

“According to your Discretion”:
Policing, Labor, and Legal Knowledge in Eighteenth-Century Boston

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Thank you for taking the time to read my work in progress. I plan to revise and expand this paper into a chapter on quotidian acquisitions of legal knowledge in early America for my book manuscript. “Set the Watch: Policing and Governance in Revolutionary Boston,” is the first book-length study of watchkeeping in eighteenth-century British America. Drawing on a neglected collection of night constables’ reports, the manuscript examines changing meanings and methods of governance through Boston’s night during the colonial, revolutionary, and immediate post-revolutionary periods. The chapters examine the day-to-day work of the watch alongside key events of the 1750s to 1790s to illuminate how local authorities contended with the internal and external forces that shaped conceptions and practices of governance. Through Boston’s watch, we see the evolution of government and policing at the local level and the changing position of colonial legal institutions within a fracturing empire.

A brief note on my sources: The materials related to watch-keeping in Boston are virtually unused by scholars and my project is the first effort to analyze these materials systematically. Reports written by Boston’s night constables are scattered in the Boston Town Records at the Boston Public Library. In the process of writing my dissertation, I located 297 extant reports written between 1763 and 1776. Several years including 1766, 1772, and 1773 had no surviving reports, and the represented years are incomplete. Each watch unit would have composed twelve reports per year and the true number of reports written for this period exceeded 700. I recently returned to the BPL to look at surviving reports for the years 1776 to 1800 and I am in the process of evaluating and cataloging the nearly 900 additional reports I viewed. The reports used in this paper are limited to the 1760s.

I look forward to your questions and feedback.

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In 1631, Boston began the practice of using a nightly watch to monitor the town. Watches walked the streets and looked for signs of fire, distress, and disorder.¹ They kept the peace, supported colonial and state-building projects, protected local and Atlantic economies, enforced moral and social order, and maintained civil authority.² At times, they acted as agents upholding the racial, class, and gender order of the town, and at others, administered assistance and care to Boston's inhabitants. For its first 130 years, Boston experimented with different forms of watching to meet the needs of the growing town. These changes and developments were foundational to the form of policing practice that emerged in the 1760s: a consistent, compensated watch whose work was rooted in perambulation, discretion, and writing. Boston's watch did not wear uniforms, and although the men were paid, watchkeeping was not considered a profession.

Night constables and watchmen were empowered to use their discretion in the execution of their duties. Discretion was a mechanism by which officers could employ their expertise within the framework of law and allowed them the leeway to make decisions they believed to be best

¹ A special thank you to Cornelia H. Dayton, Sally Hadden, Chad Holmes, Amy Sopcak-Joseph, and Grace Watkins for feedback on earlier drafts.

² I see my work in conversation with other scholars thinking about the role of local officers and the larger implications of quotidian legal and administrative duties in daily life. See Gudrun Andersson and Jon Stobart, *Daily Lives and Daily Routines in the Long Eighteenth Century* (New York: Routledge, 2022); Cornelia H. Dayton and Sharon V. Salinger, *Robert Love's Warnings: Searching for Strangers in Colonial Boston* (Philadelphia: University of Pennsylvania Press, 2014); Lisa Ford, *The King's Peace: Law and Order in the British Empire* (Cambridge, MA: Harvard University Press, 2021); Brendan Gillis, "Conduits of Justice: Magistrates and the British Imperial State, 1732-1834 PhD diss., (Indiana University, 2015); Emma Hart, *Building Charleston: Town and Society in the Eighteenth-Century British Atlantic World* (Columbia, SC: University of South Carolina Press, 2009); Kristin O'Brassill-Kulfan, *Vagrants and Vagabonds: Poverty and Mobility in the Early American Republic* (New York: New York University Press, 2019); and Jessica Choppin Roney, *Governed by a Spirit of Opposition: The Origins of American Political Practice in Colonial Philadelphia* (Baltimore, MD: Johns Hopkins University Press, 2014).

suites to the scenario at hand.³ Unlike the case with sheriffs, justices of the peace, and day constables, no specific manuals existed to guide night constables and watchmen in their discretionary decision-making or their duties. Boston's night constables (and many watchmen) were literate and could write and were responsible for writing monthly reports to record instances of significance and other administrative information. Like other men appointed to local peace-keeping duties, they had no formal training in law. This paper explores questions of education and training in the period prior to the professionalization of law enforcement, particularly how local-level police learned the laws they enforced and the role of informal apprenticeship in the process. More broadly, the paper is a study of quotidian acquisitions of legal knowledge in early America. Its central question is: with no formal training existing for the position, how did the men employed to be night constables and watchmen develop a comprehension of the law and learn to properly execute their duties?

Deeply intertwined in this question of preparedness for duty is the key question of what exactly the aims of the work of the night watch were, and how we should understand policing in the eighteenth century more broadly.⁴ I refer to Boston's night watch as a form of early policing

³ Discretion is defined as the "power or right conferred upon them [officials] by law of acting officially in certain circumstances, according to the dictates of their own judgment and conscience." "Discretion Definition and Legal Meaning," The Law Dictionary and *Black's Law Dictionary*, 2nd ed. (1910), <https://thelawdictionary.org/discretion/>, accessed on September 29, 2023.

⁴ For the development of other watches and policing methods, see Lauren Benton, "Colonial Law and Cultural Difference: Jurisdictional Politics and the Formation of the Colonial State," *Comparative Studies in Society and History* 41, no. 3 (1999): 563–88; Donald Fyson, *Magistrates, Police, and People: Everyday Criminal Justice in Quebec and Lower Canada, 1764-1837* (Toronto: University of Toronto Press, 2006); Aaron Graham, "Towns, Government, Legislation and the 'Police' in Jamaica and the British Atlantic, 1770–1805," *Urban History* 47, no. 1 (February 2020): 41–62; Sally E. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Cambridge, MA: Harvard University Press, 2001); Christopher L. Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580–1865* (New York: Cambridge University Press, 2010); Nicole von Germeten, *The Enlightened*

in the title of this paper and throughout the piece—but they were not professional police, nor were they akin to the modern police officer. I have found historian Alan Williams's concept of police as “not an entity, but an act, or rather a group of actions” particularly useful when evaluating the meaning of police in the eighteenth century.⁵ As articulated by J.M. Beattie, the word “police” had a variety of meanings, and the “very instability of that meaning provides a clue” to the multi-faceted nature of the practice. Thus, Beattie reminds us it is imperative to study forms of early police like the night watch in “their own time and context.”⁶ In his exploration of the idea of police in eighteenth-century England, F.W. Dodsworth reminds us that when thinking about the police in an eighteenth-century British colonial context we are not talking about a centralized, hierarchical “uniformed force employed by the state.”⁷ Rather policing was a “general system of government,” synonymous with the duties of regulating “broad aspects of communal existence with the aims of establishing the common good of the community.”⁸ Generally, police was a term used for the larger tasks of administration, improvement, and health, and closely aligned with its origins, the maintenance of the *polis*. It was not until the last decades of the eighteenth century in England, and in the early nineteenth century in the United States, that customary practices of keeping order transformed. Larger changes in the “mentality of government,” led to a “changing the meaning of police from the condition of order to an institution,” tasked with preserving authority and

Patrolmen: Early Law Enforcement in Mexico City (Lincoln, NE: Nebraska University Press, 2022).

