

Deputies

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No person held to service or labor 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 labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

—United States Constitution, Article IV, Section 2, Clause 3: Fugitive Slave Clause

The value and ownership of property is contingent on the existence of the police. Policing in the United States was established to secure the enslaved, who constituted the most valuable form of moveable property. Policing the enslaved was originally the responsibility of all white colonists. The definition of the enslaved as property structured the very purpose of policing, which is inherently anti-Black.

The profits of every trader who was involved in the transatlantic economy from the 17th to the late 19th century relied on the enforcement of slave codes. The policing of the enslaved not only preserved the property of the slave owner, but also preserved the property of everyone that the labor of the enslaved supplied. Slave codes were foundational to the legal and economic order of North American colonies. They legally distinguished the governance of persons and the governance of enslaved property, and detailed the punishment for violation of these distinctions. Before the existence of a designated slave patrol, the slave codes were written so that any white citizen had the power to enforce them.¹ In 1700, the only organized law enforcement agency in South Carolina was the colonial militia, whose purpose was to protect the boundary of the nascent colony. In 1704, the rumor of slave insurrection compelled white slave owners to create dedicated slave patrols drawn from the colonial militia.² The distinction was made between a militia designed to defend against invasion and the slave patrol designed to defend against rebellion and other forms of insubordination. The slave patrol is the initial form of the American police force. Policing in the United States has always been militarized.³ The slave patrol was authorized to arrest any Black person who appeared to be a fugitive from slavery.⁴

Fugitivity, refusal to work, theft, and destruction of property among Black people throughout the country catalyzed white fear and repressive policing. Cooperative complicity in the violations of slave law was part of everyday Black life.⁵ What Stephanie Camp calls the plantation's "geography of containment" was constructed in large part by the presence of the slave patrol and their efforts to ensure that the enslaved were retained as part of the plantation. These boundaries were challenged by what Camp calls the "rival geography," formed by the communal collaboration of the enslaved, and "characterized by motion: the secret movement of bodies, objects, and information within and around the plantation."⁶ Camp cites Black

1 "An Act for the Better Ordering of Slaves," South Carolina, 1690, No. 57; Sally E. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Cambridge, MA: Harvard University Press, 2003), 15–18.

2 Hadden, *Slave Patrols*, 19–20.

3 Hadden, *Slave Patrols*, 19–20.

4 "An Act to Settle a Patroll," South Carolina, 1704; "An Act for the Better Ordering and Governing of Negroes and Other Slaves in this Province," South Carolina, 1712, No. 314.

5 Stephanie M. H. Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South* (Chapel Hill: The University of North Carolina Press, 2004), 47.

6 Camp, *Closer to Freedom*, 7.

abolitionist Austin Steward's description of theft as central to the making of the rival geography:

[T]hey took, without saying, "by your leave, Sir," the food and drink they wanted...reasoning among themselves, as slaves often do, that it cannot be stealing, because "it belongs to massa, and so do we, and we only use one part of his property to benefit another."⁷

The rival geography challenged the carceral geography of the plantation that the slave patrol enforced. It is a way of describing the landscape of Black people's regional and national cooperative complicity.⁸

The 1739 Stono rebellion was part of enslaved people's tradition of refusal in the South Carolina lowlands. A group of approximately 60 enslaved people killed approximately 20 white colonists and burned five houses in their pursuit of freedom in Florida, as had been promised by the Spanish. For much of the 18th and 19th centuries, the Black population in South Carolina outnumbered the white population. The 1739 rebellion struck fear in the white population, as the subsequent colonial report written by slave owners stated:

With Regret we bewailed our peculiar Case...that we could not enjoy the Benefits of Peace like the rest of Mankind and that our own Industry should be the Means of taking from us all the Sweets of Life and of rendering us Liable to the Loss of our Lives and Fortunes.⁹

Immediately following the Stono rebellion, in 1740, South Carolina created more restrictive and punitive slave codes, which were to be enforced by the slave patrol.¹⁰ These included banning the enslaved from meeting with each other, banning the enslaved from having any loud instruments, and allowing any white person to search a slave "out of the house or plantation where such slave shall live."¹¹ The law detailed that if enslaved people refused to be searched "it shall be lawful for any such white person to pursue, apprehend, and moderately correct such slave; and if any such slave shall assault and strike such white person, such slave may be lawfully killed."¹²

A year later in New York, the outbreak of ten fires in the period of one month was attributed to a plot by Black people throughout the city to overthrow the white colonists, as had been previously attempted in 1712. The fires and property loss in New York, like the rebellion in South Carolina, inspired an increase in law enforcement aimed at preventing future Black conspiracy. In the North there was no slave patrol, but the city watch served the same purpose of enforcing the slave codes. "One result of the affair was the appointment in 1741 of thirty-six night watchmen, including three overseers. They were divided into three reliefs of eleven men each, and these took regular turns in guarding the city."¹³ Throughout colonial America the slave patrol and the city watch were used to suppress the widespread refusal, fugitivity, truancy, and rebellion of the enslaved, which continuously threatened the economic stability of the colonies, and later, the United States. The enslaved in turn created systems of physical obstruction, looking out, and inverted surveillance to evade policing.¹⁴ Northern dependence on Southern plantation products was the ground for the political economy of abolition.

