

For example, the players attempted to throw baseballs over the Egyptian Great Sphinx of Giza and punch the sculpture in its eye. Spalding later excused these acts as “mere fun” (203). However, as Zeiler argues, players’ actions abroad reflected American exceptionalism, white supremacy, and anti-Blackness. The Spalding tour represented and maintained American ideas about racial hierarchies, exported these hierarchies overseas, and “projected the mindset of American imperialism” in the decade before the Spanish-Cuban-American War.

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## Qualified Immunity: State Power, Vigilantism and the History of Racial Violence

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Since the historic uprisings sparked by the murder of George Floyd, growing calls to defund the police have upended mainstream political discourse in the United States. Outrage at appalling evidence of rampant police brutality and an entrenched culture

of impunity have moved to the very center of public debate what were until recently dismissed as radical demands. This dramatic shift has, among other things, opened up space for discussion of the history of policing and the prison-industrial complex more broadly. In particular, abolitionists have urged examination of the deep roots of our contemporary situation. As the organizer and educator Mariame Kaba argued in an editorial published in *The New York Times*, “There is not a single era in United States history in which the police were not a force of violence against black people.”<sup>1</sup> That a statement like this would appear in the paper of record reflects a paradigm shift in popular understandings of the history of the criminal legal system.

It was not long ago that this same debate was arranged on strikingly different terms. Yet whereas much of the discourse of “criminal justice reform” remains grounded in an assessment of the failed War on Drugs, abolitionists understand the structural racism embedded within the prison-industrial complex as more than the result of still relatively recent policy failures. It is instead the predictable consequence of institutions originally designed to extend racialized forms of social control. What has in the past year become the routine allusion to the origins of policing in antebellum slave patrols serves as an instructive example.<sup>2</sup> To remark upon this historical precedent is not to insist upon mere comparison or assertions of simple continuity in place of substantive argument over the ethical and political dilemmas raised by the history of policing. Rather, it conveys that the emergence of a designated authority assigned with the task of law enforcement proceeded through the redistribution of routine forms of discipline formerly undertaken by white men as a customary obligation of civic life.

To begin from a frank acknowledgment of the enduring relationship between state power and white supremacy is to encourage a systemic analysis of the historical roots of racial violence in American society. The salience of this intellectual endeavor is difficult to understate, especially because of the pervasive tendency to regard incidents of racial violence as expressions of personal animus rather than entrenched cultural logics. Unfortunately, this is not only the product of bad-faith conservative arguments. Even so-called “progressive prosecutors,” like the one who led the trial against Minneapolis police officer Derek Chauvin, resort to this rhetoric, applying a logic of individual culpability that contrasts with more ambitious visions of justice.<sup>3</sup>

By gathering a set of texts that illuminate the red thread of racial violence that runs through U.S. history, this “micro-syllabus” is designed to aid students continuing to grapple with the events of the past year. In this historic moment, pushing them toward better questions, more grounded in a long history of struggle and resistance, remains a worthy goal. The specific aim of this micro-syllabus is to invite critical inquiry into the role that state actors have played in the historical production of racial formations. To think expansively in this way is to recognize that the police are not the only state institution to have perpetuated extraordinary violence against Black people, and the historical experiences of other racialized groups offer important parallels of their own. While recognizing a specific focus on the relationship between policing and anti-Black violence in U.S. history, that relationship can also be observed within a wider frame.

Taking racial violence as an organizing concept facilitates connections between histories often regarded as separate. This entails looking past the epistemic boundaries that too often segregate U.S. history by region. During the Gilded Age and Progressive Era, the violent exercise of state power was thoroughly entangled with the reproduction of social hierarchies based upon notions of racial difference within and beyond the borders of the United States. Whether in the Jim Crow South, the urban North, the westward march of white settlement, or colonized territories overseas, the state was critically

involved in the making and remaking of race as a supposedly objective feature of social reality rather than an index of existing power relations. Beyond effecting catastrophic material destruction, state violence worked through what Shabnam Piryaei describes as the “rejection of possibilities.”<sup>4</sup>

