

F Your Racist History***

E102: The Racist History of American Law Enforcement

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Show Notes

We live in troubled times. After numerous killings of unarmed people of color by police over the past decade and beyond, the relationship between the public and law enforcement seems to be on the brink of exploding. On one side of the debate, activists claim a systemic racism problem. On the other, supporters of law enforcement claim these horrific acts of force are either necessary or the actions of a few “bad apples.” In 1963, President John F. Kennedy declared the week of May 15th National Police Week and said, “from the beginning of this Nation, law enforcement officers have played an important role in safeguarding the rights and freedoms which are guaranteed by the Constitution and in protecting the lives and property of our citizens.” But, this couldn’t be further from the truth. Join me as we look into the racist origin story of America’s laws and the people who enforce them.

EPISODE SCRIPT

Warning: this episode contains scenes that depict violence and death. You'll probably also get really pissed off.

I Can't Breathe

"I can't breathe." George Floyd said it 26 times before taking his last breath, all while a white police officer knelt on his neck, killing him.

The relationship between American law enforcement and people of color is a deep, festering wound. And, if we trace our nation's policing back to its earliest roots, we can see how poisonous it truly is.

Since the 2020 murder of George Floyd by former Minneapolis police officer Derek Chauvin, "I can't breathe" has become a global rallying cry for those who support anti-racism and the fight for civil rights and equal justice.

This tragic incident (one of arguably thousands like it around the country), which ultimately found Chauvin guilty of murder, forced a national debate on methods of policing that have long gone unchecked and unpunished. And, it brought global attention to the harassment, abuse, and harm Black and brown people have endured at the hands of police throughout American history.

"I can't breathe" was initially adopted as a protest call after a New York City police officer killed another Black man named Eric Garner in 2014. Former officer Daniel Pantaleo held 43-year-old Garner in a chokehold on the ground while initiating an arrest on suspicion of him illegally selling loose cigarettes—a misdemeanor violation. He told police "I can't breathe" eleven times before losing consciousness and never waking up. No charges were ever brought against Pantaleo for Garner's death, and it took over five years for the NYPD to terminate his employment. Two days after Pantaleo's firing, Sergeant Kizzy Adonis, who had arrived on the scene as officers pressed Garner to the ground, and had been charged with multiple counts of "failure to supervise," made a deal to forfeit just 20 vacation days to keep her job. This means only two of the dozen or so

officers involved in Eric Garner's arrest and his death have faced any "penalty."¹

Another case that sparked outrage and galvanized many into action was the killing of Trayvon Martin. The Black Lives Matter movement, which protests incidents of police brutality and racially motivated violence, was formed in 2013 after Trayvon Martin's killer, George Zimmerman, was acquitted. Though not a police officer, but instead a civilian coordinator of an unofficial neighborhood watch, Zimmerman fatally shot the unarmed 17-year-old Martin in 2012 and claimed self-defense under Florida's "Stand Your Ground" Law, which provides that people can use deadly force when they reasonably believe it's necessary to defend themselves against deadly force. Martin's only "aggression" that fateful night was that he was Black and walking alone.

Today, Black Lives Matter activists seek to "eradicate white supremacy and build local power to intervene in violence inflicted on Black communities." It's a movement to respond to and work to change the harsh realities that communities of color face.

They shed light on injustices, as well as things like "The Talk"—the difficult but necessary conversation Black and brown parents have with their young children about what to do—and what *not* to do—when interacting with the police because their life could depend on it: Hands up in the air or on a steering wheel where officers can see them at all times. No sudden movements. Ask for permission to reach for something and clearly explain what you're doing when you move. Be respectful. Comply. Children of color must memorize this code of conduct and carry it with them throughout their lives, because as countless injuries and deaths at the hands of police and vigilantes have proven, those sworn to serve and protect can't always be relied on to serve and protect them. And, as many cases of police brutality have shown us, even following the instructions of "The Talk" will not always guarantee safety or life.

By speaking truth to power, Black Lives Matter has been met with much criticism and resistance. After all, for every legitimate action, there is an equal and opposite reaction.

Blue Lives Matter, an affront to Black Lives Matter (which Blue Lives Matter denies), was formed

¹ Ashley Southall, "Final Punishment in Eric Garner Case: Sergeant Loses Vacation Time," *The New York Times*, August 21, 2019, sec. New York, <https://www.nytimes.com/2019/08/21/nyregion/sergeant-kizzy-adonis-eric-garner-pantaleo.html>.

in December 2014 following the murder of two New York City police officers. Officers Rafael Ramos and Wenjian Liu were shot and killed while sitting in their patrol car in Brooklyn. The perpetrator, Abdullah Brinsley (a Black man), posted on Instagram that the murders were revenge for the police slayings of unarmed Black men. Even though ambush killings of police had actually declined more than 90-percent since 1970², Blue Lives Matter supporters rallied (as did white supremacists who saw it as an opportunity to radicalize jaded white cops). Some U.S. states even began passing laws to categorize physical attacks on law enforcement officers as hate crimes.³ Meanwhile, states like South Carolina, Arkansas, and Wyoming still don't have hate crimes laws for bias against citizens. *Hmm.*

According to their website, Blue Lives Matter touts itself as a non-profit organization whose mission is:

“To raise awareness and enlist the public's aid for the needs of Police Officers, to help Police Officers assist each other, and to provide a Police Officers family with comfort and support as they go through hard times.”⁴

Given the timing of Blue Lives Matter's establishment and their co-opting of the acronym BLM, its actual purpose as an opposition group to Black Lives Matter appears thinly veiled. Blue Lives Matter seems hellbent on preserving the policing status quo, meaning upholding longstanding dehumanizing and white supremacist practices in law enforcement. Their insignia is a black and gray variation of the American flag with a distinctive thin blue line in the middle, a reference to the belief that police are the only protection between society and outright chaos. In an ironic twist, “pro-police” insurrectionists at the January 6th attack on the Capitol actually beat Capitol Police with Blue Lives Matter flags.⁵ *How's them apples?*

Then, there are the Oath Keepers, formed in 2009. This right-wing, anti-government paramilitary

²Michael White, “Ambush Killing of Police, 1970-2018: A Longitudinal Examination of the ‘War on Cops’ Debate,” [www.documentcloud.org](https://www.documentcloud.org/documents/6936539-2020-PQ-Ambushes-1.html), 2020, <https://www.documentcloud.org/documents/6936539-2020-PQ-Ambushes-1.html>.

³Alan Greenblat, “Are ‘Blue Lives Matter’ Laws Just Symbolic?,” *Governing*, July 26, 2017, <https://www.governing.com/topics/public-justice-safety/gov-hate-crimes-police-blue-lives-matter.html>.

⁴“Our Mission,” Blue Lives Matter NYC, 2017, <https://bluelivesmatternyc.org/pages/frontpage>.

⁵Justin Boggs, “Capitol Officer: They Beat Law Enforcement with ‘Blue Lives Matter’ Flags,” *KMGH*, February 23, 2021, <https://www.thedenverchannel.com/news/national/capitol-officer-they-beat-law-enforcement-with-blue-lives-matter-flags>.

group believes a New World Order led by the “liberal elite” is threatening to destroy America’s constitutional republic. They (like Blue Lives Matter sympathizers and white nationalists) falsely claim Black Lives Matter is an anti-white, Marxist terror organization set out to destroy American values (i.e. “white” American values). What makes *this* extremist militia particularly dangerous is that they focus their recruitment efforts primarily on current and former law enforcement officers, military service men and women, and first responders. The Oath Keepers’ main pretext is claiming to uphold their oath to protect the U.S. Constitution “from all enemies, foreign and domestic,” even if it means disobeying direct orders from superior officers or marginalizing other Americans in the process. They infamously showed up in Ferguson, Missouri, in support of law enforcement after police shot and killed a young Black man named Michael Brown in 2014. Several Oath Keepers leaders and members (along with Blue Lives Matter supporters) have also been charged in connection with the January 6 attack on the U.S. Capitol building *and* Capitol Police earlier this year. Alongside them in their siege? A host of white supremacists, neo-Nazis, and conspiracy theorists.

