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# The New Orleans murder epidemic: Emmanuel Levinas and Jacques Derrida on the irresponsibility of violence

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THE NEW ORLEANS MURDER EPIDEMIC: EMMANUEL LEVINAS  
AND JACQUES DERRIDA ON THE IRRESPONSIBILITY OF  
VIOLENCE

A Thesis

Submitted to the Graduate Faculty of the  
Louisiana State University and  
Agricultural and Mechanical College  
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by  
Jacqueline N. Zimmer  
B.S., Michigan State University, 2007  
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Finally, I would like to express my sincere gratitude to Professor Adelaide Russo for the continuous support of this Master's project for her patience, motivation, enthusiasm, generosity, and brilliant guidance throughout the research and writing of this thesis.

## PREFACE

I live on Jeannette Street in New Orleans, about fifty yards from where Joseph Massenburg's body was found on the night of April first. On a fence close to where Massenburg lost his life, I recently noticed a sign depicting the Biblical imperative "Thou shall not kill". I have come across these signs around New Orleans since the end of 2012 – they can be found plastered to the façade of churches or displayed as yard signs in front lawns – but this was the first time I considered the irreverent tone of the commandment for the people of New Orleans. What exactly is achieved by posting this message across various public buildings around the city? Does it convey to the city's most dangerous criminals that the community is fed up with the killing? In theory, the placards are intended to evoke a moral response from those individuals who are most likely to engage in activities associated with gun violence. More often than not, these individuals are young, black, and male, and are in some way affiliated with the "narcoeconomy" of New Orleans.

Even if the commandment "thou shall not kill" does give some people momentary pause, ultimately its message is devoid of the logical connection between murder and the imperative to not murder. If nothing else, the signs serve as ironic reminders that the slaughter of so many of New Orleans' black citizens is a phenomenon that consistently crowns New Orleans the most deadly city in the United States.<sup>1</sup>

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<sup>1</sup> United States Dept. of Justice. Federal Bureau of Investigation. Crime in the United States. New Orleans has held the distinction of having the highest murder rate of any major American city with a population of 200,000 or more in 2000 (42.1 per 100,000 people) 2001 (44.0 per

On the surface, the murder of eighteen-year old Joseph Massenburg, who was shot in cold blood on the corner of Eagle and Birch Streets, appeared to be anything but unusual considering his victim profile. Massenburg *looked* like the typical victim of gun violence: black, young, and male. However, information detailing Massenburg's other attributes – a Chicago-born recent New Orleans transplant, an Americorps volunteer, a high school graduate, the son of a highly educated public servant – was not released to the public until a few days after Massenburg had succumbed to his gunshot wounds. Massenburg had gone for a walk in the same area where a bitter feud was underway between two local gangs, the “Hot Glocks” and the “Mid-City Killers”. Several months later, the New Orleans Police Department (NOPD) charged eighteen-year old Glen Emerson with shooting Joseph Massenburg. Police concluded that Emerson, a member of the Mid-City Killers, had mistakenly identified Massenburg as a member of the Hot Glocks in a drive-by shooting.

Massenburg's death symbolizes the endemic gun violence problem that has plagued the city of New Orleans for several decades. The drug and gang-related violence that affects many impoverished black neighborhoods in New Orleans is the modern-day product of a composite of factors, including racial inequity, an untrustworthy police force that is rife with corruption, the prevalence of guns and the ease of gun accessibility, and the successive generations of young men who have grown up in broken, impoverished families with few legitimate economic

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100,000) 2002 (53.1 per 100,000) 2003 (57.7 per 100,000) 2004 (56.0 per 100,000) 2006 (70 per 100,000) 2007 (81 per 100,000) 2008 (63.6 per 100,000) 2009 (52 per 100,000) 2010 (51 per 100,000) and 2011 {57.6 per 100,000} as well. The city has had an annual murder rate at least seven times the national average for the past 30 years.

opportunities. While the problems that characterize New Orleans's impoverished neighborhoods are comparable to other American urban communities, the murder epidemic of New Orleans is unique to cities of its size. While gang-related gun violence is responsible for a significant number of the city's murders each year, a significant number of the city's homicides result from interpersonal conflicts. In order to combat the conditions that lead to deadly gun violence, the city must be willing to reinstate the legitimacy of the police force, whose corruption and inefficiency has led some New Orleans' citizens to resort to alternative means of attaining "justice".

This essay investigates the conditions that created the "street code" that governs drug-related activity among New Orleans' criminal groups and gangs, and why New Orleans' murder rate is directly linked to the manifestation of the street code. The street code is formulated by a variety of factors and sentiments, including poverty, race, hopelessness, fear, anger, boredom, and a distrust in the police. I argue that people resort to extreme forms of violence when environmental and contextual factors corrupt Emmanuel Lévinas' conception of the face-to-face encounter by priming people automatically to reduce the other to the same as a means of self-protection when the absence of a reliable protective state corrupts the ethical decision to regard the other peacefully. Furthermore, I refer to Jacques Derrida's theoretical approach on hospitality to examine how such collective norms foster a culture of violence.

# TABLE OF CONTENTS

ACKNOWLEDGMENTS.....	ii
PREFACE.....	iii
ABSTRACT.....	vii
CHAPTER 1 INTRODUCTION.....	1
CHAPTER 2 GUN VIOLENCE IN NEW ORLEANS.....	9
CHAPTER 3 LEVINAS and DERRIDA – SUBJECTIVITY AND THE OTHER .....	16
Levinas and the Paradoxes of Subjectivity.....	19
Derrida on Subjectivity and Violence.....	37
CHAPTER 4 THE STREET CODE AND MURDER.....	45
CHAPTER 5 IRRESPONSIBIITY AND THE MYSTICAL FOUNDATION OF LAW.....	53
Racial Profiling.....	56
Mass Incarceration.....	61
CHAPTER 6 AUTOIMMUNITY AND ILLEGITIMACY IN THE NOPD.....	68
CHAPTER 7 NOLA FOR LIFE, HOSPITALITY, AND A DEMOCRACY TO COME.....	77
Criticisms of Nola For Life.....	96
CONCLUSION.....	102
BIBLIOGRAPHY.....	103
VITA.....	107

## **ABSTRACT**

Corruption, unfettered violence, and racist enforcement tactics have historically defined the operations of the New Orleans Police Department, and consequently, many New Orleanians do not expect to be helped or protected by law enforcement or the justice system. The breakdown of society's civil code explains why many New Orleans citizens have normalized the use of coercive violence to solve interpersonal disputes instead of relying on legitimate policing methods to maintain social order.

In the past year, the city of New Orleans has implemented criminologist David Kennedy's Group Violence Reduction Strategy (GVRS), which aims to decrease the city's historically high murder rate. This essay investigates the relationship between Emmanuel Lévinas' and Jacques Derrida's conception of responsibility to the other and hospitality and New Orleans' culture of violence, and how the endemic lack of trust in New Orleans' Police Department compromises the ethical imperative Lévinas conceives of as implicit in every encounter with the other. The violent reception of the other is the denial of the infinite otherness of the other and is influenced by contextual conditions, such as poverty and high gun ownership rates that cultivate an environment of fear and heighten one's perceived risk of being victimized. Specifically, this study examines the effect that the breakdown in a city's civil code has on one's experience of the face-to-face encounter with the other, and how this breakdown has led to the reliance on various means of vigilante justice as a normative method of conflict resolution.



This essay examines current political, legal, and judicial attempts being made to combat the murder epidemic, and argues that while some of these attempts fall short because they fail to address prevailing community norms that tolerate and *encourage* violence as a means to right wrongs, a strategy that is rooted in hospitality has the potential to be effective in the long run. Lévinas and Derrida, when read in dialogue with each other, offer us an ethical framework for analyzing the conditions that inform the irresponsible decision to do violence to the other and strategies that aim to ‘fix’ a city’s violence problem.

## CHAPTER 1. INTRODUCTION

In New Orleans, much light has been shed on the murder epidemic that has plagued the city for over three decades. Opinions regarding the city's tumultuous race relations often find its way into discussions of New Orleans' high murder rate. One school of thought held by many in the city argues that young black men are the victims of a multifaceted form of racism that includes education, economic, and social inequalities and prejudices, and that murder is an inevitable consequence of such disparities. The high murder rate has also been attributed to a plethora of other social problems that have haunted the city for decades: poor schools, broken families, and a corrupt, inefficient, and scandal-ridden police department. However, when it comes to gun violence, those most disposed to kill or be victims of homicide are black men. After the Civil Rights Movement of the 1960s, the laws sanctioning racial discrimination were eradicated, but a turmoil of centrifugal forces effectively sabotaged urban communities across the United States. The economic context of many inner-city black communities changed drastically after the 1960s, when an increasingly globalized economy, a decline in economic opportunities, the corrosion of public schools, and the "War on Drugs" led many black communities to find themselves entrenched in a rigid caste system. In her book *The New Jim Crow*, Michelle Alexander cites that between 1970-1987, there was a forty-two percent decline in the number of employed working class blacks in the United States.<sup>2</sup> This second-class status trapped the poorest blacks in an insurmountable quagmire of poverty

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<sup>2</sup> Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010) 50.

and hopelessness, thus compelling many to seek illegal economic opportunities. As a result of the collapse of inner-city economies, many young black men became involved in the drug trade.

Undoubtedly, the single most significant factor explaining why New Orleans' murder rate exceeds that of other violent cities is that the combination of poverty and the breakdown of the city's civil code has resulted in the formulation of cultural norms that rely upon forms of vigilante justice in order to maintain social order. The New Orleans Police Department has long been synonymous with corruption, coercive violence, and inefficiency. In fact, the Federal Bureau of Investigation (FBI) has been brought in twice in the last two decades – once in 1996 and again in 2011 - to work with the NOPD on its corruption problems. On May 5, 2010, On May 5, newly-elected Mayor Landrieu sent a letter to U.S. Attorney General Eric Holder asking for his “support and partnership in transforming the New Orleans Police Department,” stating that he “inherited a police force that has been described by many as one of the worst police departments in the country.”<sup>34</sup> Furthermore, in the first quarter of 2013, the city of New Orleans was issued a federally mandated consent decree intended to reform the NOPD.<sup>5</sup>

Due to the illegitimate status of the NOPD, the community does not expect to be helped and protected by the state, and therefore coercive violence is often

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<sup>3</sup> “Timeline: NOPD's Long History of Scandal,” *Frontline*, WBH Education Foundation, 25 August 2010, 10 December 2013 <http://www.pbs.org/wgbh/pages/frontline/law-disorder/etc/cron.html>.

<sup>4</sup> Leonard Moore, “Black Rage in New Orleans: Police Brutality and African American Activism from World War II to Hurricane Katrina” (Baton Rouge: Louisiana State University Press, 2010).

<sup>5</sup> Consent Decree, United States of America v. City of New Orleans (No. 2:12-cv-01924-SM-JCW, Document 2-12) <http://www.nola.gov/nopd/documents/nopd-consent-decree>

used in place of legitimate methods for maintaining social order, thus reverting the streets of New Orleans to a 'state of nature'. In general terms, the breakdown of civil society explains why many people have normalized the use of violence to solve interpersonal disputes. However, as Tulane Criminology professor Peter Scharf explains, "Part of the problem is the splintering of drug-dealing gangs in these communities. Competitive drug groups are much more lethal than a few drug monopolies."<sup>6</sup> Indicative of the high rate of drug-related killings is the fact that a majority of the city's homicide victims are black, young, and male.<sup>7</sup> Peter Scharf spoke with producers on *The Angle Show* about the nuances of New Orleans' murder problem. He counters the prevailing contention that the city's murders are due to "beefs and arguments" and attests that:

More and more, as this epidemic progresses, I'm convinced, and I think others are too, that these are drug kids and they're protected by the narcoeconomy. There are whole neighborhoods that have become dependent on the narcoeconomy. The narcoeconomy doesn't mean you can't change it or you can't use education, but it's an argument of why you need a community focus and not an individual cognitive focus....Unless you change the culture around which these murders take place, the culture'll support the game.<sup>8</sup>

Scharf notes that murders in New Orleans do not follow the patterns of murders in other cities citing retaliation as the underlying motive. Rather, the city's murder

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<sup>6</sup> Prescotte Stokes III, "7-day spate of crimes could have several factors, expert says," *Times Picayune/ Nola.com* 10 October 2013, 12 October 2013 [http://videos.nola.com/times-picayune/2013/10/the\\_citys\\_recent\\_crime\\_wave\\_co.html](http://videos.nola.com/times-picayune/2013/10/the_citys_recent_crime_wave_co.html).

<sup>7</sup> In 2013, there were 155 murders. Of the victims, 104 out of 155 (67%) of all victims were black and under age 35. Furthermore, 58 out of 155 (37%) of all victims were black males under the age of 25.

<sup>8</sup> "Dr. Peter Scharf: Murder", *The Angle Show*, Park Triangle Productions, 2012.

patterns are more closely associated with drug “hits”, suggesting that the coldblooded assassinations are as common, if not more so, as revenge or conflict-related killings.<sup>9</sup> Consequently, the city’s drug scene and the criminal groups that are connected to its operations recruit young people whose attraction to this sort of life is perceived as one of the few options available for ‘making it’ in an otherwise antagonistic world. In this essay, the term narcoeconomy is used to describe the competitive, semi-organized illegal drug market in New Orleans and the constitutive operative systems that drive it. While over half of the city’s murders are inevitably traced back to the drug trade, the motives behind many non-narcoeconomy-related shootings are harder to pinpoint. Nonetheless, I argue that both drug-related and random acts of gun violence are perpetuated by the norms adhered to by a small group of individuals who deem it appropriate, and often necessary, to use extreme violence to deal with various sorts of conflict. Nonetheless, the high incidence of gun violence – drug related or not – harkens to a culture of violence that the city has only recently attempted to quell. New Orleans has developed a multi-faceted strategy that specifically targets the most violent ‘gangsters’ in order to sweep up those individuals who are responsible for over half of the city’s homicides. Furthermore, the city has adopted a public health approach aimed at addressing the more diffuse culture of violence. This strategy, which will be discussed in chapter seven, relies heavily on the Health Department to develop and implement the strategy and effect long-term change.

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<sup>9</sup> Peter Scharf, “The “Mundane” Murders of Post-Katrina New Orleans,” *Tavis Smiley Reports*, 21 July 2010.

This essay will consider the implications of philosophers Emmanuel Lévinas and Jacques Derrida's notions of subjectivity as constituting the ethical framework from which urban violence, including drug and gang activity can be understood. Lévinas' philosophy is founded on the idea that lived experience is a pre-cognitive fact. If we accept this, then it is possible to describe why Lévinas' phenomenological understanding of thought concerns the face-to-face encounter, or the fact that we are always already that which reveals the vulnerability in the other and which compels one to respond to the other. Lévinas characterizes the other's face as possessing an essential secret, and it is the impossible appropriation of this secret and the nakedness of the face that reveals the moral call of consciousness in the perceiver of the face. Ironically, Emmanuel Lévinas' conception of the categorical imperative that emanates from the face parallels the philosophical undertones of the commandment "thou shall not kill" found on yard signs all across New Orleans in response to the violence of the streets. In his work *Totality and Infinity*, Lévinas contends that human subjectivity comes out of our relationship to the other, and that we are always already responsible for the other when we make the decision not to do him harm upon experiencing what he refers to as the 'face-to-face' encounter. Lévinas' thesis in *Totality and Infinity* posits that ethics derives from an encounter with the other, who represents the opening into an abstract and infinite otherness. Lévinas is concerned with the ethical relation that appears before subjectivity, knowledge, and ultimately the *praxis* of laws and rules. As such, Lévinas' notion of the infinite other marks the "ethics of ethics", which is neither a determined ethics nor a

posited set of ethical laws.

Lévinas establishes the face of the other as the place where transcendence is found, and thus the other signifies a moral “height and destitution” and commands the perceiver to not kill it.<sup>10</sup> Murder, according to Lévinas, is paradoxical because it is both ontologically irresponsible *and* impossible. On the one hand, murder is ontologically irresponsible because to eliminate the other is to assume knowledge of and thus power over the infinitely other. Lévinas’ ethics is rooted in the conflation of the ego and the same; therefore, doing violence to the other is to deny his infinite otherness and reduce the other to the realm of the same. Simultaneously, murder according to Lévinas’ conception of ontology is fundamentally impossible, because to murder the other, or that which enables one’s ability to achieve full subjectivity, is thus to murder the self, therefore rendering the very possibility of murder moot.

Lévinas’ conception of responsibility also entails the possibility of doing (or the refusal to do) violence to the other is a paradox that Derrida reads as an aporia. Derrida insists that in thinking responsibility according to an aporia, one can think beyond the paradoxical notion of responsibility in a general sense, so that all of the conditions of the possibility and the impossibility of responsibility can be identified and considered. If we can think according to the limit of responsibility, we can bring Lévinas’ thought beyond responsibility as the origin of ethics and into the realm of praxis.

Implicit in both thinkers’ conceptions of responsibility are paradoxical

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<sup>10</sup> Emmanuel Lévinas, *Totality and Infinity*, trans. A. Lingis (Pittsburgh, Duquesne University Press, 1969) 200.

notions that are ultimately reconciled by Derrida's assertion that responsibility can only be understood in light of a justice "à venir" or of a justice 'to come'. This hypothetical justice is based on a complex series of thought processes that are developed from a reflection on Derrida's notion of "à venir". The thinking of responsibility as only possible as *impossible* describes the fundamental dynamic of the ethicality of ethics and decrees that all decisions can only be made in the name of a justice that has yet to arrive.<sup>11</sup>

Lévinas and Derrida's thinking of the paradoxical origins of responsibility allows us to examine to what extent New Orleans's "Nola For Life" campaign is theoretically in accordance with responsible decision-making. In particular, this essay examines the Group Violence Reduction Strategy and the use of racketeering statutes, each of which aim to curb drug-related violence. Furthermore, this essay examines the theoretical basis of Nola For Life's public health approach to recalibrating the cultural norms that sanction violence.

I argue that for a long-term anti-violence political strategy to be effective, it must aim towards creating an environment that maximizes one's ability to negotiate the space between what is possible and what is impossible. Ultimately, a strategy that is most responsible (as impossible) is one that is conducive to allowing those most prone to commit violence to make decisions that free them from applying a rule when making their decision. However, because of the 'street code' that governs many young people's lives in violent neighborhoods, those who are inclined to harm others are often influenced by the street code and make

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<sup>11</sup> The "ethicality of ethics" refers to Derrida's thinking of ethics in terms of the conditions that allow for ethics, and responsibility, in the first place.



their decisions accordingly. Therefore, I argue that Derrida's conception of hospitality can help a society construct political and social strategies that are capable of fostering the conditions of receptiveness that are necessary to reconcile the implicit moral codes of the city, the police, and the streets.

