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23: POLICING AND SECURITY

Benjamin Kelly

In a city like Rome, whatever level of security of person and property existed must have been achieved through a variety of mechanisms, many of them invisible and unconscious. In a multitude of sophisticated ways, psychological inhibitions to the formation of criminal designs would have been created and reinforced. Various methods of surveillance and supervision are likely to have restrained those who still formed such intentions. Earlier chapters of this volume have discussed these subtle ways in which social control and public order would have been maintained: relevant here are institutions such as the family, slavery, patronage, *collegia*, as well as the authorities' attempts to guarantee basic needs such as food and water. But in most societies, such mechanisms of control are never entirely successful. Casual references suggest that Rome was no different, even though nothing precise can be said about levels or patterns of 'crime' (either in the sense of acts regarded as punishable by the law or of acts seen as serious wrongs by society at large).¹ In Rome, awareness of crime led to conscious attempts to restrain criminality, and to apprehend and punish those who committed crimes. This chapter discusses the question of how the state, community and individual tried to cope with threats to person and property at this conscious level.

THE IDEA OF PUBLIC ORDER

Earlier generations of scholars often approached this question with the assumption that all civilized societies need professional, specialist police forces, and sometimes manipulated the evidence to try to find one in

¹ E.g. Martial, *Liber spectaculorum* 9(7); Pliny, *Epistulae* 3.14.6–8; Pliny, *Historia Naturalis* 19.59; Suetonius, *Aug.* 43, Tacitus, *Ann.* 4.22, 13.44, 14.42. On crime in Rome generally, see Robinson 1992, 204–6; Ménard 2001. On legal and lay definitions of 'crime', see Harries 2007, 1–11.

Rome.² There has quite rightly been a reaction against this approach, with scholars stressing that such police forces were exceptionally rare before the nineteenth century. It is a far from universal expectation that the state should provide agents to carry out ‘policing’ – that is, to do such things as patrolling the city to deter offenders and catch them red-handed, hunting down criminals after the fact, and assisting the courts with the detention, prosecution and punishment of offenders.³ It is conceivable that the manpower resources at the disposal of the authorities in Rome were intended simply to deal with political threats. However, in literary accounts of riots during the Principate there are signs of an underlying assumption that state agents should repress riots in Rome and elsewhere, whether political in origin or not. From the period of the Principate, there is evidence of the idea that the imperial authorities did or should take steps to ensure public order throughout the empire.⁴ This is seen, for instance, in Epictetus’ statement that ‘Caesar appears to provide us with great peace, there are no longer any wars, or battles, or large-scale banditry, or piracy, but at every hour it is possible to travel the roads, or sail from the rising to the setting sun’ (Arrianus, *Epicteti Dissertationes* 3.13.9–10). There is no reason to think that the imperial authorities were expected to keep order in the empire at large, but not in Rome itself. Indeed, Augustus acted on this expectation by posting guards around the city during public spectacles to prevent muggers from taking advantage of the deserted streets to prey on the few people not attending the spectacle (Suetonius, *Augustus* 43). Two centuries later, the jurist Ulpian stressed the urban prefect’s duties in relation to public order in the city, writing that ‘it seems the peace of the populace and good order of the games are responsibilities that fall to the urban prefect; and he should even have soldiers on policing duties (*milites stationarii*) dispersed around to guard the peace of the populace and to report back to him what is being done and where’ (*Digesta* 1.12.1.12).

The expectations lying behind these statements are also reflected in discussions in the ancient sources about what various types of official should or did do in relation to petty criminality. Such statements are good evidence for mentalities, even if not for what really happened.

² E.g., Hirschfeld 1913, 576–91; Echols 1958; Freis 1967, 41, 44.

³ Nippel 1984, 20; 1988, 7–9; 1995, 2–3, 113–18; Sablayrolles 2001, 130.

⁴ Riots: Kelly 2007, 156–60. Order throughout the empire: Brélaz 2005, 26–39. For examples of the authorities acting on these expectations: Appian, *Bell. Civ.* 5.132; Suetonius, *Aug.* 32; *Tib.* 37.

