proactive policing and stricter incarceration practices, themselves under attack as well. Officers facing the risk of specious “racial profiling” charges are likely to back off from proactive policing—a reality that will be examined in later chapters.

The nation hurriedly turned away from the orgy of hatred, destruction, and entitlement that incinerated Ferguson, even as protesters, wedded to the myth of an innocent teenager’s unprovoked martyrdom, continued to indulge in sporadic violence across the country. But before the riots are shelved under the “too uncomfortable to confront” category, it is well to remember that such mass destruction threatens civilization itself by exposing the rule of law as powerless to check hate-driven anarchy. And the only people responsible for such an inferno are the perpetrators themselves.

Eight months after the shooting of Michael Brown, the Justice Department released its official report on the incident, in March 2015. The report shredded the incendiary story that had fueled the riots in Ferguson, Missouri—that a teenaged “gentle giant” was gunned down by a trigger-happy cop who feared black people—and made it clear why the department would not be bringing civil rights charges against Officer Darren Wilson. Among those who were clearly not happy with this outcome was Eric Holder, the attorney general.

Holder had already commissioned a second report on the allegedly racist Ferguson police force to counter his own agency’s expected demolition of the martyr narrative. But for good measure, a few days before the Brown report was to be released, Holder provided the press with another mechanism for sidelong its findings. Holder wanted to lower the standard of proof in civil rights cases, he told Politico. The subtext of this announcement: the decision not to pursue civil rights charges against Wilson was forced on the Justice Department by an overly stringent evidentiary standard; under a more realistic standard, Wilson would have been prosecuted.

Voll! The media had their angle. “The Justice Department announced on Wednesday that its investigation did not support federal civil rights charges against Darren Wilson,” the New York Times acknowledged morosely in an editorial, before immediately turning to the good news: “Still, the department found overwhelming evidence of entrenched racism in Ferguson’s police force.” The Times’ understatement of the findings on
the Brown shooting was echoed in the *Huffington Post*, which said that the Justice Department had decided “not to file federal charges against Wilson for fatally shooting Brown last July.”

The investigation “did not support” the charges? The DOJ decided “not to file charges”? This phrasing massively misrepresents the content of the report on the shooting. It was not a question of evidence “not supporting” high-threshold civil rights charges; it was a question of evidence *eviscerating* virtually every aspect of the pro-Brown, anti-Wilson narrative. Under no imaginable standard of proof could Wilson be found guilty of civil rights violations—or, for that matter, murder. As the report states: “Multiple credible witnesses corroborate virtually every material aspect of Wilson’s account and are consistent with the physical evidence.” Those “material aspects” include Wilson’s testimony that Brown punched and grabbed him while Wilson was in his SUV, that Brown tried to seize his gun, and that Brown charged at Wilson after Wilson had exited his car.

Wilson had first seen Brown walking in the middle of Canfield Drive with another young man. Wilson saw boxes of cigarillos in Brown’s hands and suspected that Brown was the thief who was reported to have robbed a convenience store and roughed up its owner a few minutes earlier. Wilson asked Brown to move to the sidewalk. Brown responded: “F— what you have to say,” Wilson called for backup and then tried to block Brown from proceeding. At that point, Brown reached into Wilson’s car and started pounding him and grabbing for his gun. Wilson fired, and Brown ran off. Wilson gave chase on foot. Brown then turned and charged toward Wilson. At no point did Wilson fire at Brown when Brown’s back was turned or when he was on the ground.

As for the now-iconic “Hands up, don’t shoot” claim, the DOJ report is withering: “There are no credible witness accounts that state that Brown was clearly attempting to surrender when Wilson shot him. As detailed throughout this report, those witnesses who say so have given accounts that could not be relied upon in a prosecution because they are irreconcilable with the physical evidence, inconsistent with the credible accounts of other eyewitnesses, inconsistent with the witness’s own prior statements, or in some instances, because the witnesses have acknowledged that their initial accounts were untrue.”

In other words, no prosecutor with any understanding of his professional duties would think of going forward with this case, since there is no evidence to support it. This is not a standard-of-proof issue; it is an absence-of-any-case-whateveryever issue.

