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## Crime and Punishment in Antebellum Pensacola

by James M. Denham

In the spring of 1828 Pensacola, Florida suffered a serious crime wave. The Escambia County Grand Jury with a “highly laudable determination to do their duty,” found twenty bills of indictment after a “most laborious session of thirteen days. The panel indicted two men named Alvarez and Gray for murder, though both remained at large throughout the entire session. Convicted mail robber Martin Hutto escaped for the second time with a convicted burglar named Enoch Hoye who received the customary punishment for thieves: thirty-nine lashes (with ten extra stripes thrown in for good measure) and two hours on the pillory. The postmaster offered a \$50 reward for Hutto’s arrest. Overall, Benjamin D. Wright, U. S. Attorney for the Western Judicial District of Florida, secured seven convictions on twenty indictments with fines totaling \$106.<sup>1</sup>

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1. The proclamation for Hutto’s arrest described the man as about “six feet high, stout built, dark complexion; has large black whiskers, and a very bad countenance. It is supposed that he has made for Mobile, and intends to take shipping from that place to the North.” *Pensacola Gazette*, May 23, 1828. For the criminal career of the notorious robber Martin Hutto see *Pensacola Gazette*, September 7, November 7, 1827, January 25, May 9, 16, 23, October 14, November 11, 1828; *Pensacola Florida Argus*, November 11, 1828; Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, 343, 347; *Territory of Florida v. Martin Hutto* (1828), Escambia County, Case Files (Escambia County Court House, Pensacola, Florida); Postmaster General to William H. Hunt, November 30, 1827; Postmaster General to Benjamin D. Wright, April 12, 1828; Indictment and Judgment Against Martin Hutto, May 1828 in Clarence Carter, ed. *Territorial Papers of the United States*, (Washington, D.C.: United States Government Printing Office, 1960), 23: 940, 1062, 24:17-19. See also Brian Rucker, “Hutto the Highwayman,” *Pensacola History Illustrated* 4 (1995): 13-19; Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, 343-533.

The heavy criminal activity in the spring of 1828 in Pensacola was not unique for most years in the antebellum decades. It was typical. This essay explores crime and its prosecution in Antebellum Pensacola and Escambia County during this time frame. Historians are fortunate in having many excellent sources with which to study varied aspects of crime and punishment in antebellum Pensacola. Escambia County Superior and Circuit Court minutes and case files are available—with no gaps—for the entire antebellum period. While they contain prosecutions from all areas of the county, they can—when utilized with newspapers, state prosecution records, and other sources, shed light on many aspects of criminal activity in Pensacola, including the types of crimes that were committed, the frequency to which they were committed and the success or lack of success to which they were prosecuted. Patterns of punishment can also be discerned.

What kind of place was Pensacola? How was it similar or different from other communities in the antebellum South? Was Pensacola as violent or as prone to law-breaking activity as other Gulf towns? Pensacola's experience was similar to other Gulf towns like New Orleans, Apalachicola, Key West—and even Tampa, which in the antebellum period only contained a fraction of the population of those towns. Escambia County's seat, like other Gulf towns, contained a heterogeneous population of Anglo-Americans, Blacks (both slave and free), and Spanish Creoles who remained in the town after Spain transferred the Floridas to the United States in 1821. Previous to the cession of Florida, Pensacola had served as a confluence of cultures as Spaniards, Blacks, Scots traders, and Native Americans (primarily Creeks) frequently visited and intermingled. Pensacola's status as a port attracted sailors and immigrants from around the world. In 1850 Escambia County contained slightly over 4,300 persons, with whites outnumbering blacks by a ratio of two to one. The county had the largest free black population in the state (375), most of whom resided in Pensacola.<sup>2</sup>

2. On criminal activity in New Orleans and along the Gulf coast, see Dennis C. Rousey, *Policing the Southern City, New Orleans, 1805-1889* (Baton Rouge: Louisiana State University Press, 1996); Derek N. Kerr, *Petty Felony, Slave Defiance, and Frontier Villainy: Crime and Criminal Justice in Spanish Louisiana, 1770-1803* (New York: Garland, 1993). While Franklin and Calhoun County circuit court minutes that would reveal criminal prosecution for the Gulf coast towns of Apalachicola and St. Joseph are unavailable, criminal activity as revealed in state prosecution records and newspapers demonstrates a similar pattern of criminal activity. For antebellum criminal activity in Apalachicola,

The Scots-Irish, the antebellum South's predominant ethnic group, made up the majority of Pensacola's population. But these folk came into contact (sometimes violently) with Northerners, Europeans, and subjects of Spain's Caribbean colonies. Cultures fused but sometimes clashed and Pensacola had much experience with violence and mayhem. As Florida's most important port on the Gulf of Mexico, Pensacola enjoyed easy access to New Orleans, Mobile, and Apalachicola. As one observer noted, the town was exposed to any number of "itinerant gamblers and other rogues." Fugitives from justice and runaway slaves also made their way to the Escambia County seat from inland villages and communities by trudging down sandy trails or by floating down the Escambia, Perdido and Blackwater rivers. In 1844, for example, Pensacolians were warned to be on the lookout for Benjamin Wood, a fugitive who had killed a man in Mississippi and ran away with his slave. Wood had black hair, beard and eyes, and often wore a "down or Cain-like expression of countenance." Wood was also wanted for shooting his overseer in Monroe, Alabama. The Mississippi governor offered \$300 for the absconding planter's capture and speculated that he would probably escape to Texas via Florida.<sup>3</sup>