The sources assume that, during the Republic and early Principate, the aediles, amongst their many other duties, had the task of supervising markets and baths, as well as having coercive powers which included the exaction of fines. There was also a board of three minor magistrates, the *tresviri capitales*, many of whose duties could be called police duties. They oversaw the prison and the executions carried out there (*Dig.* 1.2.2.30). Plautus also assumes that they rounded up escaped slaves during their nightly patrols. The ancient sources take it for granted that the *tresviri* exercised some form of criminal jurisdiction, or at least the power to carry out preliminary inquiries. One text also states that the *tresviri* had the task of investigating crimes, although just what this investigative activity was meant to involve is quite unclear.⁵

The early years of the Principate saw the establishment of urban and praetorian cohorts, as well as the *vigiles*, a paramilitary force that conducted night patrols and extinguished fires. The prefects in charge of these three new forces were vested with criminal jurisdictions at various stages. The jurist Paulus states that the *praefectus vigilum* ('prefect of the *vigiles*') can hand out minor corporal punishments to those negligent in relation to fires, and that he has criminal jurisdiction over 'arsonists, burglars, thieves, robbers, and those who harbour them', provided they are not serious or notorious offenders, in which case the praetorian prefect has jurisdiction (*Dig.* 1.15.3.1). An imperial rescript imposed on the *praefectus vigilum* a positive duty to seek out escaped slaves and return them to their owners (*Dig.* 1.15.4; cf. Paulus, *Sententiae* 1.6a.6). Various inscriptions also suggest that the ranks of the *vigiles* (and also of the urban cohorts) included officials with tasks connected with the arrest, interrogation and incarceration of suspects.⁶ The jurisdictional competence of the *praefectus vigilum* and the penal infrastructure evidently put at the disposal of the *cohortes vigilum* seem to be best explained by the assumption that the *vigiles* were expected to apprehend various types of criminals during their nocturnal patrols.

Something similar can be said of the urban cohorts. The juristic sources assign the urban prefect a wide-ranging jurisdiction over matters including theft, the fraudulent administration of trusts, forged wills, sharp practice in markets, dishonesty on the part of bankers

⁵ Aediles: Plautus, *Rud.* 372–3; Seneca, *De vita beata* 7.3, *Epist.* 86.10; Tacitus, *Ann.* 13.28; Varro ap. A. Gellius, *Noct. Att.* 13.13.4; cf. Martial, *Epigr.* 5.84. *Tresviri capitales*: Cascione 1999, esp. 85–117, 157–60 (on jurisdiction); Lintott 1999, 102 (on rounding up escaped slaves); Varro, *De lingua Latina* 5.81 (on investigative functions).

⁶ Robinson 1992, 191–4; Sablayrolles 1996, 225–6, 232.

and money changers, unlawful *collegia*, adultery, offences by freedmen against masters and cruelty to slaves.⁷ By the early-third century, Ulpian was able to write that the urban prefect had jurisdiction of ‘absolutely all crimes’ (*Dig.* 1.12.1). In a discussion of Augustus’ establishment of the urban prefecture as a permanent office, Tacitus claims that the emperor was motivated by a desire to have an official ‘to keep the slaves in order, and that part of the citizens that would be reckless and turbulent unless it feared force’ (Tacitus, *Annales* 6.11). The urban prefect can hardly have been expected to do all of these things in person: it must have been assumed that he would use the impressive manpower resources at his disposal to assist him. The wide-ranging statement of Ulpian quoted above certainly takes it for granted that the prefect would use his troops for surveillance and the repression of general criminality.

‘POLICING’ AND THE STATE

The idea that state agents should have a role in repressing minor criminality was certainly present, especially during the Principate, at least in the minds of some members of the governing elite. This raises two questions: to what extent did these ideas result in effective action; and what reaction did the state’s attempts at policing provoke amongst ordinary people in Rome? These questions are to a certain extent interrelated: effective policing relies to a large extent on community cooperation; and the efficiency and honesty of a police force will in turn shape the community’s perception of it. Answering these questions is made difficult by the fact that the sources contain virtually no cases showing state agents policing mundane criminality. There are some reports of soldiers keeping order at public spectacles and repressing riots, and a few Christian martyr-acts depict the urban prefect and his cohorts persecuting Christians.⁸ But there are no reports of actual cases in which they dealt with more mundane crimes like burglary, theft or assault. Some progress can be made, however, by considering the structural features of the ‘policing’ institutions of the city.

