A Review of Ferguson, Missouri's Civil Rights Police Reports: Using the Criminal Justice System to Demonize Minorities

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ABSTRACT

The events in Ferguson, Missouri following the shooting death of Michael Brown prompted the United States Department of Justice (DOJ) to investigate the Ferguson Police Department. On March 4, 2015, the DOJ released the results of their investigation. In addition, the Missouri Advisory Committee to the U.S Commission on Civil Rights conducted hearings on the Ferguson Police, releasing the results in a June, 2016 report. Together the reports provide numerous descriptions of police and court misconduct. However, no unifying theory is presented in either report, making it difficult to remember and apply the misconduct evidence. A systematic search for a unifying theory to explain the application of criminal law in pre-Michael Brown Ferguson, Missouri indicates demonization theory best explains the misconduct evidence. After presenting an overview of demonization theory, this study applies the misconduct evidence from the two civil rights reports in support of the argument that demonization occurred in Ferguson.

Keywords: demonization, collective conscience, essentialism, relative depravation, ontological insecurity.

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Tumultuous protests following the August 9, 2014 shooting death of Michael Brown by Ferguson, Missouri Police Officer Darren Wilson prompted the United States Department of Justice to initiate an investigation into the Ferguson, Missouri Police Department for unconstitutional police misconduct (Brown 2015). Using the "pattern-or-practice" provision of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, the Civil Rights Division of the Department of Justice launched its investigation of the Ferguson Police Department on September 4, 2014 (United States Department of Justice Civil Rights Division [DOJ Ferguson Report] 2015). Passed by Congress in 1994, Section 14141 authorizes the U.S. Department of Justice to bring lawsuits against police departments for police conduct in violation of the Constitution (Rushkin 2014). In particular, the statute authorizes the U.S. Attorney General to bring injunctive or equitable relief to force police departments to accept recommended reforms to curb the police misconduct uncovered by the investigation (Rushkin 2014). Not as well-known as more individual remedies for police misconduct, such as the exclusionary rule and private civil litigation, Section 14141 lawsuits allow the Department of Justice's Civil Rights Division to bring broad structural reforms of police departments (Harmon, 2010).

Based on their Section 14141 investigation of the Michael Brown incident, on March 4, 2015, the U.S Department of Justice's Civil Right's Division released a 102 page report entitled the *Investigation of the Ferguson, Police Department* (*DOJ Ferguson Report)* (DOJ Ferguson Report 2015). The report documented Fourth Amendment violations, First Amendment Violations, 14th Amendment Due Process violations, Equal Protection violations, and other federal statutory violations by the Ferguson Police Department. In addition the Department of Justice found numerous constitutional violations by Ferguson's Municipal Court. The

Department of Justice followed up on the *DOJ Ferguson Report* by filing a lawsuit in Federal District Court against the city of Ferguson, Missouri on February 10, 2016 (United States Department of Justice: Office of Public Affairs [Office of Public Affairs] 2016). Specifically, the Department of Justice alleged that:

From October 2012 to October 2014, African Americans were more than twice as likely to be searched, to receive a citation or to be arrested, than other stopped individuals. Of all incidents from 2010 to August 2014, African Americans account for 88 percent of all incidents in which a Ferguson police officer reported using force. For municipal offenses where Ferguson police officers have a high degree of discretion in charging, African Americans were again disproportionately represented as compared to their relative representation in Ferguson. While African Americans make up 67 percent of the Ferguson's population, they make up 95 percent of manner of walking in roadway charges; 94 percent of failure to comply charges; 92 percent of resisting arrest charges; 92 percent of disturbing the peace charges; and 89 percent of failure to obey charges (Office of Public Affairs 2016).

As a result of the lawsuit, on March 17, 2016, the U.S. Department of Justice and the City of Ferguson, Missouri agreed to a Consent Decree to "implement reforms to bring about constitutional and effective policing," and "ensure fundamental fairness and equal treatment regardless of race in the municipal court and foster greater trust between police officers and the communities they serve" (Office of Public Affairs 2016). Specifically, the City of Ferguson agreed to hold a series of public meetings between citizens, community groups, and police officers to select a neighborhood steering committee, to establish a civilian review board to handle police-citizen complaints, to establish a Youth Advisory Board, to establish an Apartment Neighborhood Group, to develop a community policing strategy, to establish a community

mediation program, and to initiate reform of the Municipal Court. In all, the Department of Justice provided Ferguson with an extensive list of police and court reforms to implement as a remedy to the alleged constitutional violations. To ensure compliance, both parties agreed on a neutral monitor. The Department of Justice further agreed to drop the initial Section 14141 lawsuit if Ferguson complies with the demands of the consent decree for two years (City of Ferguson 2016).