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Key West, and Tampa, see James M. Denham, "A *Rogue's Paradise*": *Crime and Punishment in Antebellum Florida, 1821-1861* (Tuscaloosa: University of Alabama Press, 2005), 41-43, 56-57, 59, 76-77, 79-82, 91-92, 156, 195-99, 234-47, 264-68; idem, "Bringing Justice to the Frontier: Crime and Punishment in Antebellum Hillsborough County" *Tampa Bay History* 19 (Fall/Winter 1997): 77-91. Those interested in comparing violent crime rates in counties in Florida with other U. S. counties and cities, as well as select European and Australian cities, can do so by consulting the Historical Violence Database: A Collaborative Research Project on the History of Violent Crime and Violent Death at Ohio State University, <http://www.cjrc.osu.edu/researchprojects/hvd/> (accessed July 7, 2011). On Pensacola during the period examined, see Herbert J. Doherty, "Antebellum Pensacola," *Florida Historical Quarterly* 37 (1959): 337-56; Ernest F. Dibble, *Antebellum Pensacola and Its Military Presence* (Pensacola, FL: Pensacola Development Commission, 1974); George F. Pearce, *The U. S. Navy in Pensacola from Sailing Ships to Naval Aviation, 1828-1930* (Pensacola: University of West Florida Press, 1980); Denham, "A *Rogue's Paradise*," 38-40, 162-64, 172-74; James M. Denham and Keith L. Huneycutt, eds., *Echoes from a Distant Frontier: The Brown Sister's Correspondence from Antebellum Florida* (Columbia: University of South Carolina Press, 2004), 202-28; Paul E. Hoffman, *Florida's Frontiers* (Bloomington: Indiana University Press, 2002), 233-35, 257-59, 265-66; William S. Coker and Thomas D. Watson, *Indian Traders of the Southeastern Spanish Borderlands: Panton, Leslie & Company and John Forbes & Company, 1783-1746* (Pensacola: University of West Florida Press, 1986), 284-85; 86-91, 104-07, 128-34, 330-49.

3. Pensacola *Gazette*, May 2, 1838; Proclamation for the Arrest of Benjamin Wood, in Pensacola *Gazette*, October 12, 1844.

Pensacola also was not immune to violence committed by local soldiers, sailors, and settlers. Urban activity in Pensacola revolved around the inner city, dock areas, Cantonment Clinch, and the naval yard at Warrenton. Forts McRae (on the west shore of the bay's entrance), Barrancas (facing directly toward the opening), and Pickens (on Santa Rosa Island) guarded Pensacola Bay. The military presence contributed both to the city treasury and to urban tumult. Scenes of violence, public disorder and varied forms of law breaking plagued Antebellum Pensacola, and this activity vexed public officials and citizens as a whole.

The spring 1828 term of the Escambia County Superior exemplified many of the themes and problems characteristic of prosecution of lawbreakers in the antebellum South. Inefficiency and chronic underfunding was the norm in the South, and a glaring characteristic of Escambia County government, particularly in Florida's territorial period (1821-1845). Sheriffs, U. S. marshals, and their deputies worked on fees and citizens were loath to pay taxes to incarcerate criminals, or pay for other necessary expenses. Richard Hasell Hunt, postmaster, community builder, and editor of the Pensacola *Gazette*, proclaimed, in words not dissimilar to those of onlookers in other locales in the Antebellum South, that

Our Criminal Jurisprudence is little less than a dead letter. There is no disposition to bring offenders to justice, because there is not the means of punishing them. The treasury is empty, and no efficient measures have been adopted to replenish it—Hence the executive officers of our courts have been constrained from motives of humanity to let the offenders go free, because the credit of the Territory is too poor to furnish provision to support them in jail. The petty taxes granted by the last Council were wholly inadequate to the existing demands upon the Treasury, to say nothing of such as the passing events may create. The compensation also prescribed for the collector was so pitiful that no person could be found in this county who would collect the taxes even at the highest limit of the law. Hence the quota expected from this county, will remain in the people's pockets till a more efficient means of collection is adopted. We close by a single remark that the people generally, would be better satisfied to pay higher taxes, if they could at the same time see whole laws well

executed & offenders prosecuted with affect. At present they see the parade and show of a government, but never witness its vigor or salutary restraint.<sup>4</sup>

What did contemporary Americans, Floridians, and Pensacolians think were the causes of crime? Almost everyone—politicians, newspaper editors, judges, and travelers—held an opinion. Most believed that drinking, gambling, moral depravity and a southern penchant for “hot blood”—both separate and together—were causes of violence and crime. Modern-day historians and social scientists have studied the subject carefully and have offered numerous causes of violence and crime, citing ethnic conflict, economic and racial conflict, a free-for-all political process, and America’s and the South’s unique “root-hog-or die” system of individualism as prominent factors. The South’s honor system—a network of values that underpinned Southerners’ relationships with one another, as Bertram Wyatt-Brown has persuasively argued—also contributed to the region’s penchant for violence. In a similar vein but with specific reference to Florida, Edward Baptist has noted that a propensity toward violence among men who migrated to the state sprang from anxiety over status. “Desire for mastery and antipathy toward submission dominated the individual consciousness and collective unconscious of white men who moved to Florida,” he wrote. But slavery, an institution held together by force (or the constant threat of force), historians argue, nurtured and sustained violence among southerners. The South’s status as a frontier certainly contributed to its violence. But according to Grady McWhiney, so did its condition as the primary receptacle for Scots-Irish emigration. Finally, in a compelling recent study on the roots of American violence, Randolph Roth has asserted that America’s ebb and flow of violence over its entire history has been determined by “the feelings

4. Pensacola *Gazette*, July 1, 1828. Three weeks later, in the same vein, Hunt declared, “Almost every person, who has honestly demeaned himself in any office under our Territorial Government, is suffering for want of the miserable pittance of his hard-earned fees . . . . If taxation must be resorted to—let it be done promptly and fearlessly—nothing is to be gained by delay; and let our Legislators be careful that their laws be such as can be enforced. Moderate taxes, regularly collected and correctly disbursed, would keep the faith of the Public unimpaired and would not be felt by those who paid them.” Pensacola *Gazette*, July 22, 1828. For the fee system and its hardships on law enforcement personnel in the antebellum era see William W. Rogers and James M. Denham, *Florida Sheriffs: A History, 1821-1945* (Tallahassee, Florida: Sentry Press, 2001), 6-55; Denham, *A Rogue’s Paradise*, 148-51.

that people have toward their government, the degree to which they identify with the members of their own communities, and the opportunities they have to earn respect without resorting to violence."<sup>5</sup>

Pensacola's Richard Hasell Hunt thought criminal activity was directly linked to intemperance and gambling. But he also blamed negligent public officials and lawmakers, who provided inadequate resources for law enforcement. Hunt insisted that jails were essential to proper administration of the law, and the lack of means to incarcerate dangerous criminals, he argued, had the effect of increasing law-breaking. Officials failed not only in the building of jails but also in the maintenance of prisoners. Conflicts over

