Rescuing Civil Rights from Black Power: Collective Memory and Saving the State in Twenty-First-Century Prosecutions of 1960s-Era Cases

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History, I contend, is the present—we, with every breath we take, every move we make, are History—and what goes around, comes around.
James Baldwin

Recent historical studies have shown that the movement for black power significantly predated its 1966 emergence as a slogan during a protest march in Mississippi. Scholarly texts and memoirs have excavated numerous projects to show that radical perspectives of black power—politically, culturally, strategically—defined the post-World War II war period in multiple ways.[1] This revisionist literature has already helped rewrite the standard narrative of the postwar period in at least two crucial ways: these monographs discuss the movement as always being a national phenomenon, rather than one distinctly Southern and then discretely Northern. The explicit articulation of "black power" in the late 1960s and early 1970s is thus presented as a more explicitly militant *iteration of* the black freedom struggle rather than as a *deviation from* the civil rights movement. Such a presentation further challenges the dichotomous view of civil rights as noble and nonviolent, black power as vicious and violent. These contributions trace a constantly evolving movement targeting deeply entrenched structures of white supremacy in the politics, culture, economics, and values of the United States writ large. The manifestations of the black freedom struggle—its goals and strategies—shifted over time, and several of these studies have documented the nuances of these ebbs and flows. But this more fluid view of the black freedom struggle eschews rigid periodization in favor of an approach emphasizing change along a continuum of repression, imagination, and resistance.

This historical intervention comes at a critical time, as the civil rights movement becomes enshrined in U.S. popular memory through films, monuments, museums, street names, and cultural kitsch.[2] Although memory is always a terrain of struggle, the current moment is a pivotal one in shaping how society perceives the history and impact of the black freedom struggle and postwar race relations at a time when participants in and out of authoritarian positions join scholars and others in shaping the collective memory of a recent yet bygone period.

As an era still shaping U.S. policy and culture, the post-WWII movement for racial and economic justice is being debated in the academy as it is being memorialized and mobilized in daily life. That many veterans of the movement are still alive and active participants in these processes imbues both the history and memory of the time with excitement and urgency. This urgency now finds itself in court, with the legal apparatus constituting a vital mechanism of state efforts to shape collective memory through trials, incarceration, and the discourse these legal endeavors generate. These trials express struggles with and by the state over what attributes of that era will be officially embraced in this one. Several Sixties veterans, of both the Left and Right, now find themselves at the center of legal cases on thirty-plus year-old charges emanating from their activism at the time. These courtroom battles are particularly bringing the civil rights–black power movement(s) back into focus—and putting some key figures of that time, now in

their 60s and 70s, in prison. Occurring simultaneously, these trials of white supremacists and black militants constitute a vital part of memorializing the period; these retroactive trials are the clearest state intervention in collective memory of the 1960s era. Various officials, from judges and state attorneys general up to Alberto Gonzalez and FBI head Robert Mueller, have said that these trials serve to punish long-ago crimes and right the wrongs of yesterday—the eternal truth of justice making itself known. These proclamations are echoed by the families of the deceased and, in the cases of ex-Klansmen, various civil rights organizations.

Theorists of collective memory insist that the past is invoked to shape the present; collective memory, writes Barbie Zelizer, is "a graphing of the past as it is used for present aims, a vision in bold relief of the past as it is woven into the present and future."[3] As a result, the prosecution of former Klansmen and ex-Black Panthers is discussed here with an eye toward what such trials mean—both for remembering the 1960s and for the current period. Indeed, these cases present a clear invocation of "the sixties as a political metaphor."[4] Whereas studies of and struggles over memory often take shape amidst material (particularly popular) culture, these cases add a legal and discursive component.[5] These high-profile cases from a volatile, and recent, time provide the raw material relied on to construct a usable past. Triumph and tragedy present fertile territory for exploring the shaping and significance of collective memory, and digging up old murder cases uses the court system in an attempt to make triumph out of tragedy. Although it is not often seen as such, the legal system—including laws, trials, and prisons—is a premier site by which the state makes official distinctions of both memory and value. Subsequently, the discourse of such memory is transmitted to society at large, at least partially, through news stories, thereby affixing media to the process of representing and amplifying memory.[6] Indeed, though courtrooms are sites where history is told, often most honestly, most of the public learns, at best, only of the existence and verdict of trials. As such, mediated discourse reduces trials to stories that can be transmitted as public knowledge.[7]

Through the arrest and prosecution of white racists and (mostly) black militants in the past 15—and but especially the past 5—years, the government has taken an active role in periodizing and classifying the civil rights–black power movements. These trials and the surrounding discourse enforce the exact rigid demarcation between civil rights and black power that scholars have sought to deconstruct. Among other things, these cases valorize a noble civil rights movement while demonizing a misguided black power movement—presenting each one as geographically and tactically discrete, opposed, and immutable. The civil rights movement is presented as noble, nonviolent, and limited to the South, where its greatest enemy was vigilante white violence rather than an entrenched state system of white supremacy.[8] Indeed, individual white terror, protected by backward Southern sheriffs, is presented as the main enemy of African Americans and the movement in general. Such a paradigm, played out discursively and juridically, implicates black power as the antithesis of civil rights—a violent and unnecessary overreaction.

These proceedings reify the nobility of the civil rights movement on the grave of the black power movement. The federal government, in this narrative, emerges as a subtle hero: its best efforts thwarted by an antiquated Southern system at the time, the federal government succeeds decades later as a result of what is cast as its dogged perseverance. Through both trials and discourse, the federal government's attacks against black power are minimally part of the memory terrain. Ultimately, these trials suggest that the goals of the civil rights movement have been met—these

cases being the last unfinished business of the time—while deriding black power demands as inherently criminal and violent. But it remains largely at the level of abstraction and intimation, given that discourse of the revived court cases remains fairly separate between the right- and left-wing radicals. Still, as the below discussion aims to make clear through an examination of these trials, these court cases present a triumphant narrative affirming a liberal racial order and the ultimate authority of the state, as white terrorists and black militants find themselves on trial decades later.

Right-Wing Radicals: The Ku Klux Klan and Civil Rights Murders

On 24 January 2007, police arrested James Ford Seale, a 71-year-old former Klansman and Mississippi sheriff's deputy, for the murder of two black teenagers in 1964.[9] Less than a month later, news stories reported on the attempts to pass a law establishing a Justice Department unit to prosecute other white supremacist murderers. After decades of passivity, the federal government and various Southern states have gone after their racist past by going after those who terrorized the civil rights movement and black communities in general. Since 1989, 29 cases have been reopened, leading to 28 arrests and 22 convictions of "civil rights–era crime."[10] The first target was Byron de la Beckwith, who for years bragged of assassinating Mississippi civil rights leader Medgar Evers in 1963. Like many of his fellow Klansmen now being tried, Beckwith was acquitted (twice) in brief show trials at the time. The case was reopened in 1989, resulting in his 1994 conviction.[11]