## CHAPTER 2. GUN VIOLENCE IN NEW ORLEANS

There are a plethora of factors that attribute to New Orleans's culture of violence, such as illiteracy, substandard education, mental disorders, and learning disabilities. Some even argue that crime-inducing pollutants, like lead, are responsible for the city's violent crime problem.<sup>12</sup> While such inequities do not excuse or justify murder, considering them within a philosophical framework is imperative to empathize with perpetrators of violence.

Each year, roughly seven thousand black Americans are murdered in the United States, and ninety-four percent of the time, the convicted murderer is another black person. According to the Bureau of Justice Statistics, between 1976 and 2011, there were 279,384 black murder victims. Though blacks constitute thirteen percent of the nation's population, they account for more than fifty percent of homicide victims in this period.<sup>13</sup> The high incidence of black on black murder is also found in New Orleans. To use one recent example, in the first week of October of 2013, there was a seven-day spate of gun violence in New Orleans. Six people were shot and killed in the course of a week and nine were wounded, including two children. All of the victims were black.<sup>14</sup> While spikes and trends in violent crime are normal, the disproportionately high number of innocent young, black children who are shot in New Orleans each year is

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<sup>12</sup> Mark Moseley, "To fight violent crime, New Orleans may need to get the lead out," *The Lens*, 7 February 2012, 16 December 2013.

<sup>13</sup> Alexia Cooper and Ericka Smith, "Homicide in the U.S. Known to Law Enforcement, 2011, Washington: U.S. Dept. of Justice, Office of Justice Programs, Bureau of Justice Statistics, Dec. 2013.

<sup>14</sup> Helen Freund, "7-day spate of crimes could have several factors, expert says," *Times-Picayune*, 10 October 2013, 12 October 2013.

indicative of the particular nature of the violence that plagues New Orleans. In order to understand the nuances of New Orleans violence, it is imperative to note that two main forms characterize the culture of gun violence in New Orleans. On the one hand, gang-specific, drug-related violence constitutes at least half of all of the city's murders, while most of the rest of the murders are the result of randomized, interpersonal occurrences of violence that occur across the general population, all too often claiming the lives of young innocents.

While many of the city's shootings are the result of drug-related violence, the rigid boundaries and affiliations of New Orleans' gangs are not always clearly defined. Criminologist and professor David Kennedy specializes in crime prevention among inner city gangs and serves as the director of the National Network for Safe Communities, and he published his widely acclaimed book *Don't Shoot: One Man, A Street Fellowship, and the End of Violence in Inner-City America* in 2011. Kennedy expounds on the mythical aura surrounding gang affiliation:

“Gang” means something pretty particular to people - structure, purpose, cohesion, leadership. It's a myth, almost always. Most street groups don't have much of any of that. Therefore, in the eyes of most people, especially in law enforcement, they're not gangs...It simply turns out, as a matter of empirical fact, that almost all the action takes place in the no-man's-land between “solo gunslingers” and “gangs”.<sup>15</sup>

The emphasis on the informal, loosely structured nature of street groups indicates that 'gangs' or 'groups' maintain control of a particular geographical region within a certain drug market on fairly unstable terms, in which the activity

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<sup>15</sup> David Kennedy, *Don't Shoot*, 151.

and persons associated with a particular gang are fluid, transient, and volatile. At the core of most group-related activity is an inherent insecurity that permeates across all levels of gang hierarchy, effectively antagonizing individuals, which sometimes incites the formation of factions and rivalries. The loosely structured nature of groups dealing in narcoeconomies inevitably fosters a breeding ground for distrust and the yearning for “a place” and the respect that comes along with stability. In drug-related acts of violence, the use of deadly force is inspired by street norms that are sustained by the absence of a legitimate police force.

First, to understand the root causes of gun violence, it is important to note that both drug-related and randomized acts of gun violence are largely attributable to the undergirding norms that influence individuals’ behavior. David Kennedy describes “norms” as the collective beliefs held by members of a community that influences its members’ daily lives. As Director of the Center for Crime Control and Prevention, Kennedy defines ‘norms’ as standards for behavior that establish the rules to which people try to conform. Specifically, the norm that “disrespect” requires a violent response is a street norm held by a small segment of the community. Kennedy explains further:

Gang members regularly experience social friction on the street: they are disrespected...The more they, their friends, their families, and their communities believe in that norm – or seem to – the more violence there will be. The idea that gang members have each others’ backs – that the enemy of my friend is my enemy – is a street norm. The more they, their friends, their families, and their communities believe in that norm, the more often that act of disrespect, and the violent response to it, will turn into a vendetta between gangs.

However, if much of the problem of gun violence in New Orleans is attributable to

the fragmented nature of the groups and the individuals who deal in the city-wide narcoeconomy, rather than to inter-gang warfare among well-organized gangs, how do we make sense of the norms that influence communities and individuals and drive them to commit extreme forms of violence? I argue that the norm that establishes that retributive justice should be sought in cases of disrespect is sustained by the community-wide perception that the police force is ineffective, corrupt, and ultimately incapable of helping the community. Consequently, the norm that ascertains that retributive justice as an appropriate reaction to interpersonal personal conflict is sustained as long as formal social control is absent. Furthermore, the survival of gangs is made possible because most members of the community do not trust in their police force to come forward with witness information. Refusing to cooperate with police makes it appear as though community members acquiesce to gang violence; however, the lack of trust in the police force and the fear of retaliation against known witnesses better explains why most people choose silence over “snitching”.

When non-drug-related violence occurs, it is usually influenced by the norm of retaliation in the instance of perceived disrespect. It is more difficult to make the logical connection between random acts of violence and the police legitimacy problem; however, the two phenomena are related on ontological grounds. Specifically, those individuals who engage in gun violence outside of any involvement within New Orleans’ narcoeconomy are often among the city’s poorest and most disenfranchised. The daily struggle to survive and the anxiety and stress that accompanies this struggle only works to sustain those norms

which hold that violence is an acceptable means of conflict resolution. The degree of frustration experienced on a daily level correlates with the degree to which one will go to extreme measures to uphold one's sense of dignity. Consequently, in the absence of a reliable system of social control, any interpersonal problems become compounded with already existing traumas.

Kennedy reasons that even in the worst neighborhoods, most people do not commit crime. He claims that usually, thinking about the people and the community around them stops people from committing crime, which is commonly referred to by social scientists and criminologists as informal social control. However, informal social control fails, the law must be credible enough to deter people from committing crime. Until recently, law enforcement in New Orleans erred on the side of using aggressive tactics that Derrida would categorize as inhospitable. Over-policing drug markets is antithetical to Derrida's notion of hospitality because the presence of a police state communicates to communities that the police's main objective is to arrest, rather than assist. Such policing prevents communities from trusting that police have their best interests in mind.

New Orleans claims one of the highest per capita murder rates in the United States. With a population of just over 369,000 people, the city's murder rate in 2012 was 52 murders per 100,000 people. Moreover, the murder rate in 2012 was approximately *ten* times greater than the national average. However, in 2013, murders fell from 192 to 155, a twenty percent decrease over the course of *just one year*. Nonetheless, New Orleans' murder rate in 2013 was still

approximately *eight times* the national murder rate.<sup>16</sup> While the city claimed the lowest number of homicide victims in nearly three decades, it is difficult to know whether this decline in murders is just another trend, or if, and to what extent, recent political changes were responsible for this dip.

However, a counterintuitive pattern in the city's killings has emerged this year – a pattern David Kennedy claims is normal, given the sorts of political changes that have gone into effect this year. While the murder rate has fallen by more than twenty percent, the number of nonfatal shootings has remained almost the same as years past. The NOPD categorized 371 crimes as aggravated batteries by shooting in the first half of this year, and it ended with 742 non-lethal shootings, which is consistent with non-fatal shootings in the past: 752 in 2012, 744 in 2011, and 771 in 2010. This is unusual because while rates of murder and non-lethal shootings typically move in tandem, in New Orleans, the *total* rate of shootings this year has only declined by five percent, but what is notable is that thirty percent fewer gunshot victims actually died. Kennedy is quick to deny that this decline in fatal shootings is due to a year-long stint of poor marksmanship or a shift in the types of guns people are carrying; rather, he attests that the twenty percent reduction is driven by this year's fifty percent reduction in gang homicide.

The most probably explanation for the significant decrease in gun fatalities, is that due to recent changes in the way the city is cracking down on drug-related gang violence, fewer exceptionally violent individuals are out on the streets. Kennedy explains "Gang members are usually better armed and better

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<sup>16</sup> This figure is based on an estimated New Orleans population of 369,000, and goes by the 2012 national murder rate figure of 4.7.

marksmen than run-of the-mill shooters. They are better at killing. Non-fatal shootings are more often the work of amateurs — people who tend to fire their weapons haphazardly, in muggings gone awry, or to prove their bravery or scare off enemies.”<sup>17</sup> He also notes that a city rarely sees such a significant decline in murders from one year to the next, providing further support for the hypothesis that institutional changes that have swept up the most violent gangsters are responsible for the shift in killings. Thus, the most viable explanation for the reduction is that fewer homicides can be traced back to group-member involved incidents. Nonetheless, New Orleans gunmen are twice as deadly, on average, as they are everywhere else, and this is attributable to a deep-seated culture of violence that, I argue, will take more than a policy focused predominantly on locking up gang members to make any long-term reduction or change in the number of overall shootings that occur each year in New Orleans.

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<sup>17</sup> Claire Galofaro, “Murders down in New Orleans, not shootings,” *The Advocate*, 14 November 2013, 14 December 2013 <http://theadvocate.com>.



### CHAPTER 3. LÉVINAS and DERRIDA – SUBJECTIVITY AND THE OTHER

The Nola For Life campaign is founded on the premise that gang-related homicide is associated with very small numbers of very small groups of very active offenders that are loosely organized into groups. The campaign seeks to stop the killings with job training, improvements in recreational facilities, and a program called Ceasefire New Orleans that sends violence “interrupters” into the most violent neighborhoods of the city to try to persuade potential shooters out of committing retaliatory murders. Furthermore, Nola For Life includes a multi-agency task force that targets groups of heavily armed “gangsters” and drug pushers considered to be responsible for the majority of the city’s homicides.

Recently I met with New Orleans native Karl Washington, a licensed social worker and an international event producer who formerly coordinated events under New Orleans Mayor Ray Nagin. Washington, who grew up in the Desire area of the Upper 9<sup>th</sup> Ward, now spends much of his time coaching youth from his native neighborhood. Washington believes in the power of equipping children with the right skills that can ultimately keep them focused on healthy endeavors and which can deter them from getting involved in the drug-trade. As for Nola For Life, however, Washington concedes that the street perspective of Nola For Life is that the campaign “is seen as a joke. In their eyes, it’s another ‘us vs. them’ strategy that puts some words on a billboard, does some recreation at midnight, and talks about job placement, which is really just a breeding camp for the service industry.”<sup>18</sup> Washington claims he has been “battling the city for years”, especially the New Orleans Recreation Development Commission (NORDC)

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<sup>18</sup> Karl Washington, Personal Interview, 8 August 2013.

which, he argues, misappropriates city funds by fixing up and building recreational facilities in wealthier neighborhoods and leaving those buildings and parks in poor areas to disintegrate. The lack of recreational facilities is one of the many factors, Washington argues, that contributes to the levels of boredom among impoverished youth. He concedes that boredom, when combined with poverty, is an ideal breeding ground for street-level violence. He further rationalizes the psychological impetuses of those perpetrators of the gun violence problem:

All day long, they're killing on Playstations. They're constantly seeing killing in the news. They don't have any real sense of power in their lives...most of them have no father. The average kid puts a gun in his hand, and suddenly he possesses a kind of power that he's never had before. Now he can take whatever he sees on TV, all that American dream stuff he never had in real life...When most [young black boys] are trying to survive the streets, when they have beef with someone, they don't want no jail, no hospital for his enemy, what they think is, "I'm going to put you in the hole."<sup>19</sup>

While Washington acknowledges the difficulty of trying to 'think like a killer' to understand the psychology behind the will to commit murder, he relates the implicit moral code of the street to the imperative that the typical black youth in New Orleans must always look out for himself first, must never trust the police, and should own a gun in the event that he or his 'turf' is ever disrespected or threatened. However, because the informal drug market economy operates in the volatile milieu of the streets, and because such drug markets are often the sole means of income, and consequently self-sufficiency and self-dignity, for many of the most crime-ridden, impoverished communities in New Orleans, the high

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stakes that accompany succeeding in narcoeconomies breeds and *necessitates* interpersonal violence to maintain a grasp on these stakes.

Immanuel Kant's idea of the categorical imperative as founded on absolute moral principles inform and inspire Emmanuel Lévinas and Jacques Derrida in their thinking of moral responsibility. In reading Lévinas and Derrida in dialogue with each other, we can conceive of the root causes of the New Orleans murder epidemic from a uniquely ontological standpoint, in which the decision to murder is a fundamentally *irresponsible* decision that emerges out of a context in which one is prohibited from experiencing the aporia of responsibility.

Lévinas and Derrida's philosophical notions of responsibility are first found in Martin Heidegger's thinking of the ontological origins of human existence. In *Being and Time*, Heidegger posits the concept "being-with", in which engagement with the other is to be coextensive with being. Instead of considering being as a substantial foundation, Heidegger conceives of being as an event that calls for responsible engagement with the other.<sup>20</sup> Being-with reconciles what Heidegger's conceives of as the ontological condition of "thrownness", which describes our primordially human experience as that which is always already a conundrum for us since it is the only fact that we as humans cannot communicate. Our existence is self-evident, but it is always impossible to describe it during our attempt to exert mastery over its origins and its meaning. Thus, because there's an absence, or a nothingness, that perpetually haunts us, we develop an anxiety that stems from the impossibility of knowing our own

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<sup>20</sup> Martin Heidegger, *Being and Time*, trans. by John Macquarrie and Edward Robinson (London: SCM Press, 1962) 206.

ontological roots. In our attempts to quell this anxiety, Heidegger claims that we endeavor to master our existence, but we fail in this quest upon encountering the other. Lévinas reads Heidegger's being-with as the indissociability of being and the other, and contends that because our being is encumbered by its state of being too tightly bound to our own existence, the only way to break free from this bind is to align our self with others. While both Derrida and Lévinas acknowledge that this alignment with others is unavoidable and inevitable, Lévinas contends that humans are pre-originarily open to the other, but he departs from Derrida in terms of how he regards the nature of the relationship with the other. Lévinas' conception of the pre-originary openness to the "infinite other" frames the paradoxical understanding of the welcome of the other, which is the condition for ethics.

### **Lévinas and the Paradoxes of Subjectivity**

The two-part paradox that is implicit to Lévinas' thinking of the welcome provides us with a phenomenological framework for understanding how murder is fundamentally unethical and irresponsible. Furthermore, Derrida's conception of the aporia of responsibility sheds light on the specific nature of the New Orleans murder epidemic because it allows us to examine how the particular nuances of the epidemic are byproducts of environmental and contextual factors that obstruct and pervert the aporetic experience of the undecidable.

Lévinas presents his idea of ethics as "first philosophy" in his work *Totality and Infinity*, where he understands ethics in terms of pre-philosophical lived

experience that is justified on phenomenological grounds.<sup>21</sup> Responsibility for the other, according to Lévinas, represents the essence of subjectivity. When one takes responsibility for the other, he expropriates himself and thus his subjectivity is identified with his relation to alterity. The alterity of the other precedes one's ability to rise to the occasion and act for the other. Consequently, we are primordially concerned for the other; therefore, responsibility for the other transcends the dimensions of time and precedes any consciousness of self-presence. The radical nature of Lévinas' thinking of philosophy emerges out of his project of confronting Edmund Husserl's conception of the intentionality of the conscious subject. Husserl claims that experience is the source of all knowledge, and that intentionality describes the act of conscious determination that 'brings life' to ideas. While Husserl posits that there is a connection between the real lived experience and the ego's role in taking responsible action, Lévinas posits that the other is primordial to the subject and its ego. In this way, Lévinas is concerned with the conditions that make it possible to care about existence, and he claims that our intersubjective relations with others lies at the core of this concern. Perhaps the most significant aspect of Lévinas' conception of the unavoidable call from the other is the response that accompanies this call. He contends that the origin of language is the mandate to respond to this call, and that it is from this encounter that dialogue can begin. Therefore, the intersubjective relationship is the condition for the possibility of dialogue; thus, the lack of dialogue between one and the other at the time of this encounter signals an impediment in one's ability to respond to the other.

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<sup>21</sup>Emmanuel Lévinas, *Totality and Infinity*, 21.

Lévinas claims that we only achieve selfhood by means of an involuntary welcome towards the infinite other. His thinking of the infinity of the other marks one component of the paradox implicit in Lévinas' conception of responsibility. Since the transcendence of the infinite other implies a non-equal separation between the I and the other, the I is always open to an other that is more than itself. However, if the I is always already responding to this infinite other, and if it is through this response that the I "comes into himself", then the paradox lies in the fact that one is obligated to respond passively to an other that he can never truly respond to in full. In other words, one must always respond without being granted the option to choose in the first place, and thus one's response is always to an infinite other that exceeds his capacity or desire to respond.

The second paradox implicit in Lévinas' thinking about responsibility concerns the fact that our pre-originary openness to the infinite other, which gives rise to subjectivity, plagues us with an identity crisis of sorts, in which our pre-originary host status implies the absence of a "home" from which the other can be welcomed. Lévinas' notion of the paradoxical nature of responsibility provides us with deeper insight into the ontological relationship between subjectivity and murder. In *Otherwise than Being*, Lévinas furthers his thinking on responsibility to claim that responsibility is the very condition of the possibility of subjectivity. From here, he develops the idea of justice's inherent violence by explaining that the unavoidable and automatic responsibility we have toward the other beckons us at once to allow ourselves to be uprooted from any claim to a home while simultaneously impelling us to welcome the other into our home. He

claims that only justice “can wipe [ethical responsibility] away by bringing this giving-oneself to my neighbor under measure, or moderating it by thinking in relation to the third and the fourth, who are also my others, but justice is already the first violence.”<sup>22</sup> This notion of justice as the first violence means that ethics and justice are inseparable, since the infiniteness of the other holds us accountable in our responsibility to the other, but does not allow us to escape being discriminatory and reductive in our primordial welcoming of the other.

