

FERGUSON & ME: A TRANSFORMATIVE TEN YEARS

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ABSTRACT

This article reflects on the impact of the Ferguson protests over the past decade, sparked by the 2014 death of Michael Brown. I engage with S. David Mitchell's 2015 question, *Ferguson: Footnote or Transformative Event?*, and illustrate how Ferguson inspired the Black Lives Matter (BLM) movement, campus activism, and policy changes such as the abolition of cash bail under the SAFE-T Act in Illinois. This article also explores the dual nature of Ferguson's legacy—acknowledging its role in empowering racial justice movements while simultaneously fueling opposition, including attacks on Critical Race Theory (CRT). I underscore Ferguson's enduring resonance in the fight for justice, the resounding calls for continued vigilance, and heartfelt advocacy to ensure its transformative promises are fulfilled—even amid continuous challenges.

INTRODUCTION

By most measures, it was a regular sunny day in Columbia, Missouri. The November air was crisp, and the leaves outside were their usual beautiful yellow-orangish hue. It was cold enough that you needed a jacket but not so much that you needed layers. Usual for about this time of year in Missouri. Like most Fridays, I was at work doing my work-study job at the University of Missouri School of Law.¹ Normally, when I left my shift, I went out of the backdoors toward the student center because that was the direction in which I parked on campus. But today was different. Instead, I

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1. Hereinafter the University of Missouri is referred to as Mizzou.

headed out the front doors of the law school, which faced a long stretch of grassy quad that separated the business and law schools.² My deviation that day was because I wanted to view the epicenter of the makeshift encampment where activists (and friends of mine) were calling for the resignation of the President of Mizzou, Tim Wolfe (President Wolfe) and Chancellor R. Bowen Loftin (Chancellor).³

As I exited the building, I noticed an older white couple stopping to gaze out at the encampment. They were from out-of-town, as evidenced by their rival football gear. In my experience, it was commonplace for lingering fans to walk around after a big football game and view the campus like they were doing.⁴ What was *not common*, was for fans like them to stop and stare. I noticed it because I thought it was odd, but also because deep down, I figured they were looking at the student protestors who were calling out systemic racism on campus with disapproval.

Perhaps paradoxically, with my emotions building, I had begun staring at them as they stared at the protestors. I was not the only one who noticed them, however. A white student in Mizzou gear passing by also noticed the out-of-towner's fixation on the encampment. Unprompted, he approached them and quipped, "oh, sorry you have to see that."⁵ With a Cavalier smirk, he followed up and said, "don't get me started on that."⁶

It was crystal clear that his apology to these people from another campus was not on behalf of the students in the encampment or for the systemic racism they were calling out. Rather, he was apologizing because the

2. See *Mel Carnahan Quadrangle*, UNIV. OF MO. BOTANIC GARDEN, <https://garden.missouri.edu/about/carnahan> [<https://perma.cc/2PMP-D7NS>] (last visited Nov. 11, 2024). Formerly known as the South Quad, it is now named the Mel Carnahan Quadrangle. See *id.*

3. See Kasia Kovacs, *Student Activists Camp Out to Protest Wolfe and Support Hunger Strike*, COLUMBIA MISSOURIAN (Nov. 2, 2015), https://www.columbiamissourian.com/news/higher_education/student-activists-camp-out-to-protest-wolfe-and-support-hunger-strike/article_b204b8b4-81dc-11e5-a4a0-cb305bb09bed.html [<https://perma.cc/Y9GF-QNAQ>] (noting the encampment location as Carnahan Quadrangle).

4. The exact football game was against Mississippi State. I not only lived through these events, but the timeline is evidenced by reports of the encampment/Protest beginning on November 2nd. See Kavacs, *supra* note 3. Only one football game was played during the protest, which was against Mississippi State. Associated Press, *Prescott Throws 4 TD Passes, Mississippi State Tops Missouri*, ESPN (Nov. 7, 2015, 10:31 PM), https://www.espn.com/college-football/recap/_/gameId/400603911 [<https://perma.cc/7AJR-6X65>] (discussing outcome of the game).

5. @AlmightyChrit, TWITTER (Nov. 6, 2015, 8:52 AM) (filed with author) (tweet states "[w]hite male Mizzou student walks past and says, '[o]h I'm sorry you have to see that'. Laughs then says 'don't even get me started on that'") (formerly Twitter, now commonly known as X).

6. *Id.*

encampment and protest *itself* existed. Apparently, we (the protesters) were making him—and the rest of the university—look bad in front of “guests.”

The out-of-towners nodded in acknowledgment and acceptance of his point. Afterwards, both the student and the out-of-towners kept it pushing, going their separate ways. I watched the scene unfold in what seemed like slow motion. I was there, but invisible—or rather, my presence did not matter. It was the perfect encapsulation of the dismissal of racism that many black students on campus, like myself, had felt.⁷ People were attempting to act like a problem did not exist and that we were being dramatic by calling it out.

Despite dismissing the protests calling for change on campus from others, we did not stop organizing. Eventually, we created change by getting President Wolfe and the Chancellor to step down.⁸ Our historic success was owed in large part to the transformative protests that occurred in Ferguson in response to Michael Brown’s death the year before.⁹

Its influence on us was evidenced by the fact that we voiced the same chants, used the same slogans, and even rejoiced to the same music that had been popularized during the protests in Ferguson.¹⁰ More importantly, the

7. Throughout, I purposely do not capitalize references to racial groups. I do this as a way to point out the social construction of race and draw attention to this fact. While this practice will not tear down the institution of race, it is my way of protesting our commonly held notions about race. I capitalize racial signifiers when they are a part of a group’s name out of respect and gratitude for those organizations, not to signal the existence of biological race as an uncontested category.

8. See Eyder Peralta, *Amid Controversy, University of Missouri President and Chancellor Step Down*, NPR (Nov. 9, 2015, 11:21 AM), <https://www.npr.org/sections/thetwo-way/2015/11/09/455324174/amid-controversy-university-of-missouri-system-president-resigns> [<https://perma.cc/5XJX-JVNH>].