5. Edward Baptist, *Creating an Old South: Middle Florida's Plantation Frontier before the Civil War* (Chapel Hill: University of North Carolina Press, 2002), 102; Randolph Roth, *American Homicide* (Cambridge: Harvard University Press, 2009), 3; Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (New York: Oxford University Press, 1982); Grady McWhiney, *Cracker Culture: Celtic Ways in the Old South* (Tuscaloosa: University of Alabama Press, 1982); McWhiney, "Ethnic Roots of Southern Violence," in William C. Cooper, Jr., Michael J. Holt and John McCardell, eds. *A Master's Due: Essays in the Honor of David Herbert Donald*, (Baton Rouge: Louisiana State University Press, 1982), 112-37. For additional insights into violence in antebellum Florida, see James M. Denham and Randolph Roth, "Why was Antebellum Florida Murderous? A Quantitative Analysis of Homicide in Florida, 1821-1861," *Florida Historical Quarterly*, 86 (2007): 216-39; Denham, *A Rogue's Paradise*, 205-08. For studies of crime and punishment in the antebellum South, see Edward Ayers, *Vengeance of Justice: Crime and Punishment in the Nineteenth Century American South* (New York: Oxford University Press, 1984); Michael Hindus, *Prison and Plantation: Crime, Justice, and Authority in Massachusetts and South Carolina, 1767-1878* (Chapel Hill: University of North Carolina Press, 1980); Jack Kenny Williams, *Vogues in Villainy: Crime and Retribution in Antebellum South Carolina* (Columbia: University of South Carolina Press, 1959). For information on southern violence, see John Hope Franklin, *The Militant South, 1800-1860* (Cambridge: Harvard University Press, 1956); Dickson Bruce, *Violence and Culture in the Antebellum South* (Austin: University of Texas Press, 1979); Samuel C. Hyde, *Pistols and Politics: the Dilemma of Democracy in Louisiana's Florida Parishes, 1810-1899* (Baton Rouge: Louisiana State University Press, 1996). While this essay integrates both white and black law breaking, a number of excellent works on slave criminal activity and its requisite response have informed this work. The best recent work is Glenn McNair, *Criminal Injustice: Slaves and Free Blacks in Georgia's Criminal Justice System* (Charlottesville: University of Virginia Press, 2009). See also Hindus, *Prison and Plantation*; Philip J. Schwarz, *Twice Condemned: Slaves and the Criminal Laws of Virginia, 1705-1865* (Baton Rouge: Louisiana State University Press, 1988); A. E. Keir Nash, "Fairness and Formalism in the Trials of Blacks in State Supreme Courts of the Old South," *Virginia Law Review* 56 (1970): 64-100; Larry Eugene Rivers, *Slavery in Florida: Territorial Days to Emancipation* (Gainesville: University Press of Florida, 2000).

jurisdiction in the territorial period between city, county, territorial, and federal authority perplexed officials on the scene.<sup>6</sup>

In 1828, for example, Editor Hunt inveighed against the lack of a suitable jail. Four years earlier, a makeshift jail was put in the courthouse basement but this situation proved inadequate. In 1827, U. S. Marshal William Sebree complained to citizens, federal authorities, and anyone else who would listen, that he had many prisoners, but no means to provide for them. Neither Congress nor Florida's legislative council had appropriated funds to feed prisoners. That summer, Sebree took into custody two dangerous men: John Pate, accused of robbery, and William Frye, charged with stabbing his wife. A few years earlier, when Sebree appealed to Judge Henry Brackenridge for direction, he was told that the marshal was not duty bound to feed prisoners out of his own personal funds. "All that can be expected of you," the judge told Sebree, "is to keep them as safely and as consistent with the feelings of humanity [as you can]. Rather than suffer them to perish of hunger; you will be justifiable in turning them out of prison."<sup>7</sup>

Sebree's immediate concern, though, was the maintenance of prisoners Pate and Frye. Eleven days after Pate's arrest his attorney appealed to the county judge for the prisoner's relief. Under the circumstances of his confinement, Pate was "under fair prospects of perishing of hunger." He had not eaten since his arrest. The judge ordered Sebree to either release Pate or provide for him out of his own funds. Responding that he had no public or private funds at his disposal, Sebree released Pate. Frye's confinement was considered so critical to the community's safety that a town meeting at the courthouse resolved that application be made to the Pensacola Board of County Aldermen for a special appropriation. A committee of citizens appeared before the board seeking funds, but the requests were rejected and Frye was released.<sup>8</sup>

Editor Hunt expressed his outrage at this state of affairs through satire. In a column entitled "Important to Murderers &c!" he declared that "vagabonds, thieves, counterfeiters, and other criminals to whom these presents may come, will see" by the situ-

6. For Hunt's comments see *Pensacola Gazette*, October 26, November 2, 1827, September 30, 1828; March 10, 1829. Also for conflicts over jurisdiction see Denham, *A Rogue's Paradise*, 26-27, 142; Rogers and Denham, *Florida Sheriffs*, 17-22.

7. *Pensacola Gazette*, September 23, 1828, June 8, 1827, August 21, 1824.

8. *Ibid.*, June 8, 15, 1827.



ation in Pensacola "that there is at least one place where they can with impunity perpetrate their crimes." The experience of the previously mentioned Martin Hutto, another of Sebree's prisoners, exemplified the farcical situation. Accused of mail robbery, Hutto escaped from custody three times before he was convicted and sentenced to two years in jail. Hutto escaped for the fourth time only days after his sentence was pronounced.<sup>9</sup>

In 1839, the Pensacola *Gazette* reported that money obtained by selling runaway slaves was being applied to the building of a substantial jail. By the late 1830s, Pensacola had a jail but like most other antebellum Florida lock-ups, it was incapable of holding resourceful criminals determined to break out. In 1839 juggler-magician Julius Cowles, accused of murder in Jones County, Georgia, and his accomplice, a man named Dickinson, escaped the jail by means of false keys. John Henderson, charged with the murder of David William Jones, also escaped from the Escambia County jail in 1845. Captured in New Orleans and brought back to Pensacola, Mayor Charles Evans assured Gov. W. D. Moseley that they had "taken the precaution to put the jail in as safe a condition" as they possibly could. "I have also made arrangements and have now a suitable family residing in the upper story; all prisoners charged with capital offenses are kept in a separate room and chained with a single iron. I have deemed it proper to make this explanation in order that you might not be misguided as to the probability of the accused being kept until June next, and also of his being prosecuted successfully."<sup>10</sup>

Despite Major Evans's assurances, the Pensacola jail remained leaky. The same year as Henderson's escape and capture, a horse thief from Santa Rosa County and John Branch, accused of murder in Thomas County, Georgia, used an auger to cut away the facing of the door where the lock of the Pensacola jail was attached. The escape was especially embarrassing to Pensacola authorities

9. Ibid, June 8, 15, 1827, September 7, November 9, 1827, January 28, May 23, 1828; Pensacola *Florida Argus*, November 11, 1828; Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, p. 387. See also Rucker, "Hutto the Highwayman."

