

PREMODERN CRIME AND PUNISHMENT

Police Power in the Italian Communes, 1228-1326



Amsterdam
University
Press

Gregory Roberts

PRIVATE AND NON-COMMERCIAL USE
AMSTERDAM UNIVERSITY PRESS

Police Power in the Italian Communes, 1228–1326

FOR PRIVATE AND NON-COMMERCIAL USE
AMSTERDAM UNIVERSITY PRESS

Premodern Crime and Punishment

Studying the efforts of medieval and early modern societies to define and cope with deviance continues to generate insights about the usefulness of the pre/modern divide. Such study historicizes what appear, from a modern perspective, to be perennial problems and staple characteristics of crime and punishment. To accommodate the influx of quality research in this field, this series provides a congenial venue for works exploring the social, legal, institutional, religious, and cultural aspects of premodern crime and punishment.

Editorial Board

Guy Geltner, University of Amsterdam (Chair)

Isabel Alfonso Antón, CCHS Madrid

Trevor Dean, University of Roehampton

Elizabeth Papp Kamali, Harvard Law School

Mia Korpiola, University of Turku

Christian Lange, Utrecht University

Police Power in the Italian Communes, 1228–1326

Gregory Roberts

Amsterdam University Press

FOR PRIVATE AND NON-COMMERCIAL USE
AMSTERDAM UNIVERSITY PRESS

This book was published with the generous assistance of a Book Subvention Award from the Medieval Academy of America.

Cover image: Detail from Ambrogio Lorenzetti, *Allegoria del Buongoverno*, fresco, Palazzo Pubblico, Siena, Italy, 1338–1339. Comune di Siena

Cover design: Coördesign, Leiden

Lay-out: Crius Group, Hulshout

ISBN 978 94 6372 530 9

e-ISBN 978 90 4854 354 0

DOI 10.5117/9789463725309

NUR 684

© G. Roberts / Amsterdam University Press B.V., Amsterdam 2019

All rights reserved. Without limiting the rights under copyright reserved above, no part of this book may be reproduced, stored in or introduced into a retrieval system, or transmitted, in any form or by any means (electronic, mechanical, photocopying, recording or otherwise) without the written permission of both the copyright owner and the author of the book.

Every effort has been made to obtain permission to use all copyrighted illustrations reproduced in this book. Nonetheless, whosoever believes to have rights to this material is advised to contact the publisher.

FOR PRIVATE AND NON-COMMERCIAL USE
AMSTERDAM UNIVERSITY PRESS

To my parents

Table of Contents

List of Figures	9
Acknowledgments	11
A Note on Usage	13
Abbreviations	15
Introduction	17
Police as a Mode of Governance	23
Police and Impersonal Rules	26
The Plan of the Book	29
1. Police Power in the Italian Communes	39
The Podestà's Household	41
Police Patrols and Inspections	49
The Legal Process: From Detention to Trial	59
A Comparison of Selected Data	69
Conclusion: Policing and Hegemonic Justice	85
2. Police Discretion and Personal Autonomy	93
Social Identity	97
Political Status	102
Factual Matters	108
Legal Presumptions	113
Police Jurisdiction	119
Mitigating Factors	124
Conclusion: The Paradox of Impersonality	128
3. The Logic of Third-Party Policing	133
“To [...] Pursue and Capture Outlawed Criminals”	137
“To [...] Search for Men Bearing Prohibited Arms”	144
“Trustworthy Foreign Men”	149
“The Good State of the Commune”	155
Conclusion: A Preventive Police	163

4. External Threats: Policing Out-Groups and Criminality	173
Judicial Violence	177
The Public Interest	185
Outlaws, <i>Infames</i> , and Men of Ill Repute	189
Police Patrols as Dragnet	195
The Role of <i>Fama</i>	203
Conclusion: A Persecuting Society?	209
5. Internal Threats: Policing Violence and Enmity	217
Enmity and Instability	224
Policing Feud	229
Toward a Monopoly on Violence	240
Preventing Enmity	247
Conclusion: Legislating in the Shadow of Violence	255
6. The Social Impact of Third-Party Policing	267
Mandatory Rules	271
Legal Literacy	275
Fear of the <i>Familia</i>	279
Violent Self-Help	285
Police-Community Relations	291
Public Corruption	295
Legal Privilege	302
Conclusion: A Legacy of Government Coercion	307
Conclusion	313
About the author	319
Index	321

List of Figures

Table 1:	Bologna: Persons Denounced per Semester	69
Table 2:	Bologna: Curfew Case Outcomes by Percentage	72
Table 3:	Bologna: Arms-bearing Case Outcomes by Percentage	72
Table 4:	Bologna: Gambling Case Outcomes by Percentage	73
Table 5:	Bologna: Total Amount of Penalties in Lire	74
Table 6:	Bologna: Case Type by Percentage of Total Cases	75
Table 7:	Bologna: Convictions, January–March 1256	75
Table 8:	Bologna: Crowns and Arms Fragment, April–October 1264	77
Table 9:	Perugia: <i>Inventiones</i> , January–December 1279	78
Table 10:	Perugia: <i>Inventiones</i> , January–August 1283	78
Table 11:	Perugia: Persons Convicted	79
Table 12:	Perugia: Persons Convicted by Percentage of Total Convictions	79
Table 13:	Siena: Convictions, 1305II	81
Table 14:	Siena: Convictions, 1306I	81
Table 15:	Siena: Convictions, 1306II	81
Table 16:	Siena: Total Convictions, 1305II–1306II	81
Table 17:	Orvieto: Convictions, November 1294–November 1295	83
Image 1:	The record of Carlo Baciacomari's trial in the Crowns and Arms series. Archivio di Stato di Bologna.	118
Image 2:	Drawings of prohibited weapons on the cover of a Crowns and Arms register. Archivio di Stato di Bologna.	230

Acknowledgments

Authors of academic books typically thank their loved ones last, but here it is only appropriate that I thank my wife Rebecca first and foremost. This book project loomed already at the start of our relationship, and I could not have finished it—especially while working full-time outside of academia—without her patient love and support. It is my peculiar good fortune as an author to have a wife who also holds a doctorate in medieval history and is an experienced (and willing) editor.

Any scholar who works on justice in medieval Bologna does so in the shadow of Sarah Rubin Blanshei, and I am fortunate to count her as a friend and mentor. The present volume has benefited from Sarah's deep knowledge and attention to detail at many steps along the way, above all in her review of the draft manuscript. The thoughtful comments and broad perspective of the anonymous reviewer for Amsterdam University Press also helped improve the book significantly.

I am especially grateful to Guy Geltner for shepherding me along the process of transforming a rough manuscript into publishable form. Guy's willingness to read, comment on, and discuss multiple drafts went way beyond what any author could expect from an editor or even a friend. Trevor Dean also offered helpful and encouraging comments, and Erika Gaffney has been a pleasure to work with as commissioning editor. Any mistakes that remain in the book are of course my own.

At its heart this book is an archival study, and it would not have been possible without the steady support of the staff at the state archives in Siena, Perugia, Orvieto, and above all Bologna. Massimo Giansante deserves a special mention for both his expert advice and encouragement from the time I first set foot in Bologna's Archivio di Stato for a weeklong introductory course to its rich holdings. Massimo Vallerani also offered patient guidance as I first labored to get a handle on my sources. The Fulbright Program, Yale University's MacMillan Center, and the Institute for Humane Studies helped fund my archival research, and a Book Subvention Award from the Medieval Academy of America provided generous support for the publication of this study.

This project began life as a doctoral dissertation, and I remain grateful to my committee—Anders Winroth, Paul Freedman, Carol Lansing, and Bill Caferro—for their direction and support. Anders afforded me all the intellectual freedom I could hope for from a supervisor, and I will always be indebted to Bill for first inspiring me as an undergraduate to study medieval history.

