James Baldwin and the Anti-Black Force of Law: On Excessive Violence and Exceeding Violence

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I think that one thing that remains constant for me is that the system—the prison industrial complex—isn't broken. The system of mass criminalization we have isn't the result of failure. Thinking in this way allows me to look at what's going on right now in a clear-eyed way. I understand that white supremacy is maintained and reproduced through the criminal punishment apparatus.
—Mariame Kaba, "Towards the Horizon of Abolition: A Conversation with Mariame Kaba," interview

I do not claim that everyone in prison here is innocent, but I do claim that the law, as it operates, is guilty, and that the prisoners, therefore, are all unjustly imprisoned. . . . Does the law exist for the purpose of furthering the ambitions of those who have sworn to uphold the law, or is it seriously to be considered as a moral, unifying force, the health and strength of a nation? . . . Well, if one really wishes to know how justice is administered in a country, one does not question the policemen, the lawyers, the judges, or the protected members

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of the middle class. One goes to the unprotected—those, precisely, who need the law's protection most!—and listens to their testimony. Ask any Mexican, any Puerto Rican, any black man, any poor person—ask the wretched how they fare in the halls of justice, and then you will know, not whether or not the country is just, but whether or not it has any love for justice, or any concept of it.
—James Baldwin, "No Name in the Street"

It has become a refrain in abolitionist activism that, as Mariame Kaba (2017) argues, events marked by apparently excessive violence (such as the killing of an unarmed person by police or the abuse of incarcerated people by correctional officers) or seemingly obvious miscarriages of "justice" (such as the nonindictment of a police officer caught on camera choking an unarmed and nonresistant man to death) are not aberrations of the so-called criminal justice system but in fact register the system working as it is constructed to work. For some thinkers and organizers, such a diagnosis is too pessimistic insofar as it forecloses the possibility that the problems of racism, classism, ableism, queer antagonism, and sexism that abound in carceral institutions and practices can be solved by reforming those institutions and improving those practices.

In this essay, I lean into rather than away from this pessimism to think alongside James Baldwin. There has been recent resurgent attention to Baldwin as academics, public intellectuals, filmmakers, and curators engage with his work through the lens of the Movement for Black Lives. Continuing this turn, I read Baldwin as a theorist of the law and, ultimately, an abolitionist. By reading "The Fire Next Time" (1963) and "No Name in the Street" (1972) through a theoretical framework (primarily) formed by Saidiya Hartman, Jacques Derrida, Alexander Weheliye, and Christina Sharpe, I argue that policing in the United States is inherently organized by a(n) (il)logic of anti-Blackness that necessitates racist violence as a structural component of its practice. This pessimistic diagnosis is then extended through Baldwin's own theorizing on the Black Panthers' conception of "self-defense" to illustrate that while policing in the United States can never not be excessive in its racist violence, the Black subjectivity that would seemingly be obliterated by this excessive force of law ultimately exceeds the reach of the policeman's club or bullet, without losing sight of the bodies left in those weapons' wake.

Black Studies as Critical Legal Studies

The work this essay seeks to do in mining Baldwin's interrogations of law, police, and prisons is and has been the work of the field of Black studies at large for decades. This brief initial section will thus outline work by a small number of theorists key to my particular argument and how it will frame my reading of Baldwin. There are two currents of this framework. On one side, Hartman and Baldwin supplement the caesura in Derrida's articulation of "the force of law" by outlining how Black subjectivity within the law is formed through excessive violence. On the other side, Weheliye and Sharpe highlight that though Black subjectivity is formed by and through violence, Blackness simultaneously exceeds violence. These two strands of thought converge in the abolitionist impulse of Baldwin's work.

In *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (1997), Hartman argues that the Black subject comes into existence as the object of the law's violence without ever being subject to the law's protection. For her, "attempts to assert absolutist distinctions between slavery and freedom are untenable," both in terms of conceptual coherence and historical event (13). That is, the "freedom" granted by law to its subjects is inseparable from the violence of slavery, and so maintaining law's order conceptually entails the maintenance of the violence structuring the Black subject as non-Human. As a matter of historical fact, Hartman's work thus focuses on how the institution of policing emerges out of the institution of slavery, which she traces as "the shift from the 'power of police' all whites exercised over slaves to the supreme police power exercised by the state, and what occurred in its wake was the banishing of Blacks from public society" (170).