10. Pensacola *Gazette*, February 16, 23, March 2, June 15, 1839; Proclamation for the Arrest of John Henderson, October 5, 1845 in Book of Record (Proclamations) RG 150, series 13, Book 1, #5, p. 4, (Florida State Archives, Tallahassee, Florida); Tallahassee *Florida Sentinel*, October 14, 1845; Charles Evans to Governor William D. Moseley, March 10, 1846, Correspondence of W. D. Moseley, RG 101, series, 679, box 2, folder 9, Florida State Archives.

because as a local newspaper reported, the escape represented the “labor of several hours and produced considerable noise. But what difference does that make, no one lives in or near the jail, and there is no city Police to guard it!” This was the second time within a month that a murderer had escaped from the jail. “It is a mere mockery to commit felons to prison,” the journal asserted.<sup>11</sup>

Escapes continued. In 1854 Antonio Collins, incarcerated for killing Charles Winters, escaped while awaiting trial. In 1858 the U. S. Marshal found the Pensacola jail so inadequate that he lodged mail robber John Ghent in a room on the third story of St. Mary’s Hall, a local inn. Yet the “daring, desperate man” was so determined to escape that he leaped from the window to his death. According to one account, Ghent was immediately “taken up in a dying condition, living only a few hours.”<sup>12</sup>

Law enforcement was hampered by inadequate funding. Jurisdiction boundaries between the county sheriff and U. S. marshal were unclear in the territorial period. Escambia County, along with Santa Rosa, Walton, Holmes, Washington, Jackson, and Calhoun counties were part of the judicial district of West Florida. Each judicial district possessed one federally appointed U. S. marshal who executed all processes of the superior court. As Governor William P. Duval explained the situation to President Andrew Jackson in 1831, “By our local laws almost [sic] all the important duties, which are in the states assigned to Sheriffs—are given to United States Marshals.”<sup>13</sup>

But once Florida became a state in 1845, sheriffs became the principal law enforcement officers in their respective counties. Escambia County suffered from instability and continual turnover in the sheriff’s office. From 1845 to 1861, Escambia had nine sheriffs.<sup>14</sup> Pay was minimal, responsibility great and public support often lacking. Despite these obstacles, a few Escambia County sher-

11. Pensacola *Democrat*, January 30, 1846.

12. Tallahassee *Floridian and Journal*, January 7, 1854; Proclamation for the Arrest of Antonio Collins, January 5, 1854, Book of Record (Proclamations), RG 156, series 13, Book 1, #236, p. 226, Florida State Archives; Pensacola *Era*, July 15, 1858; Pensacola *Observer* quoted in Tallahassee *Floridian and Journal*, July 31, 1858.

13. Governor DuVal to the President, July 21, 1831 Carter, *Territorial Papers*, 25: 540.

14. Denham, *A Rogue’s Paradise*, 147, 219-20. See also William W. Rogers and James M. Denham, *Florida Sheriffs: Denham, Florida Sheriffs*, 1-55.

iffs persevered and brought honor to themselves. One such man was Francis Maura, who the Pensacola *Gazette* praised on March 5, 1853, as a “vigilant, active, and fearless” officer. “Even in the cheerless darkness of night—tractless forests and swamps, bayous and marshes are not barriers to his determined energies—nor do superior natural powers with pistol and Bowie knife wielding cause him to shrink from arresting the robber or seizing the assassin; in short nothing impedes the progress of his duties.” Yet Maura, like the vast majority of other Escambia sheriffs—given the danger, lack of support, and poor pay—only served one two-year term.<sup>15</sup>

While the forgoing was intended to provide some idea of the difficulties in the enforcement and administration of the law, what follows is a sampling of the three principal forms of criminal activity in Pensacola: crimes against person, crimes against property, and crimes against public order and morality.<sup>16</sup>

The most dangerous crimes with which Pensacolians had to deal were crimes against person. From 1822 to 1866, Escambia County court minutes reveal that 309 persons were indicted for violent crime: thirty-six for murder, 231 for assault and battery, and thirty-nine for assault with intent to kill. Of that number, only 126 were convicted. Pensacola could turn violent quickly whenever soldiers or sailors fought among themselves or with members of the populace. In 1831 Jose Vidal was taken into custody after he stabbed a drunken sailor when he and his comrades harassed Vidal and other Pensacolians as they made their way to church. Vidal was indicted for manslaughter but was acquitted once testimony proved that he killed the man in self-defense. Another typical outbreak of violence that led to bloodshed occurred in 1849, when sailors on liberty from the *Raritan* clashed with the bartender of a public house. Shots were fired and a sailor was hit, causing a number of his comrades to break into the house and continue the mayhem. Five years earlier a sailor from the French corvette *La Brilliant* killed a fellow crew member in a knife fight while on shore.

15. The terms of service for Maura and other Escambia County sheriffs can be traced in “Roster of State and County Officers Commissioned by the Governor of Florida, 1845-1868,” Jacksonville: Historical Records Survey, Works Progress Administration, February, 1941.

16. The categorization of crimes comes primarily from Michael Hindus’s path-breaking work, *Prison and Plantation*. Hindus used the following categories: Crime against Person, Crime against Property, and Crime against Order and Morals. I have altered the latter to Crimes against Public Order and Morality.

Another affray in 1853 among sailors and townspeople forced a local lawman to kill a sailor while suffering serious injury himself.<sup>17</sup>

Bostonian Samuel Keep, who supervised construction of the navy yard in 1827, viewed Pensacola as a scene of unremitting violence. His own workers constantly threatened him, and according to a letter he wrote to a relative in the North, he “was obliged not to step out of doors without both my pistols loaded.” Violence sometimes erupted between sailors and their commanding officers. For example, in 1828 when Midshipman James F. Schenck apprehended a deserter named Eldridge, both men fell in the water together. As they grappled with one another, Schenck stabbed the deserter in the groin, leading to his death shortly thereafter. One year earlier, Sgt. Benjamin Donica was hanged for shooting his commanding officer, Capt. Donaho, on the parade ground at the Cantonment Clinch. Donaho had accused Donica of being drunk and ordered him out of line, whereupon Donica shot Donaho with a rifle. In 1838, two mulatto men employed at the naval yard fought each other after a night of drinking. Samuel Jones and Major Trusty had a long history of fighting, making up, and then resuming their quarrels. On the night in question, witnesses reported Jones and Trusty fighting and singing songs together. The next morning Trusty lay dead, and a bloody switch-blade knife was found with Jones in his hammock. Jones eventually was convicted of manslaughter and sentenced to thirty-nine lashes and one year in jail. Violence at the naval yard continued throughout the antebellum period. At the March 1860 term of the U. S. District Court, federal prosecutor Chandler Cox Yonge tried a number of cases involving violence there. Yonge’s personal accounts listed six prosecutions for assault and battery, three for assault with intent to kill, one for cruel and unusual punishment of a soldier, and another for attempted rape.<sup>18</sup>

