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POLICE AND PUNISHMENT AMONG NATIVE AMERICANS OF THE PLAINS

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The American Indians of the Plains and the adjacent woodlands have been given much credit in the literature concerning them, with regard to their abilities as warriors. Neither scientific nor popular writings, however, have taken much note of matters concerning their internal polity. The "tribe" is something we conceive of rather chaotically. Yet these native peoples were as neatly and elaborately organized politically as many civilized peoples—and—which is what interests in this paper—as an aspect of their political organizations there was included an important and effective police system, clothed with powers to enforce its orders, and able to inflict severe punishment for disobedience. Neglected as this phase of the life of these peoples has been, nevertheless there is available in the literature sufficient data to enable us to present a fairly complete, though imperfect, picture of these police organizations.¹

Among these native American peoples there was no military force or "army" standing above or apart from the armed body of the people. There were gradations of rank or degrees among the warriors, but every able-bodied man was nevertheless a warrior at all times in possession of arms.

Among the people there were considerable differences of wealth; but wealth consisted largely in horses and clothing and adornments and appears to have been rather fluid. There does not appear to have been any landed property, among the Plains tribes who are our particular interest in this paper. Among those tribes who did not cultivate the ground but depended for food chiefly on the buffalo (bison) the open country was communal, tribal property and everyone shared in the proceeds of the hunt.

These peoples were in political form, oligarchical, and certain families tended to monopolize political privilege. But there does not appear to have been any sharp permanent division of social classes with an economic base, no exploitation by owners of capital

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¹ This study should be considered in connection with the study of the criminal law of two other areas in native North America presented in the author's two papers in this JOURNAL in 1931 and 1934.

of those without capital, such as existed in the slave-holding societies² of the natives of the northwestern coast of North America.

The relatively (though not wholly) democratic caste of life as a whole among the Plains tribes was reflected in the organization of their police systems.

The Organization of the Police

In performance of ordinary village or camp police functions, no large body of men would ordinarily be needed. But in the summer the bison hunting tribes went off on a great hunt into the open country, and this hunt required to be policed by a larger body of men. Some tribes had a difference in police organization as between village and hunt policing, as we shall see.

Among some tribes the police were executive aids appointed by the civil chiefs and attached to them. Among others, such constituted only the chiefs of police, the body of the police force being the members of one of the men's fraternities in the tribe. Among others, one of the fraternities functioned as the police force under its own officers, though responsible to the civil chiefs of the tribe. The variations in the form of organization as between the various tribes is considerable and our data is very incomplete, but a general, though imperfect outline, may be drawn up. In it, the men's fraternities appear as important. These fraternities or societies might very roughly be compared to secret societies or fraternities among us. They combined ceremonial (religious) functions with social functions; but among the Indians among whom every man was a warrior, they also had strong military associations, and in most tribes virtually every able bodied man and warrior belonged to one or another society.

The most amorphous police organization appears to have been those of the Ojibway and Cree of the Plains and the Menominee of the adjacent woodlands. Among these peoples it appears that the police body was made up of all those warriors who had attained a certain minimum distinction in battle.³

Among the Osage, the two joint civil head chiefs of the tribe appointed one man from each of the ten clans of the tribe to serve as police in the great bison hunt. Three of these served as police chiefs.⁴

² For law and order among these northwestern peoples see MacLeod (1).

³ S., p. 482. On Menominee law and order see MacLeod (2).

⁴ Dorsey (1), p. 80.

Among the Omaha, the college of seven head civil chiefs appointed a leader of the hunt from some one clan and then appointed police to serve under this leader.⁵

Among the Iowa the permanent police are two body guards chosen by each of the seven civil chiefs. These fourteen are chosen from among the accredited warriors. They live in the lodges of their respective selecting chiefs.⁶

Among the Pawnee,⁷ for village policing only, not for the great hunt, each village chief selects an elderly warrior as his personal aide and advisor and as a police chief. This elderly police chief selects three men to serve as police under his direction. But the great buffalo hunt is under the direction of that one of the four tribal head priests who is head that year. This priest chooses one of the four men's societies to serve as police of the hunt. The village police continue as police of the camp even while the hunt police are in charge of all matters concerned with the hunt.⁸ It is possible that in practice just one of these four societies may have had the privilege of being the hunt police each year.⁹ (The Kiowa remind us of the Pawnee facts, because it is among them too that it is the head shaman who make the appointment of the society which is to serve as police of the hunt.)¹⁰

Among the Oglala western Dakota the four chiefs of police were appointees of the civil authorities and aides of these. The chief of these four chiefs of police chose one of the men's societies to furnish the body of the police.¹¹ Among the eastern Dakota (Wahpeton) the civil chiefs chose twenty hunt police chiefs in a very unique manner which we shall not have space to describe, and these twenty then may call on one of the men's societies to assist them.¹²

Among the Oglala any of seven societies might be called on for police duty; it is doubtful if any of the few remaining societies were ever called on.¹³

⁵ Dorsey (2), p. 72; and Fletcher (1).

⁶ S., p. 689.

⁷ Specifically, for the Pitahuarita Pawnee.

⁸ S., pp. 557-8; cp., p. 587 for note of the Dog Society as police in an emergency.

