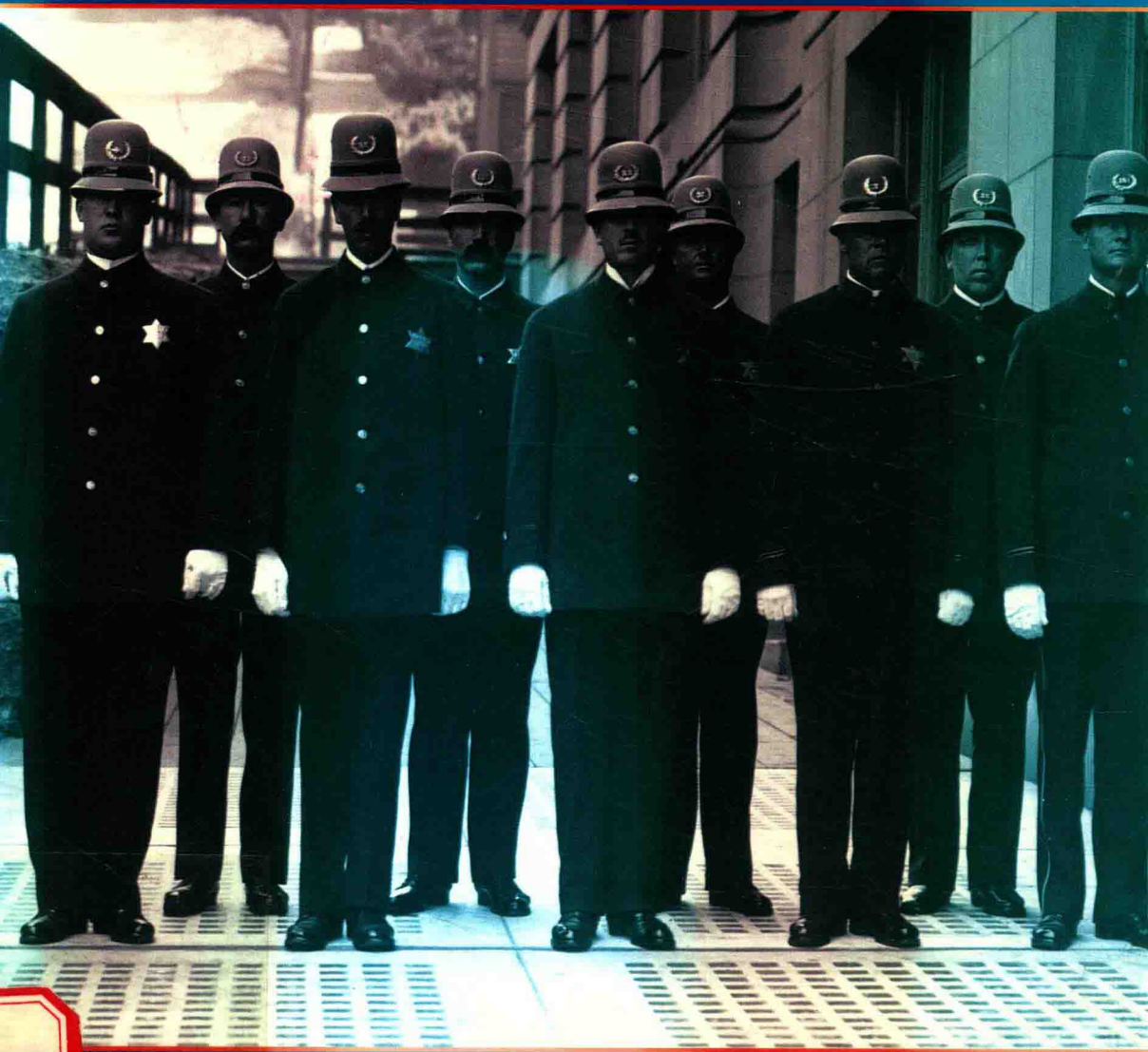
TO PROTECT AND TO SERVE

A HISTORY OF POLICE IN AMERICA



BERT C. WADMAN • WILLIAM THOMAS ALLISON

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A History of Police in America