The first relevant fact is that, during the Republic, and also during the early fourth century, sheer lack of manpower must have hindered

⁷ Freis 1967, 45; Mantovani 1988; Robinson 1992, 190–1.

⁸ Spectacles: Cassius Dio 61.8.3; Tacitus, *Ann.* 13.24–5. Riots: Cassius Dio 73.13.4, 74.13.4; Herodian 1.12.6–9; [Seneca] *Oct.* 780–855; *Historia Augusta*, *Didius Iulianus* 4.6; Tacitus, *Ann.* 12.43, 14.45, 14.61. Christians: Freis 1967, 23–8 for references.

the state's attempts at policing. During the Republic, the lack of a standing army and the taboo on exercising military command within the *pomerium* meant that any 'policing' was left up to civilian officials (Aulus Gellius 15.27.5). In the late Republic, there were only four aediles and three *tresviri capitales* at any one time. Both the aediles and the *tresviri capitales* were probably accompanied by a few burly attendants (Plautus, *Amphitruo* 153–62; Varro ap. Aulus Gellius, *Noctes Atticae* 13.13.4), but a few dozen men cannot have had much of an impact on regulating mundane criminality in the late republican city, with its population pushing into the hundreds of thousands. The establishment in the early Principate of the *vigiles* and the praetorian and urban cohorts represented an impressive increase in the manpower resources potentially at the disposal of the state for policing duties. Precision is difficult, but the numbers of men in these cohorts probably fluctuated between around 10,000 in the first century to something over 20,000 in the early third. There are signs, however, of a significant reduction in military manpower in Rome under Diocletian. The praetorians were then completely disbanded soon after the battle of the Mulvian Bridge in AD 312, and the urban cohorts and *vigiles* also disappeared in the course of the fourth century.⁹ We hear that when Flavius Leontius, urban prefect in AD 355–6, quelled a riot, he used his attendants (*apparitores*) to do so, presumably lacking the military manpower that his predecessors had once enjoyed (Ammianus Marcellinus 15.7.2).

Second, none of these military or paramilitary bodies was in any sense a specialist police force. During the Republic, the *tresviri capitales* had another major claim on their time and energy: the organization of fire prevention measures (*Dig.* 1.15.1). In the Principate, the *vigiles* took over this task, and the demands of detecting and fighting fires must have dramatically reduced the manpower available for their policing duties. For their part, the praetorians were involved in ensuring the security of the person of the emperor, even when he was outside the city. Members of the praetorian cohorts were at times deployed outside the city on other tasks as well. In Rome, they were also involved in the collection of various taxes introduced by Caligula on litigation, foodstuffs and trades such as prostitution. As for the urban cohorts, we know that in the

⁹ Inhibitions to military policing during the Republic: Nippel 1984, 20; Sablayrolles 2001, 129–30. The size of the military and paramilitary forces during the Principate: Freis 1967, 36–42; Panciera 1993, 262; Coulston 2000, 81. Disappearance of these forces in the fourth century: Durry 1938, 393–4; Freis 1967, 19–22; Sablayrolles 1996, 59–65.

fourth century at least they had some role in the collection of customs duties at the gates of the city.¹⁰

Then there is the question of how we should imagine the city population's interactions with these institutions. One relevant factor here is surely the absence of serious mechanisms of accountability. Suggestive is the situation in Rome in the second half of the sixteenth century. In that period, there was a police force organized along military lines, provided by the papal state. There were attempts to regulate police conduct, but these were largely nugatory, to the point that the city population loathed the police force, thanks to its heavy-handed, violent and extortionate behaviour. The hostility of the population then served to undermine effective policing further.¹¹ In ancient Rome, there are no signs of any police accountability mechanisms at all. Victims of improper conduct by soldiers in Rome would have had little chance of obtaining redress through the courts. Juvenal complains that grievances against soldiers were heard in the military camp, with soldiers acting as judge and jury, and it is plausible that court cases involving soldiers really were heard in the camp by military judges. True, the praetorian and urban cohorts were under military discipline, but the disciplinary standards of the Roman army were hardly known for ensuring that soldiers treated civilians with integrity. We hear, for instance, that after the great fire of AD 64, soldiers of the praetorian and urban cohorts and the *vigiles* took to looting the city rather than safeguarding law and order. In second-century Carthage, the soldiers posted there on policing duties seem to have run extortion rackets, demanding money from pickpockets, bath-thieves, gamblers, and Christians in return for protection from prosecution or other forms of harassment.¹² One suspects that, in the absence of safeguards, similar problems would have been encountered in Rome.