⁹ Among the Chau Pawnee it appears that the Red Lance Society (which corresponds to the Two Lance Society of the Skidi Pawnee) may be exclusively the hunt police. (S., 570.)

¹⁰ S., pp. 841-43.

¹¹ C., v. 3, pp. 134, 138.

¹² S., pp. 136, 141.

¹³ They are the Tokala (Fox), Lumpwood, Crow Owners, Braves, Badgers, Bare Lance Owners, and White Marked. (S., p. 13.) Among the Ponca neighbors

Among the Blackfoot any of the societies might be called on to serve as police, and in a large tribal movement all cooperated. Assignment to police duty was not general but for some particular function or occasion.¹⁴

Among the Wind River Shoshone or Snakes, two societies held the police function, one of them apparently being superior to the other. They divided the police duties between them.¹⁵

Among the Crow nine societies appear to have taken turn about in serving as the police, though there appears to have been no definite rule of rotation. The Foxes and the War Clubs were the most highly regarded societies and appear most often as the police, and the Foxes are noted once as holding the police job for several years in succession, as a tribute to especial bravery in war of its members.¹⁶

For the Cheyenne it is not clear whether the Dog society alone served as police, or if there was turn about among the societies as among the Crow.¹⁷ But among the Mandan, Hidatsa,¹⁸ and Arikara¹⁹ policing appears to have been exclusively the prerogative of the Black Mouth society.²⁰

Men's fraternities are found in North America only among the Plains Indians, so it is not surprising that only among them do we find police functions served by such fraternities. It is this that constitutes the principal uniqueness of Plains police organizations. The problem of the origin of these fraternities in the plains has been

of the Dakota the head civil chief appointed leading warriors to be police for some limited purpose or occasion but he chose these from one society now and another again. For the great hunt the civil chiefs chose hunt leaders and these chose police to assist them. (S., 794-5.) On the Assiniboine, an eastern Dakota group, see Denig's description of a council, and Lowie (1), p. 35, and Dorsey (1), p. 224. Lowie says the police are under the direction of the civil chief; Dorsey observes that the head chief must take the advice of the police.

¹⁴ S., p. 370, citing Grinnell in full. Compare Linderman, p. 107 (Crow) for the Foxes policing "that day"; and S., p. 691 (Iowa) regarding "the leader of the day" for the police.

Of the Sarsi all we know is that in a certain Sun Dance the Dogs, assisted by the Preventer society, were the camp police. (S., p. 468.)

¹⁵ S., pp. 813-16.

¹⁶ The nine societies are the Fox, Big Dogs, Lumpwood, Muddy Hands, Muddy Mouths, Crazy Dogs, and (added by Linderman), the War Clubs. See Linderman, pp. 53-4, 189; Lowie (2), 229; and S., 179-80, 193, 198.

¹⁷ S., 894-5; and see Dodge: *Hunt.*, p. 266, on the internal organization of the Cheyenne police.

¹⁸ S., p. 236; but C., v. 4, 182, says a Wood-Root society had police functions. Compare C., v. 5, p. 13, on the Mandan.

¹⁹ C., v. 5, 149; and S., p. 664.

²⁰ Cree and Ojibway of the Plains, Ponca, and Atsina (S., pp. 794); C., v. 5, p. 118; Denig, p. 436.

much studied, but remains to be solved, and that problem carries with it the problem of the police-fraternity association.

Among the Pawnee a special form of club was the insignia of a policeman; but among the other tribes on whom we have data the society or fraternity insignia would presumably identify those serving as police. ¹

When a tribe was living in its portable tents instead of in its lodge village, the police would live in a special tent of their own, apart from their families. This was their headquarters in which they held their consultations. In some tribes this tent was in the center of the encampment, in others, at the east entrance²¹ of the camp, near the tents of the civil chiefs. For the Assiniboine an early observer writes that the police tent was the center of all official life. "This is the statehouse, where all official business is transacted; and all strangers are lodged there." No women or young men were ever permitted in this tent "during business hours" and seldom at any other time. In a camp of two hundred tents there would be about fifty or sixty police, living in the police tent.²²

The police, living in their headquarters, were supported by public contributions. The police had a prior claim to all the choicest parts of animals killed—such as the tongue; and "A tax is laid on the camp for all the tobacco smoked in the police tent" and the amount was considerable.²³ Among the Teton Dakota and the Ponca, the police sent out formal requisitions for supplies and anyone failing to comply with the requisition was subject to punishment by the police.²⁴

Police did no work aside from their police duty.²⁵

Functions of the Police

The functions of these police were somewhat more varied than those of police in our own societies. They had duties in connection with private quarrels and murder cases; in connection with policing the behavior of warriors in time of war; in connection with religious ceremonies in keeping order and seeing to it that individuals observed at least the minimum ceremonial requirements; as sergeants-

²¹ S., p. 557 for Pawnee on a hunt.

²² Denig, p. 436; compare S., p. 487, and C., v. 3, p. 14.

²³ Denig, p. 436.

²⁴ C., v. 3, p. 14 for the Teton and the use of red sticks as orders; S., p. 794 for the Ponca.

²⁵ See especially S., p. 690 for special prerogatives of the police among the Iowa.

at-arms in governmental councils; as enforcers of laws protecting property; as directors of public works construction; and as police in the great bison hunt. The functions of the police certainly varied from tribe to tribe; but we have no complete picture of their functioning for any one tribe and must select examples of function from one tribe and another as the data is available.

