

The Spaces of Policing/The Policing of Spaces: Pathologizing Poverty in Portland,  
Oregon, 1851-1918

By Katherine Bush

“It is often forgotten that in the name of public health the state is licensed to palpate, handle, bruise, test, and mobilize individuals, especially those deemed dangerous, marginal, or needy.”<sup>1</sup>

As soon as state creation began in Oregon, legislators passed laws to address the care of dependent populations living within the territory. Care of the poor, a term that specifically referred to persons unable to secure a living due to “bodily infirmity, idiocy,<sup>2</sup> or lunacy or other cause,” was the responsibility of extended and immediate kinship networks. But “when any person becomes a pauper from intemperance or other bad conduct,” that person would only merit support from parents or children.<sup>3</sup> If kinship networks were unknown or unable to provide aid, support would come from county treasuries in which the person was a resident. The law established residency requirements for paupers to obtain assistance, which specifically limited access for outsiders. Distinguishing between “worthy” and “unworthy,” and local and stranger, was

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<sup>1</sup> Warwick Anderson, “States of Hygiene: Race ‘Improvement’ and Biomedical Citizenship in Australia and Colonial Philippines,” In *Haunted by Empire: Geographies of Intimacy in North American History*, ed. Ann Laura Stoler, (Durham and London: Duke University Press, 2006), 97.

<sup>2</sup> Throughout this paper, I use terminology that describes people, medical diagnoses, and socio-economic statuses that was used during the time period discussed in this paper and is anachronistic to language we use today. I have made the decision to use this terminology because I feel that the continued and pervasive use of this language during the time period discussed illustrates the imbrication of white supremacist ideologies in medicine, local government, and law enforcement.

<sup>3</sup> Oregon Territory, *Laws of a General and Local Nature Passed by the Legislative Committee and Legislative Assembly at Their Various Successive Sessions from the Year 1843, Down to and Inclusive of the Session of the Territorial Legislature Held in the Year 1849: Except Such Laws of Said Session as Were Published in the Bound Volume of Oregon Statutes, Dated Oregon City, 1851*, (Salem, OR: Asahel Bush, Territorial Printer, 1853), 712-713.

This law also includes a provision to punish a person who knowingly brings and leaves a non-resident pauper into any Oregon county. This person is subject to a fine of \$100 for every offense.

not unique to the Oregon Territory. Rather, conceiving of “poverty” as an inherent, biological failing of the individual has been endemic to the development of local and state laws, and the function of law enforcement in eighteenth and nineteenth century America. Physicians in Europe and America developed medical theories in the eighteenth and nineteenth centuries that linked poverty, mental illness, and inherent criminality. They also connected criminality to environmental factors, which fueled anxieties that poverty and criminality could spread like a disease.

In eighteenth and early nineteenth century America, support for dependent populations was a function of the local community. Towns and counties organized systems of relief, over which officials maintained responsibility.<sup>4</sup> Kinship networks provided support in the form of confinement to ensure the maintenance of order within a community.<sup>5</sup> Economic crises amongst the working class were common, and without a nationwide network of social services, they were subject to patchwork systems of relief.<sup>6</sup> Support was offered to the “poor,” which broadly referred to widows, orphans, aged, sick, insane, and disabled. However, relief was denied to those classified as “rogues” and “vagabonds,” a distinction based on the assumed moral character of the individual.<sup>7</sup> These categories largely referred to populations who were strangers to a community, existing outside of the extent kinship structures of the community that were responsible for providing support. Without tying poverty to the rise of industrial capitalism, the

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<sup>4</sup> Michael B. Katz, “Poorhouses and the Origins of the Public Old Age Home,” *The Milbank Memorial Fund Quarterly. Health and Society*. 62, no. 1 (Winter, 1984), 113.

<sup>5</sup> Laura I. Appleman, “Deviancy, Dependency, and Disability: The Forgotten History of Eugenics and Mass Incarceration,” *Duke Law Journal* 68, no. 3 (December 2018), 424.

<sup>6</sup> Katz, 112.

<sup>7</sup> David Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic*, (Boston: Little Brown & Company, 1990), 4-5. Rothman’s analysis centers on

ascription of moralized categories denoting worth squarely placed blame on the individual while neglecting the effect economic circumstances had on working class populations.

