

Race, War, Police

[For] preventing the many dangers and inconveniences that may arise from the disorderly and unlawful meetings of Negroes and other slaves, patrols should be established.

Georgia General Assembly, 1818

The police power is the counterpart . . . to the realm of individual liberty.

John Burgess, 1899

Once the classic method of lynching was the rope. Now it is the policeman's bullet.

Civil Rights Congress, 1951

FROM WAR TO POLICE

It is common to speak of the militarization of policing, and the blurring of the boundaries between war and police in the United States today. In the context of the long history of U.S. racial formation, policing has arguably never been distinct from a kind of civil warfare. Criminal assignment has linked presumptions about individual and group propensities to antisocial behavior and threat to embodied stigma and subjection to sanctioned violence that exceeds the logic of civil compact. Policing makes race and race has defined the objects of police at the point where relations of force take primacy. W. E. B. Du Bois famously observed this race making dynamic,

writing that a black person is someone who must “ride Jim Crow in Georgia.”¹ Extending this point, we might now say that to be black is to be a target of sanctioned force that often takes on an extrajudicial or arbitrary character, a force that reaffirms rightlessness as a shadow law written with violence upon the body.

At the founding of the United States, more than 20 percent of the entire population were slaves. Blackness had already come to identify the enslaved and enslavable: that is, it was constructed within the ambit of property law. The transformation of the armed seizure of black bodies and the theft of black labor into bills of lading and acts of sale, however, covered up a crime that made severe demands on the body politic. A key challenge for founding U.S. statesmen was to reconcile the creation of a legal order with support of a criminal enterprise. The inability to resolve this contradiction introduced a slippage, in which the plunder of black bodies was transferred to the natural criminality of the enslaved. The slave was “by nature a thief,” Benjamin Franklin, argued, later amending this assertion to argue that a propensity for thieving was a consequence of slavery as an institution. Thomas Jefferson claimed that the emancipation of slaves would threaten U.S. society itself, leading to the need for a permanent sequester of freed people far from U.S. shores. Blacks unable to forget the terrible wrongs done to them would nurse murderous wishes and intentions, while whites would live in a state of anticipatory fear that urged preemptive violence, resulting in a likely “extermination of the one or the other race,” that is, race war.² Regardless of its ascribed source or etiology (oppression from whites or the nature of blacks), the racial line constructing civil life marked a materially and existentially consequential mistrust born of criminal acts.

A similar logic can be observed in justifications of land appropriation. Like the black presence within, “the red men” on the border, to paraphrase James Madison, presented an obstacle to the perfection of the republic. Although Indians were also enslaved in the early colonial period, U.S.

settlement was predicated on a presumption of (limited) Indian freedom, including title to land that could be transferred only to the new nation-state, under federal authority. The problem, as John Jay complained to Jefferson in 1776, was “Indian affairs have been ill managed. . . . Indians have been killed by our People in cold blood and no satisfaction given, nor are they pleased with the avidity with which we acquire their lands.”³ The killing Jay deplored was on the order of extrajudicial murder and therefore problematic for those who worried about the dispositions of stable, centralized governance and legal order. Yet punishing these actions as crimes risked an even more destabilizing settler revolt. Jay’s framing of Indian killing as a managerial problem and with respect to those denoted as “our People” demonstrated that such killing retained an implicit government imprimatur.⁴

At both the local and the individual scale, the ideal of freedom as self-rule was directly linked to a moral and legal right to murder or sequester racial outsiders—designated as savages and slaves—in the name of infrastructure development, collective security, and private accumulation.⁵ The production of the normatively and legally valorized white citizenry was the basis of national sovereignty. Defined by statute, white status carried with it the presumption of innocence, protection, and fair dealing for those inside its civic ambit. Over time, and as its boundaries grew, it conferred a set of distinct yet conjoined social, political, and economic “freedoms” across a social order based on sharply unequal levels of private accumulation.

Insofar as slavery and settlement were defined by laws of property, whiteness has been rightly discussed as akin to private property or self-possession. But whiteness did not issue directly from ownership of property, let alone slave property. Rather, it emerged from the protection of private property and the interests of its holders in relation to those who were thought to have no property and thus no calculable interests, and who were therefore imagined to harbor a potentially criminal disregard for a social order

organized on this basis.⁶ Whiteness, in short, was designed as an intermediary status distinction that worked to extend, fortify, and equalize the government of public life in a world dominated by private property holders whose possessions included other human beings and lands already inhabited, but unframed by claims of legal ownership.

Slave owners and large landholders were a distinct minority in the new nation. Asserting whiteness as its own peculiar form of property, allowed them to offer a quasi-democratizing stake in an order that supported land- and slave-owning interests. Whiteness suggested a relationship between the differential valuation of human beings and valuable access to indigenous land and human capital (that is, slaves), and later to skilled jobs and varieties of state support.⁷ In the antebellum South's minimal state, the slave tax was a significant source of public revenue, and extraordinary levies on slave property were made by the federal government in times of war (and by the Confederacy during the Civil War).⁸ For the majority destined for waged (or wageless) life under capitalism, claiming and asserting whiteness promoted access to public benefits, as well as to the sadistic pleasures and material rewards derived from the management of racial order itself. The racial differentiation of society over centuries has been continuously remade as the quasi-democratic counterpart to the publicly sanctioned accumulation of private wealth and the social costs, divisions, forms of remediation, and crises that it has engendered. The democracy in question, however, foreclosed aspirations toward material equality even as it promoted the idea that policing as a method for regulating and securing the unequal ordering of property relations—was arrogated to white citizens.

Policing has been broadly understood as preventive mechanisms and institutions for ensuring the security of private property within public order, including legal uses of and narrative justifications for coercive force. Policing is anticipatory: it comprises, in Foucault's influential account, those "supervisions, checks, inspections and varied controls, that, even before the thief

has stolen makes it possible to identify whether he is going to steal.”⁹ Where discipline in Foucault’s schema seeks to arrest the movement of wrong[doing] bodies in space by means of varieties of artificial enclosure, security enables the proper circulation of people and things across great distances. Policing, in this sense, as John Burgess noted, is the paradigmatic institution for a society founded on individual liberty. It marries juridical consistency with administrative prerogative, coordinates the proportion of carceral space to open space, and balances the necessary use of force with the inherent riskiness of a society dependent upon consent of the governed. Policing further differentiates between the need to arrest and the imperative to develop; it determines, finally, who must be subjected to discipline so that others can pursue their self-interest.

Often overlooked by Foucault-inspired accounts of policing and security is the way the constitution of this predictive, self-aggrandizing power within the United States, as well as in other slave-owning, settler-colonial, and colonizing societies, has been bound to plural forms of racial differentiation against which an elastic and inclusive sense of national belonging coalesced. The American settler colonies’ break from British imperial control accelerated independent social, political, and material development through territorial expansion achieved by white settlement. Though ascribed to providence and nature, the design was consciously economic and biopolitical, the product of elite policy formulation that broadened the latitude and democratic basis of settlement by rooting it in private ownership and control of land, and a relatively open and flexible conception of political membership. The homogenization of the nonslave, settler polity (some three-quarters of whom were propertyless) was underlined by the designation “free white persons” quietly inserted into the first U.S. immigration statute, of 1790, which provided a path to citizenship requiring a short two-year residency.¹⁰ Judgments about settler and emigrant sameness, or their capacity to become the same: a “new race of men . . . an American race,” in Hector

St. John de Crèvecoeur's memorable formulation, was the basis of a novel ethnology of government.¹¹

Demographic engineering and abstractions and simplifications of parceled land jointly produced American national legibility. Benjamin Franklin's famous longing that an "Edenic" North America might become a production hub for the world's "purely white people," though not borne out, was no pious wish: it supported conscious government intervention in the sociobiological constitution of human collectivity across long arcs of migration and encounter. Jefferson viewed the "federative principle," underlined by a homogenizing political anthropology, as unassailable and potentially limitless: "It is impossible not to look forward to distant times, when our rapid multiplication will expand itself beyond those limits and cover the whole northern, if not the southern continent with a people speaking the same language, governed in similar forms and by similar laws," he wrote, in an echo of Franklin. "Nor can we contemplate with satisfaction either blot or mixture on that surface."¹²