As we shall see the police were clothed with adequate authority to enforce their orders, and might inflict very severe penalties. But it must be remembered that in all their functioning they were merely police, not independent authorities in the tribe; their police chiefs were responsible to the civil authorities.

We shall consider briefly the policing of marches and hunts. For reasons, which will appear, we wish to consider quarrelling and murders last.

Policing Hunts and Marches—Upon the success of the great bison or buffalo hunts depended abundance of food, or short rations and starvation for the Plains tribes. Policing these hunts was of vital economic importance and absolutely essential to prevent failure as a result of the behavior of any individuals who might be selfish enough to scare the herd off by individual action. An observer of before 1854 writes: "The buffalo are not hunted by a large camp as each individual chooses, but surrounded by the whole camp at one time. . . . The days for these hunts are determined by the chief and akcita [police] in the akcita lodge and the people are forbidden to hunt or in any manner to raise the buffalo before that time. The reason for this is that going off in a body and hemming in or surrounding them, some hundreds of the animals may be slain in a short time, whereas by one man's individual hunting the whole herd would be frightened and run away and the camp thereby be always in a starving condition, instead of having an abundance of meat as in the case where the laws respecting the surround are enforced."²⁶

For the Southern Cheyenne General Dodge wrote—regarding the police:

"From them emanate all orders for marches. By them the encampments are selected. They supply the guards for the camp, designate the hunting parties and the ground they are to work over, and, when the

²⁶ Denig on the Assiniboine and the upper Missouri generally. And on guarding a herd long before a hunt is planned see Dodge: *Hunt*, p. 266 (S., Cheyenne), and S., pp. 663-4 (Arikara).

bison are sighted, they select the hunters who are to go in advance and make all the arrangements for the surround."²⁷

When the bison are finally surrounded and attacked, the hunt police supervise to see that the rules regarding the division of the meat are observed, and to settle all disputes concerning this.²⁸

Of punishment by the police of infringement of the law regarding the hunt among the upper Missouri tribes our observer of *ante* 1854 observes:

"Should any person or persons violate these laws, after the decrees of the akcita lodge has been published, the akcita meet him on his return home, take his meat, kill his dogs or horses, cut his hides up, cut his tent to pieces, break his gun and bow, etc. If the individual resists or attempts to revenge any of these things, he is shot down on the spot by the akcita or struck down by a tomahawk and pounded to death. Occasionally they are thrashed with bows in addition to the breaking of the gun, etc. The writer has seen two killed, and many severely thrashed, for this misdemeanor. The consequences of destroying the hunts are serious to the whole camp, hence the violent penalty, and examples are made occasionally which serve to increase the respect and fear of the akcita as a body and enables that business to proceed with order. In this the akcita are supported by the whole camp, and it is on them as a body that decisions are invested with binding force, if force be necessary."²⁹

The surprising thing is, with such severe punishments apparently inevitable, that any reckless individual would dare break the laws regarding the hunt.

Enforcement of Attendance at Religious Ceremonies—To the Plains Indians the proper observance of certain great communal religious ceremonies was vitally important; so important, in fact, that upon it depended the very preservation of the universe. Among some, at least, of these tribes, we learn that while active participation in the ceremonies was not obligatory, attendance on them was.

It was a function of the police not only to keep order during the ceremonials, but to see that everyone attended them and with due respect.³⁰ Grinnell writes of the annual ceremony of the sacred arrows of the Cheyenne: that "all who are present . . . receive a blessing in some degree. For this reason . . . every members of

²⁷ Dodge: *Hunt*, p. 266.

²⁸ Pawnee data, in S., p. 560.

²⁹ For further on police management in the hunt see S., 690, pp. 813-16 (Iowa and Wind River Shoshone); S., pp. 274-80 (Hidatsa); C., v. 3, p. 8 (Teton); Lacroque, p. 10 (Atsina). On half-breeds using the Indian police system in bison hunts see S., p. 495.

³⁰ S., p. 690 (Iowa); Boller, p. 214 (Mandan-Hidatsa); Fletcher (2), p. 580 (Oglala).

the tribe wished to and was expected to be present. Messengers were sent out to every small camp to notify it of the time for the ceremony. If, as rarely happened, some men were slow in coming in to the meeting place a band of 'soldiers' were sent to bring him in. If he were obstinate and still delayed his coming, he was brought by force, and harsh measures might be employed to hasten his arrival. He might be beaten with quirts, his lodge and lodge poles destroyed, and even his horse killed."³¹ General Dodge writing for years just before 1872, of the southern Cheyenne, noted that even in these early days, especially in winter when the small encampments were scattered, bands were often reluctant to go to the trouble of assembling on the call of the priests. But the police ("dog-soldiers" in the frontier literature) compelled them to come or bear punishment for failure to. In a case described the offenders were harshly hustled away from their encampment to the ceremony, but offered no resistance.³² But about this same date (1870-72) there was a famous man among the southern Cheyenne who succeeded in resistance. This man had served as a scout for the whites and "his faith in the power of the tribal sacred arrows had been shaken." Several times he was sent for, but declined to obey. At last, one day, he saw the police coming out for him. He went out to meet them, rifle in hand, and warned them that he would fight to kill. He was a brave and famous and desperate warrior. The police consulted with one another and decided to retire. "He is said to be the only man who ever faced and frightened off a band of the Cheyenne 'soldiers'." Such refusal to come in to the ceremony would bring disaster, spiritually, not only to the individual refusing, but their individual evil state represented something contagious and menacing to the nation as a whole. Normally, if a man or band refused to come, the police would content themselves with destroying their tents and killing their horses, and leaving them destitute. Then the entrance to the tribal encampment for the ceremony would be shifted so that it would not lead in the direction in which the recalcitrants were; this, somehow, mitigated the evil.³³

