Commission in either *The City in Crisis* or in the final sub-team report. First, Smith contextualizes the violence as a form of resistance by noting the conditions of domination. Like Hartman, Smith argues that there were “no legitimate

channels" for Black Angelenos to seek redress; "neither the justice system nor the political system work for the African-American community" (p. 2). That is, if Black Angelenos were "outside the space of space of politics" (Hartman, p. 65), redress could not be achieved through peaceful engagement with the political system. Later in the interview summary, the Commissioner notes Smith as stating that the peaceful alternatives available to Black Angelenos (e.g. community meetings, meeting with politicians and the city elite) were not a match for "the level of feeling in the community" (p. 2). Combining Hartman and Smith's language, we might say that *no meaningful or peaceful alternatives* were capable of redressing *the enormity of the breach*. Further, we might ask whether the hypothetical meaningful or peaceful alternatives could even be considered resistance if they were socially acceptable in the political realm. If they *were* sanctioned, they would have been *inside* the space of politics, which would have been non-Blackness. In this sense, redress is not given but taken; if it were given, it would not be redress. Based on this context – of Blackness and Black resistance as outside politics – Smith, like Hartman, argues that Black individuals had to seek redress through alternate forms of resistance. For Hartman, the alternatives were stealthy and covert, beyond the gaze of the slaveholder. For Smith, the alternatives were highly public and stereotypically resistant. Therefore, the uprising was more similar to Nat Turner's rebellion, an exceptional form of resistance, than telling stories of pre-enslavement life in Africa, an everyday form of resistance. However, in both contexts, the meaning of the resistance and the redress that was sought flew below the radar of those in domination. In L.A., the interpersonal violence and property destruction carried out by Black Angelenos was read as emotive and spontaneous, yet utilitarian in the sense that it allowed Black Angelenos to release some of their rage. For the Commission, then, redress was rooted in a logic of controlling the rage of Black Angelenos. For Smith, however, especially when read through the lens of Hartman, the purpose of

the resistance and the redress that was sought were markedly different and occurred on two levels: that of the human body and that of the social body.

Regarding the human body, I want to focus on Hartman's argument that through reconfiguring the self as subject rather than object, resistors are able to relieve the pained body, or the body that is subject to violent domination. Doing this, of course, does not prevent future violence or compensate for past violence. Rather, it meets an immediate and ongoing need to care for the pained body and to exercise agency. The Rodney King beating, and the subsequent acquittals situated the Black body as object to be used and discarded, undeserving – or rather, incapable – of being redressed. It framed the Black body as an object without agency, unrecognizable to the state. King had no choice but to be violated, and upon that violation, had no legitimate means of repair. Though King was the Black individual whose case rose to infamy, the case was exemplary of Blackness as a structural position. Another way of saying this is that the breach was not that King was beaten and that the officers who beat him were acquitted, but that this variety of domination was pervasive and perpetual. We see this in Smith's testimony as he recounts Black Angelenos pre-planning to uprising should the officers be acquitted. The choice to uprising was to have a choice at all; it was to have agency and will in a context where agency and will were contraband. To fantasize about burning the city down was to fantasize about a variety of agency that would perhaps come closest to addressing the *enormity of the breach*. Further, this fantasy, which was to – in many respects – become reality, allowed Black Angelenos to reconfigure themselves as willful and agentic (i.e. as Human) rather than only as dominated objects. For Hartman, this is one way of relieving the pained body. In this sense, the uprising, if it is to be understood as *fit of rage*, must be understood as a demonstration, or performance of a human emotion that would be expected of someone on whom senseless harm had been acted out. Reading

the uprising as a performance of rage rather than a release of rage is to read the uprising as a practice of agency, and thus, as a performance of Humanness.

In addition to reconfiguring the self, Smith seems to articulate that the uprising as a form of resistance achieved redress through re-membering the social body. Smith's testimony speaks to this re-membrance, first, by noting that the beating of Rodney King and the acquittal of the officers who beat King *"happened" to the entire African-American community at once*. In other words, the beating and acquittals were collective traumas experienced by all Black Angelenos. In Hartman's words, we might think of these traumas as a reminder of "the dominated social collectivity," or the domination of the social collective called Blackness (p. 75). As a social body (or rather, a would-be social body, given the non-sociality of Blackness), Black Angelenos experienced a dis-memberment – a violation of the social body. Thus, Smith argues that Black Angelenos responded collectively, with *virtually simultaneous expressions of rage*. This simultaneous resistance sought to re-member the social body by recognizing and articulating its painful violation. This social re-membrance necessitated collective action, not only to care for the social body (as opposed to the human body), but to match the *enormity of the breach*. In this instance, the breach was not only the beating of King and the subsequent acquittals but being assigned to a structural position of social death. Had the breach solely been the beating of King and the acquittals and de-contextualized from Blackness as social death, perhaps a stereotypic protest – with Black Angelenos marching in a circle, chanting, and carrying signs – would have been sufficient to re-member Black Angelenos.

