



# Anti-Black Punitive Traditions in Early American Policing

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## Abstract

From the police precinct to the prison plantation, historians of the American Carceral State have scrutinized “the habitual surveillance and incapacitation of racialized individuals and communities” as a defining feature of American criminal law enforcement. This abridged historical review expounds upon the central thesis of “The Mass Criminalization of Black Americans: A Historical Overview” and examines the development of anti-black punitive traditions in American policing that first surfaced in the era of slavery and settler colonization. I argue that colonial police patrols established in the 17th century were foundational antecedents of anti-black order maintenance functions ultimately incorporated by modern municipal police forces throughout the 19th century. By tracing the emergence of town watches and city guards from Boston to New Orleans, this review underscores the evolution of urban police practices originally deployed for the purpose of controlling “savages” and “slaves” throughout revolutionary and antebellum America.

**Keywords:** Precinct, Colonization, Savages and slaves

## Introduction

An English court order mandating that “Watches be set at sunset” established colonial America’s first police patrol, the Boston Night Watch, on April 12, 1631.<sup>1</sup> Empowered by law to fine and whip perpetrators of civil disorders and property crimes, the urban night watch was conceived as a paramilitary guard manned by an officer and six patrolmen. In 1636, a “citizen-staffed watch” augmented police manpower by demanding the routine participation of “every able-bodied man of the town” in a wide range of municipal services from fire fighting to animal control.<sup>2</sup> Wealthier Bostonians, unwilling to comply with the new regulations, were compelled to designate suitable substitutes to serve in their steads. The court-ordered constitution of the Boston Night Watch was not an isolated phenomenon. The Dutch town of New Amsterdam soon followed suit in 1652, legislating their own a “citizen’s rattel wacht.” Urban laborers built watch posts across the city and unpaid watchmen carried around rattles to alert each other during duty. By the end of the 17th century, similar night watches and military guards had emerged in commercial settlements from Charles Town to Philadelphia to rebuff any perceived threats against the existing colonial order.

The expansion of African slavery and transatlantic trade routes to colonial America fundamentally influenced the fabric and functions of both urban and rural policing. From their inception, colonial patrolmen primarily acted as deputized agents of social control in scattered country sides and crowded city streets. Pursuant to their legal decree to “keep the peace,” northern watchmen were required to not only pursue “knaves, thieves, and burglars, of their own kith and kin,” but also to “keep tabs” on indentured servants, free and enslaved Blacks, as well as so-called “straggling Indians, who paid nocturnal visits from the wilderness.”<sup>3</sup> As southern white settlers in the Virginia, Carolina, and Georgia colonies purchased enslaved Black people from Dutch traders and Barbadian planters in the Caribbean, they shared and adapted preexisting English and Spanish laws for organizing *posses* and mobilizing militia groups in order to capture runaway slaves and patrol

the lands surrounding the largest plantations. Pervasive fears of Black rebellion fueled the creation of statewide curfews and comprehensive slave codes that included the enforcement of a slave pass system. Municipal rules authorized bands of wealthy slave-holding and “poor slaveless” white men

to explicitly target enslaved persons travelling “in the night time without written permission [or pass] from their owners, masters, or mistresses.”<sup>4</sup> In response to recurring slave uprisings, such as the Stono

Rebellion 1739, southern law enforcement authorities experimented with myriad slave patrol models and steadily financed an expansive infrastructure of watch houses and armed forces ready to defend the colonies from impending threats by land and sea.

The geospatial regulation of internal enemies and external threats within and beyond European colonial borders persevered after the American Revolution. Southern military-style law enforcement models represented the earliest iterations of paid police patrols in America.<sup>5</sup> State legislatures and local courts in Virginia and the Carolinas gradually elected to pay their patrolmen for twenty-four-hour tours of duty throughout the 18th century.<sup>6</sup> Charged with controlling the burgeoning population of enslaved Black Americans, patrolmen were permitted to inflict corporal punishment against “unruly” enslaved men, women and children, as well as ransack slave dwellings in search of illegal contraband, weapons, and educational materials. Southern slave patrols, however, were not a distinct aberration from northern constable-watch systems. In fact, the passage of federal fugitive slave acts from 1793 to 1850 conscripted local and state law enforcement agents nationwide to participate in the capture and confinement of self-emancipated Black Americans. Slave management was indeed a core function of early American policing on the national, state, and municipal level [1-8].