Nineteenth century politicians and physicians spoke of poverty as the result of a personal, moral failure and the limited intellectual capacities of the working classes. In 1820, Senator Josiah Quincy III released the eponymous “Quincy Report” which distinguished between classes of paupers: the impotent poor and the able poor. The impotent poor referred to those who were incapable of working, children, sick, and disabled. The able poor applied to those who are capable of working, but chose not to.<sup>8</sup> Quincy advocated for the support of the impotent poor, while favoring able poor to care for themselves so as not breed idleness and laziness. Physician Edward Jarvis penned an influential study of insanity in Massachusetts in 1854. Jarvis asserted that the poor and mentally ill both had “imperfectly organized [brains] and [feeble constitutions],” which resulted in higher rates of insanity. He also noted that “foreigners” were susceptible to insanity because of their intemperance and inability to adapt to the conditions of American society.<sup>9</sup> Distinguishing between “worthy” and “unworthy” poor was necessary to justify discriminate state support based on the assumed moral character of certain impoverished populations. This also demonstrates larger, societal beliefs that idleness and increased immigration were the leading causes of poverty.

The transmission of disease from one generation to the next was of great concern to American physicians and political leaders. Two studies released in the late

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<sup>8</sup> Katz, 114.

<sup>9</sup> Allan V. Horowitz and Gerald N. Grob, “The Checkered History of American Psychiatric Epidemiology,” *The Milbank Quarterly* 89, no. 4 (December 2011), 630-631.

1800s examined the influence of hereditary degeneracy and environment on poverty, criminality, and mental illness within a family. Sociologist and member of the New York Prison Association member Richard Dugdale released “The Jukes: A Study in Crime, Pauperism, Disease and Heredity” in 1874. Dugdale’s study links fecundity, illegitimate births, incest, and environment with high propensity for future generations to become criminals.<sup>10</sup> He ultimately concluded that the “pauperism and crime...and the incurable disease, idiocy, and insanity growing out of this debauchery” of a single family resulted in the loss of over a million dollars in 75 years.<sup>11</sup> Three years later, Reverend Oscar McColluch wrote the Ben-Ishmael Tribe study. With a similar focus on intermarriage, poverty, and criminality, McCulloch notes the family was unable to endure hard work or bad climates because of their physical conditions.<sup>12</sup> While Dugdale and McColluch wrote about two different families, both studies largely focused on the assumed immorality of each, relating anecdotal evidence of their destitution, disease, and propensity to crime. Each author focused on the financial burden the families imposed on their home states due to the sheer size of the families, and their reliance on charity and state institutional support. Mental illness and poverty signified “dependence,” and cut against notions of Americans as hardworking, individualistic, and moralistic.

In the nineteenth century, a mythologized version of Oregon’s pioneer past undergirded much of the State’s identity. Hardy, rugged, and hardworking white migrants tamed the vacant wilds of the Pacific Northwest and established an Edenic

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<sup>10</sup> R.L. Dugdale, *“The Jukes” A Study in Crime, Pauperism, Disease and Heredity, Also Further Studies of Criminals*, (New York and London: G.P Putnam’s Sons The Knickerbocker Press, 1891), 6-12.

<sup>11</sup> Dugdale, 70.

<sup>12</sup> Richard T. Ely, “Pauperism in the United States,” *The North American Review* 152, no. 413 (April 1891), 403-404.

homeland. Harvey W. Scott, editor of *The Oregonian*, included descriptions of early settlers of Portland in *History of Portland, Oregon*, released in 1890. The men who populated the young city were industrious, intelligent, active, and brought wives and children. Scott noted that even for those accustomed to hard work, Oregon's fir trees were "rude and formidable," and "many a raw hand emerged from the forest sore and distressed, and like Noah's ark pitched inside and outside with pitch."<sup>13</sup> Portland's elite brandished this frontier mythology, imbued with Providential justification, to portray early, white settlers of the West as the hardiest and healthiest stock.<sup>14</sup> Since only the fittest, white settlers were able to make the journey west, "only the strongest men became founders of Portland."<sup>15</sup> For Oregonians, the perpetuation of the pioneer mythos established cultural and social boundaries for inhabitants based on narrow conceptualizations of race, fitness, behavior norms, and economic status that directly related to a person's ability to access the privileges of citizenship. The creation of distinctions between unhealthy and healthy inhabitants of Portland was a necessary precursor for exclusion, separation, and removal of supposedly contagious and foreign populations.