In addition to the *DOJ Ferguson Report,* the Missouri Advisory Committee to the U.S Commission on Civil Rights, one of 51 state committee's created by the U.S. Commission on Civil Rights to advise it on civil rights issues in Missouri, issued *The Impact of Community/Police Interactions on Individual Civil Rights in Missouri (Police-Community Relations in Missouri Report)* in June of 2016 based on a series of hearings it held on the Ferguson Police Department (Missouri Advisory Commission on Civil Rights [Police-Community Relations in Missouri Report] 2016). Together, the *DOJ Ferguson Report* (2015) and the *Police-Community Relations in Missouri Report* (2016) provide readers with graphic descriptions of actual police and court personnel misconduct in Ferguson, Missouri in the years prior to the Michael Brown shooting. Much can be learned about police and court misconduct by studying the actual incidents of racial profiling, illegal police searches, illegal police practices, the excessive use of force by police using tasers and dogs, the police misuse of force on vulnerable populations, and attitudes from police and court officials that reflect little concern for the law. In all, the two reports provide invaluable insights into real problems with police selection, training, the police culture, and police disciplinary procedures in Ferguson.

USING THE REPORTS IN RESEARCH

Together, both reports provide over 151 pages describing numerous types of police and court misconduct. While the police and court misconduct evidence is not organized around a specific theory, the Department of Justice does well in categorizing or coding the evidence around a full panoply of different types of police and court misconduct. The *DOJ Ferguson Report* (2015) organizes the police misconduct into the categories of unconstitutional stops and arrests, First Amendment violations, various types of excessive use of force violations, racial profiling, failure to respond to citizen complaints, and a lack of community engagement (15-28 and 62-101). It also organizes Municipal Court practices by types of fines and procedures determining the ability to pay fines (42-61). Likewise, the *Police-Community Relations in Missouri Report* (2016) evidence is categorized by police sub-culture, police training, complaint processes, police use of deadly force, grand juries, and community policing (8-31).

Due to privacy concerns, the Department of Justice interviews of police and court personnel are unavailable to the public. However, the reports organize the police and court misconduct evidence well enough to allow for a two-step inductive-deductive analysis to test suitable theories (see Bachman and Schutt 2017:418). Applying the two step approach to find a theory, first I conducted a literature review to find potentially suitable theories. Second, after finding theories suitable for testing, I conducted inductive and deductive qualitative analyses of the misconduct evidence to test the theories. The result was finding that demonization theory explained the police and court evidence described in both reports.

LITERATURE REVIEW: IN SEARCH OF A THEORY

With an emphasis on describing the illegalities surrounding the police and municipal court practices under investigation, the closest the reports come to organizing the misconduct evidence into a theory comes when both the *DOJ Ferguson Report* and the *Police-Community*

Relations in Missouri Report blame the police and court misconduct on "implicit racial biases" on the part of the criminal justice personnel. Harris, Evans, and Beckett (2011) report that researchers often use the term "implicit racial bias" to refer to the unconscious impact of race to differentiate it from conscious racial reasoning. Not satisfied with the "implicit racial bias" explanation for their research on court fines in Washington State, Harris et al. (2011) fully develop a socio-cultural theory of punishment to explain the court practices they observed. In all the researchers develop a courtesy stigma theory in which they depict punishment as being driven by "moral outrage; passion, and indignation" (Harris et al. 2011:238). Hypothesizing that violent and drug offenders of any race, and any type of offense committed by black and Hispanic offenders would draw the largest fines, the researchers partially supported their theory by finding significant differences in fines for drug offenders and Hispanic offenders in Washington state (Harris et al. 2011).

Demonization theory has its roots in Durkheim's (1958) conception of society as an entity with a collective conscience, and Durkheim's (1958) depiction of deviance as an expression of moral outrage of society's collective conscience. Durkheim (1958) rejected the contention that crime is the product of abnormal behavior, arguing that crime is a normal part of society. For Durkheim (1958), crime was indispensable to organize and develop a society's collective conscience. Beginning with the observation that every society is different, Durkheim (1958) argues that what all societies have in common is that they have a collective consciousness. For Durkheim, a society would not be a society if it did not have a collective consciousness, or a shared system of values and beliefs. Differences between societies can be explained by the differences in collective consciences, or in what each society considers deviant and criminal. It is out of this context that Durkheim (1958) made his famous observation that

even in a "society of saints," there would be crime and deviance. For Durkheim, being a society, the saints would define acts deviant according to its collective consciousness. To defend their society, if the deviance was considered severe enough, the saints would make the act a crime, even if it were something as minor as stealing a quill pen.