The sources certainly contain signs of friction and alienation between civilians and the various military and paramilitary bodies

¹⁰ Manpower limitations of the *vigiles*: Rainbird 1986, 151; Nippel 1995, 96–7. External deployment of praetorians: Durry 1938, 274–80; Passerini 1939, 191–6. Praetorians and tax collection: Suetonius *Cal.* 40; McGinn 1998, 256–64. Urban cohorts and customs duties: *Codex Theodosianus* 4.13.3 = *Codex Iustinianus* 4.61.5; Freis 1967, 46.

¹¹ Blastenbrei 2006.

¹² Cases heard in military camps: Juvenal 16.7–34; Campbell 1984, 251–2, 431. Looting in AD 64: Cassius Dio 62.17.1, cf. Tacitus, *Ann.* 15.38. Extortion by soldiers in Carthage: Tertullian, *De fuga in persecutione* 13; McGinn 1998, 260–1.

stationed in the city.¹³ On various occasions during the third century, crowds are said to have attacked the praetorians, and vice versa.¹⁴ Epictetus also stated that soldiers in Rome would act as *agents provocateurs*, tempting people to make disloyal statements about the emperor and then arresting them (Arrianus, *Epict. diss.* 4.13.5), a practice that cannot have inspired civilian confidence in the city's military forces. Studies of the epigraphic evidence have suggested a certain social distance between civilians and urban soldiers and *vigiles*. For soldiers stationed in Rome, rates of family formation were low, no doubt in part thanks to the ban on the marriage of soldiers in the period from Augustus to Septimius Severus. When urban soldiers did marry or take concubines, these tended to be of fairly low social origin. And there is scant sign of other forms of social contact: for instance, there is a striking absence of dedications set up by soldiers and civilians in cooperation.¹⁵

COMMUNITY 'SELF-POLICING'?

Thus, factors such as a lack of manpower and proper specialization, as well as a distant or downright hostile relationship with the city community, are likely to have seriously retarded the effectiveness of 'policing' institutions in the city. The total lack of known cases of state agents carrying out acts of policing in relation to petty crimes is consistent with this conclusion. The question then arises of just how social control and personal security were achieved. One suggestion that has been urged very strongly is that the community essentially policed itself. There is evidence for a range of rituals dating back into Rome's earliest history according to which individuals and groups expressed disapproval using methods which ranged from defamatory songs through to fully fledged lynchings. Some scholars, impressed by the apparent similarity between these rituals and collective rituals of disapproval in more recent European societies such as *charivari* and

¹³ Pace Sablayrolles 1997, there is no evidence that the *vigiles* were regarded as figures of sympathy who were part of the conviviality of Roman street life. Neither their portrayal as inept buffoons nor their nickname proves anything (Petronius, *Sat.* 78; Tertullian, *Apologeticus pro Christianis* 39). Buffoons need not be likeable, nor nicknames affectionate.

¹⁴ Cassius Dio 80.2.3; Herodian 2.4.1, 7.11.6–12.7; *Hist. Aug., Maximini* 20.6.

¹⁵ Panciera 1993; Sablayrolles 1996, 396–406.