Other prosecutions followed, mainly in Mississippi and Alabama, especially since the turn of the century. These cases have targeted both obscure and well-known murders of African Americans, activists and otherwise, as well as white civil rights activists. In 1998, former White Knight of the Ku Klux Klan, Sam Bowers, was convicted for ordering the death of civil rights activist Vernon Dahmer. Thomas Blanton (in 2001) and Bobby Frank Cherry (in 2002) were convicted for their roles in the infamous 1963 Birmingham Sixteenth Street Baptist Church bombing that killed four young girls.[12] In Mississippi Ernest Avants was convicted in 2003 for the 1966 death of sharecropper Ben Chester White, and Klan leader Edgar Ray Killen was convicted in 2005 for orchestrating the murders of James Chaney, Andy Goodman, and Mickey Schwerner.[13] Most recently, retired Alabama state trooper James Bonard Fowler awaits trial after being indicted in the shooting death of 26-year-old Jimmie Lee Jackson during a 1965 demonstration—a murder that helped catalyze the well-known Selma-to-Montgomery march. Fowler has always admitted to shooting Jackson, though he maintains it was in self-defense.[14]

These cases are fighting against time. The culture of post-WWII white supremacist violence among everyday white people was most visible before 1965. Several key participants have passed away—for instance, two coconspirators in the Birmingham church bombing died before Blanton and Cherry were indicted—and a witness's individual memory is fleeting.[15] The attempt to reopen one of the most notorious examples of white terrorism demonstrates this difficulty. The 1955 murder of 14-year-old Emmett Till for whistling at a white woman in Mississippi helped focus international attention on the routine violence of Southern white supremacy. All the more so when the two men tried for the heinous crime were acquitted by an all-white jury but still bragged of their deeds. Yet with all other known suspects dead, a 2007 Mississippi grand jury refused to indict Carolyn Bryant, the white woman who Till allegedly whistled at, for any

wrongdoing in Till's murder.[16] (Prosecutors alleged that Bryant, whose then-husband participated in the murder, was a coconspirator.)

With a little prodding from modern civil rights organizations, the federal government has joined some Southern states in trying to establish the infrastructure to continue prosecuting these so-called cold cases of white supremacist terror. Around the time a grand jury let Bryant go, Georgia Congressman and civil rights veteran John Lewis introduced the Unsolved Civil Rights Crimes Act to "create a cold cases unit within the Justice Department to track down evidence in the unpunished killings." The law has been dubbed the Till Act for short, paying homage both to the slain black teenager and the Emmett Till Justice Campaign created to pursue such a law.[17] Although the House of Representatives allocated $100 million for the creation of the unit by a vote of 422 to 2, the bill has, at least temporarily, been stalled in the Senate. Still, with passage of the act seemingly imminent, then–Attorney General Gonzalez and FBI Director Mueller announced in June 2007 that they were reopening 100 cases with a priority given to about a dozen of them. It is, said one news article, a prosecutorial attempt "in the South to close the books on crimes from the civil-rights era."[18]

The official involvement of the federal government extends from investigation to prosecution. Some of the recent civil rights cases have been reopened on technicalities, and various news stories described as a "sudden realization" that the deceased was killed or found on federal property. This fact has allowed the government to try these ex-Klansmen on federal charges of kidnapping or manslaughter. Although tried in Deep South states in which the murders occurred, the use of federal charges adds an extra layer of gravitas to the cases: this is the full force of the government being brought to bear on the history of Southern injustice.

And yet, the specter of white supremacist terrorism haunts these trials in ways that make clear the living history and breathing memory of the era. One of the most recent defendants, James Ford Seale, was tried in the James O. Eastland Federal Courthouse: the very edifice where justice was said to be delivered was named after the arch segregationist Mississippi Senator who urged the people and institutions of his state to resist and reject Supreme Court rulings on all civil rights matters.[19] Further, the defendants in these trials are not the only ex-Klansmen being brought out of the woodwork. Several witnesses at trial, themselves former Klan members, implicated the attorney for Klan leader Sam Bowers as himself an active participant in Klan activity at the time.[20] That witnesses remember attorney Travis Buckley's Klan involvement, including his participation in the meeting during which Bowers ordered the death for which he stood trial in 1998, testifies to the elusive nature of trying to hold unreconstructed and unrepentant racists accountable for a pervasive *system* of white supremacy. Despite the noble intent and do-gooder discourse surrounding these cases, they are inherently individual. Whether out of legal expediency, political belief, or both, the trials focus on the involvement of individuals separate from any organization or broader context. At Bowers's 1998 trial, for instance, the district attorney said that the Klansmen who killed Vernon Dahmer in 1966 "did it because one person told them to do so."[21] Although such rhetoric may be successful in securing the conviction of an unabashed white supremacist leader, it also exposes the limitations of shaping collective memory or crafting historical narratives rooted in individual legal cases. These trials can be seen as the juridical equivalent of the Rosa Parks myth: the simplistic notion

that history is created by individuals acting alone and without any social or institutional framework.

The Till Act codifies some of these problems. Because it contains all the picayune details common to legislation, the bill specifies its targets in ways that define what counts as the civil rights activism and opposition. The Act only covers murders that occurred prior to 31 December 1969. Because perpetrators of racist murders in the 1940s are likely deceased, the law functionally applies to those killings that occurred in the 1950s and 1960s. And though the act itself does not limit investigations to the South, such a belief, opined David Garrow,

> is voiced repeatedly in the House Judiciary Committee report that accompanied the bill, so it is quite possible that the Department of Justice would apply the bill only to the South . . . By encouraging cold case prosecutions only in the South and by focusing only on murders committed in the 1960s, the bill effectively limits itself to the kinds of easy cases that fit our expectations and that everyone can agree on—while ignoring the cases that cut against our wistful, nostalgic desire to see civil rights history as just a Deep South morality play featuring drooling racists versus Gandhian victims.[22]

As such, the law, and by extension the cases carried out ostensibly under its mandate, institutionalize a rigid legal and political memory in contrast to a much more nuanced set of emerging historical narratives.

Left-Wing Radicals: Black Power Militants and Anti-State Violence

The day before James Seale was arrested, eight former Panthers were arrested for the 1971 murder of San Francisco police Sergeant James Young in an attack on the Ingleside police station. This shooting occurred eight days after the murder of Black Panther Party field marshal and prison organizer George Jackson at San Quentin. Police say the shadowy Black Liberation Army (BLA), a clandestine offshoot of the Black Panthers, was responsible for the attack. Three Panthers were arrested in New Orleans in 1973 for the attack and gave confessions that they later said were false and obtained through torture. A court agreed in 1975, declaring that "when the two San Francisco police investigators who came to Louisiana to interview the three men were out of the room, New Orleans officers stripped the men, blindfolded them, beat them and covered them in blankets soaked in boiling water," according to a story in the *San Francisco Chronicle*. "They also used electric prods on their genitals, court records show. The men were freed after a court found their rights had been violated and they were not allowed to have counsel."[23] Of the three men arrested and tortured in New Orleans, one, John Bowman, passed away one month before the 2007 arrests. Another, Harold Taylor is one of the eight who were arrested. The last man, Rueben Scott, was the prosecution's star witness in 1975 and is believed still to be the main witness in the current case, despite having recanted his confession as coerced.[24]