The report also explains why Brown’s body lay on the ground for four hours after he was killed, before being taken away by an ambulance—another plank in the “Black Lives Matter” indictment of the allegedly racist treatment of Brown. The reason for the delay is that detectives’ efforts to process the crime scene were continuously interrupted by protesters who were encroaching on their work, chanting, “Kill these mother—ers” and “Kill the police.” What sounded like automatic gunfire was reported in the area, resulting in further suspension of activity until more backup arrived.

The initial news stories on the Brown killing contained several key elements of Wilson’s self-defense, which the Justice report would vindicate, but they were immediately purged from the dominant narrative. They resurfaced periodically: a caller to a local radio show in mid-August, for example, reiterated the essential facts; in October, the *St. Louis Post-Dispatch* reported that the autopsy and several witnesses corroborated Wilson’s account of the encounter. (A San Francisco pathologist who had seconded the autopsy conclusions for the *Post-Dispatch* story recanted a day later, after coming under attack for her initial assessment.) None of this had the slightest effect on the anti-Wilson juggernaut.

Eyewitnesses who corroborated Wilson’s account were intimidated away from cooperating with the police. The Canfield Green neighborhood, where the shooting occurred, was plastered with *Snitches Get Stitches* signs. A 74-year-old black male who believed that the shooting was justified had told a friend two days after the incident that he “would have fired shot that boy, too.” He refused to give formal statements to county or federal authorities, however. He would rather go to jail than testify before the grand jury; he said, so enormous was the community pressure to support a “hands up” surrender narrative. A 53-year-old black male called a police tip line after seeing Brown’s companion lie about the incident on national television. He, too, stated that the shooting was justified, but told authorities that he would deny everything if his phone call were traced. He was served with a grand-jury subpoena but refused to honor it. A 27-year-old biracial
male said that it appeared to him that Wilson's life was in jeopardy, describing Brown as a "threat" moving at a "full charge." At the scene, as angry crowds were gathering and collecting false narratives about the shooting, two black women asked him to recount what he had seen into their cell phones. When he told them that they would not like what he had to say, they called him a "white motherf—er" and other racial slurs. A 31-year-old black female initially told investigators that she had seen Wilson fire shots into Brown's back as he lay dead in the street. When challenged with the autopsy findings that revealed no shots to the back, she confessed to making up her story. "You've gotta live the life to know it," she said. In fact, she then admitted, it looked like Wilson's life was in danger as Brown was charging him. When authorities tried to serve her with a subpoena, however, she blocked her door with a couch.

In short, a reign of terror against witnesses had served to sustain a false narrative. The exposure of the hoax should have demolished the antipolice movement, since its core conceit—that police officers are the biggest threat facing young black men today—was launched off a phony story. The idea that local district attorneys are incapable of prosecuting shootings by cops derived from the claim that the grand jury's failure to indict Officer Wilson represented a grotesque miscarriage of justice. It turns out that the only reason that the prosecutor, Robert McCulloch, took the case to the grand jury at all was political (as explained in Chapter 3). Under circumstances that were not so politically charged, the case would have been thrown out from the start. Yet there is now a dangerous campaign to create special prosecutors dedicated solely to indicting cops for using deadly force.

Meanwhile, true believers either rejected the Brown report entirely or adopted the "it could just as well have been true" apologetics that followed the discrediting of the gang-rape hoaxes at Duke University and the University of Virginia. Benjamin Crump, attorney for Brown's parents, complained on Face the Nation that the Justice Department was "sanitizing all these shootings of people of color who are unarmed." Crump invoked Holder's own complaints regarding the purportedly excessive standard of proof as grounds for dismissing the report. Democratic strategist Donna Brazile told the New York Times: "'Hands up, don't shoot' has become a larger symbol of the desire to prove one's innocence. In many ways, it will always resonate as a symbol of an unarmed dead teenager lying for hours on the street." Never mind that that symbol never happened. Racist cops gunning down innocent black men in cold blood is simply too good a story to retract. "Hands up, don't shoot" has lived on among diehard cop-haters.

