

**“Hit the road, Jack”: Dislodging John Locke from the Logic of
Public Safety in the United States Toward Police Abolitionist
Theory and Practice**

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Preface

“The philosophers have hitherto only interpreted the world, in various ways. The point, however, is to change it.”
—Karl Marx, *Theses on Feuerbach*

I was a fourteen-year-old boy when I watched the New York City Police Department drain the life from Eric Garner’s body as six officers restrained and strangled him for the “crime” of selling loose cigarettes. I cried and cried and cried some more.

I was fifteen when I heard that the Ferguson Police Department had gunned Michael Brown down in the streets in broad daylight—the offending officer said Brown looked like a “demon” and thus he felt threatened for his life and had no other choice but to kill Brown. I did not cry at that time. Rather, I cheered with my older brother as we watched protestors burn police cars and smash their windows—much to our parent’s disapproval.

I was seventeen when I saw on the news that the police in Minneapolis and Baton Rouge had killed Philando Castile and Alton Sterling, respectively. Castile was killed in front of his wife and daughter while complying with the offending officer’s demands. Sterling was killed in front of his son. I was on family vacation while I mourned their deaths—a cruise in the Mediterranean. I cried as I thought about what it meant to return to the U.S., the beloved place of my birth, yet the wretched place of their deaths.

I was nineteen and a sophomore at Yale when the Hamden Police Department and Yale Police Department shot twenty rounds at Stephanie Washington and Paul Witherspoon while the two sat in their car singing love songs to each other. Stephanie was hit multiple times and narrowly escaped with her life while Paul, miraculously, was not hit once. Their offense? Being the suspects of a false armed robbery call and Paul’s mistake of getting out the car with his hands up when the police first accosted them. That time, I and hundreds of my peers and neighbors took to the streets and organized five days straight of protests demanding the officers be fired, the body camera

footage be released, and charges be brought. Ultimately, the officers were put on leave, the footage was released, and an investigation was launched resulting in the Hamden officer being charged. Justice served? I quietly did not think so at the time and more boldly deny so now.

I was twenty when George Floyd was murdered. We know how the story goes. That time I felt utterly helpless. We were in the midst of the early weeks of the COVID-19 pandemic and life already felt so bleak. Not to mention Ahmaud Arbery and Breonna Taylor had already been murdered a few months prior.... oh, and my older brother had just been hospitalized for a depressive episode as result of police violence he had faced months prior. One night, while he and his partner were asleep, the Washington Metropolitan Police Department conducted a no-knock raid on their apartment. The officers grabbed my brother, cuffed him, and threw him on the ground. They were supposedly looking for a sex trafficking suspect. Turns out they got the wrong guy...oops. Price of doing business, I guess.

That time, police violence struck too close to home. It felt like there was nothing I could do for Mr. Floyd, my brother, or any of the rest of them. So naturally, I took to Facebook and expressed my rage in a post calling for the full “demilitarization of the police” that received hundreds of reactions and comments and thousands of views. Not the most constructive platform., I admit, and the needle was not moved and I felt no more consoled or useful. But the social media void needed to feel my wrath and my pain, and I needed to feel seen and heard regardless of how selfish that might have been.

I was twenty-one years old when, while in the midst of this paper, Ma’khia Bryant (aged sixteen), Adam Toledo (aged thirteen), Andrew Brown, Jr. (from my home state of North Carolina), and Anthony Alvarez were taken from this world by police violence. And these are just the names I know.

As I am sure the reader has surmised by now, my senior essay is on the subject of policing. Growing up as a Black boy and now young Black man in the era of high-profile police killings and assaults of other Black boys and men....and women...and gender queer people...has inculcated in me an obsession—fearful, necessary, and probably a little unhealthy—with this thing we call “policing.”

I was barely a second semester freshman when I knew I wanted to write my senior essay on policing. It was February 2018 and I had just walked out of a lecture for Professor Ian Shapiro’s famous class “Moral Foundations of Politics.” That day’s lecture was on John Stuart Mill and conceptions and degrees of harm. We had talked about various legal standards for harm: the differences between strict scrutiny and negligence and such and how different offenses have been judged under different standards over time. In the middle of the lecture, I had a eureka moment: why do we not judge police use-of-force under a strict scrutiny standard?! I thought back to a podcast I had listened to over winter break (*More Perfect*’s “Mr. Graham and the Reasonable Man”) that had discussed how police use-of-force cases are judged by an “objective reasonableness” standard under the Fourth Amendment, which all too often amounts to whatever the officer sincerely believes is most reasonable in the moment force is used. (A more appropriate name might be the “subjective reasonableness” standard, but that does not sound as “rational,” does it?) This standard is why it has historically been so hard to indict and convict police officers who use excessive force. The application of a strict scrutiny test, however, would hold officers to a much higher standard, and rightfully so. Under strict scrutiny, if a suspect is unarmed, an officer would be held strictly liable for using force against them, especially deadly force, regardless of whether or not the officer knew the person was unarmed. Thus, claims that an officer thought a

cellphone, or a toy, or any other object was a gun would no longer suffice as an acceptable defense for someone who is a supposedly trained professional in using force.

As I walked out of lecture that day, I lamented to a friend about how our current standards are far too lax and how the application of a strict scrutiny standard would be a revolution in holding police officers and police departments accountable for the violence they inflict on the policed. I declared this would be the subject of my senior essay when the time came and vowed to perfect my arguments until then. I was so zealous in my commitment to this line of thinking that I would proselytize to anyone and everyone who would listen. I even once (okay maybe more than once) used my arguments to score intellectual brownie points with a young woman I was trying to woo. She was impressed, and I was impressed with myself. I felt like I had “solved policing” —whatever that meant.

At the time, and for most of the time I have been dedicated to thinking about and acting on issues of policing, I was a police reformer. I was convinced that policing is ultimately a public good, that policing is necessary to public safety, and that “bad apples” and bad practices could be rooted out. This thinking led me to focus on policy issues of policing, namely, my pet issue of use-of-force standards. If we can just change the policy, I thought, we can change the institution and make it more accountable to and for the people. For reasons that I hope will become apparent and convincing by the end of this paper, I now consider my former reformist sentiments mistaken.

George Floyd’s death caused me to start asking and thinking about meta questions related to policing that went beyond mere matters of policy. I started considering, *inter alia*, its origins, its legitimacy, and its socio-philosophical and socio-political functions. I began to question its efficacy at keeping the public safe, especially those who are policed the most. “Who is policing *really* for?” I thought, “and, if policing is not really for *us*, then is it really necessary to *our* public

safety?” It was after considering these questions and rereading Ta-Nehisi Coates’ *Between the World and Me* and reading for-the-first-time Charles W. Mills’ *Black Rights/White Wrong: The Critique of Racial Liberalism* (shoutout EP&E summer book club and my peer Shaurya Salwan for the latter read) that I arrived at a preliminary thesis regarding policing that sounded something like this: “the police is how a fundamentally prejudicial, exclusionary, and domineering social contract enforces itself domestically. If we want to look beyond policing as the center of public safety, then we are going to have to look to philosophies beyond the contractarian tradition.” I have to admit, I did not necessarily grasp the entirety of what I was thinking back then, but it sounded good. And so, ten months later, here we are. This essay is, what I hope, a more thorough and more thoughtful restatement and exploration of that early mental thesis.

This is a passion project for me; it is fundamentally personal. The issues considered here are a matter of life or death for me and for people who look like me, my very own brother included, and I do not pretend that is not so. This reality does not mean that my scholarship is unmeasured, uncaring, or sloppy. But it does mean that the sober and serious conclusions I draw are not a result of so-called “dispassionate” or “objective” calculation. Dispassion and objectivity are often, in my humble opinion, scholarly myths we tell ourselves in order to take ourselves more seriously, distance ourselves from the pain and hardship and ugliness we study, and rationalize a field—political science—that is more highly emotional than we are willing to admit. This essay is not a rote exercise in scholarship conducted in order to graduate or to boast of the finished product. This essay is a faculty of philosophical faith. It is an expression of hope. And it is a labor of love. These are not reasons to take it any less seriously; rather, they are all the more reasons to engage with it sincerely. As such, I invite the reader to read and reread this essay closely, to critique it, to take from it what they find agreeable, and discard what they do not. Pay attention to the footnotes

because they are chalk full of additional commentary and outside scholarship that makes my own possible. Reading this essay, as with any sincere scholarship, is a matter of discernment. So please, discern well and discern wisely, for the importance of the subject matter calls for a humble earnestness.

Acknowledgments

I owe a great deal to a great many for the work I have done here. First and foremost, I am blessed by God, whose call to seek justice, love mercy, and walk humbly with Him is the wellspring of my life, the source of my strength, and my impetus to care for the world. Secondly, I am indebted to my ancestors. From Port Hope to Port-au-Prince, I am their wildest dream, and it is their beautiful struggle that motivates me daily. Thirdly, I am indebted to my village: Mummy, Pops, Auntie Mica, Uncle Brian, J, Danielle, my siblings (Adam, Tiffani, Andrew and their partners and children), my cousins, my grandmothers, my mentors, my best friends, and my amazing partner Hannah. *I am because we are.*

Finally, I am grateful to various folks who have given me aid and inspiration along the way. Thank you to my essay adviser Dr. Gregory Collins for being a professor, a mentor, an interlocutor, and an intellectual role model. Thank you to Dr. Maria Jose Hierro and my peers in PLSC 490 who have provided meaningful feedback on this essay. Thank you to my residential college dean Jessie Royce Hill who has been a source of unwavering academic and social support during my time at Yale. Thank you to Pastor Joshua Williams who has been one of my closest brothers in the fight against police violence and for a less violent world overall, on top of being a friend and spiritual adviser. Thank you to the many grassroots organizations and their members fighting against police violence in the greater New Haven area, including, but not limited to: People Against Police Brutality, Black Lives Matter New Haven, CT Bail Fund, NAACP New

Haven, Hamden Action Now, and Black Students for Disarmament at Yale. Working with them toward community justice has been one of the highlights of my Yale career. Thank you to Dr. Hélène Landemore and her former Teaching Fellow Dr. Naomi Scheinerman, for it was in their introductory political philosophy class my freshman year where I fell in love with and learned the power of political philosophy.

And last but not least, thank you to all the scholars, writers, and thinkers with whom I engage in this paper. Whether or not I agree with them, I have found their work challenging and worthy of use and critique. Of this category, I am especially grateful to Dr. Charles Mills. I do not know Professor Mills personally, but his scholarship as an Afro-Caribbean philosopher has given me, an Afro-Caribbean aspiring philosopher, the necessary inspiration to know that people like us have important contributions to make to the field and practice of philosophy.

It is to these aforementioned people and to the countless victims of police violence, their communities, and the people fighting in their names that I dedicate this essay. I can only hope to make them proud.

I. Introduction

“Mama, mama, mama!..Please, man...you’re going to kill me, man!...I can’t believe this...I’m dead...I can’t breathe!”

–George Floyd, his dying words

On the evening of May 25th, 2020, 46-year-old Black man George Floyd purchased cigarettes from Cup Foods grocery store in the Powderhorn Park neighborhood of South Minneapolis. After purchasing the cigarettes and leaving the store, Mr. Floyd was followed to his car by the cashier who then accused him of using a counterfeit twenty-dollar bill to complete his purchase and demanded that Mr. Floyd return the cigarettes. Mr. Floyd denied the allegation and refused to return the package of cigarettes, at which point the cashier called 911 to report the alleged counterfeit currency and stolen merchandise. The Minneapolis Police Department dispatched two officers who then called for backup after they were unsuccessful in detaining Mr. Floyd alone. Shortly thereafter, two more officers arrived and joined the other officers in attempting to detain Mr. Floyd, who, while maintaining his innocence, was resistant to their arrest. Following a prolonged struggle, three officers pinned Mr. Floyd to the ground handcuffed—with one holding his legs, another holding his back, and another pinning their knee on his neck—while a fourth officer watched. The officers continued choking and restraining Mr. Floyd despite his repeated pleas that he could not breathe and the intervention of bystanders on his behalf. The entire choking ordeal lasted eight minutes and forty-six seconds and resulted in Mr. Floyd’s death. What a horrifying series of events. If the reader is like me, their first question in response to this gut-wrenching and seemingly senseless killing might be: why? More specifically, why (and how) does an institution come to have so much power and authority that it can execute a man in the street, in broad daylight, over twenty dollars’ worth of allegedly stolen property?

Mr. Floyd’s death at the hands of the Minneapolis Police Department is just one of the latest in a long line of high-profile police killings in the U.S. that have garnered international

attention, outrage, and controversy over the last several years. Mr. Floyd’s case fits the profile of many of the same kinds of killings that have preceded it: Mr. Floyd was Black, he was unarmed, and his death was filmed and went viral. Yet there seems to be something about the response to Mr. Floyd’s death that feels qualitatively different from responses we saw to similar incidents. In previous waves of advocacy against similar injustices, legal and tactical reform were at the center. The most prominent methods proposed to reduce police violence, make communities safer, and infuse public safety with justice and equity included, but were not limited to, using body cameras, establishing civilian review boards, instituting implicit bias training, and altering use-of-force guidelines. The calls for these new policies reflected an attempt to shift the predominant philosophy of policing away from a “broken windows policing”¹ approach to a “community policing”² approach. These efforts have largely been what is properly called “reformist.” Police reformism does not challenge the fundamental legitimacy or necessity of policing itself; rather, it seeks to remold the institution for the better.

Since Mr. Floyd’s death, however, we seem to be experiencing a major expansion of the Overton Window within the public safety conversation. Rather than mere institutional reforms, many scholars, activists, and politicians alike are questioning the legitimacy and necessity of the institution of policing *tout court*, calling for radical alterations and even the gradual—in some cases immediate—abolition of the police. These proposals, though far from novel and far from

¹ Broken windows policing is based on broken windows theory, which is a criminological theory that claims that behavioral impropriety and physical dilapidation breed crime. Accordingly, “good” policing will proactively and aggressively target all manner of infractions, minor and major, in order to deter and prevent the social and physical deterioration of a community. Broken windows policing is therefore most concerned with oversight and discipline.

² Community policing is focused on policing through the development of community relationships and partnerships. The police attempt to engage in consistent dialogue with community members and be attentive to their needs and concerns. Community policing is not necessarily any less concerned with oversight, discipline, and order than broken windows policing, but it aims to be a more personal approach to policing.

unanimous,³ have entered the mainstream discussion of policing in a way that they have not before, largely centered around the policy movement to defund the police and reallocate its resources to other state provided services and comprehensive community investments.

Mr. Floyd's death and the new wave of radically re-imaginative and abolitionist activism it has inspired trigger fundamental questions that go beyond legislative and administrative policies, practices, and remedies concerning policing. While the mainstream discourse remains policy centric, usually accompanied with a critical historical and sociological lens, it is worthwhile to explore questions that are more philosophical in nature in order to help guide our policy discussions with clarity of vision. In this paper, I ask and answer two such questions: 1) is there a coherent political philosophy that can explain the formation of policing as an institution in the United States? and 2) if so, how can we posit a new political philosophy to correct for its historical injustices? My argument: the answer to both questions hinges on unpacking and subsequently disrupting the concept of property and its centrality to the process of state formation and the logic of public safety.

³ I want to state in no uncertain terms that calls for abolishing the police as such or abolishing them altogether have had many vocal proponents and thought leaders since at least the Black Power Movement; these ideas are not new and are especially not the exclusive origination of any one person or group of people in the contemporary era. What makes this moment different is that these calls have more recently, in the wake of Mr. Floyd's death, received attention and debate from the media, political, and popular establishments as opposed to the often fringe consideration they received before. That police abolition is in the mainstream is due the concerted efforts of dedicated activists, scholars, and organizers. To engage with abolitionism as worldview, cf. Davis, Angela. *Abolition Democracy: Beyond Empire, Prisons, and Torture*. (New York, NY: Seven Stories Press, 2005) and any scholarly materials that draw on her work and the concept of abolition democracy. Davis is and has been one of the leading theorists of police and prison abolition since her involvement in the Black Power Movement in the 1970s. The term "abolition democracy" is taken from W.E.B. DuBois' invocation of the same in his famous *Black Reconstruction* to describe Union and Black reconstruction efforts in the post-bellum American South.

It should be further noted that though in the mainstream discourse like no time previous, police abolitionism is not necessarily the dominant position in every circle. The reform efforts mentioned above remain persuasive to many policing scholars and activists as well as politicians and voters. (Not mention there is a major contingent of society that sees nothing wrong with policing in the first place.) In fact, the ascendancy of abolitionism in some circles has seemingly caused increased support for reform efforts as a more palatable alternative to the small but growing calls for abolition that are viewed by many as "radical," "dangerous," and "unrealistic."

My goal in this paper is to use historical and sociological data to demonstrate that the formation of policing and its disparate, caste infused impact are the logical result of constructing the state on a Lockean contractarian basis that prioritizes the protection and preservation of property. Policing and its role in the police state are fundamentally a result of forming what I term a “property state,” the kind of polity that is formed using the logic of a Lockean social contract. This property state formation is inherently tied to Whiteness and wealth in the United States, and, as such, the police—the chief protectors of property—are weaponized most aggressively against communities of color and working-class communities. If we are going to undo this scheme of unfair racial and class interests in policing, I propose we rethink both our political philosophy of the state and our political philosophy of public safety. Instead of espousing Lockean propertarian⁴ logic that centralizes property in both cases, we ought to consider how to use Aristotelian and other communitarian⁵ logics to center human flourishing and mutuality in public safety, in the absence of police. In order to advance my argument, this paper is broken into three major parts (II-IV).

The first phase of the paper is an interpretivist (textualist) approach to John Locke’s contractarian and propertarian philosophies followed by an historical exposition of his influence on American political philosophy as well as an exposition of the role of property in the early American polity.⁶ An interpretivist or textualist approach, as opposed to a historicist approach, means reading and critiquing an author for the logic and validity of their arguments as a coherent (or perhaps incoherent), enduring whole without central regard to the contingencies of their

⁴ Propertarianism is a political philosophy that asserts property rights as the basis of ethical and political questions.

⁵ Communitarianism is a category of political philosophies that emphasizes the importance of self-governing communities and the emergence of individual identity and sense of duty within a communal context.

⁶ Though this paper is focused on Locke’s influence on the American polity and policing in America, he is the preeminent theorist of property in the anglophone world if not the West at large (and by extension, anywhere Western conceptions of property have a major influence). As such, there are strong cases to be made about his influence on political philosophy and policing in other countries. Those cases are outside the scope and purpose of this inquiry but deserve to be developed.

historical moment. I have chosen this method because to say Locke is a police theorist is anachronistic; he predates the institution of policing as we know it by nearly three centuries. But to say that his thinking influenced the kinds of ethical justifications that undergird contemporary institutions like the police—among others—is precisely my point. An interpretivist method allows us to consider how Locke’s theories of property and the state transcend time and place and influence how other theories and developments of the same unfold in later generations, particularly as they relate to the police.⁷ My focus will be a close reading of the passages in Locke’s *Second Treatise of Government* relevant to property and the social contract. In this phase of the paper, I also discuss the exclusionary nature of Lockean political philosophy as it relates to race and class and explore how these exclusions manifest in the American polity itself.

In the second major phase of the paper, I use some qualitative and quantitative historical and sociological data concerning the development of policing in the United States to demonstrate its ties to the preservation and protection of property. This phase itself comprises four major parts. The first three parts each deal with a unique way in which material and metaphysical property interests explain the origins of policing: a) property in persons, b) property in industry, and c) property in territory. section A details how the origins of policing in the United States are tied to the institution of slavery. Section B details how the origins of policing are tied to the maintenance of industrial order. And section C details how the origins of policing are tied to the maintenance of American imperial holdings abroad.

⁷ While my early exposition of Locke’s political theory is interpretivist, I employ historicism in two important ways that will be noted. My primary purpose in the early focus on interpretivism is a) to establish a basic understanding of Locke’s arguments and b) to preempt claims that talking about Locke and policing is ahistorical. Lockean theory and policing were not contemporary phenomena, but his theory does have enduring value that influences the aims of policing historically—this is one of the central theses of this paper. That being said, no thinker and their ideas are purely transcendent or purely historical. In fact, understanding the historical contingencies and DNA of one’s ideas allows us to better understand how or why those ideas have transcended their particular time and place. Text and history can and should be held in tandem for any serious scholar of political thought.

Finally, section D of that part is an overview of policing since its propertarian origins to the present moment. Here I argue that though the purpose of policing has expanded beyond the mere protection of largely material property interests, it still carries what I term “propertarian logic” rooted in Locke’s expansive definition of property and property rights. In essence, political rights like the rights to life and liberty are reified in such a way that they are treated as properties themselves, both socially and in the functional view of the police. Thus, as properties themselves, such rights are preserved and protected the same way as material property: through deterrent force and the threat of the same.

The third major phase of this paper is both normative and analytical. I explore abolitionism as a competing worldview to the current property state and police state frameworks. I argue that Aristotelian and other communitarian philosophies—including the African philosophy of Ubuntu—best support the vision of the world that abolitionists posit by linking their values of mutuality, community autonomy, and human flourishing to the same values found in these philosophies. Ultimately, the goal is to advance a communitarian approach to public safety that disrupts the current propertarian approach. A theory of public safety that emphasizes the connectedness and reciprocal obligation of people who live together in a community as opposed to one that fosters atomization, mistrust, and defensiveness is the one most likely to protect human rights and promote human flourishing.

Finally, I conclude this paper with an honest assessment of the limitations of the arguments I have advanced and how they might be addressed. I outline how and where scholars and activists can add to the discourse and further the work of re-imagining public safety in the U.S.

This paper is not meant to be the definitive historical or philosophical account of policing in the U.S., let alone globally. Rather, it is meant to provide a lens through which we can analyze

and critique the institution of policing by revealing a compelling trend in its actual development, and it should be read accordingly. Policing, like all institutions and the people that comprise them, is ontologically complex. Motives, purposes, and rationales for existence for any institution are often discordant and are anything but linear or straightforward; policing is certainly no exception. As such, I approach this subject not only with a desire to challenge orthodox narratives around policing and help construct new ones but also with a deep epistemic humility and an eagerness to contribute to the conversation in a novel, if small, way.