Protection of Property: An example of police protection of property comes from the Crow. The law forbade any one wilfully to chase game directly toward a moving band of people or toward an encampment. If any one did this, the presumption was that

³¹ Grinnell (1), p. 247; (2), pp. 546, 566, 471.

³² Dodge, p. 277.

³³ Grinnell.

their act was wilful and it required a considerably convincing amount of evidence to prove the contrary. If absence of intent were proven, there would still be punishment, though less than were proven, there would still be punishment, though less than the game rushing the camp, destroyed some property. They failed to prove absence of wilfulness. They were therefore subject to apprehension and punishment under police control. For one month they were required to live out on the open land outside and away from the camp, lonely and hungry, eeking out a miserable existence. In addition, the parents of the youths had to pay for all damages resulting from their act. If the youths violated the order of ostracism, worse punishment would be imposed. If anyone dared to go out to bring them food, this person would be subject to punishment.³⁴

In the case of theft, among the Omaha, the police require compensation for the stolen property, and in addition, flog the thief.³⁵

Supervising Public Works: The police were authoritative supervisors of public constructions such as village stockades. We read of the Hidatsa building such a fort in 1862. The Black Mouth society, who were the police, under their chief Poor-Wolf, ordered the women of the tribe out for construction and then supervised their labor in detail. We read of Poor-Wolf, the chief of the police, knocking down several women with his tomahawk for failing to obey his orders; and of a case where one of the police ordered a woman to go for some poles; when she refused, he shot powder into her back. Her relatives were incensed and resentful, but the pipe-bearer settlers of quarrels checked the quarrel between them and this police before it went further.³⁶

The Hidatsa and other Siouxan tribes of the Plains came into the Plains from the upper Mississippi and Ohio valleys, and the great mounds of the Ohio valley were doubtless constructed under some such supervision as this, with the women furnishing at least considerable of the labor.

Military Policing: War being the young Plains Indians principal road to honor and fame, young men eager for renown had to be restrained, for the good of the tribe, from acting "on their own" without authorization; and older warriors too often required restraint. Dodge tells of an extreme case. Twenty lodges of the

³⁴ Marquis, pp. 145-6.

³⁵ Dorsey: Omaha, p. 367.

³⁶ S., p. 279, from Boller.

Brulé Dakota insisted on disobeying the tribal orders to keep the peace and went off on their own to join the Cheyenne in war against the United States. The police caught up with them on their way. Each deserting warrior and many of their women were whipped unmercifully, their horses were killed, their weapons confiscated and broken, their tents, robes, and finery destroyed, "and the miserable band driven back to camp, beggars, and powerless for good or evil." The punishment here was especially severe, because their act might have involved the whole tribe in war with the United States.³⁷

Among the Crow, in war time, the police acted as guards and sentinels for the encampment. They prevented too many men going off to fight at one time, lest the camp be left defenseless. They prevented men going off individually. It was their duty to see that each war party going out was properly officered and if it was not they appointed a proper captain for it. When it came to battle, it was they who mapped the plan of battle and held back in line those restless warriors who might break out of line and spoil the plan of attack.³⁸

Among the Omaha each war party chose two of its own members to serve as police. Then, if any warrior straggled from the march, it was the duty of these police to soundly flog him.³⁹

Other Police Functions: Among the Assiniboine the police serve as sergeants-at-arms in political assemblages of the chiefs. In one council it was noted that "At a point of violent debate and personal abuse, two 'soldiers' advanced to the middle of the lodge and laid two swords crosswise on the ground, which signal immediately restored peace and quiet."⁴⁰

We find mention of various minor functions at times. Among the Ojibway and Cree of the Plains the police will collect goods for the relief of the needy. Among the Omaha they serve as messengers of the chief during the bison hunt. And so on.⁴¹ But the one function not considered by us yet which we wish to give some attention to, has to do with quarrels and personal violence and murder. The data is fragmentary and difficult to interpret, so we

³⁷ Dodge, p. 264.

³⁸ Leonard, pp. 231, 233; Linderman, pp. 54, 189; Marquis, pp. 145-6.

³⁹ Dorsey: Omaha, p. 321. On the police in war time see also S., p. 690 (Iowa—keeping the line in battle); S., pp. 813-16 (Shoshone), pp. 663-4 (Arikara), pp. 276 (Hidatsa-Mandan), p. 841 (Kiowa); and Denig, pp. 437-8.

⁴⁰ Denig, p. 270.

⁴¹ See Dorsey: Omaha, p. 363; S., pp. 277-9; Boller, p. 214.

wish to defer it to the end of this paper. Meantime we wish to make some summary comment on the punishments meted out by the police, and on their authority to punish.

