



Policing, Justice, and Black Communities

Part 1: A Historical Overview

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Introduction

Recent calls to *defund the police* echo the advocacy work of prison abolitionists fighting to eradicate carcerality. The number of police-on-Black murders this year alone, including Breonna Taylor (March 13), George Floyd (May 25), Tony McDade (May 27), and Rayshard Brooks (June 12), have amplified these demands and put pressure on policymakers to be more proactive. In Los Angeles, mayor Eric Garcetti proposed slashing the Los Angeles Police Department's (LAPD) budget by at least \$100

million with plans to reinvest in low-income communities for the upcoming fiscal year (Brewster 2020). In Minneapolis, where George Floyd was murdered, the city council pledged to disband the police force entirely and replace it with a “community-led model” (Beer 2020).

These conversations have stoked notable divisiveness between abolitionists and reformists. The argument for abolition is predicated on the assertion that police reforms have historically failed to protect marginalized communities and that the very foundation of modern-day policing is rooted



Demonstrator at a protest on June 5, 2020. Photo by Taymaz Valley.

in racist policies and practices. The belief is that by defunding or even disbanding police departments and the Prison Industrial Complex (PIC), local and state governments will be able to transfer funding to other social services that better support marginalized communities (Gilmore 2007). It is important to add, however, that some abolitionists believe that the police should be reinvented as opposed to being eliminated (Ray 2020). And while some reformists are not opposed to defunding, most contend that doing so for the eventual sake of abolishment oversimplifies the issue—and that terminating police departments will intensify criminality and put community safety at risk. This argument, while multifaceted, calls for increased accountability measures, equitable distribution of police services according to need, and data-driven strategies to reduce police killings (Rushin and Michalski 2019). The latter reform inspired the #8CANTWAIT campaign, launched by a team of notable activists who claim that eight specific reforms—some of which include chokehold bans, de-escalation training and comprehensive reporting—have been found to reduce police killings by nearly 72 percent (Campaign Zero, 2020). However, the campaign has received backlash from several abolitionist organizers, who ultimately responded with an #8toAbolition campaign detailing their respective concerns. In sum, the ongoing debate is whether the future of policing should incorporate 21st century reform strategies that help to ensure equitable policing for all Americans, or move closer toward abolishment with particular aim to focus on other modes of social service.

In an attempt to examine the nuances in this debate, we offer a three-part series outlined as follows:

1. **The present report provides a historical overview of the nature of policing in Black communities. Historical foregrounding is critical in order to contextualize why calls for defunding and reforming the police are so widespread;**
2. The second report details the difference between police reform and police defunding, both of which offer different approaches for addressing problems in modern-day policing;
3. Our third and final report offers policy recommendations that underscore propositions from the transformative justice framework.

Through this series, we seek to assist policymakers, scholars, and community members with the knowledge and understanding to redress a problem that has been pervasive for far too long in Black communities.

Historical Context: Policing for Racial Dominance Vs. Social Order

Many scholars purport that the history of policing in the United States is a story of racial dominance and a struggle to maintain that dominance over time. Hawkins and Thomas (1991) assert that westernization is hinged to White superiority, which itself relies heavily on policing as an introductory barrier to subjugation and a strategy to maintain racial order. The authors do not consider this to be simply a historical reality, but an ongoing issue. They claim that without policing, “Whites would have a difficult time developing and maintaining their ideology of racial superiority.” Brown (2005) backs this assertion by contending that the historical and present-day racism of policing in Black communities is overridden by the presumption of “Black hostility,” or the belief that Black people are less willing to be law abiding. She argues that this obscurity is not only responsible for why Black communities are so disproportionately policed today, but is hinged to a legacy of racial superiority.

Understanding these arguments require a brief historical overview of the policing of Black people in 17th century Great Britain and in colonial America. We must then consider how these eras inform modern-day policing. By modern-day policing, we speak of the period following the installment of the first centralized police department in Boston, Massachusetts in 1838 (Potter 2013).

Watch *Systems and Slave Patrols: The Origins of Policing in America*

“...unlike the northern colonies, the enforcement of policing in the south was not founded on protecting the public from impending danger, but rather maintaining a racial order, quelling slave rebellions, and securing public property—that property being slaves.”