Black Lives Matter and many civil rights activists argue that police violence against people of color is a systemic problem hundreds of years old. In other words, the roots of this tree are rotten.

On the other hand, Blue Lives Matter claims that cases like those of Eric Garner and George Floyd resulted from outliers and rogue officers, “a few bad apples,” (while conveniently ignoring the full proverb that one bad apple spoils the whole barrel). They say our law enforcement system is inherently good; that it’s law enforcement officers who need protection from violent criminals. And, if our prison population is any indication of who law enforcement and our justice system consistently and historically perceive as “violent criminals,” it’s people of color.

Who is right? Is the problem with individual bad cops or is it that the entire system they are trained in and come from is rooted in white supremacy and will inevitably produce rotten fruit? How did we arrive at this moment in time?

To understand the origin story of American Law Enforcement, we first have to understand the origin story of our American laws. For that, we have to go way back to before the formation of the United States; we have to get colonial.

This is episode 2 of F*** *Your Racist History: The Racist History of American Law Enforcement.*

The Watchmen

British colonization of the Americas began in 1607 with the formation of the first colony at Jamestown, Virginia. By the early 1700s, the British had successfully dominated the North American continent and established thirteen colonies. Back then, colonial America's entire legal policing system was adapted from English law. No surprise there, since America was still a collection of English colonies at the time. Urban centers had different needs than rural communities, as did the northern colonies and southern colonies.

The northern colonies, whose economies were based mainly around shipping and mercantilism, and urban cities throughout the original thirteen colonies, quickly learned to rely on what they called Constables and Night Watchmen to control any "disorder" that might impede their new profit centers.

The City of Boston is a clear example of the evolution of northern urban policing. In 1631, the then "Town of Boston" formed the Boston Watch. These civilian watchmen were responsible for patrolling the streets looking for murderers, thieves, and any fires that might break out (a common occurrence of the time). The position of Watchman was not a coveted position for Bostonians; it was often doled out as punishment, and more often than not, watchmen spent their duty hours drunk and rowdy.

On the other hand, Constables, which were officially sanctioned law enforcement officers, dispensed justice, settled legal disputes among merchants, and had other random civic duties like surveying land. Per Dr. Gary Potter (an Eastern Kentucky University criminologist), Constables "were expected to control a dangerous underclass that included African Americans, immigrants, and the poor."⁶

⁶ Connie Hassett-Walker, "The Racist Roots of American Policing: From Slave Patrols to Traffic Stops," The Conversation, June 4, 2019, <https://theconversation.com/the-racist-roots-of-american-policing-from-slave-patrols-to-traffic-stops-112816>.

In more rural communities, colonials instituted variations of something called the Frankpledge system, a framework of communal policing with origins dating back to 11th century England. In these instances, community members were responsible for policing each other, with one law enforcement official overseeing the operation: the sheriff. Sheriffs were initially appointed by colonial governors and eventually became associated with corruption and greed. By the late seventeenth and early eighteenth centuries, it wasn't uncommon for sheriff appointees to outright refuse the unsavory positions. To combat this trend, colonial governors instead instituted local elections to select the sheriff, a custom that remains to this day.

This "borrowed" system of policing became a staple in small rural communities in the American South, but it was actually the British Colony of Barbados that had the most significant influence over law enforcement in that region. Specifically, the Barbadian policies of policing and legal restrictions of enslaved peoples.

Slavery arrived in North America in 1619 and was a staple in the British colony at Barbados by the mid-1600s. By 1661, Barbados enacted the first official Slave Code.

Slave Codes were a collection of laws to restrict the movements and liberties of enslaved African people. More specifically, it established a longstanding (but false) ethos of white superiority over people of color.

The following is a passage from the 1661 Barbadian Code:

"Negroes are a heathenish brutish and an uncertain, dangerous kind of people, yet we well know by the right rule of reason and order we are not to leave them to the arbitrary cruel and outrageous wills of every evil-disposed person, but so far to protect them as we do many other goods and chattels."⁷

In other words, Black people were considered savage and uncultured, property, and white people claimed they were protecting them from their own savagery by enslaving them.

⁷ Maalik Stansbury, "Barbados Slave Codes – StMU History Media," STMU History Media, October 19, 2016, <https://stmuhistorymedia.org/barbados-slave-codes/>

As Bradley J. Nicholson explains in the *American Journal of Legal History*, English society was based on a top-down hierarchical system. Any person without a “master” threatened the natural order and security of the ruling classes.⁸ Ruling classes, otherwise known as white people.

Slave Codes and Slave Patrols

As the British continued to colonize the North American continent, a code of laws to govern dominance over servants and slaves began to take shape in the image of Barbados’ law. Restricting the movement of slaves became a crucial component in colonial Southern law, and almost all of the Southern colonies used some iteration of the Barbadian Slave Code.

To enforce these racist laws, communities raised militia-style groups known as Slave Patrols—in many cases the first instance of organized “law enforcement” agencies in a region.

South Carolina established the first slave patrol in 1704. From 1712 to 1740, their state law even *required* the torture of slaves who had escaped.

In 1724, Virginia militarized their slave patrols by transferring the responsibility to enforce laws from regular civilians to the State militia, and in 1754 the government began paying slave patrols directly for their service.

According to criminal justice historian Dr. Gary Potter, “Slave patrols had three primary functions: 1. To chase down, apprehend, and return to their owners, runaway slaves; 2. To provide a form of organized terror to deter slave revolts; and 3. To maintain a form of discipline for slave-workers who were subject to summary justice, outside the law, if they violated any plantation rules.”⁹

Following the American Revolution of 1776, the thirteen original English colonies unified under the federal government, but federal power was weak; states maintained autonomy over their laws and systems of enforcement. The new state laws were again just adaptations of former racist colonial laws.

⁸ Bradley J. Nicholson, “Legal Borrowing and the Origins of Slave Law in the British Colonies,” *The American Journal of Legal History* 38, no. 1 (January 1994): 38, <https://doi.org/10.2307/845322>

⁹ Gary Potter, “The History of Policing in the United States” (2013), <https://plsonline.eku.edu/sites/plsonline.eku.edu/files/the-history-of-policing-in-us.pdf>

By the 1780s and 1790s, fear of slave revolts in the South prompted a further militarization of law-enforcing slave patrols. County courts authorized and organized these patrols, effectively making policing slavery a public safety initiative. They consisted of white men from every social class and socio-economic circumstance; united in the common cause of defending themselves and their families from so-called “Black violence.”

The constant fearmongering of rebellion and economic disruption fostered a sense of solidarity among whites who seemed to have a new common “enemy” to replace the British: the Black slave.

Nat Turner’s Rebellion

In August 1831, the unwarranted fear of Blacks in America seemed to become a reality for the white plantation class in Southampton County, Virginia, when an enslaved Black preacher named Nat Turner led a midnight revolt against the slave-holding population in the area. Turner’s interpretation of the Bible told him that God did not intend for people to live the way he and other enslaved people were forced to live. He claimed God had sent him a message, and the only way forward for his people was to meet violence with violence.¹⁰ An estimated 50 white people were killed before Nat Turner’s rebellion was put down. Most of the enslaved participants were then captured or killed. In retaliation, the State executed 56 participants, including Nat Turner. Before it was over, local white militia groups had murdered an additional 100-150 Black people, freed and enslaved, even though most had no involvement in the revolt. Nat Turner’s rebellion soon became the main white argument for the unjust, extreme measures being implemented to control enslaved populations in the Southern slave states.