Authority, and Punishments

Severe flogging even to the point of death, and the destruction of the offenders horses, dogs, tent, robes and other property even to the point where he is left destitute,⁴² were the usual punishments noted as meted out by the police. Some instances we have already offered.

For the Cheyenne, Assiniboine, Arikara, Wahpeton Dakota, and Ojibway of the Plains it is noted that if an offender resists punishment, the police have a right to kill him, and will do so if they feel it necessary.

If an offender in resisting should kill one of the police, the whole body of the police will fall on the murderer and kill him.⁴³

When police kill in line of duty they are not liable to blood revenge by the relatives of the man killed, at least among the Iowa and Arikara,⁴⁴ and no doubt other tribes. Unfortunately there is little data on this subject. An exception appears among the Wahpeton Dakota where a killing police is put through the same ordeal as a murderer and liable to lose his life.⁴⁵

Among the Iowa, if a punished individual complains afterwards about his punishment, the police in a body leave their headquarters, take him from his lodge, strip him and bind him to a post in a public place, and each formally strikes him, counting 'coup.'⁴⁶

But, it appears that among most tribes, if an offender takes his punishment gracefully, the police may reward him by recompensing him in part at least for his property destroyed by them.⁴⁷

The police are required to do their duty in punishing. Among the Kansa there existed a body of officials numbering seven or eight

⁴² For note of the extremes see Dorsey: Omaha, pp. 215.

⁴³ Denig, p. 448; Lowie (1), p. 35 (Assiniboine data). For data on punishment see C., v. 3, pp. 13-14; S., pp. 794-7, 484, 494, 141, 180, 663-4, 690; Dodge, p. 267; Dorsey: Omaha, p. 288. Procedure in punishment is given in some detail in S., 180 (Crow), and in Lowie (1), p. 35 Assiniboine). A very mild form of punishment was to cut off the offenders horse's tail and mane (Leonard, 231-3 on the Crow).

⁴⁴ S., p. 664 (Arikara); S., p. 690 (Iowa).

⁴⁵ S., p. 136.

⁴⁶ S., p. 690.

⁴⁷ S., pp. 794-7 (with details of procedure) (Ponca data); S., pp. 494, 141, 663-4 (Plains Ojibway, E. Dakota (with procedure), and Hidatsa); and Lowie (1), p. 35.

whose duty was to *lash the police* with whips in any case where the police failed to lash an offender!⁴⁸

Nor were the police themselves above the law. We have a case cited where a chief of the police society of the Crow was subjected to the usual punishment for adultery three different times. He was most unmercifully flogged by the offended husband and the husband's relatives and all his horses and property were destroyed as well as many horses of his relatives. Fifty of his horses and five hundred of his relatives were killed. After the third flogging the police intervened to advise the offended husband to settle the matter on a property basis since it was evident his wife wanted to go to live with the offender. These floggings, though not under police supervision nor by the police were formal methods of punishment; the offended did not resist but took it as a matter of course. It was forbidden, however, for the floggers to draw so much as a drop of blood; if they did their own lives might be forfeit.⁴⁹

Among the Teton Dakota, if a member of the police came late to a formal council of the police, the council might punish him by cutting up his robe and other clothing.⁵⁰

High civil officials were subject to flogging for dereliction, at least among the Ponca, where the leader of the Bison hunt might be punished for misjudgment.⁵¹ Substitution is noted in this connection. Among the Oto the bison hunt leader ordered that a certain young chief for an offense should be lashed on the bare back with a heavy horse whip. The young chief's relatives consulted and decided that the young man's brother in law should take the punishment for him;—why, is not stated.⁵²

Finally, we may note an odd taboo. Among the Blackfoot, the Catcher's society, when they served as police, might not enter water to make an arrest. An offender then might escape by fleeing into water.⁵³

Our informants afford us but little data on as to the promptness of punishment by the police. It appears, however, that when a breach of law is obvious, punishment is prompt or immediate.⁵⁴ Among the Assiniboine, however, we read that in the matter of

⁴⁸ S., p. 722.

⁴⁹ Beckwourth, pp. 162-3.

⁵⁰ C., v. 3, p. 221.

⁵¹ S., p. 795.

⁵² Green: Oto, p. 200.

⁵³ S., p. 410.

⁵⁴ Dodge, p. 267 (S. Cheyenne).

offenses in the bison hunt punishments are deferred until after the termination of the hunt. Then the police in a body go to punish the offenders.⁵⁵ In Omaha cases of offenses we read of the civil chiefs inquiring into the case and appointing police to go to the offender's tent to flog him.⁵⁶ Among the Crow the civil head chief could veto any decisions of the council of police,⁵⁷ so presumably some questions were put to him by the police. We have no data on the question of whether an individual police could determine for himself whether a violation of the law had been committed or not and if he could then punish without calling on his fellows or on the council of the police. From what we know in other respects of the organization of these tribes it is likely that formal procedures existed which protected an individual from arbitrary acts of the police.

The Handling of Quarrels and Murder Cases

In a previously published study covering murder among the Menominee and related central Algonkian⁵⁸ we found that a murder situation was taken in hand by an official among the police force known as the pipe-holder. A further analysis of the facts indicates that the pipe-holder is only incidentally associated with the police because among the Menominee and their neighbors, as we have indicated above the police include all the more capable warriors of the tribe. Properly, I believe, the pipe holder may be considered a civil official, primarily, in charge of the sacred pipe possessed by the Bear clan.