Since crime and deviance exists in every society and since crime and deviance is different in every society, Durkheim (1958) concluded that no act is inherently deviant or criminal, or that there is no such thing as a "crime in itself." Rather than being an act offensive in itself, for Durkheim (1958), crime, always offends the collective consciousness of a society. It is the differences in societies that explain the differences in what society deems deviant and criminal. Durkheim (1958) describes this process of creating deviance in emotional terms. The deviant or the crime does something that draws the outrage of society by violating rules of conduct the society holds in high esteem. A collective sense of morality forms when a society defends itself by sanctioning the offender. In all, Durkheim (1958) argues that crime is functional. In addition to helping societies form their collective consciousness, or a common sense of morality, Durkheim (1958) argued that crime also helps define the acceptable boundaries of society, letting people know what is acceptable and what is not in society, helping society evolve and change as reactions to crime and deviance change over time.

Mead (1918) criticizes that a society's reaction to deviance often results in irreversible and irrational sanctions incommensurable with more humane approaches to punishment. Like Durkheim, Mead (1918) observed that criminal punishment functioned to organize society. However, Mead (1918) argued the rehabilitation of offenders was so difficult because attitudes leading to retribution were incommensurable with attitudes toward the rehabilitation of offenders. For Mead (1918), the negative stigma of criminal punishment comes after an

emotional legal battle of society overcoming the criminal. While the subsequent act punishing the criminal has the positive effect of organizing society against the criminal and the nature of his act, it also serves as a detriment to rehabilitation. He writes:

Hostility toward the lawbreaker inevitably brings with it the attitudes of retribution, repression, and exclusion. These provide no principles for the eradication of crime, for returning the delinquent to normal social relations, nor for stating the transgressed rights and institutions in terms of their positive social functions (Mead 1918:90).

Critical of retribution as a punishment strategy, Mead (1918) recognized its ability to organize and protect society. He thought that rehabilitation was possible, but that it must come in the context of the way society treated juveniles in his time, where the goal was to reintegrate the juvenile offender back into society. In all, for Mead, the key to a successful criminal punishment strategy came in the way the strategy organized society. Successful retributive strategies would organize society by protecting it while successful rehabilitation strategies would organize society around the benefit of rehabilitation.

Erikson (1966) elaborates on Durkheim and Mead's theories of deviance in his study of Puritan Society. Building on Durkheim's conception that no act is inherently deviant, Erikson (1966) begins by establishing the fact that deviance is always defined by the group of people the deviant comes into contact with. With a focus on communities, Erikson (1966) maintains that people organize their communities by setting normative boundaries. Deviance occurs when a person transgresses those boundaries, and hence offends the inner conscience of values and norms the community holds dearly. Erikson (1966) adds that the deviant act is often dramatic with the deviant being stigmatized by a society through commitment ceremonies such as arrests, jailing defendants, finding defendants guilty at trials, and imprisonment. Building on Mead's

conception of retributive punishment, Erikson (1966) notes that the ceremonies leading to deviance are often irreversible and that people generally do not believe those labeled deviants will ever change.

However, Erikson (1966) observes that the same forces that produce deviance in society often work to promote diversity, allowing the people of a community to live and work together in a way for the community to reach its potential. For Erikson (1966), the research question becomes what evokes the reaction in communities to create deviance and sanction individuals, and what promotes the diversity. The answer he comes up with is that societies create deviants when they feel jeopardized or threatened. For Erikson (1966), deviance always occurs where it is most feared. It is out of these fears that one group in society "demonizes" another by making relatively harmless behaviors crimes. He comments, "Men who fear witches soon find themselves surrounded by them; men who become jealous of private property, soon encounter thieves" (Erikson 1966:22). Erikson further comments that it is not easy to tell if the deviance created the fear or the fear created the deviance.

YOUNG'S SOCIOLOGICAL APPROACH TO DEMONIZATION, CRIME AND DEVIANCE

Young's Sociological Approach to Demonization, Crime and Deviance

Building from Erikson's demonization theory, or the tendency to criminalize relatively harmless behaviors, Young (1999) maintained that racial *demonization* occurs when race becomes associated with accusations of criminality. In all, Young observed that *demonization* has three components: (1) distancing; (2) the ascription of the essentialist other; and (3) the reaffirmation of normality (Young 1999:113). Distancing occurs when the social problems afflicting the demonized are no longer seen in terms of a product of the structure of society. The

ascription of the essentialist other occurs when the social problems affecting the demonized others are attributed to their essential or racial nature as humans. The reaffirmation of norms allows for distinct and sharp definitions of normality for the racialized person and family compared to members of the demonized group, whose behaviors become blurred as normal behavior and crime become indistinguishable.