The literature on the relevant subject matter of this paper exists in disparate pieces, but to my knowledge, my argument is a unique thesis at the intersection of philosophy and history as they relate to property and policing. The importance of property to Locke's political philosophy is all but incontrovertible, though there are numerous scholarly readings of that importance. To name just a few: Louis Hartz highlighted the importance of Locke's theory of property to classical liberalism.⁸ James Tully underscored the importance of the relationship between theology and property in Locke.⁹ And C.B. Macpherson vehemently asserted that Locke's theory of property was necessary to the development of modern capitalism and capitalist class dynamics.¹⁰ In this paper I will engage with all these readings—the liberal, the theological, and the Marxist—though my central preoccupation is with how the liberal, that is Lockean, conception of property can

⁸ Cf. Hartz, Louis. *The Liberal Tradition in America: An Interpretation of American Political Thought Since the Revolution*. (New York: Houghton Mifflin Harcourt, 1955).

⁹ Cf. Tully, James. *A Discourse on Property: John Locke and His Adversaries*. (Cambridge, England: Cambridge University Press, 1980).

¹⁰ Cf. Macpherson, C.B. *The Political Theory of Possessive Individualism: Hobbes to Locke*. (Don Mills, Ontario: Oxford University Press, 1962). Hartz, Tully, and Macpherson are three scholarly giants in their respective readings of Locke, but they hardly represent an exhaustive list of Locke scholars or commentators on the importance of property in Locke. For more readings of Locke and property in Locke, cf., *inter alia*, Quinten Skinner, John Dunn, Richard Ashcraft, JGA Pocock, Isaiah Berlin, Leo Strauss, David Miller, Ellen Meiksins Woods, Uday Mehta and Jules Townshend.

interact with the Marxist derision of the supremacy of property interests in liberal bourgeois society to form a comprehensive understanding of how the police came to be in the U.S.

Locke's philosophy has also been directly invoked in discussions of the morality of policing and police ethics. The work of Howard Cohen and Michael Feldberg¹¹ and the work of John Keinig, a prominent theorist in the field of police ethics,¹² are paradigmatic of this invocation. These works place policing within the Lockean framework of natural rights and social contract theory to create normative values for police efforts.

Where race and the social contract are concerned, Charles W. Mills has noted the racially exclusive nature of classical contractarian thought in his books *The Racial Contract* and *Contract & Domination* (completed with Carol Pateman).¹³ According to Mills, Locke's social contract suffers from a philosophical White male supremacy because of Locke's personal racism and the racist political dynamics of his day. David Theo Goldberg has also argued that the concept of race, and therefore racism, is necessarily tied to notions of the modern nation-state and state formation more broadly.¹⁴

Where property, race, and class intersect in policing itself, historians, sociologists, criminologists, and other similar scholars such as Sidney L. Harring, Kristian Williams, and Alex Vitale have made compelling arguments about the intricate interplay of these phenomena.¹⁵ Harring surveyed urban policing in the U.S. from 1865-1915 and concluded that police during this time period largely "protected the interests of manufacturers" and "disciplined the working class

¹¹ Cf. Cohen, Howard, and Michael Feldberg. *Power and Restraint: The Moral Dimension of Police Work*. (Westport, Connecticut: Praeger Publishers, 1991).

¹² Cf. Kleinig, John. *The Ethics of Policing*. (New York, New York: Cambridge University Press, 1996).

¹³ Cf. Mills, Charles W. *The Racial Contract*. (Ithaca, New York: Cornell University Press, 1997); Pateman, Carole, and Charles Mills. *Contract & Domination*. (Malden, Massachusetts: Polity Press, 2007).

¹⁴ Cf. Goldberg, David Theo. *The Racial State*. (Malden, Massachusetts: Blackwell Publishing, 2002).

¹⁵ Cf. Harring, Sidney L. *Policing a Class Society: The Experience of American Cities, 1865-1915*. (Chicago, Illinois: Haymarket Books, 2017). Williams, Kristian. *Our Enemies in Blue: Police and Power in America*. (Chico, California: AK Press, 2015). Vitale, Alex. *The End of Policing*. (Brooklyn, New York: Verso Books, 2018).

in order to maintain the existing order of capitalist relations.” Williams crafted a *tour de force* of the history and current state of policing, highlighting its violent nature and development. And Vitale leveled a concise indictment of policing as an inherently violent and oppressive apparatus of the state for many underclasses of society. None of these scholars or their peers,¹⁶ however, have combined the philosophical,¹⁷ the historical, and the sociological perspectives in order to construct the property state thesis that I advance here. One of my aims in this paper is to make a convincing argument for a connection between the Lockean political philosophy of property and the social contract and the historical and sociological development of policing in the United States—topics that are well researched and theorized in their own right but do not have comprehensive explicit connections in the mainstream literature. I want to draw on the work of these scholars and bring their ideas into a coherent whole with a novel and incisive perspective.

The radical imagination required to reshape the world in political life must include an active scholarly imagination that is ever finding cogent ways to understand how the ideas and

¹⁶ For a non-exhaustive list of works in this space of police analysis, cf. Balko, Radley. *Rise of the Warrior Cop: The Militarization of America's Police Forces*. First edition. ed. (New York, New York: PublicAffairs, 2013); Butler, Paul. *Chokehold: Policing Black Men*. (New York, New York: The New Press, 2017); Correia, David, and Tyler Wall. *Policing: A Field Guide*. (Brooklyn, New York: Verso Books, 2018); Davis, Angela J. *Policing the Black Man: Arrest, Prosecution, and Imprisonment*. First edition. ed. (New York, New York: Pantheon Books, a division of Penguin Random House LLC, 2017); Forman, James. *Locking up Our Own: Crime and Punishment in Black America*. First edition. ed. (New York, New York: Farrar, Straus and Giroux, 2017); Hinton, Elizabeth Kai. *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America*. (Cambridge, Massachusetts: Harvard University Press, 2016); Muhammad, Khalil Gibran. *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America*. (Cambridge, Massachusetts: Harvard University Press, 2010); Muir, William Ker. *Police: Streetcorner Politicians*. (Chicago, Illinois: University of Chicago Press, 1977); Ritchie, Andrea J. *Invisible No More: Police Violence against Black Women and Women of Color*. (Boston, Massachusetts: Beacon Press, 2017); Westley, William A. *Violence and the Police: A Sociological Study of Law, Custom, and Morality*. (Cambridge, Massachusetts: MIT Press, 1970); and Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York, New York: The New Press, 2010).

¹⁷ Two works that invoke explicitly philosophical material to frame policing in a manner similar in style but different in substance to me are William Muir's *Streetcorner Politicians* from above and Alexander, Cedric L. *The New Guardians: Policing in America's Communities for the 21st Century*. (North Charleston, South Carolina: CreateSpace, 2016). The latter draws heavily upon Karl Popper's influential multi-volume tome *The Open Society and Its Enemies*, and the latter uses Plato's *Republic* and seminal works in American constitutionalism to cast community policing in a philosophical light.

institutions that have heretofore shaped our world are interrelated. This is my present undertaking, in which I invite the reader to partake throughout the following pages and beyond.

II. Property and Political Theory

“Outdoors, we knew, was the real terror of life. The threat of being outdoors surfaced frequently in those days...Outdoors was the end of something, an irrevocable, physical fact, defining and complementing our metaphysical condition...Knowing that there was such a thing as outdoors bred in us a hunger for property, for ownership.”

–Claudia MacTeer, in Toni Morrison’s *The Bluest Eye*

A. John Locke’s Theory of Property and the Social Contract

John Locke is the foremost theorist of property and one of the great contractarian theorists in Western philosophy. His approach to both property theorization and contractarianism are underpinned by his immersion in natural law theory, he himself being an intellectual inheritor of and interlocutor with Grotius, Hooker, and Pufendorf, the other great legal naturalists of the time. His theories of property, the social contract, and natural law and rights come together in one whole in his political philosophical magnum opus *Two Treatises of Government*. The logic, validity, and usefulness of these ideas rest one upon another, and so a careful investigation of them together is necessary to understand Locke’s relevance to our present project. As political economist and theorist C.B. Macpherson said, “before we can unravel Locke’s theory of civil government...[one] must therefore look closely at his doctrine of property.”¹⁸ We will therefore begin our inquiry in a like manner.

As a theistic natural lawyer, Locke began his story of material property with Creation. Locke’s entire *First Treatise of Government* is dedicated to debunking the theory of the divine right to rule offered by Sir Robert Filmer in his obscure tract *Patriarcha*. Filmer’s theory stated that God created Adam as the first king of humankind with “royal authority,” “fatherly authority,”

¹⁸ Macpherson, *Possessive Individualism*, 197.

and “absolute lordship and dominion” over the earth.¹⁹ This meant that Adam’s heir would continue a divine royal lineage that would be the basis for the right of all contemporary monarchs to rule absolutely with a heavenly mandate. Locke thought this to be nonsensical, ahistorical, and tyrannical political theology and boldly asserted that Adam represented humankind as a whole, not an individual or single lineage. Therefore, God’s Creation was gifted to all people in equal access. He began his chapter on property in the *Second Treatise* by reiterating this central argument: “God has given the earth to the children of men, given it to mankind in common.”²⁰

How, then, do we derive a concept of (private) property from a genesis of coequal ownership and stakeholder-ship in the abundance of earth? This was the central puzzle for Locke. After all, he admitted rather plainly that, “God hath given the world to Men in common, hath also given them reason to make use of it to the best advantage of life and convenience...and nobody has originally a private Dominion, exclusive of the rest of mankind, in any of them, as they are thus in their natural [original] state.”²¹ This natural state of common property seems inescapable and incorruptible, even more so when we consider that in this natural state, or “state of nature,” there is no social hierarchy by which one could make an exclusive claim to more than what they need by necessity. The state of nature is also a “state of equality, wherein all power and jurisdiction is reciprocal, no one having more than another: there being nothing more evident than that creatures of the same species and rank promiscuously [are] born to all the same advantages of nature.”²²

To answer this puzzle, Locke started by ascribing property rights to that which is obviously not held in common, one’s own person—their body and being. “Though the earth, and all inferior

¹⁹ Locke, John. *Two Treatises of Government*, ed. Peter Laslett. (Cambridge, England: Cambridge University Press, 1988), 149.

²⁰ *Ibid.* 286.

²¹ *Ibid.*

²² *Ibid.* 269.

creatures be common to all men, yet every man has property in his own person. This nobody has any right to but himself.”²³ This self-ownership is essential to equality in the state of nature. Locke then moved from the assertion that if everyone owns themselves, inherent to that self-ownership is ownership over one’s actions, thus the labor act itself belongs to the individual: “The labour of [one’s] body, and the work of his hands, we may say, are properly his.”²⁴ It follows, then, that if one has ownership of their labor act, the object of that labor ought to belong to them as well. “Whatsoever then he removes out of the state nature hath provided, and left it in, he hath mixed his labour with, and joyned to it something that is his own, and thereby makes it his property.”²⁵ The combination of labor and the tangible substances of the earth, be they animate or inanimate, is “annexed” to the originator of the labor and “excludes the common right of other men.” Locke’s formulation here is known as the “labor theory of property” or “labor theory of appropriation.” It was directly modeled after his workmanship theory, which claimed that since God created humans by the work of His own hands,²⁶ we are therefore his “property.”²⁷

Locke’s labor theory of property is revealing for how he thought we ought to define property itself. Property so conceived takes on meanings that go beyond owning material goods. The Lockean thesis of property extends to include a proprietary claim over one’s body and being and all that flows out of them and becomes intricately entwined with the concept of rights. Locke’s

²³ Ibid. 287.

²⁴ Ibid. 287-288.

²⁵ Ibid. 288.

²⁶ Genesis 2:7.

²⁷ Locke, *Two Treatises*, 271. This presents a tension in Locke’s logic. If people are the “workmanship” and “property” of God the Creator, then how do we also have property in ourselves? Do we share that right with God or does he generously forfeit his claim to us? The right to self-ownership is explicitly exclusive, which may preclude the former explanation. Locke claims that “though [the state of nature] be a state of liberty, yet it is not a state of license, though man in that state have an uncontrollable liberty, to dispose of his person or possessions, yet he has not liberty to destroy himself” (pg. 270-271). This claim, which precedes the claim concerning self-ownership and is mentioned directly before the workmanship theory, seems to suggest that we do not in fact have ownership over our persons (although we still have “possessions”), rather we have a usufruct in ourselves granted to us presumably by our true owner who is God. This potential tension is not addressed, leaving us to our own conclusions, though the tension does not hinder our ability to track his theory of property, posing only, for our purposes, a technical puzzle.

use of the word “property” was dynamic. Most often he employed it to mean one’s right to, claim over, or ownership of something.²⁸ But when he used it to refer directly to substances owned or lorded over, the usage is split between that which we would consider conventional material property such as land or the fruits of the land²⁹ as well as the catchall usage that encompasses oneself, one’s natural rights, and one’s material possessions. Though he uses “property” in all these ways, an explanation of this latter expansive usage is the only time Locke offers an explicit definition of the term: “[men] have a mind to unite for the mutual preservation of their lives, liberties and estates, which I call by the general name—property.”³⁰ “By property I must be understood here, as in other places, to mean that property which men have in their persons as well as goods.”³¹ These competing uses for property as the subject of ownership have led to equally competing interpretations of Locke’s treatment of property, its relationship to political society and the *Two Treatises* more broadly..

What, then, is property’s relationship with political society? For Locke, the labor theory of property was valuable because it rested upon humans’ natural industriousness. We are, as our maker, creative and productive beings, and our maker intended us to take full advantage of this nature.³² Property also adds value to the natural world; productivity through enterprises such as farming and mining give value to the land and help it to bear more fruit, fruits that many people may enjoy. “As much land as man tills, plants, improves, cultivates, and can use the product of, so

²⁸ For example, page 157, Locke’s first usage of the word in either treatise: “...God gave Adam property, or, as our author calls it, private dominion over the earth, and all inferior or irrational creatures, and so consequently that he was thereby monarch...”

²⁹ For example, page 289: “Thus, the grass my horse has bit, the turfs my servant has cut, and the ore I have digged in any place, where I have a right to them in common with others, become my property without the assignation or consent of anybody.”

³⁰ Ibid. 350.

³¹ Ibid. 383.

³² Ibid. 291. “God gave the world to men in common, but since he gave it them for their benefit, and the greatest conveniences of life they were capable to draw from it, it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the industrious and rational (and labour was to be his title to it); not to the fancy or covetousness of the quarrelsome and contentious.”

much is his property.”³³ The concept of property, in the material sense, is a way to incentivize the industriousness and productivity of humans and make them more efficient. If one is entitled to the objects of their creative and productive labor, they are more likely to repeat their actions and in doing so enhance the earth. The labor theory of property is a solution to the age old “tragedy of the commons,” except in this case, the tragedy is not a ruined commons but an uncultivated one.

Nevertheless, the proprietary assurance that property provides is not by itself secure enough in the state of nature. The state of nature, after all, is a state of perfect equality and freedom wherein everyone is “absolute lord of his own person and possessions, equal to the greatest and subject to nobody.”³⁴ Though this existence is generally agreeable with natural property rights and people can live peaceably with each other, it is not without its risks and administrative challenges. “The enjoyment of [one’s personal empire] is very uncertain and constantly exposed to the invasion of others. For all being kings as much as he, every man his equal, and the greater part, no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure.”³⁵

Locke presented here, as Hobbes did before him, the idea that what is rational for one—maintaining their natural freedom and absolute dominion over their lives—is not necessarily rational for all. In fact, it constitutes group irrationality. If everyone pursuing is pursuing their own rational end, it results in inequities and injustices that do not necessarily constitute the “poor, nasty, brutish, and short” life that Hobbes suggested,³⁶ but nonetheless make conditions of violent conflict and the fear of violent conflict possible and common. “This makes [one] willing to quit

³³ Ibid. 290.

³⁴ Ibid. 350

³⁵ Ibid.

³⁶ Hobbes, Thomas. *The Cambridge Companion to Hobbes's Leviathan*, ed. Patricia Springborg. (Cambridge, England: Cambridge University Press, 2007), 110.

this condition, which however free, is full of fears and continual dangers...to joyn in society with others...for the mutual preservation of their lives, liberties, and estates.”³⁷ As we have already seen, “lives, liberties, and estates” constitute Locke’s comprehensive definition of property, which means that “the great chief end, therefore, of men’s uniting into commonwealths, and putting themselves under government, is the preservation of their property.”³⁸ This act of free and equal persons leaving the state of nature and forming a political society wherein they are subject to the rule of law and a common authority is called the social contract. And for Locke, this social contract was the most conducive station to maintaining property and to allowing it to flourish and grow.

What, then, are we to make of the Lockean definition of property and the way it informs the construction of the social contract? Within the traditional scholarship, there are two predominant interpretations of Lockean political theory *vis-à-vis* property and the social contract: the so-called liberal and the so-called Marxist interpretations.

The liberal interpretation(s) of Locke claims to have a plain-reading of him. That is, they take his expansive definition of property seriously: property is the right of ownership of one’s self, one’s civil liberties, and one’s material goods. And the natural right to property is the catchall right from which all other politically codified natural rights flow. Under this reading, “liberalism” and “Lockeanism” become in a sense synonymous, and Locke is treated as the “Father of Liberalism” and “ur-liberal” that he is often taken to be.³⁹

The Marxist view is most prominently argued by C.B. Macpherson in his seminal work *The Political Theory of Possessive Individualism*. Macpherson’s thesis is that under Lockean

³⁷ Locke, *Two Treatises*, 350.

³⁸ *Ibid.*

³⁹ For a classic articulation of the Lockean liberal view, cf. James Madison’s essay “Property” published in the *National Gazette* on March 29, 1792. For a well-articulated formulation of this view in the contemporary era, cf. Erler, Edward J. *Property and the Pursuit of Happiness: Locke, the Declaration of Independence, Madison, and the Challenge of the Administrative State*. (Landham, Maryland: Rowman & Littlefield Publishers, 2019).

propertarian philosophy, “political society becomes a calculated device for the protection of... property and for the maintenance of an orderly relation of exchange.”⁴⁰ Macpherson, like other left-wing thinkers about Locke, emphasizes the material aspect of Locke’s property concept as being the most controlling part of his theory, though Macpherson acknowledged the expanded definition as well:

“But [Locke] does not always use the term property in such a wide sense. In his crucial argument on the limitations of the power of governments he is clearly using property in the more usual sense of lands and good (or a right in lands and goods), as he is throughout the chapter ‘Of Property’. The implications of this ambiguity need not detain us here; we need only notice that both when he used property in the broad sense and in the narrow he was still classing estate with life and liberty as objects of men’s natural right, objects for the preservation of which they set up governments. In either usage of property, Locke had to show a natural right to estate.”⁴¹

Macpherson’s argument here is further buttressed by the fact that the historical context within which Locke wrote the *Two Treatises* was in the middle of England’s long enclosure movement wherein small plots of previously commonly held agricultural land were being consolidated into larger privately owned estates. Property as “estates,” land and material things more broadly, had a tangible, real world application in enclosure efforts.⁴²

The liberal and Marxist engagements with Locke are often opposed in a way that obscures how they can be mutually edifying, particularly for our border purposes here in exploring the relationship between Lockeanism and policing. Both interpretations recognize the centrality of the conventional material definition of property in Locke’s overall project, and both recognize that the

⁴⁰ Macpherson, *Possessive Individualism*, 3.

⁴¹ *Ibid.* 198

⁴² Here is my first historicization of Locke. Especially when trying to ascertain the meaning of a particular word, consulting the historical context is necessary. Locke used property in many different ways such that it becomes important to explore immediate and pressing examples of property in his day like enclosure estates to understand what he and his immediate readers would have had in mind.

expanded usage is determined by the logic of the conventional definition.⁴³ These two points of agreement are instructive for how we should view the relationship between Locke's propertarianism and contractarianism. I propose the concept of the "property state" as the guiding conceptual framework for doing so.

The property state, as I define it here, is the political phenomenon wherein a polity of any kind is formed on a Lockean contractarian basis such that the preservation and protection of the people's property "is the great chief end" of both forming and maintaining the polity. The property state is the logical result of wedding Lockean propertarianism and contractarianism in political reality. The principles of the property state hinge on Locke's expanded definition of property. These principles are a) the protection and preservation of people's lives (the property in their persons) b) the protection and preservation of people's liberties (the property in their politicized natural rights)⁴⁴ and c) the preservation and protection of the people's estates (the property in their goods and other possessions). Property over one's lives and liberties are determined by the storied concept of having property in objects, something Macpherson said explicitly in the above excerpt.

Within Lockeanism, to call oneself a property is logical when we consider the physicality of conventional property and the physicality of the body. Property, as conventionally understood, is that which one owns that is tangible. Our English "property" comes from the Latin *proprietas*, which itself is derived from the Latin *proprius* meaning "one's own." Roman law understood property and the transactions that begot them as extensions of the self. For a Lockean, the logic is:

⁴³ Tully notes in the preface to *A Discourse on Property* that Locke made a choice to translate various Latin terms associated with ownership and property from the classical texts (*ius*, *proprietas*, *suum*, and *dominium*) as the single word property. Locke's choice is conscious and not just one coerced by any restrictive characteristics of the English language both because there are English equivalents to those words and because when a word does not translate well from an original classical language, there is a long tradition in scholarship of either transliterating that word or using it exactly in order to maintain its full meaning. This choice would further indicate that Locke is not just making a stylistic choice but is intentionally attempting to redefine our understanding of property.

⁴⁴ Macpherson, *Possessive Individualism*, 218. The creation of civil society does not create new rights it only transfers and enforces rights from the state of nature, chief among those being property rights.

“if I can own a thing by nature, and that thing is a part of me, then do I not also own myself by virtue?” Whereas property had traditionally been understood as the appropriation of things to the self, Lockean property, properly understood, includes the appropriation of the *self* to the self. Lockeanism condensed into a synonym the relationship between property and personhood that had already long existed.

The propertarian logic for liberties is a process of social reification. Political liberties and rights are transformed from abstract ideals into the likeness of tangible goods such that they become properties in and of themselves. Just as workmanship is the appropriation of one's labor into properties, the social contract appropriates one's pre-existing natural rights and liberties into political properties under the contract. Considering political rights and liberties as property is a way to endow them with the permanency and legitimacy that only the natural, pre-contractual right to property can provide. This classification of liberties as properties melds well with the classification of the self as a property. If one's liberties and rights are inherent to and inalienable from oneself, then surely one owns those as one owns oneself. This “propertization,” so to speak, of rights and liberties is their reification in the property state scheme. Once reified, they are in need of protection and preservation just as all other forms of property.

