

Introduction

A Personal Protection Agency

Christian Cooper loves birdwatching. He became fascinated with birds at the age of ten after building a feeder as a 4-H project and watching the various species visit his backyard.⁶ In college, Christian served as president of the Harvard Ornithological Society.⁷ He currently serves on the Board of Directors of New York City Audubon.⁸ He has appeared in birdwatching documentaries,⁹ often while exploring an area of New York's Central Park known as "The Ramble," a wild 36-acre woodland that is home to more than 230 species of birds.¹⁰ Christian Cooper also happens to be Black.

On Memorial Day 2020, Christian was birdwatching in the Ramble when he happened upon a woman walking her dog off-leash. City regulations require dogs to be leashed in the Ramble, both to protect the years-long restoration project creating the sanctuary and to minimize disruptions to wildlife, including birds.¹¹ Avid birdwatchers report regular violations of this rule and often record off-leash dogs to support enforcement.¹² Christian recorded the dog he saw that day. What happened next made national headlines.

In a video later posted to social media by Christian's sister, Christian asked the dog's owner, Amy Cooper (no relation to Christian), to leash the dog.¹³ She refused

⁶ Sarah Maslin Nir, *The Bird Watcher, That Incident and His Feelings on the Woman's Fate*, NEW YORK TIMES (May 27, 2020), www.nytimes.com/2020/05/27/nyregion/amy-cooper-christian-central-park-video.html.

⁷ Royce Dunmore, *Christian Cooper: Everything to Know About Man Who Exposed Central Park "Karen,"* NEWSONE (May 26, 2020), <https://newsone.com/3948383/christian-cooper-everything-to-know-exposed-central-park-karen/>.

⁸ Nir, *supra* note 6.

⁹ See, e.g., *Documentary Footage Shows Christian Cooper Talking about Birdwatching in Central Park*, MIAMI HERALD (May 28, 2020, 9:17 a.m.), <https://www.miamiherald.com/news/nation-world/national/article243050646.html>.

¹⁰ *The Ramble*, CENTRAL PARK CONSERVANCY, www.centralparknyc.org/attractions/the-ramble.

¹¹ *Id.*

¹² Allie Yang, *Christian Cooper Accepts Apology from Woman at Center of Central Park Confrontation*, ABC NEWS (May 28, 2020), abcnews.go.com/US/christian-cooper-accepts-apology-woman-center-central-park/story?id=70926679.

¹³ Melody Cooper (@melodyMcooper), Twitter (May 25, 2020, 1:03 p.m.), <https://twitter.com/melodyMcooper/status/1264965252866641920>. This summary, and all quotations from the confrontation, are drawn from this video.

and demanded that Christian stop recording her. When he declined to do so, Amy Cooper looked directly into the camera and said, “I’m going to call the police and tell them an African American man is threatening me.” She then called 911 and frantically told the dispatcher at least three times that an “African American man” was threatening her and her dog. The resolution of the confrontation was initially unclear; by the time police arrived, both individuals were gone.¹⁴

This incident highlights a troubling yet all too common aspect of life in twenty-first century America. Despite the increasingly pluralistic and diverse makeup of the country and undeniable racial progress over the last century, Black people in America remain subject to suspicion, derision, sanction, threats, arrests, and violence simply for “existing while Black.” Specifically, Black persons in public who fail to conform to stereotype and dare to cross into a White space – be it a predominantly White neighborhood, profession, or hobby – do so at their own peril. Formal segregation ended more than fifty years ago, but the vestiges of this apartheid persist in the continued rejection of Black people in White spaces. And increasingly, the enforcers of this *de facto* color line are private citizens armed with a cell phone, a grudge, and (often) a gun.