For Young (1999), it is out of multicultural society's essentialist nature that the attitude of one group being racially superior to another emerges. The concept of essentialism refers to how cultural groups in multicultural societies come to see themselves and their differences as reified or the product of fixed and timeless cultural behaviors rather than as a reaction to the social structure they face. Young (1999) maintains that seeing one's own ethnic group as having an essential or racial nature provides ontological security for individuals and groups as the way to do things come to be seen as a product of tradition or the way things were always done. It absolves the individual of personal responsibility for their behavior, allowing them to justify unacceptable behavior such as drinking alcohol excessively, claiming superiority by comparing themselves to other groups, and as a reason to defend oneself.

While people have a strong tendency to "essentialize" or "racialize" others, Young (1999) reminds readers that this conception is largely a fallacy. Rather than being fixed and timeless, groups and individuals change over time, and are largely the product of the society they are situated in. For Young (1999), social problems develop when individuals and groups essentialize other racial and ethnic groups in society. Essentializing other racial and ethnic groups provides the individual ontological security by allowing him or her to form a defense against their own change by attributing the change to an essential quality of the other racial and ethnic group. Essentializing or racializing others allows individuals and groups to see themselves

10

as superior and privileged in society, unfairly blaming, scapegoating, and demonizing other racial and ethnic groups for systematic societal problems (Young 1999).

Young (1999) attributes the maladjusted attitude of the majority to essentialize its belief that they are superior culturally and scapegoat minority groups as being stupid, wicked and/or criminal, to a longing to return to the "Golden Age." The "Golden Age" lasted from the end of World War II until 1973. For Young (1999), the "Golden Age" was a consensual time where work and family, the main sites of production and consumption, fit together like a "functionalist dream." It was a near full employment, affluent society that achieved the highest level of wealth in the history of the world. With no shortage of well-paying jobs, incomes steadily increased throughout the era. While there were income inequalities, the people were so satisfied with what they had, they did not notice or complain of them. It was also a time of conformity. The major institutions of work, the family, democratic politics, the legal system, and the economy were accepted without question. In all, the Golden Age was an inclusive society that embraced the citizen from cradle to grave, promoting full, social, legal and political citizenship (Young 1999; see also Young 2007).

For Young (1999), the deviant in the Golden Age was not regarded as an external enemy as much as someone to be socialized, rehabilitated, or cured to be more like those in society. Deviants were seen as lacking in values maturity or sensibility. The values they lacked were not contested, hence the deviant was subject to penal and therapeutic strategies of assimilation and inclusive processes that reaffirmed the goals of society. The Golden Age's conformity began giving way with the "cultural revolution" of the late 1960s and early 1970s that promoted individualism, or zones of personal exclusiveness that unraveled the traditions of the community and family (Young 1999). It further deteriorated with the economic downturn of the 1980s that

resulted in massive unemployment and the splitting of the labor market into high paying white collar jobs and low paying blue collar jobs. Soon the major institutions of work and family no longer provided "cradle to grave" security for work and the family, being replaced by uncertainties driven by a changing labor market. Society moved from being inclusive to being exclusive (Young 1999). No longer thinking they "never had it so good," economic strains between white and blue collar workers and inequalities of gender and race began to surface. The splitting of the labor market in the 1990s completed the move to an exclusive society. The post-Fordism era began as society replaced many middle income manufacturing jobs with low income service sector jobs. In addition, as firms downsized, many low level white collar jobs were eliminated, leaving a lessor number of high skilled and high paying white collar work (Young 1999).

Moving from the time in the "Golden Age" when everyone could guess at everyone else's income, which was more based on the amount of work they did, the 1990s brought a chaotic system of reward where higher paid workers were seen as undeserving of their salaries by lower paid workers. In return, lower paid workers were seen as doing too little for their salary by the higher paid workers. The chaotic system of reward created a feeling of dissatisfaction in the workforce, thinking the economy on the whole is unfair. The work ethic in general declined with the move to post-Fordism and the service sector economy. The Fordist balance between hard work and hard play shifted to a post-Ford world of leisure, marked by a diversity of choice, individualism, immediacy, hedonism, and self-actualization (Young 1999; see also Young 2007).