Increased populations and rapid urbanization required Americans to rethink dependency, criminality, and the role of social control mechanisms. If physicians were able to understand why people turned to crime or became insane, reformers would be

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<sup>13</sup> Harvey W. Scott, *History of Portland, Oregon: With Illustrations and Biographical Sketched of Prominent Citizens and Pioneers*, (Syracuse, NY: D. Mason & Co., Publishers, 1890) 88.

<sup>14</sup> Marin Aurand, "The Floating Men: Portland and the Hobo Menace, 1890-1915," (Portland, OR, Portland State University, 2015), 3.

<sup>15</sup> Aurand, 22.

able to strengthen social order.<sup>16</sup> Laziness and deviancy were believed to be a result of a person's environment, and could be spread if left unchecked.<sup>17</sup> Pathologizing poverty as a contagious and dangerous disease in a medical context supported and justified the surveillance and policing of marginalized populations in Portland, Oregon from its incorporation in 1851 through 1918. In order to more fully understand how poverty as contagion was surveilled, policed, and recorded, I will examine the development of the city's law enforcement apparatus and its close relationship with the local political bureaucracy, beginning with the city's incorporation in 1851 and ending with labor protests in 1917. Within this history, I will chronicle the concurrent growth of public health as an arm of the police force. As this paper is a study of poverty in Portland during the Victorian and Progressive eras, I will examine the history of vagrancy ordinances and laws in the city and state. I will scrutinize the social and cultural milieu in which these laws were passed, events when they were deployed, and which populations were targeted in order to understand how the control and exclusion of populations assumed to have ill health was essential to the maintenance of social control and public health.

Researching the legacy of policing and exclusion of impoverished populations presents some difficulty, as much of this history exists in liminal spaces. Ordinances and policing were malleable in response to perceived threats and dangers to the citizens of Portland. In order to make connections between contagion, poverty, radical activism, and citizenship, it is necessary to examine the persistent use of words, phrases, and rhetoric to describe populations who challenged social control.

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<sup>16</sup> Rothman, 58.

<sup>17</sup> Rothman, 71; Appelman, 426.

## History of the Portland Police Bureau, 1851-1874

The creation of Portland's law enforcement apparatus was deeply intertwined with the growth of the city's political bureaucracy.<sup>18</sup> The 1851 incorporation charter for Portland, Oregon included provisions for the creation of a city council composed of a mayor, five council members, and a recorder, who were imbued with the power to pass ordinances to protect the health, safety, and property of Portlanders, and appoint a marshal to enforce those ordinances.<sup>19</sup> The marshal system of local law enforcement consisted of an appointed marshal and deputies,<sup>20</sup> who were tasked with the preservation of the health and social order within a specific locale. Marshals and deputies did not earn a regular salary, instead receiving fees for performing specific tasks, like serving warrants, collecting delinquent taxes, and court appearances. Sociologist Allan Levett coined the term "entrepreneurial policing" to refer to a system of law enforcement that utilized "informal, non-rule bound behavior and reliance on fees rather than salaries." This type of policing resulted in officers focusing attention on infractions that would yield the highest fees.<sup>21</sup> Unlike the proactive policing of modern

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<sup>18</sup> Daniel Voorhies, "The Development of Policing in Portland, Oregon 1870-1903: Professionalization and the Persistence of Entrepreneurial Modes of Policing" (Portland, Or., Reed College, 2003), 26.

<sup>19</sup> Charles Moose, "The Theory and Practice of Community Policing: An Evaluation of the Iris Court Demonstration Project," (Portland, OR: Portland State University, 1993), 51; Voorhies, 19-20.

<sup>20</sup> Charles Abbot Tracy III, "Police Function in Portland, 1851-1874. Part I," *Oregon Historical Quarterly* 80, no. 1 (April 1979), 18.

Charles Abbot Tracy contends that Portland's marshal was able to appoint deputies with the 1853 city charter revision, but "such action was not recorded as taking place until July, 1858."