The prevention of blot and mixture required more than moral suasion: in a polity founded on slaving and land appropriation, the criminalization of blackness and redness was an indispensable feature of liberal government. The Declaration of Independence, authored largely by Jefferson, constituted the democratic future of those endowed with inalienable rights as vulnerable not only to threats from the despotic powers of the British king, but also to dangers that the crown was accused of inciting: "domestic insurrections" (a code for slave revolts) and alliances with the "inhabitants of our frontiers, the merciless Indian Savages whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions."¹³ This radical view of settler liberty defined the new sovereign nation against a stratified British empire, decried by Thomas Paine as "that barbarous and hellish power which has stirred up the Indians and Negroes to destroy us,"¹⁴ Two decades later, the anti-Federalists advanced the case for the possession of Louisiana

on the grounds that French imperial meddling would lead “the tomahawk of the savage and knife of the negro to confederate,” an outcome that promised “no interval of peace.”¹⁵

The influential writings of John Locke made a lasting contribution to the argument for colonial settlement in North America: the idea that Indians remained in a “state of war” with a close kinship with beasts of the forest.¹⁶ Locke’s *Second Treatise on Civil Government* envisioned an original condition, a benign state of nature comprising “the vacant places of America,” that yielded to the rational consent of men of wealth who justly acquired landed property but who agreed to cede their otherwise unlimited natural liberty to form a civil government that precluded the exercise of arbitrary power in their relations with each other. In a second, more concretely historical view of the state of nature, however, Locke foregrounded the threats that motivated civil compact. The state of nature may devolve into a “state of war”—the result of the presence of a vaguely defined “ill nature” and of the persistence of “criminals” and “noxious Creatures,” who “declared War against all Mankind, and therefore may be destroyed as a Lyon or a Tyger, one of those wild Savage Beasts, with whom Men can have no Society nor Security.”¹⁷

Classical liberal thinking about war and peace, in this founding vision, opposed an already “moralized” state of nature—whose tendencies toward individual labor and (unequal) private accumulation led automatically toward the development of rational self-interest, civil regulation, and peaceful modes of trade and conflict resolution—against the persistence of zones of wild, uncultivated nature—where the absence of propertied interest promoted a state of war and justified removals, evictions, enclosures, enslavement, and settlement.¹⁸ Settler encroachment, Indian raiding, irregular warfare, and ensuing cycles of revenge and retaliation were the historical backdrop to these reflections, embedding conceptions of the savage enemy deep within the most reflective and progressive thinking of the colonial era. The prospect of feral Indian terror was not only the antithesis of

liberal order but also invited an extreme violence, even terror, in response and as a requisite to securing that order. In its meditations on “America,” classical liberalism thus discovered a basis for exceptions to the universal applicability of natural law and for limitations on the coercive power of sovereign governments in their relations with each other and their citizens, by preserving and extending an older tradition of the “just war,” defined as resisting the irruptions of the state of nature against the state of civil law.¹⁹

Classical liberalism similarly justified the enslavement of captives. Enslavement was an alternative to killing an enemy in a just war that embedded the power to enslave and to dispose of the life of slaves within modern conceptions of political sovereignty.²⁰ The links between war and slavery were well understood in the Carolinas, where Locke participated in drafting the Foundational Constitution (1669). Here, warfare with Indian tribes and enslavement of captives existed alongside the African slave trade.²¹ The fact that Locke offered arguments for the reconciliation of slavery and natural rights is generally ignored in most commentaries. “Master and servant,” Locke writes, “are names as old as history,” and bound by contract. “But there is another sort of servant, which by a peculiar name we call slaves, who being captives in a just war are by right of nature subjected to the absolute dominion and arbitrary power of their master. These men having, as I say forfeited their lives and with it their liberties.”²²

The doctrine of war slavery limned the historical convergence of settler expansionism and racial slavery in North America, linking both to the idea of the just war or police action against an “ill nature” that supposedly precedes (but in fact persistently shadows) the establishment of civil order, political consent, and the moral and legal regulation of warfare and state violence inside and between empires and settler polities that claimed the sovereign title of *nations*. As elaborated in an imperial, settler-colonial, and slave-holding context, liberalism’s typical “limitation of power” was thus selective and bounded: it paradoxically licensed a flexible and expansive ideology of

war at the margins of civic order.²³ Significantly, Locke framed crimes against property, including those that did not threaten physical harm, as warranting punishment up to and including homicide. Despite stating concerns about punishment proportionate to criminal acts, Locke writes, “It is lawful for a man to kill a thief.” This is because theft of property *de facto* entered the criminal, outlaw, or thief into “a state of war” that threatened the natural rights of the individual and the basis of civil government.²⁴

Such notions of warfare in the name of settlement and against a specific kind of uncivil and absolute enemy made an important, if generally unrecognized, contribution to the ideological and practical development of racialized police power. The state of peace was said to be unknown to savages and slaves, who in Locke’s terms, could not “in that state be considered as any part of civil society, the chief end whereof is the preservation of property.”²⁵ “Absolute dominion and arbitrary power” was considered necessary in relations with those who were constitutively outside and incapable of participating in civil society. Indeed, violence in these terms could be viewed as part of a humanizing endeavor, civilizing process, and security project. Wars and police actions against such uncivil and uncivilized beings—and the land, labor, and other things appropriated from them—was inherently just and bore no resemblance to the emerging diplomatic norms, military practices, and international laws that sought to regulate violent conduct, including war, between civilized adversaries.²⁶

Police action, defined as the management and disposal of racial outsiders, developed along a continuum from biopolitical inclusion (graduation into whiteness) to the destruction of entire communities (genocide). The production of the white nationalist subject was an active social process—one that was built on an already given history of racial differentiation but which also worked by generating new distinctions. In racial orders, what changes is as important as what arguably remains the same: change points toward spaces of politics and struggle, resistance and flight. It suggests that even for

the dominant insiders, racial orders must be actively institutionalized, that is, managed by personnel who are recruited, invested in, and subjectively constituted for this purpose. Similarly, those who have been racially dominated have been addressed in different terms: The exterminationist approach to relations with indigenous peoples had the character of irregular warfare over plural, unsettled sovereign land claims. The slave-holding regime constructed blackness by way of a biopolitics oriented toward the management of capital and the depletion (and depreciation) of the lives of people whose bodies and labors were essential to its accumulation.

The supposed transparency and legibility of whiteness as a claim to self-rule was never by itself inadequate to assure the internal ordering of a polity marked by divisions of wealth and power, including differential access to land and slaves and the presence of laboring populations of different national origins and colonial histories. The Alien and Sedition Acts of 1798, for example, specifically warned against the importation of “hordes of wild Irishmen” and increased the probationary period for naturalization from two to fourteen years. In doing so, they added a lasting figure, the “enemy alien,” to a security lexicon primarily focused on indigenous and racial others. From this point forward, the problem of in-migration of potential enemies added another layer of complexity to quests for national security. The successful opposition to the acts by the Jefferson-led Democratic-Republican Party, including the ouster of the incumbent president, defined them as a threat to Americans as a “free self-governing republican people,” and to individual rights secured by “the jurisdictional autonomy of the state-republics.”²⁷ Going so far as to threaten nullification in their respective states, the anti-Federalists demonstrated that the prospect of secession was a far more significant threat to political union than the moral and practical difficulties associated with controlling blacks and Indians. Pan-European settler in-migration and expansive conceptions of civil liberty were thus perennially intertwined as reliable means of producing free white men.²⁸