The same two San Francisco police investigators came out of retirement in 1999 to continue prosecuting the case. Although denying any link to the BLA in general or this crime in particular, four of the eight and Bowman spent a few weeks in jail in 2005 for refusing to testify in front of a grand jury investigating the case. The men stated their moral and ethical opposition to the proceedings, arguing that attempting to reinstate old charges based on tortured confessions was an attempt to use post-9/11 legal shifts to legitimize barbarous investigatory practices. The grand

jury did not pass down any indictments, and the men were left alone until their arrest. Joining Richard Brown, Ray Boudreaux, Henry Jones, and Harold Taylor are four other ex-Panthers—two of whom, Herman Bell and Jalil Muntaqim, have been in prison for more than 30 years on separate charges emerging from other suspected BLA attacks on police officers. Muntaqim, whose given name is Anthony Bottom, was arrested the day before the attack in which Young was killed.[25] His inclusion in the case testifies to its most chilling aspect: although most newspaper accounts of the arrests have focused on the killing of Sgt. Young as impetus for the arrests, the eight initially faced a broader, nebulous charge of conspiracy. This conspiracy charge, according to a story in the *San Francisco Chronicle*, alleges that the eight "carried out a 'terror and chaos' campaign aimed at 'assassinating law enforcement officers' that began in 1968 and ended in 1973, Deputy Police Chief Morris Tabak said."[26]

In response to a defense motion, the presiding judge dismissed the conspiracy charge against five of the men in February 2008, stating that the statute of limitations for this charge had long ago passed. This move released Richard O'Neal from the case entirely. The judge refused to dismiss the conspiracy charge against Bell, Muntaqim, and Torres because they have not lived in California since the mid-1970s and thus are not subject to its statutory limits. As of June 2008, defense attorneys are appealing this decision, arguing that the statute should apply for the remaining three as well, since they have been available for prosecution by the state of California for the past thirty years.

Though mostly dismissed, such a sweeping charge also indicts a whole era of black power militancy. Historically, the government has had greater success garnering convictions on conspiracy charges since the burden of proof with such allegations has a lower standard of evidence than a given criminal act itself.[27] The five-year period claimed by the conspiracy charge was a time of articulated warfare between sectors of the radical Left and the political/repressive arms of the state; the FBI's counterintelligence program (COINTELPRO) was at its height, leading to the deaths of dozens of Black Panthers—overtly by police as well as in internecine warfare, some of which was later shown to have been provoked by law enforcement.[28] The level of repression sparked armed groups such as the BLA—as well as the Weather Underground and a range of other expressions of militancy that targeted state and corporate entities through protests, bombings, and a general culture of fierce opposition to the U.S. government and its ability to police the world or its racially oppressed communities at home.[29] The complexity of this period in particular has been, so far, among the most underwritten aspects of the black power era, in large part because it is so difficult to record. But the case of the "San Francisco 8" brings it into focus through the courtroom, embodied in the fates of these men. Thus, out of the memory emerges a battle over history and context.

Although the most dramatic, the San Francisco 8 case is not the only recent legal challenge based on dormant charges to have raised the specter of black power. The twenty-first century has seen some celebrities and many foot soldiers in the black liberation movement being targeted. In 2005, the state of New Jersey raised its bounty from $50,000 to $1 million for the capture of Assata Shakur, the former Panther and BLA member who escaped from prison in 1979 and has been living in political exile in Cuba since the 1980s.[30] Kamau Sadiki, the father of Shakur's child and himself a former member of the Black Panther Party who served five years in prison in the mid-1970s for a BLA robbery, was sentenced to life in prison in 2003 for the 1971 death of a

police officer in Georgia. Sadiki was arrested in New York in early 2001 on separate, but contemporary, charges that were subsequently dismissed. Once in custody, though, police officers tried to get his help in solving other BLA-suspected cases. That proved futile, but FBI files listed him as a suspect in the Atlanta killing and he was transferred to Georgia. The timing was a bit odd: the District Attorney refused to prosecute the case in 1972 for insufficient evidence, there was no new evidence, and Sadiki had been living a quiet but nonetheless public life working for the phone company in New York City.[31]

Two other such cold cases bear mentioning. Gary Freeman, born Joseph Pannell, was arrested in Canada in 2004 after living there for 35 years. He was wanted in the United States for the 1969 shooting of a white police officer in Chicago. The officer survived, but police claim Freeman was a Black Panther carrying out a politically motivated attack. After fighting extradition for four years, during which time he denied any involvement in either the Panthers or the attack, Freeman pled guilty to the shooting in a deal that saw him serve 30 days in Cook County Jail (to be followed by two years probation) and pay $250,000 in restitution to a fund that supports the spouses and children of police officers, paramedics, and fire fighters who die in the line of duty.[32] And five members of the enigmatic Symbionese Liberation Army, whose most famous action was the kidnapping of newspaper heiress Patty Hearst but whose rap sheet also includes two shooting deaths and at least two bank robberies, have also found themselves in court in recent years for charges emanating from their 1970s activities. The SLA arrests include the extradition of James Kilgore from South Africa, where he had been living and working as a well-respected academic for years, and the arrest and trial of Kathy Soliah, who had been living a quiet life in Minnesota as Sara Jane Olson.[33]

To these cases could be added other examples that don't quite fit the cold-case formula but still implicate the legal system in remembering and historicizing the black power movement. H. Rap Brown, who famously declared violence to be "as American as cherry pie," was sentenced to life in prison in 2002 for the shooting death of a Fulton County sheriff's deputy two year's earlier. The former leader of the Student Nonviolent Coordinating Committee had become imam of a Muslim community in Atlanta, changing his name to Jamil Al-Amin. As with many of the black power cold cases, Al-Amin denied any involvement in the shooting for which he was charged; he and his supporters allege the case to be the culmination of decades of harassment made possible by a climate of anti-Muslim hysteria, carried out by the courts, in the wake of the 9/11 attacks.[34] Less visible but equally significant, several ex-Panthers who have been incarcerated for decades on politically motivated charges of that era, including Bell and Muntaqim, have been denied parole in recent years. Each time, the parole board has declared their opposition to the men's release due to the severity of the original charges rather than any egregious behavior since their incarceration. But the parole process is supposed to judge prison behavior and rehabilitation, rather than the severity of the sentencing charge, which cannot change. In the most extreme case, ex-Panther Veronza Bower has been held more than three years past his mandatory release date after serving all of a 30-year sentence.[35] In the parole denial, as in the retroactive trials, black power is treated as a heinous violation of the law, not a political movement and or even a cultural phenomenon. With this framework, the state becomes not only the *mechanism* for securing justice, as it would seem in the prosecution of ex-Klansmen, but the *victim* utilizing its own apparatus to *secure redress for itself*. Whereas the former set of trials champions the federal

government's ability to foster a black-white national unity, the latter grouping makes clear that such harmony is possible only through a bolstered and unchallenged security apparatus.