The mainstream media quickly turned their full attention to the second Justice Department report, on Ferguson's police department, consigning the Brown examination to oblivion. The two reports were produced by different sections of the Justice Department's Civil Rights Division, and it shows. The report on Michael Brown, written by the Criminal Section in conjunction with the FBI and the U.S. attorney's office for the Eastern District of Missouri, displays a striking understanding of police work. It respects long-standing legal presumptions protecting police discretion from unjustified second-guessing. The report on the Ferguson Police Department came out of the Special Litigation Section, known for its hostility to the police and staffed almost exclusively by graduates of left-wing advocacy groups, as Hans von Spakovsky noted in The National Interest. No wonder it strains so hard to cobble together a case of systemic intentional discrimination out of data that show only that law enforcement has a disparate impact on blacks.

The most disturbing section of that second report consists of anecdotes about unconstitutional stops and arrests made by Ferguson police officers. These accounts portray rude, aggressive cops who abuse their authority and trash-talk to suspects. In a November 2013 incident, for example, an officer allegedly approaches five black young people listening to music in their car. He claims to have smelled marijuana and places them under arrest for gathering for the purpose of engaging in illegal activity. The officer allegedly finds no marijuana in the car but detains and charges them anyway, taking some teens home to their parents and delivering others to jail. In a summer 2012 stop, an officer accosts a man sitting in a car with illegally tinted windows. The officer groundlessly accuses the driver of being a pedophile—the car is next to a children's park—tells him not to use his cell phone, and orders him out of his car for a pat-down without reason to believe that he is armed. The driver refuses
to allow the officer to search his car. The officer then points his gun at
the suspect’s head and arrests him for making a false declaration because
the suspect initially gave his name as “Mike” rather than “Michael” and
provided an address that differed from the one on his driver’s license,
among other charges.

If these incidents and others are true exactly as alleged, they suggest a
police agency deplorably ignorant of the Fourth Amendment and grossly
deficient in courtesy and respect. But are they true? And if so, do they
represent normal procedure in the department? After the implosion of
the Michael Brown martyr myth, accepting one-sided accounts of inter-
actions between officers and civilians seems risky. In New York City, as
a point of comparison, the Civilian Complaint Review Board, which
hears complaints about the New York Police Department, substantiated
only 7 percent of the complaints that it received in 2014. If the Justice
Department’s Special Litigation Section sought to corroborate its anec-
dotes or get the department’s version of the incidents, it is not letting on.
Nor is it clear that these questionable arrests, even if reported accurately,
represent standard procedure in the department, rather than aberrations.
The report routinely uses the words “frequently” and “common” as sub-
stitutes for an actual showing of established practice. One of the targets
of an allegedly unconstitutional arrest is white, suggesting that the police
are equal-opportunity offenders when they allegedly offend.

The report is more persuasive in describing the department’s shoddy
record-keeping and the lax oversight of beat cops. The failure to super-
visory force results in excessive resort to Tasers. Equally problematic is Ferguson’s practice of issuing a quasi-warrant known as a
“wanted” without the requisite probable cause to believe that the target
has committed a crime. (Many other departments abuse “wants,” too.)
The municipal court, like the police department, is error-prone in its
records and notice systems.

Had the Justice Department blasted Ferguson’s management and
training failures and left it at that, it would have been on solid footing.
But the imperative to racialize the problems was overwhelming, espe-
cially given Holder’s previous statements against Ferguson and the sub-
sequent discrediting of the Brown story. So the department trots out the
usual statistical analyses with which to bootstrap a charge of “intentional
discrimination” against blacks. And these statistical analyses are irre-
deemably deficient.

The Justice attorneys use population data as the benchmark for police
activity, rather than rates of lawbreaking. The most frequently quoted
statistic from the report is that blacks constitute 67 percent of Ferguson
residents but made up 87 percent of all vehicle stops between 2012 and
2014. Whites made up 15 percent of all traffic stops during that period,
but 29 percent of the population. Such figures are meaningless unless we
know, just for starters, what the rate of traffic violations is among black
and white drivers. Though most criminologists are terrified of studying
that matter, the research that has been done, in New Jersey and North
Carolina, found that black drivers speed disproportionately. On the New
Jersey Turnpike, for example, black drivers studied in 2001 sped at twice
the rate of white drivers (with speeding defined as traveling at 15 mph or
more above the posted limit) and traveled at the most reckless levels of
speed even more disproportionately. Moreover, low-income car owners
are less likely to update their vehicle registration and maintain required
equipment. Are black drivers in Ferguson more likely to be poor? The
New York Times itself says that “economic chasms” separate black and
white neighborhoods there.