Raw cotton produced by enslaved people was typically consolidated in southeastern ports and shipped by steam-powered packet ships to New York on a predetermined schedule. In New York, the cotton

7 Camp, *Closer to Freedom*, 69.

8 Camp, *Closer to Freedom*, 47.

9 Peter Wood, *Black Majority: Negroes in South Carolina from 1670 Through the Stono Rebellion* (New York: Alfred A. Knopf, 1974), 481.

10 Hadden, *Slave Patrols*, 23.

11 "An Act for the Better Ordering and Governing of Negroes and Other Slaves in this Province," South Carolina, 1740, No. 670.

12 South Carolina Slave Code of 1740.

13 Alfred E. Costello, *Our Police Protectors: History of the New York Police from the Earliest Period to the Present Time* (New York: printed by the author, 1885), 39.

14 Camp, *Closer to Freedom*, 71–72.

was inspected, resold, and repacked onto transatlantic ships. In the early 19th century New York became the primary shipping hub in the nation.¹⁵ The federal import and export duties collected in the New York Custom House in 1828 were “enough to pay the whole running expenses of the national government, except the interest on the debt.”¹⁶ When Southern ports shipped directly to Europe, this was often still brokered by Southern agents of New York firms.¹⁷ A committee appointed by the Alabama legislature in the early 1830s estimated that a third of the price of cotton was retained by New York merchants. In the 1850s, another group of Southerners estimated that this share had grown to 40%.¹⁸

The early 19th century “merchant princes” of New York such as the Brown Brothers, the Lehman Brothers, Stephen Whitney, John Jacob Astor, Cornelius Vanderbilt, and Archibald Gracie were dependent on the Southern plantation system.¹⁹ Brown Brothers & Co, which now operates as the private investment firm Brown Brothers Harriman, was paradigmatic of New York firms that monopolized the trade and shipment of cotton, as well as plantation lending.²⁰ Southern plantations depended on lines of credit provided by merchant firms. These lines of credit kept plantation owners in debt to their Northern merchants, giving these merchants control over the pricing and profits of plantation products.²¹ All profits of the cotton trade were extracted from the life of the enslaved. The North outsourced the management of the plantation system to the master, overseer, patroller, and the emergent system of interstate policing.

Abolition in the North did not pose a threat to the plantation economy nor the profits the North derived from it. New York, having had the largest slave population of any state outside of the South, gradually abolished slavery within its borders while it simultaneously became the center of a national system of finance and commercial exchange based on Southern slavery. In New York, the abolition of slavery drew on the principles of individualism, competition, and the purported superior efficiency of waged labor central to the state’s capitalist ideology.

[David] Hume and [Adam] Smith also emphasized slavery’s depressive effect on the economic development of nations, a sentiment which subsequent New Yorkers would echo. Individual and national industry only progressed if workers received compensation commensurate with their efforts. Slaves, as Smith elaborated, lacked reasons to work harder, more efficiently, or more inventively. Masters, moreover, paid for the care and discipline that free people would have to manage for themselves. Free persons, moreover, handled these expenses more efficiently.²²

In 1799 New York State declared that children born to enslaved parents after July 4th of that year would be free. Only in 1817 did the state set the date for final emancipation: July 4, 1827. Slave owners considered slave life to be most valuable between the ages of 20 and 40.²³ The 28-year process of gradual emancipation allowed slave owners to retain the most valuable years of their slaves’ lives without having to support them in old age or having to support their children, who held no promise as future property.

15 Robert Greenhalgh Albion and Jennie Barnes Pope, *The Rise of the New York Port: 1815–1860*, rev. ed. (1939; New York: Charles Scribner’s Sons, 1970), 1–2.

16 Albion and Pope, *The Rise of the New York Port*, 224.

17 Philip Sheldon Foner, *Business & Slavery: The New York Merchants & the Irrepressible Conflict* (New York: Russell & Russell, 1968), 6.

18 Foner, *Business & Slavery*, 7.

19 Albion and Pope, *The Rise of the New York Port*, 236, 263; Joel Lang, Anne Farrow, and Jenifer Frank, *Complicity: How the North Promoted, Prolonged, and Profited from Slavery* (New York: Ballantine Books, 2007), 5.

20 John A. Kouwenhoven, *Partners in Banking: An Historical Portrait of a Great Private Bank, Brown Brothers Harriman & Co., 1818–1968* (New York: Doubleday, 1968), 42–58, 63–72.

21 Harold D. Woodman, *King Cotton and His Retainers: Financing and Marketing the Cotton Crop of the South, 1800–1925*, rev. ed. (1968; Washington, D.C.: Beard Books, 1999), 132–138, 170–172.

22 David N. Gellman further notes, “According to Hume, slavery made the classical world more brutish than the modern world, and less populous, less wealthy, and less happy. Such conceptualizations helped to sharpen Lockean notions of rights and environment by describing them in primarily economic terms.” David N. Gellman, *Emancipating New York: The Politics of Slavery and Freedom, 1777–1827* (Baton Rouge: Louisiana State University Press, 2008), 30.