The “Birdwatching While Black” incident fits within a larger phenomenon covered by the media in recent years and well known to most Americans: White people calling 911 on Black people for “Living While Black.” Often captured in trendy hashtags on social media like #BarbecuingWhileBlack, #SleepingWhileBlack, or #GolfingWhileBlack, these stories illustrate the myriad ways Black bodies are policed by private White actors while engaging in mundane, everyday activities that arouse contempt, suspicion, and fear solely because of the skin color of the person trying to exist in public. Christian Cooper’s experience highlights many of the themes defining this phenomenon and explored in this book: the automatic and unconscious fear White people have of Black people in public, the “Black tax” excised on those attempting to enter previously “White only” ground, and the ever-present threat of violence that follows, in the form of an armed police officer primed to meet the “outsider” with force or a vigilante private citizen standing his ground in the name of self-defense.

Christian Cooper was keenly aware of his outsider status and the threat his mere presence might communicate to those around him. In an interview with the *New York Times*, Cooper noted that birdwatching is a hobby predominantly enjoyed by older White men and that his presence in this space often arouses undue attention and suspicion. As a Black man “shuffling the undergrowth [in a park] after a rare bird, with a metal object, the binoculars, in hand,” Cooper acknowledged that observers were more likely to think he was armed and engaged in criminal activity than a White man doing the same thing.¹⁵ Cooper even changed

¹⁴ Yang, *supra* note 12.

¹⁵ Nir, *supra* note 6.

his appearance to protect himself from these racist associations and the threats that accompany them, declining to wear contacts “[b]ecause people react differently to a black man who wears little round nerdy eyeglasses than to one who doesn’t.”¹⁶ This hyperawareness extends to other Black birdwatchers, including professional nature photographer Dudley Edmonson, author of *The Black and Brown Faces in America’s Wild Places*. While birdwatching, Professor Edmonson has been accused of being drunk or on drugs and of taking photos of people’s homes to come back later and rob them, “things that I’m guessing in their minds fits more the description of what an African American male would be doing, as opposed to . . . watching birds.”¹⁷ Fellow Black birdwatcher Drew Lanham, also the victim of threats and intimidation while in nature, explained, “[I]t’s almost like watching with one eye in the binocular and one eye outside of that field of view trying to understand where you are.”¹⁸

These birdwatchers communicate unease with what Yale sociology professor Elijah Anderson has called “the White space,” an overwhelmingly White physical and sociocultural space in which Black presence and participation is informally off-limits.¹⁹ The “anonymous Black person” in the White American psyche is synonymous with criminal or deviant behavior more closely associated with the “urban ghetto.”²⁰ When a White person is confronted with an anonymous Black person in the White space – be it a gentrified neighborhood, a high-end department store, or a birdwatching adventure – the unconscious, automatic sense that the Black person is out of place drives an assumption that he or she must be there only for a reason associated with the “iconic ghetto” – crime, violence, deviance. This sense gives way to suspicion, which gives way to the formal social control mechanism of a 911 call. Or worse.

Three months before Amy Cooper called the police, White father and son Greg and Travis McMichael pursued twenty-five-year-old Ahmaud Arbery, who was out for a jog in his rural Georgia town, in their pickup truck.²¹ That Arbery, a Black man, was running for exercise did not conform to the McMichael’s “iconic ghetto” image of young Black men, who in their mind were, more often than not, engaged in criminal behavior. While a third man videotaped, the McMichaels jumped out of their truck, confronted Arbery with a rifle, and after a brief tussle shot him dead. When questioned about the killing, the men told police they suspected Arbery of

¹⁶ CBS News, “That Act Was Unmistakably Racist”: Christian Cooper Speaks out After Viral Encounter with White Dog-Walker, CBS NEWS (June 9, 2020), www.cbsnews.com/news/amy-cooper-christian-cooper-speaks-out-that-act-was-unmistakably-racist/.

¹⁷ Eric Levenson, *The Realities of Being a Black Birdwatcher*, CNN (May 27, 2020, 8:52 p.m.), <https://www.cnn.com/2020/05/27/us/birdwatching-black-christian-cooper/index.html>.