This insight supplements Derrida's argument in "Force of Law: The Mystical Foundations of Authority" (1990). Here Derrida thinks with Walter Benjamin's "Critique of Violence" (1921) in distinguishing between justice and law, characterizing the former as "undeconstructable" and the latter as inseparable from violence or "force." For Derrida, there is no law without enforceability, and enforceability denotes the use of violence. He thus spends much of his energy in "Force of Law" considering the im/possibility of a distinction between the violence that inaugurates the law and the violence that maintains the law while asking if it is possible to separate "just" or "legitimate" force from "unjust" force. While Derrida briefly mentions the police as the physical instantiation of the force of law, Hartman—and ultimately even more clearly, I argue, Baldwin—flesh out what is only thinly theorized by Derrida's otherwise generative abstraction. Namely,

Hartman and Baldwin name the object of the law's violence that goes unnamed in Derrida's essay: the Black subject.

In *Habeas Viscus: Racializing Assemblages, Biopolitics, and Black Feminist Theories of the Human* (2014), Weheliye draws on the work of Hortense Spillers and Sylvia Wynter to critique Michel Foucault and Giorgio Agamben's theorizations of bare life, social death, and biopolitics. In doing so, Weheliye recognizes that "the legal conception of personhood comes with a steep price" (78) but moves from habeas corpus to *habeas viscus* to underscore that "the flesh is nothing less than the ethereal social (afterlife) of bare existence" (72). In short, the law's violence both marks the bare life of racialized assemblages such as the Black subject *and* is exceeded by a "fleshy surplus" through which alternative genres of the Human are practiced beyond the law's force. Similarly, in *In the Wake: On Blackness and Being* (2016), Sharpe invokes the term *wake* through multiple registers, implying genres of mourning the dead as much as the after flows of a ship through water and the process of awakening to consciousness. She writes, "To be in the wake is to live in those no's, to live in the no-space that the law is not bound to respect, to live in no citizenship, to live in the long time of Dred and Harriet Scott; and it is more than that. . . . To be in the wake is also to recognize the ways that we [Black people] are constituted through and by continued vulnerability to overwhelming force though not *only* known to ourselves and each other *by* that force" (16). That is, Blackness is undoubtedly characterized through a precarious proximity to death, but Black subjects are not reducible to that vulnerability.

So the framework is as follows: law's violence exceeds the capacity for justice insofar as anti-Blackness is its condition of possibility (Derrida and Hartman). Black being, even as the object of law's excessive violence, proceeds to exceed that violence (Weheliye and Sharpe). This doubleness is at the heart of Baldwin's theorizations of the law.

(Anti-)Blackness as the Law's Condition of Possibility

In "The Fire Next Time," Baldwin meditates on the position of Black Americans, whom he calls American Negroes, in contrast to Black Africans. Baldwin ([1963] 1998: 335) insists that the American Negro is a particular construct existing only in the United States: "I am, then, both visibly and legally the descendant of slaves in a white Protestant country, and this is what it means to be an American Negro, this is who he is—a kidnapped pagan, who was sold like an animal and treated like one, who was once defined by the American Constitution as 'three-fifths' of

a man, and who, according to the Dred Scott decision, had no rights that a white man was bound to respect."

The historical content in this sentence is probably familiar to most critical students of American history: Africans were brought to America mostly as enslaved chattel; colonial law evolved from the early 1600s to further solidify the construct of race throughout the seventeenth century, eventually basing the condition of enslavability on the criterion of legible Blackness in the eighteenth century; then US law was inaugurated to continue the propagation of slavery as an institution that reduced enslaved people to the status of property, a paradox of which gets articulated in the often celebrated "three-fifths compromise." And eventually, the law sutured Blackness so tightly to enslavement through a legal framework that privileged property rights over civil rights that even African Americans who found themselves on land where slavery was illegal could still be claimed as property because whites were not bound to respect the rights of Black people. The law of slavery is what gives the Negro his existence as a recognizable piece of the US political structure, and so in the case of Blackness, race is produced by law.[1]

If we take seriously the intermingling of Baldwin's recollection of his "prolonged religious crisis" with his recollection of interactions with police officers describable only in terms of verbal and physical violence, Blackness emerges as an identifying marker of the American Negro produced not only by the law as a set of rules but also by the law as violence. This is because Baldwin does not write about the law in the abstract or even as a matter of textuality; he writes about being cursed at, frisked, thrown to the ground, whipped, and secreted into precinct basements by police officers. Baldwin knows the law through bodily contact.