In neither reconfiguring the violated body as Human nor in re-membering the social body were Black Angelenos working toward policy change broadly considered to be productive, rational, or practical. The purpose of the uprising was not to improve society. Rather, using Hartman's understanding of resistance and redress to read the uprising demonstrates that the

uprising was one way – spectacular though it may be – that Black Angelenos cared for their pained bodies. Certainly, in an endless number of far less spectacular ways Black Angelenos cared for their pained bodies on a daily basis. To society – that is, non-Black society – these acts of resistance and the redress that they take are unproductive. They do not bring an end to suffering or attempt to make right the wrong of social death.

Two: Queer Failure

> Under certain circumstances failing, losing, forgetting, unmaking, undoing, unbecoming, not knowing may in fact offer more creative, more cooperative, more surprising ways of being in the world. Failing is something queers do and have always done exceptionally well…In fact if success requires so much effort, then maybe failure is easier in the long run and offers different kinds of rewards. (Judith Halberstam, *The Queer Art of Failure*)

Attentive to the work of Hartman and other theorists of Black resistance, in *The Queer Art of Failure (2011)* Jack Halberstam proposes the concept of queer failure as a way of understanding the rewards of counterhegemony. Halberstam's thesis is rooted in the notion that success in a heteronormative society is achieved through wealth accumulation and specific forms of reproduction; nearly all else is considered failure. Such strict notions of success come with the consequence of discipline. That is, taking up Gramsci's concept of hegemony, Halberstam argues that individuals are disciplined toward a certain way of being in the world, one that harbors such values as predictability, progress, conformity, mastery, and seriousness. However, instead of arguing for a new version of what could be considered successful, Halberstam blurs the conceptual boundary between success and failure, refusing to create new categories of failure, and thus, otherness. Rather, Halberstam destabilizes the concepts of success and failure altogether by exploring the rewards available to those who fail to live up to society's standards. The primary rewards for Halberstam are twofold. First, failure permits an escape from discipline and punishment; it rejects dominant ways of knowing and favors that which is nonsensical, illegible,

and illegitimate. This rejection provides its own kind of freedom – not freedom in the political sense, but a freedom engendered through rebuffing disciplinary norms. Second, failure allows us to refuse "the toxic positivity of contemporary life" (p. 3), or the belief that positive thinking is virtuous and capable of altering life outcomes. Through the denial of such a worldview, the failed positivist is able to attend to the negative – the structural inequalities that shape society – without the simplistic hope that things will inevitably "get better."

In crafting an exploration of failure, Halberstam mobilizes the concept of "low theory," or theory that is meant to operate at various (including, if not especially, low) levels of abstraction, as one way of developing counterhegemonic ways of thinking, doing, and being. Specifically, Halberstam describes low theory as "a theoretical model that flies below the radar, that is assembled from eccentric texts and examples and that refuses to confirm the hierarchies of knowing that maintain the high in high theory" (p. 16). Because these counterhegemonic ideas are packaged in undisciplinary ways – such as through the use of plain or playful language, seemingly absurd case studies, nonprescriptive conclusions, and subjugated epistemes – they often appear as frivolous and irrelevant. It is through the development of these alternate, and seemingly unrefined, theories that dominant ways of knowing are made explicit. They lay bare the hegemonic and reveal its logics and assumptions about what is good, desirable, and favorable.

In thinking about the uprising as an unproductive form of resistance, I want to adapt Halberstam's notion of low theory and think about the possibility of "low praxis" – *a* practical *model that flies below the radar, that is assembled from eccentric* behaviors *and* attitudes *and that refuses to confirm the hierarchies of* doing *that maintain the high in high* praxis. By low praxis, I mainly mean doing things that do not make sense. Because their aim is not to make sense – to influence policy or to appeal to a higher moral standard or even to acquire bodily sustenance – they

reject the idea that everything will be okay if we just stay positive and behave in a disciplined, normative manner.