Robert C. Wadman

William Thomas Allison

Upper Saddle River, New Jersey 07458

Library of Congress Cataloging-in-Publication Data
Wadman, Robert C.
To protect and serve : a history of police in America / Robert C. Wadman, William Thomas Allison.
p. cm.
Includes bibliographical references and index.
ISBN 0-13-112064-6
1. Police—United States—History. 2. Law enforcement—United States—History. I. Allison, William Thomas. II. Title.
HV8138.A583 2004
363.2'0973—dc21

2003013366

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Page Composition: The GTS Companies/York, PA Campus
Design Director: Cheryl Asherman
Design Coordinator: Miguel Ortiz
Cover Image: ©PEMCO-Webster & Stevens Collection; Museum of History and Industry, Seattle/Corbis
Cover Printer: Phoenix Color
Printer/Binder: R. R. Donnelley & Sons, Harrisonburg

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10 9 8 7 6 5 4 3 2 1
ISBN 0-13-112064-6

For Bev & Jen

ACKNOWLEDGMENTS

We conceived the idea of a history of police to fill what we saw as a glaring void in introductory criminal justice courses. It was not until well into the research for the book that we began to see that a history of police in America would not only serve the needs of criminal justice. Perhaps it would more so address a failing that only a small handful of historians had attempted to address in history. This book is a work of history, social history to be specific, and points to the need to expand scholarly research into the area of police history. What we hope to present in the following pages is a cohesive, comprehensive look at the history of American policing, designed to provide undergraduates in criminal justice and history a solid examination of the history and important issues that make this such an intriguing American story.

We are indebted to many. Shaun Paddock successfully sold our idea to Prentice Hall, which brought us into the able arms of Kim Davies, Frank Mortimer, Korrine Dorsey, and Marjorie Ballentine. Their guidance, advice, and enthusiasm for the project made our relationship with Prentice Hall a wonderful experience. Colleagues in the Department of History and Department of Criminal Justice at Weber State University have been wonderfully supportive and helpful, especially Professors L. Kay Gillespie, Michelle Heward, Paul Johnson, Susan J. Matt, Scott Senjo, and Gene A. Sessions.

We would have been nowhere without the efficient diligence of Deborah Stevenson and the Interlibrary Loan Office at the Stewart Library on the Weber State campus and that of Edith Williams and her interlibrary loan staff at the Air University Library at Maxwell Air Force Base. What they found, and how quickly they found it, amazes us still. A special thank you goes to Eileen Kennedy Morales and Anne Guernsey of the Museum of the City of New York and the staff at the photo-duplication service of the Library of Congress for their wonderful assistance. Of course, there are many that we are thankful to for letting us wittingly or unwittingly pick their brains in informal conversations about the project. We would also like to thank the many police officers and departments around the United States that responded to our requests for information amidst so many other pressing matters that they contend with on a daily basis, especially Philadelphia Police Officer

Phil Bowdren, Dallas Police Sergeant Andrew H. Davis, Phoenix Police Commander Lyle H. Rodabough, Sergeant Michael J. Holland of the Berkeley Police Department, and the staff of the Montana Law Enforcement Museum. On the scholarly end, we thank blind reviewers for their frank and constructive critique, all of which made this a better book. Finally, where would we be without the love and support of our understanding and patient partners in life, Jennifer Allison and Beverly Wadman?

In the end, this book reflects our views and interpretations, and any faults or errors found within are our responsibility, good or bad. It was, at times, a trying process, but we are happy to report that our friendship has survived.

ROBERT C. WADMAN
WILLIAM THOMAS ALLISON
Ogden, Utah
January 27, 2003

INTRODUCTION

From the creation of night watches in colonial settlements and the development of early police departments in New York, Boston, and Philadelphia to the near mythical exploits of sheriffs and marshals in the frontier West and the advent of crime-fighting technologies in the twentieth century, the very concept of policing in America has an interesting and storied past that begs examination. The history of police in America often mirrors the social and political development of the United States and has much to say about race, power, and authority in a democratic nation of people who value civil liberties and look upon centralized authority with some misgivings. Policing in America is unique and fascinating and provides an excellent lens through which we can both examine American history and help students of law enforcement better understand the heritage they will inherit and the role they will play in American society.