Katzenmusik, have seen these as examples of the city community policing itself.¹⁶

The Law of the Twelve Tables (mid-fifth century BC) apparently threatened capital punishment ‘if anyone should chant (*occentavisset*) or write a song which brings infamy or ill repute (*flagitium*) to another’. The verb *occentare* has been taken to be part of the language of popular justice, referring to rabble-rousing chanting before a wrongdoer’s house. In reality, the word is so archaic that its meaning is impossible to recover with clarity. The resonances of *flagitium* are clearer: there is an etymological connection between *flagitium* (‘ill repute’), and *flagrare* (‘to burn’) and *flagellare* (‘to flog’), suggesting that originally this ritual included the flogging of the target or the burning of his or her house. Closely related too was *flagitatio*, the practice of demanding property with shouts. This could be done before a house or in some other public place, like the forum. Two other practices are also usually grouped under the rubric of ‘popular justice’. One is *squalor*, the act of going around in public with shabby clothing and dishevelled hair as a way of casting odium on someone who had committed a supposed wrong. The second was the practice of people who were in the process of being robbed or attacked calling on the assistance of neighbours and passers-by. In this connection, the sources usually mention the formula *implorare Quiritum fidem* (‘to call upon the good faith of the citizens’) or similar. The sources for the Principate mention a variant on this, depicting people calling on the good faith (*fides*) of the emperor, either in person, or in the form of his image or statue.¹⁷

These rituals of popular justice are most vividly attested in Plautus. In the *Mostellaria*, the money-lender Misargyrides, who has lent money to the prodigal Athenian youth Philolaches, approaches the youth’s slave in public. The money lender engages in *flagitatio*, demanding the payment of interest owed (Plautus, *Mostellaria* 603–5). Another relevant scene occurs in the *Rudens*, when two freeborn women, who had been captured by pirates and sold to a pimp, seek refuge in a temple. The pimp tries to drag them out, but a slave friendly to the women calls on the *fides* of the people of Cyrene, and various men in the vicinity duly come to their aid (Plautus, *Rudens* 615–26). But the problem with Plautus,

¹⁶ Veyne 1983, esp. 12–25; Nippel 1995, 39–46; Krause 2004, 61–2; Ménard 2004, 10, 71, 118.

¹⁷ *Occentare*: XII Tab. 8.1; Usener 1913, 359–60; Rives 2002, 283–4. *Flagitatio*: Usener 1913, 360–73; Lintott 1999, 9–10. *Squalor*: Lintott 1999, 16–21. *Fidem implorare*: Lintott 1999, 11–16.

as ever, lies in knowing just how his fictional world, influenced by its Greek models, correlated with the actual realities of the city of Rome in his day. It is clear enough from the existence of a technical Latin vocabulary of *flagitatio*, and also from the mention of these phenomena in the Twelve Tables, that these were ancient Roman practices. Yet it is far from clear that the representation of these institutions in Plautus reflects what was happening on the streets of Rome in 200 BC. And even if Plautus is describing what happened in the Rome of his day, these scenes cannot be assumed to represent routine practices in the cosmopolis of AD 200.

Indeed, when we look at the so-called rituals of popular justice in the cold light of history, the case for community self-policing starts to look weak. Even if we take at face value all the reports of concrete cases of this sort of behaviour in the city of Rome, there are still not very many. Moreover, most of these are essentially political protests. There are very few non-political cases, only one of which could be called a 'popular justice' response to a homicide (Seneca, *De clementia* 1.15.1), and none of which is a reaction to a mundane crime such as a theft or assault.¹⁸ Nor can cases of political protest carried out according to traditions of 'popular justice' be taken as evidence of contemporary communal responses to mundane criminality. Such political protests could well have been self-consciously archaizing, with acts of verbal protest and political violence being implicitly legitimated by traditions about methods of plebeian agitation and self-help in the early Republic.

But perhaps it is too much to demand concrete cases. Scholars who have argued for the role of 'popular justice' in day-to-day social regulation have also pointed to the various passages, mostly in works of poetry or fiction, containing generalized references to supposed popular justice practices, or fictitious situations involving these rituals. In Catullus 42, the poet calls upon his poems to encircle a certain woman and demand back the tablets on which they are written, which she has supposedly stolen – in other words, to engage in *flagitatio*. To take