Throughout "The Fire Next Time," Baldwin assumes the role of a witness giving testimony before the law. He recalls having "seen men dragged from this very corner" by police, who dispersed crowds "with clubs or on horseback" (314); he writes of having "been carried into precinct basements often enough" (317); he

1. This paragraph is attempting to do the work that entire other books do. One such book would be *Scenes of Subjection*, which I would argue deserves to be read as a legal history as much as a piece of critical theory or literary and cultural analysis. A small sample of other relevant works include Edward Baptist's *The Half Has Never Been Told* (2014), Sarah Haley's *No Mercy Here: Gender, Punishment, and the Making of Jim Crow Modernity* (2016), Douglas A. Blackmon's *Slavery by Another Name: The Re-enslavement of Black Americans from the Civil War to World War II* (2009), Ibram X. Kendi's *Stamped from the Beginning: The Definitive History of Racist Ideas in America* (2016), Stephanie Smallwood's *Saltwater Slavery: A Middle Passage from Africa to American Diaspora* (2008), Khalil G. Muhammad's *Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (2011), and Edmund S. Morgan's *American Slavery, American Freedom* (2003).

remembers being thirteen years old and hearing a police officer, on passing him in the street, complain about "niggers" not staying uptown, as well as "two policemen amus[ing] themselves with me by frisking me, making comic (and terrifying) speculations concerning my ancestry and probable sexual prowess, and for good measure, leaving me flat on my back in one of Harlem's empty lots" when he was just ten years old (298). And so when he reflects that "it was absolutely clear that the police would whip you and take you in as long as they could get away with it" (299), such a conclusion about the function of the law as a race-producing force is reached by claiming the veracity of embodied experience.

Generalization from embodied experience is an interpretive tool for understanding the functions of law, as the broad field of legal scholarship known as critical race theory has established. In her article, "Looking to the Bottom: Critical Legal Studies and Reparations," Mari Matsuda ([1987] 1995: 63) writes, "What is suggested here is not abstract consideration of the position of the least advantaged. . . . Instead we must look to what Gramsci called 'organic intellectuals,' grassroots philosophers who are uniquely able to relate theory to the concrete experiences of oppression." Matsuda's point is that we can learn as much about the phenomenology of law from reading Frederick Douglass as we can from Oliver Wendell Holmes. And while her initial statements suggest that organic intellectuals like Douglass merely relate theory to experience, as her argument develops she points to one way in which this testimony from the bottom opens new conceptual ground by theorizing in the seemingly uncrossable lacuna of critical legal studies. Matsuda asks, "How could anyone believe both of the following statements? (1) I have a right to participate equally in society with any other person; (2) Rights are whatever those in power say they are. One of the primary lessons [critical legal studies] can learn from the experience of the bottom is that one can believe both of those statements simultaneously, and that it may well be necessary to do so" (65). Looking to the bottom opens the theorization of the "both/and" demanded by the politics of deconstruction: the insistence on deconstructing law while believing that "justice in itself, if such a thing exists, outside or beyond law, is not deconstructable" (Derrida 1990: 945).

In every stroke of his pen, Baldwin is theorizing in this difficult both/and. We see this in "The Fire Next Time" as he holds on to both the assertion that "there is absolutely no reason to suppose that white people are better equipped to frame the laws by which I am to be governed than I am" (342) and the diagnosis that "there is simply no possibility of a real change in the Negro's situation without the most radical and far-reaching changes in the American political and social structure" (335). The first assertion is a demand to be included in the representa-

tive mechanism of the United States' democratic republic, while the second is a demand to rethink the very foundation of that republic. Baldwin is not contradicting himself. He does not believe that America as it was at the time was capable of making Black freedom truly possible, since America's condition of possibility was and is Black unfreedom. At the same time, Baldwin absolutely believes in his and any Black person's right to shape the laws that govern the United States. The law may not be able to deliver justice, but that does not mean Baldwin gives up on the possibility. And this is not a mere hypothetical or theoretical exercise for him.

To repeat, Baldwin theorizes this both/and through his abstraction vis-à-vis his embodied experience. Haptically knowing the police is a way for knowing the law, and insofar as the police are the embodiment of the law, Baldwin's knowledge of the law comes through violence. And philosophically, in the text of "The Fire Next Time," Blackness comes to know itself as produced by the law through violence. In this way, Baldwin severs the term *law* from the term *justice*, as any account of race and law in the United States must do.