Justice for Whom? The FBI, the Klan, and the Black Freedom Struggle

Underpinning these trials is a curious but familiar geographic division in how the political struggles of the time period are discussed: the civil rights movement was located in the South, where Southern officials upheld an antiquated system that died with them. White supremacy, in this discourse, is so strictly embodied that it lacks any significant structural or historical dimension. The enlightened North, including the federal government, tried its best to bring the wayward South into the fold—and these prosecutions do now what they were somehow unable to do at the time. As several people involved in the prosecution of ex-Klansmen have noted, these trials rest on the cooperation of once resistant Southern states. Yet such a claim elevates state power over federal in suggesting that it is only with the involvement of the individual, now enlightened Southern states that the federal government of the United States is able to prosecute criminals. Such rhetoric, furthermore, does not accompany the trials of leftists, who never boasted of any state protection and in which the collaboration of local and national law enforcement has long been a familiar phenomenon.

This position implies that racial oppression was a Southern phenomenon, rendering incomprehensible the politics and militancy of black power as a nihilistic and misanthropic enterprise—a gang more than an idea or movement. These trials obfuscate a more fluid approach to the civil rights–black power era and use geography to reinforce firm political (and tactical) divisions: between a noble Southern movement that had violence done to it and a misguided Northern movement that was itself violent. Indicting individuals obscures the broader movements from which people came and the material and ideological structures that they put forth or responded to and that still pervade. Such trials also ignore the role of law enforcement in fostering white supremacist violence by both commission and omission—that is, by either participating in it or turning a blind eye—as well as the role such state-sponsored suppression played in catalyzing black militancy. To remove the specter of state violence serves to separate history from memory.

Each prosecution, whether of right-wing or left-wing radicals, involves a particular narrative about the role of law enforcement at both federal and local levels. Trials of ex-Klansmen often call into question the reactionary caliber of Southern cops, just as black power cases valorize the police departments once under attack by the BLA. This process can be neatly traced in news stories of the respective cases, whereby police officers or their representatives are often sources in decrying Black Power violence but rarely quoted or mentioned in explaining violence against civil rights activists. The role of local police departments in persecuting the Panthers is generally unexamined, as is the large number of unarmed black citizens murdered by the 1970s police culture of trigger-happy racial profiling.[36]

More troubling is the depiction and re-presentation of the FBI. Despite the heroic role afforded the FBI in the film *Mississippi Burning* (alluded to in several news stories about the Klan arrests), historians generally agree that the FBI failed to protect civil rights workers adequately from white supremacists and waged an illegal counterinsurgency campaign targeting the black power movement. Although how damaging the FBI was at any given moment and whether its

repressive activities were aberrant or inherent qualities are still debated, the agency nonetheless comes in for deserved criticism in scholarly debates of the Sixties. Yet the state recasts the FBI as heroic in and through these trials. It is a clash of memory versus history. This version of a heroic FBI is particularly evident in regards to the Till Act and the civil rights murders. In this telling, the FBI did its best to investigate and prosecute these murders when they occurred—only to be stymied by backward Southern officials. Supporters of the Panthers, however, charge that the FBI was particularly involved in attempting to crush black militancy—including in the pre-1966 South—by any means necessary. They point to the FBI's COINTELPRO, the vanguard of Sixties-era state repression, which saw law enforcement infiltrate organizations, make false accusations against key members, pit groups against each other, arrest organizers, and create a general environment of fear and distrust.[37]

The Klan was not immune from FBI attention. The FBI had infiltrators in several Klan chapters throughout the South. To protect the identity of its informers, the FBI allowed its men to beat, harass, and intimidate civil rights workers; one informer was an accessory to the murder of activist Viola Liuzzo, a white woman from Michigan who went South to help the movement.[38] But beyond the active role of such men, which only became known later, the FBI's approach to the Southern civil rights movement can generally—and generously—be described as one of ambivalence. The bureau did little to prevent attacks against civil rights workers, and only when facing presidential pressure did it prosecute anyone involved in the "white hate groups" the bureau was monitoring.[39] And yet, news stories such as those profiling agent Jim Ingram, who joined the FBI in the 1950s and came out of retirement to help investigate the civil rights cold cases, give the impression that the bureau is continuing a time-honored tradition of upholding racial justice.[40] Such stories are consistent with what communication scholars have identified as the uplift tendency of American journalism, which may criticize aspects of the state but is always oriented to its maintenance and well-being.[41]

The FBI's voluminous files on Klan activity are now being used in investigating civil rights cold cases. But this is a new development. As recently as 2001, it was revealed that the FBI had withheld evidence from Alabama officials that could have been used to prosecute all of the Birmingham church bombers at the time the attack occurred.[42] Contrast this not only to the black power movement, where the history of duplicitous and malicious activity is well documented, but also to the recent trials of black radicals, where the FBI has taken its own initiative in offering evidence and forensic experts to prosecute former members of the Black Panther Party—the organization J. Edgar Hoover once defined as the "greatest threat to the internal security of the United States."[43]

The role of FBI as savior or villain begs the question: on whose behalf is justice being pursued in prosecuting these cold cases? With both white supremacists and black militants, the official discourse, as presented in news reports, has depicted both groups of defendants as violent, thuggish vigilantes pursuing a bankrupt vision. But there are deep differences—not only in the race of the defendants but also in the application and politics of retroactive justice. The victims in need of retribution are vastly different: individuals harmed or the state, the ability of black people to vote or the role of the police in marginalized communities. Indeed, even though individuals were killed in the cases involving suspected BLA members, the victims are embraced and invoked only as representatives of and for the state. The main organizations invoked in the

trials are the Ku Klux Klan, the century-old robed defenders of white supremacy, and the Black Liberation Army, a decade-long group known specifically for attacking police officers as the "occupying army" of black communities. Whereas the former has often enjoyed the protection of the federal government, the latter emerged from the shell of an organization, the Black Panther Party, targeted for destruction by the federal government. It was, in fact, the functional destruction of the Panthers that led some of its members to pursue a clandestine approach.[44] As a right-wing populist organization making use of terrorism to uphold a strict racial hierarchy, the Klan primarily targeted African Americans and their white allies, especially Jews and communists. As a left-wing splinter group trying to wage "armed struggle" as a way to continue black nationalist revolt in a climate of intense repression, the BLA attacked law enforcement (as representatives of the state—an argument equally voiced by the government in retroactively prosecuting suspected BLA members) and drug dealers (for sapping the vitality of black communities).[45]

The simultaneous prosecutions afford the government a heroic role of moderation against extremism of the Left or Right. And yet, pursuing a politics of moderation through garnering lengthy convictions of senior citizens presents a troubling moral equivocation that rescues the state from both its own inaction and its own over-action. In one set of cases, prosecutions uphold a liberal narrative of racial tolerance; in the other, prosecutions advance a claim of justice *for the state itself*. According to Tom Niery, a New York police detective who worked on BLA cases in the 1970s, "'There are a lot of people who ambushed police officers still walking around today. We're looking for justice, wherever justice can be had.'"[46] Such justice is accomplished physically through the incarceration of those deemed responsible for the shooting deaths of police officers and symbolically in the discourse and presentation of former radicals being captured all these years later. Meanwhile, no state official has ever been punished for attacking civil rights or black power activists, including for the murders carried out under COINTELPRO. Thus, the state cements its power to delineate right from wrong in the politics of race, violence, and collective action.