The inherent violence that Lévinas conceives of as implicit in every relationship with the other reveals that something ‘happens’ in the encounter between perpetrators of gun violence and their victims, as *other*, in which the other is automatically and, arguably, *necessarily* treated violently because the call to respond is not heard, or is ‘lost in translation’ before an ethical response can even occur. We can speculate that environmental and contextual factors can be attributed to the warped psychological process that accompanies violence towards the other in this encounter.

Because of the automatic responsibility Lévinas contends we have for the infinite other, his thinking limits our ability to posit conditions that may inform the irresponsible decision to do violence to the other. However, Derrida’s thinking of the aporia of responsibility will allow us to go beyond the limits of Lévinas’ conception of the two paradoxes inherent in the notion of responsibility – openness to the infinite other and the taunting temptation to commit violence that is inherent in every encounter with the other. Derrida’s thinking of responsibility

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<sup>22</sup> Emmanuel Lévinas, *Otherwise Than Being: Or Beyond Essence*, trans. A. Lingis (Pittsburgh: Duquesne University Press, 1998) 44.

undergirds our quest to delineate the possibility of responding to the infinite demand placed on us by the other by enduring an aporia of a certain impossible. In practice, this means asking how we can be *most* responsible – both at the interpersonal and community level - if true responsibility is not feasible.

First, to further investigate the paradox of responsibility to the infinite other, it is necessary to describe Lévinas' thinking of the face-to-face encounter as that which designates the fundamental otherness of the other. Lévinas asserts that the transcendence of the face guarantees the impossibility of ever wielding total control over one's mind and spirit, which makes it impossible to reduce the other to the same. That which escapes the gaze is the secret of the other: his "unknowability" and his strangeness. Nonetheless, the unknowable, enigmatic character of the face is that which makes the other vulnerable and establishes the ethical imperative not to harm the face. In *Totality and Infinity*, Lévinas advances his argument that all ethics ultimately emerges out of the confrontation with the always infinite other: "Over him I have no *power*. He escapes my grasp by an essential dimension, even if I have him at my disposal."<sup>23</sup> In his later work, *Ethics and Infinity*, Lévinas expands on his conception of what consists in the phenomenology of the face, as well as its ultimate "purpose". He explains how the ethical experience is only possible through our failure to "notice the color of [the other's] eyes" because this prevents us from perceiving the other as spectacle.<sup>24</sup> Thus, in seeing the other as spectacle, his irreducible otherness is

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<sup>23</sup> Lévinas, *Totality and Infinity*, 39.

<sup>24</sup> Emmanuel Lévinas, *Ethics and Infinity* (Pittsburgh: Duquesne Press, 1985) 85.



displaced, and so he becomes something that we can reduce and thus wield control. However, because murder is the act of the singling out and elimination of the finite other *after* the initial inescapable welcome of him that Lévinas claims is unavoidable, the decision to murder is inherently irresponsible because it represents the absolute opposite of the non-violent welcome that marks the site of ethicality. Furthermore, the paradox of being obligated to respond to the infinite other who exceeds one's responsive faculties suggests that murder is the absolute denial of this passivity, because by definition, it is the pursuit of the abolition of the non-infinite other.

The face is what speaks, and it is what signifies the difference between one's self and others. It also forces one to be deferential to the plight of the other. However, when the other is viewed as a threat, one becomes unable to 'see' the vulnerability of the other's face because he is preoccupied with the fear that the other will inevitably rob one of his freedom. In *Otherwise Than Being: Or Beyond Essence*, Lévinas explains that the "invitation to reduction" occurs when only the other's countenance is seen, which results in the reduction of the other to his appearance. This "invitation to reduction" depends on both the vulnerability of the face and the natural self-interestedness of the 'I' in his tendency to pursue self-sustaining actions.<sup>25</sup> Hence, if we are naturally pre-disposed to take interest in the other so that the conception of the other can be digested and incorporated into our own projects toward self-knowledge, then the violent reception of the other is the denial of the infinite otherness of the other that stems from our

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<sup>25</sup> Emmanuel Lévinas, *Otherwise Than Being: Or Beyond Essence*, 63.

inherent self-protective impulses. The vulnerability of the face of the other is realized in this decision to be violent: one's treatment of the other is subject to one's reductive interpretation of his countenance. How, then, do we reconcile the notion of the "invitation to reduction" with Lévinas' conception of infinite responsibility? I argue that our infinite responsibility to the other is limited by the degree to which we are limited in our knowing of the other and thus the degree to which we are limited in our ability to include him in the realization of our autonomy. Thus, if we are unable to incorporate the other into our own self-projects because of the perceived risk that is entailed in doing so, then our infinite responsibility toward the other is exceeded by the perceived naked poverty of the face, a poverty which prevents a killer from seeing beyond his victim's countenance.

The ethical call not to do violence to the other corrodes at the point at which there lacks an environment that can support a peaceful context in which one can justly and patiently tolerate the other in his otherness. In *Totality and Infinity*, Lévinas writes "violence does not consist so much in injuring and annihilating persons as in interrupting their continuity, making them play roles in which they no longer recognize themselves, making them betray not only commitments but their own substance."<sup>26</sup> In the efforts individuals make to master their existence, violence towards the other takes place when one's self-interested endeavors lead us to perceive every other individual as similarly self-interested to the point that they may be presumed as likely to pursue their own

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<sup>26</sup> Lévinas, *Totality and Infinity*, 21.

project of existence at the expense of the other.

Evil for Lévinas can be defined by the disregard for the other as one perseveres into being and prioritizes himself over others and reduces all others to the realm of the same, in terms of those of the generality in which one finds himself.<sup>27</sup> Therefore, murder is fundamentally evil because it is an act that opposes our pre-originary, ethical orientation to the other. This is what happens in the event of gang-related murder: the gangster usually murders to either establish his respect among his crew, or to protect himself from getting shot first.

On the streets of New Orleans, this reduction to the same manifests when one internalizes the code of the street and engages in acts of violence in order to attain the respect from others that one demands. In his book *Brainwashed: Challenging the Myth of Black Inferiority*, Tom Burrell explains how respect is vitally important to those who have historically been denied rights guaranteed to the white 'other' since the beginning of white and black co-existence in America:

Black men are the descendants of a race that, due to skin color, has been systematically denied the opportunity to meld into mainstream society. Therefore, for those with little self-esteem - who feel they have nothing else of worth - honor becomes everything. Without it, they would be spiritually bankrupt. Young black people have no idea how this warped mindset is dictated by a script drafted for their demise centuries before they were even born.<sup>28</sup>

The code of the streets is correlative with the impulse to attain self-respect, often by whatever means necessary. Lévinas' definition of "evil" relates to the violence

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<sup>27</sup> Emmanuel Lévinas, Interview with D.S. Schiffer, "Conversation avec un juste," *L'évènement du jeudi* 585 (1996) 76-79.

<sup>28</sup> Tom Burrell, *Brainwashed: Challenging the Myth of Black Inferiority* (New York: SmileyBooks, 2010) 100.

that is employed to achieve this perceived sense of respect from others. In New Orleans, murder belongs to the order of a reduction to the same when certain others as a totality – identifiable by *countenance* - are deemed a potential threat. However, I argue that many young men who are affiliated with gangs deem disrespect an even greater threat than any physical act of violence. When one is denied the most basic of rights that constitute one's conception of self; such as an income, an occupation, and a stable and supportive family, respect is one of the only claims to which one can aspire. Poverty and degradation often raise the stakes of honor, and the ultimate assurance of reclaiming one's respect is to eliminate the source of the disrespect. When the other is totally destroyed, this total reduction of the other's otherness "renounces absolutely all comprehension" of the other, for one no longer wishes to include the other in the "same." That is, in one's own project of existing, but on the contrary, to exclude him, because he is "too much" in the way of one's struggle for identity".<sup>29</sup> Burrell discusses the origins of the preoccupation with respect in the black community:

The traffic altercation, the shoulder bump, the "you insulted me" therefore "you must die" madness prevails. [According to a 2007 Justice Department study], for homicides involving black victims for whom the circumstances could be identified, 69 percent were not related to felonies. Of these, 56 percent involved arguments between the victim and the offender. In most cases, the instigating factors escalated from the emotional and artificial concept of RESPECT.<sup>30</sup>

Furthermore, a significant proportion of young men in New Orleans who are at-

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<sup>29</sup> Emmanuel Lévinas, *Emmanuel Lévinas: Critical Assessments of Leading Philosophers* (New York: Routledge, 2005) 38.

<sup>30</sup> Tom Burrell, *Brainwashed: Challenging the Myth of Black Inferiority*, 93.

risk of engaging in violent crimes possess guns. This fact suggests that these individuals live in a world in which they are perpetually pre-empting the objectification and reduction of themselves by others.<sup>31</sup> If, according to Lévinas, the intersubjective experience proves 'ethical' when an 'I' discovers its own particularity upon being singled out by the gaze of the other, then the pre-emptive act of carrying a gun *despite the absence of an immediate threat* points to a pervasive anticipatory hysteria that prevents many gun-toting individuals from ethically experiencing the other.

The documentary film titled "Shell Shocked", released in the spring of 2013, aims to highlight the culture and convoluted phenomenon of gun violence that affects youth in communities throughout New Orleans. Its producer, John Ritchie, described how the young people who were interviewed for the film all had experienced various degrees of trauma due to gun violence. As Ritchie explained to *The Times-Picayune*: "almost every single one of the kids had known someone -- either a loved one or an extended family member -- who had been the victim of a shooting."<sup>32</sup> According to Lévinas' logic, when a person loses multiple friends and family members to gun violence, the individual victim loses his signification. Lévinas explains that the face is signification without context,

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<sup>31</sup> *Definition of "at-risk"*: According to a report titled "Averting the Prevalence and Consequences of Mass Shooting and Urban Gun Violence" which was led by Dr. Peter Scharf of Tulane University in January of 2013, typical descriptions of youth involved with urban gun violence include low reading levels, mental health problems, gun availability and possession, involvement in semi-organized drug trade, and living in concentrated urban environments among the factors that deem a youth 'at-risk' for committing murder. The particular gun-violence perpetrator profile to which I will refer in this essay as 'gang member' loosely describes young, black males who are more likely than not to have a prior criminal record, to have been raised in poverty, and to be involved in the drug trade to some degree.

<sup>32</sup> Helen Freund, "New Orleans Gun Violence Documentary to be Screened," *Times-Picayune*. 25 April 2013, 30 April 2013

and that “the meaning of something is in its relation to another thing”.<sup>33</sup> The point where Lévinas contends that evil flourishes occurs when the other is reduced to the same, and in the case of gun murders, the multitude of murdered others becomes conceptualized as a single consolidated object in the mind of those individuals who have lost multiple friends and loved ones. This totality of bodies is the consolidated object – representing the other-reduced-to-sameness – of the individuals who have all died at the hands of a firearm.

The astronomically high murder rate has been replicated year after year since Hurricane Katrina. In 2010, 89 percent of all murders in New Orleans were conducted with a firearm. There is no question that the incredible ease of accessing illegal firearms in New Orleans’ citizens is, to some degree, to blame for the city’s murder epidemic. The combination of gun accessibility and the high percentage of people who own guns in those most violent neighborhoods has created a culture in which the ethical shame that should accompany the act of murder has been transplanted by a paranoia of fear. This fear has effectively created a city-wide culture of violence in which children as young as ten years old procure and carry guns to protect themselves.

“Shell Shocked” also notes the irony implicit in Louisiana’s gun laws: a person must be twenty-one years old to buy a handgun, but only eighteen years old to get a hunting rifle. In the film, a man named “Skill”, a rapper and former gangster who now owns a car wash in New Orleans, explains why these laws are problematic:

Assault rifle falls under the hunting rifle category, so if you

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<sup>33</sup> Lévinas, *Ethics and Infinity*, 86.

have low-class SKS's and AK's for a hundred and eighteen dollars, and all you need is an ID and a hundred and eighteen dollars to buy one...you can just make a hundred dollars in like four, five hours in the hood, and have an AK with thirty-round clip. If you let those people who be selling guns operate in New Orleans for fifteen, twenty years, the accumulation of guns then, to the streets - has got to be astronomical! You wonder why the murder rate high, cause everybody got assault rifles!<sup>34</sup>

The high rates of assault rifle ownership suggests that many people in New Orleans do not experience the face of the other as the ethical experience; rather, the gun as object replaces the otherness of the other, effectually dehumanizing him and preventing the subject from viewing him as anything other than enemy. Lévinas claims that the face is an exposure to death, but that we are called to not kill or do violence to the face because the recognition of the infinite unknowability of the other demands that we not do him harm, since it signifies the access to the inherent unknowability of God and that which is 'beyond' direct objective, empirical knowledge.

Furthermore, Skill explains the producers of "Shell Shocked": "[New Orleans] might have two, three murders a night and they say, 'That just what happen[s] here,' and I'm like 'Man, can't everybody feel like that!'" Implicit in Skill's remonstration is that the general population of New Orleans has also reduced individual victims and perpetrators of gun violence to the same – to a collective 'other' that is knowable and predictable.

The nature of New Orleans' inter-gang violence can most accurately be described as an ongoing gang war. Lévinas characterizes war as the ultimate evil because it destroys the identity of the other and reduces it to a totality that is

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<sup>34</sup> *Shell Shocked*, dir. John Richie, Scrub Brush Productions, 2012.

wholly enemy. In his essay on Lévinas and violence, Roger Burggraeve describes Lévinas' conception of the fundamental dynamic of evil as the reduction of the other to oneself.<sup>35</sup> Lévinas conceives of evil as emerging from the failure or refusal not to reduce the other to the same. This relates to David Kennedy's notion of 'vicarious trauma', which he notes is a widely discussed phenomenon among criminology circles:

If [the traumatically violent event] happened to your cousin, your nephew, your classmate or your fellow choir member, it might as well have happened to you...It reinforces what everything else in the neighborhood - the lack of work, the useless schools, the decay, all of it - says every day: The outside world does not care, is dangerous, touches us only to do us harm.<sup>36</sup>

Ethics for Lévinas lies in the 'before knowing' that stems from the other's face and our choice not to eradicate it. In New Orleans, black urban poverty and the prevalence of narcoeconomies has created a context in which many young, black men abide by the code of the street and "even scores" between enemies or rival gangs via gun violence. The reasons for such rampant use of gun violence for the purpose of righting wrongs are multifarious; however, we must acknowledge that at a basic psychological level, sophisticated cognitive categorization processes are at work that influence the way people assess and react to the other. In *Political Affect*, John Protevi refers to the immediate categorization of another's race as an effect of "political cognition".<sup>37</sup> He explains that our political

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<sup>35</sup> Roger Burggraeve, "Violence and the Vulnerable Face of the Other: The Vision of Emmanuel Lévinas on Moral Evil and Our Responsibility," *Journal of Social Philosophy*, 30 (1999): 36.

<sup>36</sup> Kennedy, *Don't Shoot*, 211.

<sup>37</sup> John Protevi. *Political Affect: Connecting the Social and the Somatic (Posthumanities)* (Minneapolis: University of Minnesota Press, 2009) 173-174.



cognition habits are such that no one has ever *perceived* a subject or an other:

We can posit such a creature, but that's a refined political act of overcoming our immediate categorization process, by which we perceive racialized and gendered persons to construct an abstraction we can call a nongendered or nonracialized member of an intersubjective community or humanity or some such.<sup>38</sup>

The inability to perceive a subject, and the tendency to *posit* one, is further influenced by highly stressful environments, in which the ability to discern the normal situations from the dangerous ones quickly has a great impact on your overall daily well-being. The racial polarization of New Orleans society has long been an urban reality, and the havoc wreaked on the city by Hurricane Katrina only exasperated already high rates of poverty, gang activity, and drug-related violence. Consequently, those neighborhoods that already suffered from problems with violence had to deal with a new sort of trauma that was attributed to the stress of living in post-Katrina New Orleans.

In New Orleans, 67 percent of the population is black and 28 percent live in poverty, which means that the stereotype of the armed and dangerous black male becomes abstracted to the point that he comes to embody the prototype of the urban black male. Thus, when Protevi explains that fear is “affect cognition par excellence”<sup>39</sup>, the anxiety that stems from living in such tumultuous and traumatic environments can sustain a heightened readiness for emergency action. Returning to Lévinas’ thought on the face-to-face encounter, it is evident

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<sup>38</sup> Protevi, *Political Affect*, 174.

<sup>39</sup> John Protevi, *Political Affect*, 175.

that when the naked face of the young black man is 'masked' by his age, race, and neighborhood/gang/ward affiliation, his perceived risk of being victimized becomes heightened whenever he regards the other as resembling the prototypical black urban male. Such presumptions, despite their removal from any objective facts known to the perceiver, increase the likelihood that a violent encounter will occur between these strangers. Lévinas writes "The face is what one cannot kill, or at least it is that whose *meaning* consists in saying: "thou shalt not kill." Murder, it is true, is a banal fact: one can kill the other; the ethical exigency is not an ontological necessity."<sup>40</sup> Therefore, the ethical relationship is "beyond knowledge" of the other and every fact that describes his being, but it is not a compulsion. The face can only appeal to the other that it be regarded peacefully. Nonetheless, people avoid entering into the ethical relationship each time they reduce black males to the category of the same; in either case, it is his race and his otherness that already implicates him.

The second paradox implicit in Lévinas's conception of the welcome of the other is an aporetic generosity that accompanies such a welcome. The recipient, or the one who welcomes, simultaneously is open and receives the infinite otherness of the other. Thus, if "to welcome" also means "to receive", there is a paradoxical active/passive nature of such a welcome. This paradox is reconciled by acknowledging that the active welcoming of the other is only possible because of the other's ontological state, in which he always already permits this welcome. Thus, the rigid parameters of the host's place of welcoming and the guest's role as foreigner is inverted at the moment the guest enters the host's home. When

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<sup>40</sup> Lévinas, *Totality and Infinity*, 86-87.

applied to this guest/host relationship, Lévinas' conception of subjectivity means that the welcoming other becomes displaced in his role of host, since it is the other that enables him to welcome in the first place. The host becomes guest as soon as he welcomes the other, because his welcoming means that he is in fact received in his own home. Lévinas contends that one can only welcome the other if he has a place from which that other can be welcomed. Since the welcoming subject always already welcomes the other before he can lay claim to a location from which he can welcome, the subject is perpetually plagued with the uneasy feeling of homelessness. Lévinas' conception of the host/guest inverse relationship manifests itself in the fundamental unethicity of murder. In *Existence and Existents*, Lévinas understands "home" as a place of transit, in which the other always holds the subject hostage because he "finds himself assigned to a place before being able to take up one."<sup>41</sup> However, to claim absolute ownership of a space is to refuse the ethical call to welcome the other, and this refusal lies at the root of denying the ethical demand not to kill.