But Baldwin refuses to only sever; he also sutures. In separating law from justice, he also attaches the former to the phenomenon of violence through the police officer's enforcement and the lived conditions of those he calls Negroes. "The Fire Next Time" thus highlights what would become a central question for Derrida in "Force of Law." In his extended essay, Derrida (1990: 925) occupies himself with thinking the seemingly simple truism that "there is no such thing as law that doesn't imply *in itself*, *a priori*, *in the analytic structure of its concept*, the possibility of being 'enforced,' applied by force." That is, the law means nothing if there is no capacity for making sure people follow what it says. The law can function only if it has as part of its structure the capacity to inflict violence. On a different register, Hartman (1997: 205) extends this through her analysis of police power, violence, the state, and the social as "the law's excess."[2] For Hartman, as with Baldwin, the law is that which maintains social order using force. On the one hand this sounds like a radical indictment of the law and its officers, but on the other hand it is basic social contract theory.

Without spending the time to close-read Locke, Hobbes, or Rousseau, or even John Rawls or Charles Mills or Carole Pateman—a worthy task that is beyond the scope of my present essay—one essential strand of mainstream social contract theory has been the state's monopoly on violence. Basically, citizens agree to cede their claims on means of violence to the state to be used to maintain order.

2. See chap. 6, "Instinct and Injury: Bodily Integrity, Natural Affinities, and the Constitution of Equality" in *Scenes* for an elaboration of the policing-state-violence-social nexus.

Put simply, I give up my right to bash your skull in for stealing my property in exchange to the police so that they can physically restrain (and injure and kill) people engaged in "criminal" activity as a way of preventing innocent folks from being harmed. So, the state has a monopoly on violence embodied by the police. The police patrol the borders of the law. Inside these borders are those who are members of the body politic, the citizens who have agreed on the social contract and are thus protected by it in the form of the violence of the law as embodied and performed by the police. Should any person break the social contract, they remove themselves to the outside of the law's protection from violence.[3] Once on the outside, they are subject to the (legal) violence of the police because they are beyond the law's protection.

Hartman observes that Black people in the United States are both inside and outside the law.[4] They are within the vision of the law as potential criminals subject to the law's punishments, but they are outside the law's reach of protection insofar as they are not counted as fully Human citizens that merit protection from violence. And so, extralegal violence against Black bodies is made legal in the sense that violence against a body outside the boundaries of the law, especially when enacted on a presumed criminal—and as Hartman (1997: 189) writes, "the slippage between being Black and a felon is quite remarkable in this punitive ontology of race"—is the legal violence of policing.

Here we have an account of the law's magic—the transubstantiation of extralegal violence into that which is necessary to maintain order. The policeman's badge—like the slave catcher's badge when he was operating in a Northern city after the Fugitive Slave Act—casts a spell that makes an illegal chokehold a mechanism of justice. It has always already been permissible, according to this account of American law, to violently attack Black subjects.

After invoking without fully unpacking this aspect of social contract theory, Derrida (1990: 927) asks, "What difference is there between, on the one hand, the force that can be just, or in any case deemed legitimate . . . and on the other hand the violence that one always deems unjust?" Derrida asks these questions in arguing that law comes into existence through a founding violence, and that this found-

3. This is of course more complicated because of the ways in which suspected criminals are guaranteed due process. Of course, convicted criminals then have rights and freedom of movement taken away, so on conviction this model of the criminal outside the boundaries of protection does seem to hold in the form of "civil death," about which Colin Dayan writes in *The Law Is a White Dog* (2011).

4. Hartman sustains this argument throughout her book, but to see it particularly lucidly illustrated, see the chapter "Seduction and the Ruses of Power," especially the opening and the section titled "The Violence of the Law."

ing violence is indistinguishable from the violence it requires of itself to enact in order to sustain its very existence. That is, the structural violence of the law inaugurated by the social contract is both that which births law as the "ordering" force of society and that which sustains law as the fabric keeping us all together.

It is at this point in "Force of Law" that it becomes most apparent why we ought to include Derrida in this constellation of thinkers through which we can read Baldwin on law. After all, the tension of indistinguishability between the "legitimate" force of law and the force "one always deems unjust," and the indistinguishability between the law's founding violence and its sustaining violence, are most apparent in the very structuring terms of Baldwin's thinking—the police. "But what today bears witness in an even more 'spectral' way in mixing the two forms of violence," Derrida (1990: 1005) writes, "*is the modern institution of the police*" (my emphasis).