9. I am not the first to make this connection; others have done so elsewhere. See, e.g., Anemona Hartocollis, *Long After Protests, Students Shun the University of Missouri*, N.Y. TIMES (July 9, 2017), <https://www.nytimes.com/2017/07/09/us/university-of-missouri-enrollment-protests-fallout.html> [<https://perma.cc/KCJ8-PK88>]; Michael Pearson, *A Timeline of the University of Missouri Protests*, CNN (Nov. 10, 2015, 8:21 AM), <https://www.cnn.com/2015/11/09/us/missouri-protest-timeline/index.html> [<https://perma.cc/HJW8-ADKK>]; *How Ferguson Influenced the Student Uprising at Mizzou*, PBS (Nov. 9, 2015, 8:28 PM), <https://www.pbs.org/newshour/show/mizzou> [<https://perma.cc/WF42-FZM8>].

10. See, e.g., Aisha Harris, *Has Kendrick Lamar Recorded the New Black National Anthem?*, SLATE (Aug. 3, 2015, 4:08 PM) <https://slate.com/culture/2015/08/black-lives-matter-protesters-chant-kendrick-lamar-alright-what-makes-it-the-perfect-protest-song-video.html> [<https://perma.cc/Z76L-S44L>]; Jared McNett, *Concerned Student 1950 Finds Comfort in Kendrick Lamar Song*, VOX MAG. (Nov. 12, 2015), https://www.voxmagazine.com/missouri/concerned-student-1950-finds-comfort-in-kendrick-lamar-song/article_a53fb959-4e56-5850-bc2b-3bea43327768.html [<https://perma.cc/6FP3-NRTW>]; see also CNN, *Ferguson: Protestors Chanting*, YOUTUBE (Apr. 1, 2016), <https://youtu.be/8dwQJbJqDcQ?si=s0lg5NtYD8aEWDF1> [<https://perma.cc/Z872-43T2>] (fifty-eight

Ferguson protests signaled to us and others in the years to come that we did not need to simply put up with racism. Rather, we could make history by collectively organizing and transforming the world around us.

When I was asked to write this piece about my reflections on the ten years that have passed since Ferguson, memories like those I shared above were front of mind. As I was deciding what to write, I kept coming back to a question raised by S. David Mitchell in the *Missouri Law Review* in 2015.¹¹ In his article, Professor Mitchell asks whether Ferguson was a footnote or a transformative event in history.¹² It seems fitting to revisit this question now that ten years have passed since Ferguson captured the consciousness of our nation.

Following up on Mitchell's article, utilizing personal narrative as an explanatory tool, I answer definitively here that the ten years since Ferguson undoubtedly show that it transformed society. I depart slightly from Mitchell's article in that I believe Ferguson has been transformative in some positive ways but also transformative in a not-so-good way.

In this piece, I first briefly summarize Mitchell's article and claims. In part II, I discuss some personal examples of how Ferguson was transformative for folx pursuing social justice post-Ferguson. In part III, I discuss some examples of how Ferguson has been transformative for those who oppose social justice advances. Then, I close by sharing my own reflections on pathways forward post-Ferguson.

II. PROFESSOR MITCHELL'S CASE

Writing in the year post-Ferguson, Professor Mitchell's article entitled, *Ferguson: Footnote or Transformative Event?*, questioned whether Ferguson would be just another event in a long history of racialized violence or one with an enduring legacy.¹³ Though Mitchell poses this question, he

second video showing the protestors in Ferguson in 2016). For a sample of the chants used at Mizzou, see Field of Vision, *Field of Vision - Concerned Student 1950*, YOUTUBE (Mar. 22, 2016), https://youtu.be/fxJLvMxVFdQ?si=YDID6BRgGB_wBie0 [https://perma.cc/3ZVY-HYWP] (documentary about student protests on campus which includes footage of actual protests and chants used).

11. See S. David Mitchell, *Ferguson: Footnote or Transformative Event?*, 80 MO. L. REV. 943, 949 (2015) (in the symposium on *Policing, Protesting, and Perceptions: A Critical Examination of the Events of Ferguson*).

12. *Id.*

13. See *id.* at 953–54.

does not definitively answer the question in his article. Rather, he outlines why it is plausible that Ferguson could be a footnote in history or a transformative event.¹⁴

Mitchell hypothesizes that Ferguson could be a footnote in history for two reasons. The first is that the killing of black folx is not a new phenomenon.¹⁵ The death of Michael Brown at the hands of a white police officer (Darren Wilson), in this sense, is something that has happened over and over and over throughout history.¹⁶ This is not to say that its lack of uniqueness does not warrant scrutiny or is a bad thing; it is just to point out that the ubiquity of black death at the hands of police is so commonplace that it is easy to become dull to it. The logic here, I think, is that you are more likely to notice and become fixated by a bug or an aberration in the system rather than the normal features of the system. Because the killing of black folx by police happens so frequently, for Mitchell, it is easy to chalk it up as the normal course of action and move on from it rather than be shocked by it.¹⁷ This is especially the case with killings of black folx because nothing is being done to change or prevent these occurrences from happening; meaning that they will join an “old story” of similar events that people have moved on from in the past.¹⁸

The other part of Mitchell’s claim is that even high-profile deaths of black folx are commonplace.¹⁹ But despite their frequency and even the awareness they bring, that attention and awareness does not seem to translate into less black folx dying as a result of police violence.²⁰ In support of this claim, Mitchell points out the death of Eric Garner, who died at the hands of police soon after Michael Brown.²¹ As time has passed, the deaths of Laquan McDonald, George Floyd, Breonna Taylor, Sandra Bland, Tony McDade, and Sonya Massey have only strengthened this claim.²² The point

14. *See id.* at 957–58.

15. *See id.* at 952–53.

16. *See id.*

17. *See id.*

18. *See id.*

19. *See id.*

20. *See id.*

21. *See id.*

22. *See, e.g., George Floyd: Timeline of Black Deaths and Protests*, BBC (Apr. 22, 2021), <https://www.bbc.com/news/world-us-canada-52905408> [https://perma.cc/6F4Q-R93K]; Ray Sanchez & Omar Jimenez, *16 Police Officers Participated in an Elaborate Cover-up After Laquan McDonald’s Death, Report Alleges*, CNN (Oct. 10, 2019, 8:17 PM), <https://www.cnn.com/2019/10/10/us/chicago-inspector-general-laquan-mcdonald-shooting/index.html> [https://perma.cc/9KLY-9GRR]; Ej Dickson,

here is that like many of the deaths that preceded and followed Michael Brown, the attention and impact of Ferguson might soon fade into obscurity as public consciousness moves onto the next thing in the news cycle.