Thus, the Lockean definition of property is best understood, as the liberals do, as a catchall term for rights claims under the social contract that are derived from the Lockean natural, pre-contractual right to own property. Marxists tend to focus on the material and capital nature of property, which certainly is important if one wants to understand modern states and political economy, but what they often miss is the propertarian logic of rights and liberties schemes as well as cultural conceptions of identity within liberal democracies. Property in the physical sense is not the only property that bourgeois society violently preserves and protects. As we will explore later,

the police state is the dutiful sister to the property state; the police are how the property state honors and operationalizes its commitment to its ultimate end of preserving and protecting property. The police's success in protecting material property interests at their inception has led to their dispatchment in the preservation and protection of property in its expanded sense—life and liberty—and to their subsequent entrenchment as the principal tool of public safety. Safety, after all, is the pretext for the formation of the property state—we leave the state of nature because it is “full of fears and continual dangers” —which means public safety is ultimately the arena of political life that raises the most issues concerning the legitimacy and purposes of the state. To understand policing and public safety, therefore, we must understand the legitimization schemes and concepts that undergird the state more broadly. The property state and the police state go hand in hand and give us a framework to arrive at this understanding.

B. Locke's Influence on the American Polity

John Locke is perhaps the most influential political theorist on the formation of the American polity and foundational American political culture. Hartz famously declared that Locke “dominates American thought as no thinker anywhere dominates the political thought of a nation.”⁴⁵ John Locke's writings had over a century of notoriety by the time of the American Revolution. A majority of the most influential founding political actors were formally educated and received traditional English style schooling that would have included Locke's popular Enlightenment philosophy on a range of subjects from epistemology, to freedom of conscience, to government. Isaac Kramnick noted that, “all the important figures of the revolutionary generation, including John Otis, John and Sam Adams, James Madison, Thomas Jefferson, Patrick Henry, and Benjamin Franklin, were disciples of Locke. His writings shaped sermons in Revolutionary pulpits

⁴⁵ Hartz, *The Liberal Tradition*, 140.

and editorials in Revolutionary newspapers. The Declaration of Independence, in fact, reads like a paraphrase of Locke's influential *Second Treatise of Civil Government*.⁴⁶ In her survey of the concepts of liberty and property in Lockean political thought, Ellen Meiksins Wood adds that, "[Locke's work] was to have great influence in later centuries, across a wide political spectrum, not least in the American Revolution."⁴⁷ And most recently, in his work excavating the influence of Locke on American constitutionalism, Edward Erler said, "John Locke had a profound influence on the American founding....he is justly regarded as 'America's Philosopher.'"⁴⁸ Some scholars have attempted to challenge the orthodox narrative about Locke's influence, yet the overwhelming scholarly sense is that the Lockean spirit was very much present at the founding.⁴⁹

The Declaration of Independence is the revolutionary era American document with the most obvious Lockean influence and accordingly receives the most critical attention. In the *Second Treatise of Government*, John Locke claimed that "man hath by nature" a right to "preserve his property" which includes his "life, liberty and estate." Thomas Jefferson then echoed this sentiment in the Declaration most directly and most famously when he boldly pronounced that "all men...are endowed by their Creator with certain unalienable rights; that among these are Life, Liberty, and the pursuit of happiness." Erler argued eloquently that the substitution of "pursuit of happiness" for "property" should not be viewed as a deviation from Locke, but rather a more complete moral and political rendering of concepts that were seen as tightly bound at the time. The Virginia Constitution of 1776, from which Jefferson took this phraseology, claimed that all people cannot be denied "the means of acquiring and possessing property, and [of] pursuing and obtaining

⁴⁶ Krimnack, Isaac. "Lockean Liberalism and the American Revolution." (New York: The Gilder Lehrman Institute of American History).

⁴⁷ Wood, Ellen Meiksins. *Liberty & Property: A Social History of Western Political Thought from Renaissance to Enlightenment*. (Brooklyn, New York: Verso, 2012), 258.

⁴⁸ Erler, *Property and the Pursuit of Happiness*, 3.

⁴⁹ For a counternarrative cf. Handlin, Oscar, and Lilian Handlin. "Who Read John Locke? Words and Acts in the American Revolution." *The American Scholar* 58, no. 4 (1989): 545-56.

happiness and safety.” Given that the Lockean social contract is formed for the purposes of safety and property preservation—life and liberty being enjoyed to the fullest in the presence of safety and property rights—Jefferson’s condensed wording subsumes and presupposes all these related aspects of life.⁵⁰ The whole of the Declaration's preamble, wherein Jefferson’s most famous lines including this one can be found, ought to be read as an affirmation of Locke’s assertion of the natural freedom and equality of human beings and of their natural rights.

The structure of the American polity itself also has direct Lockean influence. The separation of powers doctrine—that no one institution of government has or should have every function of governance—is posited by Locke in the twelfth chapter of the *Second Treatise*. For Locke, there were three powers of government: the legislative, the executive, and the federative. These three notions of structural power helped inform the American version of tripartite government as a manifestation of the separation of powers doctrine. This influence receives less critical attention than the direct semantic and theoretical influence apparent in the Declaration because Locke was not the only theorist to propose the separation of powers—Montesquieu was perhaps an even more rigorous and directly influential proponent—yet he was one of the earliest in the Enlightenment tradition to do so. The Constitution speaks directly of the “legislative Powers” (Art. I, Sect. 1) and of “executive Power” (Art. II, Sect. I), which translates into the “legislative branch” and “executive branch” in our political parlance. Lockean theories of government and contract had clear conceptual and semantic influence on American notions of the same.

Finally, and most relevant to the context of this paper, Locke’s philosophy of property was ascendant in American political thought. As demonstrated above, Jefferson adopts Locke’s

⁵⁰ Erler, *Property and the Pursuit of Happiness*, 90-91.

comprehensive theory of property rights as more than just claims to material goods but also as rights to intangible goods including civil liberties, life itself, and one's personhood. James Madison, another "disciple" of Locke and principal architect of the American Constitution, also adopted this theory of property and explained its importance to the ethos of the American polity. During the debates of the constitutional convention in June of 1789, Madison gave a speech proposing a series of amendments that were the prototype to what would later become the Bill of Rights.⁵¹ He suggested that "there be prefixed to the Constitution a declaration," which should state that "government is instituted and ought to be exercised for the benefit of the people; which consists in the enjoyment of life and liberty, with the right of acquiring and using property, and generally of pursuing and obtaining happiness and safety." Essentially, he wanted a preamble to the Constitution that echoed the Jeffersonian, and by extension Lockean, propertarian sentiments expressed in the preamble to the Declaration. Furthermore, he wanted to codify this comprehensive conception of property by offering an amendment that would state "No person shall be... deprived of life, liberty, or property without due process of law." Although neither of these texts made it into the Constitution at its original adoption, two years later in 1791 the latter amendment became the Fifth Amendment of the Bill of Rights, a civil liberties addendum to the original document.

The Bill of Rights itself should be read in its propertarian context as a list of property rights. Conceptually, the Third, Fourth, and Fifth Amendments deal with conventional property rights explicitly with their various protections for physical possessions, and the Ninth and Tenth Amendments deal with conventional property rights by implication because of their protections of the (natural) pre-contractual rights of the people and states respectively. What is more, under the Lockean definition, the whole litany of rights is one of property rights in their most broad sense, a

⁵¹ Lloyd, Gordon. "Madison's Speech Proposing Amendments to the Constitution: June 8, 1789." *50 Core Documents That Tell America's Story*, teachingamericanhistory.org. (Ashland, Ohio: Ashbrook Center at Ashland University).

sentiment Madison agreed with. In his influential essay “Property,”⁵² published a few months after the Bill of Rights’ ratification in late 1791, Madison further elaborated his propertarian sentiments. He rejected William Blackstone’s definition of property as “that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual”⁵³ and instead chose to define property in the Lockean sense as “[embracing] everything to which a man may attach a value and have a right.” Madison went on to list the “properties” people have in the various kinds of civil liberties enumerated in the Bill of Rights. He ultimately declared that “government is instituted to protect property of every sort,” following Locke’s declaration of the same that men enter civil society “for the mutual preservation of their lives, liberties and estates [which are their] property.”⁵⁴ He ended the essay by exhorting the United States to respect its commitment to being, in essence, a property state: “if the United States means to obtain or deserve the full praise due to wise and just governments, they will equally respect the rights of property, and the property in rights.”

Jefferson and Madison are two of the great titans of the American liberal philosophical tradition, with their words having a staying power with unparalleled longevity. The common denominator is that both statesmen drew on Locke’s political theory to establish the centrality of property in the founding of the American polity as we know it. The former its first spokesman and the latter its chief architect, each man helped to form the United States into a property state. Krimnack articulated the enduring legacy of their Lockean propertarianism, saying, “indeed, [Locke’s] anti-statist views and his preoccupation with the sanctity of private property have

⁵² Madison, James. “Property.” *First Principles Series*. (Washington, D.C.: The Heritage Foundation).

⁵³ Blackstone’s thoughts on property can be found in Blackstone, William. “Of Property, in General”. *William Blackstone, Commentaries on the Laws of England in Four Books*, ed. George Sharswood. (Philadelphia, Pennsylvania: J.B. Lippincott Co, 1893), Vol 1, Bk 2, Ch 1.

⁵⁴ Locke, *Two Treatises*, 350.

continued to influence the fundamental beliefs of Americans to this day.”⁵⁵ Our proprietarian policing logic is a prominent manifestation of this legacy in a quotidian, institutional way. Unfortunately, it is a manifestation that poses a deep contradiction to Locke’s anti-statism; the American police state is a glaring example of statism in a country that otherwise professes a Lockean liberal worldview. The paradox and irony are that proprietarianism and the property state are prior to and necessary to the formation of policing and the police state as we know them in the U.S.; the relationship is causal. A liberal polity that positions itself with a Lockean proprietarian ethos is bound to construct technologies of the state to protect property that are ultimately antithetical to purported liberal values of human freedom and are inimical with promoting human flourishing and building true human community. Policing is such a technology. In the next chapter of this paper, we will explore the actual relationship between property and policing in their historical context to reveal the veracity of this claim.

C. Exclusion and Domination in Lockeanism

In this final section of this part, we will explore how exclusion and domination can manifest and have manifested in Lockean proprietarianism and contractarianism. We will first identify the ways in which Locke and his theories are tainted by exclusion and domination and how this impacts the property state thesis. Then we will turn to an analysis of how early American politics leveraged property to express race and class exclusion and domination and demarcate the boundaries of political participation. And finally, we will turn to the related and important subject of “Whiteness as property” and analyze how the Lockean definition of property both allows for Whiteness to be considered a property and how its praxis in American politics very much facilitates a property interest in Whiteness.

⁵⁵ Krimnack, “Lockean Liberalism.”

Recent critical race scholarship on Locke has sought to problematize his political theory by highlighting the prejudices of his historical moment and his personal participation in and contributions to notions of racial superiority.⁵⁶ As an early modern European intellectual, Locke, like many of his peers, subscribed to and developed racial science theories that we would rightly consider White supremacist today. The early modern period in Europe is when our contemporary understandings of race were first being constructed along strict hierarchical lines that placed White Europeans as the top caste and Black Africans and Indigenous Americans as the lowest caste. In fact, some theories of race considered Black Africans not just as some lower order of the human species but as subhuman altogether. Locke was no stranger to these theories and harbored some of them himself. Ibram X. Kendi's now acclaimed definitive history of racism in the West noted the particulars of Locke's racial science beliefs, which included the racial undertones of his concept of *tabula rasa* in human psychology and his belief that African women mated with apes to produce the Black race.⁵⁷

But Locke's racist beliefs did not remain theory; he put them into political practice. Off and on between 1669 and 1700 Locke served in various capacities as a colonial administrator including as the secretary to the Lords Proprietors of the Carolina colony and as treasurer to the English Council on Trade and Foreign Plantations.⁵⁸ In this latter role, he had a direct hand in financial affairs related to the promotion and expansion of chattel slave plantations across the growing English empire. Not only did Locke officially oversee the market that facilitated the

⁵⁶ Supra. *The Racial Contract and Contract & Domination*. Cf. also Kendi, Ibram X. *Stamped from the Beginning: The Definitive History of Racist Ideas in America*. (New York, New York: Nation Books, 2016) and Armitage, David. "John Locke, Carolina and the Two Treatises of Government." *Political Theory*. (Sage Publications, 2004) 32 (5): 602–627. My references in this part of the section will draw heavily but not exclusively from these works.

⁵⁷ Kendi, Ibram X. *Stamped from the Beginning: The Definitive History of Racist Ideals in America*. (New York, New York: Bold Type Books, 2016) 50.

⁵⁸ Armitage, "John Locke," 603.

purchase and sale of Black African bodies as chattel, but he was also personally invested in the Royal Africa Company and other joint stock companies that participated in the Atlantic slave trade.⁵⁹ Equally damning, in his role as secretary to the Lords Proprietors of Carolina, Locke was one of the authors of the aristocratic and slavocratic⁶⁰ *Fundamental Constitutions of Carolina*, the colony's governing document.⁶¹ As Armitage noted, "the *Fundamental Constitutions* assumed the existence of slavery and affirmed the absolute powers of life and death of slaveholders. They also erected the first hereditary nobility on North American soil." The two most poignant slavocratic clauses said "yet no slave shall hereby be exempted from that civil dominion his master hath over him" and "every freeman of Carolina shall have absolute power and authority over his negro slaves."⁶² A "freeman" and a "negro slave" are clearly juxtaposed, one cannot be both. Which means that it is dubious that Locke would have considered Black Africans to be eligible signatories to the social contract in the first place. Mills understood this point with clarity and was concerned with the apparent contradictions between Locke's practice of slavery and his views on slavery and just war theory in the *Second Treatise*:

"The practice, and arguably also the theory, of Locke played a role in the slavery contract also. In the *Second Treatise*, Locke defends slavery resulting from a just war, for example, a defensive war against aggression. This would hardly be an accurate characterization of European raiding parties seeking African slaves, and in any case, the same chapter Locke explicitly opposes hereditary slavery and the enslavement of wives and children [Second Treatise, chap 16, "On Conquest"]. Yet Locke had investments in the slave-trading Royal Africa Company and earlier assisted in writing the slave constitution of Carolina. So, one could argue that the Racial Contract manifests itself here in an astonishing inconsistency, which could be resolved by the supposition that Locke saw blacks

⁵⁹ Pateman, *Contract & Domination*, 47-48.

⁶⁰ A slavocracy is a regime wherein a landed slave owning class controls the means of political power.

⁶¹ Ibid. 607.

⁶² "Fundamental Constitutions of Carolina." *Avalon Project*, ed. Yale University.

as not fully human and thus as subject to a different set of normative rules. Or perhaps the same Lockean moral logic that covered Native Americans can be extended to blacks also. They weren't appropriating their home continent of Africa; they're not rational; they can be enslaved."⁶³

The relevance of Locke's political and economic activities to his political theory should not be missed. Lockean propertarianism and contractarianism must be read in light of his immediate historical context and his personal racism⁶⁴ in order to grasp the ways his conceptions of property and the social contract are tainted with exclusion and domination and are not just examples of pure ideal theory.⁶⁵ We are often lead to view Locke's political theory as applying equally to all of humankind, yet his involvement in chattel slavery and imperialism paint a different picture both about who his normative vision included and excluded and what this vision looked like as praxis. With this reality in mind, Mills characterized the Lockean social contract as a "racial contract" and an "expropriation contract." Mills' basis for these characterizations was that Locke's theory served as the "principal philosophical delineation of the normative arguments supporting white civilization's conquest of America."⁶⁶ And far from being a conceptual stretch, Armitage provides direct evidence that can support Mill's claim. Having reconstructed the timeline of Locke's penmanship of *Two Treatises of Government*, Armitage demonstrated that Locke most likely wrote "Chapter V 'Of Property'" in 1682 while he was revising the earlier 1669 version of the Carolina constitution.⁶⁷ This means that he likely had direct colonial interests in mind when he wrote that "as much land as a man tills, plants, improves, cultivates and can use the product of, so much is his property."⁶⁸ And that he likely had direct slavocratic interests in mind when he wrote

⁶³ Mills, *The Racial Contract*, 67-68.

⁶⁴ This is the second and perhaps most important way that I historicize Locke.

⁶⁵ Ideal theory is theory that assumes idealized conditions and normative claims.

⁶⁶ Mills, *The Racial Contract*, 67. Mills is quoting Robert A. Williams, Jr.

⁶⁷ Armitage, "John Locke," 602.

⁶⁸ Locke, *Two Treatises*, 290.

“the turfs my servant cut...become my property.”⁶⁹ This latter claim by Locke is particularly glaring when we understand that “servant” must have meant slave in that context because unless one owned their servant as they owned their beasts and tools of burden then they could not rightfully claim the product of that servant’s labor as their own; a free servant would otherwise be entitled to the produce of their labor as any other freeman.

Even if Locke did not intend servant to just mean slave, or indentured servant, but meant it also to include hired servants, then that would present another major contradiction in Locke’s theory. A hired servant would rightly be a freeman and would accordingly be entitled to the fruits of his own labor, as has been well established. This contradiction is potentially solved if we accept modern capitalist notions of wage labor, although, after seeing this justification in Locke, one may be inclined to adopt the Marxist characterization of wage labor as wage slavery instead since under the Lockean framework the wage earner is being robbed, at least in part, of their rightful fruits just as the slave/serf/indentured servant is being robbed of all their fruits—or more appropriately, were denied the right own any of their fruits in the first place. Locke and Marx both ascribed to the labor theory of value, but Marx took it all the way and accordingly derived his concept of wage labor as alienation, whereas Locke seemed to be content to justify the theft of one’s labor product so long as it served the interest of the landed class. Macpherson, ever attuned to the ways in which Lockean contract and property theory excluded and dominated the working class, noted:

“... [Locke believed] while the labouring class is a necessary part of the nation, its members are not in fact full members of the body politic and have no claim to be so; secondly, that the members of the labouring class do not and cannot live a fully rational life...Locke’s attitudes towards the employed wage-earning class has been less often noticed, though it is plain enough in various passages of his economic writings, particularly in the *Considerations*. There, as we have already

⁶⁹ Ibid. 289.

seen, incidentally to his technical arguments, Locke takes for granted that the wage-labourers are a normal and sizeable class in the nation, that the wage-labourer has no property to fall back on but is entirely dependent on his wages, and that, of necessity, wages are normally at a bare subsistence level. The wage-labourer ‘just lives from hand to mouth’ ...There is the assumption that the labourers are normally kept too low to be able to think or act politically.”⁷⁰

Taking all these prejudicial sentiments of Locke and the ascriptive qualities of his theory into account, Mills was led to conclude—as we should be led to conclude—that “the color-coded morality of the Racial Contract restricts the possession of [contractarian] natural freedom and equality to *white* men.”⁷¹ If I may amend Mills, I would also add “class coded” in addition to “color coded” and would add “property,” explicitly,⁷² among those possessions that only *landed* White men have access to in the racial, that is, Lockean, contract. Let us turn now to how the race and class-based exclusions and dominations baked into Lockean propertarianism and contractarianism manifested themselves in the early American polity, that is, the early American social contract.

It is a well-established fact of American history that material property requirements were used during the colonial, revolutionary, and early post-constitutional eras to define who had access to the political sphere.⁷³ Every colony prior to the Constitution had wealth qualifications, freehold⁷⁴ qualifications, or some combination of the two for the franchise.⁷⁵ Madison, one of the great Lockeans of the founding generation, gave a stirring speech at the constitutional convention in 1787 in defense of property qualifications for the franchise, with which George Mason, John

⁷⁰ Macpherson, *Possessive Individualism*, 222-224.

⁷¹ Mills, *The Racial Contract*, 16.

⁷² I say explicitly because, as we have established, natural rights are forms of property to Locke.

⁷³ Cogan, Jacob Katz. "The Look Within: Property, Capacity, and Suffrage in Nineteenth-Century America." *The Yale Law Journal* 107, no. 2 (1997): 473-98.

⁷⁴ A freehold is landed property and its affixed structures.

⁷⁵ For a breakdown of the specific requirements for each colony and early state, cf. Barck, Oscar T. and Hugh T. Lefler. *Colonial America*. (New York, New York: Macmillan, 1958) 259–260.

Dickinson, and Gouverneur Morris all agreed to varying degrees. And while campaigning for the Constitution's ratification, Madison wrote in *Federalist No. 10* that:

“The diversity in the faculties of men, from which the rights of property originate, is no less an insuperable obstacle to a uniformity of interests. The protection of these faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results...”⁷⁶

Here we see a few themes that should be familiar to us at this point: 1) all humans do not, in fact, have equal entitlements to property rights—despite the soaring rhetoric of the Declaration and of Locke himself, and 2) the property state is the proper form of government—in this case, the American government.

Ultimately, property qualifications for federal political participation were not written into the Constitution as Madison wanted,⁷⁷ yet every state continued their exclusionary pre-Constitution practices of property qualifications. The Constitution gave the states the right to regulate elections, and so they chose to stick with what they knew, at least temporarily. Almost immediately, however, there was a long and organic process of each state gradually abolishing their property requirements. In 1791, Vermont was the first state to be admitted without any property requirements followed by Kentucky in 1792. 1792 also saw New Hampshire and Delaware as the first states to abolish their existing requirements, and this trend continued for decades until 1856 when North Carolina was the final state to remove its property requirements. This process certainly represented a measure of progress in American politics, but this progress was hardly the whole picture.

⁷⁶ Hamilton, Alexander, James Madison, and John Jay. *The Federalist*, ed. J.R. Pole. (Indianapolis, Indiana: Hackett Pub. Co., 2005) 49.

⁷⁷ In fact, to be fair, most states temporarily suspended their property qualifications for the election of convention delegates and for ratification referenda themselves. Cf. Amar, Akhil Reed. *America's Constitution: A Biography*. (New York, New York: Random House, 2005) 7.

More than just being long delayed, the abolition of property requirements contained important exclusions. Beyond free White men, the abolition of such requirements did not have much application.⁷⁸ First and foremost, enfranchisement for enslaved Black people was a non-starter, as they were considered property, not people, for the purposes of political participation. Also considered non-starters were members of Indigenous tribes, foreigners, and non-citizen immigrants. Even Mexicans who were granted citizenship after the Treaty of Guadalupe-Hidalgo, many of them freeholders themselves, were discouraged formally and informally from voting. As for free Black people and White women, groups who were properly considered people and citizens, their access to the political sphere decreased as White men's access increased. In 1807, New Jersey, one of the few states where Black people and White women were allowed to vote, removed this right for both groups. In 1838, Pennsylvania removed this right from Black men (women were not allowed to vote in the first place). And New York, before it abolished all property qualifications, increased their property qualifications for "persons of colour."