A Note on Usage

The standards for dates, currencies, and measures varied from town to town in medieval Italy. In many cities, the calendar year began on 25 March, but in Bologna it began on Christmas (25 December). I have adjusted dates as necessary to match the Gregorian calendar. Despite local variations in coinage, public courts across northern Italy assessed fines according to the standard monies of account: the lira (*libra* or pound), soldo (*solidus* or shilling), and denaro (*denarius* or penny). I use these denominations accordingly, without attempting to determine their actual economic value in a given context. Their ratios were fixed as follows: 1 lira = 20 soldi = 240 denari. Most measures of length derived from the Roman duodecimal system based on the *pes* or foot (29.6 cm), but their actual length deviated from the Roman standard depending on the city. Wherever measures of length figure into cases, I provide them as given in the source, without attempting a conversion. Common measures included the *piede* (foot), *braccio* (arm's length), *pertica* (rod), and *millia* (mile). In some contexts, the *piede* was divided into *palmi* (palms) and *digiti* (digits) according to a Greek system, where 1 *piede* = 4 *palmi* = 16 *digiti*. For more detailed information on Bolognese measures, see Franco Bergonzoni, "Note sulle unità di misura bolognesi," in *I portici di Bologna e l'edilizia civile medievale*, ed. Francesca Bocchi (Casalecchio di Reno: Grafis, 1990), 161–70. As for personal names, I have converted the Latin names in the sources to modern Italian except in a few cases where individuals hailed from beyond the peninsula. I give their names in the appropriate modern vernacular.

Abbreviations

ASB	Archivio di Stato di Bologna
Accusationes	Curia del podestà, Giudici ad maleficia, Accusationes
Cartacea	Riformagioni e provvigioni, serie cartacea
Corone	Curia del podestà, Ufficio corone ed armi
Fango	Curia del podestà, Ufficio delle acque, strade, ponti, calanchi, selciate e fango
Giudici	Capitano del popolo, Giudici del capitano del popolo
Inquisitiones	Curia del podestà, Giudici ad maleficia, Libri inquisitionum et testium
Provvigioni	Governo, Provvigioni dei consigli minori
Riformagioni	Riformagioni del Consiglio del Popolo
Sindacato	Curia del podestà, Ufficio del giudice al sindacato
Tesoreria	Camera del comune, Tesoreria e controllatore di tesoreria
Vigne	Curia del podestà, Ufficio per la custodia delle vigne, palancati e broili
ASO	Archivio di Stato di Orvieto
Podestà	Podestà, capitano del popolo e vicario, Sentenze, condanne e assoluzioni
ASP	Archivio di Stato di Perugia
Capitano	Capitano del popolo, Processi e sentenze della curia
ASS	Archivio di Stato di Siena
Malefizi	Podestà, Malefizi
Costituto	<i>Il Costituto del comune di Siena, volgarizzato nel MCCCIX-MCCCX.</i> Siena: Tip. e Lit. Sordmuti di L. Lazzeri, 1903.
Statuti 1245	<i>Statuti di Bologna dall'anno 1245 all'anno 1267.</i> Edited by Luigi Frati. 3 vols. Bologna: Regia Tipografia, 1869-77.
Statuti 1288	<i>Statuti di Bologna dell'anno 1288.</i> Edited by Gina Fasoli and Pietro Sella. 2 vols. Vatican City: Biblioteca Apostolica Vaticana, 1937-39.
Statuto 1279	<i>Statuto del comune di Perugia del 1279.</i> Edited by Severino Caprioli. 2 vols. Perugia: Deputazione di storia patria per l'Umbria, 1996.

Introduction

One Saturday in August 1286, the podestà of Bologna—the city’s chief magistrate—dispatched some of his retainers to investigate a suspected gambling house not far from the piazza. They quietly surrounded the building, positioning four men at its rear escapes and three at its front door. From the doorstep they heard voices inside calling out bets, all but confirming their suspicion that the house was the site of illicit gaming. The podestà’s men ordered whomever was inside to open up at once. One of the alleged gamblers came to the front door but, seeing it was the podestà’s men, alerted his companions in the back. Pandemonium erupted as the suspects scattered. Some fled through windows and over the rooftops of neighboring houses, while others hid under beds. But the podestà’s men gave chase. Despite having to break down two doors to get inside, they managed to arrest nine fugitives before the dust settled. In the ensuing trial, the podestà’s judge found all nine suspects and one other individual guilty of illicit gaming, and sentenced each to the statutory fine of 25 lire.¹

Conventional wisdom holds that police are an invention of modernity. In today’s usage, “police” typically refers to the government entity responsible for civil order and law enforcement; “to police” is to perform the functions of a police department, namely to prevent and detect crime and bring criminals into custody. Social scientists and historians alike generally conceive of the police, along with the military, as the main instruments of the modern state’s claim to a monopoly on the legitimate use of violence within its territory.² According to a popular Anglo-American narrative, modern policing did not exist until 1829, when Sir Robert Peel founded London’s Metropolitan Police. As the story goes, the “bobbies” were a new kind of police, defined by their bureaucratic organization and preventive function. They were full-time, salaried public employees, unlike the part-time, parish-based watchmen who came before them. And their regular street patrols served to deter crime and maintain order, not merely detect crime and apprehend

1 ASB, Corone 1, 1286II, 12r–v. Massimo Vallerani first presented this case in “Giochi di posizione,” 33.

2 Tilly, *Coercion*; Ruff, *Violence*, 87–92; Barzel, *A Theory of the State*.

criminals after the fact.³ Granted, Continental Europe had an older and more expansive concept of police. As discussed later in the Introduction, the “police science” of the eighteenth century meant something more like “public policy,” and encompassed virtually any rule or regulation instated with the public interest in mind. But by most accounts even that kind of police did not exist until the early modern period. In the Middle Ages, criminal offenses were redressed by members of the community, not punished by the authorities of a centralized state.⁴

Yet even by today’s narrow definition, the above raid on a gambling house—described in Bologna’s thirteenth-century court records—looks remarkably like “modern” policing. The tactics on display will be familiar to anyone who has watched a television crime drama. Like modern law enforcement officers, the podestà’s men surrounded the building, broke down the doors, and attempted to take their suspects by surprise. Called *berrovarii* in the sources (*berrovieri* in Italian), the podestà’s men were in fact paid by the city government to serve as public law enforcement officers. It would still be a stretch to call them “policemen” or “police officers,” since they were a kind of mercenary and policing was not yet a distinct profession with its own standards and specialized training.⁵ But the *berrovarii* patrolled the city streets on a full-time basis and booked or arrested men they found violating the statutes, especially those concerning gambling, curfew, and the bearing of arms. Furthermore, the *berrovarii* belonged to the podestà’s “household” (*familia*), the retinue of judges, notaries, and armed retainers that all podestà employed to help execute their official duties. By statute, all *familiars* had to be foreigners like the podestà, so that they would (in theory) enforce the statutes impartially, removed from the prejudices of local politics. Although police officers today are not required to be foreign, the principle of employing neutral public officials to exercise legal authority is classically modern. In the raid above, the theory appears to have worked in practice: three of the convicted gamblers were notaries, who received no

3 For a textbook example, see Dempsey and Forst, *An Introduction to Policing*, 8. For more nuanced histories, see Finnane, “The Origins of ‘Modern’ Policing”; Barrie, “Policing Before the Police”; Emsley, *The Great British Bobby*; Reynolds, *Before the Bobbies*. On preventive police, see Reith, “Preventive Principle of Police.” The foundational texts are Chadwick, “Preventive Police”; Colquhoun, *A Treatise on the Police of the Metropolis*.

4 Lenman and Parker, “The State, the Community, and the Criminal Law.”

5 Cf. Bowsky, “The Medieval Commune.” On the functional overlap of early police and military forces, see Nippel, *Public Order*, 1; Bayley, “The Police.” This was especially true in early modern France; Emsley, *Policing*, 9–33. For the case of Italy, see Antonielli and Donati, eds., *Corpi armati*.

special legal treatment even though the notaries' guild dominated Bologna's government at the time.⁶

The appearance of ostensibly "modern" policing in medieval Italy raises two major questions for historians. First, what role did police power play in public justice in the communes? The podestà's *familia* appears to have used physical and legal coercion to enforce the commune's laws on a routine basis. Yet much of the current literature views medieval justice through the lens of dispute resolution, emphasizing negotiation and peacemaking over discipline and punishment. According to one influential reading, the role of public courts was not to enforce the statutes and deliver decisive verdicts so much as to mediate between parties in conflict and restore social harmony. The public trial was merely one step in a longer process of negotiation that also made use of "extrajudicial" institutions, such as peace agreements.⁷ This functionalist approach has provided a valuable corrective to earlier scholarship, which generally assumed that medieval justice systems, like those of the modern state, aimed to discipline and punish.⁸ In the old narrative, medieval governments were "weak" insofar as they lacked the coercive capacity to enforce their laws, and inadequate police power contributed to the lawlessness and disorder that supposedly defined the Middle Ages.⁹ Revisionist readings have shown to the contrary how premodern institutions, including public courts, "worked" to maintain social order without recourse to punishment. Yet they have done little to alter the perception that medieval governments lacked police power.¹⁰

6 The notaries were Giovanni da Paglia, Venedico Aimeri, and Paolo di Ventura. On the notaries' guild in Bologna, see Tamba, *Una corporazione*; Tamba, ed., *Rolandino e l'ars notaria*. More generally, see Bartoli Langelì, *Notai*.