23 Daina Ramey Berry, *The Price for Their Pound of Flesh: The Value of the Enslaved, from Womb to Grave, in the Building of a Nation* (Boston: Beacon Press, 2017), 92.

Abolition in the North increased the number of representatives from Northern states in the House without destabilizing white political power. This was possible because free Black people were counted as a whole person rather than three-fifths of a person in the calculation of congressional representation, but free Black people were still severely restricted from voting. In New York, only free Black men with \$250 dollars of taxable property could vote until 1870.²⁴ In the early 19th century, Connecticut, Pennsylvania, and New Jersey all repealed their 18th century free Black voting provisions.²⁵ At the same time, policing in the North was expanded to maintain the racial order that slavery was predicated on and to protect the property it produced. The Northern states that abolished slavery were the first to create professional police forces. The New York City Municipal Police Department was the first in the country.²⁶

The New York City watch, after adding more officers in response to the Negro Plot of 1741, remained roughly the same size through the signing of the United States Constitution in 1787. Article IV, Section 2, Clause 3 of the Constitution is known as the Fugitive Slave Clause. It dictates that any slave who absconds to a state that has abolished slavery does not become free, but legally remains the property of the master. The clause stipulated the validity of enslaved persons as property at the federal level and created the first interstate enforcement of slave law. The regular fugitivity of the enslaved caused the framers of the Constitution to prioritize the recognition, recapture, and return of enslaved property. In 1788, one year after the signing of the Constitution, the New York City watch grew from 30 to 50 officers.²⁷ The Fugitive Slave Clause was enhanced by the passage of the Fugitive Slave Act of 1793, which stated that “it shall be the duty of the executive authority of the State or Territory to which such person shall have fled, to cause him or her arrest to be given to the Executive authority making such demand, or to the agent when he shall appear.”²⁸ Between 1800 and 1826, the city watch grew from 72 to 400.²⁹

Officers of the New York City watch were not salaried. They were compensated by per-arrest fees and rewards for the return of stolen property.³⁰ Rewards for the return of stolen property were more lucrative than criminal arrest fees, causing officers to focus their efforts on the recovery of property.³¹ The arrest of anyone suspected of being a runaway slave fell under the category of stolen property.³² Even after 1845, when police salaries replaced the fee system, the rewards for returned property continued as a privilege for higher level officers and an incentive to rise in the ranks.³³ As a citywide system of property protection, the city watch functioned as an extension of the Southern slave patrol by ensuring the return of those who escaped. New York merchants’ reliance on Southern plantations, as sources of both debt generation as well as commodity production, created a financial interest in the enforcement of the fugitive slave laws in the city.

The New York slave-catching ring that Black abolitionist David Ruggles named the “kidnapping club” was most active during the 1830s.³⁴ It consisted primarily, but not exclusively, of City Recorder Richard Riker, who was also the primary judge in the Court of Common Pleas; Samuel R. Betts, a federal judge of the United States District Court for the Southern District of New York; the legal firm of Beebe, Dean, and Donohue; and Constables Tobias Boudinot and Daniel D. Nash.³⁵ Riker’s family owned the island now bearing his name until they sold it to the city to be used as a jail after his death. Riker was known as a pro-slavery judge who frequently issued the warrants for fugitives’ arrest and consistently ruled in favor

24 Bennett Liebman, “The Quest for Black Voting Rights in New York State,” *Albany Government Law Review* 11 (2017): 387.

25 Liebman, “The Quest for Black Voting Rights in New York State,” 386–387.

26 Wilbur R. Miller, “Police Authority in London and New York City 1830–1870,” *Journal of Social History* 8, no. 2 (1975): 81.

27 Costello, *Our Police Protectors*, 51.

28 United States Fugitive Slave Act, 1793, Ch. 7, § 1,1 Stat. 302.

29 James F. Richardson, *The New York Police: Colonial Times to 1901* (New York: Oxford University Press, 1970), 19.

30 Richardson, *The New York Police*, 30–31.

31 Richardson, *The New York Police*, 30–31.

32 Jonathan Daniel Wells, *The Kidnapping Club: Wall Street, Slavery, and Resistance on the Eve of the Civil War* (New York: Bold Type Books, 2020), 14.

33 Richardson, 62–63.

34 Wells, *The Kidnapping Club*, 40.

35 Wells, *The Kidnapping Club*, 15–16, 38.

of slave owners.³⁶ Black people throughout the city were entrapped by the kidnapping club organized by these New York judges and city watch officers who arrested and convicted people on the basis of matching a description of a fugitive.³⁷ Slave owners' agents did not care who they returned with, as long as they bore a general resemblance to the alleged fugitive.³⁸ David Ruggles wrote articles, rallied support, and raised money for the Black people brought before Judge Riker. He attributed the declining Black population in the city between 1830 and 1835 to the kidnapping club.³⁹ Ruggles stated that "any colored person within this state is liable to be arrested as a fugitive from slavery, and put upon his defense to prove his freedom, and that any such person thus arrested is denied the right to a trial by jury."⁴⁰ Five Points was one of the first free Black communities in New York. "[T]he Sixth Ward, which included Five Points, recorded more arrests than virtually any other area of New York."⁴¹ The Tombs jail was built there in 1838. As described by the police department's own physician in the 1840s, "[m]ore miserable, unhealthy, and horrible dungeons cannot well be conceived of."⁴² The Tombs' location is now the site of the Manhattan Detention Complex.