On the flipside, Mitchell also makes the case that Ferguson might in fact be a transformative event.²³ To support this claim Mitchell primarily points out that the discourse around policing reform in the aftermath of Ferguson seemed to be distinct.²⁴ Some of this discourse has led to meaningful actions, like the Department of Justice's (DOJ) scathing report which found that the courts and police forces servicing Ferguson were essentially financially plundering Ferguson residents in an impermissible racialized way.²⁵

Though some might be frustrated that Mitchell himself does not seem to show his hand about what he actually believes, it is understandable why he chooses not to do so. Writing in such close proximity to the 2015 events, it was difficult to discern what the lasting legacy of Ferguson was going to be. Like many others living in Missouri, Mitchell was still living in the wake of Ferguson. Mitchell was doing so as one of the few black professors on the faculty at Mizzou Law. I know this because, at the same time, I was living in the wake of Ferguson as one of the only black undergraduate students working at Mizzou Law. Back then, we were still processing the events. I vividly remember discussing our frustrations with things happening in Ferguson when I frequently visited his office to avoid doing my work-study tasks. While it was too soon back then, enough time has passed now. I take up Ferguson's positive transformative impact in the next section.

II. TRANSFORMATIVE THIS WAY

Merriam-Webster defines a transformative event as something that

Another Black Man, Tony McDade, Was Shot and Killed by Police Last Week, ROLLINGSTONE (June 1, 2020), <https://www.rollingstone.com/culture/culture-news/tony-mcdade-shooting-death-tallahassee-1008433/> [<https://perma.cc/L6X8-QUQD>]; Char Adams, *Sonya Massey's Family Reflect on Her Life and a Death that Sparked National Outrage*, NBC (Aug. 15, 2024, 4:00 AM) <https://www.nbcnews.com/news/nbcblk/sonya-massey-remembered-friends-family-rcna164424> [<https://perma.cc/HBP9-AVPP>].

23. See Mitchell, *supra* note 11, at 954.

24. See *id.* at 956–57.

25. See *id.*; see also CIVIL RIGHTS DIVISION, U.S. DEP'T OF JUST., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 42–79 (Mar. 4, 2015).

causes “an important and lasting change in someone or something.”²⁶ Living firmly in the tenth year since Michael Brown’s death and the ensuing Ferguson protests, there is no doubt to me that Ferguson was a transformative event that changed the political landscape in this country. In service of this, I want to walk through a few personal examples that I find illustrate Ferguson’s transformative impact. These, of course, are just my examples; there are certainly many more shared by others.

Undoubtedly the clearest example of Ferguson’s transformative legacy is the emergence of one of the most prominent social movements in U.S. history, Black Lives Matter (BLM).²⁷ The slogan and the movement’s emergence is probably most associated with the Ferguson protests.²⁸ But it actually first came about in the wake of Trayvon Martin’s death.²⁹ Trayvon Martin was a young, unarmed, black teenager who was walking back from a convenience store in the rain with his hoodie up.³⁰ He was shot dead at the hands of George Zimmerman, who had began following him because he was “real suspicious”.³¹ Zimmerman would eventually be acquitted of killing Trayvon Martin, leading the creators of the movement to use the hashtag #BlackLivesMatter on social media as a way to both declare that black lives *literally* matter and to call out the systemic racism that led to his acquittal.³²

But it was not until the death of Michael Brown that the movement and the phrase gained traction.³³ Soon after Brown’s death, folx began using the hashtag #BlacksLivesMatter online on social media, and it caught on like wildfire.³⁴ People took to the streets, and soon the slogan became a rallying

26. *Transformative*, MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/transformative#:~:text=%3A%20causing%20or%20able%20to%20cause,change%20in%20someone%20or%20something> [https://perma.cc/QSY4-Q97J] (last visited Nov. 11, 2024).

27. See SAMUEL BESTVATER ET AL., PEW RSCH. CTR., #BLACKLIVESMATTER TURNS 10 4–10 (June 29, 2023), <https://www.pewresearch.org/internet/2023/06/29/blacklivesmatter-turns-10/> [https://perma.cc/3LFS-AVZF].

28. See Shannon Luibrand, *How a Death in Ferguson Sparked a Movement in America*, CBS (Aug. 7, 2015, 5:39 AM), <https://www.cbsnews.com/news/how-the-black-lives-matter-movement-changed-america-one-year-later/> [https://perma.cc/99CG-TNXX].

29. See Angela Onwuachi-Willig, *The CRT of Black Lives Matter*, 66 ST. LOUIS U. L.J. 663, 668–69 (2022).

30. *Id.* at 667–668.

31. See *id.* at 667.

32. See *id.* at 668.

33. See *id.* at 669; see also Luibrand, *supra* note 28.

34. See Luibrand, *supra* note 28.

cry for people all throughout the country who were protesting and calling for systematic change to the criminal justice system, policing, and broader systemic racism.³⁵

Rather than being met with just dialogue, protestors were met with armored vehicles, tear gas, shields, and guns from a militarized police force.³⁶ Due to the ubiquity of phone cameras, much of what was happening on the ground was being broadcast, so even people not on the ground could see both the cries for justice and the brutality with which police attacked protestors.³⁷ But despite the militarized response from police, protestors continued to demonstrate. The militarized police could not subdue and drown out the impassionate pleas and demands of folx calling for changes to the criminal justice system.

For someone like me, who was a college student at the time, the willingness to call for justice in the face of violent displays of force was perhaps the most galvanizing and transformative thing about Ferguson. This is important because oftentimes, it is easy to get caught up in trying to discern the impact or legacy of an event by attempting to chart direct policy changes or outcomes resulting from that event. To be clear, I do not think this is necessarily a bad thing. However, a big part of the reason I think Ferguson is transformative is not actually about the literal legal or policy changes it produced—it was transformative because it gave many of us the register, language, and courage to realize that we could use our voices to make demands. That we did not have to put up with the status quo. It was this sort of inspiration that led to the events in the introduction to this piece.