Thinking Hartman and Derrida alongside Baldwin as a way of occupying what Matsuda identifies as the apparent lacuna of critical legal studies[5] engages the reasoning behind Baldwin's fundamental skepticism of the law. Black studies scholars like Hartman, Sharpe, Weheliye, Spillers, Wynter, Jared Sexton, Calvin Warren, and Fred Moten have been and are thinking in this gap between law's monopoly on violence and actual embodied conditions of possibility of the social contract written in the blood of Black people. They are seeking analyses of how the Black subject comes into being as the ground on which the law is erected while also exceeding and escaping the reach of the law.[6]

As already mentioned, even as he does so by way of everyday embodied experience, Baldwin theorizes the Negro as a conceptual figure brought into existence by the law through the violence of slavery. So when Baldwin claims "the Negro" as the figure that best describes his own existence in the mid-twentieth century, he is claiming a figure haunted by the pejorative contained in the capitalized letter *N* that begins its name and can never let go of the founding violence of the law. Thus, for Baldwin, no matter what the law does to claim a change in the position of the

5. This lacuna is admittedly less glaring today than it was when Matsuda first published "Looking to the Bottom."

6. Not that all Black studies scholars would agree, of course. Moten and Sharpe, for example, would certainly insist, in different ways, by different means, and to different degrees, that Blackness exceeds or escapes the reach of the law. For Moten Blackness indexes a kind of "fugitivity" even as white supremacy remains. On the other hand, Warren would insist that the question of escaping the law is nonsensical, since escaping is something a subject does, and there is no Black subject because Blackness has no ontological ground on which to assert axiological value. See Moten 2013, Sharpe 2016, and Warren 2018.

Negro, it is impossible to construct a "postslavery" Negro or a "post–civil rights" Negro. In Sharpe's (2016: 21) words, "the semiotics of the slave ship continue" in "the reappearances of the slave ship in everyday life in the form of the prison, the camp, and the school." The barrier that the law would erect between the founding violence of law that brings the Negro into existence as thing and the continued violence of law in the present that treats the Negro as object is revealed to be full of holes by the very concept the law inaugurates.

So if the construct of the Negro is produced through law, and the law is produced and maintained through violence, then the construct of the Negro is produced and maintained through violence. But Baldwin's insight is in the mutual imbrications and coconstitutive relationship of these inextricable concepts. Rather, if violence becomes the inaugurating condition of the law, then Blackness becomes a constituting force of law. He is anticipating Sexton (2011: 36), as, indeed, "the law is dependent on what it polices."

To return to Baldwin's pronouncement that to be a Negro in America is to be the descendant of enslaved Black people defined as property, as non-Human, as "flesh" in Spillers's (1987) words, and as not possessing rights that white people are bound to respect, to be a Negro in America, then, is to be a product of the law and the object against which the force of law acts in maintaining the law's very enforceability and therefore its very existence. Blackness thus does not merely exist in relation to law as that which is outside it and therefore oppressed by it, but Blackness is inscribed in the law as that other which receives the violence meted out by police that ensures the law's possibility. Thus to extricate Blackness from law is to tear apart the fabric of law—and, if we follow Hartman, the entire social world, and, if we follow Weheliye as we will below, the entire category of the Human as Man—itself.

Anti-Blackness as Both/Neither Legal and/nor Extralegal

Even after the signing of the Civil Rights and Voting Rights Acts and the immediate signs that such legislation is ultimately inadequate, Baldwin continues to write about the law, perhaps most directly in "No Name in the Street," an essay that began as a meditation on the lives and deaths of Martin Luther King, Jr., and Malcolm X. In this essay, the fact that the law is violence—made material in the form of police and prisons—becomes a given for Baldwin and thus no longer a point that needs to be argued but a point from which to argue.

Baldwin argues that the demarcation between that which is and those whom are inside and outside the law is based in appearance alone. This has two valences:

on one level, this means that actions that are supposedly within the scope of the law are not substantively different from actions ostensibly prohibited by the law; and on another level, this means that individuals who are supposedly embodiments of the law—that is, the police—are actually different from those who ostensibly embody the law's limits—that is, criminals—only in appearance, not in substance. In Baldwin's ([1972] 1998: 452) words, "It means nothing therefore, to say to so thoroughly insulated a people [as white and privileged Americans] that the forces of crime and the forces of law and order work hand in hand in the ghetto, bleeding it day and night. It means nothing to say that, in the eyes of the Black and the poor certainly, *the principle distinction between a policeman and a criminal is to be found in their attire*" (my emphasis). This emphasis on attire pushes Baldwin's argument beyond a simple (and still important) assertion that the justice system is racist by exploding the difference that defines justice in terms of legality.