7 For the Italian communes, the key works are: Vallerani, *Medieval Public Justice*; Wickham, *Courts and Conflict*; Kuehn, *Law, Family & Women*. The literature on dispute resolution in medieval Europe is vast, but highlights include Esmark et al., eds., *Disputing Strategies*; Tuten and Billado, eds., *Feud, Violence and Practice*; White, ed., *Feuding and Peace-Making*; Brown and Górecki, eds., *Conflict in Medieval Europe*; Hyams, *Rancor and Reconciliation in Medieval England*; *Le règlement des conflits*; Miller, *Bloodtaking and Peacemaking*; Davies and Fouracre, eds., *The Settlement of Disputes*; Bossy, ed., *Disputes and Settlements*. For a recent retrospective, see Jordan, "Rethinking Disputes." For the literature on peacemaking in Italy, see Chapter 5.

8 For the functionalist orientation of this literature, see Netterstrøm, "The Study of Feud."

9 Emblematic is Bernard Guenée's discussion of "impotent justice" in late medieval Senlis; see *Tribunaux et gens de justice*, 280–303. For a survey of this tendency, see Smail, *The Consumption of Justice*, 168–70. For the Middle Ages as the age of violence par excellence, see Gauvard, "De grace especial," 1:1–2.

10 For recent statements on the Italian communes' limited police power, see Carraway, "Contumacy," 103; Blanshei, *Politics and Justice*, 339; Lansing, *Passion and Order*, 34.

Archival records of police interventions like the one above suggest that a closer examination of communal governments' capacity for coercion is in order.

Second, how and why did communal governments come to exercise greater police power over their citizens? After all, it was not always the case that the government strictly regulated dice games and the bearing of arms in the city streets. The question is especially intriguing given the political context. For the towns of northern Italy, the thirteenth century was a moment of unprecedented experimentation in self-government, as urban elites developed new institutions free of interference from pope or emperor. In many communes, the thirteenth century was also a moment of growing participation in politics. In the first half of the century, a political coalition of bankers, merchants, artisans, lawyers, and notaries—as well as allied nobles—calling themselves the *popolo* wrested constitutional power from the noble families who had long dominated local politics. They established republican systems of government with rotating offices and relatively large representative bodies.¹¹ For example, around the turn of the fourteenth century, roughly 15,000–18,000 men out of a total population of 50,000 participated in politics in Bologna. By 1282, Bologna had a Council of 4,000 (among others) that voted to determine which citizens would hold administrative offices, and its main legislative council, the Council of the *Popolo*, boasted as many as 1,400 members per semester.¹² And yet, as the example of the notaries caught in the police raid above suggests, this expanded political elite used their autonomy, at least in part, to hire foreign police forces to discipline their own behavior. This apparent paradox of self-repression begs for explanation. It is not at all obvious why self-governing citizens would amplify government police power seemingly at their own expense.¹³

This question of historical change can also be posed more generally in the language of state formation. To borrow Douglass North, John Joseph Wallis, and Barry Weingast's definition, the state is best understood as an "organization of organizations," wherein the government is a public

11 Chapter 3 will discuss the literature on the *popolo* in more detail. For general overviews of the period, see Waley and Dean, *The Italian City-Republics*; Ascheri, *Le città-stato*; Milani, *I comuni italiani*.

12 Blanshei, *Politics and Justice*, 84, 113; Vallerani, "Criminal Court Procedure," 27.

13 Carol Lansing explores this paradox of self-repression in her study of funeral law enforcement, *Passion and Order*. However, the paradox is much broader than funeral law.

organization whose purpose is to coordinate and enforce rules.¹⁴ As noted above, government police power is usually assumed to be a manifestation of the state's claim to a monopoly on the legitimate use of violence. Yet in the Italian communes, the government enjoyed no such monopoly. The right to use violence and coercion was diffuse, shared and contested among the multiple power centers that made up the communal state.¹⁵ In this context, it is not obvious why elites, who already enjoyed the capacity and right to coerce, would cede any portion of that right to a government. The conceptual framework behind this observation is discussed in more detail below, but the rise of police power in the communes provides an opportunity to explore the basic question of how the institutions of the modern state might arise from the logic of a premodern social order.

Thus, this book seeks to explain why government police power grew in the city-republics of thirteenth-century Italy, and what it means for our understanding of medieval justice and state formation. The records of Bologna's Office of "Crowns and Arms" (*corone ed armi*) provide an unparalleled opportunity to explore these questions.¹⁶ The office fell under the podestà's jurisdiction and was overseen by one of the notaries in his *familia*. By statute, this notary was responsible for enforcing Bologna's sumptuary laws, which forbade (among other things) women from wearing tiaras or "crowns"—whence the first half of the office's name.¹⁷ In practice, this same notary also recorded the trials of individuals denounced by the *familia*, mostly for violations of the curfew, gambling, and arms-bearing laws—whence the second half of its name. The Crowns and Arms registers thus provide a concentrated record of police activity in medieval Bologna. Through witness testimony in particular, they also offer an exceptional window into the experience of police power in a medieval commune. As primary sources, witness depositions present a number of well-known challenges to the historian: they are constrained by the judge's questioning and procedural norms; performative in nature; and translated from the

14 North, Wallis, and Weingast, *Violence and Social Orders*, 31; Wallis, "Rules, Organizations, and Governments." North, Wallis, and Weingast define an organization as a group of individuals who act in a coordinated manner to pursue both common and individual goals; see *Violence and Social Orders*, 15.

15 Patrick Lantschner emphasizes the "polycentric" order of medieval cities in *The Logic of Political Conflict*.

16 On the Crowns and Arms series, see Tamba and Zanni Rosiello, eds., "Archivio di Stato di Bologna," 572; Vallerani, "Giustizia e documentazione," 301–02. For studies that draw on the Crowns and Arms series, see Lansing, *Passion and Order*; Vallerani, "Giochi di posizione."

17 *Statuti 1288*, 1:26–27.

vernacular (and potentially redacted) by an intermediary (i.e., a notary).¹⁸ Yet even as they present unique challenges, the statements individuals were willing to make in court offer valuable insights into everyday life in the commune, including the role of policing. The series survives in varying degrees of completeness from 1285 to 1381. Following the precedent of other studies, this book takes 1326 as its terminus. In the following year, Bologna would grant lordship of the city to a papal legate, formally ending the communal era of republican self-governance.¹⁹

Of course, the Crowns and Arms series alone does not suffice for a study of policing in Bologna, let alone other Italian communes. Hence this study draws extensively on Bologna's other judicial and legislative acts—council resolutions, inquisitions, legal sentences, records of payment, public proclamations, and so forth—to put the growth of policing in context. It takes 1228, the year of the *popolo's* founding revolt in Bologna, as its approximate starting point, with Bologna's judicial records providing evidence as far back as 1226.²⁰ The study also draws on the archives of Siena, Perugia, and Orvieto to show that the case of Bologna is in fact representative of the northern Italian communes. Siena, Perugia, and Orvieto were all “popular” republics like Bologna in the late thirteenth and early fourteenth century, and they shared a legal-political culture defined in part by the circulation of foreign magistrates (both *podestà* and *capitani del popolo*) and their *familiars*. Although the archives of these communes have no analogue to Bologna's Crowns and Arms series, their judicial acts amply attest the police activity of their foreign magistrates. Even in cities that never experienced a republican moment under a popular regime, such as signorial Ferrara, municipal laws and law enforcement were more alike than not (see Chapter 3). Thus, despite important constitutional differences among communes, this study contends that the development of policing followed the same basic trajectory across northern Italy.