Even after the Fifteenth and Nineteenth Amendments of the 1860s banned franchise discrimination based on racial and sexual identity respectively, many states found ways to discriminate for these factors, as well as low-income status, by proxy using poll taxes, literacy tests, and other nefarious schemes. These schemes reflected a belief in Madison's assertion of the "diversity of faculties of men" that resulted in duly different allocations of material, corporeal, and political property. Unfortunately, such schemes did not become legally taboo until the 1960s with the passage of comprehensive federal voting rights legislation and the Twenty-Fourth Amendment,

⁷⁸ Granted, White men were a considerable portion of the would-be electorate, making American popular democracy unique on the world historical stage. But our concern here is not a debate over how relatively democratic or undemocratic 19th century America was. Our concern is with who was and was not considered a part of the American social contract and how property played a role in those inclusions and exclusions. This is a subtle but important distinction. As Akhil Amar noted in *America's Constitution*, early America was both highly democratic and highly slavocratic, historically speaking.

which banned poll taxes.⁷⁹ The history of the relationship between property and the franchise is not one of a uniform march toward equality; rather, it is a history riddled with exclusion and domination that largely placed White male property interests above all others.

Moreover, it is also important to note how property exclusion and domination were baked into the electoral scheme itself. Before slavery's abolition in 1865, the Three-Fifths Clause, which gave slave states an apportionment bonus, heavily skewed American electoral politics toward the property interests of the Southern plantation class. The Three-Fifth Clause gave slave states major advantages in the electoral college and therefore the selection of president and vice president, which in turn meant that judicial and other federal officers appointed by the president were often friends of the slavocracy. The clause also gave slave states disproportionate representation in Congress, allowing them to often block efforts to dispense of or limit slavery. The Three-Fifth Clause was an immensely propertarian constitutional mechanism, but only for human chattel. No other property was used as a means of apportionment—not land, not animals, not wealth. It comes as no surprise then that of the fifteen presidents before Lincoln, all were friendly or agnostic towards slavery, nine were from the South (all of which owned slaves), and of those nine, seven were from Virginia—the biggest beneficiary of the Three-Fifths Clause because it had the biggest free population and the biggest slave population.⁸⁰

How is all of this relevant to our present project? It is relevant in at least two ways. The first way is that understanding how property was used as a litmus test for electoral politics helps us understand how the U.S. was largely founded as a property state—a state that, in the words of Macpherson, is a “calculated device for the protection of [] property and for the maintenance of an

⁷⁹ For a comprehensive account of the timeline of events I have outlined here, cf. Engerman, Stanley L. and Kenneth L. Sokoloff. "The Evolution of Suffrage Institutions in the New World". *Yale Workshops and Seminars*. (2005).

⁸⁰ Amar, *America's Constitution*, 653. Cf. the index entry for “three-fifths clause” on this page to find the various accounts of the Three Fifth Clause's slavocratic and propertarian nature.

orderly relation of exchange.”⁸¹ Early on, it was those who had the biggest material stake in the social contract who were given the biggest political stake and who were given absolute dominion of their own bodies; all others were excluded and therefore subject to domination. This logic has transformed through various legal and social innovations, as we have seen. The greatest formulation of this logic was given by Chief Justice Roger Taney in the 1857 *Dred Scott* case when he used a propertarian reading of the Fifth Amendment to foreclose the possibility of Black people becoming citizens and to justify a right to own chattel slaves. Taney infamously said that a “perpetual and impassable barrier was intended to be erected between the white race and the one which they had reduced to slavery” and that Black people “had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit.”⁸² Under such logic, Black people, and all others written out of the American social contract, had virtually no stable or legitimate property rights—corporeally, politically, or materially.

There are those who see Taney’s opinion in *Dred Scott* as a bastardization of the Constitutional logic and text, and this is true in a legal sense. But in a much more philosophical sense, Taney’s thinking about property, race, and political participation was in line with the exclusionary and domineering thinking and practices of the time. And even legally, Taney’s propertarian reading of the Fifth Amendment was influential on later generations of the Supreme Court during the Gilded Age and the Lochner Era when material property rights and the liberty of contract were treated as paramount legal entitlements.⁸³ Call *Dred Scott*, *Lochner*, and like cases abominations to the Constitution as one may, but what should not be denied is that these cases and

⁸¹ Macpherson, *Possessive Individualism*, 3.

⁸² *Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857).

⁸³ Cf. *Slaughter-House Cases*, 83 U.S. (16 Wall.) 36 (1873) and *Lochner v. New York*, 198 U.S. 45 (1905) as paradigmatic cases.

the thinking that undergirds them represented a larger trend in legal, social, and political thought and practice in much of U.S. history that has favored and continues to favor propertied interests.

The second reason understanding property's role in defining eighteenth and nineteenth century American political participation is important is that it reveals the entrenched property interests of slavery. As we will explore in the next part of the paper, the preservation of human chattel and the protection of White society from the discontents of this chattel was one of the earliest origins of policing in the U.S. In fact, the preservation and protection of White society and its affairs has itself been one of the U.S.'s great property interests to begin with.

That Whiteness is a form of property in and of itself was a concept pioneered by critical race theorist and law professor Cheryl I. Harris in her appropriately named groundbreaking work "Whiteness as Property."⁸⁴ Harris' argument was relatively straightforward: through various formal and informal mechanisms, law and custom have constructed a proprietary interest in being a White person. Embracing the Lockean conception of property, she said:

"Although by popular usage property describes 'things' owned by persons, or the rights of persons with respect to a thing, the concept of property prevalent among most theorists, even prior to the twentieth century, is that property may 'consist [] of rights in 'things' that are intangible, or whose existence is a matter of legal definition.' Property is thus said to be a right, not a thing, characterized as metaphysical, not physical."⁸⁵

Recognizing property as such, she then identified four "critical characteristics" of Whiteness as a property.

The first characteristic is that Whiteness is a traditional form of property, that is, "Whiteness—the right to white identity as embraced by law—is property if by property one means

⁸⁴ Harris, Cheryl I. "Whiteness as Property." *Harvard Law Review* 106, no. 8 (1993) 1707-791. I cannot overstate the importance of Professor Harris' scholarship to this project. I encourage any reader to review this article beyond the summary I give here.

⁸⁵ *Ibid.* 1724-25. Harris was quoting Frederick G. Whelan.

all of a person's legal rights."⁸⁶ Historically this has meant that Whiteness "defined the legal status of a person as slave or free" as well as the status of a person as full citizen or second-class citizen. The second characteristic of Whiteness as property is that it defines social relationships, especially commercial and political ones.⁸⁷ On this account, Whiteness is a property that one can use to advance other property entitlements in the commercial and political spheres, that is, one can argue they deserve more or less of something because of their Whiteness, which creates a power imbalance between White people and non-White people. The third characteristic of Whiteness as property is that it carries and manages expectations.⁸⁸ If one considers themselves White, that Whiteness is accompanied by an expectation that one's status and identity will be protected and will confer advantages exclusive to Whiteness. Just as a property right to land carries the expectation that the owner has exclusive dominion over their acreage and anyone who enters their land without permission is a trespasser, the property right to Whiteness carries the expectation that Whiteness will remain exclusive and that anyone attempting to approach the legal and social status of Whiteness is a caste trespasser.

The fourth and final characteristic of Whiteness as property is self-evident: that Whiteness as a property *functions* as a property.⁸⁹ Whiteness as a functional property is itself broken into four sub-characteristics. The first is that Whiteness, like other metaphysical properties in rights, is inalienable; it cannot be detached from oneself.⁹⁰ The second is that Whiteness has use and enjoyment value.⁹¹ The third is that that Whiteness confers reputation and status, just as landed property or wealth do.⁹² Harris noted that historically, to call someone "White" has been meant to

⁸⁶ Ibid. 1726.

⁸⁷ Ibid. 1728.

⁸⁸ Ibid. 1729.

⁸⁹ Ibid. 1731.

⁹⁰ Ibid.

⁹¹ Ibid. 1734.

⁹² Ibid.

honor or compliment them and to call someone, for example, “Black,” “Negro,” or “Nigger” has been meant to defame or insult them. Any Black kid who has been told “you speak White” or any White kid who has been told “stop tryna be Black” knows this phenomenon to be true. The same holds for any elder who was called “nigger lover” for having any shred of racial decency during American Jim Crow.⁹³ And finally, the fourth sub-characteristic is that Whiteness carries the absolute right to exclude the claims or uses of others. “I am White. You are not. You will never be me.”

Harris’ theoretical framework combined with the exclusionary nature of Lockean propertarianism and contractarianism in the U.S. makes a compelling case for the historical reality of Whiteness as property in the American polity. The American property state is one that’s aim is not just the preservation and protection of *any* vague notion of property—be it corporeal, political, or material property—but that’s chief concern is with the preservation and protection of the property right to Whiteness, a property right that indeed has corporeal, political, and material dimensions all in one. Mills made this connection between Lockean theory and Whiteness as property suggesting: “One could then generate, variously, a *Herrenvolk* Lockeanism, where whiteness itself becomes property, nonwhites do not fully, or at all, own themselves, and nonwhite labor does not appropriate nature.”⁹⁴

The exclusionary and domineering American property state and the property interest in Whiteness did not just end with the abolition of slavery and the addition of the Reconstruction Amendments to the Constitution. Mills noted that, especially under Lockean tacit consent theory,

⁹³ Mills also noted on page 80 of *The Racial Contract* that Irish people were called “white niggers” derogatorily to indicate their exclusion from Whiteness early in their history in the U.S.

⁹⁴ Mills, *The Racial Contract*, 96. *Herrenvolk* is German for “master race” and was used by the Nazis to refer to the White German nation.

“the Racial Contract is *continually being rewritten* to create different forms of the racial polity.”⁹⁵

This means that overtime, Whiteness finds innovative ways to remain propertied as formal legal and social norms officially change. Later in her essay, Harris analyzed how three different Supreme Court cases—*Plessy*, *Brown*, and *Bakke*—all constructed different ways that Whiteness could be considered property. In each case, Whiteness was explicitly or implicitly used as a social standard of normality from which every other caste or identity was deviant and/or White was viewed as a protected class of sorts. *Plessy*? White people had a right to be separated and shielded from other racial groups. *Brown*? White education was the standard to which children of all races should be held, and White kids had a right to remain in place while Black kids integrated into them. *Bakke*? White applicants’ status of Whiteness could not be challenged and they had a right not to be “discriminated against” in racially corrective affirmative action schemes. In other words, legally, culturally, and socially, the goal post for the property interest in Whiteness is always moving. When the formal law closes one door on Whiteness, another area of formal law and informal custom opens a different door up, all the while maintaining the fundamental property structure of Whiteness. That there are immense wealth, income, and standard of living gaps between White people and non-White people, particularly Black, Latino, and Indigenous people, is no coincidence. The power brokers of law and custom have colluded for years to ensure that the material status of Whiteness approximates its political and corporeal status.⁹⁶

At this point in the project, it is important to take stock of what we have accomplished so far. A) We unpacked the way Locke defined property and the social contract and posited the

⁹⁵ Ibid. 72.

⁹⁶ For two *tours de force* of the empirical ways that White people have been structurally advantaged and Black people structurally disadvantaged, cf. Darity Jr., William A. and A. Kirsten Mullen. *From Here to Equality: Reparations for Black Americans in the Twenty-First Century*. (Chapel Hill, North Carolina: The University of North Carolina Press, 2020) and Walters, Ronald. “The Impact of Slavery on 20th- and 21st Century Black Progress.” *Journal of African-American History*. (2012).

property state concept to synthesize these definitions. B) We established the impact that Lockean propertarianism and contractarianism had on the founding of the American polity. C) Using Locke's biography, we uncovered the ways exclusion and domination were built into Locke's political theory. D) We explored some of the ways these elements of exclusion and domination have manifested in the American polity, with a central focus on the role of property in these phenomena. And E) We concluded that the exclusionary and domineering nature of the American property state is predicated on the concept of Whiteness being a property in and of itself. Needless to say, we have accomplished the express aim of this phase of the project.

But in order to transition to the next phase, we must first ask ourselves: how does the American property state persevere and protect its properties—Whiteness and all others? I have both stated explicitly and hinted at my answer to this question: the modern notion of policing. Policing is the mechanism through which the property state purports to fulfill its chief end: the safety of its citizens and their property. And I am not alone in this thinking. Mills did not posit the property state thesis as we have here, *per se*, yet he had a firm understanding that the “racial” or “white supremacist” state’s function is to “safeguard the polity as a white or white dominated polity” and enforce the terms of the “Racial Contract.”⁹⁷ (And thanks to Harris, we understand that the property state in the U.S. is largely what Mills terms a white supremacist state or Racial Contract). This understanding lead Mills to arrive at the same conclusion as I have and that I hope we can arrive at together in the next phase of the paper:

“The coercive arms of the state, then—the police, the penal system, the army—need to be seen as in part enforcers *of* the Racial Contract, working both to keep the peace and prevent crime among white citizens, and to maintain the racial order and detect and destroy challenges to it, so that across white settler states nonwhites are incarcerated at differential rates and for longer terms. To

⁹⁷ Mills, *The Racial Contract*, 82.

understand the long bloody history of police brutality against Blacks in the United States, for example, one has to recognize it not as excesses by individual racists but as an organic part of this political enterprise. The well-known perception in the black community that police—particularly in the jim crow days of segregation and largely white police forces—were basically an ‘army of occupation.’”⁹⁸

I could hardly construct a more eloquent formulation of the nature and function of policing in the American property state than this. But as well articulated as Mills’ analysis is, we will not stop here. The next phase of the paper is dedicated to an exploration of the historical and sociological relationship between property and policing from policing’s origins to its contemporary state. We will see, as I have stated earlier, that property and policing go hand in hand.

III. Property and Policing

“I knew that Prince [Jones] was not killed by a single officer so much as he was killed by his country and all the fears that have marked it from birth.”

–Ta-Nehisi Coates, *Between the World and Me*

This part explores the propertarian nature of policing in the U.S. in historical and sociological terms. As outlined in the introduction, this part is broken into four sections. The first section deals with the origins of policing as they relate to property in human chattel, that is, the institution of slavery. The second section deals with the origins of policing as they relate to the maintenance of industrial order and capitalist class interests. And the third section deals with the origins of policing as they relate to property in territory and the maintenance of imperial order. These three sections are meant to demonstrate how the rise of policing has a direct relationship to the preservation and protection of that which we would consider conventional property: material “things.” The fourth section of this part, however, is a flyover view of how propertarian logic continues to dominate police work even though the police’s formal roles have ballooned beyond

⁹⁸ Ibid. 85.

the mere safeguarding of material possessions. This last section is where we will see how the totality of the Lockean definition of property as essentially the whole pantheon of one's rights becomes most visible in the logic of public safety as we know it today.

Before we engage in these four narratives, it is important to establish some broader historical context for the concept of policing. I want to establish first, however, that this part of the paper is not meant to be the definitive historical and sociological account of policing. First and foremost, the scope of the project does not call for it. This is an article length paper with a narrow geographical focus on the U.S. Besides a few prefatory historical remarks, our focus will exclusively be on the history and sociology of policing in the U.S. and its territory, as they relate to our overall purposes. A truly definitive account of policing in the U.S., let alone globally, would require multiple volumes of interdisciplinary work. I believe that someone should undertake this project, but that is not the goal at present. Furthermore, this part and this paper more generally are a "selected summary of policing," as the authors of one prominent law enforcement studies textbook characterized their work.⁹⁹ This project, after all, is an effort in history and political theory, an effort that amounts to narrative building. I have made choices about what to include and what not include in this narrative work, choices to which I call the reader to pay close attention and be critical of in the scholarly sense. But what should not be forgotten is the first prong of the overall aim of the project: to explore the ways that policing in the U.S. carries inherent propertarian logic by teasing out the theoretical and historical evidence that attests to this fact. The police have

⁹⁹ Russell, Gregory D., Terry E. Gingerich, Rebecca Paynich, and James E. Cosner. *Law Enforcement in the United States*. (United States: Jones and Bartlett Publishers, 2005) 27. "...history is the study of the past. It is a record or narrative description of the events that directly or indirectly define the values that underlie contemporary society. Consequently, we study the past to gain a better understanding of our current state of affairs." Nothing could more succinctly underscore the purpose of this project.

multifarious formal and informal roles, but what should not and cannot be missed is how many of these roles are related to the concept of property. This is the narrative we are focused on here.

Policing has some antecedents in ancient societies including Babylon, Egypt, Palestine, Greece, and Rome.¹⁰⁰ Most of these “police” forces were military units assigned with particular patrolling or protection activities beyond strictly military posts. Egypt had such forces that were even uniformed and highly regulated.¹⁰¹ Historian Carol Trojan noted that in Egypt, “the most important police units were those responsible for the security of tombs, where valuables were placed with the dead. The Egyptians claim that they were the first to use dogs for police purposes, using them to guard property.”¹⁰² Rome represented another such society with a highly regulated force. In 14 B.C. the emperor Augustus established a municipal force called the *vigiles* whose primary function most closely matched that of modern firefighters. But beyond that official function, they were often organized, *inter alia*, to make arrests for theft and burglary and to capture runaway slaves.¹⁰³ Even in some of these ancient societies we can see that their nascent conceptions of policing were tied to material property interests.

The institution of policing as we know it today started taking shape even more clearly in medieval and early modern French and English society. The emperor Charlemagne established the position of constable early in his reign, a position that looked more like a contemporary commissioner of public safety or police chief than a beat cop, though these constables were aided by impromptu armed helpers called sergeants who more thoroughly resembled contemporary beat cops.¹⁰⁴ This position dominated public safety in feudal France until 1666 when the city of Paris

¹⁰⁰ Ibid. 28.

¹⁰¹ Ibid. 30.

¹⁰² Trojan, Carol. “Egypt: Evolution of a Modern Police State.” *Comparative Criminal Justice*. (Chicago, Illinois: Office of International Criminal Justice, University of Illinois at Chicago, 1986) 235-242.

¹⁰³ Russel et al., *Law Enforcement*, 34.

¹⁰⁴ Ibid.

established the position of “lieutenant of police,” whose functions included more extensive patrolling and policing of public behavior and were less administrative than a constable. By the middle of the eighteenth century, the Parisian lieutenant of police “was the most advanced system of police in any city in Europe.”¹⁰⁵

In medieval England, the constable equivalent was the “shire reeve” from which we get our modern law enforcement word and position “sheriff.”¹⁰⁶ These shire reeves were later replaced by “vicomes” who most resembled the classic conception of the circuit court judge who “rides the circuit” around their territory to settle disputes and administer justice.¹⁰⁷ Vicomes were later replaced by King Edward I in 1295 with a more comprehensive “watch and ward” system of policing that expanded patrols and conscripted more young men.¹⁰⁸ This system of policing and its regulation of public behavior and public safety were expounded upon by reforming theorists and politicians in the eighteenth and nineteenth century such as Henry and John Fielding, Patrick Colquhoun, and Robert Peele. Peele had established a constabulary system in Ireland, and when he was made British home secretary in the 1820s, he was instrumental in passing “The Act for Improving the Police in and near the Metropolis,” which modernized policing in London.¹⁰⁹ The “Peelian” principles of policing, which emphasize the role of the police as a public good, purport to be the guiding principles of policing in the U.K., and the countries it has influenced on, to this day.¹¹⁰ Many American cities, colonies, and latter states adopted various of these French and

¹⁰⁵ Ibid. 35.

¹⁰⁶ Ibid. 37.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid. 37-38.

¹⁰⁹ Ibid. 38-39.

¹¹⁰ For an outline and faithful critique of the Peelian principles, cf. Loader, Ian. “In Search of Civic Policing: Recasting the ‘Peelian’ Principles.” *Criminal Law and Philosophy*. (2016) 427-440.

English practices and made adaptations to their own settings.¹¹¹ This is some of the global historical context in which early American police institutions arose.

A. Property in Persons: Slavery and Policing

If the United States was formed as a property state, as I contend here, then beyond property in oneself and one's civil liberties, material property interests were front and center in the aims and purposes of the state. Slavery was one of the biggest property interests. In fact, the American property state contained a contradiction. In the Lockean spirit it meant to give people the property rights to their persons, their liberties, and their physical possessions. Yet Black African enslaved people were denied all of these property rights and were in fact considered property themselves: human chattel. Despite this blatant contradiction and glaring violation of its on purported aims, the American property state marched on, and various institutions were implemented to preserve and protect slavery.

One such institution was the system of slave patrols that dominated the colonial and post-colonial American South. Slave patrols have long been recognized as one of the first forms of organized policing in the U.S. As Russell et al. noted, southern colonies started instituting strict slave codes in the aftermath of Bacon's Rebellion.¹¹² The union of poor farmers of all races, indentured servants of all races, and enslaved Black people that the rebellion fostered terrified the White planter class who in turn instituted slave codes in order to "protect whites from runaway slaves, inhibit insurrections, and authorize the recapture of fugitive slaves."¹¹³ Slave patrols were the chief enforcers of these codes, acting legally as *posses comitatus* to round up "stolen" human

¹¹¹ Williams, *Our Enemies*, 55-63.

¹¹² Bacon's Rebellion was an uprising in 1675-76 colonial Virginia so named after its leader Nathaniel Bacon. Bacon managed to unite poor white farmers and indentured servants with enslaved Black people and free Black farmers against the colonial regime and certain Native American tribes.

¹¹³ Russell et al., *Law Enforcement*, 49. Virginia was the first colony to pass such codes in 1705, followed by others including South Carolina in 1740.

property and deter escape. These patrols were brutal, using violent and repressive measures to terrorize enslaved Black people and even free Black people. Human property was an especially worrying class of property to the slavocrats because, after all, enslaved peoples were *humans*. No other form of property carried the risk of liberating itself from ownership, so the slavocracy used extra violent means to keep their human property in place and police that property's behavior.