In 1822, cotton constituted 40% of domestic exports from the Port of New York.⁴³ Responding to a rise in warehouse robberies in the First Ward, which included "the city's major wharves and business houses," the city's Common Council began to consider strengthening the city watch in the 1820s.⁴⁴ Over the next 20 years, theft of freight from the docks fueled calls for increased policing.⁴⁵ In 1834, white people in New York organized a series of attacks against Black residents of Five Points who were celebrating the anniversary of the abolition of slavery. The violence continued throughout July, extending the "racial pogrom, as crowds attacked African-American homes, businesses, and churches throughout the Five Points area."⁴⁶ White newspapers blamed the violence on the rhetoric of Black abolitionists who organized against the city's enforcement of the fugitive slave laws.⁴⁷ The city responded by appointing additional watch officers.⁴⁸ As described by Gustave de Beaumont, "there was a general spirit of reaction, not in favor of the negroes, but against their oppressors."⁴⁹ The call to restructure the city watch following these organized and explicitly anti-Black attacks was grounded in preventing further destruction of property rather than the violence against Black people who, now free, were still not regarded as human enough to be citizens.

The passage of the 1844 Metropolitan Police Act created the country's first professional police department in 1845.⁵⁰ The act consolidated the separate enforcement agencies—the day watch, the night watch, dock masters, and health wardens—into a single law enforcement agency. The New York Municipal Police Department, now the NYPD, was closely modeled after London's Metropolitan Police, established by Robert Peel in 1829, both using a military-style hierarchical organization.⁵¹ The NYPD was distinguished from the London Metropolitan Police by the legal latitude it provided to individual officers, creating a highly discretionary system of enforcement as opposed to London's highly systematic one.⁵² The NYPD granted greater authority to individual police officers, allowing them to make arrests without fear of lawsuits, establishing a version of qualified immunity as a basis for the police force's existence.⁵³ NYPD officers'

36 Wells, *The Kidnapping Club*, 40–42, 97.

37 Wells, *The Kidnapping Club*, 15–16.

38 Graham Russell Gao Hodges, *David Ruggles: A Radical Black Abolitionist and the Underground Railroad in New York City* (Chapel Hill: The University of North Carolina Press, 2010), 87.

39 Hodges, *David Ruggles*, 93–94.

40 Hodges, *David Ruggles*, 94.

41 Wells, *The Kidnapping Club*, 98.

42 Richardson, *The New York Police*, 60–61.

43 Albion and Pope, *The Rise of the New York Port*, 100.

44 Richardson, *The New York Police*, 15.

45 Albion and Pope, *The Rise of the New York Port*, 224; Richardson, *The New York Police*, 53.

46 Tyler Anbinder, *Five Points: The Nineteenth-Century New York City Neighborhood* (New York: Free Press, 2010), 28.

47 Hodges, *David Ruggles*, 64.

48 Costello, *Our Police Protectors*, 80

49 Richardson, *The New York Police*, 29.

50 "An act for the establishment and regulation of the police of the city of New York," New York City, 1844, Ch. 315, Art. 3, § 1.

51 Richardson, *The New York Police*, 47–49.

52 Miller, "Police Authority," 84–86.

53 Richardson, *The New York Police*, 44.

authority was enhanced under the Fugitive Slave Act of 1850, which allowed them to seize any suspected fugitive of slavery on the basis of as little as a sworn affidavit and return them to white slave owners without trial or due process.⁵⁴ Anyone assisting a fugitive was to be arrested, sentenced to up to six months, and fined at least \$1,000.⁵⁵ The law federally conscripted all white citizens in the policing of suspected fugitive slaves—effectively the entire free Black population—stating that “all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required.”⁵⁶ Although the international slave trade was federally abolished in 1808, the Port of New York continued to serve a central role in the transatlantic slave trade for decades. The construction of slave ships and the shipping and exchange of enslaved people continued in the city at the Port of New York through the 1850s.⁵⁷ The NYPD continued the vigilant enforcement of the Fugitive Slave Acts while systematically ignoring the illegal trade in enslaved people at the port.

The professionalization of the police did not prevent the continuation of white supremacist mob violence against the city’s Black population. As W. E. B. Du Bois details in *Black Reconstruction*:

It was easy to transfer class hatred so that it fell upon the Black worker. The end of [the Civil War] seemed far off, and the attempt to enforce the draft led particularly to disturbances in New York City, where a powerful part of the city press was not only against the draft, but against the war, and in favor of the South and Negro slavery.⁵⁸

White people in New York who did not want to be drafted into the Civil War to fight “for the negro” protested by beating and lynching Black people. Between 400 and 1000 people were killed. The 1863 Draft Riots are described as one of the first instances of a lynch mob.