<sup>21</sup> Voorhies, 1.

law enforcement, which emphasizes the deterrence of crime and disorder through police presence, city marshals typically responded to criminal offenses after they had occurred, at an individual's request.<sup>22</sup>

The city council passed an ordinance providing for the appointment of “a competent, and discrete person to act as Marshal” at their first meeting in 1851. The marshal served under the mayor, and largely executed judicial and administrative tasks on behalf of the city's chief executive. Initially, the prevention of crime was not the major concern of the city council. Rather, the main focus for law enforcement was the maintenance of health and the collection of taxes.<sup>23</sup> The same year the city was incorporated, the city council allocated funds for the construction of a jail within the city limits.<sup>24</sup>

As the city grew, migration and immigration to Portland also increased. Between 1850 and 1860, the population of the city grew from 821 to 2,874 residents. During this ten year period, the population of foreign born residents increased from 51 to 728.<sup>25</sup> Coincident with these increases, the marshal and city council increased attention to the policing of morality and the maintenance of social norms. State legislature revisions to the city charter in 1853 moved Portland towards a more definite urban police function. The mayor and city council, which was expanded from five to nine members, now shared police powers. Law enforcement officers were imbued with an expanded role in the community, including the establishment of a night watch. The new charter also

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<sup>22</sup> Voorhies, 20.

<sup>23</sup> Tracy III, “Police Function in Portland, Part I,” 9-10.

<sup>24</sup> Auditor's Council Minutes, 2001-03, Portland City Archives, Portland, Oregon.

<sup>25</sup> Tracy III, “Police Function in Portland, II,” 136.

clearly identified behaviors that defied accepted social norms. Using their new police powers, the mayor and city council could “license, tax, restrain, prohibit, and suppress” gambling, sex work, and disorderly conduct in public or private places.<sup>26</sup> City leaders did three things in the revised city charter: they delineated abnormal behaviors, conceptualized “normalcy,” and identified the functions of local government that could be used to ensure social control. The policing of behavior norms were further codified with additional ordinances passed between 1857 and 1858. These ordinances imposed annual licensing fees on saloons, monetary bonds on drinking establishments to ensure “orderly conduct,” prohibition of sales to intoxicated persons, and closure of saloons on Sundays. This expanded focus necessitated an expansion of the police force itself. In 1858, two deputies were added to the city’s payroll.<sup>27</sup> The ordinances passed in this ten year period continued to indicate the development and codification of societal norms and centered law enforcement focus on the maintenance of behavior norms and implementation of social control.

The preservation of health was consistently a primary concern for Portland’s early leaders and law enforcement. The same year the charter was revised, the city council established the Committee on Health and Police to “assume responsibility for major concerns within the growing community.”<sup>28</sup> The committee was made up of three city council members, and dealt with sanitation, saloons and liquor licenses, contagious disease, and sex work. Historian Charles Abbott Tracy contends that this committee

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<sup>26</sup> Tracy III, “Police Function in Portland, Part I,” 17-18.

<sup>27</sup> Douglas Jon Kenck-Crispin, “Charles A. Moose: Race, Community Policing, and Portland’s First African American Police Chief” (Portland, Or., Portland State University, 2016), 17.

<sup>28</sup> Tracy III, “Portland Police Function, Part I,” 19.

had significant influence over the growth of the Portland police, although they functioned with few guidelines.<sup>29</sup> This committee continued to play an important role in the development of ordinances that policed aberrant behaviors within the city under the guise of the maintenance of public health.

Between 1853 and 1869, the city experienced periodic small pox outbreaks, an extremely communicable disease. Council members responded by passing ordinances, including imbuing the police chief with the powers of a public health officer, the construction of a “pesthouse” for small pox patients, and passing red flag laws, which required the placement of red flags on buildings to alert people to locations of contagious disease outbreaks.<sup>30</sup> Tensions arose between residents of Portland, local news outlets, and infected residents who traveled to the city. Increasing population, disease outbreaks, and fear of contagion from beyond the city’s borders led to the 1864 city charter revision, which implemented quarantine regulations to “prevent the introduction of contagious diseases into the city” and “remove persons afflicted with such diseases therefrom to suitable hospitals provided by the city for that purpose.”<sup>31</sup> The numerous ordinances centering specifically on contagious diseases and the organization of the Committee on Health and Police illustrate the importance of health as a matter of public policy and law enforcement. It simultaneously reflects the impulse

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<sup>29</sup> Tracy III, “Portland Police Function, Part I,” 19.