17. Escambia County prosecution totals were compiled from Escambia County Court Minute Books and are contained in tables in Denham, *A Rogues Paradise*, 233-36; *Territory of Florida v. Joseph Vidal* (1831), Escambia County Case Files; Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, 537, 544; *Pensacola Gazette*, November 10, 1849, September 21, 1844; *Jacksonville Florida News*, April 23, 1853.
18. Samuel Keep to Nathan Keep, May 7, June 5, 18, 1827, Keep Family Papers, (Pace Library, University of West Florida); *Pensacola Gazette*, June 5, 1828; *Territory of Florida v. J. F. Schenck* (1828), Escambia County Case Files; *Pensacola Gazette*, July 15, 1826; *Territory of Florida v. Benjamin Donica*, 1827, Escambia County Case Files; Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, 303, 326, 329-30; *Pensacola Gazette*, November 24, 1838, January 5, 1839; Escambia County, Minutes of the Superior Court, 1838-1842, Book 4, p. 30; Accounts of C. C. Yonge, box 3, folder entitled “CC Yonge, 1860,” Yonge Papers, (P. K. Yonge Library of Florida History, University of Florida).

Pensacolians assaulted and murdered one another for a variety of reasons. In 1834, Robert Breen paid the ultimate price for his cold-blooded murder of Pensacola Mayor and legislator Peter Alba. The cause was a business dispute gone personal. In 1828, Andrew Crail killed his common law wife in a fit of drunkenness, a crime for which he was hanged. Two years earlier, John, an Indian, was convicted of involuntary manslaughter for killing his wife Polly in a fit of intoxication. John was sentenced to receive 30 lashes and pay a fine of five dollars and costs of prosecution. A local newspaper reported that John appears to be "much grieved at the loss of his wife, to whom it is said he had always been affectionate, except when drunk. In our opinion," the newspaper editorialized, "it would be more just to punish the person who sold him whiskey, than to inflict further punishment on the victim of the intoxicating draught." Intoxication also prompted James Duggan's killing of a Pensacola man in 1861. Duggan's conviction prompted citizens to appeal to the governor for a pardon. Duggan's deportment, they wrote, was usually good, but once "intoxicated he became a madman, disposed to assault, without discrimination every person he met on the streets. In a word he is made a maniac by too free use of ardent spirits, which has led many before him to the gal-lows."<sup>19</sup>

Most assaults were not fatal and occurred for any number of reasons. In 1828, Benito Blaupen assaulted fellow laborer Antonio Foxando for refusing to take a drink with him. Blaupen threw a tankard of beer in the face of Foxando, who responded by slapping Blaupen. In an ensuing fight at a tannery, Blaupen cut Foxando with a "spring-back" knife, leaving a three-inch gash "on the right side of the

19. For Breen, see *Pensacola Gazette*, September 25, October 2, 1833, December 4, 1833; *St. Augustine Florida Herald*, October 31, December 26, 1833, February 6, 1834; Affidavits and Trial Proceedings of Robert Breen for Murder, Correspondence of the Territorial Governors, RG 101, series 177, box 1, folder 2, Florida State Archives; Escambia County, Minutes of the Superior Court, 1833-1838, Book 3, p. 12, 21. For Crail, see *Territory of Florida v. Andrew Crail* (1829), Escambia County Case Files; Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, 419, 421, 422; *Pensacola Gazette*, December 2, 1828, March 10, 1829; *St. Augustine Florida Herald and Southern Democrat*, April 8, 1829; Tallahassee *Florida Advocate*, March 21, 1829. For John, see *Pensacola Gazette*, November 23, 1826; Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, 303, 312. For Duggan, see *Pensacola Gazette* quoted in Tallahassee *Floridian and Journal*, November 17, 1860; *Pensacola Observer* quoted in Fernandina *East Floridian*, November 21, 1860; Jackson Morton to M. S. Perry, July 17, 1861, Correspondence of Madison Starke Perry and John Milton, RG 101, series 577, box 1, folder 3, Florida State Archives.

belly between the short ribs.” Blaupen was apprehended but escaped after he was indicted for assault and battery. That same year, William Dougherty was found not guilty of assault and battery when he fought with a boarder who refused to pay his bills. When the inn-keeper impounded John Artrell’s violin as payment for his debt, a fight broke out between debtor and creditor. Dougherty got the best of Artrell in the scuffle and the latter swore out a complaint against the former, but a jury acquitted him of any wrongdoing.<sup>20</sup>

During 1825 and 1826, Richard Keith Call and Joseph White, both aspirants for political office, battled each other in the newspaper, the courts, and the streets of Pensacola and elsewhere. Always ready to defend themselves against any perceived slight, Call and White exchanged blows with one another and others on numerous occasions. In December 1825, Call assaulted a man named Mitchell for publishing an article defending White against Call in a Mobile, Alabama, newspaper. Joseph White’s duties as land commissioner got him into trouble with Peter Alba, whom he charged with land frauds. One evening as he walked to his residence on Palafox Street, Alba, described as a “man of gigantic size and athletic strength, and armed with a large bludgeon and stiletto,” attacked White. Barely escaping death, White suffered “severe wounds on the head and left arm.” Alba was prosecuted in the courts on a charge of assault and battery. When the incident was reported in the Pensacola *Gazette* in a way that Alba objected to, he responded bitterly, blasting White and William Hasell Hunt, and in turn sued them both for libel.<sup>21</sup>

Pensacola African Americans (both slave and free) were not immune to assaults and homicides. Blacks assaulted one another, but an assault against whites was a capital offense. Blacks could also suffer, at the discretion of the jury, death for robbery or burglary. In lieu of

20. *Territory of Florida v. Benito Blaupen* (1828), Escambia County Case Files. Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, 386, 428; *Territory of Florida v. William Dougherty* (1828), Escambia County Case Files; Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, 386, 389.