The history of police in America touches so many areas of criminal justice and historical study, including social, cultural, political, legal, and policy history, as well as urban studies, criminology, and institutional studies. The primary objectives of this book are to share this history and place the development of police in the broader historical context of American history, so that students, scholars, citizens, and the law enforcement community can better appreciate this rich heritage.

The history of law enforcement is often misconstrued in American myth and culture. It is certainly picturesque but equally disheartening that popular culture has made such infamous outlaws and criminals as the Younger Gang, Al Capone, and Baby Face Nelson well known. Contemporary criminals like Gary Gilmore, Ted Bundy, and Timothy McVeigh have also achieved notoriety. Even the Mafia and the Medellin Cartel are legendary. Unfortunately, police, detectives, and other law enforcement officials who pursued and apprehended these felons remain little known. Popular fiction has tended to romanticize the erstwhile detective and beat patrolman, whereas Hollywood and television have drastically influenced the way police are seen in American society through shows such as *Cops, Law and Order,* and *NYPD Blue*. The terrorist attacks of September 11, 2001, of course, have had an amazing impact on police and fire departments and on the way the American public views them.

Police have always been and always will be real people (*Robocop* notwithstanding) in an organizational structure who undertake an arduous but necessary job. Take, for example, the work of an alert Oklahoma highway patrolman who, armed with limited information, pulled over a beat-up 1977 Grand Marquis for not having a proper license plate. Patrolman Charlie Hanger quickly noted the person driving the car fit the description of a man connected with the bombing of the Murrah Federal Building in Oklahoma City, Timothy McVeigh, and made the historic arrest that led to McVeigh's conviction and execution. Consider as well that although many recognize Theodore Roosevelt as the boisterous charger up San Juan Hill and bullish president of the United States, few recall that as police commissioner of New York he led a major progressive reform of the very corrupt New York City Police Department. This text will recognize not just those law enforcement officers who fought crime but also those officers and citizens who contributed to the evolution of policing in America.

There is a curious thinness to the limited history of police in America. Little attention has been given to explaining the practical and theoretical development of policing from a national, even regional, viewpoint. There are, however, some outstanding scholarly works. The most comprehensive works are David R. Johnson's *American Law Enforcement: A History* (1981), which briefly covers local, state, and federal law enforcement; and Bryan Vila and Cynthia Morris's *The Role of Police in American Society: A Documentary History* (1999), which is a fine look at the development of local, state, and federal law enforcement agencies through primary documents. The best works on the development of police theory and reform are Samuel Walker's *A Critical History of Police Reform: The Emergence of Professionalization* (1977) and Robert M. Fogelson's *Big-City Police* (1977). Both offer insightful discussions of reform movements and police response to changing urban conditions in a historical context.[1]

Regional and local studies are also thinly represented. There are a few solid histories of law enforcement in the American West, notably Frank R. Prassell's *The Western Peace Officer: A Legacy of Law and Order in the American West* (1972), Roger McGrath's *Gunfighters, Highwaymen, and Vigilantes: Violence on the Frontier* (1984), and Larry D. Ball's *Desert Lawmen: The High Sheriffs of New Mexico and Arizona, 1846–1912* (1992). Police development in the antebellum South has finally received thorough attention from Sally E. Hadden's *Slave Patrols: Law and Violence in Virginia and the Carolinas* (2001), which examines the formation and function of slave patrols as police forces in the southern United States.[2]

Local studies have been a great help in understanding not only police history but also urban and social history. Major cities have been the subject of many of these works, including Roger Lane's *Policing the City: Boston, 1822–1885* (1967), Douglas Greenberg's *Crime and Law Enforcement in the Colony of New York, 1691–1776* (1974), and James F. Richardson's *The New York Police: Colonial Times to 1901* (1970), as well as Joseph Laythe's "'Trouble on the Outside, Trouble on the Inside': Growing Pains, Social Change, and Small Town Policing: The Eugene Police Department, 1862–1932" (*Police Quarterly*, 2002).[3] State police histories are few and far between, but Robert A. Harris's *Keeping the Peace: Police Reform in Montana, 1889–1918* (1994) and Charles M. Robinson's *The Men Who Wear the Star: The Story of the Texas Rangers* (2000) are representative of these useful studies.[4]