<sup>30</sup> Jack Smolensky, “A History of Public Health in Oregon,” (Eugene: University of Oregon, 1957), 37-47; Tracy III, “Police Function in Portland, II,” 139.

The “pest house” was a hospital facility specifically constructed to quarantine small pox patients. The marshal was responsible for transporting patients to the pest house.

<sup>31</sup> Smolensky, 37-47.

to indict outsiders as dangerous to the health of the community, and the need to identify and separate dangerous elements.

Beyond the expansion of policing health, the adoption of the new charter in 1864 further delineated the marshal's function as the officer of the peace within Portland. The tasks of the marshal included the execution of all legal processes, attendance at all sittings of the Recorder's Court and meetings of the city council, management of the city prison, collection of delinquent taxes and assessments, and maintenance of order within city limits. The new charter maintained the fee structure of the marshal, but linked fees to enforcement of state laws instead of city ordinances.<sup>32</sup> Furthermore, revisions to Oregon's criminal code on October 19, 1864 established a preventative method of policing by requiring police "attendance at exposed places."<sup>33</sup> This criminal code was deployed in Portland the following month with the expansion of the police force to include "four special deputies to act as night spies or detectives, and two as regular policemen." Marshal Henry L. Hoyt implemented these changes after consulting with the city council, and the Committee on Health and Police.<sup>34</sup> The night watch functioned as a private police force within the city. The focus on crime prevention broadened the scope of surveillance and enforcement of laws.<sup>35</sup> The expansion of surveillance and policing into the nighttime hours illustrated a concentration on crimes of vice and unwanted mobility as a mechanism of social control.

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<sup>32</sup> Tracy III, "Police Function in Portland, Part II," 147.

<sup>33</sup> Charles Abbott Tracy III, "Police Function in Portland, 1851-1874: Part II," *Oregon Historical Quarterly* 80, no. 2 (Summer 1979): 134-69., 147. *Hereafter* "Police Function in Portland, Part II."

<sup>34</sup> Tracy III, "Police Function in Portland, Part II," 149.

<sup>35</sup> Voorhies, 20-21.

The 1870s marked increased movement toward the professionalization and bureaucratization of the Portland Police Force. In 1870, the population of Portland reached 9,000. By September, the city council passed Ordinance 852, which established a full-time, salaried police force, created a hierarchical chain of command, and codified the rules and duties of officers, thus officially establishing the Portland Metropolitan Police Force.<sup>36</sup> Just a month later, the Oregon Legislature passed Senate Bill 34 (SB 34), which established the Board of Police Commissioners. This new state commission oversaw all police matters in Portland, including appointment of a police chief, and employment decisions and discipline of officers, but Portland had to pay all cost. The governor chose Commissioners, which shifted power from municipal to state control.<sup>37</sup>

The passage of SB 34 signaled the competition between the Republican and Democrat political factions at the state and local level for control of Portland's police force. Portland's city council was largely controlled by Republicans, while the state legislature was dominated by Democrats.<sup>38</sup> The shift from local to state control is indicative of the system of political partisanship that influenced the formation of Portland's law enforcement apparatus. From its inception, the police force reflected the dominant political party, either within the city or in the state capitol.

Additional ordinances were issued in the 1870s, further unifying health and law enforcement. On July 18, 1873, Portland's first Board of Health was appointed.

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<sup>36</sup> Voorhies, 29.

<sup>37</sup> Jewel Lansing, *Portland: People, Politics, and Power- 1851-2001*, 135-138; Voorhies, 29; Moose, 52.

<sup>38</sup> Tracy III, "Police Function in Portland, II," 166-169.

Membership included the mayor, chairman of the Committee on Health and Police, and the chief of police. The Board of Health dealt with sanitary conditions of the city.<sup>39</sup> In 1874, Ordinance 1434 situated matters of public health not already under the auspices of the Board of Health, under the purview of the police department.<sup>40</sup> The function of the Board of Health was limited until the city council passed an 1881 ordinance that clearly outlined the Board's role. The newly delineated responsibilities of the Board included the appointment of a physician to investigate and care for cases of contagious diseases, the designation of all police officers as "health inspectors," required reports from physicians and police chiefs about persons with infectious diseases, and an expanded flag laws to denote a greater variety of contagious diseases.<sup>41</sup> Portland's police force enforced health ordinances based on their personal conceptualizations and understandings of disease, contagion, and ill health.