The slavocrats were so afraid of slave rebellions that the patrols were not just tasked with recapturing fugitives, but they were given the right to seize, question, and search any Black person, to ransack enslaved Black people's dwellings for books, guns, and other items of liberty, and to inflict corporal punishment on any enslaved person who went outside their master's geographic or verbal directive.¹¹⁴ The power of life and death over any "negro slave" that Locke wrote into the Carolina constitution and that existed in other colonial and post-colonial legal orders was essential for the existence of slave patrols because they empowered virtually any White man to act as the policer of any Black person's activities.¹¹⁵ By 1837, the city of Charleston, South Carolina could boast the largest "police force" of any municipality—North, South, or West—with one-hundred men in the employ of its formal slave patrol.¹¹⁶

Historian and legal scholar Sally Hadden has offered the most definitive account of the slave policing apparatus in the American South in her appropriately titled work *Slave Patrols: Law and Violence in Virginia and the Carolinas*.¹¹⁷ One of her central theses was that, "the history of police work in the South grows out of [the] early fascination, by white [slave] patrollers, with what

¹¹⁴ Wood, B. *Slavery in Colonial Georgia*. (Athens, Georgia: University of Georgia Press, 1984) 123-124.

¹¹⁵ For example, in South Carolina, "Volunteer white police mechanisms, used in 1690, were replaced in 1696 by directives to absentee owners, Charleston constables, and all whites who now shared the duty to control slave behavior throughout the colony" (Hadden, *Slave Patrols*, 19). See full citation below.

¹¹⁶ Wintersmith, Robert F. *Police and the Black Community*. (Lexington, Massachusetts: Lexington Books, 1974). 19-21.

¹¹⁷ Hadden, Sally E. *Slave Patrols: Law and Violence in Virginia and the Carolinas*. (Cambridge, Massachusetts: Harvard University Press, 2001).

African American slaves were doing. Most law enforcement was, by definition, white patrolmen watching, catching, or beating black slaves.”¹¹⁸ Her work was so comprehensive that to attempt to capture it all here would be a great scholarly injustice, so I will confine myself to highlighting only her major findings.

First, Hadden contended that the concept of slave patrols was largely imported to the colonial U.S. from the British West Indies, particularly Barbados. British slavocracy in the Caribbean was particularly cruel, punitive, and ordered, so when American slavocrats and White people more generally became anxious about the growing slave populations in their colonies, they turned to their West Indian counterparts for inspiration and began to form extensive networks of formal and informal slave patrols.¹¹⁹ Since the planter class was the minority, these patrols were often poor White people, who were actively working in their economic disinterest to help preserve and protect the property interests of the White planters.¹²⁰ These patrols, which continued until the abolition of slavery,¹²¹ were highly organized and often mirrored the structure of state and local militias with officers, trainings, conscriptions, and the whole nine yards—so to speak.¹²² These patrol groups sprang up systematically across the South. The members of such groups were variously called “constables, searchers, overseers, and patrollers” but were known to Black people as “paddyrollers.”¹²³ “Towns like Wilmington [NC] and Charleston [SC] created their own night

¹¹⁸ Ibid. 4.

¹¹⁹ Ibid. 6-40.

¹²⁰ Cf. *supra*—*Black Reconstruction* chapters 1-3 for a discussion of how the White planter class manipulated race and class dynamics to their material benefit in the Antebellum South.

¹²¹ After slavery these patrols were re-formed and repurposed as the nature of captivity changed in the American South. Cf. Blackmon, Douglas A. *Slavery by Another Name: The Re-Enslavement of Black People in America from the Civil War to World War II*. 1st ed. (New York, New York: Doubleday, 2008) and *supra* *The Condemnation of Blackness* and *The New Jim Crow*.

¹²² Hadden, *Slave Patrols*, chapters 2-4.

¹²³ Notice the linguistic and conceptual relationship between “paddyroller” and the more familiar term “paddywagon.” A paddyroller is one who drives a paddywagon. A paddywagon is short for “patrol wagon” and the vehicle used to transport criminals that patrolmen have used throughout law enforcement history. Paddywagon continues to be a colloquial term for the police cars of today. The reader may have heard the phrase “took a ride in the paddywagon” to refer to being arrested and arraigned.

watch groups to control slave behavior; these night watch groups constituted the forerunners of urban slave patrols and later the police.”¹²⁴

Hadden concluded her study highlighting exactly how the culture and structure of these slave patrols seeped into municipal police forces, even after the abolition of slavery. She included the testimony of W.L. Bost, a formerly enslaved man who was interviewed by the Works Progress Administration in 1937, to summarize this phenomenon succinctly: “the paddyrollers they keep a close watch on the pore niggers so they have no chance to do anything or go anywhere. They jes’ like policemen, only worsen. ‘Cause they never let the niggers go anywhere without a pass from his masters. If you wasn’t in your proper place when the paddyrollers come they lash you ‘til you was black and blue.”¹²⁵ Many of these same violent people and brutal practices were transferred from one apparatus to the other; slave patrollers were retooled as police officers and the slave patroller mindset carried over as well: a preoccupation with policing Black people who dared to claim a property interest over themselves—corporeally, politically, or materially.¹²⁶ Ending her book, Hadden stated the relationship between slave patrols, policing and White terrorism in no uncertain terms:

“Freedman like W.L. Bost...recognized that precious little difference existed between the brutality of slave patrols, white Southern policemen, or the Klan. The work of controlling ‘marginal’ members of Southern Society had merely shifted from slave patrollers to Klansmen and policemen. [When slavery died], the white community’s need for racial dominance lived on.”¹²⁷

It is also important to note how federal power structures, not just state and local ones, facilitated the strength of the slave policing apparatus. Frederick Douglass was one of the earliest

¹²⁴ Ibid. 51.

¹²⁵ Hadden, *Slave Patrols*, 71.

¹²⁶ We will return in section four of this chapter to how policing and other forms of White terrorism on Black people manifested in Jim Crow America.

¹²⁷ Hadden, *Slave Patrols*, 220.

and most vociferous voices to point out the various clauses of the Constitution that supported the repression of enslaved populations.¹²⁸ Article I, Section 8 says that “Congress shall have Power...To provide for calling forth the Militia to execute the Laws of the Union, [and] suppress Insurrections.” And Article IV, Section 4 says “The United States shall ...protect each [state] against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.” Though none of these clauses explicitly mentions slavery, a contextual understanding (of many) would have been that one of the great anxieties of White society—as Hadden put it—was a fear of uprisings from enslaved peoples, whether organically or by the aid of some foreign power who was an enemy of the nascent U.S. Each of these clauses therefore presupposed that each state had a right to quell their own insurrections and invasions, including and especially those from enslaved people, and reassured the states that the federal government would intervene in such cases too.

There is also another constitutional clause that dealt more directly with slavery and gave the federal government power to police the activity of enslaved peoples. Article IV, Section 2 says that “No person held to Service or Labour in one State under the laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered upon claim of the Party to whom such Service or Labour may be due.” This clause is known as the “Fugitive Slave Clause” and gave slaveholders the right to press their claim on their escaped human chattel and gave the federal government and the state governments the obligation to comply with these claims. This clause was given extra teeth in 1850

¹²⁸ Cf. Douglass, Frederick. “The Constitution and Slavery.” *The North Star*. (Rochester, New York: 1849). Although Douglass later changed his mind on viewing these particular clauses as pro-slavery (cf. “Change of Opinion Announced” published in *The Liberator* in 1851 and the speech “The Constitution of the United States: Is It Pro or Anti-Slavery?” given to the Scottish Antislavery Society in 1860), his early observations are no less astute and are agreed with by many scholars today, including, most notably, David Waldstreicher in *Slavery’s Constitution: From Revolution to Ratification*.

with the passage of the Fugitive Slave Act, which required the return of all escaped human property in even more strict and extensive terms, giving Southern slave patrols the right to pursue their chattel into other states and territories. Russell et al. noted that federal law enforcement agencies were often involved in this perverse system of remanding people back into the property hold of another person. “As late as 1861, U.S. Marshals were arresting and returning fugitive slaves to their southern masters in compliance with the Fugitive Slave Act.”¹²⁹

And finally, legal and historical scholarship in the last two decades has begun to recognize the role that slave interests played in support for and ratification of the Second Amendment.¹³⁰ The right to bear arms was originally understood in the context of militia service, with militia service being restricted to White men only. And as Hadden noted, militias and slave patrols had an intimate relationship. A Lockean property right to keep and bear weapons empowered virtually any White man to be called upon to defend the planter class’ property interests in keeping human chattel as well as to defend the broader property interest in White identity.¹³¹ Whether by returning that chattel if they escaped or by maiming or killing them if they forgot their place as chattel, the White militiaman and/or patrolman exerted his power of life and death over enslaved Black people and used his political right to bear arms in order to do so.¹³² When the framers of the Bill of Rights

¹²⁹ Russell et al., *Law Enforcement*, 49.

¹³⁰ Cf. Bogus, Carl T. “The Hidden History of the Second Amendment.” *U.C. Davis Law Review*, Vol. 31, p. 309. (Roger Williams Univ. Legal Studies Paper No. 80, 1998) and Picadio, Anthony P. “The Right to Bear Arms a Disfavored Right” *Pennsylvania Bar Association Quarterly*. (2019) 16–23.

¹³¹ Robert J. Cottrol et. al noted in their book *Brown v. Board of Education: Caste, Culture, and the Constitution* that whether or not one was benefiting from slavery directly as a planter or merchant, White people “had a considerable psychological as well as economic investment in the doctrine of black inferiority.” When this is read with DuBois and others’ analysis of how slavery was in the economic disinterest of many non-planter White people in the South, yet in their social interest, the concept of Whiteness as property in practice becomes apparent. Compare Cottrol et al.’s work also to Cheryl Harris’ analysis of how *Brown* contributed to the concept of Whiteness as property.

¹³² It is interesting to consider the relationship between policing, militias, and White supremacist violence today. After the January 6th, 2021 insurrection at the U.S. Capitol Building, it has come to light that many White supremacist militia organizations are populated, in part, by current and former police officers. That these three phenomena continue to have an intricate relationship even today is further evidence of how enmeshed they were at their origins and reveals their conceptual intersections. Off-duty police officers who are members of or associated with White nationalist militia groups attacking other police officers in defense of a president whose movement was fueled by racism, xenophobia,

wrote and submitted the Second Amendment for ratification, the context of past colonial slave uprisings as well as the contemporaneously successful Haitian Revolution were on their minds. These rebellions were real fears to people who had tangible and intangible interests in denying masses of people any property rights to themselves. The Second Amendment was, in part, intended to cohere with the aforementioned clauses of the original, unamended 1787 Constitution and with the growing system of organized slave patrols that were springing up all over the South.

As we conclude this section of this part, it is important to summarize what we have learned about the relationship between property in persons and policing. Put succinctly: the relationship was early on necessary. The American property state, built largely on the backs of human property, needed a substantial policing apparatus to keep that property in the possession of their masters. And unlike the Egyptian tomb guards of old who guarded riches untold, such a policing force needed to be active, not stationary, and needed to be proactive, not reactionary. Slave patrols in the U.S. were just this force. They unleashed unfathomable horrors on Black people, enslaved and free alike, and helped to construct an immense police state that undergirds the property state and continues to do this day—as we have seen and will continue to see. The most perverse and ironic reality of slavery and slave patrols is that they disinherited enslaved Black people from the concept of property itself and made them the object from which they were denied. Enslavement was the complete alienation of the self from the self, and slave patrols helped enforce that alienation daily. From preventing Black people from keeping books, guns, and other personal items that

and White Christian nationalism reveals, to some degree, just how incoherent policing is as a concept when “law and order” and Whiteness appear to be on opposite sides of a conflict. Or more appropriately, when Whiteness wants to make law and order its more explicitly ally again, contrary to the rebranded, sanitized understanding of law and order that we embrace today. Many of the same militias that were present at the Capitol that day were also present at Black Lives Matter protests in the summer of 2020 to act as counter-protestors, police the behaviors of BLM activists, and show their support for law enforcement. We seem to be experiencing some level of tension surfacing as policing, militias, and White nationalism wrestle with their apparent misalignments, despite their storied cohabitation in the psyche of White society.

characterized liberty in the American polity to capturing Black people and chaining them in the back of paddywagons after they dared to defy their status as chattel, slave patrollers were among the first police officers in the U.S. and helped to define the culture and purposes of policing for generations.

B. Property in Industry: Industrial Politics and Policing

Whereas the propertarian origins of policing in the American South were largely influenced by the institution of slavery, the propertarian origins of policing in the North and Midwest tended to be more influenced by the material interests of the industrial class—though there was hardly a clean distinction between the two histories. In fact, in 1885 New Orleans, then mayor Joseph Gillote ordered the police to arrest any Black person that refused to work during a levee worker’s strike. New Orleans was historically and famously a city with strict slave codes and slave policing. These structures bled over to the treatment of Black workers when the city began to industrialize post-slavery. Though this section is focused primarily on the development of policing in the industrial North and West, it is important to first recognize how these two developments of policing were connected. Williams summed up this relationship between each origin and mode of policing, saying:

“The mechanisms developed to control slaves eventually expanded in each direction, as slave patrols were charged additionally with regulating the behavior of free Black people and that of poor White people, especially indentured servants. As modern capitalism took shape, the new industrial working class posed new challenges to the social order, and the police institution evolved to meet them. Like the slaves, these “dangerous classes” [the labor classes] were marked as permanent objects for police control, and their lives became increasingly regulated by specially designed laws, selective enforcement, and heightened security.”¹³³

¹³³ Williams, *Our Enemies*, 176.

As the country as a whole became more industrialized—in cities North, South, and West alike—the property interests of the owners of land, capital, and the means of production were valued over the property interests of the laboring class who was largely comprised, at various points, of poor White Americans, poor not-yet-White European immigrants,¹³⁴ poor non-White immigrants, and poor Black Americans. The history of policing and industrialization is the history of the violent repression and surveillance of these castes of people to the benefit of their industrial overlords. As Marx observed, the state employed the police “to accelerate the accumulation of capital by increasing the degree of exploitation of labor.”¹³⁵

Historian and legal scholar Sidney L. Harring’s *Policing a Class Society* is to the study of urban industrial policing in the North and Midwest as Hadden’s *Slave Patrol* is to slave policing in the South. As with Hadden’s work, I will not attempt to report all of Harring’s findings here but will instead explore the highlights of his careful study. Harring’s project was intended to use the Marxist framework of class antagonisms to uncover how the institution of policing played an essential role in preserving and protecting the property interests of the dominating few owners and their political allies at the expense of the dominated many laborers and their families in the industrial U.S. One of his central theses was that “the capitalist state necessarily relied on violence to defend the increase wealth of the ruling class, [therefore] violence was an entrenchment of the state.”¹³⁶ This entrenched violence of the state was embodied in urban police departments that were rife with corruption and brutality, even in spite of the efforts of progressive reformers.¹³⁷

¹³⁴ “not-yet-White” refers to categories of people such as Irish, Jewish, and Italian people who at the time of their mass immigrations to the U.S. were not properly considered a part of White society but were overtime accepted and assimilated into White society in ways that phenotypically non-White people never were or could be.

¹³⁵ Marx, Karl. *Capital, Volume I*. (London, England: Electric Book Company, 2000) Ch. XXIV, 1062.

¹³⁶ Harring, *Policing a Class Society*, xiv.

¹³⁷ Russell et. al, *Law Enforcement*, 59. As with the Tammany Hall political machine in New York, politicians often used police positions as a form of patronage to their supporters leading to all manner of corruption and dishonesty in urban police departments.

Harring's timeline was focused on the Reconstruction through Progressive Eras, during which he found three major characteristics of urban industrial policing that we will use to guide our discussion generally. The first characteristic, which we shall return to in more depth shortly and place most of our attention on, was that police departments were largely involved in strike busting and other "anti-working-class" activities.¹³⁸ The second characteristic was that police departments were concerned with policing the "leisure activities" of the working class. This particular effort looked like cracking down on drinking, gambling, prostitution, dancing and the halls and gathering places where these activities took place. The goal of such policing was fourfold: 1) to establish a bourgeois conception of propriety that was itself a way of demarking the property identity boundary that bourgeois society placed between themselves and the working class,¹³⁹ 2) to criminalize the working class in order to create cause for placing them under further surveillance, 3) to socialize newly arrived immigrants into the bourgeois conception of propriety and deter their participation in behaviors of disrepute and from associating with non-immigrant members of the working class, and 4) to discourage leisure itself in order to increase the number of hours through which the capitalist class could exploit the labor of its workers.

Finally, the third major characteristic was that the police made a concerted effort to deter tramps and limit tramping.¹⁴⁰ Tramping was discouraged because it did not align with bourgeois notions of propriety and because excessive vagrancy would deprive capitalists of a reliable labor force. Ultimately, all of these characteristics and aims of policing cohered in the material interests of the capitalist class. Cities "emerged as a great reservoir of workers" and "aggressive recruitment

¹³⁸Harring, *Policing a Class Society*, 20.

¹³⁹ This bourgeois property in an identity of propriety can be viewed as akin to the property interest in Whiteness that we have earlier discussed. There is a necessary tension in identity property because the owner of the dominant identity both wants to exclude the dominated class from their identity and assimilate them into it.

¹⁴⁰ Tramping is a form of vagrancy wherein one "tramps" from one place to another in search of work. One who tramps is a "tramp."

overseas had produced a work force sufficiently large to allow rapid expansion of capital and to keep wage levels low.”¹⁴¹ In order to maintain this dynamic, capitalists needed the help of the police to keep their workers docile, keep them “proper,” and keep them in place—all in the interest of maximally exploiting the workers’ labor to make that labor and labor produce their own property. Let us now turn to a more extensive discussion of the strike busting function of urban policing, the function I believe most reveals the material property interests at stake.

Between 1889 and 1915, there were an estimated fifty-seven thousand strikes across various industries involving as many as ten million workers all together.¹⁴² During this period, workers were organizing to demand safer and healthier working conditions, better pay and benefits, more time off, and more bargaining power and control of corporate activities within their industries. In the Lockean sense, they were demanding more rights over their various property interests. Strikes were an attempt to call attention to their demands and coerce their employers into meeting those demands or bargaining with them. In theory, capitalists had an incentive to acquiesce to the strikers’ demands because the longer a strike went on, the more labor, productivity, and therefore capital were lost. For example, between 1881 and 1915, strikes in the Great Lakes-Ohio Valley region and New York City combined cost capital owners \$1.1 billion in today’s currency.¹⁴³ Capitalists also had the incentive to discourage organizing and refuse organizers’ demands because any measures that met those demands would result in loss of profit for them in the short and long-runs.

Needless to say, capital owners and their political allies—the ruling class—were not happy with their predicament. They did not want to negotiate with strikers, they wanted to crush their

¹⁴¹ Ibid. 10.

¹⁴² Ibid. 146-147.

¹⁴³ Ibid. 102. About \$43,000,000 dollars in 1915.

defiance, deter any future resistance, and further exploit their labor. At first, companies would rely on their own guards or hired thugs to break up strikes and protect their wealth, but these forces became increasingly ineffective. Companies then turned to public forces: militias, national guard troops, and municipal police forces.¹⁴⁴ This partnership of the state and the capitalist class was bloody. During the multi-location and multi-temporal Great Strike of 1877, police and militia forces killed 100 strikers and bystanders in Pittsburgh alone.¹⁴⁵

One might be tempted to think this extreme display of violent deterrence and repression was be a win for the corporate bourgeoisie, but the public-private partnership was not without its flaws. Militia and national guard troops quickly proved to be ineffective sources of force, as they were often under resourced, short manned, and slow to respond. They also could not cover the same geographic extent that municipal police departments with multiple precincts could, which was unhelpful in the case of citywide strikes. So, companies increasingly turned to rely solely on police departments. Initially, police officers would be housed on company property in anticipation of a strike and companies would reimburse the city or pay-out the officers directly for their strike busting services.¹⁴⁶ But in the 1890s, things began to change:

“The full integration of strike busting into the police function paralleled other changes in the municipal police institution during the 1890s. Effective antistrike work required a level of discipline and training very rare in the 1870s and 1880s but increasingly common by the 1890s. Police units directed from a central location were able to cover large sections of cities in a well-controlled and efficient manner. Developments in police tactics in the 1890s can be seen in the strategies to break up three railroad strikes that tested police capabilities to their limits.”¹⁴⁷

¹⁴⁴ Ibid. 147.

¹⁴⁵ Ibid. 109.

¹⁴⁶ Williams, *Our Enemies*, 109-110.

¹⁴⁷ Harring, *Policing a Class Society*, 117.

The railroad strikes Haring was referring to were the Buffalo switchmen's strike of 1892, the Chicago pullmen's strike of 1894, and the Milwaukee streetcar strike of 1896.¹⁴⁸ These strikes prompted police departments in these cities and elsewhere to become even more organized and dedicated to strike busting activities. At the behest of their capitalist partners, politicians and police agencies started taking a more proactive role in policing the working class and their labor organizing efforts: "Police patrolled strikers' communities, stepped up arrests for disorderly conduct related offenses, and closed saloons and meeting halls. Police departments were often drilled in military formations, and many cities organized special companies that transcended local precinct organizations."¹⁴⁹

Hundreds of new officers were commissioned and trained and new policing agencies were formed. For example, in 1905, at the "request of various companies," then Pennsylvania governor Samuel Pennypacker signed a law creating a statewide police force called the Pennsylvania State Constabulary. The role of this agency was, at least in part, to aid in statewide strike busting and worker intimidation, a role that was well documented by the Pennsylvania State Federation of Labor who collected eyewitness testimonies from those who were targeted by the Constabulary.¹⁵⁰

As Williams noted in *Our Enemies*, part of what prompted the increase in proactive policing of the working class was that labor organizing activities were seen as inherently socialist; both the private sector and the government feared a socialist revolution coming on the backs of labor organizers. Socialism and its ultimate end of a communist society were a fundamental attack on the Lockean concept of private property and spelled the end of bourgeois liberal democracy, that is, the property state.¹⁵¹ To prevent this fundamental transformation of society and to "defend

¹⁴⁸ Ibid. 117-119.

¹⁴⁹ Ibid. 111.

¹⁵⁰ Williams, *Our Enemies*, 180-182.