There are some classics in criminal justice that have deeply contributed to police history. Many of these come from police reformers themselves, including Raymond Fosdick's *American Police Systems* (1920), which details the reforms of the

Progressive Era; August Vollmer's *Police and Modern Society* (1936), which examines the history of police and promotes police professionalism; Bruce Smith's *Police Systems of the United States*, in which he applied his vast experience in public administration to examining police departments; O. W. Wilson's influential work, *Police Administration* (1950); and James Q. Wilson's *Varieties of Police Behavior*, the first substantive community study of police effectiveness (1968).[5] These are but a few of the many important works produced by professionals in the field of policing that utilize history to illustrate issues and suggest changes in police policy.

Textbooks from the criminal justice field surprisingly overlook the history of police in America. At most, these texts dedicate only a few pages or a brief chapter to discuss in the most general terms the development of organized police. This restricted history, forced into a few introductory pages, scarcely provides a foundation to identify problems in American policing.

For students of criminal justice and history, then, no up-to-date, thorough survey of police history is available. This book endeavors to fill this gap by bringing together the growing scholarship on police history with classic criminal justice works to create a chronological survey of American police history. Through this survey, the book hopes to provide wider coverage of organizational development, police theory, and regional evolution of policing in America.

The central themes of the book revolve around four interconnected ideas. First, policing in America has been for the most part reactive and influenced by several factors. Frequently, it has been reaction crisis that has forced change on American police departments. Although many criminal justice texts mention only Sir Robert Peel's Metropolitan Police Act (1829) as the principal foundation of the development of police in the United States, it is more complex and comes from a wider range of influences than just those of Peel.[6]

Second, reform has been a hallmark of American police history. Professionalization, urbanization, industrialization, and a whole myriad of trends and factors have spurred police reform, particularly since the mid-nineteenth century. The result of these reforms has been to build a professional police concept that values shared ideas and information, training and education, and a strict code of ethics. Of course, reform and practice were often two different things.

Third, theories of policing that have often grown from intellectual and ideological trends (such as the Calvinist protestant work ethic, republicanism, social Darwinism, and Max Weber's rational bureaucracy) have profoundly influenced the development and study of police. Theories and practices developed by such police innovators as Sir Robert Peel, George W. Hale, August Vollmer, O. W. Wilson, among others, have greatly influenced the art of policing. From the "watchman" style of policing in the mid to late 1800s to the "service" or "community policing" styles found in contemporary America, police organizations have attempted to maintain the status quo in a constantly changing society through theoretical innovations.

Fourth, readers familiar with the work of Thomas Kuhn will notice throughout the book that the development of American police is filled with paradigm shifts. Kuhn's work in explaining the nature of scientific revolutions applies equally to the nature of organizational evolution. The paradigm, or model, of an organization and how it behaves becomes ingrained and unquestioned until crisis does just that—question the paradigm.[7] The history of police in America is one of paradigm shifts and resistance to new ideas before accepting them in the face of crisis. The best known shifts are what James Q. Wilson identified as styles of policing: watchman,

service, and community. But there are other, smaller shifts that deserve examination, such as the change in public perception of police as feeble-minded bullies to professional public servants, the impact of technology on patrolling, and the advent of community policing. George L. Kelling's "broken windows" model and Herman Goldstein's ideas on corruption and police in a free society come to mind. The idea of a paradigm shift is an important concept to understand. It points to the pendulum of police reform, swinging from the often corrupt but known neighborhood beat cop of the late nineteenth century to the nameless, bureaucratized patrolman of the twentieth century; and to the late-twentieth-century swing back toward the center, attempting a balance between the two extremes in the face of social unrest and tension.[8]