The argument of "No Name in the Street" begins in France. In recalling the atmosphere in Paris during the early years of the Algerian War, Baldwin describes the precarity faced by anyone in Paris "who was not, resoundingly, from the north of Europe" when hailed by the Paris police officer (375). In one scene, Baldwin describes "two young Italians" who, "speeding merrily along on their Vespa, . . . failed to respond to a policeman's order to halt, whereupon the policeman fired, and [their] holiday came to a bloody end" (376). While this brief account lacks the venom of the passage in which Baldwin differentiates between the cop and the criminal based solely on appearance, it is appearance that emerges as the marker of the law in this (ocularcentric) earlier moment in "No Name."

Within the shades of whiteness that are visible in Europe, Italians can be identified against the French by perhaps being marked by a slightly darker, more Mediterranean hue. The policeman's visibility, in contrast, comes not through an ethnic identity readable in his skin color—during a time when skin color could ostensibly differentiate between enemies on opposite sides of a colonial war—but instead from his attire. He is dressed in the garb of the state and armed with the instrument of its monopoly on violence. The policeman is the embodiment of the (colonial) law, and the Italians embody the shades of the (colonized) criminals who exist outside that law in their failure to heed the law's hailing. Even though they are Italian and not Algerian, in appearance the darker-skinned Italians can be read by the eyes of the law as outside its arm of protection. In this French-Italian example, the borders of the law fall along national borders, highlighting what was perhaps only implicit in "The Fire Next Time." If the police are the embodiments of the violence that is the force of law (Baldwin and Derrida), and if the force of

law is that which secretes the social as law's excess by enforcing a defined order on the people of a state (Baldwin and Hartman),[7] then Baldwin's analysis of the violence of policing is also an analysis of the violence of the liberal nation-state itself. Policing operates on anti-Black logic, and the nation-state is an anti-Black project.

It is important that this moment come early in Baldwin's essay, for it establishes the stakes of what is to come. What happens when legal agents of the state are granted the authority and means—the power—to end life? This question is given frightening inflection when brought back across the Atlantic Ocean to the United States, where the context of assumed inherent criminality shifts from colonial war to the specificity of anti-Blackness.

At one point, Baldwin recalls an encounter he had with "one of the most powerful men in one of the states [he] visited" (390). We don't learn exactly what this person's official position was, though it is not hard to imagine him as a senator, representative, governor, or other kind of government official. While the scene serves mainly as an occasion for Baldwin to offer complex meditations on power, sex, sexuality, and love, there is also an important moment when the mortal threat of policing rears its head: "This man, with a phone call, could prevent or provoke a lynching" (390). We don't know for sure if this man is indeed an employee of the state, but we do know that lynching can be interpreted as a kind of policing. And yet, it is definitively an extralegal means of policing, supposedly outside the realms of the law. But there is a possibility that this man could be a worker of the very law that precludes lynching from the legal means of its own enforcement. Thus Baldwin gives us two different forms of violence—legal, such as when a police officer shoots those who do not obey his hail, and extralegal, such as when a person is lynched—and brings them into a common space for interpretation.[8]

There is a literal common space for interpreting legal and extralegal vio-

7. From page 199 of Hartman's (1997) *Scenes*: "As Pasquale Pasquino notes, the exercise of police power constitutes the population as its object. The science of police constitutes and fashions the social body. The limitlessness or amorousness of this power, which is one of its defining characteristics, is evidenced in 'the plethora of petty details and minor consequences.' Key in thinking about the enactment of withholding by the state is Pasquino's observation that police powers are 'sort of spontaneous creations of law or rather of a demand for order which outreaches the law'. . . . What I am trying to detail here is the inventiveness of the law, the ambiguity that shrouds what is within and without the reach of the law, and the excess of the law and that which is in excess of the law."

8. For more on the distinction between legal and extralegal violence in terms of lynching and policing, see Bryan Wagner's *Disturbing the Peace: Black Culture and the Police Power after Slavery* and Jacqueline Goldsby's *Spectacular Secret: Lynching in American Life and Literature*. I have also written on this distinction regarding stop-and-frisk policing practices, racial profiling, and the history of lynching in a special issue of *CLA Journal* (Goldberg 2016).

lence within the geography of Baldwin's essay, and that is the American South itself; more specifically, it is the Jim Crow–segregated restaurant into which he accidently enters through the wrong door. He fails to be hailed correctly by the entrance signs. Like the case of the police officer's uniform, the law enters Baldwin's text in the form of a dressing, this time an ornament of a business establishment, and the danger of (extra)legal violence is presented when a Black person fails to heed the hailing of this instantiation of the law. In failing to be hailed, however, Baldwin enacts a mode of being in excess of the law precisely as his flesh is threatened with violence, if we follow Weheliye's (2014: 110) discourse on pornotroping when he writes, "Instead of emerging as an ontological condition, flesh comes into view as a series of desubjectivations, which are always already subjectivations, that hail the slave and the spectator in order to engrave upon him or her the hypervisible yet also illegible hieroglyphics of the flesh." Baldwin thus not only "fails" to move according to the hail; he moves, as (de)subjectivated flesh, in excess of the hail. His subjectivity is not destroyed, but the moment highlights "how violent political domination activates a fleshy surplus that simultaneously sustains and disfigures said brutality" (2).