Conclusion: Truth, Reconciliation, and Collective Memory

History and memory are intimately related but hardly interchangeable. Where they intersect and depart provides the raw material out of which the past becomes mobilized in the present. These cases are being reopened in a post–civil rights world that has seen an immense retreat from racial justice and the affirmation of a putatively postracial society. Yet these cases constitute a spectacular intervention by the state in how the black freedom struggle is remembered in its historic context and its impact on the contemporary political landscape, especially concerning the lived realities of race. The state—specifically, the political establishment and legal apparatus—is always implicated in the rise, fall, and memorialization of social movements. Such official involvement occurs both behind closed doors, where trials are decided and policy established, and at the center of public debate. The highly visible nature of certain acts of statecraft delineates official priorities and sanctioned values.

Emphasizing the spectacular role of such proceedings does not negate the impact of the state's gaining its pound of flesh from those allegedly guilty of murder long ago—but, at least with the white defendants, people have lived the prime of their lives free and without consequences. That the situation is more complicated for the black defendants, several of whom have already served

time in prison in the intervening years, testifies to the pitfalls of equivocating on the different cases, contexts, charges, and consequences. And yet at a certain level, the spectacle of hauling senior citizens to court transcends race to make clear the state's ability to serve as final arbiter of people's fate, no matter the time frame.[47] It is worth noting that few of those tried in recent years have lived in hiding. Outside of Freeman and two former SLA members, no one arrested was living under an assumed name and presumably could have been arrested at any point in the past three or four decades (although several reports on Seale's arrest quoted people saying they thought that he had died years earlier). That none of them was prosecuted before now is curious, given that success in these cases has been based almost entirely on new consciousness and new jury pools—not new evidence.

It is hard to say definitively why these cases crop up now, though they can certainly be mapped against the current terrain of the federal government and racial politics. These prosecutions, like all invocations of collective memory, speak more to the political landscape in which they emerge than to the historic one about which they comment. The trials are symbolic rituals organized by and through the state to intervene in the contemporary politics of black citizenship and political mobilization. Several incidents stand out in this regard: criticism of the catastrophic response to Hurricane Katrina, which destroyed predominantly black areas throughout the Gulf Coast and saw the government widely critiqued for what many called race-based neglect; contentious debates around immigration (including the rise of the Minutemen, a White Citizen's Council for the globalization era); and challenges to the unpopular war in Iraq, which includes record low enlistment rates among African Americans.[48] All of these phenomena, of course, transpire in a post-9/11 environment in which the government must live up to its pledged promise to stamp out terrorists, including domestic ones—and, it would seem, regardless of the time frame in which they occurred. Even before the contextual shifts enabled by the September 11 attacks, the start of these cold case prosecutions must also be mapped against the twinned realities of a growing black middle class and the fact that poverty and incarceration remain concentrated in black communities, as they have since the 1960s.

Evaluating the contemporary racial landscape for institutional racism must also include the continued presence of openly white supremacist organizations. The Southern Poverty Law Center, a civil rights organization at the heart of helping prosecute former and current Klansmen, said that the Klan experienced a 60 percent membership increase between 2000 and 2005, mostly among younger people.[49] These numbers fly in the face of assertions, including those of prosecutors involved in these cases, that the trials "symbolize the shedding of the past, the healing of old wounds and the death of an underground army of thugs that once ruled [the South] with torment and terror."[50] And it weakens the claim Senator Christopher Dodd and Congressman John Lewis put forth defending the Till Act as a bold step toward "remov[ing] a great stain on our justice system."[51]

These cases not only rewrite the memory of racial justice struggles in the mid-twentieth century, they also attempt to redraw the alliances of contemporary struggles for racial justice and the continuities joining yesterday's struggles with today's. Going after former Klansmen has brought together the U.S. Congress, families of the deceased, and civil rights organizations that have long been trying to reopen these cases. These prosecutions join the NAACP, the Urban League, and the Southern Poverty Law Center to the federal government. The Till Act would institutionalize

this partnership by giving millions of dollars to federal and state governments to prosecute former Klansmen based on investigations often led by these civil rights groups.[52] To prosecute aging racists as if individual terrorism was the greatest enemy of the civil rights movement is to forget the economic and social goals and demands of the movement—and at a time when many of the gains, including political enfranchisement and equal access to education, are under attack.[53]

With the black power cases, however, prosecutions emerge out of pre-existing cooperation between state and federal law enforcement agencies. There does not seem to be any visible social movement clamoring for these men to be incarcerated. And there is no need to institutionalize the black power movement through federal legislation—even legislation aimed at capturing lawbreakers attached to the black power movement. The civil rights movement is thus given official recognition denied to the black power movement, even if in a negative way. The public display of reopening old civil rights murders, together with the Till Act, provide the (federal but also certain individual state) government's legitimation to the civil rights movement as a valued attribute of our national history by acknowledging the crimes committed against its participants. In the prosecution of black radicals, however, black power emerges only as villain. It is, therefore, being remembered so that it can be forgotten. Paradoxical as this may seem, it is a common case in collective memory, where forgetting "also serves to establish collectivity" by delineating the boundaries of acceptable memory.[54] These cases invoke black power for the precise purpose of incarcerating its adherents and burying its appeal. Black power is a recent enough phenomenon, one inextricably linked to the positively remembered civil rights movement and one still holding significant enough purchase among African American communities that its forgetting can only be accomplished by publicly revoking its tenets.

The San Francisco 8 and other retroactive black power cases receive no mention in coverage of the cold cases, and the Till Act is clearly designed to prosecute white supremacist murders—cases where both the moral and evidentiary arguments are far more self-evident than many of the black power cases. That is, crimes of the radical Left are always crimes worth pursuing; they don't need special laws to be "reopened." Of course, these cases are being reopened to the extent that people have been actively prosecuted in the past ten years in ways they have not been in the twenty years before then. But these cases are not being officially reopened in the sense of requiring federal legislation, nor are they being discussed as "cold" or reopened cases. Rather, the surrounding discourse and the underlying framework cast them first and foremost as old *criminal* cases, rather than, as with the prosecution of former Klansmen, as *political* trials aiming to correct historical wrongs through the legal system. One set of trials is historically specific—the civil rights movement had a beginning and end, and certain acts of violence occurring in those parameters are now being prosecuted for the maintenance of an almost postracial national unity. In the other set, however, justice is framed as transhistorical: if a police officer dies, there is no limit in time or space at which the state will stop in pursuing justice for its representatives. This transhistoric approach would seem a vital ingredient in criminalizing and therefore forgetting black power while reifying civil rights through its specificity. That is, we can value the civil rights movement because we know precisely when it was, what it did, and crucially, when it was over. Black power, meanwhile, becomes an elusive phenomenon palpable only in relation to acts of violence.

This historic positioning has multiple implications. Even though they were ultimately dropped, the use of conspiracy charges against the San Francisco 8 defendants provides one such example. Conspiracy charges have been used more sparingly with the former Klansmen and only when more serious charges have not panned out—rather than, as with the San Francisco 8, to amplify the severity of the charges. Trials of Klansmen have not featured multiple defendants; even the Birmingham church bombers were tried separately. White supremacy remains prosecuted at the level of individual violence, whereas black power is a criminal conspiracy. There is also a sentence disparity. It may seem strange to quibble over charges and sentence length; given the age of these men, it is likely that a long sentence is functionally a death sentence. But precisely because these cases convey a message of official importance, there is a significant difference between Edgar Ray Killen getting 60 years on triple *manslaughter* charges for the deaths of three civil rights workers versus Kamau Sadiki being sentenced to life in prison plus ten years for *first degree murder* of a police officer.