Back in Mizzou, in the fall of 2015, we were barely a year away from the second round of protests that gripped Ferguson after the announcement that Darren Wilson was not going to be charged.³⁸ Things began to ramp up

35. See *id.*; see also BESTVATER ET AL., *supra* note 27, at 6.

36. See, e.g., Amanda Taub, *What was THAT? A Guide to the Military Gear Being Used Against Civilians in Ferguson*, VOX MAG. (Aug. 18, 2014, 11:20 AM), <https://www.vox.com/2014/8/18/6003377/ferguson-military-gear> [<https://perma.cc/N9FN-6WFP>]; Abby Harrington, *Tanks and Rubber Bullets vs. Pussy Hats and High-Fives: A Comparative Look at the 2014 Ferguson Uprising and the 2017 Women's March on Washington*, 31 HASTINGS WOMEN'S L.J. 101, 109–10 (2020); German Lopez et al., *"This was the New Jim Crow": An Oral History of the Ferguson Protests*, VOX MAG. (Aug. 9, 2016, 7:25 AM), <https://www.vox.com/2015/8/10/9123517/ferguson-protests-michael-brown-oral-history> [<https://perma.cc/7BCM-G59V>].

37. See Democracy Now!, *Armed w/ Military-Grade Weapons, Missouri Police Crack Down on Protests Over Michael Brown Shooting*, YOUTUBE (Aug. 14, 2014), https://youtu.be/jE3SKHfSRmg?si=TT8J9zxrVQ6_mGdp [<https://perma.cc/EUW8-YD2Y>].

38. See *Timeline of Events in Shooting of Michael Brown in Ferguson*, AP NEWS (Aug. 8, 2019,

during the homecoming parade when student protestors with Concerned Student 1950³⁹ blocked President Wolfe's car.⁴⁰ Building up to this point, there had been numerous racist incidents on campus including the black student-body president and members of the Legion of Black Collegian being called racial and homophobic slurs.⁴¹

Standing in front of President Wolfe's car, protestors read aloud instances of racism that had occurred on-campus from its founding up until the contemporary moment in 2015.⁴² For his part, Wolfe did not do much to address the protestors, but the crowd of on-lookers slowly became hostile shouting "M-I-Z-Z-O-U" and "move-on" to drown out protestors voices.⁴³ At some point, a protestor was even hit by Wolfe's car.⁴⁴

Police eventually removed the demonstrators, much to the satisfaction of the mostly white on-lookers.⁴⁵ Not too long after, a member of Concerned Student 1950 (Jonathan Butler) announced he was undertaking a hunger strike until the university met the group's list of demands.⁴⁶ Most notable on that list was the resignation of President Wolfe.⁴⁷ Wolfe had been called out specifically because he was in a position of power to do something about the systemic racism we, as protestors, were pointing out—yet continuously failed to address our concerns.⁴⁸

Butler's announcement set off a chain of events where people began

12:28 PM), <https://apnews.com/article/shootings-police-us-news-st-louis-michael-brown-9aa32033692547699a3b61da8fd1fc62> [https://perma.cc/6JDM-9AJ7].

39. Concerned Student 1950 was a student activist group that formed to draw attention to and address systemic racism on Mizzou's campus. See Annabel Ames, *Abigail Hollis Found Frustration and Inspiration as Member of Concerned Student 1950*, VOX MAG. (Nov. 16, 2017), https://www.voxmagazine.com/magazine/abigail-hollis-found-frustration-and-inspiration-as-member-of-concerned-student-1950/article_fe38fc6c-ca42-11e7-980b-e3c2806fcc6a.html [https://perma.cc/DN8C-H73T].

40. See Ben Trachtenberg, *The 2015 University of Missouri Protests and Their Lessons for Higher Education Policy and Administration*, 107 KY. L.J. 61, 76 (2018).

41. See *id.* at 74–75.

42. See *id.* at 76; see also Tyler Kingkade, *The Incident You Have to See to Understand Why Students Wanted Mizzou's President to Go*, HUFFPOST (Nov. 10, 2015, 2:19 PM), https://www.huffpost.com/entry/tim-wolfe-homecoming-parade_n_56402cc8e4b0307f2cadea10 [https://perma.cc/WP84-WW4S].

43. See Trachtenberg, *supra* note 40, at 76; Kingkade, *supra* note 42.

44. See Trachtenberg, *supra* note 40, at 76; Kingkade, *supra* note 42.

45. See Kingkade, *supra* note 42.

46. See Trachtenberg, *supra* note 40, at 76.

47. See *id.*; see also Field of Vision, *supra* note 10.

48. See Field of Vision, *supra* note 10.

occupying the quad and creating direct action all around campus.⁴⁹ It is hard, perhaps, to imagine now; but you could not go anywhere on campus and not have known or seen the movement growing day-by-day. While the issues that inspired people to get out and protest were local to our campus, Ferguson's influence was all over as activism on campus, from the music to the chants.⁵⁰ In this way, there was a direct connection between liberatory calls for justice and celebration between us and Ferguson. The language and courage they displayed in calling for an end to racialized violence and an improved criminal justice system in Ferguson gave us the language and courage to demonstrate and fearlessly demand a better campus.

And it worked. Shortly after the football team joined in with protestors and announced that they would not be participating in football activities, President Wolfe and Chancellor Loftin resigned.⁵¹ We made two of the most powerful people in our education system resign precisely because we demanded something more, something better—like people did in Ferguson. Without Ferguson, we would not have had the language nor the impetus to do what we did. Ferguson changed what was imaginable for us.

Things did not stop there for Ferguson, nor did it stop Ferguson's transformative impact on my life. Six short years after Michael Brown's death, the high-profile deaths of George Floyd and Breonna Taylor would grip the nation once again.⁵² Two more unarmed black folx killed by police. Floyd's death, in particular, was striking because it was caught on camera.⁵³ Perfectly memorialized were his final fleeting moments of life, where he exclaimed that he could not breathe and called out for his mother, yet was ignored by responding officers.⁵⁴ Other officers sat by and watched fellow officer Derek Chauvin pin Floyd down by pressing his knee on Floyd's neck

49. Kovacs, *supra* note 3.

50. See Harris, *supra* note 10; McNett, *supra* note 10; CNN, *supra* note 10; Field of Vision, *supra* note 10.

51. See Rick Seltzer, *Missouri 3 Years Later: Lessons Learned, Protests Still Resonate*, INSIDE HIGHER EDUC. (Sept. 11, 2018), <https://www.insidehighered.com/news/2018/09/12/administrators-students-and-activists-take-stock-three-years-after-2015-missouri> [<https://perma.cc/P785-MZNJ>].