In all, Young (1999) maintains the late modern, post-Fordist era that we are currently living in is marked by the instability resulting from the lack of an embedded biography from cradle to grave, a heightened choice of everything, and a constant questioning of established

beliefs and certainties. This socio-economic situation breeds ontological insecurity as people can no longer retreat into protective cocoons to filter out challenges society may present to their sense of security. The current wave of individualism and a diversity of lifestyles add to the insecurity of the times. The relative deprivation and individualism have resulted in higher crime rates as neighbors burglarize neighbors, aggression becomes widespread, and entire parts of cities are avoided. Exclusive policies to control crime include high rates of incarceration along with defensive exclusive policies that keep people out of areas of the city occupied by the well off. Feeling ontologically insecure, the majority's cultural scapegoating, or blaming of marginalized racial and ethnic groups for the problems of society is a step away from demonizing the other racial and ethnic groups in society by criminalizing ordinary acts they engage in. For Young (1999), this blaming process is circular as the majority claims we have problems in society because of basic contradictions in the social order or because of the problems themselves. Get rid of the problems would make society problem free.

Above it was reported that Erikson (1966) theorized that the same forces in society that produce demonization, or the criminalization of ordinary acts, are also capable of producing a diverse society in which everyone is treated fairly. Young (1999) follows up on Erikson's theory by remaining optimistic regarding the socio-economic problems currently afflicting the criminal justice system in England and the United States. To end the tendency to "demonize" others, Young (1999) recommends that society become more meritocratic, where people are compensated for their work in accordance with their effort and ability. For Young (1999), the meritocracy of the Golden Age, where wages were based on effort and ability, withered away. Compensation in post-Fordist society is chaotic and results in relative depravation, leaving those who earn too little resentful of those who earn high wages. However, he thinks that achieving

enough meritocracy in today's world will be more difficult than it was in the Golden Age. For Young (1999), a post-Fordist meritocracy would involve equal access to the labor market regardless of age, class, or ethnicity. Meritocracy should reach a level where people are satisfied with their wages to the point there is little resentment in regard to what others make in society.

For Young (1999), it is relative depravation that leads to exclusion and crime. Reform should begin with economic justice programs to bring about a meritocracy, and continue with social programs and policies that reduce the fear citizens have of each other and their tendency to exclude one another. Social policies should promote equality, justice, and an openness to the excluded in society. The goal of society should be to create a transformative multicultural society to where differences between people and groups move from being "dramatic" to "low intensity," and where people learn to tolerate differences between others. In all, Young (1999) thinks we need to create a new social contract for society, which "emphasizes diversity rather than absolute values, and which sees diversity not as a catalog of fixed features, but as a plethora of cultures, ever changing, ever developing, and transforming themselves and each other" (199).

YOUNG AND THE POLICE-MINORITY RELATIONS

Young began developing his sociological theories of deviance while researching the widespread rioting that took place in Britain's inner cities during the summer of 1981 that pitted the British police against second generation African-Caribbean Britons (Dixon 2001). At the time, Young argued against the Conservative thesis that there was an analogy between the police riots of 1981 in Great Britain and the riots that took place in the United States during the 1960s shortly after the passage of the Civil Rights Act (Lea and Young 1982). Young did not like the analogy because he did not think there was anything in Great Britain similar to the ethnic political tradition in the United States that encouraged participation by blacks in political

process. Young pointed out that it was widely believed in England that the United States resolved the riots of the 1960s by building up the black middle class through political participation, Young did not believe the black community in 1980s Great Britain could match the numerous black elected officials that America has. Specifically, Young did not believe that Great Britain's African-Caribbean middle class could develop enough politically to handle the proposed conservative "hard policing" strategy (Lea & Young 1982). Young was also critical of the U.S. solution to the 1960s riots, writing that changes that occurred by building up the American black middle class were largely symbolic, and little was done about the social problems in American cities that plagued black Americans. Given that little was done about the social problems affecting minorities in American cities, Young predicted a future wave of violence in American cities would occur when the neglected social conditions blacks faced boiled-over. He predicted the future violence would result in U.S. blacks losing faith in their elected officials, who would come to be seen as ineffective as resolving social problems (Lea and Young 1982).

In all, Young considered three areas of policing in forming a theory on what went wrong with British policing the 1981 riots: (1) the exercise of police discretion; (2) the relative autonomy of police institutions; and (3) the technology of police work (Kinsey and Young 1982). Defining discretion as the decision whether to handle criminal justice matters informally without reference to the criminal justice system or to arrest people for specific offenses and handling the matter formally, Young proceeded under the assumption that budget limitations and broadly written laws render the use of discretion a reality of policing. Noting that good policing involves the good use of discretion, Young then observed that police discretion is best used when the police act autonomously in relation to both society and the community.