Throughout this book, it is important to recognize that the words "law enforcement" and "sustaining tradition" are synonymous. From the rules that control a tribe of aborigines to the laws of contemporary legislatures, in an attempt to live in an organized social environment, humans have developed guidelines by which they live. In striving for order, whether based on religious belief or on the support of a political, economic, and/or racial majority, society's traditions are sustained by a commitment to a given set of rules. Whether outlined in Exodus 20:15 ("Thou shalt not steal") or in a state penal code, the taking of a neighbor's personal property, for example, has long been viewed as inappropriate behavior and worthy of effort designed to prevent it from recurring. As a society's traditions develop, so too does the need to ensure a commitment to those emerging traditions. Rules, cultural norms, and laws become mechanisms within a society to sustain tradition. The American police system, in essence, is an organizational mechanism for sustaining traditions. The curse of a tribal witch doctor and the sentence of a district court judge have the same purpose—to sustain tradition.

Effective law enforcement is the art of sustaining tradition. As change in society emerges, whether it is by legitimate (e.g., legislative process) or by questionable means (e.g., civil unrest), the police organization is in the forefront of the process, attempting to maintain peace and order in a constantly changing society. The paradox of this historical effort is evaluating change in the very organization whose responsibility it is to sustain the current traditions of society.[9]

To say that the American police organization has been reactive to criminal behavior is simplistic. To understand the police, one must explore the development of the American police effort, both from a historical context and through an evaluation of the environment in which American police have evolved. This book is organized as a chronological survey to illustrate and examine these themes.

Chapter 1 begins the survey with an examination of early police practices in early America, looking at English traditions, pragmatic responses to frontier conditions, and ideological resistance to centralized police authority, as the English colonies transformed from isolated settlements to an independent nation based on republican ideals. Chapter 2 examines the advent of organized police departments in pre-Civil War America, focusing on Boston, New York, and Philadelphia as leaders in early organizational development. As watch systems proved inadequate to deal with expansive growth and subsequent public order issues, cities attempted to reorganize law enforcement for better and more efficient service and protection.

Chapter 3 looks at regional police development in the South during the nineteenth century. The environment in the Southern United States before and during the Civil War was uniquely different from that of other regions of the country.

The enforcement of slave codes, and evolution of slave patrols into police forces, and the impact of the Civil War and Reconstruction gave Southern police departments a different organizational evolution. Chapter 4 takes the story to the American West, where Spanish and English police traditions collided with frontier conditions to evolve into organized local law enforcement. Vigilantism, private security agencies, federal marshals, and little-known Native American police forces contribute to this exciting period in American history as the frontier West transformed into urban settlements. The tradition of home rule and decentralization played strong roles in the frontier West.

Chapter 5 discusses the impact of urbanization and industrialization on police and then examines the Progressive Era response to police problems, particularly the advent of professionalization through the birth of national police organizations, police training and education, and civil service oversight of police. By 1900, police departments across the nation had either organized or were in the process of organizing in a similar manner, showing a consensus on policing. By the 1920s, however, police departments had again reached a point of crisis and a need for additional reform.

Chapter 6 takes on the pre-World War II reform movement and how police departments reacted to change in crime, namely, organized crime and other acts associated with Prohibition and the Great Depression. World War II and the postwar years also forced police to adapt to change in American society, particularly as materialism and civil unrest spread selectively across the country.

Chapter 7 discusses the influence of technology since the Industrial Age, including the impact of the signal box, the automobile, fingerprinting, and other innovations in policing. Like most bureaucratic organizations, police departments resisted change, especially technological change, but gradually came to accept technology as a way to make police more effective. Chapter 8 looks at the careers of several policing leaders who strongly influenced the development of police in the twentieth century. Both before and after the historic work of England's Sir Robert Peel, Americans committed to professional policing were hard at work. Little has been written about these leaders of American police development. This chapter explores their respective contributions to modern policing.

Chapter 9 covers police history since World War II. Modern policing and the advent of community policing theory, organization management, and how police have responded to new threats are the critical developments during this period. Race-related civil unrest rocked America in the 1960s. In reaction to the nationwide impact of riots and increased crime, President Lyndon Johnson took steps to address the crisis. This national review of the criminal justice system, and in particular that of America's police, set the stage for the development of community policing and advanced technology. From the 1970s on, the idea of community policing held center stage, yet old problems continued to surface as police struggled with the inflexibility of professionalism and the vagaries of rebuilding police–community relations.