While walking in a Southern town, Baldwin turns and enters a restaurant on a corner and is met with the paralyzing stares and deafening silence of an establishment full, at least visibly, with only white people. A woman eventually breaks the silence, barking, "What you want, boy?" Baldwin backs away and hears a voice behind him directing him to a separate entranceway. Upon turning around and seeing a white man, as Baldwin ([1972] 1998: 397–98) reflects, "This man thought that he was being kind; and he was, indeed, being as kind as can be expected from a guide in hell."

Baldwin goes around to the other entrance, fearing what confrontation could come if he were to answer back, especially given his northern accent. Indeed, there exists a script that these actors clothed in the color of their skins are expected to follow on the stage set by Jim Crow's dance. In this moment, the police officer's gun and the lynch mob's rope imagined in the earlier two scenarios come together, as Baldwin tells readers: "It was impossible to get anything but bourbon, and the very smell of bourbon is still associated in my mind with *the mean little eye of deputy sheriffs and the holster on the hip and the ominous trees which line the highways*" (400, my emphasis). Here in the American South, a Black "boy" could be shot by the gun on the hip of the sheriff's deputy and hanged from the tree on the side of the road by a lynch mob of respectable citizens. He is subject to both legal and extralegal violence as means of policing his subjectivity, so that the two forms of violence become indistinguishable.

The Black Panthers and Baldwin's Abolitionism

Since *Notes of a Native Son*, Baldwin has pointed out how whiteness has packed the potential for its own demise within its own means of control, its own weakness within its ostensible strength. This is no different in "No Name in the Street," since in this very moment of segregation, the potential for violent backlash against Jim Crow—the potential for self-defense—is made powerfully present.

After seating himself in the "colored" portion of the restaurant, Baldwin realizes, "I was nearly close enough to touch them, certainly close enough to touch her, close enough to kill them all, but they couldn't see me, either" (398). In this moment Baldwin embodies or, better, enfleshes Weheliye's concept of *habeas viscus*. The flesh, Weheliye (2014: 2) writes, "represents racializing assemblages of subjection that can never annihilate the lines of flight, freedom dreams, practices of liberation, and possibilities of other worlds." Baldwin seating himself at the segregated counter is not merely a defeat at the hands of the state, the law, and (the threat of) force. It is also in excess of the state, the law, and (the threat of) force that disfigures even as it sustains the social order.

In a scene that eerily mirrors Herman Melville's Babo holding a shaving razor in "Benito Cereno," in "No Name" Baldwin recalls a barber who refuses to register to vote in consideration of the threat of violence posed by his white customers. In his interaction with this barber, while it would seem that Baldwin would be displeased by the refusal to register to vote, the man's "response made it impossible to disagree with him: he may have been planning to cut a white man's throat one day. If I had been white, I certainly would never have allowed him anywhere near *me* with a razor in his hand" (392–93). Every stroke of that barber's blade on the soft flesh of a white man's exposed throat is the discourse-brushed flesh of the object of the law's force brushing back against the body of the state—its law. This is because, to follow Hartman (1997: 199) in her reading of *Plessy v. Ferguson*, "police power was little more than the benevolent articulation of state racism in the name of the public good. The identification of the state with its subjects was thus inseparable from the process of creating internal enemies against which the comfort and prosperity of the populace could be defended." Simply put, the Black barber, like Baldwin at the "colored" counter, is the internal enemy of the state against which police power is deployed to maintain the social order of the state's body politic. But, because the racialized assemblage produced by this objectification exceeds the force of law, it can retain the potential for an act of self-defense that would undo the social order being thus maintained by law's violence.