¹⁸ *Id.*

¹⁹ Elijah Anderson, *The White Space*, 1 SOC. RACE & ETHNICITY 10, 15 (2015).

²⁰ Elijah Anderson, *Black Americans Are Asserting Their Rights in “White Spaces.” That’s When Whites Call 911*, VOX (August 10, 2018), <https://www.vox.com/the-big-idea/2018/8/10/17672412/911-police-black-white-mcism-sociology>.

²¹ Elliott C. McLaughlin, *What We Know About Ahmaud Arbery’s Killing*, CNN (May 12, 2020), <https://www.cnn.com/2020/05/11/us/ahmaud-arbery-mcmichael-what-we-know/index.html>.

planning to steal equipment from homes under construction in the neighborhood.²² Like Professor Edmonson, who was falsely accused of casing homes to rob later while he was birdwatching, Ahmaud Arbery was simply trying to exist in public when he was targeted for “I guess . . . what an African American male would be doing.”

Greg and Travis McMichael were arrested on May 7, 2020, seventy-four days after killing Arbery, seventy-three days after a district attorney handling the matter concluded that the McMichaels were making a valid citizen’s arrest and had every right to chase “a burglary suspect,” sixty-nine days after a second prosecutor concluded the McMichaels could not be arrested because they acted in self-defense under Georgia’s “Stand Your Ground” law, fifty-one days after a third prosecutor recused himself without making any arrests, and two days after cell phone video clearly showing Ahmaud Arbery’s murder went viral on the internet. On November 24, 2021, all three men involved in Arbery’s death were convicted of murder.

Why do people remain so quick to whip out their cell phones or unholster their sidearms when confronted with Black people in the White space? Certainly, a segment of the US population continues to harbor express, conscious racist beliefs and acts accordingly. From the “Unite the Right” rally in Charlottesville in 2017 to the emergence of the Proud Boys in 2020, the rise in visible, vocal White supremacy in recent years confirms as much. But the private policing of Black movements is too pervasive to be explained by White nationalist views alone. Rather, the reflexive distrustful response to Black people in White spaces stems from a deep, unconscious emotion baked into the psyche of the American experience: racial fear. Fear, internalized from four centuries of messaging about dark skin as synonymous with brutality, violence, vice. Fear, from four centuries of laws, norms, and unwritten codes rejecting the “other,” always coded as non-White.

Amy Cooper weaponized that fear in the most explicit terms, threatening her target that she would tell police an “African American” was attacking her before leading with that unnecessary descriptor two more times on her 911 call. What Christian Cooper experienced is the role reversal so many Black people experience every day: being threatened unjustly with police violence because their skin threatened others around them. Indeed, while Amy Cooper insisted in later media interviews that she is “not a racist,” she acknowledged she called the police that day because she views them as a cost-free personal “protection agency,” a “luxury” that “so many people in this country [who look like Christian Cooper] . . . don’t have.”²³

²² Elliott C. McLaughlin, *Ahmaud Arbery Was Killed Doing What He Loved, and a South Georgia Community Demands Justice*, CNN (May 2, 2020), <https://www.cnn.com/2020/05/07/us/ahmaud-arbery-shooting-demands-justice/index.html>.

²³ Jasmine Aguilera, *White Woman Who Called Police on a Black Man at Central Park Apologizes, Says “I’m Not a Racist,”* TIME (May 26, 2020), <https://time.com/5842442/amy-cooper-dog-central-park/>.

One may ask why we should care so much about Christian Cooper and the petty indignities of a 911 call. After all, other than an uncomfortable encounter with a fellow citizen, Christian Cooper came to no harm. In fact, both he and Amy Cooper had vanished by the time police arrived. No harm, no foul, right?

The events that transpired twelve hours later prove otherwise.