With the adoption of professionalized elements in the 1870s, the Portland Police Force moved towards a more modern era of policing. These reforms reflected ideological changes taking place more broadly: a national movement towards modernization, sanitation, and bureaucratized social control. However, the professionalized elements adopted by the Portland Police Force in this era were largely performative. In his thesis, Daniel Voorhies defined "professionalism" as "requir[ing] individuals to develop expertise in special and complex body of knowledge." In order to utilize knowledge, powers, and privileges associated with law enforcement expertise, it is necessary for police officers to engage in extensive trainings.<sup>42</sup> Though the Portland

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<sup>39</sup> Smolensky, 50; Lansing, 215-216.

<sup>40</sup> "New To-Day— Ordinance No. 1434," *The Morning Oregonian*, February 17, 1874.

<sup>41</sup> Smolensky, 56-57.

<sup>42</sup>Voorhies, 4.

Police Force had adopted elements indicative of modern, urban policing beginning in 1870, like a hierarchical chain of command and salaried pay structures, these changes did not substantively change the nature of police function in Portland as an apparatus of state power to protect property, collect taxes, and enforce social norms.

The implementation of specialized training and examinations for individual officers were not instituted until the turn of the century. By 1903, all police department appointees were required to take a Civil Service exam, except the Chief of Police.<sup>43</sup> The questions asked on the 1903 exam largely centered on the candidate's literacy, nativity, criminal history, and a brief survey of his physical condition.<sup>44</sup> However, eight officers failed the exam and were discharged from the force.<sup>45</sup> More professional reforms were enacted with the appointment of Leon V. Jenkins as Chief of Police in 1919, notably, the establishment of the first Police Academy.<sup>46</sup> Despite the institution of professional reforms, the Portland Police Bureau<sup>47</sup> was not devoid of scandal or corruption in the 1900s. The Portland Police Bureau faced numerous allegations of unconstitutional searches, inequitable application of liquor laws, and the use of liquor held as evidence for personal consumption by officers and city officials with the passage of Prohibition laws at the state and national level in 1915 and 1919, respectively.

### Policing Poverty through Vagrancy Laws, 1870-1918

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<sup>43</sup> "Mayor Speaks on his Appointments: Who Are Candidates for Civil Service Examinations," *The Oregon Daily Journal*, January 27, 1903.

<sup>44</sup> "Civil Service Exams," *The Oregon Daily Journal*, January 27, 1903.

<sup>45</sup> "Eight Stars To Be Dropped: The Slaughter Of Police Officers Begun," *The Oregon Daily Journal*, April 24, 1903.

<sup>46</sup> Moose, 53-54.

<sup>47</sup> In 1915, the Portland Metropolitan Police Force was renamed the Portland Police Bureau.

After 1870, vagrancy laws became key tools in policing growing populations of mobile, white, male laborers who traveled West on newly expanded intercontinental railroads. Portland's economic and industrial growth relied heavily on seasonal laborers, who worked in extractive industries in forests and farmland surrounding the city.<sup>48</sup> Despite the important role played by seasonal labor in the growth of Portland's economy, city officials saw the increased population of mobile, young, white, males who largely congregated in the North End<sup>49</sup> of the city as undesirable, necessitating increased surveillance by law enforcement to police socially aberrant behaviors.<sup>50</sup> Their assumptions about these populations rested on medical theories developed in the eighteenth and nineteenth centuries that linked poverty, heredity, and contagion to the existence and proliferation of aberrant behaviors amongst certain populations. Moreover, social norms were further codified in the late 1800s, as Portland's elite repurposed the pioneer narrative to create an image of Oregon as Edenic and salubrious.

Prior to the passage of vagrancy laws, disorderly conduct ordinances similarly targeted undesirable behaviors. Disorderly conduct was a catchall category that could be ascribed to numerous behaviors. This nebulous category was especially useful when "police think a person has violated the law but know that evidence, witnesses, or proof will be difficult."<sup>51</sup> Portland's disorderly conduct ordinance, first passed in 1854,

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<sup>48</sup> Aurand, 13.