21. A duel between White and Call was contemplated but a meeting in Gadsden County among friends of both men resolved the affair. See Tallahassee *Florida Intelligencer*, October 27, 1826, December 3, 1826; Pensacola *Gazette*, December 21, 1826, April 13, 1827; *Ibid*, December 24, 1825; St. Augustine *East Florida Herald*, February 7, 1826; Pensacola *Gazette*, January 8, 15, 22, 29, 1825; *Territory v. Peter Alba* (1825), Escambia County Case Files. The next year Alba was dismissed on both the assault and battery and the libel cases because White was not on hand to prosecute him. See Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, 239, 242, 267.

death, blacks convicted of these offenses could have their ears nailed to a post for one hour or receive thirty-nine lashes, at the discretion of the court. Escambia County court minutes reveal that four blacks were indicted for murder, three for assault and battery, and three were charged in rapes. In 1852, one slave killed another in an argument during a poker game. When Adam Thomas warned his friend not to play with Henry Prior because he would cheat him, Prior ordered Thomas to “quit meddling in my business.” Thomas persisted and Prior picked up a stick and struck him over the head, killing Thomas immediately. Prior was jailed, escaped for a time, but was finally recaptured and convicted of manslaughter in the October 1852 term of court. He was sentenced to 25 lashes and two hours on the pillory.<sup>22</sup>

Persons caught stealing in antebellum Pensacola could expect to be treated severely, which in most cases meant corporal punishment. When it came to crimes against property, Pensacolians, like other southerners, had little tolerance for those who stole. Convicted burglars or larcenists could expect the same punishment as Enoch Hoyer, a thief who, in 1828, stole a pocketbook containing \$115, a writing desk, and numerous articles of clothing. After authorities discovered the stolen goods concealed in his room in a boarding house, Hoyer was jailed and put on trial. The jury convicted Hoyer and sentenced him to pay \$50, stand on the pillory for two hours, and receive ten more “stripes” than the law allowed—a total of forty-nine lashes—“on the bareback well laid on.”<sup>23</sup>

Throughout the antebellum period, twenty-seven of 101 white and black larcenists convicted in the Escambia county courts received a similar fate. The above numbers indicate that prosecutors had difficulty convicting accused larcenists, but when they did, most faced harsh corporal punishment. For example, of the twenty-one white larcenists convicted, fifteen received stripes or the pil-

22. John P Duval, *Compilation of the Public Acts of the Legislative Council of the Territory of Florida Passed Prior to 1840* (Tallahassee: S. S. Sibley, 1839), 227; Leslie Thompson, *A Manual of Digest of the Statute Law of the State of Florida of a General and Public Character, in Force at the End of the Second Session of the General Assembly of the of the State, on the Sixth Day of January, 1847* (Boston: C.C. Little and J. Brown, 1848), 538; Denham, *A Rogue's Paradise*, 235; Coroners Inquest over the Body of Adam Thomas, a slave, in *State vs Henry Prior*, 1852, Comptrollers Vouchers, 1846-1862, Post-Mortem Examinations, RG 350, series 565, box 7, folder 2, Escambia County, Florida State Archives; Proclamation for the Arrest of Henry Prior, July 19, 1852 in *Pensacola Gazette*, July 31. See also *Ibid.*, October 16, 1852; *State of Florida v. Henry Prior* (1852), Escambia County Case Files; Escambia County, Minutes of the Circuit Court, 1846-54, Book A, np.

lory. The whipping post, the pillory stand, and the branding iron reflected society's attitudes toward thieves. Punishments for crimes against property carried a stigma that branded violators as the most condemned of all offenders. Historians of criminal behavior have noted that the Southern honor code placed a premium on personal honesty and frowned severely on thievery.<sup>24</sup>

Even if the threat of social ostracism and moral condemnation, coupled with the relative severity of punishment, was a strong deterrent against stealing, Pensacola was continually plagued by thieves. In 1828, the ever vigilant William Hasell Hunt demanded that a "Nightwatch" be instituted in Pensacola, claiming that "robberies have recently been frequent among us. Last summer the house of one of our citizens was entered in the night and he narrowly escaped a blow which would probably have terminated his existence." Another house was entered as well and property stolen while the inhabitants were asleep.<sup>25</sup>

Two years earlier, Hunt informed his readers of the exploits of Antonio Escovar, who was convicted of breaking into the shop of watchmaker John White and taking about 5 watches from a trunk. Sentenced to ten lashes, a fine of \$50 and costs, Escovar was committed to jail but escaped as the governor was reviewing his case. An accomplice, Juan B. Salgado, was indicted as an accessory "having stood on the opposite side of the street during the commission of the robbery and received a part of the watches to sell on shares. He was taken with some the watches in his possession—was found guilty and received the same sentence as Escovar, with the exception of the stripes." Escovar subsequently escaped before the lashes could be administered. A proclamation for Escovar's arrest warned the public to be "on their guard against this villain," and noted that he was a native of Puerto Rico and speaks French and Spanish.<sup>26</sup>

23. *Territory of Florida v. Enoch Hoyer* (1828), Escambia County Case Files; Escambia County, Minutes of the Superior Court, 1822-1833, Book 1, 347-49; *Pensacola Gazette*, May 9, 16, 1828.

24. Larceny totals compiled from court minute books from Escambia County are contained in tables in Denham, *A Rogue's Paradise*, 233-36. For thievery and the honor code see Denham, *A Rogue's Paradise*; Wyatt-Brown, *Southern Honor*; Wyatt-Brown, "Community, Class, and Snopsian Crime: Local Justice in the Old South," in Orville Vernon Burton and Robert C. McMath, eds. *Class, Conflict, and Consensus: Antebellum Southern Community Studies* (Westport, CT: Greenwood Press, 1982), 173-206; Hindus, *Prison and Plantation*; Williams, *Vogues in Villainy*; Ayers, *Vengeance and Justice*.

25. *Pensacola Gazette*, March 14, 1828.

26. *Ibid.*, November 23, 1826.