This book, based on these rich archival sources, is both the first full-length study of government police power in medieval Italy and the first to examine it through the lens of criminal trials. If the perception that medieval governments lacked police power has proved enduring, it is in part because scholars have devoted little attention to it. Since William Bowsky's

18 For the methodological issues raised by inquisitorial records, see Bruschi, *The Wandering Heretics*, 11–49.

19 Both Vallerani, *Medieval Public Justice* and Blanshei, *Politics and Justice* use 1326 as a terminus. For Vallerani's reasoning, see 123, 172.

20 On the events of 1228, see Milani, “From One Conflict to Another,” 242–43; Wandruszka, “Die Revolte.”

pioneering work five decades ago, there have been only a handful of articles and chapter-length studies dedicated to the communes' police forces, and these have focused more on the organization of policing than the role of police power in communal life.²¹ Studies of negotiated justice—based in community membership, defined by custom and informal norms, and oriented toward reparations and agreements—have proliferated, but the rise of hegemonic justice—based in subjection to authority, defined by written law, and oriented toward punishment of the guilty—has received lighter treatment. And yet, as Mario Sbriccoli argued, the societal shift from negotiated to hegemonic justice—of which the growth of government police power was a part—was one of the most important developments of the later Middle Ages.²² By illuminating police power in the communes, I hope this book will encourage scholars to focus once more on explaining this historical change.

Police as a Mode of Governance

It may seem anachronistic to write a history of police power from sources that have no word for “police.” The communes' judicial records refer to the “policemen” in this study as the *podestà's* (or *capitano del popolo's*) *berrovarii* or *familiares* or collectively as his *familia*. Similarly, the sources call their patrols *inquisitiones* (investigations) and the crimes they denounce *inventiones* (discoveries). However, the exercise of police power can be said to predate the word itself. Building on Michel Foucault's seminal work on early modern police, Markus Dubber has argued that state police power derives from the *paterfamilias*' practically limitless power to govern his household. His authority encompasses both the people and resources that make up his household, and he governs them not merely to ensure their survival but

21 The seminal study remains Bowsky, “The Medieval Commune.” Bowsky further elaborated on these themes in Bowsky, *A Medieval Italian Commune*, 117–58. One of the few other studies to focus narrowly on police forces in the commune is Manikowska, “Polizia e servizi d'ordine.” Other studies that cover policing in the communes, though their scope is broader, include Graziotti, *Giustizia penale*; Dean and Lowe, eds., *Crime, Society, and the Law*; Stern, *The Criminal Law System*; Vallerani, *Il sistema giudiziario*; Zorzi, “Contrôle social”; Manikowska, “Il controllo sulle città”; Manikowska, “Accorr'uomo”; Crouzet-Pavan, “Potere politico e spazio sociale”; Crouzet-Pavan, “Recherches sur la nuit vénitienne”; Ruggiero, *Violence in Early Renaissance Venice*. Also important is the contribution by Sbriccoli, “Polizia (diritto intermedio).”

22 Sbriccoli, “Giustizia negoziata, giustizia egemonica”; Sbriccoli, “Justice négociée, justice hégémonique.” See also the commentary by Zorzi, “L'egemonia del penale.” Juridical hegemony is an important theme in Gamberini, *The Clash of Legitimacies*.

to maximize their collective welfare. In this conception, police is a mode of governance, and states exercise police power insofar as the sovereign governs his realm as his household. For Foucault, the absolute monarchies of early modern Europe provided the paradigmatic examples of this kind of governance, but republics, like those of medieval Italy, also exercise police power through the collective body of citizens entitled to participate in government.²³ As a mode of governance, then, police is arguably as old as civilization.

Indeed, for most of the word's history, "police" signified a mode of governance, not merely the government's internal security organ. From the time the word appeared in French in the thirteenth century as a translation of the Latin *politia*, it signified both the good ordering of the polity and the public measures ensuring that order. On the European continent, early modern states sought to provide for their populations' "good police" (*gute Policey* in German) through police ordinances (*Polizeiordnungen*) that encompassed commerce, urban planning, public safety, public health, public morals, and so forth.²⁴ By the eighteenth century, the administration of internal order in Germany had developed into the academic discipline of "police science" (*Polizeiwissenschaft*). In the words of one Parisian police *commissaire*, police was nothing less than the "science of governing men."²⁵ European governments also institutionalized their police power through police departments manned by police officers. It was only in the nineteenth century that the word "police" principally came to signify these law enforcement officers rather than an all-encompassing function of governance.²⁶

23 Dubber, *The Police Power*. Foucault first developed his concept of police in his 1977–1978 Collège de France lectures, now translated in *Security, Territory, Population*. He further developed the concept in the essays "*Omnes et Singulatim*" (1979) and "The Political Technology of Individuals" (1982), both published in *Power*. Valuable commentaries on Foucault's work include Pasquino, "*Theatrum Politicum*" and Valverde, "Police, Sovereignty, and Law." For another Foucauldian approach, see Campesi, *A Genealogy of Public Security*.

24 The literature is vast, but important works include Härter, "Security and 'Gute Policey'; Iseli, *Gute Policey*; Simon, *Gute Policey*; Stolleis, *Geschichte des öffentlichen Rechts*; Raeff, *The Well-Ordered Police State*; Maier, *Die ältere deutsche Staats- und Verwaltungslehre*. For a concise overview, see Pohl-Zucker, *Making Manslaughter*, 11–15. On the role of "good police" in political theory, see Pasquino, "Spiritual Police and Earthly Police."

25 Le Maire, "La police de Paris," 28. For more on Le Maire's concept of police, see Kaplan, "Note sur les commissaires de police." On German police science, see the note above but also Unruh, "Polizei, Polizeiwissenschaft und Kameralistik."

26 Reynolds, *Before the Bobbies*, 1.

Dubber highlights several characteristics of police as an ideal type of governance that are pertinent to this study. First and foremost, the purpose of police is to maximize the welfare of the household or polity. Thus, the touchstone of good police is its benefit to the entire body politic, not the individuals who comprise it. The other characteristics derive from police's collective, population-level orientation. Police is also heteronomous, meaning it governs "others" as subjects of the policer's authority. In this respect it stands in tension with the autonomy of citizens, especially in republics where otherwise equal citizens place themselves under the rule of an executive with police power for the sake of the common good. Third, police is radically discretionary and indefinite in scope. The head of household or executive determines what is expedient to maximize the welfare of his household or polity; though there may be practical limitations on his ability to act on his determinations, his discretion in making them is essentially unchecked. Here again, police power stands in tension with the autonomy of individual householders to govern their households as they see fit, especially in republics. Fourth, police is preventive in nature. It is fundamentally forward-looking, seeking to remove or mitigate threats of harm rather than punish harms committed. For example, police measures may criminalize the possession of certain weapons in order to prevent assaults or homicides with those weapons. In the case of such "police offenses," neither a criminal act (*actus reus*) nor malicious intent or forethought (*mens rea*) is required for guilt; the mere act of disobedience is enough to merit discipline.²⁷ Finally, in Dubber's terminology police is "ahuman," meaning it treats both people and things as objects to be managed for the good of the household. To this end, "[t]he job of the policer is to classify everyone and everything properly, and to treat each object according to its classification."²⁸ For example, police ordinances might classify vagabonds, stray livestock, and obstructed roadways alike as public nuisances in need of correction or removal. In this respect, police has much in common with James C. Scott's concept of "legibility." At the level of the state, police aims to make society more "legible," which is to say more comprehensible and therefore more controllable.²⁹

27 "Police offenses" are police measures that employ criminal sanctions; other police measures, such as quarantines and licensing schemes, do not entail such sanctions. Police offenses are also called regulatory offenses, public welfare offenses, public order offenses, and *mala prohibita*. However, because these categories are notoriously imprecise and difficult to define—not to mention anachronistic for medieval Europe—I have eschewed using them in this study. Dubber and Valverde, "Introduction," 12.