In short, settler freedom and autonomy should be understood as a distinct ethical and practical mandate that shaped the development of American federalism as an imperial form.²⁹ Just as early U.S. settlers chafed against and broke free from British imperial control, they periodically rebelled against subsequent concentrated assertions of centralized state power. Imperial and settler sovereignties were never mutually exclusive. State and local jurisdictional disputes and controversies over the natural rights and territorial claims of plural indigenous peoples or nations or escaped slaves were decided on the basis of the power exercised by the federal state through its claim of sovereignty over Indian lands and human chattels.³⁰ The hallmark of state and local sovereignty, in turn, was the direct control exerted by white citizens over indigenous and exogenous others—that is Indians and slaves—through mechanisms of population transfer, confinement, and death enacted by militias, patrols, overseers and frontier soldiers.³¹

Race management, and resistance to it, induced the ongoing slippage between policing and war that visibly characterizes the present.³² The steady expansion of the application of criminal law to acts of indigenous counterviolence, for example, was a primary means of erasing Indian tribal sovereignty negotiated through warfare and treaty obligations.³³ The slave patrol grew directly from the citizen militia, motivated primarily by fears of slave insurrection. Developing the legal and narrative means to criminalize the actual and imagined counterviolence of dominated peoples was not only central to the institutionalization and legitimation of suppressive force but was also a repression and disavowal of any prior recognition (such as Jefferson's) that enmity, discord, and trauma issued from the violence of white settlers and enslavers. Beneath any ideological or psychological ruminations lay the practical concern of how to both defend and legitimate a social order built on murder and dispossession: that is, the theft of black labor and indigenous lands.

By the late seventeenth century, racial differentiation was already defined through graduated policing and punishment that distinguished

blacks and Indians from prospective members of civil society. Under Virginia law, blacks and Indians sentenced to whipping were to be stripped of any protective garment; white Christian servants, by contrast, were allowed to retain the dignity and protection of clothing while being beaten.³⁴ The fabrication of race through such petty differentiations in the types of violence that could be enacted upon the body illuminates what has often been the paucity of white privilege. It also developed, however, into more salient distinctions between the punished and the punishers. An important mediating institution was the slave patrol, which, in the language of the Georgia General Assembly (and notwithstanding divergent social histories of the indigenous and the enslaved), presumed that “every negro, indian, mulatto or mustizo [*sic*] . . . is a slave.”³⁵

John Caphart, a constable and slave catcher in Norfolk, Virginia, in the 1840s, illuminates the distinctive economy of deterrence and prerogative, sadism and reward that governed the fashioning of racial order: “It was part of my business to arrest all slaves and free persons of color, who were collected in crowds at night and lock them up. . . . I did this without warrant and at my own discretion. Next day they are examined and punished. The punishment is flogging. I am one of the men who flog them. . . . I am paid fifty cents for every negro I arrest, and fifty cents more if I flog him. I have flogged hundreds. . . . I never refuse a good job of that kind.”³⁶ Here the link between whiteness as a pivot between individual opportunity and national standing, between access to the wage and access to the public mechanisms of legitimate violence, is clearly laid out.

Caphart’s account also highlights how the racial line constructing civil life developed from the longstanding fear that black social life subverted the body politic. In 1802, the U.S. postmaster general warned against hiring “Negro mail carriers,” as it might lead to “associating, acquiring and communicating sentiments” about their natural rights under the Constitution, thus “establishing a chain or line of intelligence” and insurrectionary activ-

ity dangerous to civic order.³⁷ The right to bear arms under the Second Amendment—on the grounds of “a well regulated militia being necessary to the security of a free State”—and the defense of the open carrying of weapons—was similarly linked to the preservation of local policing prerogatives and “Southern honor” in the face of black population density, and divided national sentiment over slavery.³⁸ The infamous Dred Scott decision defending the status of slaves as property throughout the nation cemented these associations by connecting the freedom of fugitive slaves with illegality and reinforcing the idea that blacks, in the words of Supreme Court Justice Roger Taney, possessed no rights that whites anywhere were bound to respect.

In one of the first systematic histories of slavery, an apologia, the white supremacist historian U. B. Phillips observed that “all white persons were permitted and in some regards required to exercise a police power over slaves.”³⁹ Phillips, of course, erased the course of abolitionist and antislavery agitation and underground resistance incited by the Dred Scott decision, which intensified the midcentury crisis over slavery and led eventually to the Civil War. Resistance to slave rendition in the 1850s, for example, led the fugitive-slave commissioner in Boston to decry abolitionists for “levying war on the United States.”⁴⁰ In truth, resisting slavery was a crime against property that threatened the basis of civic order. Writing two decades before Phillips, Burgess was more circumspect and attuned to how to manage an on-going conflict: “Had the slaveholders made wise use” of the advantages given to them under the Dred Scott decision, he wrote, they would have given “themselves . . . no further occasion for slavery agitation,” ceased “to claim the rendition of their fugitive slaves by the general government,” and instead turned “their attention to perfecting the police administration in the slaveholding Commonwealths.” Here, he recognized the bulwark that federalism [i.e., states’ rights], defined by police discretion and jurisdictional autonomy provided when it came to maintaining racial order based on holding people as property.⁴¹

It is not incidental that the scholarly and public study of police power in the United States emerged in the ascendant period of U.S. white supremacy after the Civil War and Reconstruction. Above all, it pointed out the formless, discretionary, and aggrandizing dimensions of police functions and institutions in a world that appeared to be in rapid racial transition. According to Ernst Freund, “The police power is not a fixed quantity, but . . . the expression of social, economic and political conditions. As long as these conditions vary, the police power must continue to be elastic, i.e. capable of development.” Attending to the state and local levels of political sovereignty, Burgess called “the police power . . . ‘the dark continent’ of our jurisprudence . . . the convenient repository of everything for which our juristic classifications can find no other place.”⁴² In 1904 in the name of securing public order beyond the nation’s borders President Theodore Roosevelt (a former New York City police commissioner), arrogated to the United States an expansive “international police power” to confront “chronic wrongdoing, or an impotence which results in the general loosening of ties of civilized society.”⁴³

One does not need to read deeply here to notice the elective affinities of policing and race making within a developmental schema that comprised normative visions of public order and the rule of law *alongside* the preservation and cultivation of exceptions permitting the expanding use of discretionary violence. Blackness all but defined a state of biopolitical “impotence” and propensity to “chronic wrongdoing” that for Roosevelt justified an enlarged and broader police function. Blackness was by this time an increasingly thick and naturalized but also fungible means for defining a type of person and a state of being whose relationship to contract was untrustworthy and unstable, and at worst null and void, requiring permanent supervision and sometimes direct domination. Black people at this time were deemed ineligible for insurance because membership in the race was held to constitute an inherent risk of premature death. Actuaries such as Frederick Hoff-

man, who drew these conclusions, went on to develop methods of compiling crime statistics that provided a positivist validation of black criminal propensity and to modernize police violence as a matrix of racial discipline.⁴⁴ The new dispensation of blackness as a negative biopolitics in need of permanent policing was underscored by the U.S. Supreme Court in *Plessy v. Ferguson* (1896), which described legal prohibitions on interracial marriage as a technical interference with “freedom of contract” that was nonetheless justified as an exercise of “the police power of the state.”⁴⁵

The closing of the continental frontier, followed by the declaration of the Roosevelt Corollary, suggested that the inwardly focused, racialized vector of police power needed outward testing. As an example of a blackened and disordered space in the racial imagination, the Philippines under U.S. occupation was the major institutional proving ground—the first overseas U.S. counterinsurgency of the new century. In the words of the historian Alfred McCoy, a significant contribution of the U.S.–Philippine war was that it functioned as a “laboratory of police modernity.”⁴⁶ Here, the development and synthesis of new methods of clandestine operations, information science, photographic identification, demographic research, intelligence gathering, and legal repression far outstripped the capacities of major metropolitan police forces. Such developments were a response to a fierce anticolonial insurgency against U.S. occupation forces. As one U.S. general summarized the consensus opinion of U.S. counterinsurgents: “The keynote of the insurrection among the Filipinos, past, present and future is not tyranny, for we are not tyrants. It is race.”⁴⁷