¹⁸ Political protests: Appian, *Bell. Civ.* 1.32–3, 1.54; Ammianus Marcellinus 27.3.8; Asconius 93 C; Cicero, *De domo sua* 14, *Epistulae ad familiares* 1.5b.1, *De lege agraria* 2.13, *Epistulae ad Quintum Fratrem* 2.3.2, 2.11.1; Cassius Dio 50.10.2, 55.27.1–3, frag. 95.3; Diodorus Siculus 36.16; Florus 2.4; Livy, *Periochae* 74; Plutarch, *Pompey* 48; Suetonius, *Caesar* 80, 85, *Aug.* 55, *Gaius* 27, *Nero* 39, 45, *Domitian* 14; Tacitus, *Ann.* 1.72, 4.28–9, 6.39, 14.42–5, 15.49; Valerius Maximus 9.7.4. Non-political cases: Cato ap. A. Gellius, *Noct. Att.* 17.6.1; A. Gellius, *Noct. Att.* 4.5; Pliny, *Hist. Nat.* 10.121–3; Seneca, *Clem.* 1.15.1; Statius, *Silvae* 1.2.26–30; Tacitus, *Ann.* 3.36; Valerius Maximus 7.8.5.

another example, in the *Satyricon* Encolpius claims that when set upon and forced to perform unspeakable acts by Quartilla and her two lusty maids, he attempted *invocare Quiritum fidem* ('to appeal to the good faith of the citizens'). But these could be taken as light-hearted allusions to quaint practices that endured in cultural memory, even though they did not often occur in the streets of Rome in the time of Catullus or Petronius. It is also true that several classical jurists hold that 'popular justice' practices, including *flagitatio* and *squalor*, could give rise to an action for personal insult (*iniuria*).¹⁹ Yet it is dangerous to assume a situation was common simply on the basis that it was discussed by the jurists.

Even if we can convince ourselves on the basis of these various types of evidence that the customs of 'popular justice' were still widespread in the late Republic and Principate, it does not follow that they contributed much to public order and social regulation. For one thing, both the 'real' and the imaginary cases were not really instances in which a clear collective consciousness was outraged. Rather, they were attempts to negotiate ethical problems whose solution was unclear and contested. Take, for instance, the case reported by Seneca, in which a member of the equestrian order flogged his own son to death. Members of the *populus* (including both fathers and sons) waylaid him in the forum and stabbed him with styluses. Augustus barely managed to rescue him by appearing in person (Seneca, *Clem.* 1.15.1). There was, however, a belief that fathers had the legal right to kill their own children. This belief was possibly a myth sustained by the rhetorical strategies of authoritarian fathers trying to resist threats to their authority from other family members. But if it was a myth, it was one in which many Romans believed.²⁰ The outraged crowd in the forum was thus not enforcing a clearly defined norm, but rather taking a stance on a morally and legally murky issue. The crowd's sense of right and wrong was not indicative of the collective morality of the community at large, but merely of the moral feeling of the members of that particular crowd. So we should not see rituals such as *flagitatio*, *squalor* and lynching as tools for the enforcement of defined norms, but rather as tactics designed to enforce a particular view in a disputed case. The same applies *a fortiori* in political cases.

There is also a class dynamic visible in various concrete cases such as the near lynching of the member of the equestrian order by members of the *populus*, and also in Tacitus' report that in AD 21 various low-status people (including slaves and freedmen) had been shielding

¹⁹ *Dig.* 47.10.15.2–10, 27; Gaius, *Institutiones* 3.220. ²⁰ Shaw 2001, 56–77.

themselves behind portraits of the emperor to cast odium on people of reputation.²¹ These tactics were also used to try to redress other power imbalances, and negotiate a variety of social tensions, including those between male and female, young and old, and patron and client. For example, we hear of a second-century BC case in which a woman lent money to her husband. When the marriage soured, she instructed a slave to follow the man around demanding the money back (Cato Maior ap. A. Gellius, *Noctes Atticae* 17.6.1). We can perhaps read this case as one in which *flagitatio* was used as a tactic in a marital dispute, and was prompted by the woman's realization of the difficulties that she would face suing her own husband. These were not, therefore, occasions on which the whole community would spontaneously rally together to stigmatize and punish a deviant. Rather, they were used by a section of society, often to pursue sectional interests, or by individuals to pursue individual interests.