In addition to State-sanctioned slave patrols, American slave owners also employed private entities like slave catchers to hunt down escaped enslaved people. While slave catchers are often portrayed as the boogeyman of the old south, the National Law Enforcement Museum in Washington, D.C. points out, “Slave patrols were no less violent [as opposed to their privately hired slave catcher counterparts] in their control of African Americans; they beat and terrorized

¹⁰ Nat Turner and Thomas R Gray, *The Confessions of Nat Turner : The Leader of the Late Insurrection in Southampton, VA* (United States? Windham Press Classic Reprints, 2016).

as well. Their distinction was that they were legally compelled to do so by local authorities.”¹¹

Slave Patrollers were duty-bound to protect white interests, and they even took oaths to that effect:

“I [Patroller’s name], do swear, that I will as searcher for guns, swords, and other weapons among the slaves in my district, faithfully, and as privately as I can, discharge the trust reposed in me as the law directs, to the best of my power. So help me, God.’
—Slave Patrollers Oath, North Carolina, 1828.”¹²

Urban Policing

As states and city populations grew throughout the United States, more-centralized police forces began to take hold. In 1838, the City of Boston established the first municipal police department with six full-time officers. American cities like New York, Philadelphia, and Washington, D.C. soon followed suit. Per historian Dr. Gary Potter, “Early American police departments shared two primary characteristics: they were notoriously corrupt and flagrantly brutal. This should come as no surprise, in that police were under the control of local politicians.”¹³ Seems not much has changed in that regard either.

These new urban police forces grew exponentially over the next few decades, and by the early 1880s, every major U.S. city had a municipal police department.

As slavery’s economic profitability became increasingly apparent in the 1830s, ‘40s, and ‘50s, the growing number of enslaved people in the South continued to bolster fear of slave rebellions and economic disruption among whites. In response to the growing slavery abolition movement in the North, policing of free Black communities and the movement of enslaved people became even more restrictive and maniacal.

Fugitive Slave Act

¹¹ Chelsea Hansen, “Slave Patrols: An Early Form of American Policing,” National Law Enforcement Museum, July 10, 2019, <https://lawenforcementmuseum.org/2019/07/10/slave-patrols-an-early-form-of-american-policing/>

¹² Chelsea Hansen, “Slave Patrols: An Early Form of American Policing,” National Law Enforcement Museum, July 10, 2019, <https://lawenforcementmuseum.org/2019/07/10/slave-patrols-an-early-form-of-american-policing/>

¹³ Gary Potter, “The History of Policing in the United States” (, 2013), <https://plsonline.eku.edu/sites/plsonline.eku.edu/files/the-history-of-policing-in-us.pdf>

Passed in September of 1850 as a part of the Compromise of 1850, the Fugitive Slave Act was a vital piece of legislation that forced northern law enforcement into the business of policing runaway slaves. Whereas before, once an enslaved person made it to a northern state, there was little a slave owner could do to recapture them, the Fugitive Slave Act now made it a Federal crime to aid a “fugitive slave.” A person could be fined up to \$1,000 and jailed for refusing to assist in the capture of fugitives. Southern plantation owners now had the reach of the long arm of the law from Louisiana to the Canadian border to police enslaved people. For free people of color, this signaled a devastating shift in the Federal government’s position on the issue of slavery and racism. Now, northern law enforcement agencies were actively employed in the surveillance and policing of Black people, even if they had escaped enslavement.

One thing to remember here, and something pertinent to people’s attitudes in the North (then *and* now, too, I suppose): racism against Black people was also pervasive throughout the Northern states. As author Andrew DelBanco points out in an interview with NPR’s Terry Gross in 2018, some Northerners were only in the abolitionist camp because they hated Black people and didn’t want them showing up in their neighborhoods or stealing their jobs.¹⁴ In essence, they wanted slavery to end so that Black people could be shipped out of the country, either back to Africa or to Santo Domingo in the Caribbean. Of course, there *were* some whites in the North who opposed slavery on moral grounds, but it’s important to remember that just because someone was an abolitionist working against slavery, it did *not* necessarily make them a proponent of equal rights.

Dred Scott Decision

Another devastating blow to Black civil rights during the antebellum era—the period just before the American Civil War—was the Dred Scott Decision of 1857. Dred Scott was an enslaved Black man whose owners had taken him from Missouri, a slave-holding state, into Illinois and the Wisconsin Territory, where slavery was illegal. When his owners later brought him back to Missouri, Scott sued for his freedom and claimed that because he had been taken into free U.S. territory, he had become legally freed and was no longer a slave. The Missouri state court initially ruled that he *was* free, but the Missouri Supreme Court then reversed that decision. Later, a U.S. federal court upheld the Missouri precedent, leading Scott to appeal to the U.S.

¹⁴ “How the Fugitive Slave Act Ignited a ‘Struggle for America’s Soul,’” NPR.org, November 6, 2018, <https://www.npr.org/2018/11/06/664695634/the-fugitive-slave-act-and-the-struggle-for-america-s-soul>

Supreme Court, which issued a 7–2 decision against him. Considered one of the dirtiest Supreme Court decisions ever made, it essentially stripped all persons of African descent of their right to U.S. citizenship, regardless of whether they were considered enslaved or free. The decision once again reduced the legal status of Black people to ownable property via the highest court in the land.

Our entire American legal system is based on precedent. And this is the racist precedent our leaders were working with on the eve of war. The Dred Scott Decision exacerbated the tensions that eventually led to the eruption of America's Civil War.

The Civil War started in April 1861, and after four years and over 600,000 deaths, slavery finally ended, and everything changed.

Or did it?

Too often, in our school textbooks and American History classes, we are sold this fable that the Civil War was a war fought amongst brothers. It was a war about "pride." That it ended with the honorable surrender of the South and General Robert E. Lee and the demise of slavery...essentially the dawn of a new era of equality, and our nation came out stronger on the other side. Racism in America was legally over.

But, that simply isn't the truth.

What really happened is the complete economic devastation of the southern United States, for which Southern whites blamed formerly enslaved Black people and abolitionists. *The pot calling the kettle the n-word...what else is new?* For every new law passed to bolster equality for Black people during the Reconstruction Era after the Civil War, there was a loophole enacted for racists to exploit.

When it became clear in late 1864 that the South was going to lose the Civil War, white Southerners began to reckon with the realization that slavery would also end. Congress was busy drafting the 13th Amendment, which would effectively end chattel slavery in the United States. If that happened, how would whites keep Black people in their place? They would need

to maintain the upper hand. If they were going to return to any semblance of white law and order, they needed to figure out a legal solution quickly.

Take the editor of *The Lynchburg Virginian* at the time:

“Stringent police regulations may be necessary to keep [freedmen] from overburdening the towns and depleting the agricultural regions of labor. The civil authorities also should be fully empowered to protect the community from this new imposition. The magistrates and municipal officers everywhere should be permitted to hold a rod in terror over these wandering, idle creatures. Nothing short of the most efficient police system will prevent strolling, vagrancy, theft, and utter destruction of our industrial system.”¹⁵

The 13th amendment did *not* guarantee civil rights or ensure equality, however. Plantations ravaged by the war took advantage of a loophole in the new amendment; slavery could still exist “as a punishment for crime whereof the party shall have been duly convicted.”