From start to finish, such prosecutions are more than, as Dodd and Lewis said of the Till Act, "a hopeful *postscript*" to the country's "struggle for racial equality" (emphasis added).[55] Several commentators have criticized the sudden interest in elderly Klansmen while African Americans disproportionately fill the prisons and the worst schools, among other examples of injustice. "If past is prologue, we can look for the record on Katrina and voting rights and racial profiling and sentencing disparities to be set right around 2050," Deborah Mathis tersely wrote of these cold cases.[56] Thus far, historian David Garrow has been among the few to appear in print calling for the state to show as much interest in prosecuting the murderers of Black Panthers—outside of the South and after 1968—as it has in going after Southern white supremacists of the early 1960s.[57]

Garrow's suggestion is a worthy one. Likewise, Gary Freeman's plea agreement, a brief symbolic incarceration accompanied by restitution, takes a step toward restorative rather than retributive justice. But we might build off these examples to look for models of justice beyond and instead of the courtroom. Memory is a process of struggle, a constantly shifting and competing set of narratives, rather than something imposed and accepted without question. So the state is not the only actor in this struggle over memory. The first public statement of the San Francisco 8, distributed online and published on its support website, offers an interesting counter-proposal. Although making no mention of the prosecution of ex-Klansmen, the 2007 statement (released on May 19, the birthday of Malcolm X) makes three concrete policy proposals that cast their case as a struggle over memory and policy alike. They call for antitorture legislation, reopened hearings on COINTELPRO, and perhaps most significantly, the creation of a Truth and Reconciliation Commission. "We believe such a Commission could serve as a catalyst to forge substantial resolutions to heal America's racial trauma," the eight ex-Panthers wrote.[58]

Such an entity would not resolve all the myriad issues raised by such a tumultuous period. But it is a model that, unlike the courtroom trials, has the power to indict both individuals and institutions for their wrongdoing. Amnesty has been a precondition for existing Truth and Reconciliation Commissions. Freeing people from legal consequences is designed to encourage the full disclosure of wrongdoing—from all sides, and in a way that at least theoretically enables a complicated narrative allowing for the varying positions of power for each aggrieved party. In forfeiting a legal-based approach, Truth and Reconciliation forefronts politics and situates

individual responsibility against the broader structures of state authority. It also attempts to develop a new model of justice beyond the state and rooted in acknowledging the unfortunate choices many people make in unequal societies. Such an approach, therefore, seems better suited to address the subject positions of race, class, and gender than a courtroom setting. The Truth and Reconciliation Commission established to investigate the 1979 Klan murders of communist activists in Greensboro provides an example of this model applied to the United States.[59] Independent of the state, such bodies not only pass judgment but interpret the past in a way that eludes narrow and equivocating legalistic applications that define political movements through the lens of law and individual crime. It is this attempt to reconcile history with memory and equality with justice that might best serve society's ability to address the enduring problem of the color line.

NOTES

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1. The literature is vast and growing; see, for instance Stokely Carmichael and Ekwueme Michael Thelwell, *Ready for Revolution: The Life and Struggles of Stokely Carmichael/Kwame Ture* (New York: Scribner's, 2003); Lance Hill, *Deacons for Defense: Armed Resistance and the Civil Rights Movement* (Chapel Hill: University of North Carolina Press, 2004); Peniel E. Joseph, *Waiting 'Til the Midnight Hour: A Narrative History of Black Power in America* (New York: Henry Holt, 2006); Nikhil Singh, *Black is a Country: Race and the Unfinished Struggle for Democracy* (Cambridge, MA: Harvard University Press, 2003); Timothy Tyson, *Radio-Free Dixie: Robert F. Williams and the Roots of Black Power* (Chapel Hill: University of North Carolina Press, 1999); and Winston Grady-Willis, *Challenging U.S. Apartheid: Atlanta and Black Struggles for Human Rights, 1960–1975* (Durham, NC: Duke University Press, 2006).

2. Several key articles on this topic are collected in Renee C. Romano and Leigh Raiford, eds., *The Civil Rights Movement in American Memory* (Athens: The University of Georgia Press, 2006).

3. Barbie Zelizer, "Reading the Past Against the Grain: The Shape of Memory Studies," in *Critical Studies in Mass Communication* (June 1995): 214–39.

4. Meta Mendel-Reyes, *Reclaiming Democracy: The Sixties in Politics and Memory* (New York: Routledge, 1995), 19. Thinking about the "sixties as metaphor" makes it possible, as I do here, to differentiate between the 1960s as a decade and the Sixties as an era of contestation emerging out of multiple social movements and lasting beyond the decade for which it is named. This point has been raised in various ways by multiple scholars; see, for instance, Andrew Hunt,

"When Did the Sixties Happen? Searching for New Directions," in *Journal of Social History* 33:1 (Fall 1999): 147–61.

5. George Lipsitz, *Time Passages: Collective Memory and American Popular Culture* (Minneapolis: University of Minnesota Press, 1990); Marita Sturken, *Tangled Memories: The Vietnam War, the AIDS Epidemic, and the Politics of Remembering* (Berkeley: University of California Press, 1997).

6. Joan Dayan, "Held in the Body of the State: Prisons and the Law," in *History, Memory, and the Law*, eds. Austin Sarat and Thomas R. Kearns (Ann Arbor: University of Michigan Press, 2002), 183–247; Arthur G. Neal, *National Trauma & Collective Memory: Major Events in the American Century* (Armonk, NY: M.E. Sharpe, 1998); Barbie Zelizer, *Remembering to Forget: Holocaust Memory Through the Camera's Eye* (Chicago: University of Chicago Press, 1998).

7. See Richard Campbell, *60 Minutes and the News: A Mythology for Middle America* (Urbana: University of Illinois Press, 1991); and Robert Park, "News as a Form of Knowledge: A Chapter in the Sociology of Knowledge," *American Journal of Sociology* 45 (1940): 669–86. This general theme has been well discussed in the field of communications; its relevance to legal formulations and these cases in particular emerged in my conversation with Heather Thompson and Timothy Tyson.

8. Although describing the civil rights movement as nonviolent is hardly new, it does present one of the more obvious cleavages between scholarship and popular discourse. A handful of books demonstrate the extent to which self-defense, and even armed struggle, characterized black activism in both North and South before 1966. To give but one example, the well-known Mississippi organizer Medgar Evers contemplated launching an armed guerrilla war, despite the invocation of him as a pacifist in popular culture, such as the movie *Ghosts of Mississippi*. In addition to those texts mentioned in note 1, see also Muhammad Ahmad, *We Will Return in the Whirlwind: Black Radical Organizations 1960–1975* (Chicago: Charles Kerr Publishers, 2007); Charles Payne, *I've Got the Light of Freedom: The Organizing Tradition and the Mississippi Freedom Struggle* (Berkeley: University of California Press, 1997); Christopher Strain, *Pure Fire: Self-Defense as Activism in the Civil Rights Era* (Athens: University of Georgia Press, 2005); and Simon Wendt, *The Spirit and the Shotgun: Armed Resistance and the Struggle for Civil Rights* (Gainesville: University Press of Florida, 2007). Of course, in challenging the assumed tactical splits, these texts also challenge any neat geographic divider in conceptualizing the black freedom struggle.