The reliance on slavery to build dominant economies in the New World required safeguards to stave off slave rebellions. The Africans who were forcibly imported to Europe and the New World were not quiescent, and would often rebel against their oppressors by running away, setting fire to towns, or killing their slaveholders and capturers (Hawkins and Thomas 1991: 66). As early as 1667, England proposed slave codes to prevent Black resistance. These codes further dehumanized Black slaves by coining them as “savages” and prohibiting

them from leaving their respective plantations without a pass, carrying weapons of any kind, and wandering away from the plantation on Sundays (Hawkins and Thomas 1991: 66-7). White planters who opted to punish their slaves by beating them or even murdering them could do so without fear of prosecution. These codes, however, needed to be enforced through policing. In 1686, the English gave opportunity for any White person to detain or chastise slaves caught outside of their plantation without a pass. Four years afterward, an act was passed so that those White persons who failed to enforce these codes were to be fined fifty shillings (Hawkins and Thomas 1991: 68). These codes, of course, were eventually carried out to several English colonies and became especially prevalent in the United States.

Prior to the American Revolution, northern colonies in colonial America like Boston, New York, and Philadelphia saw policing evolve from voluntary watch-systems that served to warn the public about "impending danger." These systems included a large team of volunteers from which many "were simply attempting to evade military service, were forced into service by their town, or were performing watch duties as a form of punishment" (Potter 2013). For this reason, watch systems were notably ineffective due to the minimal incentive to police. For instance, watchmen would often abuse their duties by getting drunk or sleeping on duty (Potter 2013). They were also violently challenged by the public when enforcing laws that did not necessarily coincide with Puritan traditions (Parkes 1932: 448).

Although northern colonies had a fairly small slave population in contrast to the south, efforts were made to monitor freed Black persons and those who were enslaved. In Philadelphia, for instance, the mayor demanded that any Black person roaming the streets after hours be closely supervised by "the officers of the night." Between 1800 and 1850, freed Black communities were seldom policed, but the likelihood of being detained outside of predominant Black areas increased when frequenting outside said areas (Hawkins and Thomas 1991: 68).

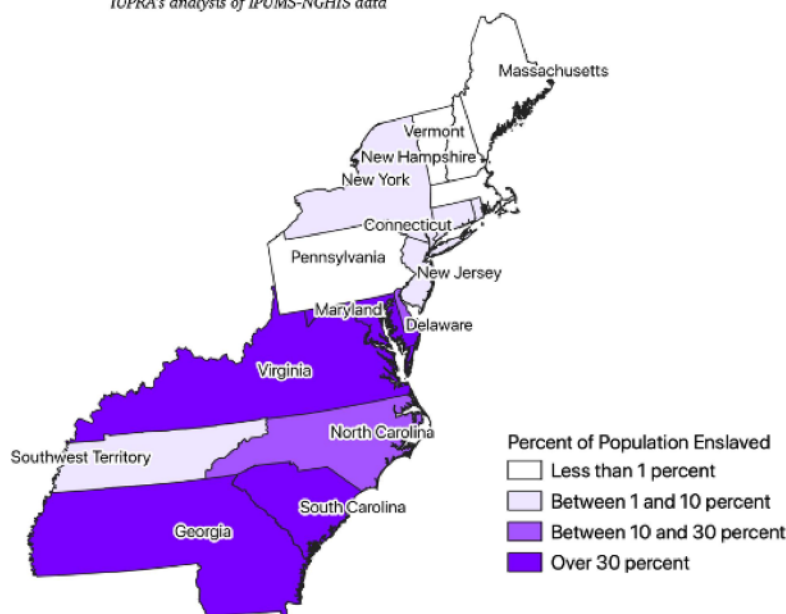
While the northern colonies relied on night-watch systems for policing, the southern colonies engaged in slave patrols. Turner, Giacobassi and Vandiver (2006: 186) contend that "the similarities between slave patrols and modern American policing are too salient to dismiss or ignore" and that "the slave patrol should be considered a forerunner of modern American law enforcement." Because slave patrols were publicly

CAUTION!!
COLORED PEOPLE
OF BOSTON, ONE & ALL,
You are hereby respectfully **CAUTIONED** and advised, to avoid conversing with the **Watchmen and Police Officers of Boston,**
For since the recent **ORDER OF THE MAYOR & ALDERMEN,** they are empowered to act as
KIDNAPPERS
AND
Slave Catchers,
And they have already been actually employed in **KIDNAPPING, CATCHING, AND KEEPING SLAVES.** Therefore, if you value your **LIBERTY,** and the *Welfare of the Fugitives* among you, *Shun* them in every possible manner, as so many **HOUNDS** on the track of the most unfortunate of your race.
Keep a Sharp Look Out for KIDNAPPERS, and have TOP EYE open.
APRIL 24, 1851.