Nor did these rituals necessarily function as methods of orderly dispute resolution: indeed, they were sometimes themselves potentially a threat to public order. An inscription from Cnidus shows Augustus reproaching that city for failing to check a man who had been coming by night before a house and engaging in a sort of *flagitatio*: the emperor says that this behaviour had threatened the safety of the whole community (Sherk *RDGE* no. 67). In the emperor's mind, therefore, there was a close connection between nocturnal protests before someone's house and large-scale disorders. A legal compilation dating to around AD 300 also assumes that the singing of defamatory songs was a threat to public order (*disciplina publica*) (Paulus, *Sent.* 5.4.15). And one suspects that this fear was well founded: the goal of rituals such as *flagitatio* was to gather bystanders and inflame their disapproval. It probably was not a large step from that to a genuinely riotous situation. Particularly during the strife of the late Republic, these ancient traditions were in fact appropriated by organizers of mobs to legitimate political violence.²²

The rituals of collective disapproval, should, therefore, be seen as something more complex and dangerous than the mechanism by which a community policed itself in the absence of an effective state police force. In fact, they might have threatened public order more often than they maintained it. The attested cases look more like tactics in disputes that revealed structural tensions in society. Cases of straightforward

²¹ Tacitus, *Ann.* 3.36. See too [Quintilian] *Declamationes minores* 364; Seneca the Elder, *Contr.* 10.1; Tacitus, *Ann.* 4.28–9.

²² Lintott 1999, 6–21.

crimes like thefts, assaults and murders being treated in this way are rare to non-existent. Community 'self-policing' is unlikely to have been much of a factor in controlling mundane criminality.

SELF-DEFENCE

One is left with the problem of how people managed to achieve basic security of person and property in a city without an effective police force, and in which the rituals of collective action were as likely to threaten public order as to preserve it. The answer might be that order simply was not kept – that levels of crime and violence were far higher than would be considered acceptable in most modern cities. Alternatively, it could be that the more subtle mechanisms of social control mentioned above were relatively successful at limiting crime, rendering explicit attempts by state and community to combat crime largely otiose. We simply lack the statistical evidence needed to choose between these scenarios. But casual references certainly suggest a belief that the city was not crime-free, and for protection against such crime as did exist, what must have really mattered were not the state's efforts at 'policing', or the community's willingness to 'police' itself, but individuals' capacities to protect themselves. In this regard, classical Rome would have been no different from most pre-modern European cities. In sixteenth-century Rome, for instance, the rich travelled the streets with armed retainers and people of all classes went around 'armed to their teeth' with weapons including sticks, daggers, swords and wheel-lock pistols.²³ They felt the need to be so armed in spite of the fact that for most people the carrying of weapons was illegal – so great was their fear of the lawless streets.

In classical Rome, lawyers and legislators recognized the grim reality that citizens had to defend themselves. Roman law permitted the use of lethal force not only to protect one's person from attack, but also to protect one's household from thieves (both daytime and nocturnal).²⁴ This need for self-protection is illuminated by the elder Pliny's statement that members of the plebs living in apartments had been forced to give up their window box gardens and block up their windows as a result of a terrible outbreak of violent burglary (*Hist. Nat.*

²³ Individual's role in self-protection in classical Rome: Nippel 1995, 97; Sablayrolles 2001, 130; Krause 2004, 46–7. Sixteenth-century Rome: Blastenbrei 2006, 86.

²⁴ *XII Tab.* 8.12–13; *Collatio* 7.2.1, 7.3.2–3; *Dig.* 9.2.5 pr., 48.8.9; Macrobius, *Saturnalia* 1.4.19.

19.59). Even if the belief in a crime wave was merely a moral panic, the popular response is still interesting. The people did not clamour for more police or form vigilante squads: they boarded up their windows and hoped for the best.

The need to take private measures for one's own security is attested in a mass of incidental detail in the sources. Consider first the aristocratic urban house. It is true that in the aristocratic house public and private space were conflated, since clients and others were permitted entry to some rooms (Vitruvius, *De architectura* 6.5.1–2). Yet it was entry very much on the owner's terms. Literary descriptions assume that houses presented strong, closed doors to the street. A passage in Ovid suggests that windows facing the street tended to be high and inaccessible (*Ars Amatoria* 2.244–6), and the remains of houses in Ostia and Pompeii tend to confirm this. The doors of the great house might be opened for the morning *salutatio*, but several casual comments suggest that, at least during the Principate, doormen would control entrance even during this ritual (Martialis, *Epigr.* 5.22; Seneca, *De constantia sapientis* 14.1–2). And texts from both the Republic and the Principate suggest that at other times of the day and night doors were shut, and doormen firmly in control of who came in. Seneca assumes that doormen would be armed with large sticks to help repel unwanted visitors (*Const.* 14.2).

