The Black Country experienced massive socio-economic, demographic and cultural changes during the nineteenth century. Among these changes were major developments in law and order, including the ways in which crime was prevented and detected, and how suspects were prosecuted. This article provides a brief overview of local changes in policing, prosecution and court procedures.

**Policing**

At the beginning of the nineteenth century, the Black Country possessed little of what we would recognise as ‘modern’ policing. There were few if any full-time professional police officers who walked a beat, no detective officers and no county or borough (incorporated towns) forces. The law was largely enforced by parish constables, usually consisting of a single constable (colloquially known as a ‘Charley’), who served a one-year voluntary term of office in a parish, and who had limited powers of arrest and detention.

This rudimentary system of law enforcement was occasionally complemented in larger towns such as Wolverhampton, by the employment of night watchmen (again colloquially known as...
A constable’s truncheon was his badge of office, decorated in this case with images, including the lion of England and GR IV for George IV, which symbolised his importance as a representative of the state’s authority.

‘Charleys’). However, such men were also often unwilling and unable to fulfil their roles as guardians of the peace and their numbers were woefully inadequate. For example, in 1814 Wolverhampton had a population of around 13,000 but only two parish constables and a newly created night watch of ten men.

The Metropolitan Police Force which was created in London by Home Secretary Sir Robert Peel in September 1829 is generally considered to be the first full-time professional preventative police force in England. This view, however, ignores the creation of the Bow Street Police Office from 1749, which as well as creating the world’s first professional detectives, also operated both mounted and dismounted police patrols several decades before those developed by Peel. England also lagged considerably behind Scotland in the creation of a preventative force; Glasgow Police was founded in 1800 and had detectives from 1819, whereas the Met did not possess a detective contingent until 1842.¹

It took many years and the passing of several acts of Parliament before either provincial towns or counties created their own police forces. The delay was mainly due to the perceived high cost of police forces upon ratepayers. The following table shows the founding dates of major Black Country town and county police forces:

<table>
<thead>
<tr>
<th>Town</th>
<th>Date of Founding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walsall</td>
<td>6 July 1832</td>
</tr>
<tr>
<td>Wolverhampton</td>
<td>3 August 1837</td>
</tr>
<tr>
<td>Worcestershire</td>
<td>13 December 1839</td>
</tr>
<tr>
<td>Shropshire</td>
<td>9 March 1840</td>
</tr>
<tr>
<td>Staffordshire</td>
<td>6 December 1842</td>
</tr>
</tbody>
</table>

Early police forces and the parish constabulary system often continued in tandem for several decades, but the passing of the County and Borough Police Act 1856 compelled all boroughs and counties throughout England to create police forces. Several large towns such as Dudley, Stourbridge and West Bromwich came under county jurisdiction and therefore relied on the relevant county police forces. Dudley only founded its own police force from part of the existing Worcestershire force on 6 May 1920.

A brief case study of a brutal murder illustrates many of the problems inherent in early nineteenth-century Black Country policing. On 18 December 1812 Mr Benjamin Robins was shot at point-blank range by a stranger on the outskirts of Stourbridge. He managed to crawl back home to give a full description of his assailant, and a handbill offering a considerable reward was printed and posted up throughout the area. Robins unfortunately succumbed to his injuries and died on 28 December 1812.
The parish constable of Stourbridge, Mr Jones, took charge of the investigation and immediately arrested two local suspects, both of whom subsequently proved their innocence by providing rock-solid alibis. As neither Staffordshire nor Worcestershire possessed a county police force, Mr Robins’ family and friends called in the only detective option available to them: the Bow Street ‘Runners’. Two were despatched from London and after a convoluted and inspired investigation lasting several weeks and involving a desperate chase of several hundred miles, the officers arrested William Howe, a journeyman carpenter.

Howe was subsequently tried at Stafford Assizes in March 1813, convicted and hanged (and then posthumously gibbeted at the scene of the crime). Without the use of the Bow Street officers, it is unlikely that the culprit would have ever been brought to justice due to the severe limitations of local resources for enforcing the law.

Prosecution

Today we are used to criminal prosecutions being brought on behalf of and at the expense of the state. However, this is a very recent phenomenon. Throughout much of the nineteenth century the prosecution of suspects was the responsibility of the victim (or in homicides, the victim’s family or friends). The vast majority of indictable crimes – felonies that were tried at superior courts beyond the limited jurisdiction of magistrates – were prosecuted by individuals rather than the state, whilst private summonses were also common for less serious misdemeanours. There were notable exceptions: offences that directly affected the state: treason, sedition and smuggling and counterfeiting, for example, were prosecuted at the cost of the state.

Investigation and prosecution could involve considerable expense to victims or their families. For example, the advertisement of rewards such as that offered by Robins’ family was not a cheap option at £100. This is the equivalent to around £10,000 in today’s terms. The cost of arranging the attendance in court of witnesses could also quickly mount up.