28 Dubber, *The Police Power*, 179.

29 Scott, *Seeing Like a State*.

In the thirteenth century, the Italian communes developed institutions that exhibited all these hallmarks of police governance. Statutes proliferated as citizens passed a host of new disciplinary and regulatory measures to provide for public safety, public health, and good commerce. Many of these statutes were preventive in nature. They criminalized common behaviors like bearing arms and betting on dice games because these behaviors could lead to real crimes against persons and property. There were virtually no limits to what citizens would attempt to govern through statute, from the length of women's dresses to how many priests could preside at a funeral service. Furthermore, statutes classified people into legal categories so as to better manage them. Magnates were subject to more severe penalties because of their alleged propensity to act violently, while public gamblers, beggars, and taverners (among others) were singled out for special police attention as threats to public order. The communes' citizen-legislators also hired foreign police forces to patrol their streets on a full-time basis to prevent crime and deter threats. In practice, there were few real checks on the discretionary power of these third-party enforcers to arrest anyone who *seemed* to be breaking the law within the commune's jurisdiction. Finally, lawmakers justified these preventive rules and enforcers by appealing to the common good (*bonum commune* or *utilitas publica*), or alternatively to the good state (*bonum statum*) or good governance (*bonum regimen*) of the commune. In all these ways, the Italian communes developed institutions that prefigured the *Policey* of the early modern period. Importantly, the net outcome of these innovations was a loss of personal autonomy for citizens vis-à-vis the government. Paradoxically, the podestà exercised police power over the self-governing citizens who employed him as if they were his subjects. Thus, Foucault's concept of police—well-grounded in the word's historical usage—provides a valuable tool for describing the nature and scope of police power in the communes.³⁰

Police and Impersonal Rules

Explaining the rise of police power in the communes, however, requires a closer analysis of its political and social context. This study uses the conceptual framework developed by North, Wallis, and Weingast (NWW)

30 Without recourse to Foucault, Giustiniano degli Azzi argued at the turn of the last century that "police" was a prominent feature of communal statute collections, despite the word's absence; see *Della polizia*, 7.

to interpret institutional change.³¹ NWW define institutions as the “rules of the game”: the written laws and formal and informal norms—as well as the means of enforcement—that constrain individuals’ behavior. Institutions tend to follow one of two basic logics: they can be based on social identity, meaning they apply differently to different people, or based on impersonality, meaning they apply to everyone equally.³² A prime example of an identity rule from medieval Bologna was the privilege of certain political elites to have their accusations believed in court without the need for witnesses (see Chapter 2). Here, the standard of proof hinged entirely on the social identity of the accuser. The commune’s prohibition on gambling outside of designated public areas, by contrast, applied to everyone. Of course, many institutions exist on a spectrum between identity rules and impersonal rules. A law might proscribe everyone from carrying a lance in a public street, for example, while prescribing different fines according to the social status of the lawbreaker. That said, most societies in human history have been governed primarily by identity rules, and the Italian communes were no exception. NWW call these societies “limited access orders,” because they are predicated on exclusion from the governing elite. In this default social arrangement, a dominant coalition of elites agrees to allocate political, economic, and social privileges (or rents, to use the term favored by economists) among its members, in rough proportion to what each brings to the coalition. The benefits of membership in the coalition—as well as the simple fact that even the most powerful individual is never more powerful than the coalition of his peers—help to organize and control violence, which is the fundamental aim of all social orders. However, limited access orders are prone to cycles of political and economic upheaval, because the social order depends on the personalities of individual elites and the agreements they make with each other, which are relatively unstable.

As hinted above, there is a fundamental question as to why elites in a limited access order would ever move toward a system of impersonal rules, since elites, by definition, derive numerous benefits from identity rules. For NWW, this is one of the fundamental problems of economic development.

31 What follows summarizes some of the key ideas in North, Wallis, and Weingast, *Violence and Social Orders*; Wallis and North, “Coordination and Coercion”; Wallis, “Institutions, Organizations, Impersonality, and Interests.” Thank you to Professor Wallis for granting permission to cite the working paper. For the limitations of their framework, see Bardhan, “State and Development”; Bates, “A Review.”

32 For this definition of institutions, see North, *Institutions*, 3–4. For impersonal rules and identity rules, see Lamoreaux and Wallis, “Introduction,” 9–10; Wallis, “Rules, Organizations, and Governments,” 76–77.

Only a handful of societies—all within the last two centuries—have established systems capable of enforcing impersonal rules, and these societies have enjoyed political stability and sustained economic growth well beyond the historical mean. NWW call these societies “open access orders” because elites have opened up political, economic, and social organizations to non-elites. In other words, elites have agreed to abide by rules that (at least to a significant extent) treat everyone equally, which, it turns out, is good for society as a whole. NWW therefore seek to understand how societies transition from limited access to open access orders.

NWW’s conceptual framework is not a theory of state development; it does not explain how social orders transition from limited to open access, from identity-based to impersonal institutions. However, it does provide a valuable toolkit for case studies, not only of societies that have made the transition but also of institutional change in general.³³ Their central insight is that institutional change must occur within the logic of the existing social order. In the context of the Italian communes, that means the growth of police power cannot be explained simply as a byproduct of the state’s natural extension of its monopoly on the legitimate use of violence. Rather, the explanation must lie in the dynamics of competition among elites who alter the “rules of the game” to suit their interests, not to change the social order itself. Because it hinges on elite interests, institutional change tends to proceed in fits and starts rather than sweeping transformations, and its outcome is never a foregone conclusion.

This book describes the growth of police power in the Italian communes as a shift toward more impersonal institutions. As such, it is part of a long historiographical tradition that identifies the transition from personal to impersonal justice—often framed in terms of a transition from *accusatio* to *inquisitio* procedure—as a hallmark of modern state formation.³⁴ In the context of medieval Italy, Massimo Vallerani and others have rightly criticized the teleology of earlier scholarship in this tradition and shown that the transition from *accusatio* to *inquisitio* procedure was hardly linear.³⁵ But as Sarah Blanshei and others have argued, the transition to *inquisitio* procedure did ultimately take place between the thirteenth

33 For case studies that utilize NWW’s framework, see Lamoreaux and Wallis, eds., *Organizations*; North et al., eds., *In the Shadow of Violence*.

34 For a classic example, see Pertile, *Storia del diritto italiano*. More recently, the development of impersonal institutions is a central question of Francis Fukuyama’s two-volume history of the modern state: *The Origins of Political Order* and *Political Order and Political Decay*.

35 Vallerani, *Medieval Public Justice*; Zorzi, *L’amministrazione*, 78–79.

and fifteenth centuries as the government increased its control over public justice, making it more efficient and repressive.³⁶ The growth of policing was a part of the same overarching trend. To be sure, the communes remained limited access orders throughout the period of this study, governed by identity rules and an exclusive coalition of elites. Yet by instituting third-party policing, citizens subjected themselves (and non-citizens) to their government to an unprecedented degree. They criminalized common behaviors, such as carrying a knife or playing dice in a tavern, that caused no obvious harm to persons or property. Although the statutes did not treat everyone equally, these rules applied (at least initially) to everyone in the commune, and third-party policing greatly increased the likelihood that elites would be disciplined for violating them. Thus, public justice was increasingly less a matter for citizens to negotiate according to their social status and relationships, and more the responsibility of a central authority tasked with prosecuting and punishing offenders according to the law.

In keeping with NWW's framework, this book explains this shift in terms of intra-elite competition, as a product of expanding political access in the communes. As popular coalitions rose to power in the thirteenth century, they sought to consolidate their constitutional gains and level the playing field with the old elite. For this expanded coalition, impersonal, preventive rules were essential to keep powerful individuals in check—both internal and external to their coalition—and third-party policing became an important vehicle for coordinating and enforcing such rules. Thus, the thirteenth-century communes offer an intriguing case study of why political elites might agree to cede some of their coercive potential to a government or, more broadly, how “modern” institutions might emerge from the logic of a premodern society.

