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*Hood Politics:
The Panthers, the Police, and the History of Guns
as Tools of Black Resistance*

ABSTRACT: *This article explores the history of racially motivated gun control in America from 1792 until the passage of the Mulford Act in 1967 and analyzes how the Black Panthers established themselves as a form of armed resistance against systematic racialized violence. Based on the historical and contemporary perspectives of Black scholars and civil rights activists, as well as studies on perceptions of gun control, the author highlights how the Mulford Act was one element in a larger history of legislation intended to deny African Americans the ability to arm and protect themselves against systemic abuse.*

KEYWORDS: *U.S. history; Second Amendment; gun control; civil rights; protests; Black Panthers; Huey Newton; Don Mulford; California history; Oakland*

Introduction

Of the less than 500 words contained in the actual text of the “Bill of Rights” (i.e., the first ten Amendments to the U.S. Constitution as ratified in 1791), few have been as hotly contested as the last 14 of the Second Amendment: “the right of the people to keep and bear Arms, shall not be infringed.”¹ Modern-day interpretations see it as the right for individuals to defend themselves against would-be wrongdoers and criminals. Its necessity in American society has been a focal point of debate, in addition to concerns over the ease of access to weapons. In a country where guns can be purchased from certain supermarkets,² contemporary discussions center around the necessity of firearms. A staunch defender of the Second Amendment, the Republican Party often highlights its utility as a check on tyranny; after all, an armed populace is significantly harder to oppress than an unarmed one. Yet rarely does America acknowledge the history of firearms as a tool for African Americans to protect themselves from perpetrators of racialized terrorism and state governments’ consistent denial of Second Amendment rights to Black people.³ Rarer still are references to a period in California history when conservatives openly and strongly advocated for gun control. Who could have spurred Ronald W. Reagan, the 33rd Governor of California (1967–1975) and 40th President of the United States (1981–1989), to champion “common sense” gun laws in the name of public safety? No other group could evoke such a legislative response from the party of limited government than the Black Panthers, a political organization founded in Oakland, California, in 1966.

¹ U.S. Constitution, amend. 2, sec 1, [online](#).

² Clare Curran, “Walmart and Guns: A Case Study in Modern Corporate Governance,” *Columbia Business Law Review* 2020, no. 3 (2021): 1071.

³ Tracy L. Barnett, review of *The Second: Race and Guns in a Fatally Unequal America*, by Carol Anderson, *Journal of Arizona History* 63, no. 2 (2022): 250–252.

California's Mulford Act of 1967 (Assembly Bill 1591) aimed to disarm members of the Black Panther Party who were conducting armed patrols with the intention of both surveilling and provoking police officers. By "cop-watching" with their arms on display, the Panthers demonstrated the centrality of firearms to their ideology. Embracing the teachings of the late Malcolm X (1925–1965), who in turn had advocated in favor of the concept of armed self-defense, the Panthers taught their recruits that "the gun is the only thing that will free us—gain our liberation."⁴ By policing the police, the Panthers represented a direct threat to the hierarchy of white supremacy without breaking any laws. Logically, California lawmakers sought to criminalize these Panther Patrols. Republican David Donald ("Don") Mulford, California State Assemblyman of the 18th (1958–1963) and 16th (1963–1971) Districts, sponsored the legislation that prohibited the open carrying of firearms. The Mulford Act, named after him, was a blatant attack on the Black Panther Party's effort to defend their communities from police terror. This article argues that the Mulford Act was just one instance in a long history of America's efforts to deny African Americans the right to bear arms—and thus their right to self-defense—and subject them to gratuitous racial violence.

The United States' structural denial of the right to self-defense to people of color dates back to the early 1790s. The Uniform Militia Act of 1792 provided federal standards for a properly armed militia and intently specified that only white male citizens qualified for militia service.⁵ Although citizenship was not yet defined by race, this restriction was indicative of the general unease concerning armed Black people. By the nineteenth century, this unease—coupled with America's growing dependency on the chattel slavery of Black persons—spiraled into completely denying Black people the right to self-defense.

In the antebellum era, both enslaved and free Black populations were prohibited from arming themselves with any type of weapon.⁶ Black self-defense was deemed inconceivable, and those brave enough to attempt an exertion of agency—by harming or killing whites in the process of protecting themselves—were imprisoned, typically facing the death penalty. An 1844 decision by the North Carolina Supreme Court summarized this era's legal attitudes toward the matter, stating that preventing Black access to arms "would ensure 'self-preservation' as 'the first law of nations.'"⁷ Thus, the unease toward armed Blacks

⁴ Referenced in Adam Winkler, "The Secret History of Guns," *The Atlantic*, September 2011, [online](#).

⁵ Robert J. Cottrol and Raymond T. Diamond, "The Second Amendment: Toward an Afro-Americanist Reconsideration," *Georgetown Law Journal* 80, no. 2 (1991): 331.

⁶ Slaves and Free Persons of Color: An Act Concerning Slaves and Free Persons of Color, N.C. Rev. Code No. 105 (1831), Documenting the American South, University of North Carolina at Chapel Hill, [online](#).