Lévinas claims "the other is invisible", meaning that the other's otherness is irreducible to his appearing. Of course, we see the other, but there is much that we cannot see, such as his "thoughts, feelings and volitions."<sup>42</sup> Thus, what we come to know about the other is only based on what he presents to us – his face. If Lévinas' philosophy removes accountability from the subject/other relationship, then preconceived notions of the other that precede his otherness

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<sup>41</sup> Emmanuel Lévinas, *Existence and Existents*, trans. A. Lingis (Pittsburgh: Duquesne University Press, 2001) 104.

<sup>42</sup> Lévinas, *Existence and Existents*, 11.

and that are prioritized above the welcoming reception of the vulnerable other inform the violent reception of the other. The man who chooses to kill an 'enemy' about whom he knows nothing other than perhaps his gang affiliation is blinded to the enigmatic vulnerability of his enemy because his own experience is conditioned by the 'kill or be killed' mentality that drives inter-gang violence. Therefore, what is 'seen' in the other is no longer a vulnerable face that beckons one to moral action, but is rather a potentially harmful enemy whose otherness incriminates him.

Drug and urban gang activity and a dearth of economic opportunities are factors that can significantly affect what Lévinas' conceives of the face-to-face encounter. If a majority of all murders in the city can be traced back to drug-related motives, and if criminal gangs are becoming increasingly splintered, this suggests that the stakes have been raised, and that these violent individuals are choosing to resort to extreme and brutal tactics to maintain control of their turf and power. This host/guest inversion that accompanies the paradox of welcoming the other implies that responsibility for the other is at the same time the possibility of violence against the other. Hence, the pathological violence that characterizes certain communities in New Orleans is indicative of a pathological relationship that these neighborhoods have with the uneasiness that stems from this ontological homelessness.

To understand fully the paradoxical host/guest inversion that defines Lévinas' conception of subjectivity, we must delineate his notion of the imperative to respond to the other, despite the sacrifice that accompanies such a decision.

The face is a unique singularity that reminds one that he must reduce all other others to the same through the inevitable sacrifice that comes with his decision to respond to the singular other. However, one must decide *anyway*. The face's immanence demands an immediate and automatic response, and the ethical decision comes from one's peaceful treatment of the other. If Lévinas concedes that subjectivity is that which is achieved after welcoming the other, we can conceive of how this ontological understanding of the prerequisite conditions of selfhood implies that welcoming the other without harming him is to enter into the social relation, and also that a hostile reception signals that other factors are at play that might dissuade one to treat the other peacefully.

We can speculate beyond the limitations of Lévinas' paradoxical notion of responsibility in order to investigate the specific contextual and environmental conditions that may disrupt or obstruct one's choice to treat the other ethically. In a report led titled "Averting the Prevalence and Consequences of Mass Shooting and Urban Gun Violence", Dr. Peter Scharf notes that in cities like New Orleans, "the development of criminal records – often associated with low-level drug use – substantially reduces socially acceptable employment options, leading many to turn to illegal activities."<sup>43</sup> Furthermore, the report highlights how those involved in the drug economy in many cities exhibit high rates of recidivism, which suggests "the law enforcement system may be seen as an occupational hazard, and perhaps a rite of passage among peers." The exceptionally high murder rate

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<sup>43</sup> Scharf, Peter, et al. "Averting the Prevalence and Consequences of Mass Shooting and Urban Gun Violence," House Democratic Gun Violence Prevention Task Force's Youth Violence Prevention Summit, Washington DC. 22 January 2013. Presentation.

indicates that there is something that compels young, black males to eliminate the lives of their peers out of a pathological desire to maintain control over their own lives. The anxiety that stems from not having a place to call home increases one's interpersonal distrust, which can, in turn, justify violence.

The two paradoxes that arise out of Lévinas' conception of pre-originary responsibility – responsibility to the infinite other and the anxiety of an ontological 'homelessness' -- provides us with a framework for classifying murder as ontologically irresponsible, as well as calling for an investigation into contextual conditions that lead to systematic violence towards the other.

### **Derrida on Subjectivity and Violence**

Derrida and Lévinas' thinking posits an alignment with the other as fundamental to achieving subjectivity. If we consider Derrida's consideration of selfhood as only occurring through an exteriority once the "I" has come to itself in the other, then it is the other that 'shows' the subject his own selfhood, or allows him to define it as such. In the life of the young man who is immersed in a violent street culture defined by drugs, guns, and poverty, then the other to whom he is exposed is more than likely to be identified and governed by the street code himself. Therefore, living in such a hostile context means that a young man comes to know himself via the street code model to which he is exposed from a young age. Selfhood, then, is correlative with masculinity and the propensity to wield violence in order to survive the streets. If we apply Lévinas' thinking about subjectivity as pre-originally determined to "the streets", we nonetheless reach

similar conclusions. Since Lévinas contends that each individual is always already encountering the other through his interior receptive faculties, he assumes the extant conditions that allow one to encounter the other. Thus, Lévinas' positing of the ethical imperative that calls us to receive the other shows us how individuals who are predisposed to perceive the other with a distrustful gaze perpetuate New Orleans' murder epidemic. These conditions 'obstruct' the to-be killer from realizing the other's vulnerability and in turn from receiving him peacefully.

In "Violence and Metaphysics", Derrida criticizes Lévinas for basing his notion of the relationship of the self to the other on premises that still find themselves within the realm of human experience.<sup>44</sup> Derrida argues that if Lévinas' thinking conceives of the subject's attempt to exceed towards its outside, or towards the other, then the other is an exteriority only in relation to an already presupposed interiority of the subject. Thus, Derrida criticizes Lévinas' attempt to transcend ontology in his claim that "selfhood [is the] welcoming structure of the other", which implies that the other is always already inscribed in the "I" because this is the only way that selfhood can be understood or identified.<sup>45</sup> However, Derrida remains resolute in his positing of subjectivity as that which is attributed to the otherness to which it is exposed and is only known based on its openness to otherness. As François Raffoul writes in *The Origins of*

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<sup>44</sup> Jacques Derrida, "Violence and Metaphysics: Violence and Metaphysics: An Essay on the Thought of Emmanuel Lévinas," *Writing and Difference*, trans. A. Bass (Chicago: University of Chicago Press, 1978).

<sup>45</sup> François Raffoul, *The Origins of Responsibility* (Bloomington: Indiana University Press, 2010) 218.

*Responsibility,*

What is an alterity if not in relation to a same, to a self?  
Thus, if we think of the “I” as an originary alteration of itself  
which only is able to appropriate its selfhood by coming to  
itself in the place of the other, then what are the implications  
of this fundamental openness to the other that is necessary  
in order for the “I” to come to full subjectivity?<sup>46</sup>

Derrida claims that the otherness of the other always precedes the other’s true self in the gaze of the perceiver. If a young person becomes a participant in the narcoeconomy that controls his neighborhood, an environment that is characteristically dangerous and volatile, Derrida’s notion of subjectivity explains why this youth, upon becoming involved in the narcoeconomy, will inevitably procure a weapon for his own self-protection. Because so many of his peers and those to whom he is exposed are also gun-wielding participants in the narcoeconomy, this new recruit will inevitably follow suit and base his identity on the prototypical dealer he has been watching and learning from since he was a child. For the drug dealer, the fundamental difference of the other is automatically conflated with notions of ‘danger’ that compel him to be preemptively on guard in the neighborhoods that his gang considers their “turf”. Thus, he will formulate his behavior, appearance, and treatment of others according to the prevailing notions of masculinity that undergird the code of the streets. For the seventeen-year old who shoots up the front porch of his rival gang member’s mama’s house, it is this young man’s context and upbringing that play a significant role in coding behavioral norms that determine not only how to deal with conflict and anger, but also how to ‘manage’ and control his gang’s drug territory. If a young

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<sup>46</sup> François Raffoul, *The Origins of Responsibility*, 219.



man participates in the narcoeconomy that runs his housing project or neighborhood, and if he grows up believing that carrying - and sometimes wielding - a gun is necessary to protect himself and his gang's drug territory, this young man's subjectivity will be informed by the same feedback loop that likewise communicates to every other one of his peers that gun violence is often justified "to survive the streets". A gun represents a duality of power in narcoeconomies – the power to protect and the power to instill fear in others.

Derrida posits that if human experience is bound to the dimension of time, then the present is an event that is always already informed by its past and oriented towards the future. However, Derrida explains that if the recent past informs one's attitude and anticipation towards the future, the present is also a *non-event* because its familiarity in the recent past makes it able to be remembered and consequently repeated. Hence, the defining feature of the *experience* of the present is that this experience contains 'the trace', or that which is characterized by both its repeatability and the *non-presence* that it harkens to in its fragmented, incomplete state. The trace describes the inseparability of the event from its history and the idea that time is never present in the here and now. Derrida's conception of the trace has roots in Kant's thinking of the foundational conditions of experience that posits morality as that which does not require autonomous rational faculties. Kant and Derrida both hold that morality is intertwined with our very being. According to Derrida, the moral dimension of individuals does not necessarily lie in our pre-established moral faculties, but rather is always already present as soon as we realize our own

selves through our recognition of one's alterity.

Deconstructing Derrida's conception of decision-making as that which is only possible as *im*-possible requires a reflection on the *trace* that marks the deferral of time and denotes that at the limits of all relationships is a pre-originary violence that must constantly be combatted in the name of ethics. It is Derrida's notion of the trace that provides us with a thematic basis for comprehending how humans are exposed to the awareness of our mortality. In his early 1967 collection of essays *Writing and Difference*, Derrida notes that spacing, or the fact that that which we know is only known in retrospect, means that the essential fact of human nature is a pre-originary violence that stems from having to exist in an already irreducible alterity.<sup>47</sup> Derrida insists that the other is necessary for the constitution of the self with regards to a primordial opening to the other, whether this opening is received peacefully or violently; this is what makes every relationship possible. By definition, murder is the manifestation of violence to the other. Derrida's notion of subjectivity as inherently intertwined with the other and not that with which we are pre-equipped means that one must make decisions while being informed by his past experience. Nevertheless, we are accompanied by the anxiety that comes with a 'never-present present' and with the demand to respond to the primordially present other. Therefore, the frequent occurrence of gun violence must be investigated by first examining the circumstantial conditions that compel certain people to determine that murdering the other is that decision which best guarantees the continuation of his own life or his economic livelihood. This decision, according to Derrida, is the application of a rule in the process of

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<sup>47</sup> Jacques Derrida, *Writing and Difference* (Chicago: University of Chicago Press, 1978) 124.

decision-making. The application of a rule in decision-making is inherently irresponsible because it is masked as 'my' decision, when true responsibility is only possible when it is *of the other*. Murdering the other is ontologically a self-nullifying act, because it closes the self off to the future and poses as a prescient 'knowing' (that the other will inevitably do you harm), which is ontologically always impossible.

The gun-toting gangster's interior structure of receptivity is 'blocked' because a fissure exists between the primordial openness to the other and the gesture of the self's appropriation of the self. Despite his fundamental openness to the other, the self's receptive faculties are obstructed when the other always already threatens his being and discourages him to care about the self of the other beyond his threatening otherness.

Derrida's conception of the trace in his method of deconstruction posits that the recognition of the other's alterity exposes the paradox in Lévinas' assertion that all human beings possess an inherent aspiration to receive the other non-violently. The trace characterizes the other's irreducible uncertainty: one can only know the other after knowing himself. In *Writing and Difference*, Derrida critiques Lévinas' notion of difference preceding identity. He explains that for Lévinas' assertion that the infinite other comes before subjectivity to be true, he would have to presuppose the appearance of the other. Thus, Lévinas would have to presuppose the event of the other, which would entail reducing the encounter with the other to a concept; a concept of the other which loses its alterity in the announcement of its being foreseen. Derrida writes "the infinitely-other cannot be

bound by a concept, cannot be thought on the basis of a horizon; for a horizon is always a horizon of the same, the elementary unity within which eruptions and surprises are always welcomed by understanding and recognized.”<sup>48</sup> Therefore, the trace opposes the notion of an infinitely, absolute other, and rather posits that the other “must be other than myself.”

Derrida contends that recognizing and receiving the other *requires* a certain reduction of the other to the same because assigning meaning to the other is always based on pre-learned ideas and categories. Ethical action for Derrida requires that one begin by responding to the alterity of the other as an event, in his always-already present state. This openness to the other, which is what ultimately generates one’s subjectivity, is the very premise upon which one can understand why gun violence is the consequence of systematic and institutional inequities that reveals the other as someone to be feared, but also as someone with whom one identifies. Derrida and Lévinas’ alternative ways of thinking the relationship between subjectivity and the other marks the difference between understanding violence as either the product of an inherent ‘blockage’ in one’s interior receptive faculties, or the defensive orientation to a fundamental openness to the other who one pre-emptively deems to be threatening. In short, Derrida’s not-yet subject *actively realizes* his subjectivity through the ongoing interactions with the other, while Lévinas’ notion of the aporetic encounter with the other designates that the subject is always already *passively informed* by pre-existing contextual conditions that influence his treatment of the other. Lévinas assumes the conditions that allow the openness towards the other to be possible

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<sup>48</sup> Jacques Derrida, *Writing and Difference*, 95.

in the first place. Thus, Lévinas' thinking limits our ability to identify peripheral factors that calculate into the way in which one encounters the other. However, Derrida's idea of subjectivity clarifies why the 'healthy' movement of the subject toward selfhood is hindered when the gangster, who achieves his subjectivity by stepping into the place of the other, steps into a place that is dangerous, threatening, and oppressive.

## CHAPTER 4. THE STREET CODE AND MURDER

The New Orleans murder problem is explained by the degree to which force must be used to maintain one's stronghold in the drug game. If the state of forces in the context of the drug trade is only profitable so long as one maintains possession of his turf, and if one 'defies' this state by encroaching on another or failing to incite fear in rival drug dealers, one risks losing both his potential for gain and his overall business credibility. Thus, if we accept Derrida's critique of Lévinas' claim that the alterity interior to the ego is an illusion since we can not presuppose the appearance of the other, this means we must think according to the implications of accepting the *phenomenon* of the other.

Therefore, if we accept that the other "appear[s] as other for the same", it is conceivable that the act of murder becomes normalized in some of the toughest urban neighborhoods. This is because it is only upon the appearance of the other that the subject can realize his own subjectivity and his immediate existence. If he apprehends his own mortality through experiencing the event of the other, then the impetus to kill is also realized during this subjective journey.

When detached from the demands of the vulnerability of the face and the social mores that govern society, murder becomes widely regarded as an acceptable tool necessary to achieve an end. This 'end' is one's perceived sense of the respect others have for them, but it is an ill-conceived goal that is outside of morality because it is only realized in encountering an other who already threatens one. Nonetheless, Lévinas' notion of subjectivity still allows us to understand murder as the consequence of something that impedes the social

relation. Even if Lévinas' philosophy conceives of the infinitely-other as bound to a metaphysical conceptualization as Derrida claims, violence towards the other still entails an inability to tolerate the difference that threatens the other.

Derrida and Lévinas acknowledge the dissymmetrical relation to the other as constituting the ethical relationship between the self and the other. However, Derrida considers Lévinas' thinking of a presupposed pre-subjective responsibility towards the other as not thinking far enough according to what he conceives of as the aporia of responsibility. When brought to its limits, Lévinas' idea of responsibility is limited by his notion of the prior existence of the other, out of which arises ethics. Thus, we cannot deem murder unethical if the possibility to do the unethical is not an option. If Lévinas contends that responsibility is the mark of individuation for the subject, then murder prevents this individuation in the first place, and therefore murder according to Lévinas is the negation of the other (and one's self) and the negation of the possibility of ethics.

According to Derrida, the otherness of the other gives itself in the experience of the rupture, or the interruption of the present, that occurs upon the encounter with the other. Thus, the receptive structure of the self implies that upon receiving the other, the self is intertwined with the other instead of being absolutely exterior to him. The point at which Lévinas departs from Derrida is where he claims that ethics is "of the order of and respect for absolute singularity"; therefore, his ethics becomes a religion because he refuses to distinguish between the infinite alterity of God and that of every human. This thinking is problematic because Lévinas' responsibility denies its aporetic

foundation, in that the concept of responsibility is objective in its assumption of the infinite alterity of the other. However, Derrida's other is not infinitely other, but is constitutive of the subject. Thus, one's receptive interior faculty is generative of his complete subjectivity upon his openness towards the other, and consequently, murder is *irresponsible* since the subject who refuses this relationship willfully chooses to eliminate that which can render him responsible.

Derrida's thinking of subjectivity charges that murder is ontologically possible, because receiving the other is always *optional* and not presupposed. For Derrida, Lévinas' thinking of subjectivity is troubling because it removes accountability from the subject, since primordial responsibility for the other does not imply that one take a leap of faith and choose how he wishes to receive the other. Derrida's aporia of responsibility holds that no matter what decision we make, others are sacrificed. Nonetheless, one must decide anyway, and the sacrifice is necessary. Therefore, murder is ontologically possible for Derrida because although one is primordially obligated to respond to the other, the decision to murder is freely made by the subject.

Derrida contends that the welcome of the other designates subjectivity, and it follows that we prioritize the 'yes' *of* the other over the 'yes' *to* the other because this prioritization allows us to conceive of the relationship of the other to the same. As François Raffoul explains in *The Origins of Responsibility*, the other can only be understood as an exteriority in relation to an already presupposed interiority of the subject.<sup>49</sup> While Lévinas' thought posits the self as wholly

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<sup>49</sup> François Raffoul, *The Origins of Responsibility*, 218.



exterior to the other and attests that subjectivity is null without responsibility, Derrida's notion of the fundamental inappropriability of the other allows us to conceive of the other only in seeing the presence of the other in ourselves. This constitutes the inescapable reduction to the same that Derrida describes in *Adieu à Emmanuel Lévinas* as that which allows the self to appropriate itself.<sup>50</sup> The idea that the self achieves selfhood at the place of the other does not presuppose a subjective experience as constituting selfhood, but rather supposes a primordial openness to the other that is necessary for selfhood to be attained.