The modern power of police has been correlated to “the Dark Continent” as the domain in which civil order is seen as either being absent or always already suspended. This condition constitutes a permanent state of emergency or exception. From the standpoint of power, it has no knowable properties beyond its criminal propensity and the open-ended threats it poses. In other words, these threats require rigorous and potentially limitless

applications of “legitimate” violence. With the rise of nationalist and anti-colonial politics and struggle in the twentieth century, the enhancement of institutional capacities for policing was also intensified by fear of the potential loss of white monopolies on space, resources, and moral right. Supporting Roosevelt’s vision of U.S. military “points of vantage” across the Caribbean and the Pacific, the naval strategist Alfred Thayer Mahan specifically warned against the yellow peril, arguing that extension of U.S. maritime forces would be the key to deciding whether “eastern or western civilization is to dominate throughout the earth and to control its future.”⁴⁸ Responding to both concerns about Asian powers, and to a rising tide of liberal critics of the “white Australia” policy, Prime Minister Alfred Deakin offered a far-seeing judgment that what would ultimately be required were “colorless laws [that could be] administered so as to draw a deep line of demarcation between Caucasians and all other races.”⁴⁹

For settler colonies that emerged from the Anglosphere’s imperial crucible, asserting boundaries of race and nation trumped the language of empire and assumed an anti-imperial, demotic tone. It is mistaken to think of race making as a contradiction to forms of universal reason we associate with the Enlightenment, including the progressive alignment of the rights of national citizens with human rights. Rather, racial differentiation constituted the grounds on which claims to rationality, rights, self-rule, and national standing were imagined as simultaneously universal and delimited—much like the nation-state itself. Neither blackness nor whiteness are in this sense strictly reducible to phenotype. Rather they, like other modern racial forms, emerged as subject positions, habits of perception, and modes of embodiment that developed from the state-based government of capitalist property relations. Variants of capitalist state and society have developed simultaneously with plural and heterogeneous processes of racial formation around the world. Needless to say, a sharply dualist conception of blackness and whiteness accrued special force with the ascendancy of the Anglo-

American form of capitalism in which slavery and settler colonization were motors of accumulation.

The importance of criminality in race making is exemplified by Deakin's recognition in Australia (whose settler jurisprudence paralleled that of the United States), that the rule of law and formal equality could be effectively welded to racially targeted administrative discretion. Much has been made of the fact that the U.S. Thirteenth Amendment abolished slavery "except as a punishment for crime." Regardless of whether penal administration amounted to a new slavery, the carving out of the exception—like the rulings on "separate but equal," the institution of formally neutral voting restrictions, the selective granting of marriage licenses, and going forward, real-estate steering, racially disparate uses of zoning laws, and what banking interests termed "residential security" (red-lining, discriminatory credit allocation)—made the preservation of racial order subject less to formal legal defense than to the manifold applications of administrative prerogative in the name of public safety and privately held value. Even as the completion of continental expansion and the transition from slavery to freedom appeared to normalize and extend the wage contract to all individuals, it gave rise to new elaborations of and responses to blackness and indigeneity as a temporal lag, a state of exception, a dangerous predicament, and, equally important, a state from which value could be directly extracted, security and threat potentials assessed and acted upon.

The period from Reconstruction to World War I was the high era of white world supremacy. From the perspective of the postslavery U.S. black population, civil war never ended; the postbellum period witnessed the rise of lynching, racial terror, and the broad criminalization of black life, not only in the South. Lynching in particular was defined as the reassertion of the sovereign rights and capacities of white citizens.⁵⁰ For native peoples, national reunification unleashed the last, bloodiest, and most one-sided Indian Wars from the Midwest to the Southwest, including the infamous massacres of the

Western Utes and the Lakota Sioux at Wounded Knee. Nativist agitation and periodic pogroms aimed primarily at Asian migrants and at southern and eastern Europeans shaped U.S. immigration policy over subsequent generations. Beginning with landmark immigration restriction targeted at Chinese exclusion, the U.S. Supreme Court linked immigration control, police and war powers. Within a global field understood in racial terms and the rise of nonwhite state powers, immigration was tantamount to foreign aggression. In the words of the court, “foreigners of a different race” were “potentially dangerous to peace and security” even in the absence of “actual hostilities with the nation of which the foreigners are subject.”⁵¹

An astute commentator on the history of U.S. racial conflicts, Carey McWilliams, observed that scenarios of U.S. war with Japan first emerged in 1905, when the presence of Japanese immigrants was associated with the invasion of California by the rising power of the east. From this period dates the initial—if premature—program first articulated by Woodrow Wilson’s secretary of state, William Jennings Bryan, of solving the “Oriental” problem by forcibly breaking up and removing Japanese populations from the West Coast and dispersing them in the nation’s interior.⁵² The passage of the racially exclusive Immigration Act of 1924, which formally established an “Asiatic barred zone,” also marked an escalation of skirmishes with Mexican migrants. The institutionalization of a military-style border patrol that year turned the southern border into a site of vast, state-enforced population transfers.

World War I saw the emergence of Wilsonian internationalism as a prospective model for governing the planet on the basis of consensus and comity among leading industrial powers. That vision, of course, was stillborn. Wilson and his European counterparts were committed to the preservation of the “white world order,” with its colonial and racial hierarchies now seen as being under threat from revolution, anticolonial agitation, and the rising power of nonwhite nations such as Japan.⁵³ U.S. attention to the conditions

of freedom around the world, including the regulation and limitation of war, remained bound to the development of “international police power” and the ordering of race and space. Much like the U.S. Civil War, the global civil war (as some historians label the two world wars), showed that the containment of race war by inwardly focused police powers of settlement and colonization had reached a limit. As the German sociologist Max Weber observed in 1906, “The historical origin of modern freedom has had certain unique pre-conditions which will never repeat themselves. Let us enumerate the most important of these . . . the overseas expansions. . . . In our whole economic life even today this breeze from across the oceans is felt, . . . but there is no new continent at our disposal.”⁵⁴ The stage was set for the North American settler colony to become a global power.

POLICE INTO WAR

Before World War II, the government and people of the United States were hostile to overweening military establishments. The ambit of police—often termed “peace officers”—was always wider than the waging of war. War was viewed as an extragovernmental power exerted by states against a commensurable organized force and against political enemies—that is, other states. Policing was a form of government power exerted against the criminal enemies of the body politic, both within national boundaries and in spaces deemed ungoverned or nonsovereign. Even at the onset of World War II, peace was still defined as a condition specific to states characterized by publicly ordered civic life—that is, a state unknown to savages. More or less continuous violence against the uncivilized was thus thought to be a humanizing endeavor and perhaps a pathway to their civic engagement and material development.

The framing of what we now think of as war by police historically precedes what we often now describe as the militarization of policing, or the conditioning of police by war, which includes both the real and

metaphorical inflations of the term *war* to define battles against various domestic ills: poverty, crime, drugs, terror, and the like. After World War II, as colony after colony became a sovereign state, the United States engaged in numerous military interventions overseas. Not a single one of these involved a formal declaration of war, and many, if not all, were labeled as “police actions.” Domestically, World War II inaugurated the modern imperative to uphold black civil rights within the nation-state. Yet, it also marked the consolidation of a federal law-enforcement bureaucracy in the interests of national security. The intensive surveillance of political radicals and black social movements after World War I, and the mass deportations and cross-border detainee operations that spiked during the Great Depression, vastly expanded during and after World War II. The Japanese internment illuminated passage between racial alien and alien enemy. After the war, the U.S. military transferred surplus war materiel, including aircraft, to the border patrol. Materially limning the connection between inner and outer race wars, between war and police, 4,500 linear feet of chain-link fencing was delivered to the border patrol from the internment camp at Crystal City, California that once housed Japanese immigrants and their American-born children.⁵⁵