Seemingly overnight, Southern plantations reopened as for-profit prisons. Their target? Newly freed people of color—“savages,” as they called them. Supported by a range of new racist laws, these new prisons started filling with formerly enslaved people. A slew of new vagrancy laws cropped up throughout the country. This dramatically limited the movement of free Blacks; if they went to a new city and started pounding the pavement looking for a job, they could easily be arrested as an unemployed vagrant loitering on the streets.

Often, Black prisoners would be auctioned off to the highest white bidder to work off their sentence.

Black Codes

Starting in 1865, “Black Codes” were also enacted to further restrict the movements of the newly freed.

¹⁵ Larry H. Spruill, “Slave Patrols, ‘Packs of Negro Dogs’ and Policing Black Communities,” *Phylon* (1960-) 53, no. 1 (2016): 42–66, <http://www.jstor.org/stable/phylon1960.53.1.42>

Black Codes were legal iterations of the former slave codes. Mississippi and South Carolina were the first states to enact them, and other states quickly followed suit. Many state's Black Codes included additional taxes, rules about where Black people could live, what jobs they could legally hold, where they could be and when, and other arbitrary laws intended to make life generally difficult for them. Many of these racist laws remained intact in one form or another until the Civil Rights movement of the 1960s.

In 1865, Mississippi passed a law mandating the Black population show proof of employment each year. If they broke their employment contract, which many could not read to begin with, they would be subject to fines and arrest. That same year, South Carolina passed a law that required Black people to pay an additional tax of \$10-\$100 to actually hold any job that was not a servant or a farmer. In other words, they were taxed and tried for simply being Black.

Federal troops were stationed in the South to keep the peace during the turbulent Reconstruction period which followed the Civil War, but their efforts to stem discrimination and intimidation of newly freed Black people were futile. Or, perhaps, they really didn't try hard enough.

By 1866, the Ku Klux Klan had formed with one of the Confederacy's most famous generals at the helm: Nathan Bedford Forrest. The KKK picked up where the slave patrols left off. They used "extralegal violence" to restrict the movements of African Americans, prevented voting, and intimidated Black people from running for public office. Again, not much has changed in this regard, except, maybe, the sheets.

The vigilante terror of the KKK eventually gave way to white community-led violence towards Black people in the 1880s with the rise of public lynchings. Whole towns participated in the murders and torture of Black people, and even sold souvenirs like commemoration postcards and remnants of the victim's teeth. According to the NAACP (the National Association for the Advancement of Black People), between 1882 and 1968, there were 3,446 lynchings of Black victims. Where was law enforcement during these extrajudicial vigilante killings? More often than not, police offered no resistance or actively protected the perpetrators. In some cases, they themselves were perpetrators of the violence and killings.

State-sanctioned and vigilante violence against Black people continued for decades.

The turbulent 1960s saw the violent police suppression of civil rights protests. In response to growing public criticism over police brutality, most major police departments unionized in the 1970s, an ironic twist since police were used as a tool to suppress unionization in the 1880s, '90s, and early 1900s. Police unionization reinforced the “us vs. them” mentality, creating an even more insulated community for law enforcement. It made protecting and serving the communities they policed secondary to the job title of cop. And it provided a buffer for their brutality.

Public Enemy Number One

Before the ink on the Civil Rights Act of 1964 was dry, a new enemy emerged: drugs.

In a press conference in June of 1971, President Richard Nixon declared drugs “public enemy number one,” and in the 1980s, President Ronald Reagan declared a literal “War on Drugs,” which led to today’s full-scale militarization of police and the current prison industrial complex. Who did this mandate primarily affect? People of color and liberal activists.

Former Nixon aide John Ehrlichman said in a 2004 interview: “We knew we couldn’t make it illegal to be either against the war or Black, but by getting the public to associate hippies with marijuana and Blacks with heroin, and then criminalizing both heavily, we could disrupt both communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.” Of course they did.

President Bill Clinton then passed the Crime Bill in the 1990s that assigned mandatory minimums to drug offenses and enacted the 1033 Program or LESO (Law Enforcement Support Offices). This new program allowed the transfer of surplus military equipment to local police departments to fight crime.

Today, the United States has only 5-percent of the world's population but 25-percent of the world's prison population. We are living in an era of mass incarceration and militant policing. Not much has changed since the slave patrols of the 1700s.

It is now abundantly clear that all of this disproportionately affects communities of color. On average, Black people are incarcerated at a rate of 5 to 1 over whites, in some states that number doubles to 10 to 1.¹⁶ In 2020, 32-percent of the U.S. population was composed of African Americans and Latinx people, compared to those same groups making up 56-percent of the U.S. incarcerated population. It is illogically disproportionate, until you factor in racism in law enforcement as a key ingredient. Still, this doesn't even begin to factor in the devastating impact of actual infiltration of modern American law enforcement by card-carrying white supremacists. The FBI reported in 2006 that there were known white supremacists inside law enforcement agencies and further infiltration was an active threat.¹⁷ This is an important contemporary issue we'll cover more in-depth in episodes to come.

The purpose of our modern justice system doesn't seem to be to de-escalate violence, protect and serve, or rehabilitate; its purpose is to arrest as many "undesirable" people as possible using the most destructive weapons and dehumanizing means available, and send offenders (mostly Black and brown folks) away for as long as possible. Isn't that just modern slavery by another name?

It's not that good law enforcement officers don't exist; they absolutely do, but too often the good ones are run out of policing when they go against the system—either by the police departments, or they leave of their own volition because they get too fed up. In 2006, for example, Cariol Horne, a former Buffalo, New York police officer, intervened when a fellow white officer attempted to choke a Black suspect, but was later fired for doing so, mere months before she was eligible to receive her full pension.¹⁸ Only recently did the New York State Supreme Court rule that her pension be reinstated. In 2011, former Baltimore Police Detective Joseph Crystal reported the beating of a drug suspect by a fellow officer and his testimony helped secure

¹⁶ Ashley Nellis, "The Color of Justice: Racial and Ethnic Disparity in State Prisons," The Sentencing Project, June 16, 2016, <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/#:~:text=Looking%20at%20the%20average%20state>.

¹⁷ Kenya Downs, "FBI Warned of White Supremacists in Law Enforcement 10 Years Ago. Has Anything Changed?," PBS NewsHour, October 21, 2016, <https://www.pbs.org/newshour/nation/fbi-white-supremacists-in-law-enforcement>.

¹⁸ Jonah E. Bromwich, "Court Vindicates Black Officer Fired for Stopping Colleague's Chokehold," *The New York Times*, April 14, 2021, sec. New York, <https://www.nytimes.com/2021/04/13/nyregion/cariol-horne-police-chokehold.html>.

convictions against that officer and the sergeant who helped facilitate the beating. Harassment and abuse from his colleagues followed and led Crystal to resign from his job.¹⁹

There are many more instances of cops who are focused on honoring their oath and truly serving their community, such as Capitol Police Officer Eugene Goodman, who put his life on the line to steer violent crowds away from lawmakers during the January 6th attack on the Capitol. But, this mindset of inequity, dehumanization, and white supremacy is systemic and generational within law enforcement culture. It is the fundamental basis for why policing systems exist in America. Even officers who showed support for Black Lives Matter protests by taking a knee or sitting with the crowds of protesters in the Summer of 2020 later fired rubber bullets and tear gas at them.

No Justice! No Peace! No Racist Police!