Derrida's conception of the trace, or the erasure of the present posits violence, ethics, and justice as concepts belonging to the order of the undecidable, since the infinite deferring of time consequently renders resolute decision-making only possible as *im-possible*. In *Of Hospitality*, Derrida describes his philosophy of the categorical imperative as what one must do that is necessary to keep the future open.<sup>51</sup> The perpetual erasure of the future prevents this choice from being based on anything but knowledge of the past and an orientation to the future. Responsible decisions are consequently made according to a leap of faith that one will know one's self upon a reception of the other. Because the 'wholly other' other is at once mysterious, inaccessible, and perpetually gestures towards the *avenir*, or the future, Derrida says that we must respect the secret unknowability of the other by being just without 'being noticed' for doing so. The secret is also that which makes one able to appropriate his own

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<sup>50</sup> Jacques Derrida. *Adieu à Emmanuel Lévinas*. (Palo Alto: Stanford University Press, 1999).

<sup>51</sup> Jacques Derrida, *Of Hospitality (Cultural Memory in the Present)*, (Palo Alto: Stanford University Press, 2000).

selfhood, because he must differentiate himself from this other, which he is not.

However, if the prioritization of the yes “of” the other is a fact for Derrida, it does not follow that the conditions that allow one to respond to the other are guaranteed. If one is prevented from responding to the other because of certain contextual influences that bar him from recognizing the alterity of the other, then his subjectivity remains in question, and any decision he makes with regard to the other is made according to rule. This is irresponsibility in its essence.

If a young man is involved in the drug trade or is at the very least exposed to it on a daily basis, he may be blocked from recognizing the secret of the other because the contextual conditions of his life experiences have created an environment in which the reduction of the other to the same has become a self-protective impulse. In the volatile environment of narcoeconomies, the threat of the other is palpable and conditionally anticipated. The reliance on gun violence in those areas of New Orleans where drug use and drug sales are heavily concentrated can be examined in light of Derrida’s conception of the internal receptive structure that engenders subjectivity. If one’s being-oneself is constituted in the otherness to whom he is exposed, it follows that if this otherness is characterized as potentially dangerous and violent, he will likely be influenced to some degree by that which he recognizes as familiar or threatening in the other.

David Kennedy reasons that only a small number of people are responsible for a large percentage of New Orleans’s murders. These people are almost always involved in the drug trade and are affiliated with a certain group or

'gang'.<sup>52</sup> Those who claim some degree of affiliation with groups dealing in narcoeconomies understand that their lives are perpetually at risk of being taken by a rival gang, and that they may also be called upon, according to group expectations or demands, to take the life of an enemy. Thus, the man who is vested in his role as gang member understands that he is *replaceable*, which is why in his relationship to himself, he gives up what Derrida conceives of as the necessary secret of responsibility by jeopardizing and cheapening his life in every gang-related violent act. This failure to take responsibility for one's mortality stems from the inherent expectation that one's time is running short, and that the other will just as soon eliminate him (his enemy) or replace him (his fellow gang member). Therefore, violent acts, made in the name of protecting or ensuring the power of the group, are fundamentally irresponsible because they are made according to a pre-ordained and collective, implicitly understood duty.

Because justice is only possible as a justice 'to come', the present rules of any system must be suspended, modified, and recast to bring this desire for justice to fruition. It is precisely the 'to come' quality of justice that demands one *break the rule* in order to achieve it. If true responsibility towards justice consists of being outside of the law to a certain degree, it follows that any failed attempts to reinvent the rule are regarded by the public, who is under the authority of the existing system, as lawless. In "Force of Law", Derrida attests that "the demands of justice lead a man to defy a context in order to transform it, but here he runs the risk of an incommensurability between his defiance and the state of the

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<sup>52</sup> David Kennedy, *Don't Shoot*, 243.

forces; this is the absolute risk.”<sup>53</sup> However, with regards to New Orleans’ semi-organized drug trade, this illegal mode of making money will never trump or overturn society’s prohibition of selling drugs. Because most people who get involved with the drug trade come from backgrounds that, for a variety of reasons, obstruct their paths toward conventional modes of work and success, those in the trade operate according to their own rules, which are usually wildly different from most of the rest of society’s. Derrida’s notion of justice, when considered in terms of illegal activity, describes the fundamental irresponsibility of narcoeconomies. In other words, because the drug trade’s covert operations are the very condition of their profitability, and because drug-dealers function outside of the established law, we must acknowledge that drug networks never aspire to overturn the established legal system. Therefore, without the legal sanction of their trade, *and* without the desire to promote their trade to an occupation that is legitimate in a legal sense, drug dealers are free to define alternative modes of operating that are not subject to the same sort of *risk* that Derrida conceives of in the man who strives to defy the prevailing state of forces. The nature of their work requires that drug dealers defy the law and never seek to reinvent it. However, their need to always *remain outside the law* means that they are never concerned with acting responsibly in the name of a justice to come. Consequently, if homicidal violence is the preferred method for eliminating a perceived threat to one’s ‘work’, this is normalized in the mind of a gangster because drug-related murder is used as a tool in his trade, and is often *necessary* to maintain one’s stronghold in the market. Thus, gun violence can be

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<sup>53</sup> Jacques Derrida, “Force of Law”, 16.

understood in Derridean terms as a decision that is made before one recognizes the secret of the other.

## CHAPTER 5. IRRESPONSIBILITY AND THE MYSTICAL FOUNDATION OF LAW

Lévinas' notion of the paradox of responsibility and the infinite other and Derrida's philosophy of the aporia of law and justice sets forth guidelines for understanding New Orleans's murder dynamics beyond sociological factors that affect the cognitive processes of individuals. As a community, the 'state of nature' describes the sense of lawlessness and disorder that is characteristic of New Orleans's most violent neighborhoods. In general terms, this 'state of nature' can be attributed to the perceived and actual illegitimacy of the police department.

W.E.B. Du Bois' criticism of the racist police system whose treatment of blacks throughout the twentieth century mirrored the brutality of slavery relates to the reality of Twenty-First century New Orleans. In his seminal work *The Souls of Black Folk*, Du Bois describes the law enforcement system of the South at the turn of the twentieth century to explain how it functioned to sustain racial oppression following the end of the Civil War. He explains that the Southern police system had developed in slave times to

..."deal with blacks alone, and tacitly assumed that every white man was ipso facto a member of that police. Thus grew up the double system of justice which erred on the black side by undue severity, and injustice". After the Civil War, whites tried and usually succeeded to use the legal system to re-enslave blacks "It was not then a question of crime, but rather one of color, that settled a man's conviction... Thus Negroes came to look upon courts as instruments of injustice and oppression, and upon those convicted in them as martyrs and victims."<sup>54</sup>

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<sup>54</sup> W.E.B. Du Bois, *The Souls of Black Folk* (Chicago: A.C. McClurg & Co., 1903), 118.

Similarly, the NOPD's reliance on overly aggressive, racially discriminatory policing strategies has been deemed catastrophic at the federal level. In 2011, the U.S. Justice Department released a critical report citing the NOPD's patterns of using "unnecessary and unreasonable force in violation of the Constitution and NOPD policy."<sup>55</sup> The report underlines that for many years, the NOPD has used excessive force to conduct illegal stops, searches and arrests. In fact, the report cites that the NOPD's focus on arrests as the predominant mode of controlling crime in New Orleans has resulted in the misuse of racial profiling and stop-and-frisk tactics as the *modus operandi* in identifying arrestees. It also emphasizes that such misconduct produces serious consequences, such as undermining trust "within the very communities whose cooperation the Department most needs to enforce the law and prevent crime," thereby making policing efforts more arduous and ultimately contributing to the increase in crime.

Furthermore, the report reveals that the Orleans Parish Curfew Center disclosed that 93 percent of those youths arrested for being on the streets after curfew hours in New Orleans were African-American. In the spring of 2013, New Orleans' City Council's Criminal Justice Committee met to hear critical reports about how NOPD's stop-and-frisk policies undoubtedly use racial profiling to conduct such practices. In opposition to the charges made against the NOPD, NOPD Police Chief Ronal Serpas praised stop-and-frisk, which, he argued, is a

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<sup>55</sup> E.R. Quatrevaux, "Inspection of the New Orleans Police Department Field Interview Data Reported from January to June of 2011: Technical Assistance Provided to the Independent Police Monitor Division of the Office of Inspector General." 12 March 2013. <http://www.nolaoig.org>.

“valuable law enforcement tool.”<sup>56</sup> Despite Serpas’ contention that field interviews have been conducted fairly and correlate with demographic statistics of race and criminal activity, such figures might reflect the mystical foundation of the law that warrants rampant and unchecked stop-and-frisk encounters to justify the apprehension of a black male. Following a city council meeting that took place on alleged racial profiling by the NOPD in March of 2013, Deputy Police Monitor Simone Levine told reporters:

In the last couple of months, we've received some pretty outrageous complaints. For example, a [black] teenager from an Uptown area who reported, while sitting on his mother's porch, being approached by an officer who didn't believe that 'he looked like he lived there.' ... The officer pulled him off the porch. He cuffed him. He searched him. And eventually he released him. But, you know, the question is how will that man see the police as he turns into an adult in our city?<sup>57</sup>

Given the current juridical climate where black criminality is concerned, it is evident that the American legal system has yet to overturn completely the legal constructs that continue to discriminate against blacks. Derrida’s conception of the aporia of law serves as the lens from which we can examine the broken legal system that has sustained racial oppression in America for centuries, and which explains why past approaches to fixing crime problems, especially our country’s predilection for over-arresting people, have proved largely ineffective. Despite living in a democratic society, democracy is inherently bound to suffer from what Derrida conceives of its autoimmune self-destructive forces that ultimately

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<sup>56</sup> John Simerman, “NOPD chief Ronal Serpas faces cynical crowd on racial profiling questions,” *Times-Picayune*. 27 March 2013, 9 September 2013, [http://www.nola.com/crime/index.ssf/2013/03/nopd\\_chief\\_serpas\\_faces\\_cynica.html](http://www.nola.com/crime/index.ssf/2013/03/nopd_chief_serpas_faces_cynica.html).

<sup>57</sup> Charles Maldonado, “NOPD’s “stop-and-frisk” policies.” *Gambit*. 2 April 2013, 17 August 2013, <http://www.bestofneworleans.com/gambit/stop-and-profile/Content?oid=2173901>.



guarantees an exclusion of those citizens who do not fit with the regime-founding sovereign.

### **Racial Profiling**

Today's legal climate in the United States perpetuates racial inequality because our country has failed to criticize the aporia of law and consequently has failed to affect a paradigm shift in the way blacks are perceived and treated in the legal system. Despite the law's intention to protect its citizens from violence, its structure implies that violence is the very means by which it is able to establish and maintain its authority. To speak of the 'mystical foundation' of law implies that the foundation of law takes the place of a legitimate origin. Derrida explains that the idea of a 'real' foundation is attributed to the notion of the "founding fathers" of the American Constitution and the plain meaning of the words that constitute the Constitution. These myths effectually conserve law as a self-legitimizing machine that assumes a supposed origin, which is devised through the successive reinterpretations of written law that has cultivated the formation of government. Moreover, the law is self-referential, and thus "the world enforceability reminds us that there is no such thing as law (*droit*) that doesn't imply in itself, a priori, in the analytic structure of its concept, the possibility of being "enforced," applied by force."<sup>58</sup> Consequently, the enforcement of the law *qua* law does not immediately imply its 'just' application. Rather, law is only in accordance with justice when the act of mediation is conducted beyond its being

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<sup>58</sup> Jacques Derrida, "The Conditions of Tolerance," *Philosophy in a Time of Terror* (Chicago: University of Chicago Press, 2003) 159-162.

posited. As a result, the law implicates an act of violence because it imposes a rule without justifying it at the time of its imposition, and therefore the ground of the law is regarded as 'mystical'. However, the mystical foundation of the law is the very thing that allows a highly criticized law enforcement agency, like the NOPD, to conduct its policing efforts using grossly unjust measures to identify and apprehend criminal targets. Because the law cannot establish itself without an original act of violence and because it cannot maintain and preserve itself without continual acts violence, the degree to which force must be used to uphold the law corresponds to the strength of its underlying rectitude. Thus, when the moral foundation upon which a legal system rests is mired in racism and discrimination, the effectiveness of the prevailing system of law enforcement corresponds to the degree to which laws are forcefully implemented. In New Orleans, the historic endemic hostility that exists between New Orleans' black communities and the NOPD and the degree to which excessive force has been used against these communities in the name of the law is indicative of the weak and unstable roots of the law, and the tactics law enforcement uses to apply it.

David Kennedy emphasizes that at its roots, the vast numbers of black men who are incarcerated cannot be blamed on the excuse that blacks commit more crime than whites:

Framing [the gun violence epidemic] as crime is deeply, *profoundly* unfair to the most dangerous neighborhoods. Their crime problem, as such, isn't much worse than anybody else's. Take away the violence, the public chaos, feel like you have to go after everything else? Fine. Then go after the same things in the white neighborhoods, too.<sup>59</sup>

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<sup>59</sup> Kennedy, *Don't Shoot*, 328.

Kennedy's reasoning supports the notion that racial profiling is largely attributable to the legitimacy problem that plagues many urban police departments. Tactics such as racial profiling perpetuate community narratives that deem the justice system responsible for "inventing" black criminality. In *Force of Law*, Derrida describes the overarching aporia that arises in the law as that which "infinitely distributes itself". With regards to the aporetic experience of the possibility of justice, he explains that one facet of the aporia of law - "the epokhe of the rule" - stems from the necessity that justice should be done unto every single individual, despite the fact that the law is preserved in universal categories. Law necessitates that these categories be applicable to each and every single individual in the *same* way, regardless of the circumstances surrounding that law's application. However, the NOPD's focus on arrests and its use of unjust stop-and-frisk policies functions to mask the mystical foundation of law so that such laws are deemed justified by the ends they produce.

Racial profiling, in accordance with Lévinas' and Derrida's conception of the origins of responsibility and subjectivity, can be understood in the sense that the policeman's subjectivity is predetermined, and therefore, his ability to be receptive toward the other is always already 'blocked'. To execute his responsibilities effectively, the policeman is not obligated to receive the other; rather, as long as his actions align with the dictates of the law and are deemed ethical, he is not expected to function according to Lévinas' ethical imperative. If Lévinas' idea of responsibility is found in our relationship to the other as wholly other, and if the officer bypasses this ethical imperative by totalizing the other, he

also acts antithetically to fundamental conditions for establishing justice, which is constituted, as Lévinas explains in *Ethics and Infinity*, by “the fact of the multiplicity of men and presence of someone else next to the Other.”<sup>60</sup> Lévinas describes the cognitive reflexes we subconsciously make in classifying the other’s otherness:

If I am alone with the Other, I owe him everything; but there is someone else. Do I know what my neighbor is in relation to someone else? Do I know if someone else has an understanding with him or his victim? Who is my neighbor? It is consequently necessary to weigh, to think, to judge, in comparing the incomparable. The interpersonal relation I establish with the Other, I must also establish with other men; there is thus a necessity to moderate this privilege of the Other; from whence comes justice.<sup>61</sup>

Justice is fundamentally antithetical to stop-and-frisk tactics because in being legally sanctioned to use reductive, discriminatory measures to stop and harass black men, the police officer does not form interpersonal relationships with each individual other, and therefore remains outside of the realm of responsible decision-making.

Recent statistics on the rate of arrests in New Orleans by race is a clear example of how the homogenous sovereign is split along racial lines. For example, in a civil lawsuit filed by the U.S. Department of Justice in 2012 against the NOPD, the Department found that in 2009, the NOPD arrested 500 African-American males and eight white males under the age of 17 for serious offenses, ranging in type of offense from homicide to larceny over fifty dollars.

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<sup>60</sup> Lévinas, *Ethics and Infinity*, 89.

<sup>61</sup> Lévinas, *Ethics and Infinity*, 90.

Furthermore, the report found that of the 27 instances between January 2009 and May 2010 in which NOPD officers intentionally discharged their firearms at people, all 27 of those shot were African-American. Not only is it evident that racial bias is the prevailing explanation for this gross disparity in arrests and shootings by race, but the report also states that “so severe and so divergent [are these facts] from nationally reported data that it cannot plausibly be attributed entirely to the underlying rates at which these youth commit crimes.”<sup>62</sup>

Lévinas’ conception of evil as a reduction of the other to oneself can explain New Orleans’ racialized enforcement policies. Racial profiling does violence to the other by stripping him of his alterity and reducing him to a general idea or concept. In assigning the tagline “thug” or “troublemaker” to young, African-American males, such reductive generalizations lead police cognitively to circumvent the immediate reception of an individual who happens to be young, black, and male and instead quantify him according to a stereotype:

The other conceived within this reductive form of thinking is seen from out of the wider horizon of his history, culture, environment, customs, and traditions, personal past, characterological properties, sociological conditioning, and (depth-) psychological structures. The “comprehending” I, or ego, negates the irreducible uniqueness of the other and tries to conceive of him in the same way as he does the world.<sup>63</sup>

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<sup>62</sup> “Investigation of the New Orleans Police Department,” *United States Department of Justice Civil Rights Division*. 16 March 2011.  
[http://www.justice.gov/crt/about/spl/nopd\\_exec\\_summary.pdf](http://www.justice.gov/crt/about/spl/nopd_exec_summary.pdf) .  
(see <http://s3.documentcloud.org/documents/404056/nopd-consent-decree.txt>).

<sup>63</sup> Roger Burggraeve, “Violence and the Vulnerable Face of the Other: The Vision of Emmanuel Lévinas on Moral Evil and Our Responsibility,” 36.

The use of the stop-and-frisk tactic exploits the vulnerability of those whom society has already branded 'criminal' due to their ethnicity. The essence of stop-and-frisk relies on the same mental impulse that reduces the other to the same as that which occurs in the mind of a killer. The difference is that the police officer's reduction of the other creates and perpetuates a reductive category of black-man-as-criminal, whereas the gangster is more discriminating; he reduces the other and categorizes him, but these categories are specific in composition and relate to the other's group/gang affiliation and enemy status.