The Plan of the Book

Roughly speaking, this book seeks to answer in turn the “what,” the “why,” and the “so what” of police power in the communes. The first two chapters

36 Blanshei, “Bolognese Criminal Justice.” See also Cucini, “Législation statutaire,” 1:95–96, 1:337–48; Dean, *Crime and Justice*, 37; Dean, “Criminal Justice,” 17. Joanna Carraway Vitiello found less than one percent of trials were initiated by *accusatio* in late fourteenth-century Reggio Emilia but argues, like Vallerani, that *inquisitio* adopted many of *accusatio*'s features; see *Public Justice*, 79–80.

deal with the “what.” Chapter 1 describes the police functions of the podestà’s *familia* and the procedures they followed in pursuing and prosecuting alleged lawbreakers, using Bologna as the primary example. It then presents case samples of curfew, arms-bearing, and gambling offenses discovered by police patrols in Bologna, Perugia, Siena, and Orvieto. The evidence shows that foreign magistrates’ *familiars* were effective at forcing locals to stand trial for these offenses, and greatly enhanced the government’s capacity for hegemonic justice. Chapter 2 addresses the question of impersonality in policing. It describes the significant discretion enjoyed by the podestà’s *familia* to interpret the statutes in the street and compel locals to appear in court. Further, it shows that the *familia* regularly denounced political elites to the court. By enforcing the law as impersonally as the statutes allowed, the *familia* infringed significantly on the personal autonomy of elites and non-elites alike.

The next three chapters seek to explain the rise of third-party policing in the context of the Italian communes. Chapter 3 explores how the logic of the communal social order led citizen-legislators to enhance the police power of their government. It unpacks the political-legal rhetoric used to justify third-party policing to show how the expansion of political access fueled its growth. Chapter 4 explores how policing addressed perceived external threats to the governing regime. It shows how the policing of gambling, arms-bearing, and curfew served to counter threats from “real” criminals and out-groups—not only thieves, assassins, and highway robbers, but also political rebels, vagabonds, con men, and the like. By forcing hundreds of minor offenders into court each year, the *familia*’s patrols helped judges root out and punish threats to the established order. Chapter 5 turns to the question of internal threats, especially feud-related violence.³⁷ It shows how the policing of arms-bearing allowed the *familia* to discipline and prevent violence between feuding locals through routine interventions. The *familia* also policed behaviors, like gambling and playing music at night, that could create enmity between locals and therefore posed a threat to the commune’s political stability.

Finally, Chapter 6 examines the impact of third-party policing on communal society. The core legacy of the *familia*’s patrols was to make government

37 As Trevor Dean points out, the Latin word for “feud” (*faida*) does not appear in the sources for medieval Italy. However, I follow Andrea Zorzi in using the term more loosely to refer to a conflict between personal enemies, which the sources usually indicate by reference to enmity (*inimicitia*), hatred (*odium*), or war (*guerra*). None of these should be confused with “vendetta” (*vindicta*), which refers to a specific act of vengeance within a feud. See Dean, *Crime and Justice*, 124; Zorzi, *La trasformazione*, 131.

coercion a routine feature of urban life. They gave the commune's laws teeth and inspired fear of punishment in locals, who now had to weigh the possibility of government prosecution in their behavioral calculus. The *familia's* policing also reinforced the value of legal literacy, since defendants who knew the statutes and their procedural rights enjoyed an advantage in the public courts. In these ways, the growth of police altered the "rules of the game" in the communes. However, third-party policing did not transform the ground rules of communal society, which continued to hinge on social identity. Relationships of amity and enmity still governed the social order in large part, and the podestà's *familiaries*, insofar as they were susceptible to corruption and abuses of power, proved no exception. Increasingly, the same political elites who had designed third-party policing to enforce impersonal rules shielded themselves from impersonal enforcement through legal privileges. On the one hand, it was a testament to the efficacy of the *familia's* enforcement and the new ascendancy of written law that the kinds of privileges customarily enjoyed by elites now had to be enshrined in legislation. On the other hand, the proliferation of privilege and closure of political access undermined the growth of impersonality in public justice. The government's police power increasingly became a tool of repression for narrow factional interests.

Works Cited

ARCHIVAL SOURCES

Archivio di Stato di Bologna
Curia del podestà, Ufficio corone ed armi

PUBLISHED PRIMARY SOURCES

- Chadwick, Edwin. "Preventive Police." *London Review* 1 (1829): 252–308.
- Colquhoun, Patrick. *A Treatise on the Police of the Metropolis*. London: H. Fry, 1796.
- Fasoli, Gina, and Pietro Sella, eds. *Statuti di Bologna dell'anno 1288*. 2 vols. Vatican City: Biblioteca Apostolica Vaticana, 1937–1939.
- Le Maire, Jean Baptiste Charles. "La police de Paris en 1770: mémoire inédit." In *Mémoires de la Société de l'histoire de Paris et de l'Ile-de-France*, 5:1–131. Paris: H. Champion, 1878.

SECONDARY SOURCES

- Antonielli, Livio, and Claudio Donati, eds. *Corpi armati e ordine pubblico in Italia (XVI–XIX sec.): Seminario di studi, Castello Visconti di San Vito, Somma Lombardo, 10–11 novembre 2000*. Soveria Mannelli: Rubbettino, 2003.
- Ascheri, Mario. *Le città-stato*. Bologna: Il Mulino, 2006.
- Azzi, Giustiniano degli. *Della polizia negli statuti dei comuni italiani del medio evo: Prolegomeni*. Perugia: Unione tipografica cooperativa, 1900.
- Bardhan, Pranab. "State and Development: The Need for a Reappraisal of the Current Literature." *Journal of Economic Literature* 54 (2016): 862–92.
- Barrie, David G. "Policing Before the Police in the Eighteenth Century: British Perspectives in a European Context." In *The Oxford Handbook of the History of Crime and Criminal Justice*, edited by Paul Knepper and Anja Johansen, 435–55. New York: Oxford University Press, 2016.
- Bartoli Langelì, Attilio. *Notai: scrivere documenti nell'Italia medievale*. Rome: Viella, 2006.
- Barzel, Yoram. *A Theory of the State: Economic Rights, Legal Rights, and the Scope of the State*. Cambridge: Cambridge University Press, 2002.
- Bates, Robert. "A Review of Douglass C. North, John Joseph Wallis, and Barry R. Weingast's *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History*." *Journal of Economic Literature* 48 (2010): 752–56.
- Bayley, David. "The Police and Political Development in Europe." In *The Formation of National States in Western Europe*, edited by Charles Tilly, 328–79. Princeton: Princeton University Press, 1975.
- Blanshei, Sarah Rubin. "Bolognese Criminal Justice: From Medieval Commune to Renaissance *Signoria*." In *Violence and Justice in Bologna: 1250–1700*, edited by Sarah Rubin Blanshei, 55–82. Lanham, MD: Lexington Books, 2018.
- . *Politics and Justice in Late Medieval Bologna*. Leiden: Brill, 2010.
- Bossy, John, ed. *Disputes and Settlements: Law and Human Relations in the West*. New York: Cambridge University Press, 1983.
- Bowsky, William M. "The Medieval Commune and Internal Violence: Police Power and Public Safety in Siena, 1287–1355." *American Historical Review* 73 (1967): 1–17.
- . *A Medieval Italian Commune: Siena Under the Nine, 1287–1355*. Berkeley: University of California Press, 1981.
- Brown, Warren, and Piotr Górecki, eds. *Conflict in Medieval Europe: Changing Perspectives on Society and Culture*. Burlington, VT: Ashgate, 2003.
- Bruschi, Caterina. *The Wandering Heretics of Languedoc*. Cambridge: Cambridge University Press, 2009.
- Campesi, Giuseppe. *A Genealogy of Public Security: The Theory and History of Modern Police Powers*. Translated by Filippo Valente. New York: Routledge, 2016.