In certain Plains tribes we find the civil chiefs with sacred pipes, not officials of the police, taking the lead in murder cases and quarrels likely to lead to murder. Among the Crow, however, it was the duty of the police to produce the pipe in quarrels. We read, for example, of two leading warriors falling into a quarrel. One of them tells the story.—“We drew our battle axes at the same instant and rushed at each other, but before either had an opportunity to strike, the pipe was thrust between us, compelling us to desist,—to disobey which is instant death.” The quarrel being thus stopped, the police then, learning the facts which led up to it, turned on the real troublemaker in the quarrel and roundly re-

⁵⁵ Lowie (1), p. 35 (with details of procedure).

⁵⁶ Fletcher (1), p. 215.

⁵⁷ Leonard, pp. 231-3; Marquis, 145-6.

⁵⁸ Mac Leod (2).

buked him for his insulting remarks to the other. This quarrel was not continued, but the matter was dropped between the two adversaries as far as personal violence was concerned. The facts of this narrative indicate that if a quarreller failed to quiet down when the police produced the sacred pipe, the police would instantly kill him.⁵⁹

Such police intervention, added to the spiritual and other consequences of murder, appears to have been tremendously effective among the Crow. Denig, who knew them for a number of years before and after 1854 wrote in that year that murder was somewhat rarer among the Crow than among other tribes of the upper Missouri, and that for the Crow he had heard of *only one murder in a period of forty years!* This murderer fled to another tribe (the Shoshone) for refuge. Twelve years later he returned to his home but "was obliged again to leave" and was never afterwards again heard of.⁶⁰ Other sources on the Crow indicate the rarity of serious quarrels among them and afford us some examples of remarkable personal forbearance (motivated in part, one may presume, by fear of the consequences of murder).⁶¹

The horror of murder among the Crow is exemplified in a case described where a man slew a boy, in angry impulse, for a slight offense. The murderer then, apparently horrified at his act, did what appears to us a very amazing thing! He chopped off his own fingers, gashed his own legs, and cut off his own hair. These acts are acts of sacrifice among the Crow, and the sacrifice of a finger or two was usual in mourning for any one dead. The self-mutilated murderer then fled into his relatives' lodge. His relatives gave property to the boy's kin, and these latter spared the killer's life, contenting themselves with killing his horses.⁶² In note of another wilful murder case among the Crow we see the sacred pipes being carried to the relatives of the victim with property gifts with the request that they desist in seeking vengeance, and they so agreed.⁶³ In yet another wilful murder case, we read merely that the murderer did not go free although his life was spared; he was soundly flogged by the police, all his horses confiscated, and his relatives

⁵⁹ Beckwourth, p. 115. Lowie (2) refers to a note of the police stopping a quarrel between two societies among the Crow.

⁶⁰ Denig, pp. 479-483.

⁶¹ Marquis, pp. 182-3.

⁶² Lowie (2), p. 230; another murder case, less intelligible without interpretation is given on p. 187. On finger, blood, and hair sacrifice in North America see MacLeod (3).

⁶³ Lowie (2), pp. 187-8.

heavily fined.⁶⁴ Our data indicate that while there may have been but one murder among the Crow from about 1812 to 1854, there were evidently at least several of them from 1854 into the 1870's for which period our later data hold.

Our data on the above discussed murders is neither ample nor interpretive, so we can not go further in clarifying the facts for this tribe, unfortunately. It is evident, however, that a life for a life was not a compulsory requirement; and, further, that the police had important functions to fulfil.

For the Cheyenne we have less data, but it is significant of the horror in which murder was held. We have no note of any punishment for the murder except that of ostracism. (This punishment we have already noted among the Crow for lesser offenses.)⁶⁵ Whether the murder were wilful or accidental, the punishment is the same. The killer is permanently expelled from his fraternity and he and also his relatives are obliged to camp apart from the body of the tribe. The taking of life, it appears, polluted the whole people, for after it the four holy arrows of the tribe are exposed to public veneration in order that the stain of blood may be wiped from the people.⁶⁶

The horror of murder as a tribal pollution, the penalty of ostracism in place of blood revenge, and procedure, are fairly well exemplified in our data on the Omaha. Murder is such a terrible thing that it is important that quarreling between persons be prevented lest it lead to the great crime. When a serious quarrel develops, the civil chiefs produce one of the sacred pipes and order the quarrellers to cease. Then, if blows have already been struck, the police soundly flog the person who struck the first blow!

When the Omaha first were influenced by white civilization *ante* 1854 drunkenness spread among them and led to quarrelling. So for drunkenness in itself they imposed the following penalty: ten police each gave the offender one lash. This punishment ended the evil of drunkenness.

If someone has been killed, among the Omaha, the chiefs as-

⁶⁴ Marquis, pp. 182-3.

⁶⁵ See note 33 above.