To think about the actions of the participants as a type of low praxis, I analyze a peer-reviewed text on urban uprisings by James N. Upton (1985) who, at the time, was a professor of political science and Black studies at The Ohio State University. The text, *The Politics of Urban Violence: Critiques and Proposals* was published in the *Journal of Black Studies* and was one of several scholarly articles on the topic of urban uprisings collected by the Commission.[26] In the article, Upton identifies and critiques a number of what are termed pseudo- and middle-range theories of urban violence. In the pseudo-, or pop-, category Upton identifies, for example, theories that uprisings are carried out by criminal elements within a community and do not represent the broader Black community (criminality theory), that uprisings are carried out by outside agitators (conspiracy theories), or that uprisings are carried out by unruly youth who have pent-up frustration and are seeking fun (teenage rebellion theory). In their final report, the Commission – for the most part – does not engage these theories.[27] Rather, the Commission's explanations are on par with what Upton identifies as middle-range theories, or theories that are a mix of "everyday working hypotheses" and more general social sciences theories. In this category, Upton names the social-psychological approach (an individual-level theory that the uprisers were experiencing a sense of deprivation and frustration), the historic-economic approach (a community-level theory focusing on long-range trends in social structures like the economy and politics), and the structural-situation approach (where uprisings are theorized as emerging out of unique social

[26] Citation to materials as they exist in the archive: (Upton, 1992)

[27] A substantial amount of energy was devoted by the Commission, however, to determining whether the uprising was facilitated by gang members. For example, the Commission collected literature on the prevalence and role of gangs in other U.S. cities, consulted with local gang experts, and asked Angelenos about the relationship between the uprising and local gangs in the Community Attitude Survey. Though the Commission seems to have tested and falsified one of their initial working theories, the extent to which to Commission focused on the role of gangs raises questions about their initial interest in exploring gangs and, perhaps, their desire to attribute the uprising to gang members.

contexts and factors such as population growth, unemployment, and population demographics). While it is unclear whether the Commission was attentive to Upton's discussion in theorizing the uprising as a method of resistance, elements of each of these middle-range approaches are present in *The City in Crisis*. For example, the Commission concludes that Black Angelenos were frustrated by the shifting racial and ethnic landscape, that Black neighborhoods were experiencing high rates of unemployment, and that a general sense of deprivation existed within in Black communities. Upton goes beyond these approaches, however, to offer a new contribution to the literature on urban uprisings.

While noting the strengths of the various middle-range theories, Upton argues that not one theory accounts in a substantial way for racial discrimination and its political relevance. To remedy this, Upton proposes the political perspective, or an approach to theorizing urban uprisings that accounts for political representation, police values and interests, and the relationship between powerholders and "powerless blacks" (p. 256). For Upton, two primary benefits would be gained from such a perspective: first, an understanding of the role of powerholders in engendering and shaping uprisings, and second, an understanding of the interactive relationship between Black participants and those with political power. In both cases, Upton argues that conflict at the political level must be examined if uprisings are to be sufficiently theorized. By doing so, Upton suspects that the political perspective will reveal just as much, if not more, about the political system, than about Black residents. Upton closes with his own application of the perspective to the phenomenon of the urban uprising and what it might reveal about the politics of uprisings.

> From this perspective, rioting[28] as a form of violence is conceived as an anger directed at the inadequacy of the political system to process demands, and to make political and economic allocations in a responsive, equitable, manner. (p. 257)

[28] Upton uses the language of *riot* to describe what I have chosen to term an *uprising*. In quoting Upton, I have left the language of riot/ing intact, but have reframed this language as *uprising* when discussing the content of his work.

Using the political perspective, Upton theorizes that uprisings occur because Black residents are angry that their demands are not being realized at the political level. Based on earlier statements, we can assume that for Upton this occurs, at least in part, because Black individuals are underrepresented as powerholders. Second, and because of this, Upton theorizes that Black residents used the uprising to express their anger that resources were not being fairly distributed across racial groups. In neither case is *rioting as a form of violence* framed as a demand. It is simply an expression of anger. Of course, this is not how the Commission read the uprising, instead offering a conclusion more similar to the former scenario in which the uprising acted as a demand by Black Angelenos to be included in the political processes in the community, especially in relation to how they are policed. In particular, the Commission understood the uprising, in part, as a demand by Black Angelenos to have a better relationship with law enforcement officers in their community. In this sense, we may think of the desire for *political and economic allocations* that are equitable and responsive as the fair distribution of policing, both as a relationship and as a resource of protection and service. Such a reading adds to Upton's text, altering "anger directed at the inadequacy of the political system…to make political and economic allocations in a responsive, equitable, manner" to include a demand: "anger directed at the inadequacy of the political system…*and a demand* to make political and economic allocations in a responsive, equitable, manner." This difference matters because in the former scenario participants are not necessarily seeking a change in the political system. Rather, they are asserting that the political system is ultimately incapable of processing the demands of Black residents, and that Black residents know this.