The infamous but insightful Nazi jurist Carl Schmitt lamented that the two world wars had broken the duelists’ compact of the *jus publicum europaeum* that had previously governed war between recognized sovereign entities, distinguishing combatants from civilians and ridding war of its criminal and punitive character. Colonial wars and civil wars, Schmitt noted, were “outside this bracketing”: hence the tendency in such conflicts for violence to become punitive and for the enemy to be criminalized. The latter conflicts were often not dignified with the name *war*, at least in part so as not to enhance the status of enemy combatants. In this way, colonialism supported a foundational differentiation between the conduct of war between equal sovereigns, as an extension of specific and limited political

and state aims, and the means by which imperial sovereigns asserted jurisdiction, seized territory, and exercised a more or less open-ended police power over ungoverned, unproductive, unsettled spaces and the “unfit peoples” who inhabited them.⁵⁶ Indeed, Schmitt observed, the effective origins of police action derived from “the old doctrine of just war whose primary result was to create a legal title for land appropriation.”⁵⁷

The mastering of nonsovereign, or colonial areas, Schmitt emphasized, was “the spatial element upon which European law is founded.”⁵⁸ Witnessing the beginning of the end of colonialism, Schmitt doubted that the new era of world affairs would lead to a new bracketing or limitation of war. Instead, he predicted a future in which, under the auspices of dominant powers—and particularly the United States—warfare would devolve into a limitless series of “police actions” and “police bombing” against “troublemakers, criminals, and pests,” in which “the intensification of technical means of destruction” would produce new and extreme forms of moral debasement and legal nullification of opponents in war.⁵⁹ Schmitt was preoccupied by what had been done to Germany, including the prosecution of German war crimes following World War II. He mostly elided the longer history of asymmetric “small wars” and race wars that were the basis of colonial settlement and overseas colonial administration by major powers, which the Nazis invoked as precedents. Nazi expansionism had explicitly referred to a comparative colonial and racial history. (As a German official reported from the Ukraine front in 1942, “We are here in the midst of Negroes.”)⁶⁰ As for the United States, the situation of “total war” of World War I and World War II was the exception to the longer period in which the nation exercised international police power in the Western hemisphere or waged wars on its frontier and border that were not understood as either war or conquest.

If the U.S. era of continental settlement progressively translated war into policing and frontiers into borders, the globalization of the U.S. realm

translated policing into war and projected the frontier beyond the nation, so that it became possible to think of war at home and police in the world. Crucially, colonial and racial precedents, institutions, and practices remained instrumental to the blurring of these boundaries. Reviewing the history of the use of “dogs in war, police work, and on patrol” in the journal *Police Science* in 1955, the American police professional and scholar Charles F. Sloane argued that the distinction between inwardly concentrated and outwardly tested state violence was traversed by a more fundamental line—one that separated the progressive achievements of human civilization from savage regression. This fact, Sloane argued, not only established the basis for reciprocity and continuity between cross-border war making and domestic crime fighting, but it also gave a controlling seat to police power: “If one gives some thought to the subject, there is but little difference between fighting an enemy in a declared war and fighting an enemy, the criminal, at home on the crime front. Both are comparable battles for the very existence of civilization, for without the thin wall of police protecting the people from criminal depredation, the world would soon revert to savagery and bestiality.”⁶¹

Sloane outlined a series of specific global coordinates and civil precedents for harnessing animal force against criminals, (whom he described as kin to animals). “The English police, the Mounted Police of Canada, Australia, South Africa, and Southern Rhodesia,” he argued, “have been most successful in their use of dogs for trailing the spoor of a human. . . . [with the] most famous of police Training Centers for dogs in the world. . . . located [near] Pretoria in the Union of South Africa.” Having framed the art of hunting humans as a legacy of the Anglosphere and its settler colonies, Sloane did not fail to note a distinctively American lineage: “The use of dogs in tracking down escaped criminals and slaves,” he averred, “has been commonplace in the United States for the past two centuries.”⁶²

In light of the emerging civil rights movement, Sloane’s present-tense juxtaposition of criminal and slave is notable. His essay also emerged just as

municipal police forces in the United States were establishing their first K-9 units, led by the cities of St. Louis and Baltimore in 1956. An article in the same journal a few years later, assessing the progress of K-9 policing across U.S. municipalities, solidified the historical chains of racial meaning Sloane took for granted, linking the slave and felon as objects of police violence subjected to the nonhuman force of dogs. “Cities with large slum and deteriorating areas have more need for dogs than suburban communities,” the authors noted, with an important exception: “Suburban areas bordering on the central city have used dogs successfully in curbing the city’s overflow of crime.”⁶³ Most cities were just starting to experiment with K-9 forces. The city of Birmingham, Alabama, reported that police “dogs were not yet in use, but would be soon.”⁶⁴ Heavily infiltrated by the Ku Klux Klan, Birmingham’s police force, with its beasts unleashed, would soon be at the forefront of white Southern resistance to the civil rights movement.⁶⁵

Charles Sloane served as the police chief of Cortland, New York, before moving to a senior position in the New York State government in Albany, where he developed and oversaw qualifying examinations aimed at professionalizing local police. The year his article on police dogs appeared, his career took another turn: he joined the Michigan State University Group (MSUG) assigned to Saigon, where he was charged with establishing South Vietnam’s first police academy, (including the introduction of police dogs). Funded by the U.S. State Department’s International Cooperation Administration (precursor to the Agency for International Development) and comprising U.S. police professionals and CIA operatives disguised as Michigan State University professors, the advisory group supported the development of countersubversion, police intelligence, and interrogation techniques and detention facilities to consolidate the Ngo Dinh Diem regime. Working in various police advisory roles, Sloane spent parts of the following decade “in-country,” as U.S. soldiers would come to describe Vietnam, a shorthand for “Indian Country.”⁶⁶

Sloane's intellectual and professional trajectories illuminate the circuit that connects colonial frontier policing and slave catching to the deadly euphemisms that defined an emerging U.S. cold war imperium. During the John F. Kennedy administration, vast numbers of U.S. police and corrections officers went to ply their trade as advisers in Vietnam.⁶⁷ The euphemistically labeled practices of *civic action*, *police assistance*, and *nation building* were enacted on "America's new frontier."⁶⁸ Sloane was a bit player in a larger drama in which the overseas projection of U.S. police power was integral to reshaping conceptions and tactics of domestic policing. His career trajectory helps us to chart what Lisa Lowe has termed the "intimacies of continents," global relations defined and redefined by imperial rule and the afterlives of U.S. slavery and settlement. American power during the cold war collapsed the distance between places like Cortland, Saigon, and East Lansing, not only through transportation logistics and applications of massive military force but also through the diffusion and dissemination of distinctive repertoires of racialized governance.

While stationed in Saigon in 1955, Sloane missed a lecture by Los Angeles Police Department chief William Parker, who at that time was one of America's most illustrious policemen. At Michigan State University's School of Police Administration, Parker offered his thoughts on "the police role in community relations."⁶⁹ It is possible that in his article on police dogs, Sloane was referencing Parker, who described the police as "a thin blue line of defense . . . that we must depend [on] to defeat the invasion from within."⁷⁰ Five years into his tenure as chief, Parker hailed the Los Angeles experiment as proof that "enforced order" was "the first step towards improved community relations."⁷¹ Describing LA as the "white spot of the great cities of America today," he argued that LA's success rested on the pillars of police professionalization, good press, and well-managed public relations.⁷² Never one to put too fine a point on matters, Parker argued that police power needed to be concentrated in certain parts of the city because "certain racial groups . . .

commit a disproportionate share of the total crime. . . . If persons of Mexican, Negro, or Anglo-Saxon ancestry, for some reason, contribute heavily to other forms of crime, police deployment must take that into account. From an ethnological point-of-view, Negro, Mexican and Anglo-Saxon are unscientific breakdowns; they are a fiction. From a police point-of-view, they are a useful fiction and should be used as long as they remain useful. The demand that the police cease to consider race, color, and creed is an unrealistic demand.”⁷³

This must have sounded reasonable in 1955, much as it may sound reasonable today. Acknowledging race as a social fiction has not led to its retirement or obsolescence as a guide to socially consequential action, particularly in the domains of criminal policing and punishment. Whatever its social etiology, Parker argued, disproportionate black and brown criminality (and Anglo-Saxon lawfulness) was simply a fact, and the police needed to “concentrate on effects, not causes.” Dimly acknowledging the circularity of this argument about black crime, he was concerned that liberal antiracist norms might strip police of their most indispensable, discretionary tool, (in today’s parlance, racial profiling). Although Parker came to be viewed a revanchist on racial matters (particularly after his remarks during the Watts riots), he was already an important police modernizer, as indicated by this conscious effort to square the scientific debunking of racial categorization with an empirical practice of policing that depended upon it.⁷⁴