This meant that parallel expressions of popular resistance to the oppressive influence of the American state had much in common with one another. As Adam Hodges explains, when seen in the context of larger struggles against colonialism and capitalism, local events could acquire a global significance. Of course, the particularities of disparate local and regional contexts still matter a great deal. However, occupying a broader perspective encourages recognition of the clearly decipherable interests that animated many protracted campaigns of state violence against racialized populations. Put simply, racial violence often, if not always, served a purpose, and consistently that purpose was the obtain possession of land, material resources, and labor power. Whether working toward a fantasy of indigenous elimination to make way for white settlement or constructing what Julie Green describes as a “movable empire” of transposable colonized labor, racism has never been an end in itself.<sup>5</sup>

Closely examining the machinations of state power does not require looking past circumstances in which ordinary people have been directly responsible for extraordinary brutality. Perhaps most horrific about the rash of lynchings, mob violence, and race riots that proliferated during the Gilded Age and Progressive Era is how little it took to move large numbers of white people to see themselves as agents of racial terror. More subtle, yet still critically important, is the complex play of interests underpinning the role of various state actors in abiding by these horrifying spectacles of racial domination. Christopher Waldrep highlights how mounting protest in the Jim Crow South accelerated a gradual shift in elite attitudes that could, in certain circumstances, propel conservative white jurists to depart from accommodating this abhorrent conduct. Instances in which individuals with significant authority took unprecedented steps to intervene to stop such offenses or punish those responsible cast in sharp relief the official negligence that characterized the prevailing response for many decades. These pivotal exceptions could not be separated from the underlying conditions in which the state’s complicity was poised to become an increasing scandal. Even for officials who under different circumstances had no qualms about publicly endorsing or even actively participating in such atrocities, the escalating social, political, and even economic costs could alter their overall posture.

That state institutions appeared potentially accessible as a vehicle for ensuring the safety of communities of color could promote unexpected alliances. As Waldrep writes, “African Americans in Virginia, once they enlisted the press on their side, found white authorities, white supremacists, willing to favor due process over lynch law.”<sup>6</sup> At the same time, the demands of appealing to white power brokers presented difficult choices for those engaged in popular resistance movements. Jonathan Coit’s study of the African American response to the 1919 race riots in Chicago demonstrates how diverging commitments to appeasing white allies divided Black community leaders. There were hard limits to the sympathy and concern expressed by white public officials that were more often defined by political calculations than by private sentiments.

Finally, understanding state violence requires wrestling with the juridical frameworks historically mobilized in its defense. The longevity of elaborate justifications of the state’s right to enact violence and even carry out murder in response to perceived threats carry stark implications in our own present. Boyd Cothran’s article on the legacy of the Modoc Wars outlines the indebtedness of the system of military tribunals developed by the U.S. government as part of the War on Terror to the execution of indigenous prisoners of

war in California during the 1870s. Cothran's work pairs well with Shabnam Piryaee's thoughtful examination of the militarized police response to periods of acute social upheaval in the era of Black Lives Matter and its relationship to policing when a "state of emergency" has not been declared. Both illustrate parallel logics through which violent state interventions on communities of color have historically been represented as defensive and ultimately innocent measures taken out of necessity. Together, they powerfully suggest the state's dependence upon discourses of racialization in order to constitute itself as an agent of lawmaking and law-preserving violence.

More than a year after the deaths of George Floyd, Breonna Taylor, Ahmaud Arbery, Rayshard Brooks, and others, the struggle continues over the meaning and significance of the rebellions sparked by their memory. While the staggeringly large protests of the past year have largely subsided, attempts to work against the implications of George Floyd's murder at the trial of Derek Chauvin indirectly reflected the radical possibilities that persist even in this moment. The unusual participation of Chauvin's superior officers as part of the prosecution indicates intensive and ongoing efforts to preserve the state's fundamental right to enact violence in the face of a historic challenge to its legitimacy. Willing to concede to one act of excessive force to preserve the routine violence of day-to-day police practices, they testified that Chauvin's actions constituted a violation of official department policy. Kneeling on Floyd's neck for nine minutes and twenty-nine seconds, they confirmed, went against the training administered to police officers, even though Chauvin was himself formerly authorized to provide such trainings.<sup>7</sup> Few students will be entirely persuaded by their reasoning, nor feel resolution in the final verdict. Most will recognize that the fate of a movement spurred by incalculable grief and righteous indignation rests in the breach between this single act of judgment and the persistent demand for a full measure of justice.