For murder cases, the local magistracy and the state contributed to the cost of prosecution. The total cost of William Howe’s prosecution was £464 12s 6d (around £45,000 in today’s terms), but for less serious felonies the burden of prosecution costs lay with individual victims.

In order to defray such considerable expense, from the late seventeenth-century, Associations for the Prosecution of Felons were created throughout England. The first recorded association dates to 1693 in Stafford. These were basically a form of private insurance: subscribers would pay an annual subscription which allowed them to call upon the Association’s funds should they be the victim of a felony.

The early decades of the nineteenth century saw a proliferation of such associations, with over 100 recorded by 1800. The Association for the Prosecution of Felons of Stafford, for example, had over 1,000 subscribers by 1815. These associations were funded by annual subscriptions, with the subscription rates varying widely. For example, the Association for the Prosecution of Felons of Stafford charged £2 per year, whilst the Association for the Prosecution of Felons of Birmingham charged £5 per year. These subscriptions allowed the associations to fund the investigation and prosecution of felons, with the cost of prosecution splitting between the state and the Association.

The British Rough, engraving originally published in The Graphic, 1874. This illustration wonderfully captures the Victorian middle-class ‘bogeyman’; the feared habitual criminal.
associations throughout the Black Country, although some associations predated this surge in interest; the *Birmingham Gazette* 16 December 1765 carried the following paragraph:

> The principal Inhabitants of Stourbridge having entered into an Annual Subscription for seven years for the rigorous Prosecution of the Perpetrators, as well as Compounders, of all Felonies that shall be committed within that town or Neighbourhood, and all Receivers of Stolen Goods, and other Accessories, (sic) and have ordered ample Rewards to be allowed such Persons who shall discover, apprehend, or be instrumental in bringing such Offenders to Justice – Should so laudable a Spirit be worthy of Imitation (if general) would no doubt effectively discourage Practices of so Public Concern.

The creation of such an association at that particular time was probably related to the numerous disturbances over the price of staple foods known as the ‘Bread and Butter Riots’ that spread throughout areas of the country, including the Black Country, during the mid-1760s. This association appears to have been relatively short-lived, but it was brought spectacularly back to life during the lean year of 1813, when a series of threatening letters to Black Country farmers about the price of wheat and grain led to a Royal Proclamation that ‘the newly created Stourbridge Association for the Prosecution of Felons had issued a reward of one hundred guineas for the capture of the writer(s)’ (*Hue and Cry*, 20 March 1813).

The creation of borough and county police forces gradually wrought changes to prosecution procedures. From the 1850s onward, police officers became increasingly responsible for bringing prosecutions, and until 1986 the police remained the main prosecutors of criminal offences. The state became involved in more prosecutions after the passing of the
Prosecution of Offences Act 1879, by which a Director of Public Prosecutions (accountable to the Home Office) was made responsible for the prosecution of the most serious cases to come before judges. It was not, however, until the creation of the Crown Prosecution Service in 1986 that the state took over control of criminal prosecutions.

Court procedures
Court procedures seem to us to be timeless: the use of an unbiased jury, the right of a defendant to give evidence on their own behalf and to have a defence counsel, and most critically of all, the right to an assumption of innocence until proven guilty beyond reasonable doubt. These are, however, recent constructs.

First, the use of an unbiased jury is relatively recent: until 1933 all serious felony cases first appeared before what was known as a ‘Grand Jury’. This was made up of the ‘great and the good’ of the area who met to decide whether or not an individual case merited the cost and time of being heard before an assize judge. If the case was considered strong enough, then a ‘Bill of Indictment’ would be issued, allowing the case to proceed; if not, then a decision of ‘Not a True Bill’ would be made and the case would be dropped. All of the Grand Jury members were male, as were all of the ‘petty’ or normal jury members who heard the case at the Assizes which thereby suggested the real likelihood of gender bias to affect their decisions. Defendants could object to particular jury members. William Howe for example, whose murder trial was held at Stafford Assizes, objected to one jury member who came from the same town (Stourbridge) where the murder took place.

Second, there was the right to give evidence on one’s own behalf and to employ a defence counsel. Defence counsels were not routinely employed until the mid-nineteenth century. William Howe employed what was known as a ‘guinea brief’ – a junior barrister who hawked his limited expertise around the assize circuits – but only met with him shortly before his trial, and his use was largely ineffective. Until 1836 defence counsel was not allowed to sum up to the jury, and defendants could not give evidence on their own behalf under oath until the passing of the Criminal Evidence Act 1898. Prior to that, all a defendant’s testimony was given unsworn.

Finally, the presumption of innocent until proven guilty is also largely a modern construct. Because, as we have seen, prosecutions were often expensive to bring, the overwhelming consensus (at least until the time that the police took over prosecutions) appears, however unfairly, to have been that there was ‘no smoke without fire’. In other words, if a prosecutor of a serious offence had gone to all that time and trouble, then the defendant probably had a case to answer!

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Further Reading

Reference