⁷ Adam Bledsoe, "Neither Ground on Which to Stand, nor Self to Defend: The Structural Denial (and Radical Histories) of Black Self-Defense," *Annals of the American Association of Geographers* 112, no. 5 (2022): 1296–1312.

expressed in the undertones of the Uniform Militia Act had grown into an open disdain. White legislatures were quick to criminalize Black self-defense, fully aware of the potential of Black agency to disrupt their white supremacist hierarchies. State governments feared the thought of Blacks being privy to the same right to self-defense as whites, so barring African Americans from taking advantage of the Second Amendment became a permanent effort for these legislators.

After the American Civil War, the failure of Reconstruction and the Jim Crow era only intensified the lengths to which the United States would go to prohibit Black people from defending their bodies and property. Following the emancipation of the enslaved people, states passed the so-called Black Codes, laws designed to restrict the freedom of African Americans. These laws curtailed Black self-defense, prohibiting the carrying of weapons and stipulating the prompt arrest of those found armed.⁸ Thus, former slaveholders and former Confederates swiftly regained their positions of power. Many of the Jim Crow laws passed in the late nineteenth and early twentieth centuries at the state and local levels contained gun-control statutes with the express purpose of disarming Black people. In 1941, a judge on the Florida Supreme Court acknowledged that a 1899 ban on carrying pistols had been “passed for the purpose of disarming the negro,” adding that the statute was “never intended to be applied to the white population.”⁹ While the adherence to nonviolence became a key characteristic of the mainstream civil rights movement, many Black Americans remained committed to utilizing firearms for their protection. In fact, firearms played a key role in the struggle for civil rights in the twentieth century.

I. Walk Like a Warrior

Despite countless attempts by American politicians to strip Black people of their right to self-defense by firearms, the civil rights movement would find itself empowered through the bearing of arms. Firearms became tools of survival, especially during periods of intense racial violence when perpetrators were either encouraged or often aided by law enforcement. Take the Tulsa Race Massacre in 1921, for example, where local government officials in Oklahoma armed mobs of white citizens, who then attacked Black residents and effectively destroyed one of the wealthiest Black communities in America.¹⁰ During the Columbia Race Riots of 1946, armed Black people in Tennessee – outnumbered 3-to-1 – demonstrated their tenacity and refusal to “let a mob form, threaten, and raid their neighborhood” and resisted attempts by white police officers to enter and terrorize

⁸ Bledsoe, “Neither Ground,” 1296–1312.

⁹ Cottrol and Diamond, “Second Amendment,” 355.

¹⁰ Chris M. Messer, *The 1921 Tulsa Race Massacre: Crafting a Legacy* (Cham: Springer International Publishing, 2021), 1–19.

their community.¹¹ Black veterans, like those present at Columbia, had returned from World War II with a new resolve to resist intimidation and discrimination. Their attitudes, shaped by fighting in humanity's most devastating conflict to date, kickstarted a new wave of resistance against white supremacy. These veterans questioned why they had returned as "second class citizens," and they were shocked at the "Cotton Curtain" that still denied Blacks the right to vote in the South.¹² An even greater leap for the freedom movement occurred when these veterans formed connections with activist organizations such as the National Association for the Advancement of Colored People (NAACP, founded 1909), the Southern Christian Leadership Conference (SCLC, founded 1957), and the Student Nonviolent Coordinating Committee (SNCC, founded 1960), thereby ushering in a synthesis of self-defense practices with the principles of the nonviolence movement.

Even activists committed to nonviolence recognized the value of firearms for self-defense.¹³ This may seem like an unresolvable dichotomy; after all, how can one preach nonviolence and simultaneously bear arms? In the aftermath of *Brown v. Board of Education* (1954), the U.S. Supreme Court's ruling of public-school segregation as unconstitutional, mounting attacks against Black activists pushed the limits of nonviolence. For example, NAACP leader C. C. Bryant (1917–2007) began to openly guard his home with a shotgun after it had been bombed and a cross had been burned on his lawn.¹⁴ Other nonviolent organizations "increasingly found themselves" working alongside local supporters who were "strongly inclined" to shoot back at white terrorists.¹⁵ Eventually, leaders of some organizations would encourage the use of firearms for defense, such as in 1957 when local NAACP president Robert Williams (1925–1996) taught that "Blacks should defend themselves with guns."¹⁶ That same year, when members of the Ku Klux Klan attacked the house of another NAACP official in Monroe, North Carolina, Williams and a group of Black men armed themselves and returned fire, routing the Klan in a successful bout of self-defense. The threat of an armed response kept would-be perpetrators of racialized violence at bay, and eventually those who owned guns worked together within the Black community to empower nonviolent protests.

¹¹ Dorothy Beeler, "Race Riot in Columbia, Tennessee: February 25–27, 1946," *Tennessee Historical Quarterly* 39, no. 1 (Spring 1980): 49–61.

¹² Charles E. Cobb, *This Nonviolent Stuff'll Get You Killed: How Guns Made the Civil Rights Movement Possible* (Durham: Duke University Press, 2016), 85–88.

¹³ Christopher Barry Strain, "Civil Rights and Self-Defense: The Fiction of Nonviolence, 1955–1968," (PhD diss., University of California, Berkeley, 2000), ProQuest Dissertations Publishing.