⁶⁶ Mooney (1), p. 105. Dodge, whose data is almost wholly southern Cheyenne writes (without clarification) that crimes against individuals may be settled with property but crimes against the state may not be; the latter are punished by flogging. In property settlements in the former, the amount to be paid is assessed generally by the chief, assisted, in important cases, by two or more prominent men (p. 267). Perhaps this particular data is not Cheyenne. On p. 287 he mentions the spread of a vendetta.

semble gifts of property, contributed, not by the relatives of the murderer, but by the tribesmen in general (each person contributing being credited with an act of public service) and the chiefs take this property with the sacred pipes, to the relatives of the victim. Our data is not clear here, but it appears that if the killer is a notoriously bad character his relatives will not protect him and his life may be taken. Otherwise, however, the relatives of the victim may accept the gifts and the life of the murderer is spared and he is given the penalty of ostracism for a definite period. A killer is hated by the gods; he labors under many taboos which apparently are designed to purify him of the shedding of blood; and for four years he must live out on the prairie away from the village. His wife is permitted to come to him to bring him food. The relatives of his victim may relent and permit his return to normal life before the end of the four years.⁶⁷

On another point our data is again unclear; but it does seem that both accidental and wilful killing were considered as equally terrible and punishable, though the ostracism may perhaps have been for a shorter period in the case of accidental killing.⁶⁸

For the Ponca, near kind of the Omaha, we have described the procedure in accidental killing; it is about the same as that described for the Omaha in wilful killing. First the killer goes through a ceremony over the body of his victim, which, it would appear, must be intended to ward off the danger to him and the tribe from the soul of his victim. Then follow the negotiations and final ostracism.

The Omaha and Ponca were concerned over killing, in part because they believed that it could lead to starvation for the whole tribe. The soul of a tribesman slain through the agency of a fellow tribesman was believed to stay about and cause trouble; particularly, it had the power to raise winds, and would do this when the tribe was hunting, giving the animals the scent, with the result that the hunt would fail and the people starve.⁶⁹

Among the Dakota the tribal fear of the consequences of murder was such that a potential murderer might be put out of the way

⁶⁷ Dorsey: Omaha, pp. 364, 369-70. In Fletcher's version (Fletcher (1) pp. 215-16, the chiefs first order ostracism, and *then* approach the relatives to ask them to forego vengeance.

⁶⁸ See Dorsey: Omaha, p. 370; and see the situation described in La Flesche: Buffalo, on an accidental blood shedding.

⁶⁹ Dorsey: Omaha, p. 370. For the nearby Iowa we are told only that it is the duty of the police to stop quarrels (S., p. 690); and that the kin of a victim may demand vengeance or may instead accept property payments.

to prevent the possibility of murder. A tale is told of a man who was always causing quarrels as a result of his amorous adventures. The chiefs met and discussed getting rid of him. Several times they asked his brother to kill him, promising goods compensation for the death. At last the brother consented to his death. The prospective victim was not notified, and at a game "someone," according to the plan, shot him from behind. "Then they declared the country polluted" and moved the encampment.⁷⁰

So far we have met no note of any allowance for self-defense in a killing. But among the Dakota we have note of one man killing another while both were out on the prairie. On his return, the killer went immediately to the lodge of the council. There he was questioned "officially" by four officers. He asserted that he had killed in self-defense. The victim was a man considered incorrigibly evil, so the killer's story was believed, and he was freed by the council, apparently with no punishment.⁷¹

Our most informational data on murder among the Dakota is for the early date of *ante* 1719 when the Dakota had not yet moved out of the Minnesota grass and woodlands into the more westerly Plains. The facts indicate that at this time at least their handling of murder was similar to that of their central Algonkian neighbors.⁷² Upon a killing, the nearest relative of the deceased was expected to take blood revenge. As a result, a vendetta might set in; in as little as three hours there might be five or six laying dead as a result of the original murder, relatives avenging relatives. The reckless killing stops only when the elders of the families concerned are able to approach one another for negotiations. Then: "the elders of each family assemble, and the elders of the family of the last murderer have him taken, bound like a prisoner of war, and lead him to where are gathered the elders of that family whose members he has slain, he being bound with his arms behind his back, with his legs tied, and a rope around his neck, by which he is led. . . ." In one hand he carries a rattle and in the other a peculiar staff, five or six feet long, trimmed with crow's feathers and with various emblems. His whole body is painted black. He is then handed over to the family of the man he has slain (note that he may not be the original killer, but merely the last vengeance taker). The

⁷⁰ Deloria, pp. 159 seq. The tale is of Pawnee origin however; but the facts are paralleled elsewhere, in fact, in North America.

⁷¹ Deloria, p. 255.

⁷² On whom see MacLeod (2).

relatives of his victim may then execute him, and the affair, apparently then is ended; but usually they will have already promised his relatives to release him, and this they will then do.⁷³

Among the Ojibway of the Plains the police stop quarrels, holding a sacred pipe between the contestants if necessary. In any case, if the contestants do not cease, then the police flog the disobedient, and if he resists, may kill him then and there.⁷⁴

Among the Blackfoot it is the band civil chiefs who intervene in quarrels. These chiefs also attempt arbitration in case of a killing, the scant data available suggesting something like the central Algonkian scheme of negotiations. Compensation usually accepted by the relatives of the victim; if they do not accept a vendetta may go forward, but in order to avert it the hostile bands will avoid each other in the future.⁷⁵