52. See, e.g., Alex Altman, *Why the Killing of George Floyd Sparked an American Uprising*, TIME (June 4, 2020, 6:49 AM), <https://time.com/5847967/george-floyd-protests-trump/> [<https://perma.cc/JE6D-RHPQ>].

53. See *id.*

54. See *id.*; Dara Beevas, *Daunte Wright Called His Mom Before Being Shot. George Floyd Yelled for His. As a Black Mother, This is My Greatest Fear.*, WASH. POST (Apr. 14, 2021), <https://www.washingtonpost.com/gender-identity/daunte-wright-called-his-mom-before-being-shot-george-floyd-yelled-for-his-as-a-black-mother-this-is-my-greatest-fear/>.

for over nine minutes, leading to Floyd's death.⁵⁵

Despite the raging pandemic outside, people all across the country and world took to the streets to protest racialized violence at the hands of police and call out systemic racism, much like they had done in Ferguson a few short years before.⁵⁶ The same rallying cry that moved people to the streets in Ferguson (BLM) was the same rally crying that drove people to the streets again. Except this time, it was on a much larger scale. *The New York Times* estimated that at the time, somewhere between fifteen and twenty-six million people in the United States participated in protests, making the BLM demonstrations some of the largest this country had ever seen.⁵⁷ BLM demonstrations even reverberated overseas with folx in other countries protesting.⁵⁸

The attention and impact of the Taylor/Floyd protests seemed to be shifting, if only for a moment, to the conversations and willingness of folx throughout this country to do something about the very same issues like police violence, criminal justice reform, and systemic racism that had surfaced previously in Ferguson. This was important for me because a few years later, I was trying to assess the legal reforms passed in the wake of the BLM movement post-George Floyd for my dissertation.

To be honest, I was a little jaded at the time and was looking for a way to make an argument that no real change had occurred to address the harms everybody acknowledged were wrong in 2020. I was not trying to blame protestors. Rather, I was trying to make a broader argument about how people across the country, in positions of power, did a lot of talking that led to very little walking (meaningful action). As society was slowly returning to a sense of normalcy, it was just hard for me at the time to see what changed.

What became clear as I continued researching was that I was thankfully

55. See *id.*; Janelle Griffith, *Actions of Officer Who Didn't Stop Derek Chauvin Spur Duty-to-intervene Laws*, NBC (Jan. 19, 2022, 3:32 AAM), <https://www.nbcnews.com/news/actions-officers-didnt-stop-derek-chauvin-spur-duty-intervene-laws-rcna12673> [<https://perma.cc/84SQ-UQXC>].

56. See Larry Buchanan et al., *Black Lives Matter May Be the Largest Movement in U.S. History*, N.Y. TIMES (July 3, 2020), <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html> [<https://perma.cc/FA63-CFGQ>].

57. See *id.*

58. See, e.g., Jason Silverstein, *The Global Impact of George Floyd: How Black Lives Matter Protests Shaped Movements Around the World*, CBS (June 4, 2021, 7:39 PM), <https://www.cbsnews.com/news/george-floyd-black-lives-matter-impact/> [<https://perma.cc/QE7S-XXR6>].

wrong. One place in particular that acted, was Illinois. The state legislature had specifically passed a criminal justice reform entitled the Safety, Accountability, Fairness and Equity-Today (SAFE-T) Act in an attempt to address the systemic racism in the criminal justice system being called out by BLM.⁵⁹ The part of the reform I ended up picking up on was the Pretrial Fairness Act, which completely abolished the usage of cash bail for all accused offenses throughout the state.⁶⁰ This made Illinois the first state in the country to do so.⁶¹

Having now graduated and finished up my research on the Pretrial Fairness Act, everyone involved in getting the law passed would tell you undoubtedly that the BLM uprisings in 2020 were absolutely essential to making history in getting the Pretrial Fairness Act passed. Part of this is because the move to abolish cash bail as constructed under the Pretrial Fairness Act aligned squarely with the activism of 2020. The law reduced the ability of the state to incarcerate folx by placing restrictions on law enforcement and, in the process, reduced folx contact with the criminal justice system.⁶² Less contact with the system means less opportunity for the criminal justice system to enact the racialized harms of jail on people of color.

The other part, is related to the political opening created by the BLM demonstrations. Whether politicians and businesses were sincere about wanting to address systemic racism—for a brief moment, it was certainly politically untenable to outwardly oppose the activism that was going on at the time. This was at least the case in Illinois when it came time to pass the Pretrial Fairness Act. Because of this, the law passed in close to its original form as written by organizers on the ground, which is unusual—typically, there is more negotiation on social justice-type laws.⁶³ But the moment

59. Illinois Legislative Black Caucus, *Criminal Justice, Police Accountability, and Violence Reduction Pillar*, ILL. SENATE DEMOCRATS (Mar. 8, 2021, 4:26 PM), <https://www.illinoisenatedemocrats.com/ilbc-pillars/pillar-1> [https://perma.cc/D9CP-8T4D] (discussing reforms enacted in SAFE-T Act).

60. See Chip Mitchell, *Illinois is Now the First State to Eliminate Cash Bail*, NPR (Sept. 18, 2023, 5:54 PM), <https://www.npr.org/2023/09/18/1200223477/illinois-is-now-the-first-state-to-eliminate-cash-bail#:~:text=Illinois%20is%20now%20the%20first%20state%20to%20eliminate%20cash%20bail%20%3A%20NPR&text=Hourly%20News-,Illinois%20is%20now%20the%20first%20state%20to%20eliminate%20cash%20bail,officials%2C%20judges%20and%20the%20public> [https://perma.cc/JPQ4-VR6C].

61. *Id.*

62. See 725 ILL. COMP. STAT. ANN. 5/109-1 (West 2023).

63. See Christopher Williams, *Abolition in the Real World*, HARV. C.R.-C.L. L. REV.

created by BLM pushed aside the normal haggling that waters down social justice bills.

All of that to say, for me, I see Ferguson's transformative legacy all around—stretching from my time as an undergrad to now as a law professor. We made history by ousting Mizzou's president and Chancellor, thanks to Ferguson. Those of us who came out during the pandemic to protest George Floyd's and Breonna Taylor's deaths made history by participating in some of the largest protests in our country's history, utilizing the movement and rallying call put on the map by Ferguson. Illinois made history by completely revolutionizing its pretrial system in abolishing cash bail, thanks to the ideological focus and opening created by the ongoing activism inspired by Ferguson.