- Carraway, Joanna. "Contumacy, Defense Strategy, and Criminal Law in Late Medieval Italy." *Law and History Review* 29 (2011): 99–132.
- Crouzet-Pavan, Elisabeth. "Potere politico e spazio sociale: il controllo della notte a Venezia nei secoli XIII–XV." In *La notte. Ordine, sicurezza e disciplinamento in età moderna*, edited by Mario Sbriccoli, 46–66. Florence: Ponte alle grazie, 1991.
- . "Recherches sur la nuit vénitienne à la fin du Moyen Age." *Journal of Medieval History* 7 (1981): 339–56.
- Cucini, Sara. *Législation statutaire et gouvernement pontifical en Italie centrale. Le cas de l'administration de la justice criminelle à Bologne. Deuxième moitié du XVe siècle*. PhD diss. Université Paul-Valéry-Montpellier 3 and Università di Bologna, 2014.
- Davies, Wendy, and Paul Fouracre, eds. *The Settlement of Disputes in Early Medieval Europe*. Cambridge: Cambridge University Press, 1986.
- Dean, Trevor. *Crime and Justice in Late Medieval Italy*. New York: Cambridge University Press, 2007.
- . "Criminal Justice in Mid-Fifteenth Century Bologna." In *Crime, Society, and the Law in Renaissance Italy*, edited by Trevor Dean and K.J.P. Lowe, 16–39. Cambridge: Cambridge University Press, 1994.
- Dean, Trevor, and K.J.P. Lowe, eds. *Crime, Society, and the Law in Renaissance Italy*. Cambridge: Cambridge University Press, 1994.
- Dempsey, John S., and Linda S. Forst. *An Introduction to Policing*. 7th ed. Clifton Park, NY: Delmar Cengage Learning, 2014.
- Dubber, Markus. *The Police Power: Patriarchy and the Foundations of American Government*. New York: Columbia University Press, 2005.
- Dubber, Markus, and Mariana Valverde. "Introduction: Perspectives on the Power and Science of Police." In *The New Police Science: The Police Power in Domestic and International Governance*, edited by Markus Dubber and Mariana Valverde, 1–16. Stanford: Stanford University Press, 2006.
- Emsley, Clive. *The Great British Bobby: A History of British Policing from the 18th Century to the Present*. London: Quercus, 2009.
- . *Policing and Its Context, 1750–1870*. New York: Schocken Books, 1984.
- Esmark, Kim, Lars Hermanson, Hans Jacob Orning, and Helle Vogt, eds. *Disputing Strategies in Medieval Scandinavia*. Leiden: Brill, 2013.
- Finnane, Mark. "The Origins of 'Modern' Policing." In *The Oxford Handbook of the History of Crime and Criminal Justice*, edited by Paul Knepper and Anja Johansen, 435–55. New York: Oxford University Press, 2016.
- Foucault, Michel. *Power*. Edited by James D. Faubion. Translated by Robert Hurley. New York: New Press, 2000.

- . *Security, Territory, Population: Lectures at the Collège de France, 1977–78*. Edited by Michel Senellart. Translated by Graham Burchell. Basingstoke; New York: Palgrave Macmillan; République Française, 2007.
- Fukuyama, Francis. *The Origins of Political Order: From Prehuman Times to the French Revolution*. New York: Farrar, Straus and Giroux, 2011.
- . *Political Order and Political Decay: From the Industrial Revolution to the Globalization of Democracy*. New York: Farrar, Straus and Giroux, 2014.
- Gamberini, Andrea. *The Clash of Legitimacies: The State-Building Process in Late Medieval Lombardy*. New York: Oxford University Press, 2018.
- Gauvard, Claude. “De grace especial.” *Crime, état et société en France à la fin du Moyen Age*. 2 vols. Paris: Publications de la Sorbonne, 1991.
- Graziotti, Tamara. *Giustizia penale a San Gimignano (1300–1350)*. Florence: Leo S. Olschki Editore, 2015.
- Guenée, Bernard. *Tribunaux et gens de justice dans le bailliage de Senlis à la fin du Moyen Age (vers 1380–vers 1550)*. Paris: Les Belles Lettres, 1963.
- Härter, Karl. “Security and ‘Gute Policey’ in Early Modern Europe: Concepts, Laws, and Instruments.” *Historical Social Research* 35 (2010): 41–65.
- Hyams, Paul R. *Rancor and Reconciliation in Medieval England*. Ithaca: Cornell University Press, 2003.
- Iseli, Andrea. *Gute Policey: Öffentliche Ordnung in der Frühen Neuzeit*. Stuttgart: Ulmer, 2009.
- Jordan, John. “Rethinking Disputes and Settlements: How Historians Can Use Legal Anthropology.” In *Cultures of Conflict Resolution in Early Modern Europe*, edited by Stephen Cummins and Laura Kounine, 17–50. Burlington, VT: Ashgate, 2016.
- Kaplan, Steven L. “Note sur les commissaires de police de Paris au XVIIIe siècle.” *Revue d'histoire moderne & contemporaine* 28 (1981): 669–86.
- Kuehn, Thomas. *Law, Family & Women: Toward a Legal Anthropology of Renaissance Italy*. Chicago: University of Chicago Press, 1991.
- Lamoreaux, Naomi R., and John Joseph Wallis. “Introduction.” In *Organizations, Civil Society, and the Roots of Development*, edited by Naomi R. Lamoreaux and John Joseph Wallis, 1–21. Chicago: University of Chicago Press, 2017.
- Lansing, Carol. *Passion and Order: Restraint of Grief in the Medieval Italian Communes*. Ithaca: Cornell University Press, 2008.
- Lantschner, Patrick. *The Logic of Political Conflict in Medieval Cities: Italy and the Southern Low Countries, 1370–1440*. Oxford: Oxford University Press, 2015.
- Lenman, Bruce, and Geoffrey Parker. “The State, the Community, and the Criminal Law in Early Modern Europe.” In *Crime and the Law: The Social History of Crime in Western Europe since 1500*, edited by Vic Gatrell, Bruce Lenman, and Geoffrey Parker, 11–48. London: Europa Publications, 1980.

- Maier, Hans. *Die ältere deutsche Staats- und Verwaltungslehre*. 2nd ed. Munich: C.H. Beck, 1980.
- Manikowska, Halina. "Accorr'uomo'. Il popolo nell'amministrazione della giustizia a Firenze durante il XIV secolo." *Ricerche storiche* 18 (1988): 523–50.
- . "Il controllo sulle città. Le istituzioni dell'ordine pubblico nelle città italiane dei secoli XIV e XV." In *Città e servizi sociali nell'Italia dei secoli XII–XV: 120 Convegno di studi: Pistoia, 9–12 ottobre 1987*, edited by Emilio Cristiani and Enrica Salvatori, 481–511. Pistoia: Centro italiano di studi di storia e d'arte, 1990.
- . "Polizia e servizi d'ordine a Firenze nella seconda metà del XIV secolo." *Ricerche storiche* 16 (1986): 17–38.
- Milani, Giuliano. *I comuni italiani: secoli XII–XIV*. Rome: Laterza, 2005.
- . "From One Conflict to Another (13th–14th Centuries)." In *A Companion to Medieval and Renaissance Bologna*, edited by Sarah Rubin Blanshei, 239–59. Leiden: Brill, 2018.
- Miller, William Ian. *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland*. Chicago: University of Chicago Press, 1990.
- Netterstrøm, Jeppe Büchert. "The Study of Feud in Medieval and Early Modern History." In *Feud in Medieval and Early Modern Europe*, edited by Jeppe Büchert Netterstrøm and Bjørn Poulsen, 9–67. Aarhus: Aarhus University Press, 2007.
- Nippel, Wilfried. *Public Order in Ancient Rome*. New York: Cambridge University Press, 1995.
- North, Douglass C. *Institutions, Institutional Change, and Economic Performance*. New York: Cambridge University Press, 1990.
- North, Douglass C., John Joseph Wallis, and Barry R. Weingast. *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History*. Rev. ed. Cambridge: Cambridge University Press, 2013.
- North, Douglass C., John Joseph Wallis, Steven Benjamin Webb, and Barry R. Weingast, eds. *In the Shadow of Violence: Politics, Economics, and the Problem of Development*. Cambridge: Cambridge University Press, 2013.
- Pasquino, Pasquale. "Spiritual Police and Earthly Police: Theories of the State in Early Modern Europe." In *The New Police Science: The Police Power in Domestic and International Governance*, edited by Markus Dubber and Mariana Valverde, 42–72. Stanford: Stanford University Press, 2006.
- . "Theatrum Politicum: The Genealogy of Capital—Police and the State of Prosperity." In *The Foucault Effect: Studies in Governmentality*, edited by Graham Burchell, Colin Gordon, and Peter Miller, 105–18. Chicago: University of Chicago Press, 1991.
- Pertile, Antonio. *Storia del diritto italiano, dalla caduta dell'Impero romano alla codificazione*. 2nd ed. Vol. 5, *Storia del diritto penale*. Turin: Unione tipografico-editrice, 1892.