In her reading of the origins of the contemporary U.S. carceral state, Naomi Murakawa traces it back to the early postwar period, arguing that there was never a dichotomy between a governmental emphasis on law and order and civil rights reform: the right to “the safety and security of the person” against “private and arbitrary violence,” as President Truman’s Civil Rights Committee put it in 1947, was the first and most “essential” civil right. By virtue of this initial design, it is not surprising that criminal justice imperatives came to outweigh the expansive sense of rights and redress

against public, state-sanctioned violence pursued by black social movements during the 1960s.⁷⁵ The emphasis on national security, however, has not been fully examined as a vector of this story. It is well known that white Southerners seized on cold war and anticommunist pretexts to repress the emerging civil rights movement. At the same time, policing, as we can see in Parker's writings from the 1950s, was already being refashioned on a more forward-looking and expansive basis, one defined by a mix of concessionary and punitive approaches to black freedom struggles, including efforts to protect local police discretion and prerogatives of institutionalized racism with the veneer of a professional, antiracist ethic. Even though policing and criminal justice remained a social policy backwater, with little claim on federal budgetary largesse before the mid-1960s, police professionals like Parker and Sloane already recognized the boon that the emerging national security discourse offered to their field of enterprise.

Black radicals had no need to invent a "colonial analogy" to describe the situation inside the United States. The Watts riot in particular was a touchstone for a many-sided comparison between domestic and international uses of police and military power. The chair of the commission that studied the riot, former CIA director John McCone (who had been a member of Kennedy's Special Group on Counterinsurgency), warned that in all the recent American riots and overseas insurrections, the issue of police brutality had been raised in order "to destroy effective law enforcement."⁷⁶ The *Chicago Tribune* called it "the Los Angeles terror." They quoted Chief Parker, who must have considered his own standpoint vindicated when he pronounced on the third night of upheaval in Watts that "this situation is very much like fighting the Viet Cong. We haven't the slightest idea of when this can be brought under control."⁷⁷

Competing visions of counterinsurgency—hard and soft, outside and inside the nation—had by the late 1960s become increasingly difficult to separate. In 1967, a *Life* magazine spread juxtaposed "the other war"—counterinsurgency in Vietnam—with "the 'Other' Pacification—to Cool U.S. Cit-

ies. . . . Here at home the U.S. also has its pacification program, no less urgent than the one in Vietnam.” National security adviser Walt Rostow earnestly advanced the same argument in a letter to President Lyndon B. Johnson after Johnson’s speech following the 1967 Detroit riots. “I was much struck by the parallels between your formulation of domestic policy and those you have applied to foreign policy. At home your appeal is for law and order as the framework for economic and social progress. Abroad we fight in Vietnam to make aggression unprofitable, while helping the people of Vietnam and all of free Asia build a future of economic and social progress.” For Rostow, war in Vietnam was “the equivalent of domestic law and order on the world scene.”⁷⁸

Frank Armbruster, policy intellectual who helped to design the most brutal and violent phase of counterinsurgency in Vietnam under the rubric of Civil Operations and Revolutionary Development Support (CORDS), operationalized as the Phoenix program in 1967, noted that insurgency was a “police problem” that needed “specifically designed military activity to provide an environment in which policemen and professional administrators can do their jobs . . . Police work may have to become the tail that wags the dog as far as military planning is concerned.” Armbruster doubted that social reforms could be carried out quickly enough to offset the “chaos on which extremists consistently thrived.” His example came from close to home and exemplified the collapse of domestic policing and counterinsurgency thinking: “In the United States, one of the demands of the protest leaders in the Watts section of Los Angeles after the disturbances was money to rebuild the commercial area demolished by extremist elements during the riots incited, in part, by this protest movement.”⁷⁹

The effort to rout what agents of Operation Phoenix called the Vietcong infrastructure involved widespread interrogation, torture, mass detention, and assassination—all defined as police work—alongside an escalating conventional war. This novel approach produced its own brand of crisis. By the

end of the decade, field reports from Vietnam desperately sought support for addressing a growing prison crisis involving hundreds of thousands of detainees. The leading U.S. official in charge of the CORDS Public Safety Division, Randolph Berkeley, attempted to reassure CIA director William Colby in 1971, that, as yet, “no prison in Vietnam has become a disaster such as San Quentin or Attica.”⁸⁰

The acknowledgment that brutal conditions within U.S. prisons were worse than those in Vietnam should give us pause. Black radicals pressed the case throughout the 1960s for precisely this kind of reading—not an analogy between the black and Vietnamese situations, but a homology, that is, the recognition that a single mode of rule had been elaborated in different contexts. As Jack O’Dell argued in “A Special Variety of Colonialism,” published in *Freedomways* in 1967: “In defining the colonial problem, it is the role of the institutional mechanisms of colonial domination which are decisive.”⁸¹ Attempting to stay within the terms of a fracturing liberal consensus, Martin Luther King Jr. spent his last years arguing that violent expressions of black discontent and revolt were the “language of the unheard” and thinking about how to translate the collective anger of dispossession into a collective politics that could create what he called a beloved community.⁸² The best that the liberal reformers could offer the urban poor was a vision of “maximum feasible participation,” conditioned by choice architectures designed by powerful elites. Many of those same elites were already signaling a willingness to revert to an older model, revoking participation on the grounds that rational state violence was the only language that certain collectivities were capable of hearing. The black journalist Samuel Yette cut to the core issue that both liberal reformers and their conservative antagonists avoided: “In the ghettos, as in Southeast Asia, the need for pacification rises out of a history of colonization—the economic and cultural exploitation of a subject group. An honest determination to relinquish such exploitation would obviate any need to pacify.”⁸³

Counterinsurgency, in its reminted U.S. iteration, went beyond foreign policy in pursuit of a situation of affirmative governance that could correct the lack of publicly structured and politically organized interiority among formerly subject populations. Its principal doctrinal statement, the Overseas Internal Defense Policy (OIDP) of 1962, is to this day what its primary author called “the most interventionist statement of American policy ever promulgated.” It is also striking in its generality and lack of clear boundaries. The OIDP characterized the domestic social patterns and institutions of “underdeveloped nations” as “malleable,” “shapeless,” and “illogical” and thus subject to “initiatives which . . . cross the line into disorder and violence.” Under pressures of social change, isolated rural people “crowd[ed] into the strange environment of cities that lack for them a satisfactory pattern of living.” Tempted into dissidence, an uprooted peasantry was “the ultimate and decisive target” of communist insurgency and thus of internal defense programs designed to “assist in the immunization of vulnerable societies” against insurgency. The most salient feature of this document was its emphasis on “potential threat, latent, or incipient” revolt, which required “continuous assessment” and monitoring. In this view, insurgencies in underdeveloped societies were not only an inevitable hazard but also had a particular life cycle: detected early enough, they could be suppressed. The primary agents of detection were the police, which the OIDP called “the first line of defense against subversion and insurgency.”⁸⁴

Counterinsurgent policing was imagined as a shift away from large-scale, more violent, less discriminating military intervention. Anticommunism, though it framed the U.S. understanding of the global problem of insurgency, was revealing a decidedly imperial substrate, one in which countering the violence, criminality, and social disorder of formerly subject people was understood to be a hazard of the modernization process. According to Richard Critchfield, an academic embedded in U.S. national security circles, Sir Robert Thompson, the widely revered British architect of the

Malayan counterinsurgency and head of the British Advisory Mission to South Vietnam, viewed the Viet Minh as little more than an “illegal armed civil disobedience movement.”⁸⁵ The American form of counterinsurgency added an important affirmative dimension to this view: the idea that rural Asians, passive and politically indifferent, had been underserved by central authorities and needed to be more effectively connected to the positive instrumentalities of government.