⁵ Alan Williams, *The Police of Paris, 1718-1789* (Baton Rouge, LA: Louisiana State University Press, 1979), 7.

⁶ J. M. Beattie, *Policing and Punishment in London 1660-1750: Urban Crime and the Limits of Terror* (Oxford: Oxford University Press, 2001) 77.

⁷ Francis W. Dodsworth, “The Idea of Police in Eighteenth-Century England: Discipline, Reformation, Superintendence, c. 1780-1800,” *Journal of the History of Ideas* 69, no. 4 (2008): 583-584; Beattie, *Policing and Punishment*, 77.

⁸ Dodsworth, “The Idea of Police,” 583-584.

administering discipline to control the population.⁹ As argued by Markus Dirk Dubber, architects of law and governance in the new nation “embraced the concept of police because it named, and apparently systemized, a wide variety of governmental practices with which they were intimately familiar.”¹⁰ In a study of vagrancy and the creation of policing, Sal Nicolazzo posits that police authority operated “not to produce disciplined subjects but rather to produce a flexible, open-ended, discretionary optic.”¹¹ Nicolazzo argues that by studying the archives of policing we see that “laws granted local authorities broad powers, but individuals made choices about whether and when to use those powers.”¹²

Historian Clive Emsley explained the distinction between police and policing in this way: “policing [was] often the work of non-professionals” while it is “the creation and development of the various institutions that can be called the police.”¹³ Emsley suggested that “policing might be understood as the wide range of behaviors from community activity with or without traditional sanction, while the police are usually expected to act under a set of formal agreed upon norms imposed by people acting under some kind of agreed authority.”¹⁴ I find Emsley’s distinction useful when trying to reconcile the use of the term “policing” to describe the activities of various officers in the eighteenth-century Anglophone world. Taken alongside the concept of policing as

⁹ Dodsworth, “The Idea of Police,” 584-587. Dodsworth incorporates both Marxist and Foucauldian interpretations of policing here, drawing on the work of Mitchell Dean and Mark Neocleous. On the development of police powers in America see William J. Novak, *The People’s Welfare: Law and Regulation in Nineteenth Century America* (Chapel Hill: University of North Carolina Press, 1996).

¹⁰ Markus Dirk Dubber, *The Police Power: Patriarchy and the Foundations of American Government* (New York: Columbia University Press, 2005), xiii.

¹¹ Sal Nicolazzo, *Vagrant Figures: Law, Literature, and the Origins of the Police* (New Haven: Yale University Press, 2021), 6-7.

¹² Nicolazzo, *Vagrant Figures*, 6-7.

¹³ Clive Emsley, *A Short History of Police and Policing* (New York: Oxford University Press, 2021), 11.

¹⁴ Emsley, *Short History of Police*, 11.

a set of actions and a term with multiple meanings, we can shed assumptions of modern iterations of police or policing and instead understand these actions or terms as descriptors of practices specific to their own time and context.

Policing in the eighteenth century was imprecise: it was a “patchwork” of governing actions, to which night watches contributed and executed.¹⁵ Boston’s night watch operated in a liminal space between these two concepts—they were local non-professionals tasked with the responsibility of keeping order, at the behest of a higher authority (the selectmen), albeit also having discretionary power. As writers of reports and decision-makers they contributed to the archives of policing and their writing provides us with an unprecedented view of policing as a practice and a concept, in its place and time. Through this writing, we also see a development of learning and acumen, an acquisition of what legal historian Mary Sarah Bilder has called “legal literacy.”¹⁶ Bilder makes the argument that men in early America achieved legal literacy through “observation and participation,” learning their legal skills from access to documents, courts, and other practitioners.¹⁷ While not training to practice law, Boston’s night constables and watchmen were, I argue, “quotidian legal literates.”¹⁸

To explore the central question of how night constables and watchmen learned the law to properly execute their duties and exercise discretion, the paper examines the reports written by night constables. The reports of Boston’s watch reflect the core goals of eighteenth-century

¹⁵ Dodsworth uses this term to describe officers that comprised English civil government tasked to govern the peace and order of local communities. “The Idea of Police,” 587.

¹⁶ Mary Sarah Bilder, “The Lost Lawyers: Early American Legal Literates and Transatlantic Legal Culture,” *Yale Journal of Law & the Humanities* 11, no. 1 (Winter 1999): 47-118; Mary Sarah Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Cambridge, MA: Harvard University Press, 2004), 19.

¹⁷ Bilder, *The Transatlantic Constitution*, 19.

¹⁸ A special thank you to Sally Hadden for encouraging me to consider framing Boston’s night watch as legal literates.

policing practice: peacekeeping, maintenance of moral and social order, the use of surveillance to prevent crime and monitor certain populations, and duties related to public health. The reports reference major events—including the Stamp Act Crisis and the occupation of the town by the British Army—alongside quotidian details of law and order, including narrations of how night constables and watchmen exercised discretion and procedure. I consider these materials alongside laws governing the watch, town records, acts of the General Court, legal manuals, and the writings of local justices of the peace. The first section of the paper serves as a background of the history of watchkeeping and the development of Boston’s watch and its work. The next section looks specifically at how Boston’s night constables and watchmen learned of their duties through the orders and appointments given to them to guide their work and engage with Bilder’s concept of the development of legal literacy. The third section zooms in on one night constable, Edward Ireland, and his early experience, appointment, and his reports over time—to consider how watchmen developed knowledge and discretionary powers “on the job.” The final section offers some suggestive thoughts on the role that informal apprenticeship and mentorship might have played in this process and the significance of viewing the practitioners of early policing in Boston as quotidian legal literates.

Watchkeeping in Boston and Boston’s Watch

In cities and towns across the British Atlantic, nightly watches supported law and governance at the local level. No centralized policing effort existed in the colonies, and the preservation of the peace remained a particularly local effort, executed by a blend of appointed officials who performed methods of perambulating surveillance.¹⁹ Humanist and Protestant ideals

¹⁹ Dayton and Salinger argue that perambulation served as a central strand of governance in British America by which networks of personnel acquired “an intimate knowledge of the

underlying urban governance dictated the foundational actions and practices for keeping a "well-governed town."²⁰ The social, religious, and political structures that underwrote New England's colonies promoted both a hierarchical structure and communal participation at every level of governance.²¹ The "Great Migration" of the early seventeenth century brought the peace officer system to New England.²² The work of peace officers such as justices of the peace, constables, and watchmen centered around a series of interrelated tasks necessary to the conservation of peace and the management of disorders.²³ Men of good standing within the community, often wealthy elites, served as justices of the peace. Justices heard cases tried at the county level, issued writs, called coroner's inquests, and settled cases of minor incidents. Elected at town meetings, day or regular constables served one-year terms, performing a variety of tasks that included the collection of taxes, delivery of writs and attachments, transportation of the indigent, poor, and accused, and assistance with the overall charge to maintain order. The manner and form of the night watch changed over time, however, their primary activities remained constant. Walking the streets

resident's needs, skills, and vices so that the town could respond appropriately." *Robert Love's Warnings*, 21, 72.