At the outset of the Civil War, the North had no intention of abolishing slavery. As Du Bois states, “The North was not Abolitionist. It was overwhelmingly in favor of Negro slavery, so long as this did not interfere with Northern moneymaking.”⁵⁹ Lincoln wrote in 1862, “My paramount object in this struggle is to save the Union and is not either to save or to destroy slavery. If I could save the Union without freeing any slaves, I would do it; and if I could save it by freeing all the slaves, I would also do that.”⁶⁰ Emancipation was a military strategy.⁶¹ Recognizing the limited possibilities for Union victory in 1862, Lincoln sought to use the 1863 Emancipation Proclamation to draw the enslaved across the battle lines.⁶² This would simultaneously deprive the Confederacy of food and labor, and would provide this labor force to the Union Army.⁶³ The Emancipation Proclamation states that “all persons held as slaves within any State or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever free.”⁶⁴ As such, the Proclamation did not apply to the four Union states that allowed slavery, nor was it legally recognized within the Confederacy. It functioned as intended “to make easier the replacement of unwilling Northern white soldiers with black soldiers,” incentivizing tens of thousands of enslaved people to defect from their masters and fight for the Union.⁶⁵ “Black men were repeatedly used as shock troops,

54 United States Fugitive Slave Act, 1850, 9 Stat. 462; R. J. M. Blackett, *The Captive’s Quest for Freedom: Fugitive Slaves, the 1850 Fugitive Slave Law, and the Politics of Slavery* (New York: Cambridge University Press, 2018), 274.

55 Fugitive Slave Act of 1850.

56 Fugitive Slave Act of 1850.

57 Wells, *The Kidnapping Club*, 79–96.

58 W. E. B. Du Bois, *Black Reconstruction in America 1860–1880*, rev. ed. (1935; New York: The Free Press, 1998), 103.

59 Du Bois, *Black Reconstruction*, 83.

60 Du Bois, *Black Reconstruction*, 85.

61 Du Bois, *Black Reconstruction*, 153.

62 Du Bois, *Black Reconstruction*, 91.

63 Du Bois writes, “Negroes became valuable as laborers, and doubly valuable as withdrawing labor from the South” (*Black Reconstruction*, 79).

64 Emancipation Proclamation, January 1, 1863, Presidential Proclamations, 1791–1991; Record Group 11; General Records of the United States Government, National Archives, Washington, D.C.

65 Du Bois, *Black Reconstruction*, 84.

when there was little or no hope of success.⁶⁶ Black soldiers accounted for approximately 10% of the Union Army and 20% of their dead.⁶⁷

At the end of the war, Black people who were formerly enslaved and many who were born free were still not citizens. The 13th Amendment, passed in 1865, was intended to abolish slavery, but did not grant Black citizenship. The 14th Amendment, passed in 1866, was intended to grant Black citizenship, but did not confer Black voting rights. The 15th Amendment, passed in 1869, was intended to grant Black voting rights, which had been withheld from free Black people in the North as well as the South, but only applied to men and has been flouted by racist voting restrictions ever since. Until 1869, Northern Republicans had resisted Black enfranchisement. As Southern states were readmitted to the Union, Northern Republicans feared they would lose control of Congress. To counter the growing power of Southern Democrats, Northern Republicans moved to enfranchise Black people, who they expected to favor Republican candidates. The Northern Republican passage of the 15th Amendment was intended to secure their own white political power. The legislation of abolition and reconstruction consistently served to secure Northern, white political-economic control.

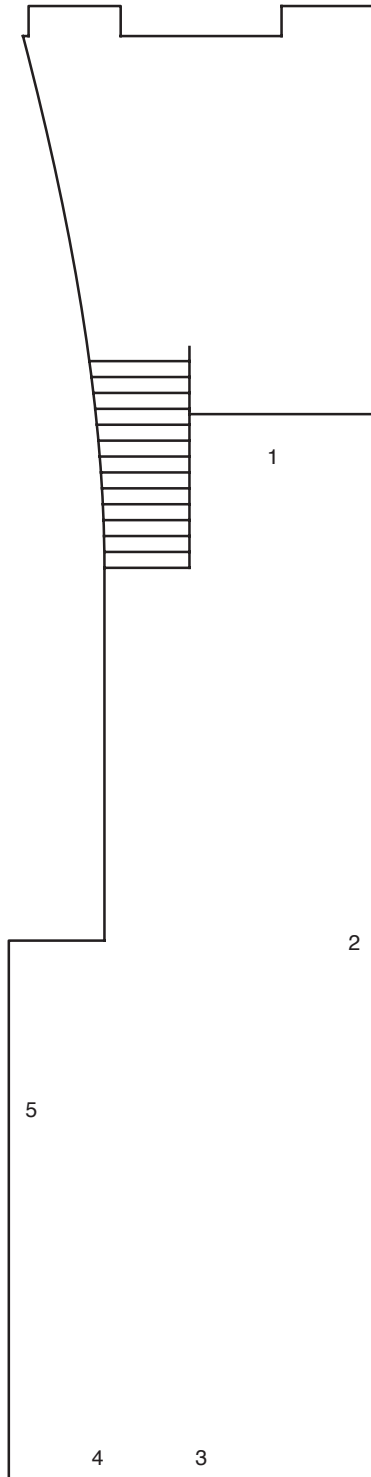
In the wake of the Civil War, Northern industrialists profited from new methods of Black exploitation in the South. Policing remained essential to managing and recuperating Black labor. Black people charged with violating sharecropping contracts, refusing to sign such contracts, or being vagrants (unhoused or unemployed) could be arrested. Southern localities would then lease incarcerated people to industrial companies. Black convict lease laborers were used to mine coal and iron, and to build rail lines for the benefit of Northern companies. The period of wealth generation by industrialists from 1870 to 1900 has been referred to as the Gilded Age. The limits of the Reconstruction Amendments and the simultaneous expansion of professional policing throughout the country sustained the racial order of capitalist accumulation.