Although some rare accountability was seen in the murder of George Floyd, we are still far from justice. In just the twenty-four hours after former police officer Derek Chauvin's guilty conviction for killing George Floyd in Minneapolis in 2020, six additional people were killed by police.²⁰ While Chauvin's conviction matters, we must remember that an officer being suspended, fired, prosecuted, or convicted is the rare exception, not the general rule. Video evidence, reliable witnesses, numerous previous complaints, and testimony from fellow officers and medical experts are only some of the things that had to perfectly line up for this conviction to occur. Video evidence is often the catalyst for any form of accountability (something that only recently became a factor). Without it, victims are rarely given any widespread attention, especially from the media.

Black Lives Matter activists around the country, along with advocacy organizations like the Leadership Conference for Civil and Human Rights, Campaign Zero, Dream Defenders, Black Youth Project 100, NAACP Legal Defense and Educational Fund, Advancement Project, Showing Up for Racial Justice, Race Forward, Color of Change, Equal Justice Initiative, Mothers Against Police Brutality, and numerous others are working to change the conversation around

¹⁹ Rich Schapiro, "'If You Snitch, Your Career Is Done': Former Baltimore Cop Says He Was Harassed, Labeled a 'Rat' after Attempt to Root out Police Brutality," [nydailynews.com](https://www.nydailynews.com/news/crime/ex-baltimore-labeled-rat-police-brutality-claim-article-1.2077632), January 15, 2015, <https://www.nydailynews.com/news/crime/ex-baltimore-labeled-rat-police-brutality-claim-article-1.2077632>.

²⁰ Sarah Al-Arshani, "Six People Were Killed by Police in the 24 Hours after Derek Chauvin Was Found Guilty of Murder," *Business Insider*, April 25, 2021, <https://www.businessinsider.com/6-people-killed-police-24-hours-after-derek-chauvin-verdict-2021-4>.

race and to stop violence and police brutality in marginalized communities. They have been instrumental in achieving some hard-fought victories, but much remains to be done, and they need our help.

Their names alone now symbolize the issue: George Floyd, Eric Garner, Michael Brown, Tamir Rice, Breonna Taylor, Sandra Bland, Botham Jean, Freddie Gray, Philando Castile, Laquan McDonald, Walter Scott, Adam Toledo, and so many more. Black and brown people dying at the hands of police. A common tragedy in America that now sparks protests, raises serious questions about how police *do* and *should* interact with Black and brown citizens.

So, where do we begin? Let me pose a series of “what ifs?”

What if police were required to live in the communities they policed? How might that change their approach?

What if we reallocated some resources and directed certain responsibilities away from police and invested in mental health service providers, social workers, religious leaders, educators, and victim advocates? What if we helped people meet their basic needs, so some wouldn't be driven to crime as an option? Instead of hiring more police officers, what if we invested in health care, drug treatment, housing, and educational and job opportunities in underserved communities?

What if we paid more attention to who we elected as sheriffs and prosecutors? These people set the tone for law enforcement within our communities.

What if we called on our representatives and elected leaders to end the drug war?

What if we ended pre-trial detention so that only those who are accused of serious crimes and pose a real threat to the community are incarcerated?

What if police misconduct settlements came from police officer salaries, department budgets, and their pension funds instead of city budgets?

What if there was accountability at the community level from civilian police review boards?

In late April 2021, the Department of Homeland Security announced an internal audit to weed out racially-motivated extremists in their ranks, citing them as the most pressing terrorism-related threat to our country today. All branches of the military had a similar “extremism stand down” in 2021. How about we do the same for our law enforcement agencies, nationwide? If their practices are indeed just, they should have nothing to hide.

What *if* we dismantled the old way, while also building a better, more equitable system of community policing with intention and input from *all* the people it should be protecting?

What if good cops just held bad cops accountable?

If we finally addressed our racist history and confronted our ever-present white supremacist systems and institutions, maybe we just might reduce crime, violence, and needless bloodshed for everyone.

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Source Notes

- <https://plsonline.eku.edu/sites/plsonline.eku.edu/files/the-history-of-policing-in-us.pdf> - *The History of Policing in the United States*, by historian Dr. Gary Potter.
 - Potter is quoted in the National Law Enforcement Museum's blog post on Slave Patrols.
 - The Watch System (Origins of policing in the North)- Established in Boston, NYC, and Philadelphia in the 17th century. Modeled after the British police system. Types of officers included Watchmen and Constables.
 - "Watchmen," were the actual boots on the ground patrolling the streets. This was not a coveted position. Most of the time, these men were drunk on duty. People were often assigned to this duty as punishment.
 - Official law enforcement officers charged with keeping law and order were known as constables; they had other duties like land surveying.
 - They were paid on a fee system based on the warrants they issued, i.e. they got paid when they cited an infraction.
 - Transition to Actual Law Enforcement Agencies
 - 1838- Boston establishes the first American police force. By the 1880s, all major US cities had a police force.
 - The main differences between this and the Watch System:
 - Funded by the city.
 - The officers were full-time employees.
 - Departments had "fixed rules and procedures."
 - Departments were accountable to city governments.
 - Genesis of Southern Policing: The Slave Patrol
 - "Slave patrols had three primary functions: (1) to chase down, apprehend, and return to their owners, runaway slaves; (2) to provide a form of organized terror to deter slave revolts; and (3) to maintain a form of discipline for slave-workers who were subject to summary justice, outside of the law, if they violated any plantation rules" (Potter, p.2)
 - Rise of Modern Policing
 - "More than Crime, modern police forces in the United States emerged as a response to "disorder."
 - Mercantile interests reigned supreme in 19th century America, so "these economic interests had a greater interest in social control than crime control."
 - Publicly funded police forces emerged because "These mercantile interests also wanted to divest themselves from the cost of protecting their own enterprises, transferring those costs from the private sector to the state," (Potter, p.3)
 - In other words, police forces were not formed for the greater good of the people, they were formed to protect the material interests of the wealthy classes...

- “The Isolation of the dangerous classes” as the embodiment of the crime problem creates a focus in crime control that persists to today, the idea that policing should be directed toward “bad” individuals rather than social and economic conditions that are criminogenic in their social outcomes,” (Potter, p.3)
- P4----
- As police forces developed, the definition of policing changed to preventative rather than reactionary.
- “Early American police departments shared two primary characteristics: they were notoriously corrupt and flagrantly brutal. This should come as no surprise in that police were under the control of local politicians.”
- They took bribes, stuffed ballot boxes, paid for internal promotions, and helped organize crime.
- “Post-Civil War era, municipal police departments increasingly turned their attention to strike-breaking.
 - “Tramp Acts”- used to arrest unemployed workers (p. 5)
- P. 6---
- “Because the police were primarily engaged in enforcing public order laws against gambling and drunkenness, surveilling immigrants and freed slaves, and harassing labor organizers, public opinion favored restrictions on the use of force. But the value of armed, paramilitary presence, authorized to use, indeed deadly force, served the interests of local economic elites who had wanted organized police departments in the first place.”
- Case study: The Pennsylvania State Police force modeled after the Phillipine Constabulary. This was an all-white police force charged with controlling strikes in the coal fields and policing immigrant communities.
- P. 7--
- Lenox Committee- formed in 1894 to investigate police corruption.
 - “The Lenox Committee also determined that promotion within the New York Police Department required a bribe of \$1,600 to be promoted to sergeant and up to \$15,000 to be promoted to Captain.”
 - Other corruption investigation committees: Curren Committee (1913), Seabury Committee (1932), Knapp Commission (1972), Mollen Commission (1993)
- P. 10---
- O.W. Wilson’s book *Police Administration* became the bible when it came to “professionalizing police.” This is the genesis for our modern police tactics and the militarization of police.
 - “Wilson argued for greater centralization of the police function, with an emphasis on military-style organization and discipline.”
 - This is where “stop and frisk” comes from.