¹⁴ Cynthia Deitle Leonardatos, "California's Attempts to Disarm the Black Panthers," *San Diego Law Review* 36, no. 4 (Fall 1999): 955.

¹⁵ Cobb, *This Nonviolent Stuff*, 114–115.

¹⁶ Leonardatos, "California's Attempts," 956.

The wielding of weapons enabled the participants of these movements to protect themselves as they were routinely experiencing systematically enabled terrorism in response to their protests. After the brutal deaths of three student activists in 1964, SNCC field secretary Cynthia Washington (1942–2014) swiftly acquired an automatic handgun and kept it with her at all times, describing the thought of “being beaten to death” without the means to defend herself as having “put the fear of God in [her].”¹⁷ It was this mindset that drove the willingness to use deadly force in the effort to ensure Black survival. Few believers in self-defense had to follow through on their determination. Still, it was the presence of firearms that empowered activists to tread on, despite the ever-present danger of brutality. Even some of the most eminent proponents of nonviolent resistance found themselves armed when their lives and the lives of their loved ones came under threat.

A preacher of nonviolent philosophy, civil rights activist Dr. Martin Luther King Jr. (1929–1968) applied for a permit to carry a concealed weapon after his house had been bombed in 1956; the permit was denied, but armed supporters soon began to guard King’s household.¹⁸ These facts do not discredit the movement and beliefs of nonviolent resistance in the struggle for civil rights, for, while it was the goal of nonviolence to “awaken a sense of shame within the oppressor,” the violent reality was that this shame often manifested itself in the form of violence against Black lives.¹⁹ Recognizing that violence might be needed to protect Black lives did not expose nonviolence as flawed; rather, it highlighted the oppressors’ immaturity. Nonviolent resistance protest was meant to inspire greater understanding and encourage mature dialogue with those who would oppress, yet many violent whites had no such capacity for maturity and took to terrorism in response. When nonviolence exposed the inability of many Americans to demonstrate kindness, firearms provided both a theoretical and a very real defensive line against wrongdoers. Thus, the practice of self-defense empowered nonviolent activists to carry on their struggle.

II. (For God’s Sake) Give More Power to the People

Imagine being a young Black male in California—be it Los Angeles, Oakland, or Sacramento—in 1966. You likely live in abject poverty, and your community is characterized by poor infrastructure and high crime rates. The freedom of everyone in your community is impeded by white police officers who terrorize you and others like you with acts of racialized violence. They are armed with the knowledge that they can kill you with impunity, backed by a system built on a foundation of white supremacy and racial hierarchy. If you manage to survive

¹⁷ Cobb, *This Nonviolent Stuff*, xii-1.

¹⁸ Winkler, “Secret History of Guns,” [online](#).

¹⁹ Martin Luther King Jr., “Pilgrimage to Nonviolence” (1959), in *American Religion: Literary Sources and Documents*, ed. David Turley (New York: Routledge, 2020; originally published in 1998), 3: 418–421.

into adulthood, you will likely be forcefully recruited to fight and perhaps die in some far-off land in service of the behemoth that legislates your oppression. Every bullet, law, and word that denies you the right to life, liberty, and the pursuit of happiness follows a trail that leads back to the white man, who maintains control over every power structure in the United States of America. Dread it as you may, you cannot run or hide. Every aspect of your life is commanded by a system that rejects you, and it will treat your death with apathy. There is no escape.

This is the reality that Black Californians like you are experiencing en masse, with each perspective providing a unique insight into the institutional terrorism inflicted upon your community by the white man. Politicians mask their racism by sponsoring increasingly elaborate and covert legislation that blatantly targets certain groups but lacks overt racial terminology.²⁰ Hiding in plain sight, symbolic racism characterizes the politics of California in the 1960s. The capitalist machine is designed to marginalize, rob, and ensnare Black people into an unending cycle of poverty. Any attempt to navigate the system in hopes of bringing about meaningful change fails because the system is purposefully designed to maintain the white supremacist hierarchy. The system will never work to your benefit; rather, it will only work to its own benefit. If the system cannot change, who will stand against it?

Prospects change when you hear about the Panthers. They denounce social inequality, educate you on the struggle for class and racial equality, and arm you with notions of “Black Power” and an understanding of your constitutional rights. Their most effective strategy is turning these constitutional rights into a tool of revolution, most notably through their armed patrols. By cop-watching, members of the Black Panther Party practice their constitutional right to bear arms and protect members of their community from police violence. Knowing they are acting within their rights, their armed patrols upset and provoke police officers and earn them a reputation as a violent and militant organization.²¹ Yet as police officers routinely brutalize unarmed Black men and women, the Panthers feed children breakfast, educate their communities with revolutionary politics, and arm themselves in defense of Black souls from the white man and his government.²² They are radical and unapologetic in their demand for Black liberation, and their greatest ally in that fight is the gun. Their leaders educate young Black men about the gun and how eventually all Blacks should step up and use it in the coming revolution.

²⁰ Eduardo Bonilla-Silva, “The New Racism: Racial Structure in the United States, 1960s–1990s,” in *Race, Ethnicity, and Nationality in the United States Toward the Twenty-First Century*, ed. Paul Wong (New York: Routledge, 2021; originally published in 1999), 55–101.