For Young, police autonomy is: (1) cultural; (2) organizational; and (3) ideological (Kinsey and Young 1982). Cultural autonomy is achieved when the police serve as a buffer between the demands of larger society and the communities they police. Autonomy allows the police through the use of discretion to take into account impoverished circumstances people live in before deciding to formally process the people through the criminal justice system. Organizational discretion refers to the organizational reasons the police implement the criminal justice system. The reasons should be to keep the peace given the limited resources the police have. The third type of autonomy is ideological or that the police operate with political neutrality in balancing demands between the public and the state (Kinsey and Young 1982).

Young characterizes good police community relations as objective and politically autonomous. Police-community relations go astray when the police lose their objectivity and subjectively align themselves with groups in political power in the community. Autonomous police relations deteriorate into subjective relations that reflect the same political biases as majority groups in society. In today's society, this means the police become indistinguishable in attitude from the white majority as these biases shape police interactions in minority communities, opening the door to demonizing minorities by criminalizing otherwise ordinary acts they engage in as minority community members are scapegoated by both the police and those in the larger community (Kinsey and Young 1982).

EVIDENCE OF DEMONIZATION IN FERGUSON

First of all, the *DOJ Ferguson Report* clearly indicates a lack of autonomy by both police and court personnel in their professional dealings with the public in their conclusion that both were operating in conjunction with other political forces in the community:

Ferguson's law enforcement practices are shaped by the City's focus on revenue rather than public safety needs. This emphasis on revenue has compromised the institutional character of Ferguson's police department, contributing to a pattern of unconstitutional policing, and has also shaped its municipal court, leading to procedures that raise due process concerns and inflict unnecessary harm on members of the Ferguson community. Further, Ferguson's police and municipal practices both reflect and exacerbate existing racial biases, including racial stereotypes (DOJ Ferguson Report 2015:2).

Further indicating a lack of autonomy on the part of the Ferguson Police Department's, the *DOJ Ferguson Report,* continues with the finding that "City, police, and court officials for years have worked in concert to maximize revenues at every stage of the enforcement process"(DOJ Ferguson Report 2015:10).

Evidence from both investigative reports indicated that the Ferguson Police Department lacked autonomy on the cultural, organizational, and ideological levels. The U.S. Civil Rights Commission's *Police-Community Relations in Missouri Report* (2016) addressed problems confronting the pre-Brown shooting Ferguson, Missouri Police Department on the cultural level, finding a police culture where police officers in power routinely "bullied " officers who opposed them in their efforts to protect fellow officers over protecting the community (19-20). The *Police-Community Relations in Missouri Report* (2016) further found that this "bullying" culture promoted unlawful police behavior, racist police behavior, and racism within the police ranks that was supported by police supervisors that lead to a "pack mentality" and an "us vs. them" attitude toward the community (19-20). In all, the *DOJ Ferguson Report* (2015) found a culture in which police supervisors supported policies that allowed the Ferguson police to expect and

demand compliance in their contacts with citizens even if the police lacked the authority to do so (19-20).

Given the resistance to input from the community being so deeply rooted in Ferguson's police culture, it is not surprising that neither report found evidence of effective organizational structures to remedy the numerous documented unconstitutional police practices and acts racist policing. The *DOJ Ferguson Report* (2015) found no meaningful review of police use of force policies, with supervisors ignoring departmental policies they do not understand (38-41). *The DOJ Ferguson Report* (2015) further found that the lack of review resulted in widespread underreporting of abuse by police officers, leaving it more likely that officers would continue using racist and illegal police practices further generating the divide in the community (38-41). Lastly, a lack of police autonomy was also evident on the ideological level with both investigations concluding that efforts to generate revenue for the community and racial biases among the Ferguson police greatly compromised their ability to generate law enforcement polices concerned with promoting public safety (DOJ Ferguson Report 2015:6-9; Police-Community Relations in Missouri Report 2016:6-20).

Rather than acting autonomously, the Ferguson police department acted in unison with the primarily white city government and court system supported by a white electorate. Substituting for the autonomous relationships essential for good police – public relations, were racial biases and economic motivations for policing stemming from a primarily white Ferguson Police Department working in unison with white City and Court Officials (DOJ Ferguson Report 2015:6-9). The Ferguson City Officials mainly consisted of a white Mayor, a white City Manager and an elected six person City Council, of which five were white (Weissman 2015).