- P.11---
 - In an ironic twist, police started Unionizing in the face of public criticism.
 - “Aided by court rulings more favorable to the organizing of public employees; fueled by resentment of the authoritarian organization of departments; and united in a common resistance to increasing charges of police brutality, corruption and other forms of misconduct, nearly every large-city police department had been unionized by the early 1970s.”
 - “The use of professional police forces to suppress the Civil Rights movement, often by brute force did irreparable damage to American policing” (Potter, p.12)
 - P.13- Discusses the tumultuous time of the 1960s and 70s.
- https://www.jstor.org/stable/4231289?read-now=1&seq=14#page_scan_tab_contents - Slave Patrol Ordinances of St. Tammany Parish, Louisiana, 1835-1838. Contains examples of rules and regulations of slave patrols.
 - Regulations for slave patrols.
- <https://time.com/4779112/police-history-origins/> - How the U.S. Got Its Police Force
 - JFK declared the week of May 15 as “National Police Week” and claimed police officers had been protecting citizens since America’s inception. Spoiler Alert: this is wrong. JFK was engaging in revisionist history.
 - Early police were volunteers and for-profit agencies. Early “night watch” organizations were instituted by Boston (1636), NYC (1658), and Philadelphia (1700).
 - The City of Boston created the first official publicly funded police force in 1838
 - In the south, the advent of policing started with Slave Patrols, bands of roving vigilantes tasked with hunting down fugitive slaves and quashing slave revolts,.
 - The first one appeared in 1704 in the Carolinas.
 - During Reconstruction, slave patrols rebranded themselves as police forces and enforced segregation and engaged in voter suppression.
 - By the late 1880’s, all major US cities had police forces.
 - The police were used by politicians and business owners to suppress unionization efforts in the late 19th and early 20th centuries.
 - 1929- Wickersham Commission- appointed by President Hoover to investigate the ineffectiveness of law enforcement. This marked the move towards professionalizing America’s police force.
 - Police precinct jurisdictions were changed to break alliances between party leaders and law enforcement.
 - “Without warrant or permission, slave patrols could enter the home of anyone-- black or white-- suspected of sheltering escaped slaves. (sounds like a major constitutional violation to me)
 - After the Civil War, slave patrols morphed into police forces and enforced Black Codes and Jim Crow laws.
 - 1964- Malcom X denounced NYC police “outright scare tactics.”

- “Stop and Frisk” procedures in NYC disproportionately affect black and hispanic people.
- <https://theconversation.com/the-racist-roots-of-american-policing-from-slave-patrols-to-traffic-stops-112816> - The Racist Roots of American Policing: From Slave Patrols to Traffic Stops (one of the articles I read said that over 250,000 people have read this article since its publication in mid-2020)
 - First slave patrols originated in South Carolina in the early 1700’s
 - Early police forces responded to disorder rather than crime.
 - Per Gary Potter (Eastern KY University criminologist) “officers were expected to control a dangerous underclass that included African Americans, immigrants and the poor.
 - No hiring/training standards in the early days.
 - 1868- the 14th Amendment outlawed Black Codes, but Jim Crow replaced them within 20 years.
 - Police were responsible for enforcing Jim Crow laws and segregation.
 - Police often didn’t intervene in public lynchings (see lynching of Eli Persons)
 - Racial profiling is still alive and well:
 - “When a Stanford University research team analyzed data collected between 2011 and 2017 from nearly 100 million traffic stops to look for evidence of systemic racial profiling, they found that black drivers were more likely to be pulled over and to have their cars searched than white drivers. They also found that the percentage of black drivers being stopped by police dropped after dark when a driver’s complexion is harder to see from outside the vehicle.”
- Spruill, L. (2016). Slave Patrols, “Packs of Negro Dogs” and Policing Black Communities. *Phylon (1960-)*, 53(1), 42-66. Retrieved April 18, 2021, from <http://www.jstor.org/stable/phyton1960.53.1.42>
 - Per Department of Justice Report on the Ferguson, Missouri Police Department- “embedded in the DOJR was evidence of exclusive predatory use of dogs against African Americans as a regular police strategy.” (p.42)
 - Police used K-9 units, or “packs of negro dogs” against protestors in Ferguson, MO during the Michael Brown protests.
 - “Predatory policing exposed in Ferguson, MO provided millennial evidence of 18th and 19th century slave patrolling as the South’s standard law enforcement model.” (p.42)
 - “It appears that law enforcement reformers have little interest or at a minimum, limited understanding of how slave patrolling influences present-day police operations in black neighborhoods and how this knowledge may play a constructive role in conversations about resolving conflict between police officers and black citizens.” (p.43)
 - Trinity of southern law enforcers: slave patrols, slave hunters, and their non-human partners, “packs of negro dogs.”

- In response to the officer who killed Michael Brown not receiving any legal consequences in 2015: “This pattern of judicial ambiguity is part of a complicit process of tacit support for extra-legal racial practices by southern law enforcement.” (p. 44)
- March 4, 2015- DOJ “concluded that police routinely violated the constitutional rights of residents by discriminating against blacks and applying racial stereotypes in a ‘pattern or practice of unlawful conduct.’” (p.44)
- “The DOJ Report highlighted Ferguson police practices that were classic slave patrolling and hunting behaviors.” (p.47)
 - This article provides several examples of officers deploying K-9 units on unarmed teenagers and adults.
 - In one example, a K-9 officer stopped a man walking down the street and frisked him because the man apparently tried to turn the other way when he saw the officer-- this looked suspicious to the officer. After the frisk, the officer ran the man’s record and the dispatcher called out over the radio that he had an outstanding warrant. The man ran, and the officer deployed his dog which bit the man on both of his arms. The officer said he deployed the dog because he thought the suspect might be armed-- but he had literally just frisked him and determined he was unarmed.
- The DOJ determined the Ferguson police used tactics they knew would cause injury and harm, disregarding measures that would peacefully resolve a situation. They specifically state there is “evidence of discriminatory policing in violation of the Fourteenth Amendment and other federal laws” (p.48).
 - It should be noted that no charges were filed after these findings and the officers involved in these examples remain anonymous.
- Slave patrols: idea imported from Barbados to South Carolina and then to the rest of the slaveholding south.
 - authorized by county courts
 - “Scrutinized every aspect of black lives with the power to spontaneously mete out corporal punishment” (p. 49).
 - They reinforced the idea that whites were dominant and blacks were inferior.
 - “Large slave populations at the bottom of the caste system were the primary rationale for designating blacks as inherently dangerous and criminal. (p.50)
 - “Southern whites developed a collective conscience and political consensus to tightly control blacks within their midst” (p.50).
 - Slave patrols were made up of white men of all classes, because the dominant view was that all whites were vulnerable to black violence and slave rebellions.