A proper traffic-stop study would also determine the demographics
of the population on the roadways, which often differ radically from the
surrounding residential areas and which change over the course of a day
and week. The Special Litigation Section attempted none of this.

The report also seized on the fact that blacks made up 93 percent of
arrests by Ferguson police officers. It is unclear whether “arrests” here
refers to arrests following a traffic stop or arrests for all types of crime
throughout the entire city. Assuming the latter, this figure, too, is mean-
ingless without knowing the black and white crime rates. Blacks made
up 60.5 percent of all murder arrests in Missouri in 2012 and 58 percent
of all robbery arrests, though they are less than 12 percent of the state’s
population. Such vast disparities are found in every city and state in the
country; there is no reason to think that Ferguson is any different. (The
voicemail box of the Ferguson Police Department’s press office was full
and not accepting messages when I tried to find out.) New York City is
typical: blacks are only 23 percent of the population but commit over
75 percent of all shootings in the city, as reported by the victims of and witnesses to those shootings; whites commit under 2 percent of all shootings, according to victims and witnesses, though they are 33 percent of the city's population. Blacks commit 70 percent of all robberies; whites, 4 percent. The black-white crime disparity in New York would be even greater without New York's large Hispanic population. Black and Hispanic shootings together account for 98 percent of all illegal gunfire. Ferguson has only a 1 percent Hispanic population, so the contrast between the white and black shares of crime is starker there.

Holder's attorneys find damning the fact that 11 percent of black drivers were searched after a traffic stop from 2012 to 2014, but only 5 percent of white drivers were. Yet as the report itself notes, blacks are more likely to have outstanding warrants against them and are more likely to be arrested for an outstanding warrant. Given the higher rate of outstanding warrants, it is predictable that black drivers would be searched more often. Whites are slightly more likely to have contraband found on them after a search: 30 percent of searches of whites, but only 24 percent of searches of blacks, yielded contraband. The report says that this disparity exists "even after controlling for the type of search conducted, whether a search incident to arrest, a consent search, or a search predicated on reasonable suspicion," but the report does not reveal how much of a disparity persisted in each type of search: automatic searches incident to an arrest should not be used to measure alleged police bias. The analysis also does not take into account differences in driver behavior following a stop that could increase an officer's inclination to search. This minimal disparity in the contraband hit rate is the only piece of evidence in the report that could support a finding of disparate treatment, and it's negligible evidence at that.

The press has also highlighted the following data as further proof of Ferguson police racism: blacks make up 95 percent of Manner of Walking in Roadway charges; 94 percent of Failure to Comply charges; 92 percent of Resisting Arrest charges; 92 percent of Peace Disturbance charges; and 89 percent of Failure to Obey charges. Ironically, Ferguson's most famous resident displayed behavior that would plausibly fall under four of these five categories. A black couple driving on Canfield Drive minutes before the shooting had to swerve around Michael Brown and his friend, walking in the middle of the street, in order to avoid hitting them. "Why don't they just get on the sidewalk?" the wife exclaimed. Another bystander told the FBI that when Wilson asked Brown to move out of the street, Brown refused and responded to the effect: "F--- the police." It is dubious that the black and white residents of Ferguson engage in such low-level lawlessness at identical rates, given widely documented differences in felony offending and the complaints about lawless street behavior that routinely emanate from inner-city communities. But even if the rates were identical, if officers are dispatched on 911 calls more frequently to Ferguson's "disconnected" apartment complexes (DOJ's term), they will witness more public-order offenses in that area of the city.

The Justice Department's evidence for "intentional discrimination" is even thinner than its statistical analyses. The agency criticizes city officials who used the term "personal responsibility" to explain law-enforcement disparities among "certain segments" of the community. The phrase is code for "negative stereotypes about African Americans," the federal lawyers believe. In reality, denouncing any invocation of "personal responsibility" as racist is itself code for liberal blindness to underclass culture.