To read Upton's conclusion with the former assumption – that the uprising was not an attempt by Black Angelenos to achieve political representation – is a more honest reading of text in that it does not amend the text with an assumption that the uprising was a political demand. It is

also to read the uprising as a form of low praxis. In particular, the uprising failed to *confirm hierarchies of doing* that were legible at the political level. The uprising did not express a coherent demand of powerholders and it did not play by the rules of politics. It was not polite, patient, or civil. It did not practice non-violence and it did not engage in positive thinking. It did not seek to improve society by offering a vision of a utopian otherworld. Rather, in its unruliness, incivility, and violence, it sought to destroy society and to reveal the truth of the political system: that there is no room for Blackness in politics. The participants achieved this destruction in material ways as they looted, set fire to structures, and committed interpersonal violence. However, they also destroyed society in figurative ways. By, for example, dragging Reginald Denny out of a motor vehicle and publicly beating him while being video recorded, the participants mimicked the public beating of Rodney King by police officers. The "senseless" beating of Denny, then, becomes a mirror to the senseless beating of King, laying bare the gratuitous violence of the state. Through this, the illusion that the political system is indeed civil, non-violent, or polite, was destroyed. By laying bare the violence inherent in the political system, the state, and civil society, the uprising – even in its extremity – is shown to be no match for the violence that it resists. We see this, for example, as no police officers were killed during the uprising, but at least 42 Angelenos were killed, 5 of which were killed by the LAPD and 21 of which were Black. The violence can also be seen at a more abstract level as the state, rather than supporting the project of Black liberation, sought to extinguish it.

Halberstam closes the book's primer on low theory with the following assertion: "Low theory might constitute the name for a counterhegemonic form of theorizing, the theorization of alternatives within an undisciplined zone of knowledge production" (p. 18). As a form of low praxis, the uprising is a counterhegemonic form of *doing* that engenders undisciplined knowledge. Unlike high praxis, the uprising fails to offer a policy solution that would either address the

problem in the long term or alleviate the impact of state violence in the short term. Through this failure, it reveals society to be irredeemable and in need of destruction. When Upton's text in particular is read in this way, the "struggle between powerholding groups and powerless blacks" (Upton, 1985, p. 256) is revealed to be an antagonism rather than a conflict. That is, it is not a struggle that could be solved through political representation or the fair distribution of resources but a relationship that must be destroyed. In the spirit of queer failure, this knowledge is neither authoritative or absolute but one which may be added upon, or even contradicted, by other forms of low praxis. This is, in part, the lesson of structural abolitionism.

Making Space

Although the purpose of this project is to imagine a framework of legal change that is responsive to evidence of anti-Blackness, my conceptual and contextual analyses both reveal that legal change must be understood as incomplete, shifting, and temporary. It must be understood as experimental and interminable. Put differently, the relationship between anti-Blackness and the law cannot be severed, as anti-Blackness persists both psychically and materially, and theories of legal change must be shaped to fit this reality. In framing legal change in this way, the point is not, like reformism, to accept or tolerate the persistence of anti-Blackness. It is to ask what can be done when faced with the persistence of anti-Blackness in ways that are theoretically sound and cognizant of the potential for redress.

By using here the uprising as a context for understanding limited redress, my purpose is not to suggest that uprisings are a superior mode of resistance (even though my purpose is not *not* to make this suggestion). Further, my purpose is not to argue that Hartman and Halberstam offer privileged insight into what it means to respond to anti-Blackness in ways that are theoretically justifiable. Indeed, other examples of theorizing resistance and redress abound. We might think, for example, of Stefano Harney and Fred Moten's (2013) work on the undercommons as the beyond of

the beyond, Sora Han's (2014) writing on bad lawyering and the negligent negligence case, or Christina Sharpe's (2016) conceptualization of "wake work." Rather than individually reciting each of these influential and capacious works, my purpose is to ask how, in one context, we might locate resistance in the seemingly nonsensical and antisocial and how we might mobilize theories of Black positionality to more deeply understand the potential of redress. In doing this, the umbrella of what it means to respond to evidence of anti-Blackness in the law is widened and theoretical and political space is made to more deeply understand what it means to live in the face of social death. Although resistance to anti-Blackness in the law will not always, or even mainly, play out as seemingly nonsensical and antisocial, this case study provides insight into the ways individuals and communities resist anti-Black racism in the context of the law.