²¹ Curtis J. Austin, *Up Against the Wall: Violence in the Making and Unmaking of the Black Panther Party* (Fayetteville: University of Arkansas Press, 2006), x–xxii.

²² Meredith Roman, “The Black Panther Party and the Struggle for Human Rights,” *Spectrum: A Journal on Black Men* 5, no. 1 (2016): 7–32.

Grasping the Panthers' point of view is crucial to understanding the Second Amendment as it pertains to the Black defense against institutional violence. Although they swiftly evolved into a culturalist nationalist group that expressed "the 400-year-old crying demands" of Black Americans, the Panthers were initially a locally focused grassroots organization.²³ They adopted political ideologies from left-wing revolutionaries across the planet and adapted them to match the needs of Black urban communities. Huey Newton (1942–1989), co-founder of the Black Panther Party, sought to "transform what [he] had learned" into ideologies applicable to a local revolution, "acceptable to the brothers on the block."²⁴ Alongside fellow student and Panthers co-founder Bobby Seale (b. 1936), Newton realized that revolutionaries such as Vladimir Lenin, Mao Zedong, and Kwame Nkrumah had ultimately achieved their success through an armed struggle against the oppressive regimes that were terrorizing their people. Newton and Seale set about organizing the Panthers into a militia for Black freedom, following the examples of other leftist movements across the world. In Newton's eyes, if culture and heritage would not liberate the Black man, the gun surely would.

The Black Panthers represented a radical shift in the use of firearms—protesting the institution while protecting their communities. Unlike those who had come before, the Panthers would use their constitutional rights to directly challenge the institution in an organized fashion. They would brazenly threaten to fire upon police officers if the latter violated the rights of Black individuals under their protection. They would advocate for the arming of all Black individuals, for armed revolution, and for spreading the messages of Black nationalism and socialism. By recontextualizing the Black struggle to fit an international vision of anti-colonialism, the Panthers would attract notoriety from both the state and federal governments. And the actions of Newton and his allies in Oakland would lead to the organization being labeled "the greatest threat to the internal security of the country."²⁵

III. "The Baddest Motherfucker in the World"

In Newton's eyes, the Black ghetto was an oppressed nation at war with a belligerent police state. He embraced the mantra of human rights activist Malcolm X, "by any means necessary," in his belief that armed struggle was the only way to "resolve the final contradiction."²⁶ To Newton and the Panthers, police officers were the perpetrators of genocide, drawing comparisons to the

²³ James A. Tyner, "Defend the Ghetto': Space and the Urban Politics of the Black Panther Party," *Annals of the Association of American Geographers* 96, no. 1 (2006): 105–118.

²⁴ Huey P. Newton, *Revolutionary Suicide* (New York: Penguin Books, 2009; originally published in 1973), 116.

²⁵ "Hoover Calls Panthers Top Threat to Security," July 16, 1969, *The Washington Post, Times Herald*, A3.

²⁶ John A. Courtright, "Rhetoric of the Gun: An Analysis of the Rhetorical Modifications of the Black Panther Party," *Journal of Black Studies* 4, no. 3 (1974): 251–253.

Gestapo—the secret police of Nazi Germany during the Holocaust—in the discussion of cultural erasure and violence.²⁷ The struggle for Black Power in a racist America was a fight for survival, and only by arming themselves were Black Americans going to be able to break the system's stranglehold. In waging a defensive war against California's police, the Panthers ultimately sought to define the ghetto as separate from the realm of white America's control. It was their commitment to Black nationalism, internationalism, and intercommunalism that theoretically removed Oakland from the realm of the United States' racism.²⁸ In defining their community as a separate safe space for the nurturing of both the Black community and the revolution, Newton and the Panthers would challenge the authority of the police by utilizing their legal right to carry firearms.

Newton's war against the police state began in February 1967. When Oakland police pulled over a car containing a collective of Panthers, Seale and Newton included, a verbal altercation between officers and Newton demonstrated his commitment to the gun as a tool for resistance. Rifle in hand, Newton exclaimed that, if any officer were to "try to shoot at [him]" or take his gun, he would "shoot back [at them]."²⁹ A dumbstruck crowd of onlookers watched as the police let the Panthers go, as no laws had been broken in the exchange. In that moment, Seale was convinced that Newton was "the baddest motherfucker in the world."³⁰ The event established Newton's reputation for bravado and as a grassroots revolutionary, emboldening a wave of new recruits into the Panthers' ranks. It also provided a platform for the Panthers to protect their communities and challenge police brutality as they embraced the gun as a tool for change. In this facet of organized activism, the Panthers' ideology differed radically from the civil rights movement's previous employment of self-defense.

Civil rights activists were no strangers to practicing self-defense, but firearms became a core element of the Black Panthers' identity. To achieve some semblance of Black Power while living under an oppressive regime, Newton and Seale embraced the gun as "the" way for Black people to liberate themselves. They understood that the government would fight Black self-determination, Black self-identity, and Black unity, and they determined that their final version of success would include circumventing the "pig-power structure."³¹ Under the Panthers, concepts of protecting Black spaces had expanded beyond self and property. Communities like Oakland found themselves protected by the Panthers, thereby defining their borders in the larger war against the police state. To the Panthers, an armed Black population was not a matter of individual choice or personal

²⁷ "Special: The Significance of the Black Liberation Struggle in Newark," *The Black Panther* 1, no. 5 (July 20, 1967): 1, 11.