On Memorial Day 2020, George Floyd allegedly passed a counterfeit twenty-dollar bill at a convenience store in the Powderhorn Park neighborhood of Minneapolis, Minnesota. Another 911 call, another armed response, another cell phone video. Only this video documented a real-time modern-day lynching, as an officer pressed his knee into the neck of a motionless and handcuffed Floyd for nine minutes and twenty-nine seconds while three other officers stood by and watched.²⁴ His dead body lay on the ground for several more minutes while officers busied themselves scattering the crowd of horrified onlookers.²⁵ All for passing a bad twenty.

Calling 911 and summoning armed government agents to confront people is in many ways “the epitome of escalation.”²⁶ When those agents are called to enforce the color line, “these callers aren’t expecting cops to treat black folks politely, but instead to remind them that the consequences for making white people angry or uncomfortable could be harassment, unfair prosecution or death.”²⁷ Not all racially motivated, frivolous 911 calls end in violent tragedy. But each such call is its own tragedy, another opportunity for distrust in police to harden, for the color line to crystallize, and for the indignity of the Black tax to be exacted against innocent Black people trying to live in the White space.

This book explores the private weaponization of racial fear that drives modern-day enforcement of these Black and White spaces. More than any express hatred of African Americans or desire to return to formal segregation, private White actors today react to deeply ingrained, systemic, and often unconscious racial fear of Black people who appear “out of place” in their public environment. They weaponize this racial fear in a variety of ways, including by abusing 911 to enforce formal social control via armed government agents, by trafficking in racial fear to whitewash their own misdeeds through “racial hoaxes,” and by exacting vigilante justice through extrajudicial killing under the guise of self-defense and standing one’s ground. Each of these approaches perverts and exploits the weapon of choice – the criminal justice system – with violent repercussions for the Black targets of this subformal apartheid.

²⁴ Evan Hill et al., *How George Floyd Was Killed in Police Custody*, NY TIMES (May 31, 2020), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>.

²⁵ Haley Willis et al., *New Footage Shows Delayed Medical Response to George Floyd*, NY TIMES (August 11, 2020), <https://www.nytimes.com/2020/08/11/us/george-floyd-body-cam-full-video.html>.

²⁶ Jason Johnson, *From Starbucks to Hashtags: We Need to Talk About Why White Americans Call the Police on Black People*, THE ROOT (April 16, 2018), <https://www.theroot.com/from-starbucks-to-hashtags-we-need-to-talk-about-why-w-1825284087>.

²⁷ Stacey Patton & Anthony Paul Farley, *There’s No Cost to White People Who Call 911 About Black People. There Should Be*, WASH. POST (May 16, 2018), <https://www.washingtonpost.com/news/post-everything/wp/2018/05/16/theres-no-cost-to-white-people-who-call-911-about-black-people-there-should-be/>.

More often than not, private actors employing these methods enjoy the express or implicit support of government officials at all levels, from local police departments to state legislatures to the United States Supreme Court.

A note on structure. Chapter 1, “Cycles of Racial Fear,” explores the long, disgraceful history of powerful Americans inciting panic about Black people in public and the role of that incitement as the preeminent driving force behind physical and psychological White spaces. This “Negrophobia” began with the arrival of the first slave ships to the American continent in 1619 and the concerted effort of slave owners to instill fear of the “heathenish, brutish” enslaved Africans forced into human bondage. From the creation of the first slave patrols to police Black movements and control Black slaves as a “dangerous kinde of people”²⁸ to the rise of racial terror lynching to protect White women from the sexual appetites of “Black brutes,” formal control of Black bodies in White spaces has always been driven and justified by irrational, pernicious racial fear based on stereotypes. Jim Crow apartheid rested on that foundation of fear, and its formal dismantling gave way to the fear of drug-crazed “superpredators” upon which the racist War on Drugs and consequent mass incarceration cemented the “iconic ghetto” image of the poor, opportunistic, criminal Black person.