The deployment of police patrols during the revolutionary and antebellum periods engendered an enduring feature of American criminal law enforcement: an anti-black punitive tradition defined by “the habitual surveillance and incapacitation of racialized individuals and communities.”<sup>7</sup> Most recently, historians Elizabeth Hinton and DeAnza Cook have argued in the Annual Review of Criminology that the roots and contemporary remnants of anti-black punitive traditions in American criminal justice first emerged in full force during slavery and settler colonization.<sup>8</sup> While most Black Americans were closely monitored and contained within a “carceral landscape” of rural plantations and urban workhouses, city jails controlled by town

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marshals and county sheriffs frequently functioned as convenient warehouses for holding, punishing, and sellingslaved Blacks at the whims of white owners and prospective buyers.<sup>9</sup> As western settlers encroached Indian Country and fought “savage wars” against Native Americans, law enforcement officials in Texas organized small militia companies in 1823 to carry out “mounted scouting and patrol duties” and man the border “against Mexicans as well as Indians.”<sup>10</sup>

Anti-black order maintenance functions performed by colonial police patrols were ultimately incorporated by modern municipal police forces in the 19th century. Forty years prior to the famous promulgation of Robert Peel’s *Principles of Law Enforcement* in 1829, local law enforcement officials based in southern cities, such as Charleston and New Orleans, led the way in crafting the country’s first paid public professional police forces in the form of militarized city guards.<sup>11</sup> From the 1780s onward leading up to the Civil War, urban uniformed units in the Deep South buttressed the extensive slave patrol network, supplemented by slave-holding families, plantation overseers, and state militia reinforcements in addition to privately hired slave-catching bounty hunters. The Charleston Watch originated in 1783 to surveil the city’s substantial concentration of slaves, and it expanded to include a hundred municipal and state policemen who patrolled plantation roads and industrial areas on foot and by horse by 1831.<sup>12</sup> New Orleans debuted its own paramilitary police force as early as 1805.<sup>13</sup> As racial and ethnic conflicts peaked in the 1830s, Crescent City authorities demilitarized and reorganized the New Orleans police to include Irish immigrants recruits and even “a few free African American men.”<sup>14</sup> Yet, police work in the antebellum period required patrolmen, regardless of race or ethnicity, to regulate the behaviors, mobility, and livelihoods of enslaved Black Americans. “Free men of color” employed by the New Orleans city guard in 1805 served alongside majority-white militia groups and under the exclusive command of white officers, including Andrew Jackson in the Battle of New Orleans in 1815.<sup>15</sup> Charles Allegre and Constant Michel were among the first Black policemen recruited to the city guard in 1814, and Ellidgea Poindexter and Douglas C. Butler also served as “turnkeys in the city jail.”<sup>16</sup> The city’s pioneering Black policemen actively participated in anti-black police counterinsurgency operations. Most notably, they aided the suppression of the largest slave insurrection in the nation’s history waged in St. Charles and St. John the Baptist parishes in 1811.

Within a racist society that overtly undermined political and economic freedoms and curtailed access to citizenship, some free people of color, fortunate enough to acquire wealth and social standing, regarded city police jobs as prestigious and “privileged” positions.<sup>17</sup> During Radical Reconstruction, Republican officials gainfully employed Black policemen from Jackson, Mississippi to Jacksonville, Florida. After its demise in 1877 and the rise of Black Codes, however, only a select few Black men were permitted to work in the nation’s newly-emerging police departments. The Boston Police Department took on its first African American patrolmen, Horatio J. Homer in 1878, but it would be 140 years later before the appointment of the city’s first Black police commissioner.<sup>18</sup> The sporadic hiring and piecemeal promotion of Black policemen, and later Black policewomen, prevailed during the “Progressive era” of federal Prohibition and statewide Jim Crow law enforcement. Major transformations for Black Americans in law enforcement would not surface en masse until the aftermath of the 1960s Civil Rights Movement with the advent of court-ordered consent decrees and affirmative action plans for police departments throughout the nation.