The Municipal Court personnel were primarily white, and out of 54 police officers, only four were African-American (DOJ Ferguson Report 2015:7).

The lack of autonomy in Ferguson's police department and municipal court system "opened the door" to criminal justice officials "demonizing" Ferguson's black community by criminalizing behavior that ordinarily is considered non-criminal. The *DOJ Ferguson Report* (2015) removes any doubt that demonization took place by providing numerous examples that the process of demonizing minorities by criminalizing the seemingly harmless actions of blacks took place on a routine basis. Evidence of "demonization" of Ferguson's black community is demonstrated as even though most interactions with the police and courts were for minor offenses, many of these interactions often ended with the police criminalizing the offender. Specifically, the *DOJ Ferguson Report* (2015) found that the overwhelming majority of Ferguson police actions were brought under the municipal code (8). These types of offenses included:

Every aspect of civil life of those who live in Ferguson and regulates the conduct of all those who work, travel through, and otherwise visit the city. In addition to mirroring some non-felony state law violations, such as assault, stealing, and traffic violations, the code establishes housing violations, such as High Grass and Weeds; requirements for permits to rent an apartment or use the City's trash service; animal control ordinances, such as Barking Dog and Dog Running at Large; and a number of violations such as Manner of Walking in Roadway (DOJ Ferguson Report 2015:7).

The *DOJ Ferguson Report* (2015) continues to show how these practices often resulted in ordinary citizens being jailed.

Most strikingly, the court issues municipal court warrants not on the basis of public safety needs, but rather as a routine response to missed court appearances and required fine payments. In 2013 alone, the court issued over 9,000 warrants on cases stemming in large part from minor violations such as parking infractions traffic tickets, or housing code violations. Jail time would be considered far too harsh a punishment for the great majority of these code violations, yet Ferguson's Municipal Court routinely issued warrants for people to be arrested and incarcerated for failing to timely pay related fines and fees (3).

The demonization in Ferguson did not stop with actions such as jailing people for not mowing their lawns or violating other city ordinances. The *DOJ Ferguson Report* (2015) also documents the Ferguson Police routinely detaining people without reasonable suspicion or probable cause (16-19), arresting people for not identifying themselves when they were not legally required to do so (19-22), not following police orders (24-28), punishing people for talking back to officers (24-28), punishing people for recording police activities (24-28), and punishing people who lawfully protested injustices (24-28). To take the demonization process a step further, the *DOJ Ferguson Report* (2015) further found that the unlawful arrests often escalated in the use of force (34-35), which could become excessive and involve the use of tasers (28-31), and dogs to restrain defendants by biting them (31-32).

Young (1999) observed that demonization has three components: (1) distancing; (2) the ascription of the essentialist other; and (3) the reaffirmation of normality. Distancing occurs when the social problems afflicting the demonized are no longer seen in terms of a product of the structure of society but is attributed to their characteristics. *The DOJ Ferguson Report* (2015) reported evidence of "distancing" in their finding that many public officials told investigators that the reason why minorities were disproportionately targeted by law enforcement was due to

their "lack of personal responsibility" (74). Supporting the case for "demonization," the *DOJ Ferguson Report* (2015) investigators found that the public official's attitude that minorities lacked "personal responsibility" was without substance, finding minorities often made extraordinary efforts to pay off the expensive fines they faced (74). *The DOJ Ferguson Report* (2015) investigators also found evidence supporting Young's second factor, the ascription of the essentialist other, which occurs when the majority projects their bad attributes onto minorities (74). This projection of the white majority's bad side onto minorities becomes apparent when the DOJ investigators uncovered a double standard operating among Ferguson public officials, finding that while minorities were scapegoated for lacking of personal responsibility when violating the law, the predominately white court officials empathized with each other when they found themselves in similar situations, and routinely "assisted friends, colleagues, acquaintances, and themselves in eliminating citations, fines and fees." (The *DOJ Ferguson Report* 2015:74). The demonization process becomes complete as the Ferguson officials "reaffirm normality," by continuing to see themselves as acting as responsible citizens when being questioned by DOJ investigators in the face of evidence suggesting they were scapegoating and demonizing of minorities.