DOJ's alleged smoking gun is half a dozen racist jokes emailed by two police supervisors and a court clerk. While juvenile and offensive, the emails are far from establishing that the police department's law-enforcement protocols are intentionally discriminatory.

Justice's final salvo against Ferguson is the charge that its officials view traffic and misdemeanor enforcement as a revenue generator for the city (a claim that the New York Times also asserted in its editorial on the grand-jury decision). A revisionist history of the riots, hastily cobbled together after the collapse of the Brown execution myth, holds that they were triggered by compounding traffic fines as much as by the shooting. But if Ferguson uses traffic violations for revenue, so do the majority of municipalities across the country. DOJ does not come close to showing that the reason that the city wants to raise money from enforcement is to discriminate against blacks.

To be sure, Ferguson's system of fees and warrants for failure to pay those fees or to show up in court—like identical systems throughout the country—needs reform to avoid any possibility of punishing people for being poor. Making community service more available for offenders
who cannot afford their fines is a good idea. But if those offenders ditch their community assignments, the court system will be back to the same dilemma of how to induce their compliance. Hapless Ferguson officials used the taboo term “personal responsibility” to try to explain to their Washington investigators why some people face an escalating series of fines for repeated failures to attend their court hearings. DOJ attorneys were scandalized yet again. But this explanation is not unique to “racist” Ferguson. The black mayor of a neighboring town defended similar fees and enforcement methods under his own government. “Everyone is saying, ‘Oh, no, that’s cities just taking advantage of the poor,’” he told the New York Times. “When did the poor get the right to commit crimes?”

For the last 20 years, America’s elites have talked feverishly about police racism in order to avoid talking about black crime. The Justice Department’s second Ferguson report is just the latest example of that furious attempt to change the subject.

On March 11, 2015—only hours before two police officers were shot at protests in Ferguson, either targeted directly or the unintended casualties of a gang dispute—a six-year-old boy named Marcus Johnson was killed by a stray bullet in a St. Louis park. There have been no protests against his killer; Al Sharpton has not shown up to demand a federal investigation. Marcus is just one of the 6,000 black homicide victims a year (more than all white and Hispanic homicide victims combined) who receive virtually no attention because their killers are other black civilians.

Black males between the ages of 14 and 17 die from shootings at more than six times the rate of white and Hispanic male teens combined, thanks to a ten times higher rate of homicide committed by black teens. Until the black family is reconstituted, the best protection that the law-abiding residents of urban neighborhoods have is the police. They are the government agency most committed to the proposition that “black lives matter.” The relentless effort to demonize the police for enforcing the law can only leave poor communities more vulnerable to anarchy.

De-Policing New York

One of the most effective remedies against urban anarchy over the past two decades is under attack. Proactive policing—also called Broken Windows policing—calls for the enforcement of low-level misdemeanor laws regulating public order. Manhattan Institute fellow George Kelling and Harvard professor James Q. Wilson first articulated the Broken Windows theory in 1982 as a means of quelling public fear of crime and restoring order to fraying communities. William Bratton embraced the thinking in his first tour as commissioner of the New York Police Department in the 1990s, with great benefit to public safety. Subsequently, police commanders across the country also adopted it. But in the summer of 2014, longtime critics of the NYPD seized on the death of Eric Garner while in police custody to call for an end to proactive policing.

Officers approached the 43-year-old Garner on July 17 in a high-crime area near the Staten Island Ferry Terminal and accused him of illegally selling untaxed cigarettes—the kind of misdemeanor that Broken Windows policing aims to curb. Garner had already been arrested more than 30 times, mostly for selling loose cigarettes but also for marijuana possession and other offenses. As captured in a cell-phone video, the 350-pound man loudly objected to the charge and broke free when an officer tried to handcuff him. The officer then put his arm around Garner’s neck and pulled him to the ground. Garner repeatedly stated that he couldn’t breathe, and then went eerily stiff and quiet. After a seemingly interminable time on the ground without assistance, Garner was finally put on a stretcher to be taken to an emergency room. He died