A flyer distributed by abolitionists in Boston in 1851.

Fig. 1: Percent of Enslaved Black Population by Colony, 1790

IUPRA's analysis of IPUMS-NGHIS data



funded and explicitly targeted Black slaves and in many cases freed persons, it differed substantially from the night-watching system in the north (“The History of the Police”, Sage Publications). Namely, there was motivation because members of the patrol could be fined for not participating (Giacopassi and Vandiver 2006: 186). There is also evidence that suggests that policing Black slaves and freed persons gave White people “peace and security” because it helped to quell rebellion and maintain racial order (Hawkins and Thomas 1991: 68). This type of policing was effective in the sense that it reaffirmed Black inferiority. Slaveholders in the south eventually had to assign written permission papers for their slaves in order for them to run errands or congregate with slaves on nearby plantations. These papers were required in the event that slave patrollers would find a slave wandering without perceivable cause and detain or harass them, sometimes even to the dismay of slaveholders (“The History of the Police”, Sage Publications). Thus, unlike the northern colonies, the enforcement of policing in the south was not founded on protecting the public from “impending danger,” but rather from maintaining a racial order, quelling slave rebellions, and securing public property—that property being slaves. Potter (2013) purports:

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.

The anti-slavery stance of northern colonies that gradually came about after the American Revolution further impacted policing in the south. The smaller proportions of slaves in the northern colonies meant that slavery was not as economically reliable as other modes of production, putting northern colonies in better shape for subsequent abolishment (see Fig. 1). In the south, however, the fact that American slaveholders no longer had to abide to British colonial rule after the revolution meant that enslaved peoples became the sole property of the household and no longer an extension of Great Britain. To be sure, the fugitive slave laws passed in 1793 and 1850, which ultimately nationalized the idea of slave capture across all colonies and acquired territories, benefitted southern colonies the most.

Policing in the Era of Jim Crow

“Following the Civil War, when slavery was legally abolished, the racialized subjugation that underscored slavery and relied on slave patrols transitioned over to vigilante-groups that worked in tandem with southern police departments to control Black freedmen and women.”



Urban police officers in 1890. “The History of Policing,” Sage Publications

Understanding the origins of policing in colonial America is important to conceptualizing how modern-day policing operates. Following the Civil War, when slavery was legally abolished, the racialized subjugation that underscored slavery and relied on slave patrols transitioned over to vigilante-groups that worked in tandem with southern police departments to control Black freedmen and women (Potter 2013). Not to mention that the abolishment of slavery only held ground if the person was not imprisoned, so efforts to criminalize Black people advanced in the south in order to uphold the legacy of slavery (Alexander 2010). Brown (2005:760) verifies this by discussing how vagrancy laws enacted during the Reconstruction period (1865-1877) almost exclusively targeted and criminalized Black people for minor offenses, such as loitering or soliciting. Not to mention the hardship of being “free” without economic opportunity or chance for upward mobility. This is further described in the statement below:

As former slaves moved into northern and southern cities, they found themselves relegated to the worst jobs and housing alongside the red-light districts teeming with crime and vice. As it has at all times and among all oppressed people, relentless poverty and racism broke the

spirit of thousands of newly-freed blacks cramped up in hovels and alleys of southern and northern cities. Many fell prey to the hardships of urban life and drifted off into crime and vice. Others turned on themselves, fighting and killing as the only way to vent their frustrations. White urbanites, especially in southern cities, convincingly interpreted such black urban pathology as resulting from the innate character of black people. They blamed the increase in black crime and vice not on conditions that they had created and maintained for centuries but on the lack of control of blacks. (Hawkins and Thomas 1991: 72)