In 1853, a theft ring headed by Samuel Piper plagued Pensacola. The gang's first target was a British ship lying at harbor, from which it stole more than \$1,000 in silver. On February 17, Piper's gang broke into Davis and Cox's store, burst open an iron chest with a charge of gunpowder, and carried away about \$1,600 worth of gold. Though jailed temporarily, Piper and several others in his gang escaped. A week after Piper and company left the jail, the gang robbed another store of \$100 in gold. In this instance, an even greater loss was averted, however, as "the rascals appear to have become alarmed, for they left a large bundle of sundries they had collected and tied up." Authorities also found the safe overturned and an undetonated powder canister by its side.<sup>27</sup>

Sometimes outraged citizens offered information and rewards for stolen items. In 1841, William Ryan offered a \$20 reward for a small leather trunk containing \$190 in silver and a few hundred dollars in bank notes stolen from his bar-room. In 1833, a lodger at the Eagle Tavern offered a \$50 reward for his silver watch, cash, and 37 pieces of silver consisting of spoons and forks "made after the French fashion," stolen from his room. When his schooner *Jane* was stolen in 1841 from the Pensacola harbor, Jesse Prichett identified the culprits and offered a \$50 reward for their capture and return of the boat. In 1828 when musician Othello Jackson was robbed of his clothes and money while performing in Pensacola, he made a unique appeal for justice. He sought not to avenge the theft but instead wanted a "favorable expression of public opinion" at his final performance, where he would perform his "usual feats of agility on the violin."<sup>28</sup>

When someone walked off with his carpenters tools, Charles Evans responded with a mixture of anger, indignation, and a touch of humor. In an advertisement, "Theives Ahoy!" in the *Pensacola Gazette*, the former justice of the peace, mayor, and U. S. marshal asked that the "gentlemen who conferred upon me the esteemable favor of entering the kitchen of my house on Lot No. 82 on Wednesday night last and purloining therefrom a quantity of Carpenter's Tools, would confer a particular favor on the subscriber, after they get through the job, they may have on hand, by returning

27. *Pensacola Gazette*, March 5, April 9, 16, 1853; *State of Florida v. Samuel Piper* (1853), Escambia County Case Files.

28. *Pensacola Gazette*, September 25, 1841; *Ibid.*, June 6, 1833; *Ibid.*, May 1, 1841; *Ibid.*, June 10, 1828.

them—and will please not enter my premises again, at least till we are on speaking terms.”<sup>29</sup>

In 1827 the Escambia County Grand jury complained that Pensacola was rife with “negro gambling houses and tippling shops [which] resulted in manifold disorders to the interruption of peace of the city.” Whenever slaves were caught selling stolen property, authorities sought (without much success) to prosecute whites under a whole host of crimes loosely characterized as crimes against public order and morality. Careful enforcement of laws against retailing goods or spirits without a license, receiving stolen goods, keeping a disorderly house, and trading with slaves was aimed at curtailing underground criminal activity and regulating slave behavior. Violators of these laws were considered particularly dangerous because they threatened to undermine the sacrosanct relationship between master and slave. Retailers who traded illegally with slaves for liquor and other items risked stiff fines and alternative punishments. In 1838, for example, Joseph Alton, a Pensacola shopkeeper, was fined \$150 for trading boots and other stolen property with a slave named David, and a white man. That same term of the court, Alton was indicted for keeping a “disorderly, tippling house,” where he procured “certain persons . . . black and white, men and women, of evil name and fame, and of disorderly conversation, to frequent and come together” for the purpose of “drinking, tippling, whoring, and misbehaving themselves.” Alton’s establishment was infamous as a place of “swearing and quarrelling.” Like so many others indicted for violating disorderly house statutes, Alton lived amidst violence that could consume him at any given time. Late one night in July of the next year, he was stabbed to death outside his establishment.<sup>30</sup>

Under the guise of regulating public order and morality, legislators passed a whole host of strictures proscribing personal behavior. Illicit sexual activity was especially targeted. The goal of

29. *Pensacola Gazette*, February 7, 1846.

30. Escambia County Grand Jury Report, May Term 1827, Escambia County Case Files; *Territory of Florida v. Joseph Alton* (three indictments) (1838), Escambia County Case Files. Alton’s disorderly house indictment disappeared from the docket. Escambia County, Minutes of the Superior Court, 1838-1842, Book 4, p. 4, 15, 16. Alton was stabbed by Phillip Pitto. Pitto was convicted of manslaughter and sentenced to receive thirty-nine stripes. See *Territory of Florida v. Phillip Pitto* (1839), Escambia County Case Files; Escambia County, Minutes of the Superior Court, 1838-1842, Book 4, 72-73; *Pensacola Gazette*, July 27, 1839.

these statutes was not only to prevent sexual misconduct but also to admonish recalcitrant couples to legalize illicit cohabitation by marrying. The law thus stipulated that "it shall at any time be in the power of the parties to prevent or suspend the prosecution by marriage legally solemnized."<sup>31</sup>

Fifty antebellum Escambia county residents were indicted for adultery and fornication. Five were found guilty, thirteen not guilty, and thirty-two cases never reached a verdict. But these numbers are skewed because some periods are relatively free from prosecutions while others are heavy. This situation speaks as much to the disposition of the law enforcement personnel, predilection of grand juries, or the sway of religious leaders, as it does to actual violations of the law. For example, only six men and women were prosecuted for adultery and fornication between 1822 and 1843 while in the May 1844 session of the superior court alone, the district attorney brought forward twenty-one prosecutions for adultery—all of which were either dismissed or drew not guilty verdicts. It is reasonable to assume that the purpose of this crackdown was more to expose and shame the culprits than to actually prosecute the charges to the full extent of the law.<sup>32</sup>

The 1832 criminal code stated that those convicted of adultery and fornication could be fined up to \$800. But such heavy fines were never imposed in Pensacola. John Hall, fined \$100 in 1835, received the highest fine ever recorded. More typical were the court's decisions regarding two couples indicted for Adultery and Fornication in the December 1823 term. William Nelson and Elizabeth Screws and Warren Miller and Elizabeth Tant had their cases dismissed and quashed in the next term.<sup>33</sup> The cause of the dismissal is unknowable but it was often the case that prosecutions for charges of fornication were dismissed if the offending couple married.

Besides adultery and fornication, gambling was the most frequently prosecuted public order and morality crime. While state statutes outlawing gambling were passed in 1822, 1832, 1839, 1846,

31. Thompson, *Digest*, 499-500.

32. These totals were compiled from Escambia County Court Minute Books and are contained in tables in Denham, *A Rogue's Paradise*, 234; Escambia County, Minutes of the Superior Court, 1842-1845, Book 5, 82-102.