9. Even though he was the prime suspect in the deaths of Charles Eddie Moore and Henry Hezekiah Dee, both 19, Seale was charged with kidnapping rather than murder. Dee's and Moore's bodies were found only when police began searching for the missing bodies of the three civil rights workers who had disappeared during Mississippi Freedom Summer. Emily Wagster Pettus and Allen G. Breed, "After decades of waiting, arrest made in slayings," *Houston Chronicle*, 25 January 2007, A1.

10. Jerry Mitchell, "Civil rights-era killers escape justice," *USA Today*, 5 February 2007, 3A.

11. See Maryanne Vollers, *Ghosts of Mississippi: The Murder of Medgar Evers, the Trials of Byron de la Beckwith, and the Haunting of the New South* (New York: Little Brown, 1995).

12. Joanna Weiss, "Klan chief gets life in '66 rights murder; fifth time around, Miss. jury convicts," *New Orleans Times-Picayune*, 22 August 1998, A1; Associated Press, "Former Klansmen is convicted in '63 bombing that killed 4 girls; he gets life term for blast at black church in Birmingham," *St. Louis Times Dispatch*, 2 May 2001, A1; Rick Bragg, "38 Years Later, Last of Suspects Is Convicted in Church Bombing," *New York Times*, 22 May 2002, A1. Beckwith, Bowers, and Cherry have all died in prison.

13. Rick Bragg, "Ex-FBI Agent Testifies of Bloody Time in Mississippi," *New York Times*, 28 February 2003, A18; Manuel Roig-Franzia, "After Nearly 40 Years, a Guilty Verdict; Federal Jury Convicts Reputed Klan Member in Black Sharecropper's 1966 Slaying," *Washington Post*, 1 March 2003, A3; Shaila Dewan, "Ex-Klansman guilty of manslaughter in 1964 deaths," *New York Times*, 22 June 2005, A1. Avants was the first of these cold cases to be tried under federal charges.

14. Adam Nossiter, "Indictment in '65 killing that inspired rights march," *New York Times*, 10 May 2007, A20.

15. Michael Dorman, "Civil rights fight is losing time," *Newsday*, 20 June 2007.

16. Shaila Dewan, "After inquiry, grand jury refuses to issue new indictments in Till case," *New York Times*, 26 February 2007, A16.

17. Drew Jubera, "Civil Rights-era murder cases: 'another day for justice,'" *Atlanta Journal-Constitution*, 3 June 2007, 1A; Mitchell, "Civil rights-era killers escape justice"; Dewan, "After inquiry, grand jury refuses to issue new indictments in Till case."

18. Christopher Dodd and John Lewis, "Open door to horrid truths," *Atlanta Journal Constitution*, 22 June 2007; Ben Evans, "House Clears $100M for rights era cold cases," *Newark (NJ) Star-Ledger*, 21 June 2007, 14; Wagster Pettus and Breed, "After decades of waiting, arrest made in slayings."

19. Chris Myers Asch, *The Senator and the Sharecropper: The Freedom Struggles of James O. Eastland and Fannie Lou Hamer* (New York: The New Press, 2008).

20. Rick Bragg, "Ex-Klansman Implicates Chief in Killing," *New York Times*, 20 August 1998, A12.

21. Quoted in Curtis Wilkie, "Ex-Klan leader is convicted of murder in a fourth trial," *Boston Globe*, 22 August 1998, A1.

22. David J. Garrow, "Unfinished business," *Los Angeles Times*, 8 July 2007. See also S535 IS, Emmett Till Unsolved Civil Rights Crime Act, *http://thomas.loc.gov/cgi-bin/query/z?c110:S.535:* (accessed 12 September 2008).

23. Jaxon Van Derbeken and Marisa Lagos, "Ex-militants charged in S.F. police officer's '71 slaying at station," *San Francisco Chronicle*, 24 January 2007.

24. Jaxon Van Derbeken, "Ex-militant seen as likely to testify at cohorts' trial," *San Francisco Chronicle*, 25 January 2007; Jaxon Van Derbeken, "The Death of Sgt. John Young: Evidence revealed in '71 slaying. Affidavit tells of secret witness, recently matched fingerprint," *San Francisco Chronicle*, 26 January 2007; Wanda Sabir, "Eight Black Panther veterans charged in 34–39-year-old cases based on torture," *San Francisco Bay View*, 26 January 2007.

25. Van Derbeken, "The death of Sgt. John Young"; Sabir, "Eight Black Panther veterans charged." For more on the case in which Bell and Muntaqim were convicted, see Ward Churchill and Jim Vander Wall, *The COINTELPRO Papers: Documents from the FBI's Secret War Against Dissent in the United States* (Boston: South End Press, 1990), 157–59. In addition to the eight arrested, police are searching for a ninth man, another former Panther, who is believed to have fled the country.

26. Van Derberken and Lagos, "Ex-militants charged in S.F. police officer's '71 slaying at station."

27. If recent political trials are anything of a guide, conspiracy charges are based at least in part on guilt by association. It is therefore far easier to prove that a collection of people knew each other and discussed things, than it is to prove that they actually violated any laws. For an overview of how this played out in political trials in the 1980s, see Dan Berger, *Outlaws of America: The Weather Underground and the Politics of Solidarity* (Oakland: AK Press, 2006), 250–58. For the current period, see Nancy Chang, *Silencing Political Dissent: How Post–September 11 Anti-Terrorism Measures Threaten Our Civil Liberties* (New York: Seven Stories Press, 2002).

28. Ward Churchill, "'To Disrupt, Discredit and Destroy': The FBI's Secret War Against the Black Panther Party," in *Liberation, Imagination and the Black Panther Party*, eds. Kathleen Cleaver and George Katsiaficas (New York: Routledge, 2001), 78–117; Churchill and Vander Wall, *The COINTELPRO Papers,* 91–164.

29. The full extent of this militancy is only now being told. For overviews, see the essays collected in Judson Jeffries, ed., *Black Power in the Belly of the Beast* (Urbana: University of Illinois Press, 2006); as well as Berger, *Outlaws of America*; Joseph, *Waiting 'Til the Midnight Hour*; George Katsiaficas, *The Imagination of the New Left: A Global Analysis of 1968* (Boston: South End Press, 1988); and Jeremy Varon, *Bringing the War Home: The Weather Underground, the Red Army Faction, and Revolutionary Violence of the Sixties and Seventies* (Berkeley: University of California Press, 2004).

30. Jon Holl, "Bounty on a Fugitive," *New York Times*, 8 May 2005, 6; DeWayne Wickham, "U.S. promotes double standard in how it deals with 'terrorist' cases," *USA Today*, 10 May 2005, A15. More generally, see Assata Shakur, *Assata: An Autobiography* (Chicago: Lawrence Hill Books, 1987).