Throughout these chapters, a great effort has been made to place the evolution of police within a historical context. It is imperative that students of criminal justice and history alike appreciate the context in which these developments take place. Historical forces more often than not influenced policing. This book should give students in criminal justice and history a solid overview and provide historians and criminal justice scholars a springboard to broaden and deepen the scholarship on the history of police in America.

In the end, police are necessary to protect and serve the public good, uphold the rule of law, and deter crime. The development of police in a democratic society where civil liberties and republicanism are held most dear is an intriguing story, full of challenges and great moments, but littered with infringements on the delicate balance of the American system. These traditions are the foundation of the American republic. As these American traditions continue to mature, so too does the need to ensure a commitment to emerging traditions and an openness to change. Rules, cultural norms, and laws become mechanisms within a society to sustain these traditions. The American criminal justice system, in essence, is a mechanism designed to sustain American traditions and cultural values. Effective police work makes this possible. As changes in society emerge, whether by legitimate means or by crisis, police have been and remain at the forefront of the process, trying to maintain order in a constantly changing society. As students and citizens, it is imperative to understand and appreciate the history and role of police.

Contents

CHAPTER 1

POLICE IN EARLY AMERICA

INTRODUCTION

Over a period of two hundred years, law enforcement in early America evolved from pragmatic reactions to crime and public disorder to the beginnings of organized police departments. Several factors influenced this development, including the nature of crime, the growth of cities, political and economic conditions, and the ideological foundation of the nation itself. In the end, the English colonists who founded the United States borrowed from their own English law enforcement heritage to start the tradition of decentralized policing in the context of the new republican ideology. Individual liberty, fear of a standing army, and suspicion of centralized authority made people wary of establishing formalized police departments. As a consequence, citizens had to deal with ineffective law enforcement to handle widespread crime and disorder.[1]

ENGLISH TRADITION

According to the concept of cultural mimesis, a people that leave their homeland to settle in another place will bring their culture with them and, in fact, will replant it where they settle. This was certainly the case for the English colonization of the Atlantic seaboard of North America. From Georgia to the Chesapeake, even New England with its Puritan founding, English immigrants predominantly settled these regions, reestablishing English traditions, ideas, and culture. This included law enforcement.

The English sheriff system, a community-based police arrangement, made up the greater part of law enforcement tradition for most English colonists. Citizen involvement in law enforcement began in England as early as the tenth century. Later known as *posse comitatus* and "hue and cry," the concept of "kin police," in which neighbors were obligated to assist fellow neighbors in distress, usually from marauding bands

of outlaws, predated the Norman conquest of 1066. The Normans transformed this model into the "frankpledge" system, where all male freeholders were obligated to participate in protective groups known as "tithings." Ten men usually made up a "tithing" and were responsible for protecting citizens in a designated area of their own community or neighborhood. Ten "tithings" made up a "hundred" under the leadership of a constable appointed by the local lord. Ten hundreds formed a "shire." A "shire" came under the command of a nobleman appointed by the king to enforce the king's law, called a "shire reeve" or sheriff.

Although the "shire" system worked well in rural settings and small villages and towns, it did not serve citizens well in more urban areas. Cities required a more regulated, organized system. By the 1600s, a night watch and day constabulary began patrolling larger cities in England such as London, Manchester, and York. Earlier versions of this more formalized system dated back to Norman times, and these patrols proved only superficially effective in even reacting to criminal incidents. In the 1660s, the new watchmen, called "Old Charlies" by citizens because they were instituted by King Charles II, faired no better because of Parliamentary restrictions and debate on the balance between civil rights and the power of authorities to maintain law and order. Still, the law enforcement tradition in England remained decentralized and local and centered on reacting to crime rather than on preventing it.