²⁸ Tyner, "Defend the Ghetto," 105–118.

²⁹ Winkler, "Secret History of Guns," [online](#).

³⁰ Referenced in Winkler, "Secret History of Guns," [online](#).

³¹ Leonardatos, "California's Attempts," 960–961.

circumstance but a necessary step toward revolution. The organized arming of Blacks resulted in special armed patrols that protected Black communities, provoking a frenzy from the regime they ultimately wished to topple. The way of the gun was the way of the revolution.

The Black Panthers gained special notoriety for their cop-watching patrols, following and policing police officers while openly carrying firearms. Cop-watching became the Panthers' best defense in the war against what they believed was a belligerent, white supremacist police state. Cars containing armed Panthers patrolled Oakland with "firearms and cameras," looking to observe the police and enforce the correct application of state, federal, and constitutional laws.³² As far as the Panthers were concerned, the police were not only unreliable to protect Black people; they were not to be trusted. Oftentimes the most heinous crimes against Black communities came from the police, and the Panthers concluded that such crimes would ultimately only be deterred by the threat of violence.³³

Cop-watching served a dual purpose: protecting Black individuals and provoking police officers into demonstrating their wickedness for witnesses to see. Patrolling Panthers often sought situations where "they could brandish their guns" and "actively monitor the activities of the police."³⁴ While their purpose was to protect Black people from the police, the patrols also relished the thought of catching police in the act. Highlighting instances where police did brutalize community members was one objective of cop-watching, as examples of police brutality would certainly attract recruits eager to protect their communities. The Panthers dared the police to give them a reason to shoot back. Officers were considered agents of a hostile colonial power and were treated as such.

The Panthers demonstrated the utility of firearms by policing the police, returning some power to the people by keeping the forces of the institution in check. They did so while staying within the boundaries of their constitutional rights. They adhered meticulously to the California Penal Code regarding firearms, ensuring that they would give no reasons for further police investigations or any potential arrests. Within six months of its inception, the Black Panther Party was able to successfully present a threat to the power of the police while staying entirely within the realm of legality.

IV. The Revolution Will Not Be Televised

By openly embracing the gun as a tool to challenge white authority, Huey Newton and his Panthers drew the ire of California police and lawmakers. Consequently, State Assemblyman Donald Mulford introduced legislation to outlaw the open carrying of firearms within California city limits. Assembly Bill 1591 would do just

³² Jocelyn Simonson, "Cop-watching," *California Law Review* 104, no. 2 (April 2016): 391.

³³ Daniel Edward Crowe, *Prophets of Rage: The Black Freedom Struggle in San Francisco, 1945-1969* (New York: Garland Publishing, 2000).

³⁴ Leonardatos, "California's Attempts," 962.

that, seeking to criminalize a constitutional right to protest government tyranny. As a white politician and representative of Oakland, Mulford saw himself challenged to maintain institutional control over the now “militant” Black communities of Oakland. Thus, in response to the Panthers’ checks on the powers of a tyrannical police force, the California government began its legal battle to prevent the spread of the Panthers’ ideology and message of armed revolution. When Mulford’s bill was introduced into the California legislature, the Panthers went into an uproar.³⁵ They immediately drew up plans to travel to Sacramento to stage a protest against this legislation. So, in the summer of 1967, Bobby Seale and a select group of Black Panthers traveled to Sacramento to air their grievances to an audience of Assemblymen and Senators who were planning to derail their vision of a Black revolution.

After arriving at the State Capitol on May 2, 1967, Seale and a group of roughly two dozen armed Panthers marched into the building in a public display of bravado and defiance. The group barged into the Assembly Chamber with weapons in hand, disrupting the legislative session. Standing in the doorway, Seale read aloud a statement drafted by Newton, decrying the various atrocities committed by America, including the genocide of Native Americans, the lynchings of Black people, the use of atomic bombs against Hiroshima and Nagasaki, and the “cowardly massacre[s] in Vietnam.”³⁶ These examples served to testify to the policies that were coloring America’s racist power structure: “repression, genocide, terror, and the big stick.”³⁷ Seale went on to chronicle the vicious cycle of wrongdoing perpetrated upon African Americans, characterizing the unheard pleas of his community as a call to arms. Before being escorted out of the building by police, Seale ended his statement by encouraging Black communities to “rise up as one man” to halt the total destruction of their people.³⁸ This rambunctious display of protest against the government served as a platform for the Panthers’ struggle and catapulted the party into the national spotlight. Having their manifesto established, the Panthers departed and were later arrested on multiple charges, including conspiracy to invade the Assembly Chamber, brandishing a firearm in a threatening manner, and possessing loaded guns in a vehicle.