### **Mass Incarceration**

Another example of the self-referential characteristic of law is revealed when we consider the economic relationship between arrests and the profitability of prisons. More than fifty percent of Louisiana's inmates reside in local prisons, which means that Louisiana's incarceration rate is ten times the rate of the national average.<sup>64</sup> The *Times-Picayune* released an eight-part series in May of 2013 to highlight how Louisiana's mostly private prison system profits from high incarceration rates and harsh sentencing laws. *Times-Picayune* reporter Cindy Chang draws parallels between the modern phenomenon of mass incarceration in Louisiana and its legacy of slavery: "A prison system that leased its convicts as plantation labor in the 1800s has come full circle and is again a nexus for profit."<sup>65</sup> The profitability of slave labor in the 1800's is eerily parallel to the profitably prison machine that exists in Louisiana today. The mechanisms at work

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<sup>64</sup> Cindy Chang, "Louisiana is the world's prison capital," *Times-Picayune*. 13 May 2012, 13 May 2012 [http://www.nola.com/crime/index.ssf/2012/05/louisiana\\_is\\_the\\_worlds\\_prison.html](http://www.nola.com/crime/index.ssf/2012/05/louisiana_is_the_worlds_prison.html).

in Louisiana's for-profit prison system suggests that a huge incentive exists for the state to maintain a steady supply of prisoners to fill the needs (beds) of the profitable prisons. The privatization of the prison system in Louisiana sustains profits from its large inmate population and its correlative contribution of (essentially) free labor, indicating that the impetus behind Louisiana's perpetual 'recruitment' of prisoners into the system is predominately fueled by economic incentives, as opposed to protective, punitive, or rehabilitative motives. The high arrest rates for drug-related offenses ensures maximum occupancy in local Louisiana parish jails, which are used to hold people who receive short sentences upon conviction (usually sentences under a year in duration). However, one of the most significant differences of Louisiana's prison system compared to most other states' prison systems is that local jails are no longer only used to hold people awaiting trial. Now, local jails are used for the same purpose as state prisons – to lock up criminals behind bars for long periods of time. Furthermore, the prison lobby in Louisiana fights to foil most attempts at reforming the prison system, including efforts to shorten prison sentences, to reduce arrest rates, or to decrease the amount of time arrestees must sit in local jails awaiting trial.

The economic incentives that many players in the local and federal prison system receive to keep jails at full capacity encourage police to conduct stops and interrogate anyone for any number of suspicions, revealing the law's dependence on acts of violence to uphold its desired, self-interested effects.

Thus, the degree to which race factors into New Orleans' law enforcement

tactics is indicative of the exclusionary nature of democracy and the violence that the contradictory relationship between democracy and sovereignty begets. The tumultuous relationship between the police and the community is the product of the unfettered, toxic racial narratives that have sanctioned excessive force against young black men for decades.

Derrida claims that because the foundation of law is self-referential it is also groundless, it lays itself open to deconstructive criticism that is eager to find cracks in the system.<sup>66</sup> “Finding the cracks” in the system of law implies that we endeavor to reach a certain form of justice that transcends legality. Derrida defines justice as that which is owed to every singularity as part and parcel of a plurality. Hence, justice is achieved when the established credential for determining that which is just is unraveled and rethought anew, according to every new case. Derrida explains:

[Justice is a] relation to the unconditional that, once all the conditional givens have been taken into account, bears witness to that which will not allow itself to be enclosed within a context...It is that which attempts, nonetheless, to produce a new right. And to do so it is necessary, first, to take the context into account and then, at a given moment, to transform it radically.<sup>67</sup>

Justice, like freedom, is that which cannot be measured because it describes that which, in its true form, *exceeds* the proper law. Derrida contends that the “successful foundation of a State” will generate its intended structure by inscribing and thrusting its desired structure into the existing legal structure. Such

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<sup>66</sup> Derrida, “Force of Law: the Mystical Foundation of Authority.” trans. M. Quaintance, in *Deconstruction and the Possibility of Justice* (New York: Routledge, 1992) 14.

<sup>67</sup> Derrida, “Force of Law,” 17.



an inscription is inherently violent, and this violence legitimates the new force of power, which will remain in effect until an even more violent *coup* wages war against the existing institution. If we consider the racial statistics of the modern-day mass incarceration system, it is not difficult to draw parallels between it and the former Jim Crow system of legalized segregation that sanctioned racial discrimination. As Michelle Alexander explains in her book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*:

Both caste systems resulted from a desire among white elites to exploit the resentments, vulnerabilities, and racial biases of poor and working-class whites for political or economic gain. Segregation laws were proposed as part of a deliberate effort to deflect anger and hostility that had been brewing against the white elites away from them and toward African Americans. The birth of mass incarceration can be traced to a similar political dynamic. Conservatives in the 1970s and 1980s sought to appeal to the racial biases and economic vulnerabilities of poor and working-class whites through racially coded rhetoric on crime and welfare. In both cases, the racial opportunists offered few if any, economic reforms to address the legitimate crackdown on the racially defined “others”.<sup>68</sup>

In the last three decades, policing efforts have largely been oriented towards incarcerating people of color *en masse*, often on the basis of non-violent drug crimes. David Kennedy reproves this systemic trend by attributing mass incarceration to creating more crime than it prevents:

Much of what [black] communities get blamed for, [law enforcement] is actually contributing to, by arresting people, ruining their lives, tearing families apart”. He further laments that the police fail in “creating anything rational around the street guys. How [police] see them all the time and [their] craziness and self-destruction. How they see

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<sup>68</sup> Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, 191.

1/15,000 (chances of getting arrested for dealing).  
How they can't see us coming, can't get out of  
the way."<sup>69</sup>

Consequently, because the law must define itself *along with* violence, Derrida's reasoning establishes that the police can only perpetually protect and preserve the law if the sovereign power (the police force) continually engages in the process of evaluating, *breaking*, and rehashing the law.

The definitional logic of the mode of policing exhibited by the NOPD necessitates overt violence to uphold the law; the vast numbers of black men who are routinely removed from their communities and imprisoned indicates a disjuncture between the law's objectives - to ensure the just treatment of citizens - and its actual effects. The United States' prison system is responsible for transforming offenders who are more hardened, angry, and deadly than they were when they entered prison. This is evidenced by the fact that in 2009, the five-year recidivism rate in Louisiana was about 48 percent; in other words, nearly half of individuals released from prison return to prison within five years.<sup>70</sup> Despite the possibility that high recidivism rates are usually the by-product of other factors, such as policies that favor imprisonment over probation, the high rate of recidivism decreases overall public safety, further exacerbates family and community impoverishment, and decreases the perceived legitimacy of the law. Furthermore, the Pew Trust Foundation released a report on the state of

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<sup>69</sup> Kennedy, *Don't Shoot*, 237/245.

<sup>70</sup> Office of the Governor: Bobby Jindal, "Governor Jindal Announces LA Selected for Pew Partnership to Reform LA Criminal Justice System," *State of Louisiana*. 20 January 2011, 9 August 2013 <http://gov.louisiana.gov/index.cfm?md=newsroom&tmp=detail&articleID=2658>.

recidivism in the United States and discovered that between 2001 and 2011, all nineteen states that cut their imprisonment rates also experienced a decline in their crime rates.<sup>71</sup> Although these statistics do not specifically reveal the relationship between recidivism rates and gun violence, in general, the heavy reliance on imprisonment does not prove successful in deterring overall crime. The consequences of mass imprisonment are self-destructive on two levels. First, locking people up in a prison industrial system subjects individuals to a prison culture that preys on human dignity and inevitably turns out deadlier and more contemptuous offenders than initially entered prison. Second, the phenomenon of mass incarceration in the United States and its correlative high recidivism rate demonstrates that once released onto the streets, ex-convicts are often alienated from society and consequently often return to a life of crime in a world which is threatened by their otherness and unwilling to include them in the totality that comprises the democratic sovereign. The large numbers of released offenders who return to prison indicate the *autoimmune* nature of mass imprisonment, in that those citizens who are deemed exterior to the democratic totality come to be the same others who threaten it. The autoimmune nature of the law, as Derrida claims, is only damaging when it is not tempered by society's inclination to enact laws and policies that concern a democracy 'to come'.

Derrida claims that the mystery of the origins of responsibility is the very thing that prevents totalitarianism because the secret of the unknown 'right' decision marks the gap between "knowing something wholly" and wielding this

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<sup>71</sup> "State of Recidivism: The Revolving Door of America's Prisons," *Pew Center on the States*, April 2011.

knowledge in a violent manner. Therefore, any policy or law that is used as an all-encompassing solution for solving a problem (such as mass incarceration) is irresponsible because it feigns mastery in its universal domination over the 'secret' of the law. It does so by assuming total knowledge of a certain law enforcement strategy while simultaneously defining the conditions for what makes a law enforcement strategy responsible and effective. Derrida attests that responsibility extends beyond any theoretical determination, and thus that which is separate from that which is publicly declared is what needs to be acknowledged each time a law is passed or implemented.

## CHAPTER 6. AUTOIMMUNITY AND ILLEGITIMACY IN THE NOPD

Biologically, autoimmunity describes the destruction of a body when its immune system creates antibodies that work against the very substances and structures of the body that are intended to protect it from harm. To conceive of the autoimmune tendencies of law, we must first understand that *auto* refers to an active self. Autoimmunity obfuscates the specific, clear-cut descriptions of that which belongs to the category “self” and “non-self”. The relationship between the self and the external thing that threatens it is that they imply each other, and so it is through the incorporation of the foreign entity into the self that the self at once becomes tainted and protected. The self’s immunity is the border that does not protect its inside from its outside, nor is its immunity that which delineates the neat borders of that which is inside or outside the self. Rather, immunity implies the protection of the inside by the partial incorporation of the outside, or the very thing that threatens to destroy the self.

Democracy, defined as the rule (*cratos*) of the people (*demos*), requires sovereignty in order to work. Democracy functions when the individuals who constitute the sovereign *demos* each relinquish some degree of freedom to the sovereign total. However, because the sovereign wavers in its role as both critical voice and that which sanctions the democratic regime’s authority, Derrida explains that democracy is limited by its own self-destructive autoimmune tendencies. Since democracy protects itself by maintaining a unified sovereign totality, it necessarily isolates and excludes those who do not fit into this contained community. This paradoxical relationship generates antagonisms

when those who have been omitted from this community, but who still exist alongside the homogenous totality, threaten it with their otherness. But what are the conditions that constitute what it means to be external to this sovereignty? In New Orleans, young black males are often treated as if they are external to the general community because the composite of factors that marginalizes this demographic are the same factors that put them at risk of committing crime. Substandard educations, social and familial disorganization, and a lack of economic opportunities outside of the drug market all reduce the availability of socially acceptable employment options and lead many young black men to engage in illegal activities. Thus, the automatic omission of this demographic from the 'legitimate' New Orleans community reflects the permanent irreconcilability of sovereignty and democracy, since the community's gesture of closing itself off to its most at-risk population makes it all the more susceptible to the ills that the community seeks to avoid.

Similar to democracy and sovereignty, equality and freedom are two concepts that, according to Derrida, are at once intertwined and contradictory. Equality in democracy designates an identical value assigned to each singular other, while freedom denotes the unfettered permission to exceed the *identical* that is established by the notion of equality. If freedom is dependent upon the notion of equality to define what it means to be free, based on the degree to which every other is free, then freedom in a democracy obviates the condition that everyone within the *demos* is equally and primordially free. The aporia of democratic freedom lies in the fact that equality's inscription in freedom implies that freedom

is in itself *incalculable*. Freedom is what guarantees the unique singularity of each person and that this uniqueness will be recognized in how each singularity is regarded. Equality, on the other hand, is immediately measurable and calculable because it makes a general comparison of each singularity's sameness to each and every other singularity. In terms of democracy, freedom and equality constantly confront and limit each other, making true democracy an impossible reality. The pervasive abuses wielded against young black men by the NOPD demonstrate how the police consistently fail to acknowledge the unique otherness of every singular black male. This failure is exclusionary: this group of men is prevented from the opportunity to measure itself against the limits that define the average citizen's equality. The degree to which this demographic commits crime can in part be understood by this omission. The absence of limits begets lawlessness in that being outside of the democratic community 'frees' the unequal individual from the homogenous plurality's community norms. The fact that racial profiling runs rampant in the city suggests that the demographic of young, black males in New Orleans is both totally free and more 'unfree' than their fellow citizens.

The means by which the NOPD has historically operated to address crime in New Orleans is antithetical to Derrida's conception of justice. The U.S. Justice Department's 2011 critical report on law enforcement in New Orleans identified an extensive list of the NOPD's deficiencies and failures. Specifically, it noted that the NOPD's focus on arrests, frequent stops without reasonable suspicion, and illegal pat downs limits the NOPD from creating the environment within which

those routinely suspect citizens can be provided the opportunity to navigate their communities freely and fearlessly. Furthermore, the report highlights the NOPD's emphasis on producing high numbers of Field Interview Cards (FICs), which demonstrates its predilection for measuring police efficacy in a "quantity over quality" manner compromises the NOPD's ability to engage with community members. Consequently, the pressure of police officers to arrest large numbers of people alienates entire neighborhoods and impels citizens to avoid interacting and cooperating with members of law enforcement. When it comes to solving crime, this is perhaps one of the most detrimental autoimmune consequences of such a mode of law enforcement: deterring community members from collaborating with police not only discourages witnesses from sharing information, but it also sends a message to the most dangerous criminals that the silence exhibited by their scared and crime-weary fellow community members guarantees their protection.

In New Orleans, the reliance on "vigilante justice" stems from the perception held by many citizens that crimes can be committed without retribution and that the police do not have the community's interests in mind. In *Shell Shocked*, a New Orleans teenager reports, "One particular time, they [the NOPD] told us, 'don't call us unless somebody's dead'"<sup>72</sup> in reference to a situation in which inter-gang gunfire broke out and someone was injured. Likewise, the police also are often fearful of those members of society whom they are supposed to protect. In New Orleans, the distrust between police and communities runs abysmally deep, which creates a substantial obstacle to the

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<sup>72</sup> *Shell Shocked*, Dir. John Ritchie.



formation of strong and meaningful community-police partnerships.

Community narratives in New Orleans hold that vigilante justice is necessary to deal with interpersonal conflicts. In an interview with the *Times-Picayune* regarding the city's cultural problem of violence, Tamara Jackson, a New Orleans resident and Director of the victims advocacy group "Silence is Violence" elaborates upon the employment of vigilante justice in the city: "Folks feel like it's easier - it's easier for me and my family to look for the perpetrator, to figure out what has happened, and get our own justice, and we'll be at peace, but that's not the answer either."

Jerome Temple, a New Orleans native who works with troubled youth, also commented on the failed system that has created a generation of violent youth. Temple cites the crack epidemic of the 1980s as the event that incited the formation of New Orleans gangs. He also claims that being a part of a gang is a "rite of passage of sorts", and that "if one group gets busted, another, usually younger, group is waiting in the wing."<sup>73</sup>

David Kennedy explains that changing community narratives to the degree that a gang member no longer believes that disrespect requires retributive justice is necessary to effect long-term change in crime rates. Furthermore, he claims that "fixing the relationship between law enforcement and America's most troubled communities - fixing the crisis of legitimacy- is the key to making those neighborhoods safe and undoing the damage we're doing now."<sup>74</sup> Until very

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<sup>73</sup> Tamara Jackson, Interview with Debbie Elliot. "New Orleans Struggles with Murder Rate, and Trust," *National Public Radio*. 5 July 2012, 20 September 2013.

<sup>74</sup> David Kennedy, *Don't Shoot*, 333.

recently, the opposing narratives held by the NOPD and certain communities have formulated societal norms that paint both sectors of New Orleans as broken, corrupt, and untrustworthy.

The bifurcated nature of gun violence in New Orleans can be described as autoimmune on both accounts. First, considering the symmetrically hostile relationship that those involved in gang-related drug activity have with rival gangs, the implied obligations that one has to his fellow group members effectively increases his chances of being harmed rather than protecting him from external harm. If one member of his group is slighted or wronged, the collective understanding that one might be obligated to seek retributive justice on behalf of one's affiliates results in an autoimmune relationship to one's protective group. Second, non-drug related gun violence is often the result of a reciprocally hostile relationship in which one believes that the person he wants to hurt was trying to hurt him. In this case, both parties may have entered that relationship without intending to do so, but this mutually perceived ill will towards the other is sustained because both parties in that relationship, as well as the larger community, has a fundamentally broken relationship with the state. Consequently, the relationship between the citizen and his society is fundamentally autoimmune because the citizen's incorporation of the outside, in the form of his reliance upon law enforcement, actually increases his risk of harm since his fellow members of the community distrust the law, and will likewise distrust his contact with law enforcement in the name of his own self-protection.

Derrida describes the conditions by which the law can be "immunized",

meaning that there must be no border or limit that the law can't surpass. If law is both self-referential and immune from outside forces, this implies that it also lacks an external legitimate system of checks and balances to guard against the totalitarian tendencies of the law. Autoimmunity in the law describes the condition of the law as inherently exposed to the outside whose self-preserving gestures work to destroy the very thing (the community) it theoretically seeks to protect. In terms of the NOPD's gross misuse of overtly prejudice stop-and-frisk tactics and mass arrests of black men, it is evident that such tactics have, for decades, immunized the NOPD from external criticism, because their permissibility works to fabricate the very criminality the police claim to strive to prevent. Thus, the law can be said to be *autoimmune* whenever the absence of a legitimate checks-and-balances system results in law enforcement's exacerbation of the very problems it seeks to eradicate.

Two sets of competing concepts— sovereignty versus democracy and equality versus freedom – help to define Derrida's conception of the autoimmune nature of democracy. Understanding democracy's autoimmunity is necessary to conceive of a democracy 'to come', in which both binaries can be reconciled in order to yield the sort of democratic community that is *most possible*. In terms of the law, Derrida is careful to underscore that autoimmunity is not an absolute evil that is capable of destroying a system or the law. Rather, autoimmunity describes a dual gesture of protection and destruction in which an organism fails to protect itself. However, this failure, Derrida argues, denotes the conditions that have the potential to open up the self to other possibilities by exposing the self to the

coming of the other. In *Rouges* he writes:

Autoimmunity enables an exposure to the other...Without autoimmunity, nothing would ever happen or arrive; we would no longer wait, await, or expect any event. By opening itself up to the other, threatening to destroy itself, the organism has the chance to receive the other.<sup>75</sup>

The inherent autoimmune logic of democracy sustains an internal war that is perpetually being waged at the helm of democracy's competing factors. Since sovereignty describes the self as being unified in its decision-making, democracy's reliance on the unified sovereignty ultimately undoes democracy at its core. Because democracy wants at once to include everyone *on the condition* that they are law-abiding citizens, its exclusion of those law-breaking citizens limits this unity and implies its destruction. Derrida contends that these irreconcilable factors prevent a democracy that is present in the "here and now"; rather, democracy is only conceivable as a democracy "to come". If democracy was achievable as a fully present state that has arrived, it would be totalitarian in nature due to it being closed off to the unknown that comes to us in the future. Thus, autoimmunity is a useful concept because it reveals that the only form of democracy that is possible is that which is *deferred*, meaning that the political milieu opens up to each and every other, minimizing the chances that violence will be waged against those deemed 'most different'. Derrida's democracy 'to come' encourages the workings of transformative and resistant forces to challenge the status quo and strive for a better, more democratic future.