²⁰ For more, see Paul Slack, *From Reformation to Improvement: Public Welfare in Early Modern England* (Oxford: Clarendon Press, 1998); Margo Todd, *Christian Humanism and The Puritan Social Order* (Cambridge: Cambridge University Press, 2002); and Karin Wulf, "Assessing Gender: Taxation and the Evaluation of Economic Viability in Late Colonial Philadelphia," *Pennsylvania Magazine of History and Biography* 121, no. 3 (1997): 201-35.

²¹ David H. Hall, *A Reforming People: Puritanism and the Transformation of Public Life in New England* (Chapel Hill: University of North Carolina Press, 2012), 19. For the classic study on village and government formation see Edward M. Cook, Jr., *The Fathers of the Towns: Leadership and Community Structure in Eighteenth-Century New England* (Baltimore, MD: Johns Hopkins University Press, 1978). Cook used "disproportional stratified sampling" to select seventy-four towns to examine patterns of leadership and community structures in eighteenth-century New England. Cook's data for a study of minor office holding was incomplete and largely unexamined, and do not include any data from Boston.

²² For more on the Great Migration, see Virginia DeJohn Anderson, *New England's Generation: The Great Migration and the Formation of Society and Culture in the Seventeenth Century* (New York: Cambridge University Press, 1991).

²³ Cook, *The Fathers of the Towns*, 2; Dayton and Salinger, *Robert Love's Warnings*, 10.

constituted the bulk of the watch's time. Watch units of four to five watchmen and a night constable were positioned across the town to monitor residential neighborhoods and commercial areas. Rounds were conducted a minimum of twice per night to look out for fires and general disorder, and to respond to incidents. The men announced the hour and weather as they walked.

The governing practices that coalesced in Boston over the seventeenth and early eighteenth centuries retained elements of its medieval roots and reflected key features of Boston's core characteristics. In *The City-State of Boston*, Mark Peterson identifies "political autonomy, self-governance, freehold land title that created equity throughout the commonwealth and encouraged market production, free trade throughout the Atlantic world for Boston's merchants, and communitarian ethos grounded in the religion of the puritan churches" as foundational to Boston's character.²⁴ Night watches were developed and supported these integral threads. The performance of quotidian policing by Boston's watch was essential to uphold community, morality, and the economy.

Boston experimented with different types of watches to meet the needs of the growing town. The first laws to regulate "watchings" in Massachusetts Bay Colony were laid out by the General Court in 1636. The act stipulated that from May to September, in times of peace, every town was required to form a constable's watch. The law empowered day constables to assemble a watch of able-bodied men, cautioning that the group could not consist primarily of youths.²⁵ The town called for men to serve with the frequency necessary to keep a full and functioning watch. Householders attended to watch duty on a rotating basis; the work was a civic duty and unpaid. The "Act for Explanation, and in Addition to the Act for Keeping of Watches in Towns" in 1712

²⁴ Mark Peterson, *The City-State of Boston: The Rise and Fall of an Atlantic Power, 1630–1865* (Princeton, NJ: Princeton University Press, 2020), 22, 166.

²⁵ "Acts Respecting Watchings," *Colony and Province Laws*, 202-203.

established a paid permanent standing watch in the town.²⁶ Referred to as a “select watch,” the Act placed the watch in the hands of the town selectmen and ordered the appointment of a “sober, discreet, able-bodied householder” to head the watch.²⁷ Rather than watches manned with “voluntary” members and conducted by day constables, the town shifted to the use of watches that were paid for their service and organized by the justices of the peace and town selectmen. The institution of this type of watch marked a turning point for the nature of watch work, and it was at this point that the duty of watching shifted from compulsory service to compensated service.

In July 1761, the General Court passed “An Act for Establishing a Watch for the Safety and Better Securing the Good Order of the Town of Boston.”²⁸ A standing watch was set each night to act as the apparatus of local government as the town slept. They began at nine p.m. in the winter and ten p.m. in the summer, setting out to walk the routes set by the town selectmen until daylight. They were instructed by the town selectmen to hail all persons passing along after “such time of night as you shall order” and to “suppress all routs, riots, and other disorders.”²⁹ The watch used its discretion to aid individuals in need of assistance and to detain those found violating the law or social norms. At the end of each month, the head constable of each watch unit submitted a report to the town selectmen.

Night constables and watchmen were to conduct themselves as representatives of the town. The men received orders to operate under the “strictest decorum” and to “execute office with resolution and firmness but behaving with discretion and calmness.” While on duty, members of

²⁶ “An Act for Keeping of Watches in Towns,” *Colony and Province Laws*, 339-341.

²⁷ The first use of this term appeared on January 15, 1706, *Boston Town Records*, 8:54; “An Act for Keeping of Watches in Towns,” *Colony and Province Laws*, 339-341.

²⁸ “An Act for Establishing a Watch,” *Acts and Resolves Passed by the General Court*, 462.

²⁹ North Division Watch Appointment, October 1773, *Boston Town Papers*, 7: 287, Boston Public Library, Boston, MA. (Hereto forward, BPL).

the watch were expected to “behave with sobriety, temperance vigilance, and fidelity.” The selectmen reminded watchmen of the importance of their compliance: “The Security of the Town demands it, and you may be assured that your continuance in the place to which you are appointed altogether depends on it.”³⁰ Boston’s town watch did not wear any type of uniform clothing to mark their position. An item most associated with watchmen was a common “greatcoat” or a heavy overcoat or cloak worn over one’s jacket and clothing to keep warm in colder seasons. The lanterns they carried were metal cylinders that held a candle to help illuminate the darkened streets. The types most likely carried by Boston’s watch were made of sheet iron or thin horn, also referred to as dark or watchmen’s lanterns.³¹ In the absence of uniforms, the staff carried by night constables and watchmen signaled the office they held. Also referred to as poles or staves, the men were instructed to bring the official implements on rounds with them each night “as a badge of his office, [constables] shall carry a quarter pike with a spire on the top thereof, and every watchman shall carry a staff with a bill fastened thereon.”³²

Boston’s watch in the 1760s and 1770s was comprised of men who came to watch service for a variety of reasons. Whether wealthy, middling, or poor, most white men in New England were eligible for town office; those who accepted serving were often between the ages of thirty and sixty.³³ Watchmen came from a variety of neighborhoods, churches, and backgrounds. Some entered the watch as young men while others entered later in life. Many of the watchmen served

³⁰ North Division Watch Appointment, October 1773, Boston Town Papers, 7: 287, BPL.