It is this potential for self-defense that frames Baldwin's ([1972] 1998: 454–55)

advocacy for the politics of the Black Panther Party for Self-Defense. He describes their emergence as "inevitable":

> Yet the advent of the Panthers was as inevitable as the arrival of that day in Montgomery, Alabama, when Mrs. Rosa Parks refused to stand up on that bus and give up her seat to a white man. That day had been coming for a very long time; danger upon danger, and humiliation upon humiliation, had piled intolerably high and gave Mrs. Parks her platform. . . . Just so with the Panthers: it was inevitable that the fury would erupt, that a black man, openly, in the sight of all his fellows, should challenge the policeman's gun, and not only that, but the policeman's right to be in the ghetto at all.[9]

If Baldwin is aligning himself with the Panthers, who "are far from being an illegal or lawless organization" but instead are understood in "No Name" as "a great force for peace and stability" (455), then he is also aligning himself with the critique made by the very existence of the Panthers: the American legal system does not include Black people in its boundaries of protection, and yet it punishes these same people with its monopoly on violence.

Baldwin's theorizing is not only illuminated and enriched by theorists like Weheliye and Hartman, but Baldwin himself illuminates and enriches those theorists. Baldwin reads the Panthers as responding to the police as an embodied claim of the state's legitimacy. But he then articulates that the Panthers respond to the nonevent of emancipation by refusing to recognize the legitimacy of the law and its force. Thus the legal anti-Black violence of the police is rearticulated by Baldwin and other radical Black thinkers as "the violence which one always considers unjust." The system is established on the originary foundation of anti-Black violence, but survival must still be possible within that system's daily enactment of anti-Black violence that sustains the state's existence.

Simply put: the logic of policing in the United States is the logic of anti-Blackness. This logic dissolves the distinction between legal and extralegal violence directed at Black subjects; it is always unjust violence. This violence, which is both/neither legal and/nor extralegal is structurally inherent in the law as the necessary potential for the law's enforceability. This is the only way to make

9. This framing of the Panthers as both inevitable and an instantiation of the practice of self-defense takes as its assumption something like Sexton's (2007: 201–2) formulation in "Racial Profiling and the Societies of Control" that "the ethos of slavery—in other words, the lasting ideological and affective matrix of the white-supremacist project—admits no legitimate black self-defense, recognizes no legitimate assertions of black self-possession, privacy, or autonomy."

sense of New York Police Department officer Daniel Pantaleo's nonindictment in 2014 for killing Eric Garner. Because the system depends on the expendability of Black people, who are assumed as always already criminal and therefore beyond the law's protection, as the necessary objects of the violence that maintains the law, it is necessary by the law's own logic of policing that Pantaleo's violence not be deemed unjust. Policing in the United States is racist not merely because of individual prejudice but because it is inherently structured by racism as its founding and maintaining violence.

It may seem like there is no way out of this situation. But as Baldwin highlights in the scene with the Black barber holding his blade against the throats of white men, because of the dependent relationship between the law and its objects of violence, the law's ostensible monopoly on violence is constituted by vulnerability and thus is never truly a monopoly. The social structure as it is maintained by law is haunted by the very specter the law seeks to keep at bay: the Black revolution that would literally undo the world as it is known.

As Kaba (2017) notes, the system is working exactly as it is structured to work. But other ways of being are possible. Throughout her work, Kaba articulates how radically revisioning our notions of community and relationality in both philosophical and concrete ways is the work of abolition that not only seeks to tear down systems of oppression but also build up a life-sustaining network of accountability and care.

Here, too, the Panthers provide the best possible closing note. In their refusal of the state's legitimacy and their turn toward caring for their own vulnerable communities—think of the breakfast program as prominently as the armed patrolling of the police—the Panthers were wrestling with the questions Sharpe (2016: 101) articulates in *In the Wake* when she writes, "How are we beholden to and beholders of each other in ways that change across time and place and space and yet remain?" It is in this being beholden to each other, and in his reading of the Panthers' attempts at this beholding, that Baldwin's abolitionism emerges even if he never names it as such. What Baldwin's work dares to do is imagine that the world need not be the way it is. He is not merely describing the excesses of law's violence; he is theorizing the possibilities that exceed that violence. Because, in Sharpe's words, Black people "are constituted through and by continued vulnerability to overwhelming force though not *only* known to ourselves and each other *by* that force" (16), Black subjectivity, for Baldwin, is crafted by the force of law via the policeman's club and the slave master's whip, but it also lives beyond the reach of the club and whip. There are worlds within the world, and the Panthers are merely one vision on which Baldwin focuses in his gaze toward what Kaba

calls "the horizon of abolition." Without ever leaving this world and all its terror, Baldwin theorizes another.

A world without prisons.

A world without police.

A world where Black people can breathe.

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