III. TRANSFORMATIVE . . . IN A DIFFERENT WAY

In his article, Professor Mitchell defines transformative as “an event that changes (something) completely and usually in a good way.”⁶⁴ I think this definition places too positive of a bend on the term. I think transformative is a neutral term that can be either positive or negative. In the context of Ferguson, everything was *not* all transformative in a good way. This is not to suggest the events in Ferguson should not have happened, that protesters in Ferguson were responsible for the negative fallout from Ferguson, or that people should not have called out systemic injustice.

Rather, it is to point out that transformative moments present opportunities for detractors to take advantage of. In this case, those dissatisfied with the activism birthed by Ferguson began setting their sights on taking down Critical Race Theory (CRT) using a variety of new tactics post-Ferguson.⁶⁵ We can debate the merits all day of whether those attacking CRT with bans and legislation actually understand the theory, or are just trying to make a statement by doing so. But the deeper point at play here is that the attacks on CRT indicate a new strategy people hostile to the conversations about systemic race pushed to the forefront post-Ferguson.

(forthcoming 2025).

64. Mitchell, *supra* note 11, at 954 (internal quotation marks omitted).

65. See, e.g., Edward Lempinen, *Khiara M. Bridges: The Hidden Agenda in GOP Attacks on Critical Race Theory*, U.C. BERKELEY NEWS (July 21, 2021), <https://news.berkeley.edu/2021/07/12/khiara-m-bridges-the-hidden-agenda-in-gop-attacks-on-critical-race-theory/> [https://perma.cc/S5TD-TW2A].

One that includes the deployment of social media, news media, think tanks, and boilerplate legislation aimed at erasing scholarship that speaks to the animating ideas and actions of Ferguson inspired movements.⁶⁶ Trying to get rid of CRT is a way of acting on dissatisfaction with Ferguson-inspired activism.⁶⁷

In 2023, I accepted a job as a fellow at the University of Virginia School of Law (UVA Law). Coming into the position, I was the school's second-ever Race, Place, and Equity fellow.⁶⁸ From my title, you would be correct to deduce that the work I was going to conduct would largely center around inspecting race and the law. I certainly did not hide this when I was interviewing for the position.

Upon my arrival at the law school, there was a lot of excitement and energy. My colleagues and students alike would introduce themselves and ask questions about what I was working on. Inevitably, the question of what I would be teaching would come up. At first, I was not sure what I wanted to teach. Front of mind for me at the time, was the Unite the Right rallies and the rumblings about CRT being banned in the state.⁶⁹ This was risky for me because CRT was the logical class for me to teach. I studied the subject extensively in law school and graduate school and personally identified as a CRT theorist.

While my expertise was squarely CRT, I still did not want to walk into a hostile situation. I soon realized, however, that I could not change who I was or what my scholarship was to play it safe. As such, I quickly settled

66. See generally Danielle M. Conway, *The Assault on Critical Race Theory as Pretext for Populist Backlash on Higher Education*, 66 ST. LOUIS UNIV. L.J. 707, 714–17 (2022) (discussing usage of boilerplate legislation); Lempinen, *supra* note 65 (discussing the usage of news media); TAIFHA ALEXANDER ET AL., UCLA SCHOOL OF LAW, CRT FORWARD: TRACKING THE ATTACK ON CRITICAL RACE THEORY 9–13 (2022), https://crtforward.law.ucla.edu/wp-content/uploads/2023/04/UCLA-Law-CRT-Report_Final.pdf [<https://perma.cc/XB3M-MAZM>] (discussing usage of think tanks, boilerplate legislation, social media, and news outlets as tactics for CRT detractors).

67. See, e.g., Lempinen, *supra* note 65.

68. Melissa Castro Wyatt, *Race, Place and Equity Fellow To Study, Teach Justice Reform*, UVA LAW (Aug. 14, 2023), <https://www.law.virginia.edu/news/202308/race-place-and-equity-fellow-study-teach-justice-reform> [<https://perma.cc/4AMS-ES9U>].

69. See e.g., Debbie Elliot, *The Charlottesville Rally 5 Years Later: 'It's What You're Still Trying to Forget'*, NPR (Aug. 12, 2022, 5:00 AM), <https://www.npr.org/2022/08/12/1116942725/the-charlottesville-rally-5-years-later-its-what-youre-still-trying-to-forget> [<https://perma.cc/28NH-4NGR>]; Evan Watson, *Youngkin: Ban Critical Race Theory and 'Inherently Divisive Concepts' in Public Education*, 13NEWSNOW (Jan. 17, 2022, 6:01 PM), <https://www.13newsnow.com/article/news/education/glenn-youngkin-critical-race-theory-ban-executive-order/291-30a4d6e7-3fcf-4938-8d7f-7f82e5b24d44> [<https://perma.cc/9N9E-4PCE>].

on CRT as my course and began telling folx I would be teaching CRT when they asked. In response, I was always met with positive and supportive comments. But one question that continually came up was, “they allow you to teach that here?”

What they were alluding to was the attacks on CRT that began in 2021.⁷⁰ The confusion many had in asking me if I was allowed to teach CRT was not because they thought the law school would not allow me to teach the course. The law school was actually very supportive of me teaching it. Rather, people were unsure if attacks on CRT had been successful in banning CRT in the state. Far from trivial, these attacks on CRT have had real consequences for academics and education institutions alike. Hannah Nicole Jones, a key contributor to *The 1619 Project*, saw her request for tenure denied after the project became CRT’s poster child.⁷¹ Under immense criticism, the University of North Carolina ultimately extended tenure to Jones who then rejected it in favor of a teaching position at Howard University.⁷²

Elsewhere, across the country, several states have banned the teaching of CRT.⁷³ In 2021 alone, twenty-two states introduced legislation to restrict CRT.⁷⁴ The bans vary in applicability, with some banning CRT in training methods while others ban benign principles associated with CRT.⁷⁵ As of 2024, over half of all states have adopted some legislation or put out a statement in opposition to CRT.⁷⁶

The controversy surrounding CRT can be traced back to the activist response to Breonna Taylor’s and George Floyd’s murders and the

70. See ALEXANDER ET AL., *supra* note 66, at 16–20.

71. Katie Robertson, *Nikole Hannah-Jones Denied Tenure at University of North Carolina*, N.Y. TIMES (May 19, 2021), <https://www.nytimes.com/2021/05/19/business/media/nikole-hannah-jones-unc.html> [https://perma.cc/D6QN-XFK8].