- Pohl-Zucker, Susanne. *Making Manslaughter: Process, Punishment, and Restitution in Wurttemberg and Zurich, 1376–1700*. Leiden: Brill, 2017.
- Raeff, Marc. *The Well-Ordered Police State: Social and Institutional Change Through Law in the Germanies and Russia, 1600–1800*. New Haven: Yale University Press, 1983.
- Le règlement des conflits au Moyen Âge. *Actes des congrès de la Société des historiens médiévistes de l'enseignement supérieur public, 31^e congrès, Angers, 2000*. Paris: Publications de la Sorbonne, 2001.
- Reith, Charles. "Preventive Principle of Police." *Journal of Criminal Law and Criminology* 34 (1943): 206–09.
- Reynolds, Elaine A. *Before the Bobbies: The Night Watch and Police Reform in Metropolitan London, 1720–1830*. Stanford: Stanford University Press, 1998.
- Ruff, Julius R. *Violence in Early Modern Europe, 1500–1800*. Cambridge: Cambridge University Press, 2001.
- Ruggiero, Guido. *Violence in Early Renaissance Venice*. New Brunswick, NJ: Rutgers University Press, 1980.
- Sbriccoli, Mario. "Giustizia negoziata, giustizia egemonica. Riflessioni su una nuova fase degli studi di storia della giustizia criminale." In *Criminalità e giustizia in Germania e in Italia. Pratiche giudiziarie e linguaggi giuridici tra tardo Medioevo ed età moderna. Atti del convegno tenuto a Trento nei giorni 21–23 ottobre 1999*, edited by Marco Bellabarba, Gerd Schwerhoff, and Andrea Zorzi, 345–64. Bologna; Berlin: Il Mulino; Duncker & Humblot, 2001.
- . "Justice négociée, justice hégémonique : L'émergence du pénal public dans les villes italiennes des xiii^e et xiv^e siècles." In *Pratiques sociales et politiques judiciaires dans les villes de l'Occident à la fin du Moyen Âge*, edited by Jacques Chiffolleau, Claude Gauvard, and Andrea Zorzi, 389–421. Rome: Publications de l'École française de Rome, 2007.
- . "Polizia (diritto intermedio)." *Enciclopedia del diritto*. Milan: A. Giuffrè, 1985.
- Scott, James C. *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New Haven: Yale University Press, 1998.
- Simon, Thomas. *"Gute Policey": Ordnungsleitbilder und Zielvorstellungen politischen Handelns in der Frühen Neuzeit*. Frankfurt: Klostermann, 2004.
- Smail, Daniel Lord. *The Consumption of Justice: Emotions, Publicity, and Legal Culture in Marseille, 1264–1423*. Ithaca: Cornell University Press, 2003.
- Stern, Laura Ikins. *The Criminal Law System of Medieval and Renaissance Florence*. Baltimore: Johns Hopkins University Press, 1994.
- Stolleis, Michael. *Geschichte des öffentlichen Rechts in Deutschland*. Vol. 1, *Reichspublizistik und Policeywissenschaft 1600 bis 1800*. Munich: Beck, 1988.
- Tamba, Giorgio, ed. *Rolandino e l'ars notaria da Bologna all'Europa: atti del convegno internazionale di studi storici sulla figura e l'opera di Rolandino: Bologna, città europea della cultura, 9–10 ottobre 2000*. Milan: A. Giuffrè, 2002.

- . *Una corporazione per il potere: il notariato a Bologna in età comunale*. Bologna: CLUEB, 1998.
- Tamba, Giorgio, and Isabella Zanni Rosiello, eds. "Archivio di Stato di Bologna." In *Guida generale degli archivi di Stato italiani*, 1:549–645. Rome: Ministero per i beni culturali e ambientali, 1981.
- Tilly, Charles. *Coercion, Capital, and European States, 990–1992*. Rev. ed. Cambridge, MA: Blackwell, 1992.
- Tuten, Belle S., and Tracey L. Billado, eds. *Feud, Violence and Practice: Essays in Medieval Studies in Honor of Stephen D. White*. Burlington, VT: Ashgate, 2010.
- Unruh, Georg-Christoph von. "Polizei, Polizeiwissenschaft und Kameralistik." In *Deutsche Verwaltungsgeschichte*, edited by Kurt G.A. Jeserich, Hans Pohl, and Georg-Christoph von Unruh, 1:388–427. Stuttgart: Deutsche Verlags-Anstalt, 1983.
- Vallerani, Massimo. "Criminal Court Procedure in Late Medieval Bologna: Cultural and Social Contexts." In *Violence and Justice in Bologna: 1250–1700*, edited by Sarah Rubin Blanshei, 27–54. Lanham, MD: Lexington Books, 2018.
- . "Giochi di posizione tra definizioni legali e pratiche sociali nelle fonti giudiziarie bolognesi del XIII secolo." In *Gioco e giustizia nell'Italia di comune*, edited by Gherardo Ortalli, 13–34. Rome: Viella, 1993.
- . "Giustizia e documentazione a Bologna in età comunale (secoli XIII–XIV)." In *La documentazione degli organi giudiziari nell'Italia tardomedievale e moderna. Atti del convegno di studi, Siena, Archivio di Stato. 15–17 settembre 2008*, 275–314. Rome: Pubblicazioni degli Archivi di Stato, 2012.
- . *Medieval Public Justice*. Translated by Sarah Rubin Blanshei. Washington, DC: The Catholic University of America Press, 2012.
- . *Il sistema giudiziario del comune di Perugia: conflitti, reati e processi nella seconda metà del XIII secolo*. Perugia: Deputazione di storia patria per l'Umbria, 1991.
- Valverde, Mariana. "Police, Sovereignty, and Law: Foucaultian Reflections." In *Police and the Liberal State*, edited by Markus Dubber and Mariana Valverde, 15–33. Stanford: Stanford University Press, 2008.
- Vitiello, Joanna Carraway. *Public Justice and the Criminal Trial in Late Medieval Italy: Reggio Emilia in the Visconti Age*. Leiden: Brill, 2016.
- Waley, Daniel, and Trevor Dean. *The Italian City-Republics*. 4th ed. Harlow: Longman, 2010.
- Wallis, John Joseph. "Institutions, Organizations, Impersonality, and Interests: The Dynamics of Institutions." *Journal of Economic Behavior & Organization* 79 (2011): 48–64.
- . "Rules, Organizations, and Governments." *Atlantic Economic Journal* 43 (March 2015): 69–86.

- Wallis, John Joseph, and Douglass C. North. "Coordination and Coercion: The Nature of Rules, Governments, States, and Social Dynamics." Working Paper, 2013.
- Wandruszka, Nikolai. "Die Revolte des Popolo von 1228 in Bologna." In *Bene vivere in communitate: Beiträge zum italienischen und deutschen Mittelalter: Hagen Keller zum 60. Geburtstag überreicht von seinen Schülerinnen und Schülern*, edited by Thomas Scharff and Thomas Behrmann, 49–63. Münster: Waxmann, 1997.
- White, Stephen D., ed. *Feuding and Peace-Making in Eleventh-Century France*. Burlington, VT: Ashgate, 2005.
- Wickham, Chris. *Courts and Conflict in Twelfth-Century Tuscany*. Oxford: Oxford University Press, 2003.
- Zorzi, Andrea. *L'amministrazione della giustizia penale nella Repubblica fiorentina: aspetti e problemi*. Florence: L.S. Olschki, 1988.
- . "Contrôle social, ordre public et répression judiciaire à Florence à l'époque communale: éléments et problèmes." *Annales. Économies, Sociétés, Civilisations* 45 (1990): 1169–88.
- . "L'egemonia del penale in Mario Sbriccoli." In *Penale giustizia potere: metodi, ricerche, storiografie: per ricordare Mario Sbriccoli*, edited by Luigi Lacchè, Carlotta Latini, Paolo Marchetti, and Massimo Meccarelli, 155–78. Macerata: EUM, 2007.
- . *La trasformazione di un quadro politico*. Florence: Firenze University Press, 2008.