The perspectives of counterinsurgency experts exhibit uncanny resonances with those of domestic race-relations managers. In *The Negro Family: The Case for National Action* (1965), for example, Daniel Patrick Moynihan argued that “measures that worked for most groups will not work here.” The lack of strong patriarchal authority and a concomitant disintegration in “the fabric of conventional social relationships,” along with near-total “isolation” from the white world, had created a situation in which “crime, violence, unrest, disorder—most particularly the furious, unrestrained lashing out at the whole social structure . . . is not only to be expected; it is very near to inevitable.” Even if the consequences of centuries of white racism (or for that matter, European and U.S. colonialism) was acknowledged, these dynamics, as Moynihan famously remarked, were now perpetuating themselves “without white assistance.” The violence that had created these conditions was in effect converted into a potential for antisocial violence that could be curbed only with the exercise of legitimate force. According to Moynihan (in one of the less frequently cited parts of his report), this meant increasing black military service, by which means “a world run by strong men of unquestioned authority” could overcome the social pathology that had been spawned by a “disorganized and matrifocal family life.”⁸⁶

As modern-day Lockceans, liberal counterinsurgents viewed themselves as expanding the boundaries of the community of the free without regard to prior racial or colonial status. In the words of McGeorge Bundy, national security adviser and member of the CI Special Group, “There is no safety yet

for free men anywhere without us, and it is the relation between this astonishing proposition and the complexities of each part of the world that makes the conduct of our foreign affairs such an overwhelming task.”⁸⁷ But universal expansion was predicated on the delimitation wrought by racial and colonial violence, including the irresistible translation of social and political debilities into naturalistic terms. At a famous gathering of global counterinsurgents convened by the Rand Corporation in Santa Monica in 1962, Frank Kitson, a British veteran of the brutal Kenyan counterinsurgency, for instance, blithely informed his audience that “the African . . . can absorb an unbelievable amount of lead without taking notice of it.” The record of proceedings gives no indication that anyone objected to this blunt racist reassertion of black imperviousness to pain and death.⁸⁸

The fundamental dilemma that the Rand conference participants wrestled with was how to destroy the enemy and win over the population. This, of course, elided the more fundamental problem of how to meaningfully distinguish between the two, when facing popular insurgencies. The ODP suggested that any restiveness within targeted populations was a potential sign of latent or incipient insurgency. Pacification was therefore, the opposite of politicization. Even if some counterinsurgents viewed excessive repression and violence as counterproductive, their vision was not one of mediation through politics, but of more policing. The ODP reasoned, “The primary purpose of internal defense programs is to deal with and eliminate the cause of dissidence and violence.” Yet it bluntly concluded that the answer was to “bind [the police] more closely to the community”—the same remedy that first brought Charles Sloane to Saigon and that William Parker prescribed for the racialized zones of the city of Los Angeles.

The mandate to achieve “maximum feasible participation of the poor” defined the high-water mark of Lyndon Johnson’s “war on poverty,” whose implementation was assigned to U.S. undersecretary of defense, Adam Yarmolinsky, also an adherent of the counterinsurgency gospel. The

participatory imperative, the brainchild of liberal and progressive defense intellectuals, functioned primarily at the level of affect and perception. It sought to create a feeling of participation rather than to ascribe the poor a role in the design of government authority. This enterprise, characterized by the historian Arthur Schlesinger Jr. in its overseas iteration as the “very American effort to persuade developing countries to base their revolutions on Locke rather than Marx,” glossed over the fact that the vision of governance was organized around submission rather than consent.⁸⁹

Conservatives agonized much less than liberals about abuses of power and political representation. Casting his dyspeptic eye on the urban crisis, Edward Banfield observed there “seems to have been a marked increase since the civil rights revolution began in the amount of crime by Negroes.” The Kerner Commission’s emphasis on “white racism” as a cause “almost certainly made it easier for many Negroes to commit crimes that they would not otherwise have committed. . . . [I]t does not follow that . . . pursuing a more enlightened policy . . . could significantly reduce [crime].”⁹⁰ Another who grew skeptical of the value of the elaborate participatory nostrums of counterinsurgency, Samuel Huntington, infamously claimed that the “forced-draft urbanization” produced by the U.S. bombing and rural defoliation campaigns in Vietnam was speeding up the modernization process by default. Yet Huntington too was worried: the “Vietnamese family situation,” he argued, was “not altogether dissimilar from that which the Moynihan report found to exist among Negro families in American urban slums. This decay of the family, if it continues, bodes ill for the future stability and economic development of South Vietnam.”⁹¹

When push came to shove, a liberal-conservative consensus prevailed, asserting the necessity of building the future on the exclusions of the past. The problem, in the end, was not too little democratic participation but an “excess of democracy,” as Huntington famously described it. A group of influential thinkers, including Banfield, James Q. Wilson, Richard

Herrnstein, and Charles Murray (who did his own counterinsurgency stint in Indonesia), reintroduced arguments about the criminogenic poor and flirted with eugenic discourse. Banfield was unabashed about the necessity to abridge the freedom of “individuals whose propensity to commit crime is so high” that no “feasible incentives” could influence them otherwise. George Kelling—the architect, with Wilson, of broken-windows policing (based on his experience observing beat cops in the black ghetto of Newark, New Jersey)—dimly acknowledged the troubling racial precedence of the “black codes—vague loitering and vagrancy laws” in the new forms of intensive policing practices they were advocating. Like Kitson’s racism at the Rand conference, the observation gave his conscience no further trouble.⁹²

Some, more disillusioned with the state of affairs at the end of the 1960s, tried to hold onto faith in liberal reform. Retiring to the academy after his stints in the Department of Defense, running the war on poverty, and promoting Bobby Kennedy’s tragically foreshortened presidential bid, Yarmolinsky presided over a massive study supported by the Twentieth-Century Fund, *The Military Establishment*. It concluded with a warning that has largely gone unheeded: “The use of techniques applied in foreign wars and in planning for future wars may lead to increased likelihood that certain groups in American society will gradually be regarded as an enemy with action appropriate to that perception. . . . Insensitivity to unwarranted police violence and insensitivity to brutality in military actions—abroad and at home—may be unrelated phenomena, but they cannot escape mutual reinforcement.”⁹³

This observation was only half true. As we have seen, the two things have been related throughout U.S. history. Racism is the means by which war became normalized as policing, and police action licensed war. More precisely, racial distinctions have been made and renewed in the passage between norm and law, police and war, and the movement of state violence inside and outside its prescribed borders. Policing makes race when it

removes normative barriers to police violence. War makes race when it relieves legal barriers to war's limitation.

Few careers illuminate this relationship more clearly than that of the notorious Chicago policeman John Burge. When Burge flunked out of the University of Missouri in 1966, he moved back to live with his parents in a Chicago suburb. The Burge family lived within shouting distance of an area that a few months later became the site of a pitched battle between local residents, mostly white, and civil rights protesters led by Martin Luther King Jr., challenging Chicago's racially discriminatory housing policies. Like most men unable to attend college, Burge faced the prospect of being drafted to fight in Vietnam. Instead he decided to sign up for six years of service, beginning his tour of duty at Fort McClellan in Alabama and moving to the army's military police training school in Georgia. Burge was assigned to the Ninth Military Police Company at a base named Dong Tam ("united hearts and minds"), located fifty miles south of Saigon. This was the heartland of U.S. counterinsurgency operations, which escalated steadily in the late 1960s. When local villagers were suspected of involvement in ambushes that killed U.S. soldiers, their fingers and genitals were wired up to makeshift electric-shock devices built from a crank and a field telephone. As one soldier put it, "We could do pretty much whatever we wanted to them, as long as we didn't leave scars."⁹⁴

Discharged in 1969, John Burge returned to Chicago and joined the police department. Racial unrest was high, spurred by sharp racial turnovers in many Chicago neighborhoods. A number of police officers had also been killed in the line of duty. Over a twenty-year period, Burge presided over a police unit that systematically tortured over one hundred criminal suspects, every single one of them African American. The preferred method was a makeshift black box with two exposed wires and a crank that generated electric shocks. Created on home soil, forged in war, and institutionalized in policing, techniques of brutality and punishment migrated with Burge from