72. Laurel Wamsley, *After Tenure Controversy, Nikole Hannah-Jones Will Join Howard Faculty Instead Of UNC*, NPR (July 6, 2021, 11:31 AM), <https://www.npr.org/2021/07/06/1013315775/after-tenure-controversy-nikole-hannah-jones-will-join-howard-faculty-instead-of> [https://perma.cc/4DTV-D6CQ].

73. See *Interactive Map*, CRT FORWARD, <https://crtforward.law.ucla.edu/map/> [https://perma.cc/NCM3-SKL2] (last visited Nov. 11, 2024).

74. Char Adams et al., *Map: See Which States Have Passed Critical Race Theory Bills*, NBC (June 17, 2021, 1:54 PM), <https://www.nbcnews.com/news/nbcblk/map-see-which-states-have-passed-critical-race-theory-bills-n1271215> [https://perma.cc/HF53-PVAF].

75. See ALEXANDER ET AL., *supra* note 66.

76. *Id.*

introduction of *The 1619 Project*.⁷⁷ As I talked about earlier, Breonna Taylor's and George Floyd's murders resurfaced the activism, claims, and conversations about systemic racism in the criminal justice system that initially emerged in Ferguson. There was, in fact, a deep connection between the activism of BLM and CRT.⁷⁸ As Angela Onwuachi-Willig points out, much of "the actions of [BLM] are deeply rooted in many of the core tenets and principles of CRT."⁷⁹

Just before the racial reckoning of 2020, *The New York Times* released *The 1619 Project*.⁸⁰ It is a collection of various pieces that expose racism at the core of the of the United States.⁸¹ Its stated goal is to reframe history to center slavery as the pivotal institution in the United States history and founding.⁸² Donald Trump and his supporters were some of the earliest critics of the project.⁸³ Trump and his administration were particularly hostile to calls for the acknowledgement of racism, sexism, and homophobia in the federal bureaucracy and national politics.⁸⁴ Christopher Rufo is credited with inspiring then-President Trump to begin his attacks on CRT.⁸⁵

A self-proclaimed anti-CRT activist, Rufo appeared on a Fox News segment to discuss all of the harms of CRT throughout the country.⁸⁶ After watching Rufo's segment on Fox News, then-President Trump decided to cancel all diversity training in the federal government and invite Rufo to the

77. See Lempinen, *supra* note 65; Wamsley, *supra* note 72.

78. Onwuachi-Willig, *supra* note 29, at 669.

79. *Id.*

80. Jake Silverstein, *Why We Published The 1619 Project*, N.Y. TIMES (Dec. 20, 2019), <https://www.nytimes.com/interactive/2019/12/20/magazine/1619-intro.html> [<https://perma.cc/G7YB-SS47>].

81. *Id.*

82. *Id.*

83. See, e.g., Kathryn Watson & Grace Segers, *Trump Blast 1619 Project on Role of Black Americans and Proposes His Own "1776 Commission"*, CBS (Sept. 18, 2020, 12:53 PM), <https://www.cbsnews.com/news/trump-1619-project-1776-commission/> [<https://perma.cc/937M-3RVG>].

84. See, e.g., Vanessa Williamson & Isabella Gelfand, *Trump and Racism: What do the Data Say?*, BROOKINGS (Aug. 14, 2019), <https://www.brookings.edu/articles/trump-and-racism-what-do-the-data-say/> [<https://perma.cc/4MW4-6DHU>]; Donald Trump, GLAAD, <https://glaad.org/gap/donald-trump/> [<https://perma.cc/T5LS-P8M6>] (last visited Nov. 11, 2024) (profile analysis of Donald Trump as a presidential candidate in reference to LGBTQ+ advocacy).

85. Laura Meckler & Josh Dawsey, *Republicans, Spurred by an Unlikely Figure, See Political Promise in Targeting Critical Race Theory*, WASH. POST (June 21, 2021, 6:22 PM), <https://www.washingtonpost.com/education/2021/06/19/critical-race-theory-rufo-republicans/> [<https://perma.cc/76B6-8XA3>].

86. See *id.*

White House for more briefings on CRT.⁸⁷ This would lead to Trump publicly decrying *The 1619 Project* and CRT, and denouncing it as harmful due to its characterization of the United States as systemically racist.⁸⁸ Likely out of haste, Trump and his supporters began mischaracterizing the project as CRT.⁸⁹ Trump would then announce the creation of the 1776 Project, or 1776 Commission, to “combat anti-American historical revisionism, critical race theorists, cancel culture adherents and flag burning mobs.”⁹⁰

Inspired by Rufo’s rhetoric, a group of current and former Florida school board members formed the organization Moms for Liberty (M4L) in 2021.⁹¹ M4L quickly rose to prominence by attacking CRT in the conservative news media.⁹² Before long, they were targeting local districts in an attempt to get CRT removed from school curriculums using model anti-CRT legislation from think tanks like the Manhattan Institute, where Rufo worked.⁹³ The Manhattan Institute, of course, was not the only organization producing model legislation that sought to ban CRT—the ubiquity of many organizations producing easily replicable anti-CRT bills played a large part in how quickly CRT bans sprang up.⁹⁴

One of those places where a CRT ban popped up was Virginia.⁹⁵ When I casually looked up the law, two things stuck out to me. For one, like most CRT bans, the Virginia ban only applied to K-12 education.⁹⁶ This is

87. *See id.*

88. *What Trump is Saying About 1619 Project, Teaching U.S. History*, PBS (Sept. 17, 2020, 6:20 PM), <https://www.pbs.org/newshour/show/what-trump-is-saying-about-1619-project-teaching-u-s-history> [https://perma.cc/4DGS-AG4S].

89. Derrick Clifton, *How the Trump Administration’s ‘1776 Report’ Warps the History of Racism and Slavery*, NBC (Jan. 20, 2021, 10:00 AM), <https://www.nbcnews.com/news/nbcblk/how-trump-administration-s-1776-report-warps-history-racism-slavery-n1254926> [https://perma.cc/9GGM-KWFW].