The Jim Crow era that followed the Reconstruction period ensured that resistance to Black freedom yielded countless incidents where sheriffs and officers alike either participated in or outright ignored the public and private lynching of Black men, women, and children (Hasset-Walker 2019). An example of this is the public hanging of Jesse Washington in Waco, Texas in 1916, who was convicted of raping a White woman and was subsequently mutilated, burned, and lynched before the eyes of the local sheriff (Berg 2011). Despite the act being illegal, no efforts were made to punish those who participated. The notable overlap between white supremacists and police forces is also of important note. Castle (2020) finds that in the early 20th century, “police participated in the racial terror campaigns of the Ku Klux Klan (KKK)” and in some areas of the South, a majority of the local authorities had ties with the organization. Her empirical analysis also suggests that to date, local and federal law enforcement continue to trivialize the white nationalist ties. This corresponds with a 2006 bulletin published by the Federal Bureau of Investigation (FBI) admitting that the infiltration of White supremacists in police departments remains an unresolved issue (Downs 2016).

An important note, more than 90 percent of Black Americans in the early 20th century lived in the south. During the Great Migration (1916-1970), a period during



Painting by Jacob Lawrence, US National Archives & Records Administration

which Black southerners fled to the north to escape Jim Crow and pursue better economic opportunities, policing across America adapted to these demographic shifts. The response in several non-southern cities like Detroit, Chicago, Los Angeles, and New York was to segregate Black migrants to the inner-city and restrict them from opportunities to acquire wealth. There was also an imminent concern among southern White elites that they were losing their cheap Black labor supply to the north, and so police officers were told to prevent Black migrants from boarding trains (Hawkins and Thomas 1991: 72). Attempts to leave would result in arrest, or even being physically dragged off the train. Conversely, Black migrants who successfully arrived to the north endured their own struggle with the police:

While southern white police attempted to control blacks by preventing them from leaving the South, northern white police attempted to control blacks once they arrived in the North. Most northern white policemen not only believed in the inferiority of blacks but also held the most popular belief that blacks were more criminally inclined by nature than whites. As thousands of southern blacks migrated to northern cities and, as the result of housing segregation, were forced to live in the worst areas in these cities, they encountered white policemen in the worst of all situations. One scholar surveying black housing patterns in northern cities in 1908 reported that 'the distinctively Negro neighbourhood is the same as, or next to, that district which seems, by consent of civil authorities, to be given up to vice' (Kusmer 1976: 49). Not only were blacks forced by housing segregation to live in these 'red-light' areas, they were also deprived of adequate police protection. This policy of non-protection, or minimum protection at best, constituted another form of white social control of blacks. (Hawkins and Thomas 1991: 76)

In other words, the rest of the United States followed southern ideals by incorporating creative ways to deal with what Du Bois (1903) once called, The Negro Problem. Various economic obstacles like redlining and housing segregation restricted Black families from acquiring home loans or pursuing homes in neighborhoods of their choice. The result was that Black families were forcibly relegated to dilapidated, densely populated areas that not only led to eventual impoverishment, but attracted disparate police response.

Black communities were so under-policed during this era that racially motivated riots incited by angry White mobs would go without accommodation. Gilmore (1999: 175) states that White people, whether in the

form of mobs, policemen, or vigilantes, instigated the majority of riots prior to 1960, most of which targeted Black communities. This is notably evident when looking at the 1919 Chicago Race Riots, the 1919 Omaha Race Riots, the 1921 Tulsa Massacre and the 1923 Rosewood Massacre. However, since the 1965 Watts Riots, which initiated from the unwarranted police killing of Black motorist Marquette Frye, "urban uprising became a means by which Blacks and other people held court in the streets to condemn police brutality, economic exploitation and social injustice" (Gilmore 1999: 176). This is evident with the riots that occurred after Dr. Martin Luther King Jr's assassination in 1968, and in Los Angeles following the ghastly police beating of Rodney King, and the unwarranted murder of 16-year-old Latasha Harlins by a convenience store owner (Davis 1993). Both incidents occurred with impunity or fairly limited punishment.