The event only exacerbated the perceived need for a bill in the interest of public safety. Shortly after the Panthers had left the State Capitol, Mulford described the protest as an attempt to intimidate him and identified it as a source of inspiration

³⁵ Karen Joan Kohoutek, “‘It’s Time They Knew the Truth about Us! We’re Warriors!’ *Black Panther* and the Black Panther Party,” in *Black Panther and Philosophy: What Can Wakanda Offer the World?* ed. Edwardo Pérez and Timothy E. Brown (Hoboken: Wiley Blackwell, 2022): 238–246.

³⁶ Sean L. Malloy, “‘When You Have to Deal with a Beast’: Race, Ideology, and the Decision to Use the Atomic Bomb,” in *The Age of Hiroshima*, ed. Michael D. Gordin and G. John Ikenberry (Princeton: Princeton University Press, 2020), 56.

³⁷ Malloy, “When You Have to Deal,” 56.

³⁸ Malloy, “When You Have to Deal,” 56.

to make the bill even tougher.³⁹ A provision was added to ban the carrying of loaded firearms into the State Capitol. On July 26, 1967, the California Senate and Assembly passed the Mulford Act in a near-unanimous vote. Effective July 28, 1967, Black Californians were disarmed of their ability to protect themselves from institutional violence. Governor Reagan signed the bill into law, expressing his personal support for this legislation. While he acknowledged the right to bear arms, Reagan underscored the need for such legislation to protect law-abiding citizens. Reagan argued that there existed “no reason why...a citizen should be carrying loaded weapons” in public.⁴⁰

Mulford claimed that his legislation had “nothing to do with any racial incident,” citing other white groups in addition to the Panthers.⁴¹ Yet, while other militant organizations such as the Minutemen, Nazis, and Ku Klux Klan were mentioned in his proposal, all evidence suggests that the Mulford Act specifically targeted the Black Panthers. The rhetoric pertaining to the aforementioned white militias was a diversion from the bill’s true purpose and served as an example of the tactics legislators were using to mask their intent to target Black communities.

The history of these white militias in the years before the Mulford Act highlights the irrationality of including them in the language of the bill. Had Mulford really intended to introduce laws to combat the racial violence of the Ku Klux Klan, why had he not done so in the early 1960s, when the Klan had viciously attacked civil rights workers? Surely recent bouts of Klan violence could have spurred legislation, yet there was no such effort at the time of Assembly Bill 1591’s passing. As for the Nazis and Minutemen, their inclusion in the bill makes even less sense than the mentioning of the Klan, as neither group was in the habit of openly displaying loaded weapons.⁴² However, while these groups were indeed threatening the authority of the California government, this was deemed irrelevant next to the potential threat posed by the Panthers. The Mulford Act was drafted with the specific intent to disarm the Panthers, who were viewed as a danger to the capitalist, white supremacist power structure that America had worked so hard to maintain.

The Mulford Act’s language indicates its purpose to prevent future civil unrest. Yet, if the law was indeed aimed at preventing riots or other instances of civil disobedience, why was it not proposed after the Watts Riots (August 11–16, 1965) in Los Angeles? Just two years prior to the passage of Assembly Bill 1591, a simple DUI arrest had devolved into a physical confrontation, which had in turn exploded into an event of unrest that involved the deployment of 14,000 California National Guardsmen, resulting in more than forty million dollars in property

³⁹ Rich Ehisen, “Armed Black Panthers in the Capitol, 50 Years On,” *Capitol Weekly*, April 26, 2017, [online](#).

⁴⁰ Leonardatos, “California’s Attempts,” 972.

⁴¹ Don Mulford, interview, KPIX Eyewitness News, May 3, 1967, on CBS 5, video, 1:39, [online](#).

⁴² Leonardatos, “California’s Attempts,” 994.

damages and the deaths of thirty-four people.⁴³ In 1965, armed rioters had engaged in gunfights with police officers, but no legislation prohibiting openly carrying firearms was introduced within a reasonable timeframe after the riots had subsided. The Mulford Act might have been attractive if the simultaneously occurring Detroit Riots (July 23–26, 1967) had been considered as a factor in California legislation.⁴⁴ However, even then it would have represented an interest to preserve the unequal power balance between Blacks and whites, empowering white soldiers with the ability to kill Black rioters with impunity. The logic of the Mulford Act's introduction as an anti-riot measure is lacking. Thus, we can argue with certainty that its underlying purpose was to perpetuate the imbalance of power between people of color and the police.

The Mulford Act effectively declawed the Panthers, neutralizing their most effective strategy in the defense of their communities from police harassment and brutality. Whereas their presence had once significantly decreased the likelihood of excessive force, armed Panthers now could no longer effectively defend motorists who had been stopped by police.⁴⁵ Being able to quote the California Penal Code meant little when power rested entirely in the hands of the police, who were now able to dismiss the spectating and unarmed Panthers without fear of reprisal. And if known Black Panthers were spotted by police within city limits, officers could now arrest them on suspicion of carrying loaded weapons.⁴⁶ Disarmed of their greatest tool against the oppressive police state, the Panthers were now at the mercy of white police officers, who were once again able to harass and brutalize Black people with impunity. Once a legitimate threat against the tyranny of the police, the Panthers were now unable to act in defense of their community without swift and often violent retribution. The attempt at utilizing the Second Amendment as a check on tyrannical government ultimately failed, as constitutional rights were an afterthought to white politicians looking to legislate total control over Black communities.⁴⁷ The Panthers' legal rebellion was a flash in the pan, and things returned to their original state. The capitalist system proved its resilience to change, and the cycle of brutality and poverty continued despite the best efforts of the Black Panthers.