When the proprietor of an aristocratic house (or his or her family) moved around the city, it would sometimes be in the presence of a retinue. We hear of the great politicians of the late Republic moving around with retinues of supporters and clients (e.g. Sempronius Asellio ap. Aulus Gellius, *Noct. Att.* 2.13.4). Even when political violence was not at issue, there are signs that the rich sometimes moved around with attendants. In his third satire, Juvenal imagines that a nocturnal bully looking for a brawl will avoid the man who passes by in a scarlet cloak with a long column of attendants carrying torches and lamps (3.282–5; cf. Propertius 2.29a). The literary and epigraphic records also attest the use of litter bearers (*lecticarii*), who by definition were strong men likely to deter any street crime against their charges. Suggestive here is the epitaph of a certain Iucundus, a *lecticarius* for a member of the aristocratic house of the Statilii Tauri, which boasts that 'as long as he lived, he was a man and defended himself and others' (*CIL* 6.6308). In fourth-century Rome, these practices continued: Ammianus complains both about those who pass through the streets of the city 'without fear of danger', accompanied by huge retinues of slaves, and about women who travel the city in closed litters (Ammianus Marcellinus 14.6.16–17, 28.4.8). The children of the great households would also be accompanied

by *paidagogoi* as they walked the streets. These attendants had multiple functions, but one was to keep their charges safe (e.g. Appian, *Bellum Civile* 4.30).

It would be a mistake, of course, to assume that every time a high-status person trod the streets, he or she was accompanied by a bevy of bodyguards. But the evidence does suggest that people with the necessary resources could employ a range of techniques to keep themselves safe. Wealth and social status, in other words, would have been the only true guarantors of security. The poor could give up their window-box gardens and block their windows, but one needed to be a slave owner or have access to other types of dependants to be truly safe on the streets, especially at night. Finally, when attempts at self-defence failed and one became a crime victim, self-help was relevant in another sense. From the late Republic onward there were various standing criminal courts available in which crimes against person and property could be tried. In the absence of public prosecutors, it fell to private individuals to bring prosecutions. Social position and wealth were again very relevant here, since they afforded access to legal advice and representation, the manpower physically to bring a criminal into court,²⁵ not to mention a chance of being taken seriously by judges and jurymen who would be members of the elite. In this second sense, therefore, social status was relevant to self-help against criminals.

CONCLUSIONS

Although some members of the Roman elite believed that the state should have a role in ensuring security of person and property, it is unlikely that the soldiers and officials entrusted with this task were terribly successful. Nor is there much evidence of genuine ‘self-policing’ by the urban community, especially during the Principate. Rather it would have been for individuals to keep themselves and their property safe as best they could. This conclusion is, of course, a matter of emphasis. It would be rash to claim that the *vigiles* never managed to round up a thief in the streets at night, or that angry neighbours never lynched a murderer. Rather, what I suggest is that individuals’ security was probably more the result of their own efforts than those of the state or the community. And I particularly think that we should abandon the cosy communitarian notion that rituals like *flagitatio* ensured the

²⁵ Krause 2004, 64.

enforcement of some collective consensus. When it came to security, as with so many basic necessities of life, the city of Rome must have been a profoundly differentiated and unequal society.

FURTHER READING

Any further reading should begin with Nippel 1984; 1995. These works collect the relevant ancient evidence, and offer an analysis that takes the study of Roman policing to a new level of sophistication. Also fundamental for the Republic is Lintott 1999, 89–106, which analyses policing institutions and provides an assessment of their role that is perhaps somewhat less understated than that offered by Nippel 1984 and 1995. Lintott also discusses the archaic traditions of ‘popular justice’ and their role in legitimating the political violence of the late Republic (1999, 6–21). Fuhrmann 2012 offers a thorough discussion of policing institutions during the Principate, not only those in Rome but also those in Italy and the provinces. Harries 2007 discusses the structure of the criminal courts of the late Republic and Principate, and the construction of ‘crime’ in lay and legal discourses.