This is not ancient history. It is the explanation for White America’s current pervasive, fearful enforcement of Black and White spaces. The logical and inescapable consequence of this unbroken history of racial fear is that White people in America (and to a lesser extent, all people in America) collectively and implicitly fear Black people in public. Compelling, overwhelming research about people’s automatic associations and unconscious neurological bias reinforced by this historical narrative confirm that both private citizens and government actors harbor deeply ingrained beliefs about the nefarious, violent, libidinous, criminal tendencies of darker-skinned individuals. This racial fear is indelibly woven into the fabric of American identity. It is a part of America’s soul.

Because these fears are so deeply imbedded within White people, they also are largely unchangeable. This conclusion may sound pessimistic. It is. But it also has been confirmed by recent research on implicit bias and racial sensitivity trainings and other corporate band-aid remedies for the open wound of racism.²⁹ Four centuries of racist ideals cannot be eliminated with a TED talk, a highly publicized company retraining course, or even a more robust police academy bias awareness initiative. These sanitized approaches to antiracism represent a drop in the bucket in a vast ocean of racist currents and may even prove counterproductive in the short

²⁸ From the Barbados Slave Code of 1661. Quoted in Maalik Stansbury, *Barbados Slave Codes*, STMU HISTORY MEDIA (October 19, 2016), <https://stmuhistorymedia.org/barbados-slave-codes/>.

²⁹ See, e.g., Katie Herzog, *Is Starbucks Implementing Flawed Science in Their Anti-Bias Training?*, THE STRANGER (April 17, 2018), <https://www.thestranger.com/slog/2018/04/17/26052277/is-starbucks-implementing-flawed-science-in-their-anti-bias-training>; Jessica Nordell, *Is This How Discrimination Ends?*, ATLANTIC (May 7, 2017), <https://www.theatlantic.com/science/archive/2017/05/unconscious-bias-training/525405/>.

term. And to the extent these institutional bias retraining efforts are effective, they are limited to a target audience and “cannot systematically retrain the biased brains of civilians who irrationally feel threatened in their daily lives.”³⁰

That is not to suggest we should simply throw up our hands and admit defeat. Antiracism work is necessary. But it is generational. And the sooner we acknowledge the hard truth – that reflexive, flinching racial fear dictates more than we would like to admit, and that it is not going anywhere anytime soon – the sooner we can craft workable solutions to combat the weaponization of America’s criminal justice system for racially fearful ends.

And herein lies a primary claim of this book: Criminal justice reform, including police reform, should focus less on improving the quality of interactions between police and the communities they serve and more on decreasing the quantity of such interactions. If unconscious racial fear is so pervasive, unchanging, and dangerous, lawmakers and police departments should make every effort to minimize unnecessary adversarial contacts with communities of color, at least those contacts initiated by a threadbare accusation of Living While Black. Likewise, legislators and courts should deter private citizens from acting on their frivolous racial anxieties and punish those who baselessly pick up the phone or fire their weapon in fearful defense of the White space.

In reality, however, the opposite is true. Chapter 2, “White Caller Crime,”³¹ highlights how racially fearful White citizens abuse 911 to enforce the color line, with impunity and with the tacit support and encouragement of police and courts. This highly effective method of racial antagonism represents a growing phenomenon of utilizing law enforcement to exert formal social control over Black people in White spaces. Whether playing golf at a country club, sleeping in an Ivy League dormitory, or moving into a Manhattan apartment in an upper-income building, Black people who fail to fulfill the “iconic ghetto” stereotype arouse automatic suspicion and panicked, breathless calls for help.