- “Hunting blacks was never a prosecutable crime. It remains an inhumane police tactic and should be resolutely condemned as criminal conduct” (p.54-55).
 - “During the War, white Union soldiers were introduced to slave hounds as formidable Rebel combatants” (p. 55)
 - Confederate commanders used dogs to attack newly mustered black troops fighting for the Union Army.
 - ***need to find *Trial of Henry Wirz*
 - Henry Wirz used “hell hounds” to hunt down white POWs in Andersonville prison. He was tried, convicted, and executed for it. The judge declared it a great crime against humanity. This underscores how people weren't called to act and be outraged until it happened to white men, implying that the public attitude was whites were more human than blacks.”The implications were that whites were innately human and blacks were not” (p.58)
 - When the war ended, Black Codes were enacted to restrict the movements of black people.
 - “The editor of the *Lynchburg Virginian* stated that, ‘stringent police regulations may be necessary to keep [freedmen] from overburdening the towns and depleting the agricultural regions of labor. THE civil authorities also should be fully empowered to protect the community from this new imposition. The magistrates and municipal officers everywhere should be permitted to hold a rod in terror over these wandering, idle creatures. Nothing short of the most efficient police system will prevent strolling, vagrancy, theft, and utter destruction of our industrial system” (p. 59).
 - 1866- Birth of the Ku Klux Klan, who picked up the torch and legacy of the slave patrollers.
 - “Although slavery had died, Southerners’ demand for white domination and black subordination survived.
 - “No sustainable reformation movement can be forwarded until those enduring legacies have been directly confronted and multi racially addressed” (p. 62).
- Singh, N. (2014). The Whiteness of Police. *American Quarterly*, 66(4), 1091-1099. Retrieved April 18, 2021, from <http://www.jstor.org/stable/43823187>
- This essay echoes the preceding one in that policing by design protects white interest and has its roots in slave patrols.
 - The author provides quotes from Thomas Jefferson and Benjamin Franklin that show they believed African Americans to be thieves and prone to violence towards whites. I think the author is trying to drive home the point that the prejudices of these men, as framers of our constitution and founders of the country, would be baked into the moral framework of the country consciously or unconsciously.

- The author ends with a brief discussion of “stop and frisk” which she argues disproportionately affects black and brown people, thus perpetuating the association of criminality with darker skin tones.
 - This article is verbose and difficult to read.
- Nicholson, B. (1994). Legal Borrowing and the Origins of Slave Law in the British Colonies. *The American Journal of Legal History*, 38(1), 38-54. doi:10.2307/845322
 - Fantastic article about the legal origins of Colonial Slave Laws within British law.
- Grabiner, G. (2016). Who Polices the Police? *Social Justice*, 43(2 (144)), 58-79. Retrieved April 18, 2021, from <http://www.jstor.org/stable/26380303>
 - This article provides numerous statistics showing black and brown people are disproportionately affected by police violence.
 - It provides a 16-step argument for how to improve policing within the United states: eliminate “stop and frisk,” decriminalize marijuana arrests, demilitarize the police, bolster community policing, mandate residency requirements (i.e. police officers should live in the areas they police), police education and retraining (de-escalation, racism, sexism), psychological testing for police, increased minority and female police hiring, revise police promotion criteria, restructure the role of police unions, independent prosecutors who aren’t working with the same officers case after case, civilian complaint review board, bar police from testifying at grand jury hearings, create databases on excessive force events, resisting arrest charges, and police stops, enact a National police job performance database, cop watching and body cameras
- <https://www.presidency.ucsb.edu/documents/proclamation-3537-peace-officers-memorial-day-and-police-week> -JFK’s proclamation of Police Week (I wonder if there is footage of JFK reading this)
 - May 4, 1963- “Whereas, from the beginning of this Nation, law enforcement officers have played an important role in safeguarding the rights and freedoms which are guaranteed by the Constitution and in protecting the lives and property of our citizens;”
- *Our Enemies in Blue: Police and Power in America* by Kristian Williams
 - https://www.google.com/books/edition/Our_Enemies_in_Blue/PUZgCgAAQBAJ?hl=en&gbpv=1&dq=slave+catchers+to+police&pg=PT2&printsec=frontcover
 - <https://usa.anarchistlibraries.net/library/kristian-williams-our-enemies-in-blue.a4.pdf>
 - <https://theanarchistlibrary.org/library/kristian-williams-our-enemies-in-blue#toc21>
 - “The ends an institution pursues are not always the same as those it claims to pursue.” pg. 9
 - Who benefits from the institution’s actions?
 - describes their actions largely in terms of intolerance, corruption, political repression, and violence
- Notes from Chapter 2- Origins of American Policing

- Origins of American policing go back to the Colonial period in the form of watchmen. Their primary role was to call others to deal with the various issues they observed, such as crimes, attacks, and fires.
- Most major American cities got police forces in some official capacity by the mid 1800s. They would have had some of the same duties of our modern police.
- Richard Lundman gives four criteria: full-time service, continuity in office, continuity in procedure, and control by a central government authority.
- Selden Bacon defines this with six criteria: citywide jurisdiction, 24 hour responsibility, a single organization responsible for the greater part of formal enforcement, paid personnel on a salary basis, a personnel occupied solely with police duties, general rather than specific functions.
- Other suggestions of criteria are: specialized function, professionalism, authority to use force, organization under a single commander, and presence of uniforms.
- A suggested criteria that is problematic is defining the police as military or civilian. While it leans itself towards the civilian side of the scale it is able to avoid some of the responsibility that the military is held to.
- Williams suggests that modern policing stands out from earlier iterations because the investment of responsibility for law enforcement is in a single organization, centralization, intended continuity in procedure, specialized policing function, 24 hour service, and personnel paid by salary not fee. Williams also suggests that any criteria be used to judge an organization's modernity.
- Policing in England
 - Frankpledge system- responsibility for enforcing the law fell on the entire community. However, it was enforced by the male heads of household (i.e. white men). This is a decentralized version of policing that allows for a wide variety of style and approach.
 - It was used as a way to enforce colonial rule. If the 'tythings' (a group of families set to police each other) did not police each other they were all considered in violation of the law.
 - Later, it became necessary to employ a sheriff-like figure to enforce the Monarch/rulers decisions by way of direct supervision.
 - duties of a sheriff also included collection of taxes, inspection of highways, and serving as the local magistrate.
 - Royal edict by the 13th century also directed towns of a large enough size to implement a nightwatch, who were not officially armed, went largely under-supervised and were often drunk.
 - By 1829, Parliament accepted Robert Peel's (Home Secretary) plan that created the Metropolitan Police Department.
 - modern policing in America is said to be set after this model

- Sheriffs in colonial America were appointed by governors and given the responsibility of apprehending suspects, guarding prisoners, executing civil processes, overseeing elections, collecting taxes, and performing fiscal functions. By the later 17th and 18th centuries this would be an elected position, as it is today.
 - Modern policing in America is an adaptation of the night watch- following the British example.
 - Cities in the Deep South organized paramilitary police forces as early as the 1780s to control the enslaved population. These forces were armed, uniformed, and salaried, with a reserve force if necessary. Their primary function was to ensure enslaved people followed social guidelines and did not escape.
 - Northern cities with smaller enslaved populations would also develop similar organisations but until the mid 1800s.
 - white people were terrified of revolt, especially in areas that were predominantly populated by Black people (free and enslaved). Therefore, a further obsession with controlling Black people spurred on the development of policing that targeted non-white individuals.
- Police Violence, Constitutional Complicity, and Another Vantage by Allegra M. McLeod <https://www.journals.uchicago.edu/doi/pdf/10.1086/691204>
- The Supreme Court is complicit in police abuse which is made clear by dissenting opinions from Justice Sonia Sotomayor.
 - *Mullenix v Luna*, Justice Sotomayor, said that the court had sanctioned “shoot first, think later” in policing.
 - *Heien v North Carolina* asked several questions regarding the direction that policing and society were heading and if that was desirable. In this case, should citizens who are trying to obey the law be concerned about having to go through a search at a traffic stop?
 - *Utah v Strieff* also addressed the problems with a search following a typical traffic stop. Justice Sotomayor said, “The Court has given officers an array of instruments to probe and examine” without adequate cause, to target “pedestrians in an arbitrary manner,” and to treat “members of our communities as second class citizens.” pg. 158
 - “In so doing, she offers both a vision of what ails constitutional criminal procedure—its permission to police to engage in needless violence, its empty formalism, its ahistorical originalism—and an account of how constitutional discourse might one day be transformed to more fully recognize the voices of those too seldom heard.” pg. 159
 - The Supreme Court has enabled “Police Super Powers” that allow abuse.
 - Part I. “No One Can Breathe in This Atmosphere”
 - Philando Castile, Sandra Bland, and Eric Garner are given as examples of victims of harassment, profiling, and excessive force that led to death by police over minor infractions and pretextual stops.