Derrida's democracy 'to come' evokes an urgency to transform and recast

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<sup>75</sup> Jacques Derrida, *Rouges: Two Essays on Reason* (Palo Alto: Stanford University Press, 2005), 152/210.

past juridical concepts in the efforts toward a more just society. If we return to Derrida's conception of the aporia of law, the impossibility of effecting a final form of a just decision is explained by the impossibility of achieving a final, just decision in the present. Because the formation of law requires that one learn and interpret the pre-established rules that govern society, the decisions that are made to determine what constitutes justice require the perpetual reinterpretation and amending of existing laws in each gesture of decision-making. For a decision to be both just and responsible, it must "in its proper moment if there is one, be both regulated and without regulation: it must conserve the law and also destroy or suspend it enough to have to reinvent it in the reaffirmation and the new and free confirmation of its principle."<sup>76</sup> The aporia in this mandate arises in the impossibility of achieving a moment when a decision can be just in the present, since each new decision only delays justice. Because every decision must go through the "ordeal of the undecidable", once the decision is reached, the fact that it has repeated the process of following, inventing, and reinventing a rule means that the decision is no longer *presently* just. Instead, the judge's decision must be made as a "fresh judgment", as if the judge invented the law anew, based on the uniqueness of every case. Understanding the aporetic experience of the possibility of justice allows one to conceive of the complications implied in the effort to distinguish between justice and law. However, the infinite deferment of both justice and law can only be reconciled by present action when Derrida's notion of *responsibility* is put into play.

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<sup>76</sup> Derrida, "Force of Law," 23.

## CHAPTER 7. NOLA FOR LIFE, HOSPITALITY, AND A DEMOCRACY 'TO COME'

Reducing the gang violence problem in New Orleans requires a multi-faceted approach from public health and public safety professionals. Due to the perpetual exposure to traumatic events, Hurricane Katrina, and domestic and community violence, New Orleans residents have reported above national average levels of stress, depression and suicide.<sup>77</sup> The consistent exposure to trauma, in addition to the historically limited resources for the mental illness and substance abuse disorders that are correlative with high trauma levels increases the likelihood that one will engage in criminal activity.

In recent years, the city has invested resources into much needed behavioral and mental health services, in addition to increasing recreational services to address the needs of high-risk youth, especially those with mental or substance use disorders. Specifically, New Orleans's Behavioral Health Strategic Plan, which addresses trauma following exposure to violence, and the Recovery School District of New Orleans, which implements the Safe Schools Healthy Students Initiative, both focus on youth violence prevention. While it will take time to determine whether such programs and services will deliver on their proposed objectives to reverse the trend of gang-related and other forms of violence, such evidence-based principles and strategies holds great promise for reversing violence trends in New Orleans.

However, until programs founded on prevention have been in place for several years, it will be difficult to determine the relationship between prevention

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<sup>77</sup> "Behavioral Health in New Orleans, *The New Orleans Health Department*, 2012.

programs and notable shifts in the murder rate. We can speculate that any shifts in the murder rate that occur during year 2013 and 2014 – the years marking the first two years of the implementation of the GVRS – are more likely to be attributed to the strategies that comprise the enforcement side of the city’s violence prevention strategy. Therefore, the city’s recent approach to addressing gun violence via the implementation of smart, targeted policing strategies and interagency cooperation must be considered according to the fundamental antimony that describes the aporetic limit of Derrida’s notion of hospitality.

Derrida imagines a deconstructive politics to reconcile the autoimmune logic that rules the aporetic nature of law. Examining the Nola For Life campaign from the perspective of Derrida’s conditions of responsibility can allow us to evaluate law enforcement methods currently in place, which aim to combat crime based on the degree to which these methods strive towards an unconditional hospitality towards the other. Several elements of the Nola For Life campaign conceptually align with the ethical imperative of striving towards a justice to come, which depends on the degree to which the policies are inherently hospitable.

Despite New Orleans’ murder legacy, it has become clear that recent changes in methods aimed at reducing the death toll are attracting the attention of gun-toting gangsters who are accountable for a majority of the city’s killings. In the past year and a half, New Orleans has begun to change its approach to handling drug and gang violence. In order to counter New Orleans’s historically high murder epidemic, Mayor Landrieu released a full-blown awareness

campaign at the end of 2012 called “Nola For Life”. Also, in the latter half of 2013, New Orleans launched the NOLA FOR LIFE PLAYbook (Promoting Life for all Youth), a plan that specifically targets youth-perpetuated violence that is nested within the existing framework of Nola For Life. One component of the Nola For Life Plan that specifically aims to significantly reduce the numbers of murders is largely based upon David Kennedy’s “Group Violence Reduction Strategy” (GVRS), a strategy that has proven successful in multiple murder-ravaged cities across the United States over the past two decades.

Throughout the latter half of 2012, billboards across the city of New Orleans displayed evocative messages intended to communicate to the community that the city can reverse the stigma that associates hopelessness, crime, and violence with black males. For over a year, drivers saw this billboard (see Figure 1), which loomed over Claiborne Avenue near Central City, one of the most violent neighborhoods in the city:



Figure 1. Billboard for Nola For Life Campaign on Claiborne Avenue, New Orleans

The idea behind the billboard posits that black males in New Orleans have the



potential to “flip the script”; in other words, the bolded words that emerge in the foreground of this message are meant to convey that hope exists for changing the otherwise all-too typical tagline description accompanying the homicide reports. Ultimately, the implicit moral code undergirding the Nola For Life campaign states that young people who are at-risk of getting involved in the street life that breeds violent crime can be deterred if they can be convinced, through the tenets of the Nola For Life strategy, that the benefits of staying clean outweigh the costs. On the Nola For Life website, the campaign description describes its ultimate aim to “to inspire youths to change their thinking from defeated to emboldened and to work alongside them to flip the script on NOLA’s future.”<sup>78</sup> Film producer Spike Lee, with whom Mayor Landrieu teamed up in spearheading the campaign, explicitly invokes the people of New Orleans to get on board in changing this trend: “Bright young lives are being snuffed out on New Orleans’ streets daily. Our young black men are killing each other like it’s a self-imposed genocide. It is our job, our responsibility, to make them understand the value of their lives and help them to achieve their greatest potential.”<sup>79</sup>

Kennedy contends that the GVRS is not intended to be a solution aimed at universally combatting drug crime. If a city wants to solve murders, he insists, they must avoid trying to identify and tackle a throng of “root causes” and instead focus on changing the behavior of the most violence-prone players.<sup>80</sup> In fact, endeavoring to implement policies and laws that have too large a scope are inevitably a waste of

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<sup>78</sup> [www.nolaforlife.com](http://www.nolaforlife.com)

<sup>79</sup> “Nola For Life: Smart. Holistic. Hits the Streets,” (see “Strategy” tab), <http://www.nolaforlife.org>.

<sup>80</sup> David Kennedy, *Don’t Shoot*, 313.

resources and energies. He refers to the “Boston Miracle” to argue that when the scope of a city’s gun homicide problem is too large and fails to realize that a tiny fraction of those involved in gangs or drug dealing drives a huge percentage of the city’s murders, any efforts to curtail the violence come up short. Kennedy explains that had police attempted to quash the Boston murder epidemic using traditional policing strategies that focus on prevention thinking instead of changing the behavior of the most violent offenders, the targeted population would have been exponentially greater than the population that represents true risk.<sup>81</sup> The Nola For Life strategy aims to change the learned behaviors that perpetuate the gun violence epidemic by addressing the problem as one would any epidemic. Specifically, it employs the GVRS to hone in on the small, core population of violent offenders who are perpetuating most of the city’s violent crime. Kennedy maintains that it is on behalf of these small, violent groups or ‘gangs’ that the young gang members speak – not as individuals. Therefore, he insists that in addressing such crime:

The first step is to focus on groups that are violent right now. You don’t worry about kids that might grow up to be violent, or about wannabees throwing gang signs on the corner. Instead, you single out the most violent gang, focus on their most violent behavior and insist that it stop. You don’t go to individuals, you go to groups; and you approach group members as if they were rational human beings.<sup>82</sup>

Furthermore, he explains that the most basic element of GVRS - “tell them to stop” - produces compliance through the sharing of direct notice. Such sharing of information is conducted through ‘call-in’ meetings. In these meetings, members of law enforcement, figures in the justice system, and members from the

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<sup>81</sup> Kennedy, *Don’t Shoot*, 311.

<sup>82</sup> Kennedy, *Don’t Shoot*, 83.

communities most affected by extreme violence can directly communicate with 'impact players', or individuals who are driving the violence. The messages that are tailored to 'impact players' communicate the following message: "We know who you are, we know who's in your clique, the cops and the community want the murders to end, here's your chance to get out of the street life, if you don't take the chance, *and any single member of your gang defects*, the whole group is going down." In other words, the call-ins rely on instilling a collective fear in the minds of those affiliated with gang violence in an attempt to deter them from committing further violent crime. David Kennedy directs the National Network For Safe Communities, an alliance of United States cities that collaborate to develop and advance strategies to tackle violent crime. Kennedy summarizes the ideal intended outcome of GVRS and highlights New Orleans's successful implementation of the strategy:

GVRS focuses narrowly on those known to be driving violence and brings robust and meaningful consequences not only for the individual involved in a killing or shooting but also for the crimes anyone else in his group may be committing, producing group accountability that leads to its members policing each other....In line with GVRS's objective of strengthening the community's moral voice in neighborhoods with high rates of violence, *NOLA for Life* also extends a wider safety net to at-risk youths, providing mentoring and other services that model "how life is meant to be."<sup>83</sup>

Delineating Derrida's conception of the paradoxical notion of hospitality reveals how the key tenets of the Group Violence Reduction Strategy navigates between the "law" of hospitality and the *laws* that constitute conditional

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<sup>83</sup> "NBC Nightly News Highlights GVRS Progress in New Orleans," *National Network for Safe Communities*, <http://www.nnscommunities.org>.

hospitality, and why the GVRs is theoretically aligned with the conditions that Derrida contends allow for decision-making.

In 1996, Derrida gave two lectures in Paris on the subject of hospitality. In *Of Hospitality*, “Foreigner Question” and “Step of Hospitality/No Hospitality”, Derrida considers hospitality in terms of the political and the ethical. *Of Hospitality* consists of two texts on facing pages: Anne Dufourmantelle’s “Invitation” clarifies Derrida’s two lectures and takes on the form of a “response” to Derrida’s discussion of how we are to understand the interaction between foreigners, or strangers. In “Step of Hospitality/No Hospitality”, Derrida acknowledges that the notion of hospitality beholds an antimony that is aporetic and impossible to solve. The paradoxical notion of the dilemma between unconditional hospitality – the ‘law’ of hospitality, and conditional hospitality, the laws themselves – means that the law of pure hospitality is fundamentally opposed to the structured multiplicity of *laws* that regulate hospitality in practice. While the laws that govern hospitality are conditional and thus fundamentally antithetical to true openness and hospitality, they are at the same time guided by unconditional hospitality.

The notion of pure hospitality conflicts with the fundamental human desire to be master of one’s home and frames the problem of extreme violence in narcoeconomies. The notion of claiming total mastery over one’s domain is both theoretically impossible according to the definition of pure hospitality, as well as structurally impossible, since the State’s power is such that it has come to permeate all corners of society. This antimony between pure and practical

hospitality describes the limitations that the law must respect if it is to achieve its predominant objective of reducing violence.

First, if we are to understand true hospitality as the effacement of the question that interrogates the other and impels him to disclose his identity, then the law of pure hospitality holds that hospitality is *rendered*, or granted to the other before he is even identified. This puts the other at risk of being harmed by the always invited guest, which is why in practical terms, society can only function according to the notion of conditional hospitality if it wants to regulate interactions between foreigners and hosts. Conditional hospitality and pure hospitality are at once indissociable, in that “one calls forth, involves, or prescribes the other”<sup>84</sup> such that pure hospitality would not be possible without pre-established laws delineating the boundaries between one’s home and the public sphere. Hence, to invite someone into one’s home presupposes that one claims a sort of sovereignty over his home, which fundamentally contradicts the definition of pure hospitality. Nonetheless, this notion of pure hospitality keeps the future open and outlines a maximum amount of ‘space’ within which one can navigate specific situations and make decisions according to specific circumstances. Sometimes it is necessary to deviate from the established law in order to maximize the possibility that justice is served in the making of each decision. For example, by naming the upper limit of gang activity as the absolute prohibition of gun violence, law enforcement puts into question the structure and composition of laws regulating gang activity. Of course, such policing implies that members of law enforcement act neither purely hospitable (by permitting unrestricted gang activity), nor purely

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<sup>84</sup> Jacques Derrida, *Of Hospitality*, 147.

in adherence with the existing corpus of laws. To enforce the law at every point in which it is broken is to attempt, in vain, to fetter the movements of those criminals whose illegal activities are ultimately impossible to name and enforce. The sheer numbers of people committing crime is too great for the NOPD to properly regulate; nonetheless, the NOPD can claim agency to the degree that it is able to align its policing strategies with Derrida's conception of law-bound hospitality. The conflict between pure hospitality and hospitality by right is necessary in order to allow for the constant negotiation to take place between "keeping silent" and asking questions. Hence, the GVRS maximizes the ability of the police to hold violent offenders accountable for their crime because the concrete, singular nature of gun violence is not only more easily traceable than other forms of gang activity, but it also occurs less frequently than other criminal acts, thus making thorough enforcement easier and a more time-efficient task. Furthermore, communicating to high-risk potential offenders those "non-negotiable" activities that will most assuredly be accompanied by aggressive policing and definite judicial consequences compels would-be shooters to consider not only their own, but their entire gang's fate when seeking retributive justice. Thus, the condition of hospitality in the name of the unconditional requires police to acknowledge that true policing (i.e. stopping and solving every gang-related crime) is impossible, but that its possible-as-impossible ability to police, in practice, requires a constant aspiration toward the law of pure hospitality.

Furthermore, the degree to which one conceives of his own lack of power

likewise correlates with a sense of homelessness integral to Derrida's definition of hospitality. In the world of narcoeconomies, the anxiety that accompanies such homelessness, and the lack of a right to a 'home' from which one can legitimately conduct one's affairs compels him to overcompensate and thus assert sovereignty hyper-aggressively over his self-declared territory. He becomes willing to take extreme measures to maintain power over his domain, and in turn, the encroaching other becomes "a hostile subject" because the host's lack of a true home increases his risk of becoming the other's hostage.<sup>85</sup>

Therefore, the encroaching other in the narcoeconomy is usually regarded as an undesirable foreigner. If pure ethics lies in accordance with pure hospitality, then placing conditions on how one receives the other entails a certain exclusionary violence, which implies a certain degree of unjust treatment doled out by the host to his visitor. However, hospitality is not possible without the "liberating stranger" who enables the possibility of hospitality in the first place, and is held hostage by the always-invited guest until the guest enters and allows him to respond accordingly.<sup>86</sup> Similarly, the role of the police alternates from serving as the inviting host to the captive hostage, since the police depend on the citizens to impel them to act. Thus, members of the NOPD represent the "imprisoned master", and they are obligated to substitute their role as host for conceding to being held hostage by those members of the community to which they must answer in performing their duties.

Derrida conceives of legitimacy as always already lacking in law, and this

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<sup>85</sup> Jacques Derrida, *Of Hospitality*, 55.

<sup>86</sup> Jacques Derrida, *Of Hospitality*, 123.

impossibility of pure 'right' allows room for the police to aspire to pursue justice beyond the infinite gap separating law and order, all the while being limited by the existent laws that guide and restrict its functioning. Derrida contends that the collusion between conditional hospitality and pure hospitality is necessary, because the law of pure hospitality can only be exercised and ensured by the arbitration of an already existing law. Thus, hospitality in this sense is "perverted", as true hospitality is not possible without sovereignty over one's home. However, because the broad scope of State power permeates all corners of society, including the private sphere, the State nonetheless regulates the foreigner and ultimately determines the conditions by which he may be welcome. While *Of Hospitality* refers to the role of immigration in French political and cultural life, Derrida's notion of hospitality is pertinent to the city of New Orleans as well. This is because while those who commit the majority of drug-related crimes are not deemed foreigners, they have been marginalized by society in the way that foreigners have been marginalized in France.

David Kennedy explains that the moral power that stems from a city's ability to create legitimacy rests on two key supports. First, he posits that people must feel that the law treats them equitably, instead of as the product of bias or prejudice. Because the most impactful component of the GVRS is the call-in strategy that targets young men who have already committed violent crimes, the fact that the call-ins are conducted after promising the chosen men that no arrests will be made communicates to the offenders that the authorities are choosing to prioritize efforts to ensure future overall public safety over arresting



for past wrongdoings dually builds legitimacy and deters the most violent offenders from committing further acts of violence. However, Kennedy also contends that the other element of the call-in strategy that is imperative to building legitimacy in law enforcement is that the police's threat to the most violent groups is true and credible, which Kennedy explains "is why we say 'we're gonna go after your group.'"<sup>87</sup> Thus, the call-in strategy aims to convey a clear promise to the representatives of violent groups that the next person to defect will be met with an aggressive sweep by law enforcement aimed at persecuting not just the single offender, *but the entire group*. Kennedy maintains that this approach is effective because gangsters are rational, and they have a high stake in avoiding being the single defector who relegates his gang to the status of the 'first' or the 'worst' gang.<sup>88</sup> Hence, the GVRS relies on collective peer pressure to prevent violent gang activity, but Kennedy insists such a threat is not possible without the extremely sophisticated months of police work that go into gathering mass amounts of evidence that could implicate the gang/group members in the first place.

The second requirement for the attainment of legitimacy in law enforcement is that the quality of the treatment is considered courteous and respectful. Call-in's allow for the community and law enforcement to describe publicly the newly sanctioned environment and the help that is available for at-risk individuals and groups who choose to forgo future violence in exchange for opportunities to change their life trajectory and perhaps find legitimate forms of work.

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<sup>87</sup> Kennedy, David. Personal Interview. 14 December 2013.

<sup>88</sup> David Kennedy, *Don't Shoot*, 233.

Consequently, when targeted individuals are treated as if they are valuable members of society who have a choice to disentangle themselves from their violent pasts or continue on their paths and put their entire group at risk of arrest, the call-in mechanism of the GVRS strategy communicates that law enforcement is willing to divest power in those individuals most capable of reversing the violent trends effectually builds trust and guards against those solutions to crime control that are merely symptomatic in their efficacy, such as mass round-ups of criminals and extensive prison sentences.