³¹ See Grant Hamilton, “Collecting Punched Tin Lanterns,” *Key Lock and Lantern Magazine*, Issue 171 (July/August/September 2013), 4. This type of lantern is also described by Jennine Hurl-Eamon in “The Westminster Impostors: Impersonating Law Enforcement in Early Eighteenth-century London,” *Eighteenth-Century Studies* 38, no. 3 (2005): 470.

³² An Act for Keeping of Watches in Towns, Chapter LXV, *Colony and Province Laws*, 339-341.

³³ Cook, *Fathers of the Town*, 34-35.

in their positions for a decade or more. Others joined the watch for short periods, serving less than a year or two. It is likely some came to join the watch to participate in the governance of the town. Others came for a wage. The men represented various social and economic positions. Some of the men occupied a lower-middling status, but many came from the lower sorts and working poor. Most of Boston's watchmen likely earned income during the day either in positions as laborers or in skilled trades. Records show that night constable Stephen Symmes was a leather breeches maker. Fellow constable Benjamin Burdick trained as a barber, advertising his services as both a "peruke-maker and haircutter."³⁴ Watchmen David Lenox Sr. and Jeremiah Rhodes were listed in various records as house joiners or housewrights.³⁵ No records thus far have identified "watchman" as a discrete occupation.

Writing was a tool of surveillance that was essential in Boston. The practice of writing reports was instituted in Boston through an Act of the General Court and an ordinance at the town level in 1760. No other British Atlantic city developed a requirement for written reports in the colonial period. It was only after the American Revolution that writing began to play a role in Charleston and New York's watch system. No clear guidelines were set for the format of the reports. The lack of a formula or template meant that the reports lacked uniformity, however, this also allowed each constable to develop their reporting style.³⁶ In Boston, from 1763 on, night

³⁴ J.L. Bell, "I Never Used to Go Out with a Weapon': Law Enforcement on the Streets of Pre-Revolutionary Boston," in *Life on the Streets and Commons, 1600-present*, edited by Peter Benes, Vol. 30 of *Annual Proceedings of the Dublin Seminar for New England Folklife* (Boston: Boston University Press, 2007), 5.

³⁵ Thwing Database, TR 13:187; Boston Overseers of the Poor, "Document of Indenture: Servant: Rhodes, Jeremiah, Master: Sprague, Samuel," Manuscript, April 14, 1749, *Digital Commonwealth*, <https://ark.digitalcommonwealth.org/ark:/50959/41687v76n>.

³⁶ Watch constables composed their reports on different-sized sheets of paper of varying textures and thicknesses suggesting that they had to procure their own materials or were given scraps to write on.

constables kept personal journals to log notes during the month. Journal contents included details on the completion of rounds, weather, and names and locations of significance. Each Wednesday, the night constables used the information recorded in their journals to deliver oral reports to the selectmen or the town clerk and again at month's end when they submitted their written accounts of major events and the watchmen's attendance. The first extant reports from the 1760s are for 1763; 297 survive from the period of 1763 to 1776, and nearly 900 more from the period of 1776 to 1799.

Ways to Learn

A variety of legal texts shaped how watches were designed and administered in the eighteenth century. Boston's watch was part of a longstanding legal and customary tradition; watches derived from thirteenth-century English laws that established the system of peace officers and watches. The Statute of Winchester (1285) outlined the watch and ward system and clarified the protocols that shaped policing practices in England, and, later, the Americas, instructing the watch to serve "continually all Night, from the Sun-setting until sun-rising," along with the requirement to arrest strangers, levy the hue and cry, and to keep the peace.³⁷ Nearly four hundred years later, the duties enumerated in the Statute of Winchester were echoed in the text of Boston's watch appointments.³⁸

³⁷ *The Statutes of the Realm: Printed by Command of His Majesty King George the Third; in pursuance of an Address of the House of Commons of Great Britain*. Vol. I, ed. Thomas Edlyne Tomlins, and John Raithby (London: Dawson of Pall Mall, 1810), 96–98.

³⁸ The active use of lay groups in governance and administration had predated the Norman Conquest of 1066, and articulations like the Statute of Winchester reinforced the role of the community in keeping order. Henry Summerson, "The enforcement of the statute of Winchester, 1285–1327," *The Journal of Legal History*, Vol. 13, Issue 3 (1992): 232–250.

Popular legal manuals provided a general outline of the duties assigned to peace officers. Texts such as William Lambarde's *The Duties of Constables* (1584), Michael Dalton's *The Country Justice* (1690), and Robert Gardiner's *The Compleat Constable* (1700) guided constables in the administration of their duties and included the texts of common writs.³⁹ The manuals outlined procedures for watchman qualifications, restrictions on when men could be compelled to watch, and penalties for refusing to serve. Such texts traveled to North America and printers published similar texts authored in the colonies.⁴⁰ Nicholas Boone's *The Constable's Pocket-Book*, published by the author in 1710 and 1727 in Boston, served as a conduct manual for constables' work and advised officials without legal training on English and colonial laws. Centered around a fictional dialogue between an old and new constable, *The Constable's Pocket-Book* included writs, warrants, and procedures for warning inhabitants to watch and ward and the delivery of the charge to the watch.⁴¹ These manuals were likely used by Boston's selectmen to develop the instructions for the watch included in their appointments, however, no manuals existed to offer night constables and watchmen instructions or definitions to aid in their duties.

How then did night constables and watchmen learn about their duties? One practical aspect of instruction in night watch duty came from being assigned to watch during quarantine. To contain the spread of contagion, the town selectmen ordered several processes to be put in place, including

³⁹ Robert Gardiner, *The Compleat Constable* (London: Printed, and are to be sold by Tho. Beaver, 1700), 202324, Folger Shakespeare Library, Washington D.C.

⁴⁰ See John A. Conley, "Doing It by the Book: Justice of the Peace Manuals and English Law in Eighteenth Century America," *Journal of Legal History* 6 (1985): 257-98.

⁴¹ Nicholas Boone, *The Constables Pocket-book: Or, A Dialogue Between an Old Constable & a New: Being a Guide, in Their Keeping the Peace, &c. In Serving All Warrants. Observing Orders of Courts. Summoning Town-officers, and Town-meetings. Collecting Rates and Assessments. Serving Writs, Summons, Executions. How to Make Returns of All Writs and Warrants. Forms of Bail-bonds, &c. An Account of All Lawful Fees* (Boston: Printed for Nicholas Boone, 1710), 43-44.

the appointment of men to enforce the confinement of infected persons to their homes.⁴² Men would have learned the basic principles of watchkeeping through the instructions given to them to “examine every Person passing by you, whether they have had the Small Pox, and if they answer that they have not had it, or you should suspect that they have not, you are then to prevent their proceeding by all proper methods.”⁴³ Acting as sentries or gatekeepers, the quarantine watch stopped each person to assess their well-being and examine them for evidence or knowledge of contagion. Many who were called to serve during outbreaks transitioned to appointments on the regular standing night watch. Coming to the night watch duty through experience with the quarantine watch would have given men a sense of the mechanics and some experience in detaining individuals for questioning. However, the scope of this task was limited to the assessment of well-being. As watchmen and night constables, the men would be required to assess a wider range of behaviors and navigate a greater latitude of decision-making.