Beyond the L.A. context, we see how frameworks such as those offered by Hartman and Halberstam lead us away from policy solutions focused on measurability, practicality, and efficiency and toward more unruly and covert means of redress. They also lead us away from policies either meant to deconstruct or reconstruct civil society. This, of course, is not to dismiss the role of policy of addressing anti-Black racism, but to challenge the notion that policy alone will remedy the problem before us. Certainly, throughout this project we have seen the ways that good-natured policies can serve to increase carceral control and perpetuate racial logics. In place of a focus on evidence-based policy or even policy rooted in the tenets of carceral abolition, structural abolitionism invites us to consider less strategic means of redress, perhaps those that cannot or should not be named as policy recommendations in the closing paragraphs of peer reviewed journal articles.

CONCLUSION

Theorizing Anti-Blackness Beyond the Political

> Theorists should be able to theorize beyond what the political project can address…We should be able to live with questions that we cannot resolve. (Frank B. Wilderson III, *Irreconcilable Anti-Blackness: A Conversation With Dr. Frank Wilderson III)*

The broad purpose of this project has been to develop a framework of legal change that theorizes the end of anti-Blackness in the law. Necessarily, I argue, this requires a deep understanding of the nature of anti-Blackness, which has been largely absent from the sociolegal literature. To address these issues, I turned to Black studies theories of Black positionality as I developed the concept of *structural abolitionism* as one starting place for understanding a) anti-Blackness and subsequent anti-Black racism, and b) what it might mean to sever the relationship between anti-Blackness and the law. I employed structural abolitionism in a historical context by examining the 1992 L.A. uprising and the post-uprising policymaking process which resulted in the LAPD's adoption of community-oriented policing. Through this contextual analysis, we have seen one example of how criminal legal policies related to race were made and how these policies became embedded in the law. As a result of this, we have seen how community policing – a popular and benevolent policy solution meant to address anti-Blackness in the law – not only fails to address anti-Black racism, but perpetuates racial power. More broadly, by reading the Commission's archive and recommendations alongside theories of Black positionality, we have seen the limits of policy for addressing the problem of anti-Blackness in the law. But how, if at all, do the lessons from L.A. apply to our current moment of anti-Black police violence? What are the political possibilities of structural abolitionism for addressing anti-Blackness in the law? How might we move forward with a productive and meaningful conversation on anti-anti-Black legal change? As this manuscript comes to a close, I consider these questions and others, and ultimately wrestle

with what it means to develop a theory of legal change that is limited in its political potential. First, I begin with a summary and discussion of the results of my contextual analysis.

Social Death and Race-Making in Post-Uprising Los Angeles

The results of the contextual analysis are summarized in Figure 2. Overall, the contextual analysis reveals that the Webster Commission's recommendation that the LAPD adopt a model of community-oriented policing was fundamentally rooted in the Commission's perception of Black communities as laden with crime and disorder. However, through community-oriented policing, the LAPD could increase positive encounters with Black Angelenos while reducing crime and disorder in Black communities. Ultimately, these improvements would serve to prevent Black Angelenos from rising up in the future. The dangers of this line of reasoning have been explored by reading the Commission's reformist understanding of the uprising and future uprising-prevention alongside Black studies concepts of social death, civil society, and redress. These concepts and the broader theories of Black positionality from which they were derived reveal a markedly different understanding of the uprising: that Black Angelenos were (and are) experiencing social death, that Black Angelenos rose up as a form of limited redress, and that Black Angelenos would continue to experience social death until the racial structure of Black/non-Black is destroyed. We see then, that the Commission's both failed to address the problems facing Black Angelenos, and participated in and perpetuated the logic that anti-Black racism could be remedied through practical policy reforms.

An understanding of the problems facing Black Angelenos oriented by the concept of social death has consequences for understanding the work of the Commission, as well as more broadly, for understanding the relationship among anti-Blackness, criminal justice, and reform. First, the analysis helps us understand in new ways how the criminal justice system and the legal reform process re-make racial hierarchies and racial categories. Frequently, racial power in the criminal

Table C.1: Structural Abolitionism's Key Claims, Their Related Provocations, and Results of Analysis			
Chapter	Structural Abolitionism's Key Claims	Questions Raised	Results of Analysis
4	The problem facing Black people is their social death at the structural level and the symptoms of that social death at the social, political, and economic levels.	How did the Commission understand the problem(s) facing Black Angelenos prior to the uprising?	The problem facing Black Angelenos was temporally- and geographically- discrete and exacerbated by the incivility of Black communities.
5	The solution to social death is a) the destruction of the existing relational structure, and b) the creation of a new, non-Manichean relational structure.	How did the Commission propose solving these problems?	If the LAPD transitions to a model community- oriented policing they could reduce tension between the police and the public, while rehabilitating Black communities.
6	Until then, resistance is limited redress within the existing structure.	How did the Commission understand the achievements of the uprising as a form of resistance?	Black Angelenos started and/or participated in the uprising as a form of political catharsis.