Although American police professionalization is generally

associated with early 20th century reform efforts, urban police administrators started laying the foundation for modern metropolitan police bureaucracies back in the mid-19th century. Police historians often credit New York City for introducing the earliest “prevention-oriented police force,” loosely patterned after the London Metropolitan Police department in 1845.<sup>19</sup> However, the New York Police underwent a decade of administrative reorganization from 1843 to 1853 before fully transitioning to a uniformed professional police force and replacing the city’s constabulary and night watch system with “800 salaried, full-time officers.”<sup>20</sup> Unlike New York, the Massachusetts legislature had already passed a law “allowing the mayor [of Boston] and the board of aldermen to appoint daytime police officers” in 1838.<sup>21</sup> On May 21st, the board of aldermen appointed six officers to the Boston Police Department to serve under the command of the city marshal. The Boston Police coexisted with the Boston Watch as an entirely separate institution, until the state legislature permitted the city council to merge the watch and the police on May 26th, 1854.<sup>22</sup>

The refounding of the Boston Police Department was remarkably expedient and timely. Two days prior to the city council’s consolidation of the Boston Watch and the Boston Police, United States deputy marshal Asa O. Butman (also a former Boston policeman) arrested 19-year-old Anthony Burns, a self-emancipated Black American and “fugitive stowaway” from Virginia.<sup>23</sup> While Burns remained detained in a Boston courthouse on the night of May 26th, 1854, local abolitionist Reverend T.W. Higginson led a crowd of enraged Bostonians to storm the building, killing a guard in the process. They demanded that Burns be freed immediately, and in response federal authorities implored the mayor to summon “two companies of militia to prevent further riot” in the city.<sup>24</sup> On June 2nd United States Commissioner Edward G. Loring ordered to “send Burns back to slavery.”<sup>25</sup> Later on that same day a massive escort of “roughly two thousand uniformed men” marched Burns to the Boston harbor, and among them were 200 Boston policemen leading the way to “clear the streets ahead of the soldiers.”<sup>26</sup>

The confinement and deportation of Anthony Burns was one case in a series of violent struggles that unfolded between Boston abolitionists, Boston police, and federal law enforcement officials following the passage of the Fugitive Slave Act of 1850. Three years before Burns’ botched escape to Boston, deputy marshals detained a self-emancipated man, named Shadrach, in a federal courtroom on February 15th, 1851.<sup>27</sup> A month later, seventeen-year-old Thomas Sims from Savannah, Georgia faced the same fate—at the hands of arresting Officer Butman, the same man who later incarcerated Anthony Burns.<sup>28</sup> Boston police and militia forces jointly manned Sims’ “final march” from the courthouse to Boston harbor on April 12th, 1851, but this time the Boston police had proactively “drilled with borrowed United States sabers,” marking “their first official experience with weapons other than the customary short club.”<sup>29</sup> Both arrests outraged abolitionist organizers with the Boston Vigilance Committee. In retaliation, on April 24th, they published placards “denouncing the police officers as ‘Slave Catchers’ and ‘Kidnappers.’”<sup>30</sup>

## Conclusion

From police patrols to police counterinsurgency operations, colonial and antebellum law enforcement officers labored to maintain existing race-based notions of social order under color of law. Abolitionists in the 1850s condemned the Boston Police Department’s involvement in federal fugitive enforcement and incarceration in a similar way that Bostonian abolitionists still today are mobilizing against “white supremacist violence” and Obama-era CVE (Countering Violent Extremism) “community policing” programs in the city’s Muslim and

Black Muslim American neighborhoods.<sup>31</sup> This fraught and variegated throughline in early American police history underscores the persistent manifestations of anti-black racism in police law, police work, and the administration of criminal justice.<sup>32</sup> Above all, it demonstrates that policing strategies and carceral tactics in this period cannot be divorced from an abiding anti-black punitive tradition that endures in the age of mass incarceration and the movement for Black lives.

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