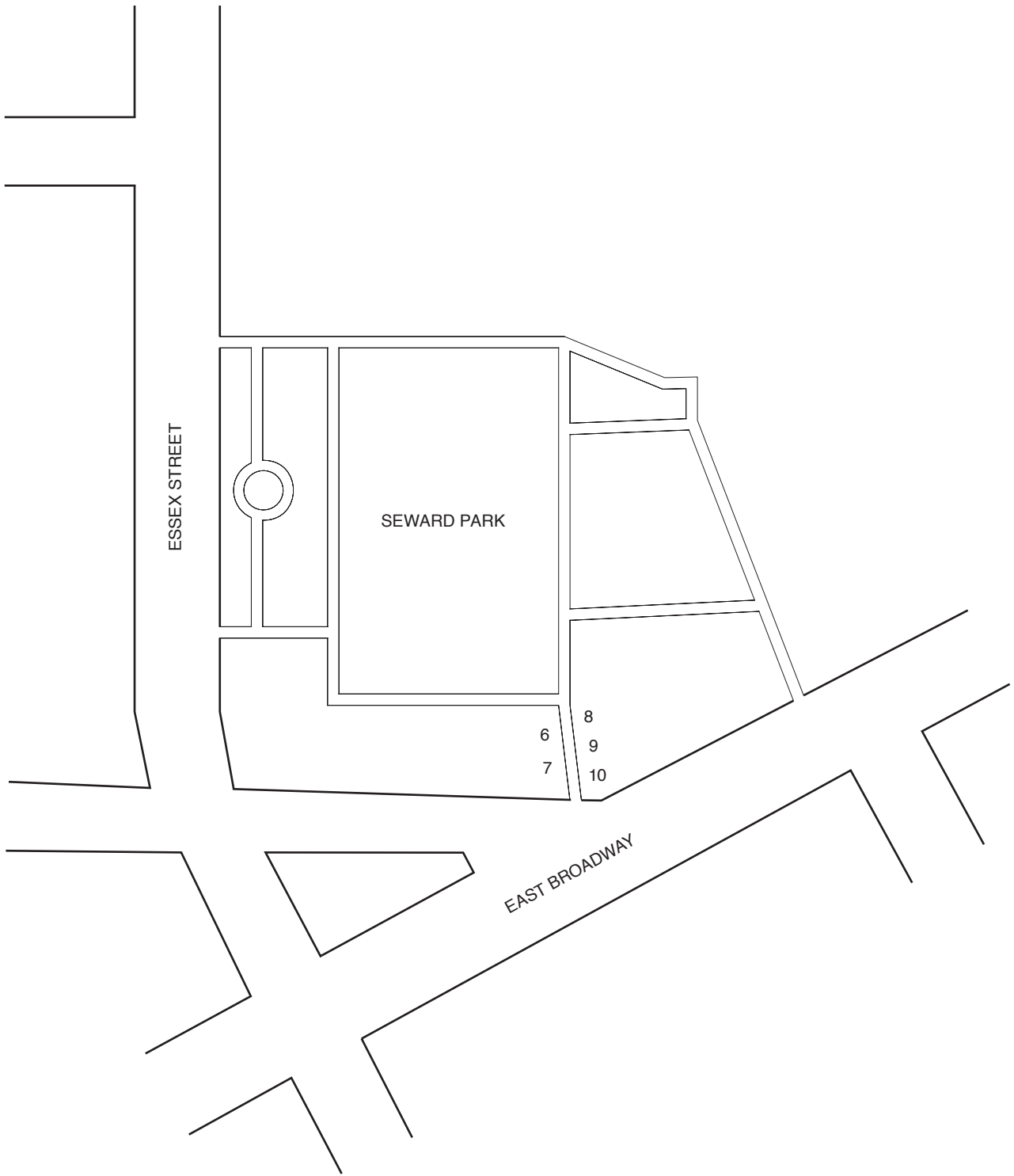
The abolition of slavery in New York, in other Northern states, and nationally was closely followed in each case by the establishment of professional police departments. In the absence of formal slavery, the police were pivotal in reconstituting lost enslaved property. Beginning with the Black Codes, laws criminalizing Black life proliferated in the late 19th and early 20th centuries, many of which still exist. The emergence of the sharecropping system, lynch law, the Ku Klux Klan, and the professional police formed a regime of racial terror intended to control the labor and life of Black people across the country. Police facilitated and participated in lynch mobs. Police continue the practice of lynching as law enforcement. Enforcement relies on the accusations and descriptions that are provided to the police by those who the police choose to protect. The perceived necessity of the police is structured by the fear of the end of white supremacy and the system of property it instituted.