For the first time in California history, Black people had utilized their constitutional rights to represent a legitimate challenge to the authority of the government. In response, white politicians disarmed marginalized communities so that they might be easy targets for terror and violence. Where were the organizations and politicians who were extolling the Second Amendment as the

⁴³ Liza N. Burby, *The Watts Riot* (San Diego: Lucent Books, 1997).

⁴⁴ Hubert G. Locke, *The Detroit Riot of 1967* (Detroit: Wayne State University Press, 2017).

⁴⁵ Leonardatos, "California's Attempts," 987.

⁴⁶ Leonardatos, "California's Attempts," 987–988.

⁴⁷ David E. Vandercoy, "The History of the Second Amendment," *Valparaiso University Law Review* 28, no. 3 (Spring 1993): 1007.

“right most valued by free men” to speak up for the Panthers when the latter were disarmed?⁴⁸ Who declared the Mulford Act an unconstitutional suppression of a marginalized group’s attempt to resist government tyranny? The National Rifle Association (NRA), an organization now notorious for its anti-gun-control beliefs, supposedly helped Mulford draft the law and supported its passage.⁴⁹ State Senators who opposed the bill did so out of concern for hunters or victims of riots protecting their property; none who objected did so on behalf of the Panthers defending their communities from police terrorism.⁵⁰ The responses to the bill from organizations and politicians were like any response to gun-control legislation targeting Blacks: resounding support.

V. Inner-City Blues

Was the Mulford Act an unexpected response to Black Americans exercising their constitutional rights? Over two centuries of historical evidence highlight the truth: the Second Amendment was never intended for minority groups to defend their lives and agency. The earliest legislation points to the intention of using firearms as tools to maintain and enforce a white supremacist hegemony.⁵¹ When Black people dare to defend themselves against the tyranny of white America, governments make haste in criminalizing the means of defense. Organized movements that defend themselves against mainstream oppression face state-enabled terrorism and are typically met with resistance from legislators who hold racist beliefs of their own.⁵² It may be tempting to view the Mulford Act as an isolated, grandiose instrument of oppression, but in the grand scheme of capitalist politics it was simply a course correction in the interest of the system. It is not within the interest of capitalism for the tired, poor, huddled masses to breathe free on their own terms. Ultimately, it is one example of America’s larger battle to detain the agency of its most historically oppressed groups.

In comparison with previous laws, the Mulford Act is most notable for its shift toward a more symbolic type of racism within anti-Black legislation. Unlike the legislation of Jim Crow, which specifically targeted Black individuals with its inclusion of gun-control statutes, the Mulford Act did so under the guise of diversionary rhetoric and notions of public safety. Just as the Panthers represented a shift in the methods by which Black people defended themselves, the Mulford Act represented a shift in the methods by which the government could criminalize this defense. Legislators ceased to use overt notions of racial inferiority when

⁴⁸ Sanford Levinson, “The Embarrassing Second Amendment,” *Yale Law Journal* 99, no. 3 (1989): 637–659.

⁴⁹ Patrick J. Charles, “The Black Panthers, NRA, Ronald Reagan, Armed Extremists, and the Second Amendment,” Duke Center for Firearms Law, April 8, 2020, [online](#).

⁵⁰ Leonardatos, “California’s Attempts,” 979.

⁵¹ Cottrol and Diamond, “Second Amendment,” 331.

⁵² Akinyele Omowale Umoja, *We Will Shoot Back: Armed Resistance in the Mississippi Freedom Movement* (New York: New York University Press, 2014).

referring to Blacks, instead resorting to the concept that Black people were making illegitimate demands for changes in the status quo.⁵³ In instances such as the Mulford Act, this shift toward subtlety in the criminalization of Black resistance has created new problems for identifying racist legislation. Although the objective of this legislation is clearly anti-Black, the lack of overtly racist rhetoric acts as a protection against accusations of racism.

The attitudes and double standards of white Americans with regard to gun-control statutes are not relics of a bygone era, but a phenomenon that has persisted in the decades since California outlawed the Panther Patrols. Studies performed as recently as 2023 highlight that white Americans exhibit notably less support for gun rights when informed that Black Americans utilize certain gun rights more frequently than whites.⁵⁴ Even the most staunch supporters of the Second Amendment falter in their beliefs when they learn that African Americans take advantage of the same rights they do. Trends of this double standard have gradually begun to shift, although this may be less influenced by the importance of firearms as tools for Black survival and may have more to do with America's raging culture wars.⁵⁵ Attitudes have begun to shift, but we have yet to see significant change occur throughout our institutions.