Tulsa Massacre, 1921

Post-Civil Rights to Present Day

"...the notion that Black officers were best equipped to deal with Black communities solely because of their skin color...not only implied a level of tokenization, in which Black officers were expected to broker relationships between the Black community and the police, but led to the presumption that Black officers were innately trained to deal with Black communities to which they were assigned."

The Watts riot of 1965 was groundbreaking because it inspired several other riots across the country right afterward, most of which were provoked by police brutality. The riots, in fact, became so pervasive that former president Lyndon Johnson created the Kerner Commission to research the riots and offer

recommendations to prevent them (Brown 2005). What made the police reforms proposed by the Kerner Commission different from former police reforms is that they actually attempted to resolve issues in the Black community.



President Johnson with members of the Kerner Commission

Formerly, the reforms that occurred in the early 20th century were proposed by former Berkeley police chief August Vollmer, and included calls for depoliticizing police by setting standards for new recruits, implementing changes in hiring and promoting police officers, relying on improved communication and record keeping systems, and focusing on crime control (“The History of the Police”, Sage Publications). These reforms also justified disproportionate force on marginalized communities and gave police executives more power. The Kerner Commission, however, attempted to capture Black input on policing in their communities. While the report issued by the commission charged that police aggression and discriminatory justice perturbed Black communities the most, many scholars note that the recommendations for police reform missed the mark because they sought to change Black perceptions of the police rather than dealing with the racist foundation underlying the profession. As a result, some of the reforms had minimal effect. For instance, one of the reforms involved the attempt to desegregate police departments by hiring more Black police officers. Brown (2005: 771) purports:

When Black women and men were hired onto police forces, they were treated as second-class citizens and many departments resisted integration. In Detroit, Black transfers to the Narcotic Division were “met with severe hostility and a campaign of harassment” from

White colleagues, including the placement of Black officers in danger through investigation information leaks. In Mobile, Alabama, Black police officers were prohibited from partnering with White officers in patrol cars. Additionally, police across the country engaged in discrimination against Black police officers by “restricting them to beats or assignments in African-American neighborhoods.”

The latter statement was predicated on the notion that Black officers were best equipped to deal with Black communities solely because of their skin color. This stereotype also implied a level of tokenization, in which Black officers were expected to broker relationships between the Black community and the police. Some scholars have called this presumption the “officer-race hypothesis” and have found it to be inaccurate—with the general consensus that race should not be perceived as a “proxy for mutual respect and understanding” (Brunson and Gau 2015). For instance, in their qualitative study about Black citizens’ perception of Black police officers, Brunson and Gau (2015: 233-234) concluded that the shared racial background between officers and the community did not guarantee positive interactions, and that policing in itself cannot be divorced from its macro-level context. By macro-level context, the authors emphasize that the individual characteristics and behavior of the officer are less important than the structural characteristics under which policing operates. To be clear, the integration of Black officers into the force is not the problem. Rather, it is the assumption that trust between Black communities and the police can be resolved solely by desegregating the police force as opposed to dealing with the structural problems that have inhibited, and continue to inhibit, Black communities (Davis 2016).

In sum, weak reforms and poor policies ultimately coalesced to inhibit Black communities in the long run. Punitive criminal justice policies, such as those enforced by the War on Drugs (1971) or the Violent Crime and Law Enforcement Act (1994), explicitly targeted Black and Hispanic communities and helped fuel the prison population boom seen toward the latter half of the 20th century (Hetey and Eberhardt 2014; LoBlanco 2016; Alexander 2010). Many of these policies inform how policing operates in Black communities and help usher Black people into the criminal justice system. As a result of the rapid acceleration of mass incarceration, Alexander (2010) notes that the number of Black men and women imprisoned today is more than those enslaved prior to the Civil War.