66 Du Bois, *Black Reconstruction*, 107.

67 Steven Mintz, *African American Voices: A Documentary Reader, 1619–877* (Hoboken: Wiley, 2009), 35; *Historical Statistics of the U.S.: Colonial Times to 1957* (Washington, D.C.: U.S. Bureau of the Census, 1960), 735.

55 HESTER STREET





Lynch Law in America

Emergency call tower

114 x 10 x 8 inches

[Lynching] is not the creature of an hour, the sudden outburst of uncontrolled fury, or the unspeakable brutality of an insane mob. It represents the cool, calculating deliberation of intelligent people who openly avow that there is an "unwritten law" that justifies them in putting human beings to death without complaint under oath, without trial by jury, without opportunity to make defense, and without right of appeal.

—Ida B. Wells, "Lynch Law in America," 1900

Emergency calls to the police are built on lynch law. Calling the police is a request that someone be injured, arrested, incarcerated, or killed. Calling the police is participation in an authority that uses lynching as law enforcement. Descriptions given to the police provide the grounds for stops of anyone who matches them.

The power of white people to enforce the law and invoke legal authority was the basis for colonial slave codes. The 1740 Slave Codes in South Carolina determined that if enslaved people did not submit to searches by white colonists, they could be lawfully killed. If any slave, found out of the house or plantation to which they were bound, "shall refuse to submit or undergo the examination of any white person, it shall be lawful for any such white person to pursue, apprehend, and moderately correct such slave; and if any such slave shall assault and strike such white person, such slave may be lawfully killed."

The racist legal practice of matching a description has been practiced in the United States since its founding. Article IV, Section 2, Clause 3 of the Constitution is known as the Fugitive Slave Clause. It dictates that any slave who absconds to a state that has abolished slavery does not become free, but legally remains the property of the master. The regular fugitivity of the enslaved caused the framers of the Constitution to prioritize the recognition, recapture, and return of enslaved property. The Fugitive Slave Clause was enhanced by the passage of the Fugitive Slave Act of 1793, which stipulated that:

it shall be the duty of the executive authority of the State or Territory to which such person shall have fled, to cause him or her arrest to be given to the Executive authority making such demand, or to the agent when he shall appear...[A]nd upon proof to the satisfaction of such judge or magistrate, either by oral testimony or affidavit taken before and certified by a magistrate of any such state or territory, that the person so seized or arrested, doth, under the laws of the state or territory from which he or she fled, owe service or labour to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labour, to the state or territory from which he or she fled.

Enforcement of the fugitive slave laws allowed any Black person matching a description to be accused of being a fugitive, and to be drawn into or returned to slavery.

In the absence of formal slavery, the sharecropping system, the lynch mob, the Ku Klux Klan, and the professional police collaboratively formed a regime of racial terror intended to control the labor and life of Black people across the country. In the late 19th and early 20th centuries, police facilitated and participated in lynch mobs. Police continue the practice of lynching as enforcement of the "unwritten law."

2

Description

New York Herald, January 26, 1803

Matching a description in the vicinity of a reported crime is often considered sufficient to meet the standard for reasonable suspicion.

3

Price per pound

300 pound New York cotton scale

40 x 5 x 7 inches

Rental

4

Price per pound

300 pound New York cotton scale

40 x 5 x 7 inches

Raw cotton is measured by weight. Between 1800 and 1865 the standard cotton bale size ranged between 300 and 400 pounds. Cotton scales were not only used on the plantation for the daily weigh up, but were also used by merchants at every major port to ensure the consistency of each bale. Raw cotton produced by enslaved people was typically consolidated in southeastern ports, shipped to the North, and inspected, resold, and repacked on transatlantic ships. In the early 19th century, New York became the primary shipping hub in the nation.

New York merchants such as the Brown Brothers, the Lehman Brothers, Stephen Whitney, John Jacob Astor, Cornelius Vanderbilt, and Archibald Gracie were dependent on the Southern plantation system. A committee appointed by the Alabama legislature in the early 1830s estimated that a third of the price of cotton was retained by New York merchants. In the 1850s, another group of Southerners estimated that this share had grown to 40%. Brown Brothers & Co., which now operates as the private investment firm Brown Brothers Harriman, was paradigmatic of New York firms that monopolized the trade and shipment of cotton, as well as plantation lending. Southern plantations depended on lines of credit provided by merchant firms. These lines of credit kept plantation owners in debt to their Northern merchants, giving these merchants control over the pricing and profits of plantation products. All profits of the cotton trade were extracted from the life of the enslaved. The North outsourced the management of the plantation system to the master, overseer, patroller, and the emergent system of interstate policing.

Scale producer John Chatillon & Sons Company was formed in 1835 in New York City and supplied cotton scales throughout the country. Chatillon is a subsidiary of Ametek, which is publicly traded on the NYSE and is part of the S&P 500.