While some change in attitudes has occurred since the passage of the Civil Rights Act (1964), this change has not resulted in significant structural and foundational shifts. The groundwork of the racial hierarchy that America rests upon has not changed, and as such, it continues to fail Black victims of white violence. When African Americans lack the means to defend themselves, the judicial system consistently fails to prosecute actors of white terrorism. Information pertaining to Black victims of violence—their criminal record, their physical appearance, and their lifestyles—is often exploited to shift responsibility onto these victims, connecting notions of Blackness with criminality.⁵⁶ A Black teenager is gunned down by a white man while carrying Skittles and iced tea, but news outlets report on the marijuana in his system at the time of his death.⁵⁷ A

⁵³ John B. McConahay and Joseph C. Hough Jr., "Symbolic Racism," *Journal of Social Issues* 32, no. 2 (Spring 1976): 23–45.

⁵⁴ Gerald D. Higginbotham, David O. Sears, and Lauren Goldstein, "When an Irresistible Prejudice Meets Immovable Politics: Black Legal Gun Ownership Undermines Racially Resentful White Americans' Gun Rights Advocacy," *Journal of Experimental Psychology: General* 152, no. 2 (2023): 410–424.

⁵⁵ Kerry O'Brien, Walter Forrest, Dermot Lynott, and Michael Daly, "Racism, Gun Ownership and Gun Control: Biased Attitudes in US Whites May Influence Policy Decisions," *PLoS one* 8, no. 10 (2013): e77552, [online](#).

⁵⁶ "Black Lives Discounted: Altering the Standard for Voir Dire and the Rules of Evidence to Better Account for Implicit Racial Biases Against Black Victims in Self-Defense Cases," *Harvard Law Review* 134, no. 4 (2021): 1521.

⁵⁷ "Trayvon Martin Had Traces of Marijuana in System at Time of Death, Autopsy Reveals," *New York Post*, May 17, 2012, [online](#).

white man kills five and wounds eight more with an assault rifle, and news outlets speak about his status as a former star athlete or about his difficulty fitting in with his peers.⁵⁸ By and large, America and its media will do everything in their power to discredit Black victims of violence and sympathize with white perpetrators. From the media to the legal system, the notion of Blackness is synonymous with criminality. No safeguards or changes have been put in place to address the implicit bias that affects every case involving African Americans. The vulnerability that characterized the Black experience in the 1960s remains ever-present in light of recent racial violence. Fundamentally, our system is the same as it was when Bobby Seale and the Panthers marched on the California State Capitol, and few white politicians have any desire to alter a system that works in favor of their hegemony.

Conclusion

When evaluating the legacy of the Panther Patrols and the Mulford Act, it is imperative to relate them to a larger historical context of Black self-defense and anti-Blackness in American legislation. The clash between the Black Panther Party and the California government was not an isolated incident but merely one battle in the centuries-long struggle for Black individuals to assert themselves as human beings under a system that has never recognized their humanity. Huey Newton and Bobby Seale recontextualized the Black struggle through the lens of international politics and armed revolution. The Panthers were contributors toward a pre-existing legacy of African American self-defense, with roots as far back as the early 1800s. In that same vein, the Mulford Act was not out of character for American politics; rather, it was one piece of legislation in a history loaded with laws limiting the lengths to which African Americans could go to defend themselves. These histories represent a dichotomy between the United States and the struggle for Black liberation. The pendulum swings back and forth as African Americans practice their constitutional rights and legislators develop new ways to criminalize these practices. The result is an exhausting cycle of progress and pushback, and lasting, positive change feels forever out of reach.

Despite what standardized textbooks would like us to believe, appropriate and significant change with regard to Black self-defense has not yet occurred in California, let alone in America as a nation. Black victims of racialized and institutional violence are chastised by political pundits and legislators, and even in death, their entire livelihoods are used in an attempt to shift responsibility.⁵⁹ If Black individuals dare to harm white people while protecting themselves, white

⁵⁸ Ronny Reyes, "Louisville Shooter Connor Sturgeon Was Star Athlete but Suffered 'Multiple Concussions,'" *New York Post*, April 11, 2023, [online](#).

⁵⁹ Zaina Harb, Jana El Baba, Abdallah Al Alami, Noor Abdelaal, and Hussain Hassouna, "Comparative Content Analysis of the Coverage of Black Lives Matter Protests by CNN and OAN from May 26 2016 to November 8 2020," *KIU Interdisciplinary Journal of Humanities and Social Sciences* 1, no. 3 (2020): 12-24.

America enters a frenzy and demonizes individuals who exert their constitutional right to bear arms—and thus their right to self-defense. In the pursuit of Black liberation and justice, every avenue leads to white rage and pushback from majority-white legislators. At every junction appears a roadblock of appeasers and racists who would not dare alter the system in the name of human rights. It has become increasingly clear that the system is impervious to meaningful structural change. But why should that surprise us? The foundation of America is a duplicitous conundrum of hypocrisy, principled around individual freedoms while founded by slavers.⁶⁰ Systems of power exist to protect and maintain themselves, and the suppression of Black freedom is a very intentional function of the system, not an unintended side effect. Only when we reexamine how sacrosanct we consider our structures of power will the opportunity for meaningful change reveal itself. Until then, America will flounder in its abundance of inequality.

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⁶⁰ Esther Pavao, *Slavery During the Revolutionary War* (Selmer: Yachad, 2013).