90. Press Release, White House, 1776 Commission Takes Historic and Scholarly Step to Restore Understandings of the Greatness of the American Founding (Jan. 18, 2021), <https://trumpwhitehouse.archives.gov/briefings-statements/1776-commission-takes-historic-scholarly-step-restore-understanding-greatness-american-founding/> [perma.cc/HCF5-CNC5]; *see also* Proclamation No. 10096, 85 Fed. Reg. 65181.

91. *See* ALEXANDER ET AL., *supra* note 66, at 13.

92. *Id.* at 12.

93. *See id.* at 9, 12–13.

94. *See id.* at 13–14.

95. Va. Exec. Order No. 2022-1 (Jan. 15, 2022), <https://www.governor.virginia.gov/executive-actions/executive-ordersdirectives/executive-action-title-918432-en.html> [https://perma.cc/3FZP-37H4].

96. *See id.*

confusing for somebody like me who teaches CRT because, well, CRT is fundamentally a legal theory that is primarily taught in law schools. So to me, if you wanted to ban the theory, it does not make sense to ban it in places where it is not being taught.

The second thing was that much of the language used in the statute seemed to be co-opting social justice frames popularized post-Ferguson.⁹⁷ This was a phenomenon I have talked about elsewhere in a similar context whereby Blue Lives Matter co-opted BLM's racial framings to get legislation passed that attempted to punish BLM and law enforcement protestors.⁹⁸ In this sense, detractors post-Ferguson have shown an increased propensity to use the framings of movements against them.⁹⁹

Nevertheless, attacks under the guise of an anti-CRT movement indicate a very real threat to the future of scholarship that theorizes about race, and specifically race scholarship, that is labeled as CRT. As the Hannah Nicole Jones episode and other instances where scholars have been denied tenure indicate, scholars of color who are casted as CRT or CRT-adjacent may very well have their employment targeted as well as their scholarship.¹⁰⁰ CRT may be under attack now, but it should be noted that it is under attack because it has been politically targeted primarily by conservative legislatures and activists based on their own interpretations of CRT, which is not necessarily the merits of CRT. There is nothing specific about this targeting that would not lend itself to other disciplines that are critical of the U.S. or its institutions.¹⁰¹

Irrespective of how its detractors are misconstruing CRT, there is a real and tangible growing momentum that is placing race scholarship like CRT, along with the truths that emerge from CRT, in danger. The truth making

97. *Id.* at 1–2 (“Virginia must renew its commitment to teaching our children the value of freedom of thought and diversity of ideas. We must equip our teachers to teach our students the entirety of our history – both good and bad. From the horrors of 2 American slavery and segregation, and our country’s treatment of Native Americans, to the triumph of America’s Greatest Generation against the Nazi Empire, the heroic efforts of Americans in the Civil Rights Movement, and our country’s defeat of the Soviet Union and the ills of Communism, we must provide our students with the facts and context necessary to understand these important events. Only then will we realize Dr. Martin Luther King Jr.’s dream that our children ‘will not be judged by the color of their skin but by the content of their character.’”).

98. See Christopher Williams, *Blue Racing: The Racialization of Police in Hate Crime Statutes*, 55 UNIV. MICH. J. L. REFORM 139, 148–51 (2021).

99. See generally *id.*

100. See e.g., ALEXANDER ET AL., *supra* note 66, at 22–23.

101. See *id.* at 30–31.

emerging from theories like CRT is important because it often serves as the bedrock and impetus for movement organizing and actions. This is because theories like CRT give people a voice and register to voice their frustration in hopes of improving the world around them. I know this first-hand, as many students of mine have often remarked after taking my class that the content they learned gave them the language and ability to describe their own experiences. More importantly, though, is that it made them feel empowered to go change the world.

Suffice to say, everything has not been all good post-Ferguson. Just like it was transformative for us who care about advocating for racial justice, it was also transformative for Ferguson's detractors. They began using new language and tactics to try to silence the ideas animating the movement inspired by Ferguson. To be clear, I do not think anybody in Ferguson or elsewhere inspired by Ferguson could have controlled how people acting in bad faith would react to the movement. The blame is not on them. Bad-faith actors are going to act in bad faith. But knowing the ways in which events like Ferguson can be transformative for those who oppose them is essential because people will be able to better anticipate and get ahead of things like statewide CRT bans.

CONCLUSION

Ten years ago, the death of Michael Brown and the activism birthed in Ferguson changed the world. Ferguson's legacy continues to have a transformative imprint that reverberates throughout our society, as evidenced by this timely law review issue attempting to memorialize its significance. Though they might otherwise go unnoticed, the students who have organized this endeavor are displaying an immense amount of courage in taking up the legacy of Ferguson in a time where conversations about race, injustice, and equity are contentious.

Reflecting on my own life, I realize that Ferguson's legacy will always be with me. Even now, I am thankful that Ferguson has allowed me to converse with one of my earliest supporters, Professor S. David Mitchell—with whom I experienced much of the aftermath of Ferguson alongside. In following up on Professor Mitchell's provocation nearly ten years ago, I have shared pieces of my own journey throughout this article that I believe answer Professor Mitchell's, *Footnote or Transformative Event?*, question

and illustrate a broader transformative imprint of Ferguson.

Some of the transformative effects of Ferguson were positive. We made history at my college by harnessing the courage we saw displayed in Ferguson. History was made again a few short years later when people took to the streets in 2020 and created one of the largest movements we have ever seen, all the while using the frames and movement that was birthed in Ferguson. Illinois then entered into the fray and made history by abolishing cash bail, which was directly tied to BLM's transformative impact in 2020. Trump's 2024 election may indicate that these gains are under attack. But when I doubt too much, I am reminded of my favorite Mizzou thinker, Evonnia Woods. She always points out that no matter who is in power, we will always have to fight for justice; sometimes, we just have to fight harder. I truly believe the arc of justice is long and even if we do not see it in our lifetime, we need still do everything we can to ensure it will be someone's reality. If we are subdued into submission, we cede our power to transform our reality.

With the positives, some negative also came. In particular, those disgruntled with the conversations and displays of solidarity emerging out of Ferguson began organizing to attack theories like CRT that spoke about what was going on in Ferguson. Organizing gave way to CRT bans. I will be honest and say it is not easy to be a Critical Race Theorist like me. I am not sure if any of my fellow legal colleagues have ever experienced what it is like to have their intellectual community and identity not just be under attack, but outlawed. It is not something I want to them to experience either. Nonetheless, it indicates that moments like Ferguson can be transformative in more ways than one.