¹⁵¹ Ibid. 182.

the company's interest and preserve the status quo," the police started more aggressively targeting labor organizers.¹⁵² For example, in the wake of the Red Scare,¹⁵³ the Los Angeles Police Department acted viciously against members of the Industrial Workers of the World and their associated organizers. They "attacked the IWW hall with clubs and guns" and "destroyed the furniture in the building, beat many of the men and women present, tarred and feathered the leaders, and deliberately scolded several children with hot coffee." Throughout the Red Scare, they arrested more than 500 union organizers and convicted a fifth of them on charges of "criminal syndicalism."¹⁵⁴

The police acting as strike busting crews for big business was by no means confined to the last decades of the nineteenth century and first decades of the twentieth. Such activities continued to varying degrees through the 1930s and 1940s, especially as the automobile industry boomed. And when McCarthyism, another form of the Red Scare, took off at the dawn of the Cold War, police agencies at all levels of government were once again employed to crack down on any labor organizers that were accused of having socialist or Soviet sympathies.¹⁵⁵

In 1995, when the *Detroit Free Press* workers went on strike, the company called in a private security force to break the strike. Initially, the police were opposed to the use of the private security force and attempted to disperse them, but after a six-figure corporate donation from the *Press*, the police joined the strike busting efforts and arrested many strikers and watched as the private guards beat them.¹⁵⁶ In another high profile case, Smithfield Foods' 15 year fight with the United Food and Commercial Workers union in the 90s and early 00s involved a partnership

¹⁵² Ibid. 182.

¹⁵³ The Red Scare was a phase of widespread public fear, paranoia, misinformation, and propaganda amidst World War I that anarchists, socialists, and communists were going to overthrow the U.S. government.

¹⁵⁴ Ibid. 183.

¹⁵⁵ Ibid. 239-285. (Chapter 7).

¹⁵⁶ Ibid. 193.

between private and public police forces to deter organizing efforts by spying on and intimidating workers and organizers.¹⁵⁷ What is more, as was the case with slave policing and the U.S. Marshals, a federal law enforcement agency joined in the anti-worker efforts too. In 2006, Smithfield called the Immigration and Customs Enforcement police on hundreds of their undocumented workers who were a part of the organizing efforts. ICE made several arrests in response to the tips and 1,500 workers fled to avoid capture, rendering much of the organizing efforts man-powerless and leaving a clear message to any undocumented worker who stayed: do not get involved, or risk losing everything.¹⁵⁸

Ultimately, the selected class antagonisms we have surveyed here give credence to the idea that the history of policing cannot be separated from the interests of the bourgeois order, that is, the interests of the industrial capitalist aspects of the property state—in the language of our project. From what we have learned, it would appear that Harring was right in his conclusion that the modern form of policing “emerged from class struggle under industrial capitalism, and that in spite of reform movements and professionalization, we now have essentially the same police institution that evolved in the intense class conflict of the 1870s, 1880s, and 1890s.”¹⁵⁹ Harring conceded that the class conflicts of those decades and their immediately successive ones may no longer be as overt and that the immense police apparatus that was built up to engage in those conflicts is largely obsolete to that specific purpose. Yet that same apparatus has been retooled in other ways.¹⁶⁰ In fact, I contend—as we will explore later—that the same standards of bourgeois propriety that characterized urban industrial policing still characterize the “broken windows” policing of our urban ghettos today.

¹⁵⁷ Ibid. 194.

¹⁵⁸ Ibid. 195.

¹⁵⁹ Harring, *Policing a Class Society*, 3.

¹⁶⁰ Ibid. 247-258.

Harring believed that the violent industrial capitalist police state has been largely replaced with a slightly-less-violent-yet-still-violent welfare *and* police state, concluding that regardless of the transformation, “the system has a coercive core.”¹⁶¹ I would agree with Harring and would only further suggest more explicitly that we take Marx’s famous declaration that “the executive of the modern state is nothing but a committee for managing the common affairs of the whole bourgeoisie” seriously in the context of policing.¹⁶² The police, which are an executive function at various levels of the state, are sold as a contractarian public good, a selling point as old as the Peelian principles. But we cannot be deceived by this rhetoric and rebranding. What should not be missed is the clear history of the police being on the side of bourgeois material and immaterial property interests and against the property interests of the working class and other marginalized castes.

C. Property in Territory: Imperialism and Policing

The third and final propertarian origin of policing we will discuss in this part is the imperial origin of policing. The only time that the original, unamended 1787 Constitution explicitly mentions the word “property” is in Article IV, Section 3 when it gives Congress the power to make “all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.” Territory, that is, the U.S.’s imperial holdings as opposed to the states, is explicitly named as a form of physical property that the Constitution gives the federal government an absolute right over. All U.S. territories, and the District of Columbia, are governed at the discretion of laws duly enacted by Congress and the president.

Territories were a multifarious form of property for the U.S. government and the citizens it allowed access to them. For one, the land of the territories itself could be commodified in

¹⁶¹ Ibid. 258.

¹⁶² Marx, Karl and Friedrich Engels. *The Communist Manifesto*. (1848). Ch 1. “Bourgeois and Proletarians.”

innumerable Lockean ways from construction to renting to agriculture, all of which became profitable industries and opportunities for imports and exports. Secondly, the people on the land and their labor were also a property interest for public and private imperial forces. The native populations of each territory, if able to be controlled, would offer the best natural workforce for the various commercial prospects that new territories offered. And lastly, owning imperial territory carried a metaphysical property interest akin to the ones we have discussed in previous sections of this paper, namely the property interests in Whiteness and the bourgeois identity. To own or be a part of an imperial project and maintain imperial holdings was to set one's state apart from the other states of the world or to set oneself apart from other members of the ruling class. Imperial territories gave their master states and statesmen a form of prestige, might, and wealth to the exclusion of all others who did not own such territories.

The U.S. has been involved in imperial projects from its very beginnings—lest we forget the country itself was formed from a collection of former British imperial projects. But the ones with the most direct relevance to our purposes here are its foreign imperial projects in the late nineteenth and early twentieth centuries. In his study “The Imperial Origins of Policing,” Julian Go discussed how when the U.S. was done conquering the mainland West, it turned its attention to territories abroad, namely: Hawaii, the Philippines, Guam, Puerto Rico, Samoa, the Panama Canal Zone, the Virgin Islands, Cuba, Haiti, Nicaragua, and the Dominican Republic. Most of these territories were acquired through and ruled by military force and occupation. Most notably and most bloody was the 1898 Spanish-American war through which the U.S. acquired the Philippines, Guam, Puerto Rico, and briefly Cuba. The Philippines, prized for its geo-strategic location in Southeast Asia and for its agricultural potential, proved to be one of the most resistant territories to American rule resulting in a war that claimed 500,000 Filipino and 5,000 American lives. The

U.S. used particularly brutal practices to subdue Filipino workers and squash guerilla fighters, and the Philippines did not fully acquire its independence until after World War II in 1946.¹⁶³

Through a mixed quantitative and qualitative analysis of both U.S. imperial practices and police practices of the time, Go concluded that “local police borrowed tactics, techniques, and organizational templates from America’s imperial military regime that had been developed to conquer and rule foreign populations” through a process he termed “imperial feedback.”¹⁶⁴ Go found that this process of imperial feedback took place via two interrelated processes: 1) veterans of the U.S.’s imperial conflicts abroad returned home and populated America’s police departments bringing the practices they had learned in military service with them and 2) cities without imperial veterans in their police ranks nevertheless saw the successes of imperial strategies abroad and in other U.S. cities and chose to appropriate them as a means to combat “unruly” workers in their own cities.¹⁶⁵

According to Go, between 1890 and 1915, 40% of one-hundred fourteen U.S. police departments sampled had at least one police chief who was a military veteran, not to mention the countless rank and file who were military veterans as well.¹⁶⁶ August Vollmer is such an example of a veteran turned police chief. In fact, Vollmer is *the* paradigmatic example of his era.¹⁶⁷ From 1898-1900, Vollmer was enlisted in the Eighth Corps of the U.S. Army where he fought in the Spanish-American War as well as the Filipino-American War. While in the Philippines, Vollmer was involved in counterinsurgency efforts against Filipino guerilla freedom fighters. The Filipino resistance movement posed a fundamental threat to the imperial property interest in controlling the

¹⁶³ Go, Julian. “The Imperial Origins of American Policing: Militarization and Imperial Feedback in the Early 20th Century.” *American Journal of Sociology* 125(5). (2020). 1200.

¹⁶⁴ Ibid. 1193.

¹⁶⁵ Ibid. 1210-1211.

¹⁶⁶ Ibid. 1213.

¹⁶⁷ Ibid, 1206-1207.

island. In order to neutralize this threat and help restore imperial order to the territory, Vollmer and his fellow counterinsurgents were tasked with penetrating the Filipino interior and hunting down—killing, capturing, and torturing—freedom fighters and demolishing their camps. The most common methods they used to make their attacks were on small strike boats and with mounted horse units. Such methods allowed them to strike hard and strike face and strike in greater numerical force.¹⁶⁸

After his military service, Vollmer returned to his home of Berkeley, California and was elected town marshal—police chief equivalent—in 1905, a position he would hold for two decades. Shortly after he assumed office, he began implementing the military strategies that he had learned as an imperial counterinsurgent in the Philippines. Vollmer’s self-proclaimed mission was to apply the “principles of military science including those of strategy, tactics, logistics, [and] communications” to policing.¹⁶⁹ Chief among these strategies was the creation of mounted police units akin to those he was a part of while at war. These units were meant to apply the “military maxim of ‘getting there fastest with the most men’” to crime fighting efforts. Horse units gave police officers immense physical speed and power over unmounted criminals, suspects, and others who were the targets of their violence (he would later add bicycle units for the same purposes).¹⁷⁰

Vollmer further added two other military imports to his method of municipal policing: rigorous recruiting and training academies as well as comprehensive intelligence gathering services. Vollmer’s academies focused especially on training the youth in “military tactics” to be the next generation of police officers.¹⁷¹ And his intelligence gathering services were modeled after the counterinsurgent intelligence strategies he participated in during the Filipino-American

¹⁶⁸ Ibid. 1208.

¹⁶⁹ Ibid. 1207.

¹⁷⁰ Ibid.

¹⁷¹ Ibid. 1205.

war including the use of “crime mapping,” informants, and rigorous interrogations.¹⁷² When later reflecting on his time as a police official and innovator, Vollmer said: “For years, ever since Spanish-American War days, I’ve studied military tactics and used them to good effect in rounding up crooks. After all we’re conducting a war, a war against the enemies of society and we must never forget that.”¹⁷³

Vollmer’s innovations in Berkeley were not just isolated to his immediate sphere of influence. By the 1910s, police departments across the country including those in Chicago, Los Angeles, and Detroit were so impressed by Vollmer’s reforms and results that they hired him as a consultant. In Los Angeles, Vollmer established mounted and bicycle units akin to those he put in place in Berkeley. In fact, in 1915, thirty cities representing twenty different states from across the country had on average nearly three mounted police officers per ten-thousand people.¹⁷⁴ These units were modeled after the Vollmerian style units in Berkeley. What is more, Vollmer served as president of the International Association of Chiefs of Police and helped found criminal justice and policing programs at the University of California, Berkeley and at the University of Chicago where he also taught.¹⁷⁵ He created policing syllabi and contributed to volumes on police best practices that were published in the Wickersham Commission report on law enforcement, an effort to study policing authorized by President Herbert Hoover in 1931. Vollmer’s successes at militarizing the police in the image of imperial social control were so transformative and his influence so wide spread that he is considered by some “the father of modern policing” in the U.S. the way Henry Fielding or Robert Peele are considered so in England.¹⁷⁶

¹⁷² Ibid. 1209.

¹⁷³ Ibid. 1207.

¹⁷⁴ Ibid. 1223.

¹⁷⁵ Ibid. 1207.

¹⁷⁶ Ibid. 1210.

The reason that Vollmer's imperial policing style was ubiquitous in a diversity of U.S. cities should come as no surprise to us at this point in our project: White and bourgeois property interests. The data that Go collected on police departments between 1890 and 1915 revealed that mounted police units and other imperial style innovations were most popular in cities that had active labor organizers and in cities with high populations of non-White Americans, non-White immigrants, and not-yet-White European immigrants—all populations that the White bourgeois identity had various property interests in keeping under strict social control.¹⁷⁷ Such environments “homologized” with colonial situations that U.S. imperial forces had encountered abroad, with both consisting of resistant workforces comprised of “alien” peoples. Go even suggested that there was some evidence that such imperial policing was employed to a similar extent against the White working class, but that his specific data did not lead to a firm commitment to that conclusion. Regardless, his evidence—which I entreat the reader to review even more closely than we have the chance to here—reveals a clear trend in the relationship between imperial policing, warfare, and municipal policing in the United States.

The militarization of the police is hardly a surprising phenomenon. Many scholars have discussed homologies between the police and the military in the last fifty to sixty years of U.S. history.¹⁷⁸ In such accounts the narrative is that the police have become more militarized as the U.S. has increased its participation in the global arms race and has participated in more foreign wars. This narrative is certainly true. But what is less discussed is what Go presented, which is that police forces as we know them today have not just militarized over time; rather, they *were militarized* early in their existence precisely because the property interests that the political and ruling class had in foreign territories, they also had here at home in our cities and counties.

¹⁷⁷ Ibid. 1229-1237.

¹⁷⁸ Cf., *inter alia*, the works of Balko, Hinton, and Correia and Wall, mentioned above and discussed below.

Ultimately, the slavocratic, industrial, and imperial origins of policing that we have discussed in these three sections are all interrelated, as I hope I have made somewhat clear to the reader. The property state was formed in large part to preserve and protect the material and metaphysical property interests of the White bourgeois ruling class. And this class has necessarily found its ally in the police, which is the violent and defensive domestic apparatus of the state. In the next section of this part, we will explore how this function of the police has not simply disappeared or altruistically reformed itself over time, contrary to what our collective historical amnesia and current illusion with the rebranding of the police would lead us to believe. Rather, the propertarian origins of the police are very much alive and well, to the detriment of marginalized communities.

D. Contemporary Policing: Propertarian Logic of the Police State

The police state—the primary violent, coercive, invasive, and defensive domestic apparatus of the property state—continues to carry propertarian logic, by which I mean logic that prizes the protection and preservation of the material and metaphysical property interests of the ruling class. In footnote sixteen (16) of this paper, I give an extensive, though non-exhaustive, list of scholars and their works that capture the state of policing and the carceral state in the last one-hundred years or so. These scholars in turn drew on innumerable primary and secondary sources to make their cases for how and why the criminal-legal system serves the interests of the political and economic elite to the disadvantage of the poor and relatively powerless castes of society. This totality of work on the police state is more than I could imagine having conducted myself or trying to reproduce here. But what I hope to do, in brief, is draw on this body of literature to demonstrate how the phenomena they have studied are examples of the propertarian logic of the police state. I

shall do so in three short movements that correspond to each of the three aforementioned propertarian origins of policing.

1) *Enduring slavocratic policing*. That Black people are consistently and systematically overpoliced has been well explored in contemporary literature across disciplines. Here are but some of the statistics that highlight this phenomenon: In 2016, Black people made up 27% of all arrests in the U.S. despite being less than half that percentage of the total population.¹⁷⁹ Black youth made up 35% of all juvenile arrests despite being 15% of the total youth population. Black adults are 5.9 times more likely to be incarcerated than White adults (the rate is 3.1 times higher for Latino adults than White adults).¹⁸⁰ In 2015, Black people made up 25% of all drug arrests,¹⁸¹ and in 2010, were 3.7 times more likely to be arrested for marijuana possession than White people despite comparable levels of marijuana usage between the two demographics.¹⁸² Black (and Latino) drivers are three times more likely to be searched when pulled over by the police and two times more likely to be arrested.¹⁸³ Between 2015 and 2021, the police have killed approximately 6,241 people, of which 1,507 have been Black, amounting to 24% of all fatal police encounters. This does not even account for the amount of non-fatal shootings, of which, Black people are more likely to be the targets.¹⁸⁴ And finally, Black adults are five times more likely than White adults to self-report that they have been unfairly stopped or treated by the police.¹⁸⁵

¹⁷⁹ Puzzanchera, C., A. Sladky, and W. Kang. "Easy Access to Juvenile Populations: 1990-2016; OJJDP Statistical Briefing Book." (2018).

¹⁸⁰ U.S. Bureau of Justice Statistics, *Prisoners in 2016*. (2018) 3 tbl.2.

¹⁸¹ FBI Uniform Crime Reporting Program. "Crime in the United States 2015." Table 43A.

¹⁸² Edwards, E., W. Bunting, and L. Garcia. "The War on Marijuana in Black and White." (New York, New York: American Civil Liberties Union, 2013).

¹⁸³ Langton, L. and M. Durose. "Police Behavior during Traffic and Street Stops, 2011." U.S. Bureau of Justice Statistics. (2013); Eith, C. and M.R. Durose. "Contacts Between Police and the Public, 2008." U.S. Bureau of Justice Statistics. (2011).

¹⁸⁴ Tate, Julie, Jennifer Jenkins, and Steven Rich. "Fatal Force" ed. David Fallis and Danielle Rindler. *The Washington Post*. (2021).

¹⁸⁵ Pew Research Center. Survey of U.S. Adults. (2019)

These statistical accounts concerning the policing of Black people—of which there are many more—should come as no surprise to us when we remember what we have learned regarding the proprietary interest in Whiteness and its early enforcement in the system of slave policing that dominated two centuries of this country’s history and prehistory. As Muhammad and Alexander have both noted in their respective authoritative accounts of Jim Crow and post-Jim Crow policing in the U.S., the policing and criminalization of Black people—North, South, and West alike—did not end with slavery; it merely transformed and took new shapes. Muhammed called the early period of this transformation of slave policing into the urban policing of Black people the “condemnation of blackness” while Alexander called its manifestation in the contemporary era the “New Jim Crow.” Hinton took her analysis a step further than Alexander, saying:

“The long mobilization of the War on Crime was not a return to an old racial caste system in a new guise—a “New Jim Crow.” Rather, the effort to control and contain troublesome groups with patrol, surveillance, and penal strategies produced a new and historically distinct phenomenon in the post-civil rights era: the criminalization of urban social programs. In the decades preceding Reagan’s War on Drugs, this phenomenon laid the groundwork for the continued rise of mass incarceration and its deep racial injustices into the twenty-first century.”¹⁸⁶

Forman has noted how even Black people have participated in the police state’s sustained attack on Black people. Through a study of late twentieth century Washington, D.C., he found that Black politicians, police officials, and even citizens mobilized the police state as a method of social control that fundamentally disadvantaged and penalized other Black people. The proprietary interests in the standards and benefits of White bourgeois society are so entrenched in the logic of the property and police states and the psyche of those who participate in public safety that even

¹⁸⁶ Hinton, *The Making of Mass Incarceration*, 25-26. The “War on Crime” refers to President Lyndon B. Johnson’s call for a “war on crime” in 1965. According to Hinton’s account, this “war on crime” has continued nearly unabated in every presidency since Johnson’s through increased spending on the police state and the militarization of the police state, resulting in the prison industrial complex.

people who are the violent targets of this logic are willing to submit to and be complicit with such interests. The institution of policing has such intense path dependency in the culture of public safety in the U.S. that in the face of overwhelming evidence that the history of policing has been necessarily riddled with dead Black bodies and demoralized Black souls we continue to shout “reform, reform, reform!” instead of “interrogate, dismantle, and replace!” The police state has not failed Black people as a contractarian “public good;” it is doing what the property state has always required it to do: surveil, control, and punish Black people according to the material and metaphysical property interests of the White ruling class. Black people never consented—tacitly or otherwise—to so-called Peelian “policing by consent;” policing was forced onto them as a necessary result of being written out of the Lockean social contract and considered chattel in the U.S.

2) *Enduring capitalist policing.* The industrial, and more broadly capitalist, origins of policing hold up in the contemporary era as much as the slavocratic ones. Until the deindustrialization of the U.S. economy in the 1970s, the specifically industrial interests of the police state held more or less steady. But as the face of the U.S. economy has transformed from one of agriculture and manufacturing into one of white-collar services and commercial retail, policing has had to keep pace with the new property interests and industries of its masters.

One of the ways policing helps facilitate the new American economy is through its role in urban gentrification.¹⁸⁷ Because of deindustrialization, many American cities hollowed out as jobs were outsourced or supplanted by technology and as many White residents left for the suburbs in the social phenomenon known as “white flight,” taking capital and political clout with them. But as new industries in the service and retail sectors emerged as a result of innovations in technology

¹⁸⁷ Correia and Wall, *Police*, 193-195.

and changing American lifestyles, there was a renewed political and economic interest in “revitalizing” cities and making them attractive places for corporate investors. Gentrification was, and is, the process through which this revitalization takes place: developers buy up property in neglected ethnic and working-class neighborhoods and flip them for the benefit of new businesses and gentry—bourgeois—professionals from the new economy interested in renting or owning urban homes.

As an ongoing process, gentrification “increases property values and profits for landlords and local elites,” and the police are necessary for ensuring that this process is orderly. They “manage the organized displacement of poor people in order to make way for low-income artists, students and hipsters, followed by more affluent white renters, homeowners, and commercial investors.”¹⁸⁸ Politicians, looking to attract such populations, deploy the police to “clean up” these neighborhoods through broken windows policing practices. The irony is that the “welfare” and police policies and economic decisions of the state and their business allies in prior generations are those which created the structurally dilapidated conditions of the same neighborhoods the state now seeks to renovate and police back into order and profitability.

Broken windows policing in gentrifying neighborhoods has the dual function of helping to evict the original residents of the neighborhoods when they can no longer afford to live there and of making the new bourgeois residents feel safe from any original residents—usually Black and/or Brown—that remain. Residents and businesses in gentrified neighborhoods are quick to employ the police state when they feel their material or metaphysical property interests in Whiteness and bourgeois identity threatened. We are quite familiar with the high profile 2018 case of the Starbucks in Philadelphia that called the police on two Black men who asked to use the restroom

¹⁸⁸ Ibid. 193.

(the men were summarily arrested).¹⁸⁹ Or the cases of the White woman who called the police on a Black family having a barbecue in a park in Oakland ,California¹⁹⁰ and the White woman who called the police on a Black man bird watching in Central Park.¹⁹¹ Such cases of weaponizing the police state against Black people because one feels their multifarious property interests, and therefore safety, threatened are quite common.¹⁹² And that is precisely because the contemporary capitalist function of the police is to make White and bourgeois people and corporations feel comfortable in places that were largely inhabited by Black and Brown people.