The data on murder among the Assiniboine is extremely aberrant for North America and could hardly be credited save that our source in this case is rather dependable, and there is slight corroboration from elsewhere. Since this tribe was originally an eastern Dakota group one is led to think that their condition in some respects represents a state of social breakdown or decay from their state in their old home on the upper Mississippi. The following is an outline of their scheme as represented through several instances of killing in self-defense recorded by Denig. Since these are not cases of wilful murder, presumably the Assiniboine, like many other North American peoples, make no distinction in so far as punishment is concerned between wilful and other killing of a fellow tribesman. A killing leads to a vendetta which can never end. Each nearest relative is bound to kill the killer. Vengeance, however, is not taken on any substitute for the killer himself (such as a relative of the killer). Goods compensation of a murder is *not* acceptable at any time. A vendetta carries through generations. Many of the clan of the chief Wahemuzza were slain in the course of a vendetta and it was terminated only when a plague of small-pox killed off the survivors of one of the two avenging clans. While

⁷³ Neill, p. 234.

Quite without parallel in North America is the note on the Wahpeton eastern Dakota (S., pp. 136-137) concerning (1) a man who had killed the seducer of his wife and (2) a police who had killed an offender in line of duty; in each case the killer is put through a peculiar ordeal involving riding a horse (not an aboriginal animal) bareback; if he fall off, then the relatives of his victim kill him; if he holds on he is spared.

⁷⁴ S., p. 439.

⁷⁵ Wissler. See also S., p. 279, on pipe-bearers stopping quarrels (Hidatsa).

property settlement was impossible, nevertheless property might arrest the vendetta. When a man kills, he flees to some other tribe for refuge. Then his kin will approach the kin of his victim and ask them to dampen their zeal so far as to not to seek the killer out. The relatives of the victim may accept the property and forego active pursuit. But the nearest kin of the victim remains under moral obligation to take vengeance if he ever actually meets the killer, who might, on occasion, return to visit his home. When the killer dies without having been slain in revenge, then the feud ends since vengeance is taken only on the killer. Cases are noted where the murderer failed to keep out of the way of the avenger and even though his relatives had annually paid over property to the avenger and his relatives, for some years, still vengeance was taken.⁷⁶

Concluding Note

Though our data on police organization and the police function are most ample and startling from the Plains tribes, nevertheless among most or all the bureaucratically organized tribes of North America the police function was performed by special groups or individuals. We cannot here go into the data for other North America. But we should observe in concluding this paper that it becomes evident that the particular development of police in the Plains is a Plains variation of police control as it existed among the Plains peoples at the time they lived in the Minnesota woodlands before their eighteenth century migration into the bison-filled Plains, a migration which was facilitated by the introduction of the horse. Our first note of the police of the Dakota, curiously enough, is Hennepin's, recorded in 1680 at a time when the Dakota had not yet left the woodlands. The police organization, and, in fact, the entire political patterning of the central Algonkian and Siouxans of the north central woodlands is fundamentally similar to that of the peoples of the southeastern woodlands of North America. Even the special adaptation of the police system of the Plains to the requirements of the communal bison hunt may conceivably have been

⁷⁶ Denig, 475, 479-83, 454. Denig gives details on procedure in negotiations between families. There is no note of chiefs as go-betweens. On the Assiniboine see also Dorsey (1), p. 224. The only deterrent to murder among the Assiniboine noted is the impoverishment of one's relatives due to the heavy property payments. By way of comparison we note the following: Among the Kootenay (Chamberlain, p. 559), the Carriers (Harmon, pp. 193, 257) the Shasta (Dixon, p. 453) and the Tsimshian (Mayne, p. 292) it appears that property paid to the relatives of the victim, as among the Assiniboine, did not mean that they would not take revenge.

made in southeast among the tribes marginal to the Plains. The Natchez, for example, and the Bayougoula, used to go on communal bison hunts into the Plains in days before the introduction of the horse, and it is not possible to conceive of their communal bison hunts being successfully conducted without an adequate police organization.

The above concerns the historical aspects of the police problem. We should mention also something of the sociological aspects. The police of the Plains tribes are, one may say, merely one facet of an elaborate and highly complex bureaucratic political organization. Their existence reflects, not the development of an organ of control of economically exploited groups within the community developed by exploiting groups; for, as we have explained, the Plains peoples represented a condition of considerable economic democracy. The Plains police were, therefore, a rather democratic organization devoted to the maintenance of law and order in the interest of the people as a whole. Now, we meet a most remarkable contrast here with society in another part of North America. On the northwestern coasts of North America we find a native class society in which there was degrading economic exploitation of a large mass of hereditary slaves numbering from one-tenth to one-third of the population according to the tribe, and in addition a section of exploited free men, debtor slaves and such. Yet in this class society there was no policing and there were no police. Somehow, they muddled through without them. But one would have expected them to have developed some organ of the state for suppression and oppression and defense of property privilege. That they did not I think is answered in part by the fact that bureaucratic political organization had not evolved among them or been diffused to them. As I have tried to point out elsewhere, "The form of a people's political organization is normally not a function of that people's economic or other organization; instead, the form of a people's state is a function of that people's historical contacts." The development of the police function and of police organization, therefore, of a given society, is to be viewed not only in terms of inner necessities, but in terms of the history of that people's bureaucratic political pattern.⁷⁷

⁷⁷ MacLeod (5), p. 128; and my thesis I have modified in the light of a more correct appraisal of the historical materialist thesis in MacLeod (6).

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