### Microsyllabus: Qualified Immunity: State Power, Vigilantism and the History of Racial Violence

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## Notes

- 1 Mariame Kaba, "Opinion | Yes, We Mean Literally Abolish the Police," *New York Times*, June 12, 2020, sec. Opinion, <https://www.nytimes.com/2020/06/12/opinion/sunday/floyd-abolish-defund-police.html>.
- 2 As Kaba writes, "Policing in the South emerged from the slave patrols in the 1700s and 1800s that caught and returned runaway slaves."
- 3 The *New York Times* described Minnesota attorney general Keith Ellison as a "rising star of the progressive wing of the Democratic Party." According to the *Times*, his office, which directed the prosecution, "said that policing was not on trial. 'The defendant is on trial not for being a police officer—it's not the state versus the police,' Steve Schleicher, a lawyer for the state, said in his closing argument. 'He's not on trial for who he was. He's on trial for what he did.'" Tim Arango, "'Gentle Steering of the Ship': How Keith Ellison Led the Prosecution of Chauvin," *New York Times*, Apr. 21, 2021, sec. U.S., <https://www.nytimes.com/2021/04/21/us/keith-ellison-chauvin-trial.html>; John Eligon et al., "Derek Chauvin Verdict Brings a Rare Rebuke of Police Misconduct," *New York Times*, Apr. 21, 2021, sec. U.S., <https://www.nytimes.com/2021/04/20/us/george-floyd-chauvin-verdict.html>.
- 4 "State of Perpetual Emergency: Law, Militarization and State Preservation in the United States," *Journal of American Studies* 52:4 (Nov. 2018): 1033, <https://doi.org/10.1017/S002187581700130X>.
- 5 "Movable Empire: Labor, Migration, and U.S. Global Power During the Gilded Age and Progressive Era," *Journal of the Gilded Age and Progressive Era* 15:1 (Jan. 2016): 4–20, <https://doi.org/10.1017/S1537781415000572>.
- 6 "Law and Society: Structuring Legal Revolutions, 1870–1920," *Journal of the Gilded Age and Progressive Era* 5, no. 4 (October 2006): 323, <https://doi.org/10.1017/S1537781400003200>.
- 7 John Eligon, "Training vs. Experience on the Streets Becomes a Focal Point of the Chauvin Trial," *New York Times*, Apr. 6, 2021, sec. U.S., <https://www.nytimes.com/2021/04/06/us/police-training-chauvin-trial.html>; John Eligon, "'That Should Have Stopped,' Minneapolis Police Chief Says of Chauvin's Actions," *New York Times*, Apr. 5, 2021, sec. U.S., <https://www.nytimes.com/live/2021/04/05/us/derek-chauvin-trial>.

## Indigenous and Settler Violence during the Gilded Age and Progressive Era

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The absence of Indigenous historical perspectives creates a predicament in the historiography of the Gilded Age and Progressive Era. For the first eight years of the *Journal of the Gilded Age and the Progressive Era*, zero articles written about or by Native Americans can be found within its pages. By 2010, however, a roundtable of leading Gilded Age and Progressive Era scholars critically examined the reasons why "Native Americans often slipped out of national consciousness by the Gilded Age and Progressive Era."<sup>1</sup> By 2014, the journal offered a special issue on the importance of Indigenous histories during the late nineteenth and early twentieth centuries, a "period of tremendous violence perpetuated on Indigenous communities," wrote the editors Boyd Cothran and C. Joseph Genetin-Pilawa.<sup>2</sup> It is the observation of Indigenous histories on the periphery of Gilded Age and Progressive Era that inspires a reevaluation of the historiographical contributions that highlight Indigenous survival through the onslaught of settler colonial violence during the late nineteenth and early twentieth centuries.

The purpose of this microsyllabus seeks to challenge these past historiographical mishaps by re-centering works that delve into the inclusion of Indigenous perspectives and experience of settler colonial violence during the Gilded Age and Progressive Era.