And police are all too willing to oblige. Police departments across the country require dispatchers and armed officers to respond to virtually all 911 calls, no matter how frivolous or racially motivated. These policies not only deploy scarce law enforcement resources inefficiently; they also create countless unnecessary contacts between police and communities of color, contacts fraught with centuries of mutual distrust and suspicion. Police approaches to these encounters exacerbate that tension. Having practiced proactive “smart policing” (a euphemism for racial profiling) for decades, many of the nation’s largest police departments have so overpoliced poor, Black communities that they have internalized their self-created implicit bias about the inherent criminality of Black targets. When police respond to 911 calls

³⁰ Shawn E. Fields, *Weaponized Racial Fear*, 93 TUL. L. REV. 931, 937 (2019).

³¹ I first encountered this term in Chan Tov McNamara’s article, *White Caller Crime: Racialized Police Communication and Existing While Black*, 24 MICH. J. RACE & L. 335 (2019). McNamara provides a brief history of the term and its use in his author’s acknowledgement footnote. *Id.* at 335.

about “suspicious” Black people, they bring this tainted view of the world, leading to increased rates of harassment, intimidation, use of force, and arrest of innocent Black targets of such calls. In this sense, the “weapon” of racial fear is an effective one.

This fearful enforcement of the color line finds official sanction in another government institution: the United States Supreme Court. In “Just a Hunch,” Chapter 3 explores how, rather than restricting the ability of police to target civilians without probable cause backed by solid evidence, the Court’s unilateral assault on Fourth Amendment protections has given law enforcement near carte blanche to target, detain, and search nearly anyone for any reason. What case law calls “reasonable suspicion” is in reality any suspicion whatsoever, often nothing more than a person appearing out of place. Far too often that person out of place is a Black person in a White space. And while the Court at least restricts police from relying explicitly on race, it allows police to launder their racist responses to color line violations through manufactured suspicions about the person’s behavior – his or her nervousness, lack of nervousness, eye contact, lack of eye contact, willingness to help police, unwillingness to help police.

This formless nonstandard provides cover not only for bad police behavior but also for White caller criminals. While the Fourth Amendment does not apply to the actions of these private citizens, the Supreme Court has held that an anonymous 911 call reporting criminal or suspicious behavior, by itself, is sufficient to create reasonable suspicion. That reasonable suspicion then gives police the lawful right to confront, forcefully detain, and search the body of the suspect. Thus, permissive court standards work hand in glove with aggressive police practices to hone the private 911 abuser’s weapon of choice, giving implicit government sanction to this form of racist social control.

Of course, not all racially fearful citizens wait for police to arrive. As in the tragic case of Ahmaud Arbery, and Trayvon Martin nearly a decade before, some trigger-happy citizens take the law into their own hands when confronted with a Black person in the White space. Chapter 4, “Defending White Space,” examines the unjustified use of lethal force by racially fearful private citizens against Black people in the name of self-defense. As with the private 911 abuser, these private vigilantes find formal government protection for their actions, as an increasing number of states broaden the once-narrow concept of self-defense to encompass a range of aggressive violent tactics, including chasing and gunning down “suspicious” people in public places.

A chorus of scholars and empirical researchers have demonstrated the disproportionate impact of relaxed self-defense standards, including “Stand Your Ground” laws, on communities of color. Far more homicides are committed in Stand Your Ground jurisdictions,³² and a disproportionate percentage of those homicide victims

³² Chandler B. McClellan & Erdal Tekin find a 6.8 percent increase in the homicide rate in states that pass Stand Your Ground laws. Chandler B. McClellan & Erdal Tekin, *Stand Your Ground Laws*,

are Black. Far more killings of Black targets by White shooters are deemed justified than killings of White targets by Black shooters. And most telling, when controlling for all other variables, the homicides most likely to be deemed justified by prosecutors and juries are those involving a White vigilante killing a Black victim in a predominantly White neighborhood – regardless of whether the deceased was armed, committing a crime, or even running away.³³

These findings are shocking but not surprising. If White people all harbor pernicious racial bias and that bias is triggered most quickly when faced with a Black body out of place in a White residential neighborhood, an irrationally fearful defensive response is to be expected. Nationwide relaxation of gun control laws provides the lubricant for these defensive reactions to turn more violent more quickly. And those racially fearful citizens on the street are the same people inhabiting jury rooms. What is surprising, however, is the willful failure of state legislatures to acknowledge this fact in their zeal to protect an ever-widening range of lethal conduct from prosecution. By permitting armed private citizens to shoot and kill one another in more places and for less provocation, states have declared open season on Black people.