legal system is understood through the physical punishment and confinement of Black bodies as facilitated by conservative lawmakers. Examples of this include over-incarceration, police shooting deaths, capital punishment, and harsh disciplinary practices in schools. In each of these cases, racial power is understood as spectacular and excessive. However, my analysis shows how, in at least one context, racial power is also developed more subtly, with the good intentions of liberal policymakers (Murakawa, 2014). In the case of L.A., we see that the racial category of Black was re-situated in relation to the state and to other racial groups as Black communities were framed,

first, as dysfunctional in comparison to non-Black communities, and second, as dependent on the state to remedy that dysfunction through community-level rehabilitative programming. In both cases, the violence done against Black communities is perpetuated through discourse rather than direct bodily harm and through benevolence rather than maliciousness. In this sense, racial power seems rather mundane and certainly not newsworthy. However, the outcome is similar, which is the re-construction of the racial hierarchy.

Second, the analysis enables us to more fully understand the persistence and pervasiveness of anti-Blackness in the criminal legal system, as well as in society more broadly. Specifically, by examining the relational structure between Black and non-Black, we see that the problems facing Black Angelenos extended far beyond factors unique to the L.A. context, or to any local context. Rather, anti-Blackness is embedded in the psychic lives of individuals and communities and becomes entrenched in social practices, institutions, and practices. Its roots run deeply through, and indeed constitute, both our libidinal and political economies. Because of this, anti-Black racism may be dealt with situationally, but new manifestations of anti-Blackness will reemerge across time and space. In this sense, anti-Blackness is resilient to reform of the state or economy, whether those reforms be local, national, or global. This problem, which can be understood as an antagonism rather than a conflict, ultimately raises questions about the limits of the law for addressing anti-Blackness. The question, then, becomes not just how a police department can prevent an incident like the Rodney King beating, or prevent a future uprising, but how to alter, and perhaps eradicate, the categories of Blackness and non-Blackness. Yet the theorists of Black positionality I have engaged throughout the course of this project caution us against thinking that these categories can be shifted through strategy or will. Thus, we are left with a puzzle that cannot be solved at any level of analysis.

Lastly, how we might understand the mode and gravity of redress shifts as we read against the archival grain. If social death shapes the ontological and material existences of Black individuals as many theorists of Black positionality suggest (if not explicitly argue), redress must not – indeed it cannot – be understood as the end of anti-Blackness. It certainly cannot be understood as reform. Indeed, it cannot be understood solely or even mainly as change at the level of politics, the economy, or sociality. Pursuing change at the levels of politics, economy, and social organization may shift, for example, what someone makes in their lifetime, the demographics of democratic representation, or where someone lives. Of course, changes such as these are admirable and desirable, and I would argue, should be considered among opportunities to pursue limited redress. However, the analytic of structural abolitionism and the lens of limited redress lead us to different means and different ends, both in the short and long terms. What this means exactly cannot be prescribed, though we see glimpses of it through work on limited redress, including Hartman's work on the pained body and Halberstam's work on queer failure. By leaving limited redress as a relatively open-ended concept, I hope to spur other theorists to think beyond abolition as the (re)development of civil society, and with it, race and racism. We have seen that such attempts to address anti-Blackness are theoretically misaligned.

The Future of Anti-Blackness: Implications and Future Research

Responding to a question about how his work on the antagonistic relationship between Blackness and Humanity could inform political activism related to anti-Black racism in the university setting, Frank Wilderson responded that theorists of revolutionary movements "should be able to theorize beyond what the political project can address" and that "we should be able to live with questions that we cannot resolve" (2017 begins at 58 minutes 53 seconds). I imagine that this assertion engendered hesitation in many of those who heard it, and those who read it on the page. It is counterintuitive, especially, in fields like criminology and law and society where theory is often

mobilized to solve social problems. But this is the conundrum that theorizing social death in the radical Black studies tradition leaves us with – theory that liberates in an explanatory sense but not a political one. Indeed, if the works of theorists such as Frantz Fanon, Orlando Patterson, Saidiya Hartman, Frank Wilderson, and Jared Sexton are accurate in their theorization of social death, we are left with a body of work that identifies a problem that cannot be resolved – that of anti-Blackness. And if the works of theorists such as Saidiya Hartman and Jack Halberstam are accurate in their theorization of redress (or rather, if my mobilization of their work to understand redress is accurate), we are left with a body of work that is only capable of theorizing political resistance to anti-Blackness as limited redress with a larger anti-Black structure. Of course, this does not necessarily mean that political resistance is meaningless or useless for purposes other than resolution, but that new forms of anti-Black racism and its associated anti-Black violence will continue to emerge even in the face of political resistance. Another way of saying this is that until a slavery-sized breach brings forth Fanon's new species, anti-Blackness will be with us. What does this mean for the fields of criminology and law and society and for efforts to address anti-Blackness through the policymaking process?