In sum, investigative evidence from the *DOJ Ferguson Report* and the *Police-Community Relations in Missouri Report* provide support for the theory that the Ferguson police and court personnel "demonized" the black community in pre-Michael Brown shooting Ferguson, Missouri when the criminalized ordinary acts by blacks on a regular basis. Evidence from both reports showed how the professional autonomy of police and court officials deteriorated into attitudes reflecting the social, economic, and political attitudes of Ferguson's white community at a time Ferguson was experiencing an economic downturn accompanied by a dramatic change

in racial composition. The resulting criminalization of citizens for minor discrepancies blurred the lines between being a member of a minority group and an actual criminal, leaving no doubt that the white majority used the criminal justice system to routinely criminalize the relatively harmless actions of blacks.

CONCLUSIONS

Erikson (1966) theorized that "demonization" was likely to occur after a community experiences a significant shift in its boundaries that threaten its power structure (68). Consistent with Erikson's theory, the *DOJ Ferguson Report* (2015) provides statistics showing that a dramatic shift in the boundaries of Ferguson's white community occurred between 1990 and 2010 when, maintaining a population of approximately 21,000 residents, Ferguson went from being 74% white and 25% black to being 29% white and 69% black (6).

According to Erikson (1966) the dramatic change is likely to induce fear and threaten communities into a "demonization" reaction, which Erikson predicts will occur at a point people fear the most (22). Reflecting the logic of Erikson's (2016) theory, the unlawful and discriminatory practices in Ferguson came at a time when Ferguson's majority white population became most vulnerable, or at a time when the community changed from being a predominantly segregated white community to a predominantly black community. Ferguson, Missouri has a history of segregation, with a historical division in the community existing between poor blacks and wealthier whites. Blacks were not allowed into Ferguson after dark until the 1960s and could only travel on certain roads when entering the city (DOJ Ferguson Report 2015:76). Ferguson is located in St. Louis county which developed at a time when white suburban areas formed municipalities "to improve services, capture local revenue from local businesses, avoid paying taxes in support of poor neighborhoods and segregate blacks" (Police-Community Relations in

Missouri Report 2016:16). The *Police-Community Relations in Missouri Report* (2016) maintains that the racial and economic segregation created by the municipalities in St. Louis County continues today and contributes to the disparities in policing between poor and well off areas (16-17).

Both the *DOJ Ferguson Report* and the *Police-Community Relations in Missouri Report* found a strong economic motivation supporting the demonization processes. Both reports presented evidence showing Ferguson City Officials pressuring both police and court personnel to criminalize blacks as a strategy of generating revenue. While the evidence from both reports clearly and unambiguously documents the resulting demonization process through criminalization of blacks, less clear is the actual motivation of the majority and their attitude toward the economy. On its face, the situation in Ferguson also appears to support Young's (1999) theory that "demonization" can result in our multicultural society, embroiled in an economic crisis as it transitions from a robust modern, Fordist economy to a unstable post-modern, post-Fordist economy marked by relative depravation and ontological insecurity.

Overall, the goal of this research was to find a theory to organize the mass amount of evidence describing illegal police and court tactics from the *DOJ Ferguson Report* and the *Police Community Relations in Missouri Report*. To this extent, this research was successful. Young's (1999) "demonization" theory, allows readers to organize the numerous incidents of police and court misconduct into one narrative. This further helps readers to form a non-prejudicial attitude toward criminal justice. Rather than trying to remember all the ways the police and courts abuse citizens, readers can use the demonization narrative to practice criminal justice in a non-discriminatory way.

Both Erikson (1966) and Young (1999) theorized on how the same forces that produce demonization can produce a diverse and fair society. Much progress has occurred to reform criminal justice in Ferguson since the Department of Justice began investigating the Ferguson Police Department on September 4, 2014. This paper reported on how the City of Ferguson entered into a Consent Decree with the Department of Justice Civil Rights Division to reform the processes leading to the abuses documented above. Other efforts to reform the criminal justice system in Ferguson included the appointment of the 16 member Ferguson Commission by the governor of Missouri in 2014, entitled *Forward Through Ferguson: A Path Toward Racial Equality*, which held a series of public hearings on criminal justice problems affecting Ferguson, Missouri from January to December of 2015 (Ferguson Commission 2015). In response to all the publicity generated by the newspapers and the Ferguson Municipal Court, Missouri Supreme Court Chief Judge Mary R. Russell appointed the Missouri Supreme Court Municipal Court Work Group, a nine member panel appointed in May of 2015 to study the reports of abuses in the St. Louis area Municipal Courts. The Missouri Supreme Court Municipal Court Work Group report was made public on March 1, 1016 (Supreme Court of Missouri Municipal Court Work Division Group 2016). Hopefully, the above efforts will result in a non-racist and fair criminal justice system. It would make a nice end to the demonization narrative and serve as a model for other communities experiencing similar problems.

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