It was this debate between the power of police and civil liberties that came to characterize the very nature of a free society, which both England and its colonies considered themselves to be. As English immigrants flocked to "pursue their happiness" in the American colonies during the 1600s, they brought with them these concepts of law enforcement and the accompanying debate. Public virtue and personal accountability in society fed the notion that a civilized, enlightened people should police themselves rather than hand the job over to a centralized authority that might abuse its power. As the idea of republicanism took hold in the colonies, this debate intensified.[2]

THE NATURE OF CRIME IN COLONIAL AND REVOLUTIONARY AMERICA

On the surface, conditions in the colonies appeared ripe for crime. Economic uncertainty, danger from hostile attack, and the large number of convicts that participated in the migration made an atmosphere perfect for widespread criminal behavior. These very problems indeed forced colonists to adapt more formalized watches and constabularies over time, surpassing in some cases law enforcement organization in the mother country. The important question is not how much crime occurred in this colony or that; rather, what the nature of crime was and how effectively did law enforcement deal with crime in early America.[3]

The economic uncertainty of the colonial mercantile system brought many unsavory characters to the forefront in colonial society. Frequent disruptions in trade by war, storms, and economic downswings adversely affected the growing number of port towns and cities up and down the Atlantic seaboard. These conditions made for a fluid, transient population that shifted from port to port with the economic wind. These mobile colonists unsettled the more stable settlers, who on their own accord began to organize for the protection of their lives and property.[4]

Danger from hostile attack was a constant menace to the colonists. Threats included Indians, particularly in outlying, sparsely settled areas. Land-hungry colonists often clashed with natives, who quickly and efficiently adapted to the violent, deadly colonial style of warfare. Protection from Indian attack required diligent, constant watch. Pirates hounded coastal ports, especially in the southern colonies, and, of course, the threat from foreign enemies, namely, France, seemed continual. Numerous wars between colonists and Indians, colonists and the French, and colonists and both easily characterize the colonial experience in America from the 1620s through the 1750s.[5] A militia system based on the English model evolved in the colonies for defense against these threats, but it was also utilized for policing. To protect themselves from these threats, communities drafted small numbers of militia for security duty principally through watch patrols.[6]

Another factor influencing the development of police in early America came from the large numbers of convicts sent to the colonies from England. James I began the first formal transportation of convicts in 1615. English law for felonies was very clear: either death or acquittal. James I ordered that clemency be used in some cases and specifically ordered that these "reprieved" offenders be sent to "parts abroad where it shall be found fit to employ them," that is, in the colonies.[7] Serious offenses, such as murder, violent robbery, and the like were usually exempt from this policy; thus, offenders were seldom reprieved to the colonies. Petty thieves, arsonists, minor swindlers, and prostitutes, however, frequently found their way on to reprieve lists bound for Virginia and other colonies throughout the 1600s. These sorts of criminals, if they chose to continue their antisocial behavior, could easily thrive in the colonies.

The process varied over the course of the seventeenth century, be it reprieves from courts, royal pardons, or banishments (usually seven years). The numbers are not clear, probably only in the hundreds for the seventeenth century. By 1700, Virginia and Maryland had actually passed laws in their respective legislatures banning the importation of convicts, whereas other colonies continued to reluctantly accept them. It seems local citizens did not care for the extra flavor brought into their colonies by the convict transportation policy.[8]

The numbers increased dramatically in the eighteenth century. Parliament, in 1718, passed the Transportation Act, which instituted banishment as a preferred sentence for property crimes, which made up the majority of criminal cases at that time. London's Old Bailey, for example, sentenced to exile more than two-thirds of all felons from 1718 to 1775, many of whom were shipped to Maryland and Virginia and sold as servants, now that Parliament had superseded the colonial convict importation bans of those respective colonies. In all, at least thirty thousand felons were shipped to America from 1718 until the American Revolution abruptly halted the practice in 1775. Adding transportees from similar policies in Scotland, Ireland, and Wales brings the total estimate to fifty thousand.

Although this policy may have purged Great Britain of a large criminal segment of the population, the colonies, with their own law enforcement issues, found themselves flooded with unwelcome guests. Some of the strongest prerevolutionary protests from the colonies came against the transportation policy. Benjamin Franklin, finding the policy insulting, even suggested sending rattlesnakes to England in return. Several colonies attempted to levy import duties on convicts, some as much as £100 per convict, but these attempts came to naught as Parliament often overrode them. The idea of sending a country's outcasts to another civilized, settled