3) *Enduring imperial policing*. One enduring imperial function of policing is closely related to the discussion of gentrification that we have just had. Geographer and anthropologist Neil Smith argued in his book *The New Urban Frontier* that gentrification is a form of conquest; it is a revanchist effort by the state and its corporate allies to reclaim the domestic territories it lost control over through social, political, and economic neglect.¹⁹³ This effort, as with the imperial efforts of old, is immensely culturally paternalistic and economically opportunistic. Correia and Wall framed gentrification as a call back to the “colonial mythologies” of untamed frontiers and uncivilized peoples.¹⁹⁴ In this way, the process of gentrification is a Lockean imperial project. Recall Mills’ discussion from above of how European colonial powers operating under the Lockean framework justified colonial conquest by asserting that Indigenous populations were doing nothing productive with the land. This is the same logic of gentrification today: poor Black and Brown neighborhoods

¹⁸⁹ Hauser, Christine. “Starbucks Employee Who Called Police on Black Men No Longer Works There, Company Says.” *The New York Times*. (2018).

¹⁹⁰ Townsend, Corey. “Woman Who Called the Cops on Oakland, Calif., Family Becomes Viral Meme.” *The Root*. (2018).

¹⁹¹ Booker, Brakkton. “White Woman Who Called Police On Black Bird-Watcher Allegedly Made A Second 911 Call.” *NPR*. (2020).

¹⁹² Farzan, Atonia Noori. “BBQ Becky, Permit Patty and Cornerstore Caroline: Too ‘cutesy’ for those white women calling police on black people?” *The Washington Post*. (2018).

¹⁹³ Smith, Neil. *The New Urban Frontier: Gentrification and the Revanchist City*. (London, England: Routledge, 1996).

¹⁹⁴ Correia and Wall, *Police*, 194.

are seen as unconstructed and unconstructive, so the state and the capitalist class intervene to “ameliorate” the conditions to their pure economic and cultural self-interest. And municipal police departments are used as the primary invading, coercive, and protective force for this domestic neo-colonial effort.

Another major imperial attribute of contemporary policing can be found in its sustained militarization. As Balko and Hinton both noted, the extreme militarization of the police has been on a steady increase since the so-called War on Crime started in the 1960s amidst the Vietnam War. The U.S. has been in continuous on-and-off military conflicts since then, and police departments have benefitted immensely. The 1990s saw what Balko called the “federalization” of the police through the creation of federal policing standards and requirements in the 1994 omnibus Crime Bill.¹⁹⁵ Three years later in 1997, the federal government enacted the National Defense Authorization Security Act, which included a provision that created the Law Enforcement Support Program wherein the Defense Department gives excess military equipment to local law enforcement agencies. Between 1997 and 2000, the Defense Department gifted \$727 million worth of military equipment to over one-hundred thousand police departments. Included in the donations were bullet proof armor, assault rifles, grenade launchers, aircraft machinery, and armored vehicles. More recently, between 2006 and 2014, amidst the U.S.’s prolonged imperial conflicts in Iraq and Afghanistan, the Defense Department has given the police \$4 billion dollars in military equipment. The police are fully immersed in what President Dwight Eisenhower termed the “military industrial complex.”¹⁹⁶

¹⁹⁵ Balko, *Warrior Cop*, xvi.

¹⁹⁶ “The Military–Industrial Complex; The Farewell Address of President Eisenhower.” (Basements publications, 2006).

What is more is that military strategies, not just equipment, are making their way into domestic policing again too. In the early 2010s, law enforcement in Springfield, Massachusetts used tactics and personnel that were used in the Afghan War to fight counter insurgents and drug lords to fight crime in its own neighborhoods.¹⁹⁷ These tactics were later expounded upon and tracked by university scholars and data scientists and were attempted to be taught at Harvard University, as recently as 2021, using advanced data mapping and other quantitative tools.¹⁹⁸ This entire scenario is frighteningly and uncannily reminiscent of precisely what August Vollmer did in the 1910s: import counterinsurgent military tactics from a foreign war into local policing, use mapping and other technologies of the time to track its efficacy and make it more efficient, and study and reproduce these strategies at an elite university(ies).

The final imperial attribute of policing we will discuss here is border policing. Imperial projects are composed of two aspects: conquest and exclusion. Conquest is about the forceful acquisition of material and metaphysical property—that is, commercial activity and political prestige. Exclusion is about the defense of material and metaphysical property by denying certain “others” the right to that property or access to it. The American imperial project has always been as much about exclusion as it has been about conquest. From the Alien and Sedition Act to the Chinese Exclusion Act to the National Origins Act to current immigration laws and practices, the U.S. government has often defined in prejudiced terms who will and will not have American property rights. American property rights—material and metaphysical alike—are among the most coveted in the world because they include access to the American homeland and its immense economy (the largest in the world), access to the U.S.’s pantheon of civil liberties and political rights, and access to citizenship, which is the marker of all other property rights and confers the

¹⁹⁷ Goode, Erica. “With Green Beret Tactics, Combating Gang Warfare.” *The Washington Post*. (2012).

¹⁹⁸ “Amid Backlash, Harvard Cancels Class on Policing Strategy.” *Associated Press*. (2021).

right to be a part of the American identity itself, to be called “American.” The U.S. as a state, like most states, is immensely protective of these property rights and guards them through an apparatus of police violence.

In the wake of the 1924 National Origins Act, the U.S. government created the U.S. Border Patrol to help allocate American property rights to aspiring immigrants based on the government’s prejudiced immigration quotas.¹⁹⁹ During the 1940s when the capitalist agricultural interest needed more laborers while many young men were away at war and many young women were working in factories, the U.S. Border Patrol was lax, permitting more migrants into the country than the official quotas allowed. But things changed in the 1950s as the war ended and people came home: apprehensions at the U.S.-Mexico border began to double.²⁰⁰ This trend maintained largely unabated for the next several decades, without any major changes in the habits of the UBP.

Today, in the post-9/11 era, U.S. border policing has increased exponentially. Before 9/11 there were under four-thousand border patrol agents whereas today there are more than ten-thousand. What is more is that border policing has ceased to occur only at the borders; rather, it has employed the use of other law enforcement agencies including local police to help it apprehend unwanted aspirants to American rights.²⁰¹ In fact, a new federal law enforcement agency, Immigration and Customs Enforcement, was created in 2003 for this very purpose. ICE takes an active and proactive role in detaining undocumented immigrants both at the border and in the American interior. ICE garnered much ire during the Trump presidency as the Trump administration used ICE and UBP to enforce its xenophobic “America First Agenda” that demonized, primarily, Mexican and Central American migrants and migrants from majority

¹⁹⁹ Vitale, *End of Policing*, 176.

²⁰⁰ Ibid. 177.

²⁰¹ Ibid. 178. Some local law enforcement agencies have refused to aid federal border policing agencies apprehend undocumented migrants, dubbing themselves “sanctuary cities.”

Muslim countries.²⁰² But border policing also received its share of criticism under the Obama presidency as President Obama was dubbed the “deporter in chief” by his critics for the fact that his administration deported more migrants than any other modern American presidential administration.²⁰³

As we have seen with Smithfield Foods and its prolonged struggle against organized labor and just now with the border policing practices of the 1950s, border policing is as much on the side of capitalist commercial interests as it is on the side of the state’s proprietary interests. This dual allegiance may at times appear to pose a contradiction, yet ultimately it coheres. Capitalist commercial interests, say, of industrial agriculture, are ultimately beneficial to the material property interests of the state and its metaphysical property interest in political and economic prestige. The state may at times be more or less lax with the enforcement of immigration laws depending on the political and economic currents of the moment, but what always holds true is that the border policing apparatus serves at the leisure of these varying interests. Even when border policing is laxer, the threat of its violent force looms over undocumented migrants and reminds them that they ultimately do not have rights to American property and that their labor is instead the temporary and disposable property of the state and the capitalist class.

IV. Dislodging Propertarianism from Public Safety

“Look, I told you not to worry about the neighbors. But watch out for the cops. They’re murder.”
 –Levy, in James Baldwin’s *If Beale Street Could Talk*

The property state, that is, the propertarian and contractarian logic of our current social arrangements, is based on methodological individualism. This is an individualism that presupposes, as Lockean political theory does, that discrete individuals of particular worth and

²⁰² Ibid. 181-191.

²⁰³ Marshall, Serena. “Obama Has Deported More People Than Any Other President.” *ABC News*. (2016).

merit enter into the social contract for the purpose of their personal safety—the preservation and protection of their material and metaphysical property interests. From this logic and the history of U.S. policing we have just surveyed, we can therefore draw a proper conclusion concerning the police state: policing is, at root, the outsourcing of responsibility for public safety to an apparatus that is meant to serve the property state (contract) and protect the interests of its most valued signatories. This reality of policing has produced the negative social consequences analyzed above and has embedded the idea that the most outwardly violent mechanisms of the state are the only appropriate means for effecting public safety. Public safety in this sense is thus best defined as the preservation of the proprietary being, particularly the most valuable proprietary being. Propertarian policing is necessarily about “*me*” vs. “*you*” and “*us*” vs. “*them*” and the police are thus tasked with defending the “*me*” and “*us*” at the expense of the “*you*” and “*them*.”

Put simply, there is nothing natural or inevitable about the arrangement of the property state, the construction of the police state, and the definition of public safety these phenomena have produced. This final substantial part of the paper is dedicated to exploring our alternatives based on such questions as: what if we grounded our political philosophy of the state in a worldview other than contractarianism? What consequences would this have for our conception of public safety? What does community oriented, as opposed to individual oriented, public safety look like? What if the royal *We*, that is, the sovereign people—the community of human beings—rejected the propertarian binary of strict antagonisms and constructed a collective accountability conception of public safety? What follows are some thoughts.

A. Police Abolitionism

As was mentioned in the introduction to this paper, an increasingly common response to historical and contemporary police violence is the call to abolish the police altogether. The vision

of the police abolitionist movement is relatively straightforward: the police are not the only source of public safety, in fact they are rooted in and produce more violence than the supposed good they create.²⁰⁴ Therefore, we should abolish police as much as possible and replace their roles in our community with less violent and more constructive alternatives. Police abolitionists most often ground their arguments in much of the historical and sociological nature of policing we explored above; in the fact that there is some evidence to suggest that more police and policing do not necessarily affect the crime rate;²⁰⁵ and in the fact that most crimes that are reported to the police go unsolved.²⁰⁶ If policing is both prejudicially violent and functionally obsolete with respect to its own purported aims, then why should it continue to exist? Such is abolitionist logic.

While no scholars or activists, to my knowledge, have rooted police abolitionist theory and practice in the specific property state thesis we have constructed here, they do talk variously of the private property functions of the police and the “racial capitalist” order policing upholds.²⁰⁷ As I hope is apparent to us at this point in our project, an affinity for private property rights and racial capitalism are necessary conditions of the modern property state and therefore the proper ends of policing as

²⁰⁴ Straightforward is not to say “easy to enact.” Straightforward refers to the accessibility of their claims.

²⁰⁵ Weichselbaum, Simone and Wendi C. Thomas. “More cops. Is it the answer to fighting crime?” *USA Today*. (2019). There are various studies spanning decades that both indicate and do not indicate that police have any statistically significant or causal effect on crime. The major conclusion of Weichselbaum and Thomas was that the world of criminology is much more complicated than straightforward causes and effects; we simply do not know with any certainty what does and does not cause crime and what does and does not reduce it. This is not to say that attempts to study this are futile, but it is to say that the rhetoric surrounding crime and its causes is often far too absolutist than the data would call for. I would only add that regardless of what all the conditions for crime are, one necessary condition is the state defining the socio-legal status of “criminal.” This status does not always necessarily follow some innate or collective understanding of morality; rather, it often follows the conveniences and interests of the state. If our state is in fact a property state, what are these conveniences and interests? I encourage the reader to draw their own conclusions based on what we have learned so far and to look into the data concerning the relationship between police and crime further.

²⁰⁶ Ray, Rashawn. “What does ‘defund the police’ mean and does it have merit?” *Brookings Institute*. (2020).

²⁰⁷ Cf. McDowell, M.G. and L.A. Fernandez. “‘Disband, Disempower, and Disarm’: Amplifying the Theory and Practice of Police Abolition.” *Critical Criminology* 26. (2018). 373–39 as well as Correia and Wall, *Police*, 274–278. “Racial capitalism” is a concept pioneered by social scientist Cedric J. Robinson in his seminal work *Black Marxism*. Racial capitalism is the idea that modern global capitalism is rooted in the exclusion and exploitation of certain castes of society composed of racialized and marginalized peoples.

we know it. Understanding this nature of policing and its relationship to the property state is essential to arriving at the abolitionist conclusion that we cannot reform policing as such.

To call for police reform is oxymoronic and disingenuous to its founding and lived intentions. The institution of policing is not “broken,” and it is not composed of so-called “bad apples” and mistaken policies that can be corrected with political will power, good character, better training, and “evidence-based approaches.” Policing, as I have previously stated, has always and will always pledge allegiance to the property state. That policing is now considered one of the most noble of our public institutions under the motto “to serve and protect” is perhaps one of the best marketing feats in U.S. history.²⁰⁸ The reality is that this honorable rebranding has not been one of goodwill transformation; rather, it has been an ongoing act of entrenchment that is inseparable from the lifespan of the institution.

Before August Vollmer revolutionized municipal policing, policing was notoriously derided as corrupt and ineffective. Vollmer’s reforms were not the performance of benevolent *metanoia*²⁰⁹ but a self-conscience and unabashed declaration of war on the so-called “criminal” elements of society. Who were the criminals in his time? As we have seen, the poor, the colored, the worker, and the politically and culturally disinherited. Who are the criminals in our day? Overwhelmingly the same classes of people.²¹⁰ The essence of policing is bellicosity and the enemy of policing are precisely those it claims to serve and protect. Police reform is about preserving this overall essence while maintaining the public perception of policing as one of

²⁰⁸ McDowell and Fernandez, “Disband, Disempower, Disarm,” 379.

²⁰⁹ Ancient Greek for a transformation that implies spiritual conversion.

²¹⁰ Motley, Jr., Robert O. and Sean Joe. “Police Use of Force by Ethnicity, Sex, and Socioeconomic Class.” *Journal of the Society for Social Work and Research*. (2018) Volume 9: “For Black residents, being male and having an income under \$20,000 significantly increased the risk for exposure to police use of force during a street stop. For White residents, being male, having an income under \$20,000, or being age 35 or older significantly increased the risk for exposure to police use of force during a street stop.” Cf. further Hayes, Tara O’Neill and Margaret Barnhorst. “Incarceration and Poverty in the United States.” *American Action Forum*. (2020).

pacification, not warmongering, as service, not control. Police reform only entrenches the violent propertarian essence of policing while changing its outward accoutrements to the satisfaction of uncritical observers and participants.

The contractarian tradition holds that we form the social contract in order to escape the warlike condition of the state of nature. In the *Second Treatise*, Locke said:

“And thus it is that every man in the state of Nature has a power to kill a murderer, both to deter others from doing the like injury (which no reparation can compensate) by the example of the punishment that attends it from everybody, and also to secure men from the attempts of a criminal who, having renounced reason, the common rule and measure God hath given to mankind, hath, by the unjust violence and slaughter he hath committed upon one, declared war against all mankind, and therefore may be destroyed as a lion or a tiger, one of those wild savage beasts with whom men can have no society nor security.”²¹¹

It is this power, this right, to pursue warfare against the criminal offender that Locke believed we outsource to the “magistrate.” What has our magistrate, the property state, done with this outsourced power? It has created the police state to declare war in its, and supposedly our, name. Vollmer and his inheritors understood, consciously or unconsciously, this basic political theory of police power and the institution of policing therefore acts accordingly. Recall Mills’ invocation of the age-old sentiment in the Black community that the police are an occupying or invading force. Notice how James Baldwin’s famous 1966 essay on police brutality is entitled “A Report from *Occupied Territory*.”²¹² The propertarian nature of policing makes it such that the police facilitate and wage the ceaseless war with one another that the social contract purports to mask and pacify.

²¹¹ Locke, *Two Treatises*, Chapter II. Recall that Officer Darren Wilson of the Ferguson Police Department called Michael Brown a “demon” as a justification for shooting him. Compare this to Locke’s language of “wild savage beast.”

²¹² Emphasis added. Baldwin, James. “A Report from Occupied Territory.” *The Nation*. (1966).

Abolishing the police is about ending this war and instituting a socio-political and cultural peace in our communities. To abolish the police is to disband an army of sorts and create a space for armistice and reconciliation. Police abolition is often derided as “utopian, unrealistic, and naive,” yet Correia and Wall considered it a fundamental act of political “imagination.”²¹³ As the activist Bree Newsome recently wrote on Twitter, and I paraphrase: we have abolished institutions before. We abolished feudalism and chattel slavery. So, if we can abolish such hallmarks of oppression, we can abolish policing too. Policing as we know it is not divinely ordained. There was in fact a time before the modern conception of policing, and there can be a time after it. Police abolitionists believe in and work for such a time. As McDowell and Fernandez wrote, police abolitionism is about creating “alterative²¹⁴ democratic spaces that directly challenge the legitimacy of the police.”²¹⁵

What do such alterative spaces and alternative methods to policing look like? McDowell and Fernandez offered two potential routes to abolition: disempowerment and disarmament. Disempowerment is about reducing our overall reliance on the police until we have rendered the institution obsolete. One method of disempowerment is the movement to financially divest from the police (a.k.a. #defundthepolice) and reinvest that money in social services and social welfare programs including housing, education, workforce development, and mental health and addiction resources. Advocates of defunding the police argue that such services and programs diminish the underlying causes of crime in a way that the fundamentally reactive police apparatus never can through its threats and uses of deterrent force.

²¹³ Correia and Wall, *Police*, 277.

²¹⁴ A medical word meaning healing and ameliorative.

²¹⁵ McDowell and Fernandez, “Disband, Disempower, Disarm,” 373.

Another method of disempowering the police is through differential response mechanisms. Differential response mechanisms are predicated on the fact that not all, in fact many, 911 calls do not require and are not best handled by armed agents of the state. Denver has piloted such a system for mental health emergencies that has shown promising results²¹⁶ and at the very writing of this section, New York City announced its plan to implement a similar program wherein social workers and EMS will be dispatched to reported mental health crises.²¹⁷ The Mayor of Ithaca, New York Svante Myrick has proposed perhaps the most audacious and re-imaginative disempowerment plan in the country yet. Myrick's plan would replace the police department entirely with a "Department of Community Solutions and Public Safety" that would include armed "public safety officers," unarmed "community solutions workers," and a differential response system that would decide which kind of public safety official is best suited to respond to a particular call. The entire new department would report to a civilian director as opposed to a police chief, stripping the organizational structure of public safety in the city of its military style hierarchy of officers.²¹⁸

The other route to abolition of disarming the police is a relatively straightforward route and one that is closely related to disempowerment. Police disarmament seeks to disarm the average patrol officer and to demilitarize the overall institution. There are at least eighteen countries in the world where the vast majority of police officers do not carry guns—including other advanced democracies—and these countries, unsurprisingly, have fewer deaths at the hands of the police.²¹⁹ But guns are not the only way the police are armed. Disarmament with the aim of abolition must

²¹⁶ Hauck, Grace. "Denver successfully sent mental health professionals, not police, to hundreds of calls." *USA Today*. (2021).

²¹⁷ Cook, Lauren and Nicole Johnson. "Social workers, EMS — not NYPD — to respond to non-violent mental health calls citywide." *Pix 11*. (The Associated Press, 2021).

²¹⁸ Lowery, Wesley. "The Most Ambitious Effort Yet to Reform Policing May Be Happening In Ithaca, New York." *Gentleman's Quarterly*. (2021).

²¹⁹ Noack, Nick. "5 countries where most police officers do not carry firearms — and it works well." *The Washington Post*. (2015).

include repealing the Law Enforcement Support program and banning the use of *all* military grade weapons and equipment by local law enforcement agencies. It also means reducing the amount of “patrolling” of neighborhoods that police departments conduct and removing police officers from inappropriate settings such as schools. Disarming the police is therefore a form of disempowerment because it strips the police of its ability to “play army” and excludes it from settings it has traditionally operated in unquestioned.

McDowell and Fernandez warned that even routes to and methods of abolition can be co-opted by liberal reformers who have an interest in maintaining policing as such instead of abolishing it altogether.²²⁰ Correia and Wall argued that political liberals and conservatives have an interest in such reform efforts,²²¹ making police reform fundamentally an act of socio-philosophical and political philosophical conservatism. Thus, the methods and modes police abolition must be intently and systematically enacted until we have completely weaned ourselves off of the idea of the police as the ultimate source of our public safety. But abolition cannot be the end-all-be-all.

Much abolitionist theory as it stands employs robust philosophical and critical theoretical indictments of policing and its underlying systemic allegiances but lacks any comprehensive philosophical vision of what it means to undo the police state. Such vision, of course, exists implicitly in the modes and methods of police abolition and for calls to take the “knee of the police” and the state off our necks. Yet this vision is due a more extensive treatment than it currently receives. The next section of this part is dedicated to teasing out the philosophical underpinnings of what public safety without policing looks like in contradistinction to the philosophical principles that underpin the police and property states. Whereas some abolitionist theory ends with rendering

²²⁰ McDowell and Fernandez, “Disband, Disempower, Disarm,” 373.

²²¹ Correia and Wall, *Police*, 277.

policing obsolete within the broader framework of the property state, I seek to render policing not just obsolete but *illogical* by transforming, in philosophical terms, the way we conceive society and public safety.

B. A Communitarian Approach to Public Safety

Communitarianism, in my opinion, offers the most effective philosophical worldview to help us consider what public safety in the absence of the police looks like. As was mentioned briefly in a footnote in the introduction, communitarianism is a philosophy that emphasizes the importance of self-governing communities and the emergence of individual identity and sense of duty within a communal context. I find the purest expression of the communitarian ethic in the African philosophy of *ubuntu*. *Ubuntu* is summarized best in the Zulu and Xhosa phrase “*umuntu ngumuntu ngabantu*,” which literally translates to “a person is a person through other persons,” or as it is often poetically translated, “I am because we are.”²²² *Ubuntu* is described as “African humanism” because it expresses the interconnectedness of humanity in its social origins and social destiny. Because we are all human, we therefore all owe each other our humanity, that is, our love and mutual obligation. *Ubuntu* thus establishes something that is inimical to the proprietarianism and individualism of contract theory: there is no such thing as a methodological individual. We have discrete bodies and identities, to be sure, but our personhood cannot be accounted for in a silo. And as such, it is unethical, if not impossible, to act purely in our self-interest.

Aristotle represents the most comprehensive expression of the communitarian worldview in the traditional Western philosophical canon. He based his communitarianism on three interrelated premises—people are inherently social beings, justice is the fair arrangement of our

²²² Gade, Christian N.B. “The Historical Development of the Written Discourses on *Ubuntu*.” *South African Journal of Philosophy*. (2011).

political institutions, and political communities require popular participation in order to achieve the common good—that are relevant to imagining public safety in the absence of the police.