- Also gave an example of a woman in Baltimore that was stopped for a traffic infraction, strip-searched, and sexually assaulted in the form of a cavity search. Nothing was found.
- Another case in Baltimore- they were transporting an unarmed woman going through a mental health crisis and repeatedly tasered her on the way to a mental facility despite not posing any threat and not being under arrest.
- There is an indisputable, nationwide pattern of police engaging in what should be routine, non-intrusive, non-violent activities that result in overwhelming brutality and death.
- Justice Sotomayor in *Strieff* urges the importance not to see these events as isolated or one-off but rather that “[t]hey are the canaries in the coal mine, whose deaths, civil and literal, warn us that no one can breathe in this atmosphere.” pg. 161 Here she was referencing Black Lives Matter and the protest cry of “I can’t breathe.” This article references Eric Garner, but as we know, this also applies to George Floyd and the June 2020 and beyond protests.
- Doctrinal Complicity- how the Supreme Court supports this kind of policing
 - 1. Profiling and the routine use of pretextual stops.
 - “The Supreme Court in *Whren v United States* unanimously authorized police to engage in pretextual policing consistent with the Fourth Amendment, targeting people on racial grounds so long as there is a traffic violation or other minor criminal offense to support the stop.” pg. 161
 - *Utah v Strieff* encourages police to make traffic stops hoping that they get lucky and find someone with a minor outstanding warrant and in a search find something to add more charges on, such as drugs in the car. With the understanding that a person inconvenienced by this and not found to have a warrant is unlikely to do anything about it.
 - 2. The degrading ordeal of searches and arrests.
 - “In *Atwater v City of Lago Vista*, a mother driving with her two young children was subject to a full custodial arrest for failure to fasten her seatbelt. In 2001, the Court held this to be a constitutionally reasonable seizure, permitting a full custodial arrest when the violation in question is as minor as a simple traffic infraction.” pg. 164
 - This ruling led directly to the reasoning behind stopping Sandra Bland, Eric Garner, and countless others and their subsequent murders.
 - The Supreme Court, through decisions like *Strieff*, have allowed for searches for minor infractions.

- *Florence v Board of Chosen Freeholders of the County of Burlington* allows police visual inspection of any person's naked body who is subject to arrest. It also allows them to use any force they deem necessary in such an arrest. This now bridges the offenses and brutality of the police into the realm of sexual assault. All of which is sanctioned by the highest court in the country.
- 3. "Shoot first, think later" policing.
 - *Scott v Harris* reinforces the police in their use of deadly force in situations that do not warrant them. "The Court thus made clear from that point forward that the police may use deadly force consistent with the Fourth Amendment, even when death or severe injury could be readily avoided." pg. 167
 - Qualified immunity doctrine.
 - *Mullenix v Luna* failed to uphold the Fourth Amendment and ensured police officers continued qualified immunity.
 - In this case, an officer shot at the person they were pursuing before they had reached the spike cut off against orders from higher up and then made derogatory comments to the superior officer that had told him not to.
- *City and County of San Francisco v Sheehan* demonstrated qualified immunity for officers that murder people in mental health crises. They upheld that the police are not responsible for adjusting their conduct to anyone's disability or state of mind.
- The formality of the court often leaves out and alienates the people who are on the other end of these interactions. It is difficult for the individual (even when there are many) to make their way through the court in the same way an institution can.
- It regularly fails to acknowledge individual circumstances and relies on prior rulings that support the same problems.
- The court has developed a three-part determination of evidence admission following an illegal stop or search, referred to as the "poisonous tree doctrine" It gives three main exceptions
 - "These three exceptions include the "independent source doctrine," which asks whether the police had independent lawful access to the evidence in question through a separate source; the "inevitable discovery doctrine," which asks whether an already commenced investigation would invariably have identified the evidence in question; and the "attenuation doctrine," which is the primary focus of the analysis in *Strieff*. The attenuation doctrine assesses the "causal link between the government's unlawful acts and the discovery of evidence." pg. 170-171

- <https://www.thenation.com/article/archive/the-history-of-lynching-and-the-present-of-policing/> - Article by professor Khalil Gibran Muhammad on the history of lynching
- <https://www.whitehousehistory.org/slave-patrols-in-the-presidents-neighborhood> - Super interesting article about slave patrols and policing in antebellum Washington D.C. Contains the quote from Thomas Smallwood used in the text.
- <https://www.boston.gov/departments/police/brief-history-boston-police> - Article about the history of Boston Police and the Boston Watch. Sub headline “The History of American Law Enforcement Begins in Boston.”
- https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/how-you-start-is-how-you-finish/ - How You Start is How You Finish? The Slave Patrol and Jim Crow Origins of Policing
 - Two origin stories of America’s police forces:
 - Slave Patrols
 - Second Amendment militias
 - Slave codes originated in Virginia and Maryland, and they found their origin in slave codes from Barbados.
- <https://lawenforcementmuseum.org/2019/07/10/slave-patrols-an-early-form-of-american-policing/> - National Law Enforcement Museum blog post on Slave Patrols.
 - “I [patroller’s name], do swear, that I will as searcher for guns, swords, and other weapons among the slaves in my district, faithfully, and as privately as I can, discharge the trust reposed in me as the law directs, to the best of my power. So help me, God.’ -Slave Patroller’s Oath, North Carolina, 1828.”
 - “Slave patrols were no less violent (as opposed to privately hired Slave Catchers) in their control of African Americans; they beat and terrorized as well. Their distinction was that they were legally compelled to do so by local authorities. In this sense, it was considered a civic duty—one that in some areas could result in a fine if avoided.”
 - How were these patrollers selected? It varied from colony to colony and state to state. In almost all cases though, the patrols were made up of white men with a variety of backgrounds, some landowning whites and some poor whites. Land owning whites called to “duty” usually had the option to pay a substitute to take their place, a practice that would continue even into the American Civil War.
 - “After the Civil War, Southern police departments often carried over aspects of the patrols. These included systematic surveillance, the enforcement of curfews, and even notions of who could become a police officer. Though a small number of African Americans joined the police force in the South during Reconstruction, they met active resistance.”
- <https://www.adl.org/Backgrounders/OathKeepers> - Anti-Defamation League article about the Oathkeepers
- <https://www.youtube.com/watch?v=wPu6-1yy8-o> -NPR Throughline video about the history of policing. This video was made in direct response to the murder of George Floyd.

- <https://www.npr.org/2018/11/06/664695634/the-fugitive-slave-act-and-the-struggle-for-america-s-soul>
- https://www.statutesandstories.com/blog_html/a-collection-of-the-laws-of-virginia-1823-henings-statutes-at-large/ -The Henings Statutes
- <https://www.history.com/topics/reconstruction/ku-klux-klan> - General history of the KKK
- https://history.house.gov/Historical-Highlights/1851-1900/hh_1871_04_20_KKK_Act/ - The KKK Act of 1871
- Andrew Delbanco interview with NPR about the Fugitive Slave Act