When appointed to be a constable of the watch, the man received brief instructions—two handwritten pages, seven clauses. There is no evidence in the document itself, town meeting notes, or selectmen’s minutes that other instructions, written or verbal, were provided to the new constables. These brief and terse orders comprised the only formal advice given to the night constables to “train” the watchmen on how to serve and protect the town. The first clause of the document outlined the when and where of watch work: watch House at the hours of 9 o’clock to dawn from September to March, and at the hours of 10 o’clock to dawn from March to September. The second section outlined the requirements for reporting. The third clause instructed watchmen

⁴² According to Blackstone, protections were in place for watchmen taking on this duty. Sir William Blackstone, *Commentaries on the Laws of England in Four Books*, 4 vols. (Oxford: Printed at the Clarendon Press, 1765-1769), Book Four, Chapter Thirteen, 106.

⁴³ January 19, 1764, *Selectmen’s Minutes*, 20:14.

to make rounds carrying the symbol of the office, their staff. The general orders for night constables' nightly rounds included the language of "at such times in the Night as you shall Judge best" and "varying the time according to your discretion."⁴⁴ Clauses four and seven cautioned the new constable to ensure the behavior and sobriety of the watch. Clauses five and six contained the only items specific to behavior, crime, and duties:

5. You and your Division must endeavour to suppress all routs riots and other disorders that may be committed in the Night, and secure such persons as may be guilty, that you may the next Morning take such steps as the Law directs for a prosecution.

6. You are to take up all Negroes Indian & Molotta Slaves, that may be absent from their Masters Houses, after 9 o Clock at Night and passing the streets, unless they are carrying lanthorns with light candles and can give a good and satisfactory Account of their business that such offenders may be proceeded with according to the law.⁴⁵

Night constables and watchmen understood the responsibility to present any individuals detained over the evening to a justice of the peace, customarily one who resided within the same ward as the accused.⁴⁶ As appointees read over the orders that specified the different categories of disorder would they have been expected to know the difference? Were they aware that according to the law, at least three people were required for an action to constitute a rout or a riot?⁴⁷ Or that a riot could include any act conducted with violence and force, or even seemingly lawful acts if done in a "violent and tumultuous manner?"⁴⁸ And as they looked to the third category of "other disorders,"

⁴⁴ Appointment, November 1761, MS f. Bos 6, Boston Town Papers, 7:108-109, BPL; April 1767, MS f. Bos 6, Boston Town Papers, 7:139, BPL. Ireland's appointment included more specific instructions as he was responsible for the center of the town's commerce and governance. Appointment, April 1767, MS f. Bos 6, Boston Town Papers, 7:139, BPL.

⁴⁵ Appointment, April 1767, MS f. Bos 6, Boston Town Papers, 7:139, BPL.

⁴⁶ Few sources survive from eighteenth-century justice courts in Suffolk County. However, constables' reports hint at aspects of the process of delivering individuals and offer valuable insight into the procedure.

⁴⁷ Blackstone, *Commentaries*, Book Four, Chapter Eleven, 96.

⁴⁸ Blackstone, *Commentaries*, Book Four, Chapter Eleven, 96.

did they wonder which behaviors to bring to the attention of the justices, and did they fully understand what the law directed?

Discretion played an equally important role in daily policing concerning people of color. The sixth directive of the appointment instructed watchmen to “take up all Negroes Indian and Molotta slaves” who were away from their enslavers' home after nine and unable to provide a satisfactory reason for being out. Not only did the provision afford constables a degree of discretion, but it also afforded enslaved men and women a degree of agency. Those who found themselves detained for being out presumably had the opportunity to negotiate for freedom of movement and to avoid being subjected to punishment.

The practice of keeping order brought the night watch into contact with a wide range of individuals and watchmen responded to a range of violent and non-violent crimes. From the text of the appointment, we see that much was left to the constables' discretion: whom to help, what types of people to record full names for, and whom to reprimand. They decided when to detain and when to send others on their way. Without precise guidance, legal definitions might not have been entirely clear, nor the parameters of their discretion, the knowledge watchmen and constables developed was obtained through observation, experience, and error.

Learning on the Job

No constable's reports demonstrate a larger range of discretionary decision-making than those written by Edward Ireland. As constable of the Dock Square Watch, Edward Ireland spent his nights walking alongside his assistants, watching the most important commercial area of the

town.⁴⁹ Like most night constables, Ireland was not a man of wealth or a top office holder: he worked daily and earned a secondary income on the night watch.⁵⁰ Ireland was literate and could write, but few records of his life survive aside from the watch reports he composed. Ireland joined Boston's watch in June 1764 to fill the space of an absentee watchman. At the time Ireland had been commissioned by the town to enforce quarantine during an outbreak of smallpox.⁵¹ Ireland served for twenty-three years on Boston's watch. Writing many in his hand, Ireland composed over fifty reports. He spelled words phonetically and included robust quantities of information about night-time incidents.⁵² In 1787, after twenty years as the Dock Square Constable, Ireland was rendered incapable of discharging his duty by Bodily Infirmities and dismissed from his position. Before being appointed night constable, Ireland spent three years as a night watchman under night constable Valentine Sullivan. He served through the smallpox outbreak of 1764, the unrest over the Stamp Act in the summer and fall of 1765, and more routine moments, such as fire, intoxication, and general unrest. In April of 1767, Ireland reported to the Selectmen's offices to accept his appointment as Constable of the Dock Square Watch.⁵³

Ireland's initial reports in his first year as a constable offer insight into his development of legal literacy. Constable's reports regularly referred to orders and requests they received from

⁴⁹ In addition to many warehouses and shops, within their watch district lay many of the town's public buildings: the town almshouse, workhouse, granary, and Bridewell.

⁵⁰ Ireland's occupation was unknown.

⁵¹ January 19, 1764, *A Report of the Record Commissioners of the City of Boston, Containing the Selectmen's Minutes vol. 20* (Boston: Rockwell and Churchill, City Printers, 1889), 14. The practice of quarantining the sick to their homes by force, a statute first enacted under King James I to ensure infected persons remained confined to their homes during plague, was used in Boston. Men (both watchmen and others) were paid by the town to act as guards to prevent the spread of infection.