David Kennedy reflects on the psychological torment that living in the crime-ridden streets of New Orleans does to compel young black males to change the code of conduct that guarantees their survival on the streets: “You want to change his behavior? He doesn’t need anger-management classes. He’s not angry, he’s terrified...And nothing we’ve been doing is changing the reality of their world, the rules of their world.”<sup>89</sup> Being raised in an environment that not only lacks viable job opportunities and in which all one knows is that the code of the streets decrees that his survival hinges upon how he manages to maintain his sense of self-worth in a such a hostile world. Theoretically, the GVRS provides a structured escape for individuals caught up in ‘the game’ whose subjectification to collective peer pressure provides little incentive to change their behavior. However, in practice, Kennedy acknowledges that the implementation of the GVRS is not meant to provide an “escape plan” for all, or even a majority of a city’s gang members. Rather, he concedes that changing the “rules of their

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<sup>89</sup>David Kennedy, *Don’t Shoot*, 83.

world” hinges upon legitimatizing the law and those who enforce it so that even the most hard-core offenders will choose to do the right thing.<sup>90</sup>

One of the objectives of the Nola For Life campaign was to create a Multi-Agency Gang (MAG) unit consisting of members from the NOPD, prosecutors, and members of the Federal Bureau Investigation (FBI), Drug Enforcement Administration (DEA), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).<sup>91</sup> The MAG unit was formed in 2012 to hone in on a relatively small group of approximately six hundred young men who are affiliated with approximately forty neighborhood gangs and who are suspected of committing a high proportion of New Orleans’s public crime. Since coming together, the MAG unit has announced four major indictments against violent gangs in the city – the 110’ers gang, the 3NG gang, the 89ers gang, and a gang who refers to themselves as the “Taliban”. The members of these gangs are thought to be responsible for a significant percentage of the city’s gun violence. Therefore, the arrest of many of these violent gang members is presumed to be responsible for a significant percentage of this year’s decline in the murder rate.

New Orleans has conducted three call-in meetings since October 2012. In early 2013, a call-in meeting was conducted in New Orleans. During the meeting, Sherriff Marlin Gusman explained to the selected ‘impact players’: “You guys were part of a selected group. We just didn’t go through the jail at random,” Sheriff Marlin Gusman said. “In the jail, we know everything: Who puts money in

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<sup>90</sup>David Kennedy, *Don’t Shoot*, 319.

<sup>91</sup> FBI: Federal Bureau of Investigation; DEA: The Drug Enforcement Agency; ATF: The Bureau of Alcohol, Tobacco, and Firearms

your account, who you call, who comes to visit you. We share those records. So this is bigger than you.”<sup>92</sup> Furthermore, Kennedy promises that because most members of violent gangs usually have a rap sheet a foot long, it is not difficult to follow through on enforcing the conditional threats that are made to the ‘impact players’ during call-in sessions. However, Kennedy maintains that follow through is essential to build legitimacy, because the streets expect law enforcement to maintain the status quo and promise empty threats. Furthermore, cracking down on drug markets, instead of on violent crime, only moves drug markets to new sectors of the city, while incarceration effectively removes men from their communities and further weakens already broken communities.

When known criminals are given a chance to desist from committing further crime in the name of effecting a collective change in the way that violence is wielded in gang activity, this means that the members of the call-in sessions are treated hospitably. Such treatment “consists of doing everything to address the other, to accord him, even to ask him his name while keeping these questions from becoming a ‘condition’, a police inquisition.”<sup>93</sup> Because Derrida claims that the future is where the other happens, call-in sessions leave a place for the other to visit. The visit might actually be dangerous, but Derrida asks “would hospitality without risk, a hospitality backed by certain assurances, a hospitality protected by an immune system against the wholly other, be true

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<sup>92</sup> John Simerman, “Mayor Landrieu and others put the squeeze on criminals in courtroom intervention,” *Times-Picayune*. 28 February 2013, 11 July 2013.

<sup>93</sup> Obrad Savic, “Introduction - Duty of Unconditional Hospitality,” *Parallax*, 11 (2005): 1-5.

hospitality?”<sup>94</sup>

Any event that is possible for Derrida is unforeseeable, because an event must not be made possible; it is always unique and unpredictable. The impossible does not imply that which cannot be; rather, the im-possible refers to something that happens outside of a subject's foreseeable horizons. Thus, Derrida claims that the possibility of the event occurs in the unpredictability of the im-possible, or in the excess that occurs outside of the horizons of the subject's conditions of possibility. Hence, in order to be truly hospitable, Derrida argues that the notion of conditional hospitality, or providing comforts to others on your own terms in a regulated manner is not true hospitality; rather, it can be termed tolerance, or limited hospitality. Derrida says that tolerance is in fact opposite to hospitality due to the power dynamic in place when one is welcomed only on the basis of the conditions set out by the other. One would need to offer more than one actually has to break any horizon of possibility and disrupt the expected course of hospitality. In other words, hospitality is only possible in the event of the arrival of the other, which happens outside the subject in that the subject is completely unprepared to provide for the visitor. Thus, hospitality in the purest sense is only possible as impossible; the circumstances of the hospitable experience must exceed its 'program' and the subject must provide more than he can predictable or calculably offer to the wholly foreign visitor.

The excessive coming of every other, confronted by the inability to

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<sup>94</sup> Jacques Derrida, "Faith and Knowledge: The Two Sources of "Religion" at the Limits of Reason Alone," *Religion: Cultural Memory in the Present*, trans. D. Webb and Others (Palo Alto: Stanford University Press, 2008) 128-129.

welcome each unique other indicates that a decision must be made upon each new encounter of the other, which means that hospitality is that which designates the ethical decision. Derrida explains that deconstruction of the term hospitality “exposes its relationship of mutuality; its ability to resolve the ‘growing tension between human security and state responsibility.’”<sup>95</sup> Hence, Derrida argues that any political society must aim to achieve a balance between the “right to conditional hospitality” and the “duty of unconditional hospitality”. Such a balance means ensuring that conditions imposed on hospitality are achievable.

When implemented correctly, the GVRS sustains an environment in which hospitable conditions are created that can transform communities to the point of reinventing them. The GVRS entails circumventing traditional legal parameters in its proper implementation; therefore, the GVRS essentially transcends the pre-established law. Kennedy expounds on the notion of the inherent but necessary lawlessness of the GVRS:

Make the consequences certain for drug dealers: “Pick him up, don’t arrest him. Promise him if he gets picked up again, he will get arrested. His chances of getting arrested of dealing become 1 in 1. And not arresting can get the neighborhood back on your side. “We need to shock the market closed, keep it closed for a spell.”<sup>96</sup>

Kennedy argues that one of the main elements behind GVRS that can most effectively contribute to building police legitimacy is to focus on doing as little enforcement as possible. Giving known criminals a “second chance” on the condition that they will retreat from illegal street dealings reflects a new paradigm

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<sup>95</sup> Savic, 1.

<sup>96</sup> Kennedy, *Don’t Shoot*, 233.

of thought in conventional approaches to enforcement: the police have to show they can trust individuals to make rational decisions. Paradoxically, “letting them get away” effectively communicates to the streets that the police are intelligent, but willing to negotiate to achieve maximum peace. Derrida argues that democracy is always a negotiation without absolute justification, without end, always “a democracy to come.” The GVRS does not guarantee exact outcomes upon its implementation, which is the very aspect that provides the greatest amount of room for trust to grow between the streets and the police, because the individual is free to choose his destiny based on pre-communicated knowledge of the consequences.

Furthermore, the information that the Multi-Agency Gang (MAG) Unit gathers on those suspected violent “high impact players” yields enough evidence to indict many of the targeted individuals with racketeering charges. The intended benefit of racketeering laws is that these ‘impact players’ criminal activity is considered more serious for having allegedly furthered a larger enterprise, therefore conveying to a discerning jury the import of locking such gangsters away. However, while the use of racketeering statutes in rounding up criminals is questionable in practice, in theory, such statutes allow law enforcement officials to optimize their potential for building legitimacy. Racketeering crackdowns in New Orleans allow members of law enforcement to go after those in possession of guns and who have prior charges related to gun activity, and they give prosecutors an opportunity in the courtroom to tell a complete story about the conduct of an individual or group of individuals. As Orleans Parish District

Attorney Leon Cannizzaro's spokesman Christopher Bowman explains, "With most cases, you're talking about a specific incident that happened on a specific day. Jurors are not provided any context."<sup>97</sup> Some lawyers believe that one drawback of the racketeering statute is that prosecutors can't pursue longer sentences under the state's habitual offender law for any crimes that are nested under the racketeering indictment. However, if the overarching purpose of performing mass round-ups of criminals under such statutes is to show the community and the criminal element that the police are serious about eliminating violent crime, then the horror that accompanies such mass arrests overshadows the facts of the individual charges.

In effect, call-in sessions and implementing racketeering statutes resist conventional application of the law in order to keep the future open for the individual affiliated with violent groups. They also bypass the bureaucratic red tape that obfuscates legal and judicial processes by treating groups collectively, while still differentiating between dangerous and potentially dangerous gang members.

Derrida distinguishes between tolerance and hospitality to argue "tolerance is always on the side of the 'reason of the strongest'" and firmly tied to the sovereign power.<sup>98</sup> From this standpoint, tolerance aligns more with his notion of irresponsibility, since being tolerant is always a conditional gesture that first and foremost defers to the ruling power. Derrida argues, "Tolerance is a

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<sup>97</sup> John Simerman, "New Orleans district attorney brings charges against nine in alleged 9th Ward drug gang," *Times-Picayune*. 6 September 2012, 16 April 2013.

<sup>98</sup> Jacques Derrida, *Philosophy in a Time of Terror*, 161.



“scrutinized hospitality, always under surveillance, parsimonious and protective of its sovereignty.” The GVRS exceeds the parameters of tolerant policing because it minimizes the discerning gaze of the host (the policeman) and induces him to open his home and his arms for the nonjudgmental welcome of the other. Moreover, the use of racketeering statutes transcends tolerant judicial processes by relying on collaborative police work to quickly remove dangerous criminals from the streets in order to create a context in which the innocent can most safely function.

If Derrida’s conception of hospitality requires that as welcoming host to the other, one welcomes from a non-place, then one is immediately guest as well as host. This lack of a foundation that one can call his own is a deconstruction of home and a ‘mineness’ that is violent and exclusionary. When the NOPD assumes only the role of enforcing ‘host’, he acts out of accord with Derrida’s conception of subjectivity that entails the event of the welcome of the other and therefore deconstructs any notion of ‘home’. Thus, the GVRS is aligned with Derrida’s idea of an authentic justice, as it consists of a *coup de force*, or a violence that is neither just nor unjust and that no law can guarantee or invalidate.”<sup>99</sup>

### **Criticisms of Nola For Life**

The Group Violence Reduction Strategy and racketeering arrests are coercive tactics intended to generate social control and specifically target drug-

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<sup>99</sup> Derrida, “Force of Law,” 13.

related execution style violence. Sociologist Donald Black explains that social control is present whenever and wherever people express grievances against their peers that counteract the negative effects deviance brings to the prevailing social system and consequently enforces conformity.<sup>100</sup> Therefore, social control is coerced or enforced, primarily through the process of punishment. However, the culture of violence in New Orleans will not change unless the disreputable NOPD reforms itself and the city's most dangerous criminals take it seriously. Until this happens, the Nola For Life campaign will have little influence on changing the mood of violence in the city as long as the community norms hold that vigilante justice is necessary to solve problems due to the undependability of the state.

While the GVRS is intended to address violence perpetrated by gang members, the Nola For Life strategy as a whole strives to deconstruct community norms that undergird non-gang related violence. I argue that while some elements of the Nola For Life strategy are effective measures that can be channeled towards the efforts of halting gun violence, the way it has been presented to the city of New Orleans as a promising panacea for stopping the problem threatens to distract and prolong the epidemic in the long run from narrowing its focus on those programs that can most effectively foster *informal social control*. While Nola For Life has gained some momentum and credibility in recent months, many citizens are skeptical of its overall potential to effect real change. In response to Nola For Life's contribution to the murder decline, executive director of Safe Streets/Strong Communities Yvette Thierry said, "The

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<sup>100</sup> Donald Black, "Toward a General Theory of Social Control," *Fundamentals* 1 (1984): 5.

numbers just don't add up for me, from what I see every day. For the African American community, we still feel like we're still losing too many of our young people on a daily basis"<sup>101</sup>. Furthermore, she claims that she has yet to see Nola For Life programs in effect in the poorest areas of the city. The Nola For Life PLAYBook specifically aims to roll out over thirty strategies to change the youth population's perception of safety, which the city claims is the highest-level indicator of the city's overall murder rate. However, "improving social services" and "realizing that violence is a mental health problem" obfuscates the cognitive connection between police legitimacy and violence and threatens to diffuse scientifically supported strategies by trying to do too much, all at once. Kennedy argues that social actions related to prevention have come to be interpreted as "not exercising authority":

The meaning of the social service side, we came to see, was less about getting people jobs than it was about resetting, creating legitimacy. It said to the neighborhoods and the streets, the outside cares about you and wants you to succeed.<sup>102</sup>

In practical terms, it is imperative that New Orleans's social services are consistently and effectively delivered in order to convey to the public that the city wants to improve the quality of life across all communities. Ultimately, the huge scope of the Nola For Life strategy threatens to undermine the very specific programs and strategies that can maximally build legitimacy.

Nonetheless, in the absence of a legitimate police force, several of Nola

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<sup>101</sup> Naomi Martin, "Focus on New Orleans gangs has helped decrease murders to 40-year low, Mayor Landrieu says," *Times-Picayune*. 17 December 2013, 18 December 2013.

<sup>102</sup> David Kennedy, *Don't Shoot*, 314-15.

For Life's programs are aligned with Derrida's conception of hospitality and have the potential to facilitate *informal social control* and increase legitimacy. Informal social control – one key element in social disorganization theory – can be conceptualized as the willingness of residents to intervene in activities aimed at preventing deviant behavior and achieving public order in the local areas.<sup>103</sup> Furthermore, informal social control theory claims that communities can compensate for poorly implemented formal social control, and, when effectively mobilized, they can put pressure on groups or gangs not to use violence in their dealings.

There are many factors in addition to the police and gang culture in New Orleans that must be engaged in order to combat the murder epidemic effectively. While a plethora of churches, community centers, and non-profit organizations have been called upon by the Mayor's Nola For Life campaign to improve social services to the city's poorest, one of the few organizations whose objectives align with Derrida's conception of hospitality is the program CeaseFire New Orleans, an organization which is affiliated with Cure Violence, a national non-governmental organization aimed at reversing the spread of violence using strategies normally employed for disease control.<sup>104</sup> CeaseFire New Orleans, which was fully implemented in the fall of 2013, is built around the idea that by intervening with those in a community who are shooting or at risk of becoming

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<sup>103</sup> Eric Silver and Lisa Miller, "Sources of Informal Social Control in Chicago Neighborhoods," *Criminology* 42 (2006): 551-83.

<sup>104</sup> The Cure Violence model uses a three-pronged approach to address violence. It posits that violence is a learned behavior that can be combatted by first interrupting its transmission, then identifying and changing the thinking of the highest potential transmitters, and finally by changing group norms.

shooters, “Violence Interrupters” and “Outreach Workers” can effectively work to prevent deadly gunfire on the streets of New Orleans. One of the most important elements of the program is the role of the Violence Interrupter, a role that is often held by a former felon or gangster who has “lived the life” and whose reputation makes him best positioned to intervene between enemies or ‘beefing’ gangs and prevent deadly retaliation. Outreach Workers are identified as credible messengers who can identify and build trust with community members and be equipped to understand and intervene in CeaseFire New Orleans participants’ struggles wielding the wisdom that comes from having once also ‘lived the life’. Another key player in the Ceasefire New Orleans program is the Case Manager, who works with social programs to help young men connect with education and job opportunities with shootings as they occur throughout the city.

CeaseFire New Orleans operates under the conviction that violence is a learned behavior that, through retaliation and defensive weapon carrying, spreads through communities like an infectious disease. The three aims of CeaseFire New Orleans are to identify and interrupt potentially violent disputes, to change the behavior of high-risk individuals, and to change community norms about violence. Ultimately, the leaders of the organization strive to implement clear and transparent sanction strategies to appeal to young people to help them safely exit dangerous situations where they may feel obligated to do harm to group enemies. In Derridean terms, CeaseFire keeps the future the open by providing young men ‘caught in the game’ the moral voice and community support to “honorably exit” the hustle of the streets without losing face.

No data exists yet that can allow us to determine the actual efficacy of the Ceasefire New Orleans program. However, the program's success in other cities with violence problems can be attributed to the program's founding philosophy that in order to effect lasting change, community norms which accept and encourage violence must change. By giving agency to community members to change these norms, those high-risk people can be provided the support and the attention needed to make decision to mediate conflicts instead of retaliating with deadly violence. Consequently, Ceasefire New Orleans creates an environment where communities can mobilize to change the norms related to the use of firearms and fosters modes of reconciliation that are lost when communities fail to trust the established law system.

## CONCLUSION

Derrida's conditions of responsibility require a continual cognitive exercise in evaluating past practices in order to reinvent the law, and therefore it is imperative that law enforcement actively engage in the vacillating gesture between critically examining past modes of policing in order to engender new, 'more just' methods.

Reformulating cultural norms that justify lethal violence in the name of problem resolution or self-protection is above all about changing communities. Ultimately, this comes down to changing the community's perception of the police, so that New Orleans neighborhoods can rely on law enforcement to begin to build collaborative intelligence models and intervene in the interpersonal conflicts among the city's most at-risk youth. Ultimately, the city's failure to channel its energies into a violence-reduction strategy that centers around building legitimacy in its police department will continue to prevent the city and the NOPD from transforming the implicit moral code that rules New Orleans' streets. In *Codes of Conduct*, Karla Holloway portends the consequences that will continue to exacerbate race relations in America and further repress black youth from achieving. She warns that if we do not focus on bolstering a "morally conscious society that does more than build more prisons or populate our streets with more police", by actively acknowledging how our public policies work to uphold racial categories and ideologies, we will also fail to criticize, deconstruct, and ultimately overturn such repressive policies.<sup>105</sup>

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<sup>105</sup> Karla Holloway, *Codes of Conduct: Race, Ethics, and the Color of Our Character* (Camden: Rutgers University Press, 1996) 187.

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## **VITA**

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