Race and Legal Change in the Fields of Criminology and Law and Society

My analyses result in several primary implications for the fields of criminology and sociolegal studies and policymaking that stems from empirical evidence of anti-Blackness. First, this project reveals the necessity of making explicit policy-related theorizations of race and racism. Specifically, my analyses demonstrate the need for both reformists and carceral abolitionists, and others who do not fit into these categories, to make explicit their theorizations of anti-Blackness and anti-Black racism. In both cases, my initial work to identify and critique these two frameworks of legal change for their engagement with anti-Blackness and anti-Black racism has shown them to be wanting. I have attempted to address the gaps left by these frameworks through my theorization of

structural abolitionism, yet plenty of additional work is left to be done. As I have developed structural abolitionism as a framework of legal change that addresses the relationship between anti-Blackness and the criminal legal system, my intention has not been to produce an authoritative model or theory on the subject. That is, my purpose has not been to develop a theory that must be defended against all others (though inevitably, in some contexts, it will be). Rather, it has been to spark a conversation and begin building a body of literature that takes seriously the need to theorize the relationship between anti-Blackness and the criminal legal system as well as develop theoretical resources for severing that relationship. Once this work pertaining to race and racism is done, the merits of the various frameworks can be held in productive tension with one another and eventually produce yet-unthought frameworks of legal change. The ultimate result of doing this type of work is that scholars and policymakers who uncover evidence of anti-Blackness will be able to be guided by rich theories of legal change that seek to not only consider anti-Blackness at the symptomatic level, but at its roots.

Second, my analyses suggest that some of the most important work scholars of criminology and law and society can do in relation to race and racism is to reckon with the possibility that anti-Blackness and its material manifestations will persist despite our best efforts to destroy them. Of course, this does not mean that the contours of anti-Blackness will not change over time and by space – indeed, they will and they do. Saidiya Hartman's (1997) work teaches us that anti-Blackness is nothing if not fungible. It persists at the level of the psyche and shows up in endless ways at the level of politics, the economy, and social relations. But framing racism as pervasive and perpetual is also not to suggest that anti-Blackness must be accepted or tolerated as a social fact. It is to ask, in new ways, what can be done when faced with the persistence of anti-Blackness. In this vein, the need to explicitly theorize race and racism becomes a vital aspect in the production of rigorous and meaningful social scientific research on race and the law.

Third, and related to this, my analyses prompt us to consider what exactly about the relationship between anti-Blackness and the criminal legal system we are trying to change. In the case of reformism – both as it was examined in my conceptual analysis and as it was expressed in post-1992-uprising L.A. – we see that reformism not only fails to address the root causes of anti-Black racism, but can tolerate anti-Blackness and even preserve old racial logics, or engender new ones. For example, in L.A. we saw that the reformist transition of the LAPD from a department that relied on a tough-on-crime, professional model of policing to one that sought cooperation from Angelenos in the form of community policing relied on logics that framed Black communities as uncivilized and in need of state-facilitated rehabilitation. In other words, the reform of the LAPD that began in 1992 was not racially innocent but laden with harmful ideas about Blackness. However, we can also imagine that if the Webster Commission had advocated that the LAPD be abolished and this policy recommendation had somehow been implemented, that the problems facing Black Angelenos would still persist in old and new ways. My work demonstrates, then, that scholars and policymakers who make policy recommendations must be explicit about what it is that their policy recommendation is to address and at which level of analysis this legal change is to be carried out. Or if the policy recommendation is symbolic in nature or plays out at a more abstract or cultural in nature, this too must be identified and recognized. I make this argument not to simply encourage specificity for its own sake, but so that we can take seriously the limitations of the policies we champion, whether they be reformist, abolitionist, or otherwise.