⁵² Robert Francis Seybolt, *The Town Officials of Colonial Boston, 1634-1775* (Cambridge, MA: Harvard University Press, 1939), 306n, 324, 360n.

⁵³ Dock Square Watch Appointment, April 1767, MS f. Bos 6, Boston Town Papers, 7:139, Boston Public Library, Boston, MA. (Hereto forward, BPL)

selectmen and inhabitants to deal with disorderly houses, domestic disturbances, and wandering sailors. In one of his first reports, Ireland described a complex and multi-faceted discretionary encounter in June 1767 (See Appendix). Ireland heeded a call to visit the West End of town outside of his watch unit's normal route. He wrote,

It was the desire of Mr. Surcom and Mr. Newhall that we should come to New Boston about nine or ten o'clock and still the noise of boys and negros quarreling and fighting which we readily complied with and went for about six or seven nights the second night I found eight or nine negros playing on a violin and flute I told them it was not allowed to play or make noise after nine o'clock so they said they would not so I left their company.⁵⁴

Several free black Bostonians were residents in this area above the Common also known as New Boston.⁵⁵ Both Surcomb and Newhall owned “servants for life,” and served at times in positions of authority in the town government.⁵⁶ Rather than a violent rout, Ireland described an encounter with a group of eight to nine African American men playing music. He did not mention any unrest, or that he subdued fighting or quarreling.⁵⁷ Ireland did not write that he ordered the men to

⁵⁴ Edward Ireland Return, Dock Square Watch, June 1767, Boston Town Papers, 7:127, BPL.

⁵⁵ Not asking them to disperse also suggests that the gathering took place at a residence, likely that of either Tobias Lockers or Scipio Fayerweather. At least eight free blacks lived in the West End, including Lockers and Fayerweather who owned tracts of land with houses and let their rooms as landlords. Dayton and Salinger determined the locations of some black families in the West End, along with others in the South and North End through the warning records of Robert Love. Dayton and Salinger, *Robert Love's Warnings*, 113. For more on free and enslaved communities in eighteenth-century Boston see, Jared Ross Hardesty, *Unfreedom: Slavery and Dependence in Eighteenth Century Boston* (New York: New York University Press, 2015); Gloria McCahon Whiting, "Power, Patriarchy, and Provision: African Families Negotiate Gender and Slavery in New England," *Journal of American History* 103, no. 3 (2016): 583-605.

⁵⁶ Both Timothy and Thomas Newhall (or Newell) were listed as owning “two servants for life” each on the 1771 provincial tax lists. At the time of this report, Timothy was a town selectman. Richard Sarcum appeared on the 1771 tax records as an owner of two slaves, and this “Mr. Surcom” might also be the Richard Surcomb who had formerly served as a constable and an engineman. See Bettye Pruitt ed., *The Massachusetts Tax Valuation List of 1771* (Boston: G.K. Hall and Co., 1978). Edward Ireland Return, Dock Square Watch, June 1767, Boston Town Papers, 7:127, BPL.

⁵⁷ No record of this event was included in the published minutes of the Boston selectmen, supporting the conclusion that it was unlikely Ireland detained or disciplined the musicians.

disperse, a response he and other constables recorded many times about encounters with other groups. Nor did he record that he brought anyone to the Bridewell or a justice of the peace on this occasion. Upon reminding the group they were not allowed to play music or make noise; Ireland accepted their pledge to cease their outdoor activities. The acceptance of the men's promises to disperse indicated that Ireland felt that he had received a "good and satisfactory account," mirroring the language of clause six of the watch's instructions.

Ireland's explanation of the events was ambiguous and perhaps purposefully so. His account for the selectmen demonstrated due diligence on the part of the Dock Square Watch. He reported that they traveled to the West End for a series of nights *after* the initial incident, providing clear evidence that Ireland satisfied Newhall and Surcomb's request to monitor for disorderly gatherings. Ireland's account also demonstrated his use of discretion and his ability to make such a determination. Following the sixth clause of his appointment, his responsibilities included the collection of all free Black and enslaved Bostonians, who did not offer a satisfactory reason for being abroad. This encounter demonstrates that Ireland was confident in his assessment as he reported the scope of the event without fear of reprisal or reprimand from the selectmen for not properly enforcing the law.

Ireland's writings also reveal a deepening of his understanding of the law and procedure. In September 1767, Ireland wrote, "On the 8th...I committed Mr. Dilley may Hunt to Bridewell for making a noise and disturbance among the neighbors in Cross Street next morning I had him before Esqr. Ruddock as the law directs."⁵⁸ Ireland mirrored the language of clause five of the watch

⁵⁸ Edward Ireland Return, Dock Square Watch, September 1767, MS f. Bos 6, Boston Town Papers, 7:133, BPL. For more on Justice John Ruddock and Boston's justices of the peace, see Catherine S. Menand, "Cursed to Live in Interesting Times: Justice John Ruddock of Boston," *Massachusetts Legal History: A Journal of the Supreme Judicial Court Historical Society* 5 (1999): 97–120.

appointment, using the phrase “as the law directs.” Perhaps Ireland was signaling to the selectmen his understanding of the procedure and his seriousness in the execution of his duties. On the 12th of January 1768, Ireland reported that he and his watchmen were out on silent rounds (a method where the men did not call the time and weather to avoid alerting those engaged in wrongdoing of the watch’s presence) and met

2 or 3 men so I asked them what was the noys and thay told me that thay had ben abused by 2 men...we emedetly persued them and carred one to gol...next morning I brot the man out and had him before Mr. Quensey one of his Majstys Justus of peace...whare he is bound over to the sessions with 2 bonds men for his good behavior.⁵⁹

This report suggests a more advanced comprehension of delivery procedures and their connection to the judicial process. In this report, Ireland detailed the physical process of detaining, transporting, and presenting the individual suspected of assault to the justice of the peace. Including the information on the transfer of the case to sessions and the detail that two men served as bondsmen for good behavior was not needed for the report. In February 1768, Ireland’s report recalled that he hailed and questioned a man carrying a barrel on his back. Finding that it was stolen, he visited the owner of the barrel the following day to inform him of the incident. Ireland wrote, “I tol him if he would prosecute the man their was prufe enough.”⁶⁰ Most interestingly, in this report, we begin to get the sense that Ireland was conveying his deeper familiarity with legal procedure with his comment to the property owner regarding adequate proof to prosecute.

Language included in Ireland and other night constables’ writings suggests an organic acquisition of legal knowledge. Some might have had access to manuals such as Dalton or Gardiner, but it is more likely that they had been advised on the procedures contained in the

⁵⁹ Edward Ireland Return, Dock Square Watch, January 1768, Boston Town Papers, Box 13, BPL.