Chapter 5 explores the blurred line between private and public violence, exploring the absolute nature of so-called “qualified” immunity and situating this new Wild West within the context of what Justice Sonia Sotomayor calls the “shoot first, think later culture” of policing.³⁴ The increased permissiveness with which private citizens can kill each other parallels almost perfectly the increased permissiveness with which courts have allowed police officers to kill those same citizens. Much as the concept of self-defense has been broadened in the private homicide context, the concept of when it is “objectively reasonable” for an officer to use force has been so broadened by the Supreme Court that neither “objective” nor “reasonable” retains much of its original meaning. And even in the rare case where a court finds that an officer used excessive force, the Supreme Court’s unilateral expansion of the qualified immunity doctrine has shielded virtually all police brutality from the reach of the law. This near absolute immunity for police to shoot first and think later not only provides a potent weapon for White caller criminals seeking an armed response, but

Homicides, and Injuries 20 (Nat’l Bureau of Econ. Rsch., Working Paper No. 18187, 2012); see also Marc Levy et al., *Stand Your Ground: Policy and Trends in Firearm-Related Justifiable Homicide in the US*, 230 J. AM. COLL. SURGEONS 161 (2020). JOHN K. ROMAN, URBAN INST., RACE, JUSTIFIABLE HOMICIDE, AND STAND YOUR GROUND LAWS: ANALYSIS OF FBI SUPPLEMENTARY HOMICIDE REPORT DATA 7 (July 2013); C. Cheng & M. Hoekstra, *Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Expansions to Castle Doctrine*, 48 J. HUM. RES. 821 (2013).

³³ Roman, *supra* note 32; Daniel A. Lathrop & Anna Flagg, *Killings of Black Men by Whites Are Far More Likely to Be Ruled “Justifiable,”* THE MARSHALL PROJECT (August 14, 2017), www.themarshallproject.org/2017/08/14/killings-of-black-men-by-whites-are-far-more-likely-to-be-ruled-justifiable.

³⁴ *Mullenix v. Luna*, 577 U.S. 7, 26 (2015) (Sotomayor, J., dissenting).

also helps explain why “society as a whole” has crept ever closer to sanctioning private vigilante justice.

In “Permanent Fear,” Chapter 6 revisits a central premise of this book: that the implicit bias at play underneath this racially fearful violence is largely unchangeable in the short term. This reminder sets the stage for Chapters 7 and 8, which offer proposed solutions for walking back the militarization of the color line. In Chapter 7, “Rethinking Maximum Policing,” I focus on changes police departments, legislatures, and courts can make to reduce the quantity of unnecessary police contacts with civilians, especially contacts with Black people started by a frivolous private complaint. I also offer model legislation to address the rise in racially motivated 911 abuse. Chapter 8, “Resisting a ‘Shoot First, Think Later’ Culture,” proposes systemic changes to reduce private and public vigilante justice.

If the Summer of Racial Reckoning which began on Memorial Day 2020 is to lead to lasting change, if society indeed is as serious about racial justice as its #BlackLivesMatter hashtags indicate, then we must start with stepping back from this violent, militarized policing and self-policing. We must work not only to deter frivolous 911 abuse and unnecessary police response, but also to resist “shoot first, think later” culture, by repealing Stand Your Ground laws, narrowing the definition of affirmative self-defense, redefining objectively reasonable police use of force, and ending qualified immunity. Anything less will only ensure another generation of violent enforcement of America’s Black and White spaces.