Fourth, my project reveals the importance of further theorizing limited redress. In this project I theorize limited redress as non-prescriptive, creative, and open-ended. This does not mean that any form of redress should be considered to be limited, or that any form of redress labeled as limited should be considered limited redress as I conceptualize the term. Rather, I intend the notion of limited redress as a theoretical space of productive contestation, where we take seriously what it

means to resist anti-Black racism within the existing racial structure. Therefore, how might we consider limited redress as caring for the pained body, or as low praxis? And how might these frameworks play out in practice, at the level of policy? By asking these questions and by continuing to theorize limited redress in both concrete and abstract manners, we will increase our capacity to respond to empirical evidence of anti-Blackness in ways that are theoretically justifiable. In this vein, I would argue that when carceral abolitionists such as Dylan Rodríguez (2010) frame the future – or what lies beyond our violent, carceral common sense – as "impossible" (p. 12), they do not mean that a new social structure is altogether unimaginable. Rather, they are hinting at abolitionism as surprising in its means and unexpected in how it ends. A future rooted in structural abolitionism, then, is not uncertain because it cannot be imagined or attempted but because the space in between now and then is endless in its breadth and depth. It is not simply one thing. And neither is the "mode of being against social relations invested and investing in promises in sovereignty and self-possession" (Han, 2014, para. 5) that flow from it. This is, in part, the lessons that must be explored and expanded on as structural abolition takes form on the page and in practice.

Theorizing Legal Change in Ferguson and Beyond

What the idea of structural abolitionism specifically means for a place like Ferguson, Missouri is worthy of its own project. However, as a starting place, I want to note two things. First, my project demonstrates that the transition to community-based policing in L.A. was rooted in anti-Black logics. Like the Webster Commission recommended in L.A., the first policy requirement in Ferguson's federal consent is that the department adopts a model of community-oriented policing (*United States of America v. The City of Ferguson*, 2016). Although the Ferguson requirement is justified most clearly as a way of bringing police and community members together for the sake of reducing police bias and ultimately reducing negative and/or unwanted contacts with the police, the

decree also notes that community-oriented policing is "more effective" (p. 4), presumably in the sense of crime control. Further, the decree (like *The City in Crisis)* emphasizes the need to deal with crime and disorder within Black communities as it requires that "FPD will conduct monthly command staff meetings to discuss and analyze significant crimes, crime trends, policing complaints, neighborhood quality of life issues, as well as community priorities for policing, and to develop strategies for working with community members to address these issues" (p. 6-7). So long as these are the logics that undergird any effort to address the problems facing Black Angelenos, they will perpetuate rather than reduce anti-Blackness at the level of language, if not practice.

Beyond potentially producing harmful outcomes for Black individuals and communities, my project demonstrates that a failure to account for social death ignores the core problems facing individuals and communities. There is an analogy to be drawn to the oft-cited idea that incarcerating an innocent person not only harms the innocent person but leaves the person who actually committed the harm free to commit further harm to others. The parallel is that if policymakers are focused on the social organization of Black communities, they are ignoring the general dishonor, extreme violence, and natal alienation facing Black Angelenos. And while the example of the free offender is unfitting in many ways because of its carceral logics, it suggests another issue with the failure to account for social death: a deflection of responsibility from the racial structure to Black communities. Black communities end up carrying the burden of addressing neighborhood-level crime and disorder while the larger problem of social death is left uninterrogated and unredressed. It is important to note that the argument I am making is paradoxical in that to recognize and articulate the problem of social death brings us to the problem that social death is a permanent condition of being. It can only be partially redressed, if partial redress is understood as some sort of resistance that is productive toward ends other than total resolution. But as Wilderson reminds us, we must be able to pose questions we cannot answer at the

level of politics. Of course, not all contexts where evidence of anti-Blackness emerges are met with community policing as a primary policy recommendation. However, they typically deflect guilt and are misdirected in other ways. For example, implicit bias training – another core policy that is often implemented in the face of anti-Blackness (and which is now required of the Ferguson Police Department) – diffuses blame to the point of meaninglessness as implicit bias is conceptualized as a once-productive-but-now-harmful cognitive psychological process for protecting one's self and one's family (Petersen, 2019). Even policies directed at police behaviors (e.g. firearm training, First Amendment training, crisis intervention training), while certainly valuable in some ways, fail to properly theorize the root causes of anti-Black racism. As has been mentioned several times already, the consequence of this is that the broader racial structure is ignored. In other words, the similarity between all of these examples is that they do not engage in a thoughtful confrontation with the enormity of social death and its relation to racial slavery.

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To close, I want to return to the difference between anti-Blackness and anti-Black racism. Perhaps the most valuable contribution project this project makes is that it begs us to consider this difference as we imagine and engender legal change. Structural abolitionism is attentive to this difference as it proposes limited redress as one mechanism for responding to and resisting anti-Black racism. However, structural abolitionism understands the end of anti-Blackness as essentially out of reach of policy and beyond the scope of any of us to fully resolve. Yet rather than debilitating us, the analytic of social death frees us as researchers to let go of old ideas of how to address racism in the criminal legal system and consider entirely new, untested (and perhaps untestable), but theoretically-grounded forms of redress that start not by pathologizing Black communities, but by more acute and trenchant analyses of the ongoing legacies of slavery.

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