⁶⁰ Edward Ireland Return, Dock Square Watch, February 1768, Boston Town Papers, Box 13, BPL.

manuals through interactions with other learned folk. Ireland's decision-making and discretion grew from his experiences with other seasoned officials or perhaps from the observations he made while serving as a witness on cases. But the most significant interactions were likely when he delivered individuals to the justice of the peace. While not recorded in the justice of the peace records or watch reports, we must consider (at least in the abstract) the role that the dialogue between the night constables and the justices played in this process. Ireland did not record Ruddock's determination in his report. Did Justice Ruddock agree with Ireland's decision to present Dilley May Hunt for noise or advise Ireland for future presentations?⁶¹ Did Ruddock or other local justices of the peace instruct Ireland on the degree of evidentiary support needed in cases of theft; in other words, did Ruddock agree with Ireland's assertion in February 1768 that they had more than enough evidence to prosecute? Would Ruddock have agreed with Ireland's decision to let the second group of soldiers go on their way without penalty and return their weapons? Given that few records remain for Boston's justices of the peace, these questions remain unanswered.

Unrest over taxation policies led Parliament to order a military police presence in Boston in late October 1768.⁶² Watchkeeping was directly affected by the crown's efforts to reassert control over Boston through military occupation. Occupation raised jurisdictional challenges and tension and uncertainty led British officers, soldiers, and Boston's watchmen to engage in a variety of confrontations. In April 1769, Edward Ireland recounted a violent altercation with two officers

⁶¹ No extant records have been found from Ruddock's tenure as a justice of the peace.

⁶² During this first occupation, the town watch faced jurisdictional challenges posed by a large military presence. As I have argued elsewhere, verbal, and violent skirmishes between the watch and the British military served to negotiate the logistical issues that resulted from performing overlapping policing duties during the town's occupation.

and a soldier.⁶³ While aiding two Bostonians under assault by a group of officers, Ireland apprehended one officer, pulling a bayonet from his hands. Ireland delivered the officer for holding to the Bridewell. The following morning, Ireland traveled to Justice Ruddock's home to make a formal complaint. With him, he carried the bayonet to use as evidence of the altercation. Ireland lamented in his monthly report that on the next day, Ruddock released the officer.⁶⁴ A similar scene played out in late November 1769, though rather than officers, Ireland and the Dock Square Watch encountered a group of soldiers. The watchman standing sentry called out to three soldiers as they passed. Ireland recalled that three soldiers gave a "bad answer" to the watchman standing sentry as they passed, taunting him to come to see who they were and threatening "what theyd do if we medled with them." In response, watchmen knocked two of the soldiers to the ground, disarming the men, taking their swords and a bayonet. Ireland returned the weapons after they "humbled themselves and promised better behaviour."⁶⁵

The reports written by Ireland during the first occupation of Boston speak to how Boston's watch learned and adapted in a moment of crisis and jurisdictional uncertainty. The first report demonstrated that Ireland drew on his knowledge of evidentiary procedure. At the time he entered his formal complaint over the incident, he provided the confiscated bayonet as evidence to Justice Ruddock of the events. The second incident demonstrated Ireland's ability to exercise discretion. Despite receiving an unsatisfactory response, "a bad answer" from the soldiers, he opted to let the men go with a promise of better behavior. Perhaps Ireland was drawing on his experience with

⁶³ Edward Ireland Return, Dock Square Watch, April 1769, Boston Town Papers, Box 14, BPL.

⁶⁴ Ireland wrote in his report: "he [the Justice] dos not care to be any way consarned either in the affair of officers or soldors which will be a grat damage as he has ben so usefull and helpful to the watch in tim[e]s past." Edward Ireland Return, Dock Square Watch, April 1769, Boston Town Papers, Box 14, BPL.

⁶⁵ Edward Ireland Return, Dock Square Watch, November 1769, Boston Town Papers, Box 14, BPL.

Ruddock in April, when despite having the evidence of the bayonet, Ruddock did not take the case any further. Ultimately, the examples hint toward Ireland's ability to adapt to new methods and to develop expertise even in times of great uncertainty.

Quotidian Legal Literates

In her 1999 article “The Lost Lawyers: Early American Legal Literates and Transatlantic Legal Culture,” and in *The Transatlantic Constitution*, Mary Sarah Bilder makes the argument that men in early America achieved “legal literacy—knowledge of the laws and legal progress” through “observation and participation,” learning their skills from access to documents, courts, and other practitioners.⁶⁶ Bilder rejects the binary understanding of a “lay or amateur versus professional,” rather legal literacy “allows us to identify and to place participants in the legal system along a spectrum of functional skills” and “underscores the importance of understanding what legal practitioners actually did. Legal literacy embeds a legal history of practitioners in the cultural practices in which they participated.”⁶⁷ She argues that before the establishment of law schools in the colonies, men learned the “practices that relate[d] to lawyering and the conduct of litigation,” and served as attorneys without formal legal education.⁶⁸ Bilder suggests “legal literates” attained “formal or informal educations, and almost all gained basic literacy skills of reading and writing. Moreover, most held a position that provided access to courts, legal records, and legal arguments.”⁶⁹ Positions that placed men in positions of access (such as clerks) allowed them to

⁶⁶ Bilder, “Lost Lawyers,” 59; Bilder, *The Transatlantic Constitution*, 19.

⁶⁷ Bilder, “Lost Lawyers,” 51.

⁶⁸ Bilder, *The Transatlantic Constitution*, 18.

⁶⁹ Bilder, *The Transatlantic Constitution*, 18.

learn through exposure to written forms, copying and writing legal documents, and town records. She argues, “access to records provided power.”⁷⁰

While not trained to practice law, Boston’s night constables and watchmen can be considered “quotidian legal literates.” Like the attorneys Bilder examined, every night constables (and several watchmen) possessed the skill to read and write. Night constables were required by law to keep a journal for administrative purposes. Further, some night watchmen serving under the head constables also kept journals of the goings on to aid in compiling the information for the town. Their level of literacy was also evident in the monthly reports written by the constables, many of them survived in the men’s own hands, demonstrating clarity of communication and several were skilled in grammar and penmanship.

Bilder emphasized the power of clerkships in a legal literate’s training. While night constables were not serving in formal clerkships as outlined by Bilder, they spent a meaningful amount of time with the town clerk and selectmen. They reported to the powerful town clerk at least once a week on Wednesdays to give an oral account of events and presented their written report to the clerk at month’s end. One can imagine that the men observed much by speaking to and listening to the long-serving town clerk, William Cooper. Perhaps they learned what to look for or other ways to write about the things they observed. One can imagine that through this dialogue the night constables gained insight into the types of events and incidents that were of consequence to the town and more about how to exercise their discretion. More than access to town records, night constables were responsible for their creation, something that brought with it a different type of power. The monthly records written by the night watch, or the records created

⁷⁰ Bilder, *The Transatlantic Constitution*, 19-21.

from their testimonies in depositions and other court cases became part of the body of materials from which one attained legal literacy.