33. Escambia County, Minutes of the Superior Court, 1833-1838, Book 3, 73; Escambia County, Minutes of the Superior Court, 1822-1833, Book, 1, 144, 149.

and 1847, enforcement in Pensacola was lax until the late 1830s. Its Creole population, large military establishment, and close proximity to Mobile and New Orleans made Pensacola an attractive place for gamblers. When Presbyterian missionary David Preston visited the town in 1829, he attributed the large number of 'gambling shops' to the predominance of the Roman Catholic Church, but it is clear that the Anglo population also enjoyed the pastime. As one commentator noted some years later, "Anglo-American gamblers are as dexterous in evading the laws as they are in handling cards."<sup>34</sup>

Pensacolians, played poker, bet on lotteries, and wagered on faro, a gambling game that swept through the old Southwest in the 1830s-40s. Though practically unheard of today, it may have been the most widely played game of chance in the United States in the nineteenth century. An 1824 local ordinance taxed "shuffle boards, nine-pin alleys, and billiard tables," and one could certainly assume that betting on those games was popular. While gambling was popular in Pensacola at all levels of society, there were few indictments (twenty-four) and hardly any convictions (three). Interestingly, there was an almost identical number (twenty-three) for keeping a gaming or disorderly house, but a better conviction rate (thirteen). It would seem that individual gamblers in Pensacola had little to fear from criminal prosecutors. Despite constant admonitions of Editor Hunt and others of the evils of gambling, not until 1838 would there be a prosecution for a gambling related offence. In May of that year, eight individuals were found guilty of gambling offenses: six for keeping a gaming house, one for keeping a disorderly house, and one for keeping a gaming table. Fines ranged from \$29 to \$.06 ¼. The next term of court pursued twelve indictments for gaming, with convictions coming in eight cases ranging from \$90-\$200.<sup>35</sup>

Most of the indictments failed to snare those accused. As the *Pensacola Gazette* explained the situation, "many of the persons indicted were not present. "These gentry, it is pretty well known, are birds of passage; their presence may be looked for here, about

34. David Preston Journal, typescript copy, 29-30, (Pace Library, University of West Florida); *Pensacola Gazette*, May 19, 1838.

35. An Ordinance to Raise a Revenue in the City of Pensacola, June 4, 1824, in *Pensacola Gazette*, June 19, 1824; Escambia County, Minutes of the Superior Court, 1833-1838, Book 3, 183-86; Escambia County, Minutes of the Superior Court, 1838-1842, Book 4, 15-54.

the first or middle of next month, and when they come, they will find 'old father antick-the-law' holding out the hand of welcome." The "evil practice of gambling has taken such deep root," the commentator noted, "that it was believed to be stronger than the law itself. It is with unmildred pride, therefore that, we record this instance of firmness and independence on the part of the Grand Jury." Perhaps, he continued, this vigilant activity might be the "forerunner of something better. Let it be actively followed up by the proper officers of the law, and the evil practice of gaming, if it be not put an end to, will at least be greatly diminished." Most convictions netted only light fines. "This is as it should be. The penalty against gaming is now enforced for the first time, and in the cases alluded to, happened to fall on persons belonging to a class of our citizens whose stand on morality in such matters is somewhat different from that which is generally received in this country. We mean, of course, the native inhabitants of the place. It is a most singular fact," the commentator continued, "that since the cession of Florida, not one of these people ever has been convicted of any of the offences which the law designates as 'infamous.' It was to be expected, then, that they would be the first to feel the effects of this (to them) new code of morality."<sup>36</sup>

Pensacola authorities ultimately found it impossible to stamp out gambling. Disagreements between Creole and Anglo populations over the activity exacerbated the problem. When Creoles gained temporary control of the board of aldermen in 1841, it asked the local legislative delegation to "use their best endeavors to procure the passage of a law authorizing the city of Pensacola to License one or more gambling houses." After 1838, there were few individual prosecutions for gambling in Escambia County. Gambling was tolerated within certain limits. James McGovern and other scholars have observed that as Pensacola moved into the late nineteenth and early twentieth centuries, authorities there tolerated and even encouraged gambling, prostitution and other normally proscribed behavior as long as it took place within certain geographic limits.<sup>37</sup>

36. *Pensacola Gazette*, May 19, 1838.

37. Resolution of the Board of Aldermen of the City of Pensacola, December 28, 1841, Territorial Legislative Council, Bicameral, RG 910, series. 877, box 2, folder 3, Florida State Archives; James McGovern, "Sporting Life on the Line: Prostitution in Progressive Pensacola," *Florida Historical Quarterly* 54 (1975), 131-44.

This brief survey of crime and punishment in Antebellum Pensacola and Escambia County, Florida, mirrors those of other scholars engaged in similar investigations of southern states. Law enforcement in Pensacola was haphazard, underfunded, and inefficient. This characteristic made it almost impossible to efficiently prosecute or incarcerate criminals. A striking number of cases (340 or 45.64% out of 745) never reached a verdict. The failure to reach verdicts in cases stemmed from a number of causes, including negligent or incompetent sheriffs, insecure jails, and the difficulty of securing witnesses and compelling them to testify. In the chaos and confusion a number of cases simply disappeared from the docket. Careful scrutiny of minute books reveals a number of trends. Indictments for crimes against person were far more numerous than for crimes against property. Surviving court records show that indictments for violent crimes outnumbered those for property crimes by a total of 313 to 104. While less in number, punishment for culprits convicted of property crimes was more severe than for those found guilty of violent crimes, excluding murder. Usually jail time or, more frequently, stripes was in store for those who stole. The reason for the difference was that stealing property violated antebellum Southerners' cherished honor code.

For those charged with crimes against public order and morality, public sanction was often informal and extra-legal, but criminal statutes could also reach lawbreakers. Those convicted of adultery and fornication could expect ostracism as well as fines and corporal punishment. But prosecution was haphazard and uneven and often reflected the disposition of the sheriff or prosecuting attorney. Escambia County indicted 292 whites for crimes against public order and morality (just below 40% of the total indictments in the county). Of these, seventy-eight were convicted, seventy-two were found not guilty, and 142 disappeared from the docket.<sup>38</sup>

Altogether, as this survey of crime and punishment in antebellum Pensacola and Escambia County shows, post-bellum southerners inherited a flawed system of law enforcement and criminal prosecution that was haphazard, underfunded, inefficient, uneven, and reflective of an honor bound frontier-like society. It was not a positive legacy for the future.

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38. These totals were compiled from Escambia County Court Minute Books and are contained in tables in Denham, *A Rogue's Paradise*, 233-36.