On the first premise, Aristotle famously declared, “man is by nature a political animal,”²²³ by which he meant that people are born among and are meant to live among other people and find their fullest human fulfillment and development living in robust political communities. This philosophical anthropology of human beings is directly contrary to the one offered by Locke, which stated that we were self-sufficient individuals in the “state of nature” before we intellectually chose to enter into a political community. To define people in Aristotelian terms therefore undoes the contractarian basis for the state. There is no such thing a pre-political state wherein we had no obligation to other human beings and can outsource those obligations to the state once we enter the social contract. Rather, we have always been in community with other people, and as such, have always carried obligations of civility and care toward them. This first premise of Aristotelian communitarianism helps us to establish, at base, that our communities, and not our various property interests, are the sources of the self. Public safety, therefore, ought to be concerned with the whole community and not just the interests of a particular person or class of persons endowed with special property rights.

On the second premise, Aristotle defined justice as that which works toward the common advantage, *koinion sumpheron*, and the happiness, *eudaimonia*, of the political community. “Justice is the political good.”²²⁴ And what is the political good? The political good is when there is a fair arrangement of political institutions, when these institutions empower people to be the best versions of themselves. Such thinking is in sharp distinction with Lockean proprietarianism and contractarianism. Lockean justice is the preservation and protection of property without any

²²³ Aristotle, *The Politics*. trans. Carnes Lord. (Chicago, Illinois: University of Chicago Press, 2013) 4, 1253a.

²²⁴ *Ibid.* 81, 1282b.

vision for what the public good, that is, the public health, looks like. Translated into policing, this means that as long as the property interests of the ruling class are well defended, it does not matter what detrimental effects policing has on public health, regardless of how many people are killed, abused, incarcerated or otherwise traumatized.

To infuse public safety with an Aristotelian ethic, that is *justice*, would be to establish community institutions that are in fact dedicated to the public good, the public health, in a way that policing never can be. Such institutions would include more resources to combat housing, food, and job insecurity. Such institutions would include more resources for mental unwellness and substance abuse. Such institutions would include a differential response system for crises that are fundamentally matters of public health: mental health episodes, overdoses, sexual assaults, and the like. And such institutions would include community mediators, restorative justice councils, and increased access to therapy for victims and offenders alike.

Justice in the arrangements of our community institutions does not look like the police patrolling the streets and looking for people to harass and criminalize in accordance with quotas, stop and frisk policies, and hyper-active broken windows policing. Justice does not look like excessively arresting and incarcerating people, severing them from their families and communities, and masking the myriad socio-political discontents that their plights represent behind the concrete and steel cages we lock them in. Justice looks like the aforementioned arrangements of institutions, and others like them, that make calling the police look like the least logical and least helpful option to choose in the face of community concerns and moments of conflict or crisis.

Aristotle's third communitarian premise, that political communities require popular political participation in order to achieve the common good, is one that we can use to exhort ourselves to take collective responsibility for public safety and dispense with outsourcing that

responsibility to the police. In the beginning of Book III of *Politics*, Aristotle defined a citizen (*polites*) as one who rules and is ruled in return; a good citizen holds various public offices and trusts and participates in public deliberations while in turn subjecting himself to public accountability.²²⁵ Later in Book III, Aristotle likened politics to a potluck wherein everyone contributes something to the community and that something is unique and different from everyone else's something. In this way, we find fulfillment and diversity and wisdom in the sum total of everyone's personal contributions to the political community.²²⁶ What if we viewed our local political communities this way and constructed political values on the basis of this view of public life?

In many ways we already do. Local governments are some of the most hyper-democratic political units with their municipal councils, juries, neighborhood committees, business associations, school boards, and the like. Why not treat public safety with this same community oriented, hyper-democratic sense of responsibility and participation? I do not mean by establishing civilian review boards to adjudicate police officer misconduct. Such bodies leave the proprietarian essence of policing and only intervene *ex ante* when violence has already been done by the state. And I do not mean the creation of more neighborhood watch groups that, as are currently constructed, simply recreate the police in our own psyches and bodies and cause us to police each other and ourselves. No, I mean the establishment of public safety citizens' councils that take an active role in setting communitarian norms and practices of accountability, restoration, and reconciliation in the presence of conflict and a proactive role in setting norms of care, mutual aid, and partnership to prevent conflict. Fighting for justice in the arrangement of political institutions is often about advocating for and voting for initiatives that the state can implement to replace

²²⁵ Ibid. 62-65, chapters 1-3.

²²⁶ Ibid. 79, 1281b.

policing or make it obsolete, but what about what we citizens can do directly? There are myriad ways we can teach ourselves not to rely on the police by learning tactics of de-escalation and mediation and by learning about the alternative resources available, especially if we hold a position of community trust such as a coach, a business owner or operator, a bus driver, an educator, or simply a neighbor or head of a household. We can practice the virtues of civility and charity in order to keep our communities whole, safe, and well. We can take responsibility for our family units, however they may look, and create homelife conditions that make criminal activities systematically unattractive and unnecessary.

In his book *Twilight of Authority*, political sociologist Robert Nisbet argued for a new form of socio-political “*laissez-faire*”:

“I have argued at length...that the greatest need in our age is that of somehow redressing the balance between political-military power on the one hand and the structure of authority that lies in human groups such as neighborhood, family, labor union, profession, and voluntary association.

What is required, obviously, is a form of *laissez-faire* that has for its object, not the abstract individual, whether economic or political man, but rather social group or association...only through such *laissez-faire* could the human need for community be met through ways other than politics, political action, political crusade, political Leviathan.

Nothing that has happened in the last twenty-five years indicates that the need for this kind of *laissez-faire* makes us anything but greater than ever. In an era of prosperity and opulence that could hardly have been imagined in 1950 we have seen the powers of government and bureaucracy steadily increase, to the corresponding moribundity of the social order. Mere economic affluence, we have discovered, can indeed be a virtual recipe for the widespread turning of responsibilities over to the ever-flowing revenue powers of government and for the consequent divorce between human beings and their ordinary, natural impulses toward social initiative...

...Nowhere, not in economy, state, or culture in any of its forms, do we in fact find aggregates of 'individuals.' What we find are human beings bound, in one or another degree, by ties of work, friendship, recreation, learning, faith, love, and mutual aid...

Clearly, in an epoch of massive politicization, and with this of atomization of not merely numerous forms of association but also of the social impulse itself, we are in need of the creation, re-creation, of *intermediate* associations, of groups and communities which lie intermediate to individual and state and whose autonomy from either state or the political mentality is some measure of allegiance they command in their members' lives. With such intermediate associations, those which exist normally in society, or those which might be created through legislation...with maximum autonomy of operation once brought into being, a great deal of administration would be possible that would not be mired in the vast, imperial bureaucracies which now fill the political landscape. What has long been known as *indirect* administration would be possible in far higher proportions that it exists at the present time."²²⁷

I quote Nisbet at length here, perhaps excessively so, because I believe that his words offer a sober communitarian analysis and indictment of the Lockean liberal contractarianism and propertarianism that have undergirded our national political theory for generations. Nisbet touched on many subjects of direct relevance to policing and the property state: the increasing militarization of the state, the ascendancy of methodological individualism in political, cultural, and economic life, the immense material property interests of our society, and the outsourcing of responsibility to the growing bureaucracies and imperialism of the state (of which the police is a product). But above all, he also highlighted the characteristics of human community that we need to embrace if we are going to reclaim responsibility for our own local communities' wellbeing and safety from the state, including and especially the police: the voluntary intermediate associations of civil society, the virtues of faith and love, mutual aid, various kinds of intrapersonal relationships, and

²²⁷ Nisbet, Robert. *Twilight of Authority*. (Carmel, Indiana: Liberty Fund, 1975) 252-255.

citizens' administration. These are all characteristics of community that are implicit in the vision of the police abolition movement, but that become explicit when we frame them in the light of communitarian philosophy like Nisbet's.

Abolishing the police cannot simply exist as an end in and of itself, no matter how anxious we may be to rid ourselves of an institution with such a storied history of a violence and repression. We must strive to construct an altogether different vision of what it means to live in a political community. Communitarianism—be it African, Aristotelian, Nisbetian, or some other iteration—offers us at least a partial roadmap for positing such a vision, that is, a different political philosophy of the state, and, by virtue, a different political philosophy of public safety. Our current Lockean contractarian and propertarian commitments are killing, coercing, maiming, condemning, and stunting too many marginalized and disinherited peoples—Black, Brown, poor, immigrant, queer, and disabled peoples alike. It is time to create a society that is not just safe for the proprietary person but simply for the *person*.

V. Conclusion

“At this moment the phrase ‘police reform’ has come into vogue, and the actions of our publicly appointed guardians have attracted attention presidential and pedestrian. You may have heard talk of diversity, sensitivity training, and body cameras. These are all fine and applicable, but they understate the task and allow the citizens of this country to pretend that there is a real distance between their own attitudes and those of the ones appointed to protect them. The truth is that the police reflect America in all of its will and fear, and whatever we might make of this country's criminal justice policy, it cannot be said that it was imposed by a repressive minority. The abuses that have followed these policies—the sprawling carceral state, the random detention of black people, the torture of suspects—are the product of democratic will. And so to challenge the police is to challenge the American people who send them into ghettos armed with the same self-generated fears that compelled the people who think they are white to flee the cities and into the Dream. The problem with the police is not that they are fascist pigs but that our country is ruled by majoritarian pigs.”

—Ta-Nehisi Coates, *Between the World and Me*

As we conclude this project, I want to address, in brief, some potential objections and limitations of the work we have done here and point to what the road ahead may be like. But before we consider those matters, let us restate the thesis of this paper.

The U.S. was founded as a property state—a polity predicated on the commitments of Lockean contractarianism and propertarianism. As such, the property state constructed a police state, with various robust systems of policing, to fulfill its most basic function: the preservation and protection of the various material and metaphysical property interests of the ruling class of contract signatories, the White bourgeoisie. This relationship between property and policing has manifested itself, historically and contemporarily, through the slavocratic, capitalist, and imperial characteristics of police work and police essence. If we want to reverse course on these conceptions of the state and of public safety, then I suggest we work toward police abolition with the values and obligations of communitarianism guiding us to posit a more people, not property, centered vision of political philosophy and public safety. It is with this thesis in mind that we should consider the following:

1) *Objections*. There are likely innumerable objections one could to the arguments made and conclusions drawn in this essay, so I shall set out to address only a few prominent ones.

One potential objection is that my framing of the American founding is wrong, that I have put too much of an emphasis on the role property played. In the postscript to *America's Unwritten Constitution*, Akhil Amar claimed that the Constitution does not say, *inter alia*, “We the Property;” rather, it says “We the People.”²²⁸ Amar and others like him in the so-called “republican” school of understanding the founding reject the work of Charles Beard and his intellectual ilk who have argued that economic interests were the primary impetus for forming the U.S.²²⁹ and instead assert that the U.S. was founded on the republican values of popular sovereignty, state security, and the

²²⁸ Amar, Akhil Reed. *America's Unwritten Constitution: The Precedents and Principles We Live By*. (New York, New York: Basic Books, 2012).

²²⁹ For the classic republican account, cf. Bailyn, Bernard. *The Ideological Origins of the American Revolution*. Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1967). For the classic Beardian account, cf. Beard, Charles A. *An Economic Interpretation of the Constitution of the United States*. (New York, New York: Macmillan, 1913).

rights of the people. I tend to be neither a Beardian nor a republican in my understanding of the American founding, recognizing that both materialism and idealism were prominent aspects of the decisions in state building that were made. In fact, I believe my property state thesis captures such a blended understanding of the founding. Lockean propertarianism is both materialistic and idealistic, as we have explored at length. To think that “We the People” did not also mean “We the Property” would amount to a mistaken understanding of the prevailing political theory of the time and miss the fact that property in personhood, for a select few, was one of the major justifications used for rejecting monarchy and aristocracy and instituting constitutional democracy. My propertarian account of the U.S. polity is not a naked Marxist attempt to paint history in pure material terms, yet neither does it take for granted that the ideal and metaphysical are the only important considerations in the political philosophy of state building. Instead, I take seriously the political theory of the people who founded this country and track their logic to its “natural” ends as these ends relate to policing.

One fair objection that I have received in the course of constructing this essay is that property protection cannot be seen as the total purpose of policing; rather, policing is more convincingly understood as a function of social control and is instituted to maintain civil order. To this objection I say: precisely. I hope I have demonstrated somewhat convincingly that social control and civil order in a property state necessarily carry propertarian essences, be they material or metaphysical. The logic of policing in the U.S. is propertarian, which is not to say the police function always has or always will amount to the mere defense of physical possessions, but it does mean that the way we conceive our very persons and rights and identities are as properties that need to be defended constantly, by the police, from the trespass of “deviant” or “dangerous” others.

One final objection I want to address here is perhaps the most sensitive. It is the notion that because I advance police abolitionist theory I “hate” the police and have no interest in keeping our communities safe. To the latter point, I hope I have demonstrated clearly and deeply that I care about public safety. In fact, public safety and public health are the lenses through which I consider much of political theory. The police are not our end all be all *vis-à-vis* public safety. I concede without hesitation that there are many scenarios in which it is prudent to have armed agents of the state intervening to secure public safety: the protection of public buildings and spaces to respond to mobs of terrorist violence such as we saw at the U.S. Capitol on January 6, 2021;²³⁰ the apprehension of active shooters and other acute violent actors; and protecting our public officials from acts of terrorist violence, to name a few. I believe that many police abolitionists do not concede this reality often enough. But this reality does not detract from the equally relevant realities that a) the police actively contribute to the unsafe and unhealthy states of the communities that are most policed b) there are scores of 911 calls that do not require police involvement and that can be made worse by police involvement and c) the police are notoriously ineffective at solving crimes. The nature, scope, and purported purposes of the police apparatus as such, as we know it, is not commensurate with public safety and public health.

On the point that I would “hate” the police: hate is an intellectually unserious disposition. To hate is not to critique. To hate is not to construct. To hate is not to aspire or imagine. Hate is

²³⁰ Though, as was mentioned in footnote 131, the Capitol Insurrection represents a challenging case, as many police officers were among the insurrectionists and some of the police officers meant to protect the Capitol were complicit in allowing the attackers to run amok and showed considerable restraint in their use of force against the overwhelmingly White mob as opposed to how they have treated Black protestors in the past. Furthermore, there’s an anecdote in my family wherein my older brother, an educator, was on a field trip to the U.S. Capitol with his majority Black class of middle schoolers. One student, who has Autism, made the astute observation that there are signs all around the Capitol that say “no weapons,” yet the Capitol police carry all manner of weapons including guns. One, White male, Capitol police officer heard this student’s musings and asked “why do you have to be such an asshole?” and proceeded to harass that student and the rest of his class with a guard dog for the duration of their tour in the Capitol. I tell this story to point out that even purely stationary and defensive police forces are not immune from the prejudices and violence that animate policing in the U.S.

adherence to the false binary of antagonisms that our current meta-framework engrains in us. I do not hate police officers as people. I do unequivocally believe that the institution of policing is unnecessarily violent, dangerous, and disadvantageous to public safety and public health. I think that the overwhelming majority of individual police officers are dedicated citizens and sincerely believe that the work that they do is an act of public service and contributes to the common good. But sincere beliefs can be mistaken and we are, all of us, too often myopic in understanding how our supposedly individual vocational and personal choices fit into larger narratives of oppression and destruction. So much “good police work,” such as aiding someone in distress on the side of the road, does not require a military style training, mindset, or outfit.

If we look at policing soberly, as we have done here, we find that the institution necessarily contributes, by design, to the exclusion and domination of our country’s underclasses and serves the material and metaphysical property interests of White and bourgeois society. Contributing to this nature and reality of policing is not a matter of intention. As controversial as it may be to say: good people with genuinely benevolent intentions or sincerely held fears have committed unspeakable violence while wearing their badge and uniform. At a certain point we must ask ourselves why the police keep killing people in spite of good officers, in spite of better training, in spite of more accountability? The answer is that by instituting the police, which is given sweeping powers to surveil, seize, and wage war, the state manufactures a violent antagonism between people who wear the badge and uniform and those who do not. Policing is dangerous for both the police and the police precisely because the state has intended it to be so. The property state has an inherent interest in maintaining a violent divorce between the good guy cops on the one hand and the bad guy criminals on the others. We must reject this divorce *tout court*, and it starts with abolishing the police.

Mere police reform that seeks to “make police more accountable” carries the same punitive logic of the property state. Our solutions will not be found in the logic of our problems. Is it any surprise that a person who was trained by the state in the ways of war and discipline leaned on a poor, substance addicted Black’s man neck because of alleged petty larceny? And then we are supposed to be happy that the same person, in a rare conviction by the same forces that commissioned him, is condemned to spend years of his life in the same cages we overwhelmingly and disproportionately lock men like his victim in? That is justice? That is accountability? I think not. Justice is the proper and fair arrangement of our political institutions, which must include the disarrangement of institutions like the police and that are not conducive to justice. Abolitionist theory should not strive for more police officers in prisons. It should strive for fewer police officers and fewer prisons until we have instituted sufficient justice in our society to render policing and prisons not just obsolete but altogether illogical.

So, I do not hate the police. Nor do I think this should be the disposition of any serious abolitionist. Instead, I want to see the full abolition of policing as such, achieved through disempowerment and disarmament. I do not believe that anyone should be deputized with excess power over life and death in order to serve the interests of the property state. I want an arrangement of institutions where no one is put in the position where they are empowered to kneel on a man’s neck in the first place. Police officers, as people, have a place in a just society—when the badge and uniform come off and they are defenestrated from the interests of the property state, they are flesh and blood people and members of our community too. Policing the institution, however, has no such place.

2) *Limitations*. There are likely as many limitations of this project as there are objections to it, so, in like manner to the objections, I will highlight only a few salient ones.

The major limitation of this project, as was stated in the introduction and at other points in the essay, is simply that the scope is not all encompassing. This is a journal article length essay that attempts to survey the political theory of policing in the U.S. Such a task inevitably requires omissions, of which there are many, and I have previously entreated the reader to pay close attention to such omissions. I believe that the political theory of policing deserves volumes more of interdisciplinary work with global perspectives, and I can only hope that this project has been a novel, if small, contribution to this field of political theory. As I conclude this piece and reflect on the work we have done here, there are a few areas I wish we had more of an opportunity to consider here.

For one, though John Locke has been the preeminent thinker in the American political philosophical tradition, Lockeanism is hardly the only influence. The other theorists in the contractarian tradition, especially Rousseau and Hobbes, deserve more attention as their theories relate to the property state thesis and to the authority and function of police as an apparatus of that state. In his works *The Social Contract* and *Discourses on Inequality*, Rousseau had much to say concerning property, the role of the state, and the legitimacy and authority of the state. Hobbes's *Leviathan* is often cited by critics of the police state as a major philosophical inspiration for treating public safety as a matter of warfare.²³¹ Adam Smith, the patron saint of capitalism, lent some energy to considering the function of policing in his *Lectures on Jurisprudence*. Even Locke himself and his disciple Jefferson deserve more critical attention, particularly when we think about the ways their theories of the right to “alter or abolish” government relate to the legitimacy of abolishing the police. All these theorists and these aspects of their thinking require more careful consideration than we have had the opportunity to provide here.

²³¹ Vitale, *End of Policing*, 17.

On the history and sociology of policing in the U.S. I have not given adequate treatment to the relationship between policing and Indigenous communities. This relationship is necessarily fraught and touches on many of the themes we have discussed: imperialism, the role of militias, racism, racial capitalism, and Lockean theories of property and land appropriation. The trope of the heroic Western sheriff and the savage Native American are manifested in the police fantasies of any person in the U.S. who has ever played “cowboys and Indians” as a child. This narrative of policing in the U.S. deserves deeper consideration than the few mentions it has received here.

That the police have become a material property interest in and of itself is evident in the billions of dollars that are expended and earned each year through the prison-industrial complex and the growing extent of the police state. The state and its private partners reap immense profits off of the criminalization of people, from excessive municipal fines to the virtual sale of human bodies and labor that occurs in the outsourcing of incarceration to corporations. Not to mention the immense property interests that exist in police union power, which despite policing’s long antipathy to other forms of labor organizing, has become one of the most well-resourced sectors of organized labor in the U.S. There is much more that could be said and done about these phenomena within policing that has not been said or done here.

Finally, there are many nuances within who is and is not overpoliced and this essay does not have the chance to sufficiently unpack these nuances. I have painted in broad strokes some classes of people that are most targeted by the police state: Black, Brown, and Indigenous people, poor people, immigrants, and the working class. But within these groups, there are countless compounding factors and identities that can make one more or less susceptible to police violence including, but not limited to, gender and sexual identity, ability status, mental health and addiction status, educational status, and where one lives. I have touched on some of these factors briefly, but

they, of course, deserve more attention than what I have given them here. Ultimately, none of these factors and identities are entirely separable from one another as they relate to how one is treated by the state and the police, and I encourage the reader to return to the many footnotes for references to works that so eloquently explore these nuances better than I ever could.

As I conclude this paper, I wish to return to the idea of epistemic humility. It is my sincere hope that the reader has learned one or another new thing about the world throughout the course of our shared intellectual journey here. I hope that the reader has been challenged, stretched, validated, affirmed, offended, appalled, disheartened, excited, inspired, and the like, for these states of mind, with all their contradictions, are the hallmarks one who has engaged sincerely with a piece of scholarship. This project has been an effort in epistemic humility for me, and I hope that it has come off that way. I believe that the work of philosophy and of theory, which must ultimately be aimed at changing the world, is necessarily a work of epistemic humility. None of us is the ultimate source of Wisdom or Light or Truth. We all have much to learn from each other, even our supposed enemies. If I have one request of the reader it is that they leave this paper considering the theory and praxis of police abolition with deep epistemic humility.

It is no easy feat to imagine a reality that is different from our own. It is frightening and immensely taxing. But it has been done before, and can be done again. After all, is not imagining a different world what John Locke did when he wrote his treatises challenging divine monarchy? Is that not what August Vollmer did when he helped build a policing apparatus never before seen on the world historical stage? If these men, who are the intellectual antagonists of this essay, can imagine and in fact construct a different reality, a different world, then we can too. And we must do so in order to build a post-police world.

So may the conversation continue, the dreams commence, and the work get done.