Along with the town clerk, the night constables and watchmen expanded their legal literacy through interactions with the town selectmen. Town selectmen were gentlemen of the “better sorts,” many of whom were formally educated, with standing and wealth. Some also served as justices of the peace. Night constables and watchmen appeared before the selectmen to relay information, to give testimony in hearings, and to file complaints. The town clerk prepared the complaints and dependent on the nature of the incident, directed the complaint to the selectmen or a justice of the peace for resolution. Selectmen heard complaints in their chamber, and, when called, constables and watchmen attended the hearings to give depositions. As with conversations with Cooper, and justices of the peace, Boston’s watch likely gained much insight from these interactions. Observing the types of infractions that held weight and the incidents that resulted in action rather than dismissal and listening to the language used to describe the actions shaped the men’s understanding of their work and its larger legal implications.

In addition to clerks and town selectmen, night constables spent a significant amount of time with justices of the peace. We must consider the role that participation in delivery and court proceedings in justice courts played in this process. Whether it was through the relaying of details and sharing information, I suggest that dialogue between night constables and justices of the peace might have functioned as, or was likely akin to, a type of informal training, mentorship, or legal apprenticeship, thus constituting a key aspect of the development of their quotidian legal literacy. As suggested above in the examples of Edward Ireland, night constables gained valuable knowledge through both observation and participation and thus increased their awareness of the law and their ability to exercise proper discretion. A set of records kept by Suffolk County Justice

of the Peace Richard Dana, and held by the Massachusetts Historical Society, offer a few small snippets of interactions between justices of the peace and the town's night watch. In two instances, Dana recorded the delivery of persons to him by night watchmen. Given the number of incidents that occurred at night, this sort of event likely occurred much more frequently, and yet typically Dana did not perceive the need to record it or who presented him with the alleged miscreant. In February 1762, Dana recorded that "Kuff, a negro slave of Tho. Bennet," and "Dick, a negro slave of Rob.^t Mullin" were "bro't before me by certain of y^e watchmen of Boston" for being in the streets after one AM.⁷¹ Neither man was able to give Dana (or presumably the watch) a satisfactory reason for being out, both were remanded to the "House of Correction to receive the discipline of sd. house & then released."⁷² In January 1768, Dana recorded an entry about an assault: "Jeremy Lawler of Boston labourer for violently assaulting & smiting Wm. Dolbeare with a staff in y^e public street ab.^t eleven a clock in y^e night of y^e 24th of Jan he being comit^d to prison by certain watchmen of y^e town of Boston for that offense."⁷³ While each case presented a straightforward path with little need for discretion on the part of the watchmen involved, it is Dana's use of the term "certain" that is of interest. I suggest that Dana's use of certain should be understood as a reference to watchmen he viewed as reliable, trustworthy, and dependable.⁷⁴ The slight change of phrase, setting certain apart, "by certain of y^e watchmen," further conveys Dana's attestation to the knowledge and ability of the men who presented and provided information and evidence.

⁷¹ Entries 149 and 150, Richard Dana Justice of the Peace Records, Dana family papers, Vol. 17-19, Ms. N-1088, Massachusetts Historical Society, Boston, Massachusetts.

⁷² Entries 149 and 150, Dana Justice of the Peace Records, MHS.

⁷³ Entry 5, Dana Justice of the Peace Records, MHS.

⁷⁴ "Certain," *Oxford English Dictionary*, https://www.oed.com/dictionary/certain_adj?tab=meaning_and_use#9732757

Interactions between the night constables and officials were an essential part of their informal training. The act of reporting, both orally and in writing, presented opportunities for discussion. Other informal avenues existed for learning. Night constables and watchmen benefited from casual conversations with one another and members of the town. Several reports contained language of instruction and examples where the night constable instructed junior watchmen on how to conduct their duties. Legal notices recorded in newspapers would have reached night constables and watchmen, through casual reading or overheard in public houses or conversations during their daytime work. Other print sources such as laws affixed on broadsides also provided alternative sources of information. Through interactions and seemingly simple tasks, night constables and watchmen attained a form of everyday understanding of the law. All these avenues contributed to their education as “quotidian legal literates.”

Policing in the eighteenth century was imprecise: it was a “patchwork” of governing actions, to which night watches contributed and executed. Fittingly, how night constables and watchmen learned to execute their duties and understand the law were equally piecemeal. Boston’s watch followed directives rooted in significant legal doctrine, the thirteenth-century Statute of Winchester, with language adapted to meet the needs of an Atlantic city on the rise. Despite the watch appointment’s illustrious guiding doctrine, the text left little in the way of specific instruction, aside from two clauses related to quelling disorder and controlling the movement of “Negroes Indian & Molotta Slaves.”⁷⁵ While legal manuals contained information on watches as part of instructions for day constables and justices of the peace, we have no evidence to support

⁷⁵ Appointment, April 1767, MS f. Bos 6, Boston Town Papers, 7:139, BPL.

that Boston's watch was given access to these materials. Without legal manuals for watches or a formalized method of instruction, watchmen most certainly gained knowledge through trial and error. As quotidian legal literates, night constables and watchmen wrote, discharged their duties, made many decisions by their discretion, and throughout those actions, contributed to the larger workings of early American law and policing.

Appendix

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Edw. Irelands Returns for June 1767

June 16th I being upon Sentry heard a noys of 8 or 9 salars singing
 Hollowing and making a noys betwix 11 or 12 of Clock
 I had them but they still continued their noys I asked
 them why they could not go quietly along the streets
 they gave me Lettel or no answer we persued them into
 Kings street and when they saw us they parted and got away

18 Cheseman and Jerland being on the rounds between
 10 and 11 of Clock we heard a noys of men swearing
 and making a grate noys in Mr. Edwards House we both
 went in to see what this disorder ment we found a
 man stript redy to fite with 4 or 5 salars more we
 tuck him away and so stilled the noys

19th it was the Desier of Mr. Surcom and Mr. Newhall
 that we shuld come to New Boston about 9 or 10
 of Clock to still the noys of boys and negros quwaling
 and fiting which we readily Complied with and went for
 about 6 or seven nights the 2nd night I found 8 or 9 negros
 playing on a vialend and flute I told them it was not allowed
 to play or make an noys after 9 of Clock so they
 said they would not so left their company and brok up

24th I put Richard Bull into bridwell for abusing Jerem^{iah}
 Rods and wife and for cursing and swearing and abusing
 the athority of the town and the watch so next
 morning I had him before Justis Stodori
 our Company Consists of 6 men as follows Viz messrs.

absent	Jerem ^h Rods	2 nights	Edw. Ireland
	Rob ^t Gording	2 Ditto	George Cheseman
	Will ^m Barret	5 Ditto	Jerem ^h Rods
	Edward Sanders	2 Ditto	Robert Gording
			Will ^m Barret
			Edw. Sanders

Edward Ireland Return, Dock Square Watch, June 1767, Boston Town Papers, 7:127, BPL