Georgia to Saigon and back to Chicago. From there, they traveled onward. A fellow detective, Richard Zuley, brought his police expertise from Chicago to Guantanamo Bay in the service of the “enhanced interrogation regime” in the current wars.⁹⁵

Vietnam was a laboratory for “counterinsurgency techniques and equipment,” as the chair of the Joint Chiefs of Staff, Maxwell Taylor, put it at the start of the war. This idea needs to be taken seriously, with respect not only to the future of overseas U.S. military action but to the future of domestic governance as well. Its harshest manifestations, including the routine use of police dogs and military-grade weaponry, riot control techniques, police intelligence gathering, violent interrogation methods, detention, torture, and assassination were disseminated domestically by the late 1960s in police responses to urban riots and rebellions. In his autobiography, published after the LA uprisings in 1992 that erupted after the acquittal of four police officers who had been taped brutally beating an unarmed black motorist, Rodney King, Daryl Gates recalls that at the end of the 1960s, “without official authorization,” he and a few colleagues “began reading everything we could get our hands on concerning guerilla warfare. We watched with interest what was happening in Vietnam. We looked at military training, and in particular we studied what a group of marines, based at the Naval Armory in Chavez Ravine, were doing. They shared with us their knowledge of counterinsurgency and guerilla warfare.”⁹⁶

It remains difficult to connect the dots all the way back or to recognize, with Charles Sloane, that the hunting of “human spoor”—ordinary American police work—was developed on the “human terrain” fashioned by slavery, colonialism, and its afterlives. The very idea of distinct domains of foreign and domestic policy is a hindrance to understanding the institutionalized and distinctively renewable violence that constitutes U.S. racial formations after World War II. A focus on processes of domestic racial exclusion and reform obscures the institutional and ideological exchanges and logistical

networks that connect, revitalize, and repurpose local and regional racial despotisms within and through the U.S. globalist idiom. The ideational chains, technology, and personnel transfers linking inwardly concentrated and outwardly tested state violence thickened, particularly during the Vietnam era, simultaneously renovating and reinforcing long-held colonial assumptions about group attributes and behaviors that indicate a threat. In other words, it wasn't simply the case that the war overseas came home, or that domestic racial conflicts were externalized: for both national-security and police professionals, home and world were always racially disaggregated spaces. The world as they imagined it was one of "white spots" set against a "darkened" landscape of global, civilizational disorder.

It is perhaps facile to equate "the beat" of the slave patrol with the modern patrol officer's beat. Still, former New York City police commissioner Raymond Kelley (at one time a candidate for director of the Department of Homeland Security) defended the racially discriminatory policy of stop-and-frisk on the grounds that it "instills fear" in the city's criminal element. Encouraged by a "statistics-based performance management system," the NYPD conducted a staggering 5 million stops and some 2.5 million frisks between 2002 and 2012. More than 85 percent of those stopped were black and Latino/a residents, overwhelmingly men. Only 1.5 percent resulted in the discovery of a weapon, and only 6 percent of all stops resulted in summons or arrest. Judge Shira A. Scheindlin, who ruled against this policy (before being removed from the case), noted that "the racial composition of the precinct or census tract predicts the stop rate above and beyond the crime rate" and that the population stopped and frisked is "overwhelmingly innocent."⁹⁷

Policing what comes to be denoted or anticipated as crime—by means ranging from mild correction to justifiable homicide—was the essence of slave and frontier law. The long-standing practice of criminalizing blackness in particular helps us to recognize racial distinction as an obscured mode for

instituting society that has been retained across changes in formal racial categories and degrees of inclusion. White supremacy, even as its legitimacy has waned, gave shape to a form of group-differentiated power, pleasure, and social control that accrued value and shaped U.S. institutions over a long period. The racial distribution and directionality of the legitimate violence it has exerted over those regarded as “dangerous and inconvenient” publicly confirmed it and performed its most essential work. “The majority of Negroes are of a plotting disposition, dark, sullen, malicious, revengeful, and cruel in the highest degree,” Benjamin Franklin noted toward the end of his life, this time without qualification. In spite of his growing abolitionist sympathies, Franklin doubted that “mild laws could govern such a people,” which is to say that he affirmed an existence beyond the civil realm that could only be held in check by violent means.⁹⁸

War shaped the disposition of police power in the early republic. Today it is common to observe that urban policing is a field of war. These are related propositions. Both the recasting of war as policing and the licensing of police to engage in the equivalent of warfare rely on and reproduce the racial construct of an enemy population without substantive rights. In the 1990s, Eric Holder, the first black U.S. attorney for the District of Columbia, was instrumental in implementing Operation Ceasefire, a precursor to stop-and-frisk, to combat the drug trade and its associated violence. The scale of violence during this period routinely occasioned comparisons to war. As one local policeman observed, “This is a jungle; We rewrite the Constitution every day down here.”⁹⁹ Just over a decade later, during his tenure as President Obama’s Attorney General, Holder was called upon to issue an opinion on the use of drones in the global war on terror. Notably, he defended the practice of targeted killing in spite of occasions of collateral victims (often including guests at weddings and funerals), by likening it to the exigencies of the police who not unreasonably “prevent [a suspect’s] escape by using deadly force.”¹⁰⁰

With the arrival of Donald Trump in the White House, the emphasis has returned to the inner war—on the border and in the central city. Trump’s first executive actions were signals of the power of police discretion in the name of national security. Trump owed his own political rise to a particular kind of racist signaling toward police, from the moment when he called for the execution of the Central Park Five to his support for stop-and-frisk during his election campaign. In commenting on Black Lives Matter protests against police violence, Trump’s chief strategic adviser, Steve Bannon, invoked the thinking of Benjamin Franklin, Edward Banfield, and countless others who have ascribed antisocial violence to racial differences: “Here’s a thought: What if the people getting shot by the cops did things to deserve it? There are, after all, in this world, some people who are naturally aggressive and violent.” Bannon and Trump have similarly defined immigration policy as falling within the ambit of war, with a reassertion of the possibility of national-origins restrictions and the widening of criminal suspicion and administrative prerogative attached to racial alienage. “These are not Jeffersonian Democrats,” Bannon remarked in 2016, referring to immigrants from Muslim-majority countries to the United States and Europe. “These are not people with thousands of years of democracy in their DNA coming up here.” The arc of settler freedom once again bends along the racial border.¹⁰¹

In the contemporary United States, criminal assignment and anticipatory criminalization license ever-widening practices of discrimination, in which the situational debilities and material debts that sometimes lead to unlawful acts against persons and property become the fixed property of persons. An astonishing 11 million arrests were recorded in the United States in 2015, in a period that has been marked by a decline in crime rates.¹⁰² A felony conviction imposes a durable civil liability, blocking access to free movement, employment, education, housing, and in many cases the franchise, even for those who have completed prison sentences. Since 1990, the size of the border patrol and Immigration and Customs Enforcement (ICE)

agencies has quadrupled. They now detain more than four hundred thousand people per year, operating a system of capture and mass removal that continues to expand the carceral state.

Criminality is the name given to a type of violence that threatens the social and civic order; policing is the institution that keeps such violence in check. This often appears to be a normalized and unproblematic claim. Yet this presumed normalcy partakes of a shadow lineage in which human incommensurabilities became the means of licensing and retroactively justifying extraordinary violence. Beginning after World War II, overseas war in nominally sovereign, postcolonial nations was routinely described as police action, while U.S. domestic policing was increasingly invested with the ontological urgency and moral equivalence of war. Certain (perceived) somatic and (allegedly) genetic features have long been linked with moral, aesthetic, spiritual, and intellectual defects that fix a person's place in the social hierarchy. Over several decades, antiracist and anticolonial struggles brought naturalized racial stigma under stricter public scrutiny and criticism and even into disrepute. However, inverse to these successes, the expansion of policing and criminal punishment maintained, restored, and expanded the ambit of debilities and penalties that were established long ago at the nexus of race and war.