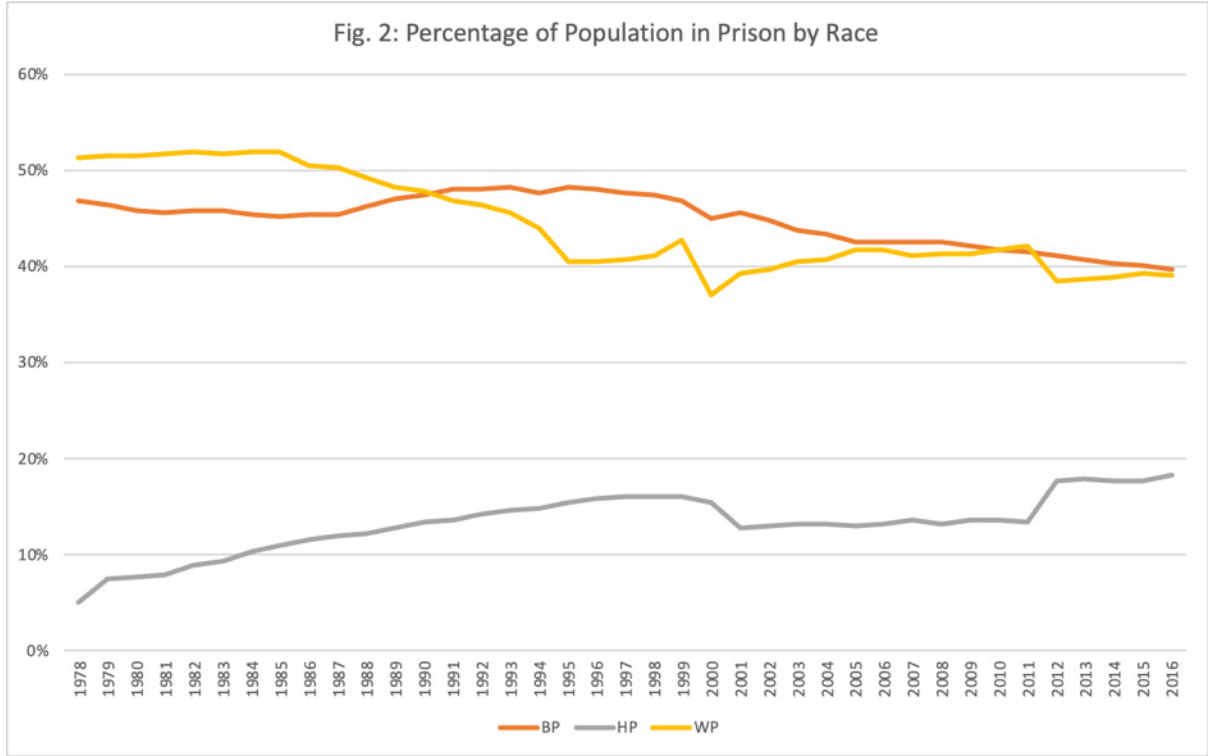
Conclusion

The historical context provided in this report is certainly not exhaustive. There is an entire overview needed to address police unions and their consequent impact on policing in Black communities. So too is another overview necessary for outlining state-specific police reforms that may or may not have had a positive impact on policing in Black communities. While the overview provided in this report is partial, it does help to explain why Black communities in particular are forever bound to bear the brunt of perceived criminalization. It also underscores how racism helped to inspire modern-day policing—which justifies the longstanding mistrust that Black communities have toward the police.

It is important to know, however, that the aforementioned mistrust is not solely based on historic inequities. To date, Black Americans are more likely to endure excessive force and die in police custody (Jacobs 2018). Black women in particular struggle with the disproportionate reality of experiencing sexual assault in police custody in contrast to their White counterparts (Jacobs 2018). Black communities are

more likely to be under-enforced or depoliced, in which police officers purposely “turn a blind eye” to said communities and consequently fail to ensure public safety. Some scholars indicate that this helps to promote the myth of Black-on-Black crime (Brown 2005: 771). Conversely, Black communities are also likely to be over-enforced, “an adversarial model of policing in which racial profiling, pretextual stops, unlawful searches and arrests, botched raids, excessive force, murder, and corruption abound” (Brown 2005: 771).

We end this by emphasizing that since 2010, the number of people in prison has declined gradually. While the proportion of Black prisoners is nearly more than 20 points higher than that residing in the United States, the percentage of Black prisoners is steadily declining as well (See Fig. 2). However, the policing of Black communities continues to be relatively disproportionate. Whether activists, scholars or policymakers call for the defunding of the police, or the reforming of it, knowing the history is essential. In our future reports, we will detail these demands more thoroughly and attempt to offer policy recommendations that help to resolve these longstanding issues.



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