Life and Property

Recording of NYPD radio communications in Manhattan,
 Recording of NYPD radio communications in Brooklyn,
 Recording of NYPD radio communications in the Bronx,
 Recording of NYPD radio communications in Queens,
 Recording of NYPD radio communications in Staten Island / Citywide

The NYPD does not retain publicly accessible recordings of its two-way radio communications. These communications can be accessed live using a UHF radio scanner. Due to the amount of simultaneous radio communication throughout the city, multiple scanners are necessary to receive all transmissions. Public access to recordings of these transmissions allows these internal communications to be reviewed collectively. When *Life and Property* is exhibited, recordings are produced continuously. Each day the prior 24 hours of recordings are made publicly accessible on the exhibitor's website. The recordings for each day of the exhibition are hosted as documentation.

Looking out, documenting, and inverting surveillance have always been practiced by Black targets of policing. Internal documentation of the police that is produced by the police is only available at the discretion of the police. External documentation of the police is essential to understanding what the police actually do.

The radio communications of the NYPD make evident that the vast majority of police dispatches are in response to 911 calls reporting perceived disorder. The dispatches show how frequently callers report people to the police for "loitering," "being disorderly," "refusing to leave the business," "panhandling," "drinking and gambling," "harassment," "trespassing," "disputing," and "being uncooperative."

The purpose of calling the police is to subject the accused to scrutiny, dispossession, incarceration, and death by enforcement. Calling the police to stop violence discounts the violence inflicted by the police. Survived and Punished organizes in support of incarcerated survivors of domestic and sexual violence. Their publication *Research across the Walls* details that:

In 2000, a study of domestic-violence survivors under New York State's mandatory arrest policies found that survivors of domestic violence were arrested in 27 percent of cases reported through a domestic violence hotline...[A] decade-long study found that a law enforcement officer is charged with sexual misconduct every 5 days, and that motorists, crime victims and witnesses and young people are the most frequent targets.

As a paramilitary institution, the primary object of the police is the protection of white citizens and the property they own. White citizenship remains the benchmark for legal protection the United States. 42 USC § 1981, "Equal rights under the law," last updated in 1991, states that:

(a) Statement of equal rights. All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

The designation of who the police are sworn to protect is determined by the de jure and de facto withholding of citizenship. The NYPD's mission statement openly states that its protection is contingent on citizenship as it pledges to:

Protect the lives and property of our fellow citizens and impartially enforce the law.

6

Church Avenue and Bedford Avenue
Bench in Seward Park

7

Van Cortlandt Park
Bench in Seward park

8

90th Street and Corona Avenue
Bench in Seward Park

9

126th Street and 2nd Avenue
Bench in Seward Park

10

212th Street and 10th Avenue
Bench in Seward Park

The dread of “an uprising of blacks” in 1722 prompted an act providing that all negroes and blacks be buried by daylight. The act was amended afterward so that not more than twelve negroes should attend a funeral. The penalty for the violation of this statute was a public flogging. Furthermore, the slave was to be buried without any outward signs of grief or any ceremonial tokens, such as a pall, gloves or flowers.

—*New York Times*, April 12, 1903

In 1991, the Government Services Administration began construction on the Ted Weiss Federal Building in New York City. During construction human remains were disinterred. Historical analysis identified the site as a Black burial ground. Black protests against the GSA's treatment of the site led to a large-scale archeological survey. The building was still built. Part of the site was reserved for The African Burial Ground Monument on Duane Street. By naming it “The African Burial Ground Monument,” the site is portrayed as the only Black burial ground in the city.

There are numerous unmarked Black burial grounds throughout New York City.

At Church Avenue and Bedford Avenue in Brooklyn there is a 17th–19th century unmarked Black burial ground.

At Van Cortlandt Park in the Bronx there is a 17th–19th century unmarked Black burial ground.

At 90th Street and Corona Avenue in Queens there is a 19th–20th century unmarked Black burial ground.

At 126th Street and 2nd Avenue in Manhattan there is a 17th–19th century unmarked Black burial ground.

At 212th Street and 10th Avenue in Manhattan there is a 17th–19th century unmarked Black burial ground.

Many of these burial grounds did not have individual plots, but were made as collective graves. Many of those buried did not own the property of their resting place. Some of these burial grounds have been built over with bus terminals, schools, car mechanics, and homes. They remain unmarked. The Black burial ground has traditionally been a site of plotting and rebellion. Their unmarked status has served this purpose.

Despite identifying as an abolitionist, William H. Seward, U.S. Secretary of State from 1861–1869, favored compensating slave owners for their loss of enslaved property and designed President Andrew Johnson's Declaration of Amnesty in 1865, reinstating former Confederates' property. Seward co-wrote Johnson's 1866 veto of the Freedmen's Bill that would have extended the existence of the Freedmen's Bureau. He also co-wrote Johnson's veto of the 15th Amendment, in an attempt to continue the disenfranchisement of Black people. Seward's vision of reunification allowed for emancipation, but foreclosed the recognition of Black people as human.

Five unauthorized benches have been put in Seward Park. These benches are the same 19th century design that is used throughout the park. These benches are titled after the locations of five unmarked Black burial grounds throughout the city. The displaced acknowledgements of these burial grounds intervene on Seward's memorial. They are meant for resting or remembering or plotting.

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