31. Steve Visser, "Arrest made in '71 cop slaying; Ex-radical returned to Atlanta after years living quietly in NY," *Atlanta Journal-Constitution*, 14 July 2002, A1; Steve Visser, "Ex-revolutionaries: Defendant said he killed cop," *Atlanta Journal-Constitution*, 8 October 2003, C1; Beth Warren, "Officer's killer sentenced to life," *Atlanta Journal-Constitution*, 11 November 2003, B3.

32. Joe Allen, "Gary Freeman's Struggle: A Black Radical from the 1960s Fights Extradition to the US," *Counterpunch* online journal, *http://www.counterpunch.org/allen01062006.html* (posted January 6, 2006; accessed 12 September 2008); Peter Edwards and Harold Levy, "Cold case fuelled by race and politics: 1969 Chicago shooting led to arrest. Toronto man linked to Black Panthers," *Toronto Sun*, 5 February 2005.

33. Mareva Brown, "Kilgore given six years for his role in SLA killing," *Sacramento Bee*, 11 May 2004, B1; Sam Stanton, "Olson likely to serve longest SLA sentence, officials say," *Sacramento Bee*, 30 September 2004, B2. For more on the SLA in general, see John Bryan, *This Soldier Still at War* (New York: Harcourt, Brace, Jovanovitch, 1975). The SLA was not a black power group per se, but it undoubtedly emerged out of the cultural and political frameworks black power helped establish, including an escalating tactical militancy throughout the Left. Besides Kilgore and Olson, the other former SLA members incarcerated in recent years are Bill Harris, Emily Montague, and Michael Bortin.

34. Greg Bluestein, "Former Black Panther now in federal custody. H. Rap Brown moved from Georgia prison," *Newark Star-Ledger*, 4 August 2007, 11; Lateef Mungin and Steve Visser, "Al-Amin Sentenced: Life without parole for killing of deputy," *Atlanta Journal-Constitution*, 14 March 2002, A1. A particular target for law enforcement in the late 1960s and early 1970s, Brown served five years in the 1970s for a robbery and shootout with police. See Clayborne Carson, *In Struggle: SNCC and the Black Awakening of the 1960s* (Cambridge: Harvard University Press, 1995), 256–90.

35. Dan Berger, "Building a political prisoner amnesty movement," *Left Turn* (May-June 2006): 54–57; Peter Fimrite, "Park ranger killer's parole is delayed," *San Francisco Chronicle*, 23 February 2005, B4.

36. "Between 1971 and 1973, nearly 1,000 Black people were killed by American police," Umoja writes, and the end of the decade saw a similar rise in white supremacist organizing by neo-Nazi groups. See Akinyele O. Umoja, "Repression Breeds Resistance: The Black Liberation Army and the Radical Legacy of the Black Panther Party," in *Liberation, Imagination, and the Black Panther Party,* eds. Cleaver and Katsiaficas, 12. For more on police violence, see Kristian Williams, *Our Enemies in Blue* (New York: Soft Skull Press, 2004).

37. Churchill and Vander Wall, *The COINTELPRO Papers*; David Cunningham, *There's Something Happening Here: The New Left, The Klan, and FBI Counterintelligence* (Berkeley: University of California Press, 2004).

38. Gary May, *The Informant: The FBI, the Ku Klux Klan, and the Murder of Viola Liuzzo* (New Haven, CN: Yale University Press, 2005).

39. Michael Newton, *The FBI and the KKK: A Critical History* (Jefferson, NC: McFarland, 2005).

40. CNN, "Ex-agent investigates civil rights cases from the 1960s," *http://edition.cnn.com/2007/US/07/31/pysk.ingram/* (posted 31 July 2007; accessed 12 September 2008).

41. James Carey, "The Dark Continent of American Journalism," in *Reading the News*, eds. Robert Manoff and Michael Schudson (New York: Pantheon, 1986), 146–96; Stuart Hall, "The Rediscovery of 'Ideology': Return of the Repressed in Media Studies," in *Culture, Society and the Media*, eds. Michael Gurevitch, Tony Bennett, and Janet Woollacott (London: Metheun, 1982), 56–90.

42. Bill Baxley, "Why did the FBI hold back evidence?" *New York Times*, 3 May 2001, A25. Baxley also says that the FBI blocked the prosecution of the church bombers until the late 1970s.

43. U.S. Department of Justice, FBI Report to Attorney General, 15 July 1969, 4; Visser, "Arrest made in '71 cop slaying."

44. Shakur, *Assata*; Umoja, "Repression Breeds Resistance."

45. Akinyele O. Umoja, "The Black Liberation Army and the Radical Legacy of the Black Panther Party," in *Black Power in the Belly of the Beast*, ed. Judson Jeffries (Urbana: University of Illinois Press, 2006), 224–51; Chip Berlet and Matthew N. Lyons, *Right-Wing Populism in America: Too Close for Comfort* (New York: Guildford Press, 2000); Newton, *The FBI and the KKK.*

46. Visser, "Arrest made in '71 cop slaying."

47. This power is what Michel Foucault called "biopolitics." See Michel Foucault, *History of Sexuality: Volume 1* (New York: Random House, 1978). For an exploration of biopolitics in relation to race and national defense, see Michel Foucault, *"Society Must Be Defended": Lectures at the Collége de France 1975–1976* (New York: Picador, 1997).

48. Kenyon Farrow, "Not Showing Up: Blacks, Military Recruitment, & Antiwar Movement," *Nonviolent Activist* (March-April 2006); 5; Roberto Lovato, "Far from Fringe: Minutemen Mobilizes Whites Left Behind by Globalization," *Public Eye* 19 (Winter 2005): 3.

49. Quoted in Dorman, "Civil rights fight is losing time."

50. Weiss, "Klan chief gets life in '66 rights murder." Such sentiments are echoed by numerous officials, including judges and prosecutors, in stories of the civil rights trials.

51. Dodd and Lewis, "Open door to horrid truths."

52. Darryl Fears, "Justice Dept. to revisit civil-rights-era killings," *Washington Post*, 28 February 2007, A10.

53. Sasha Abramsky, *Conned! How Millions Went to Prison, Lost the Vote, and Sent George W. Bush to the White House* (New York: New Press, 2006); Derrick Bell, *Silent Covenants: Brown v. Board of Education and the Unfulfilled Hopes for Racial Reform* (Oxford: Oxford University Press, 2005); Jonathan Kozol, *The Shame of the Nation: The Restoration of Apartheid Schooling in America* (New York: Three Rivers Press, 2006).

54. Sturken, *Tangled Memories*, 259.

55. Dodd and Lewis, "Open door to horrid truths."

56. Deborah Mathis, "Commentary: Reopened Racial Murder Cases a Reminder of How Justice Deferred is Justice Denied," *www.blackamericaweb.com/site.aspx/sayitloud/mathis618* (posted 18 June 2007; accessed 12 September 2008). See also Jean Marbella, "Condemn Racist Past, but Confront the Present," *Baltimore Sun*, 20 February 2007, 1B.

57. Garrow, "Unfinished business."

58. "Joint Statement of the San Francisco 8," *http://www.freethesf8.org/SF8statement.html* (posted May 19, 2007; accessed 12 September 2008). The document is printed on the support website for the defendants, which contains a wealth of information about the case from the perspective of their supporters.

59. See *http://www.greensborotrc.org/* for more information on this process.