<sup>49</sup> Also referred to as "Whitechapel" at the time after the area of London, England, the North End of Portland is now known as "Old Town" or "Chinatown."

<sup>50</sup> Todd DePatino, *Citizen Hobo: How a Century of Homelessness Shaped America*, (Chicago: University of Chicago Press, 2003), 17-19.

<sup>51</sup> Eric H. Monkkonen, "A Disorderly People? Urban Order in the Nineteenth and Twentieth Centuries," *The Journal of American History* 68, no. 3 (December 1981), 542.

criminalized “riotous, disorderly, or violent conduct in any streets, house, or place whereby the peace or the quiet of the city may be disturbed” and “indecent or immoral practices.”<sup>52</sup> This ordinance was updated periodically to include more sections describing behaviors deemed “disorderly.”

In the late 1800s, the Immigration Board of Oregon published pamphlets that described the history, climate, and trade of the state in an effort to make migration and settlement attractive. In 1877, the Immigration Board of Oregon published a pamphlet that relied heavily on Edenic imagery to portray Oregon as uncivilized and in a state of nature, “And Nature’s own hand has given to this whole region such a finished look, that one involuntarily is deluded into the belief of being in a country long a seat of civilization, and not in one where the white race appeared only two generations since.”<sup>53</sup> At the end of each pamphlet, a section is included that outlines the type of white settler that would do best to migrate to the West. In 1877, the authors cautioned idlers and confirmed invalids from settling in Oregon.<sup>54</sup> Similarly, in 1882 those without sufficient means and the elderly were expressly deterred from emigrating to the West.<sup>55</sup> According to an 1888 pamphlet, “men of capital and brains” are best suited to the conditions of Oregon.<sup>56</sup> The

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<sup>52</sup> City Auditor, City Recorder, Council Ordinance, “An Ordinance to Prevent and Restrain Rioting and Noise, Disorderly Conduct, or Indecent and Immoral Practices,” A2000-023, AF/36136, Portland City Archives, Portland, Oregon.

<sup>53</sup> Oregon State Board of Immigration, *Oregon: Facts Regarding Its Climate, Soil, Mineral and Agricultural Resources, Means of Communication, Commerce and Industry, Laws, Etc., Etc., for General Information*, (Boston, MA: Oregon State Board of Immigration, 1877), 9. Hereafter *Oregon*.

<sup>54</sup> *Oregon*, 43.

<sup>55</sup> Oregon State Board of Immigration, *The Pacific Northwest: Facts relating to the history topography, climate, soil, agriculture...etc., of Oregon and Washington Territory...Also an appendix containing suggestions to emigrants, a short description of several counties...Issued for the information and guidance of settlers and others*, (New York, 1882), 78.

<sup>56</sup> Oregon State Board of Immigration, *The New Empire: Oregon, Washington, Idaho. Its resources, climate, present development, and its advantages as a place of residence and field for investment*, (Portland: Ellis and Sons, Printers, 1888), 44.

emphasis on the health, wealth, and race of white settlers demonstrates the boundaries of normalcy and socially acceptable behavior established by state and local elites.

Therefore, visible displays of poverty, disease, and physical disability on the streets of Portland were seen as direct affronts to Portland's established social order. Vagrancy laws became a tool to attend to this affront because the amorphous definition allowed police officers to broadly apply this ordinance as a means of social control. Passed in 1870, ordinance 907 defined and criminalized "vagrancy." The ordinance defined persons without visible means of living or lawful occupation or employment, healthy persons begging for support, and persons found to roam about the streets without any lawful business, or persons living in or around houses of ill fame are defined as "vagrant."<sup>57</sup> The year the ordinance was passed, 787 arrests were made in Portland, two of which were for the crime of vagrancy. More than a year later, the *Morning Oregonian* noted "at last one individual has been arrested under the vagrant act." The brief article about the arrestee, Charles Lemon, notes only that he had nothing to do and nowhere to go, and was thus arrested and sent to the county authorities.<sup>58</sup>

Vagrancy laws were used in racially biased ways as a tool to rid cities of people of color. For example, in 1871, the vagrancy ordinance was used to facilitate the forced removal of Native Americans from Portland and Oregon City. A State law forbade the employment of Indigenous persons off of a reservation without a pass. Without employment, all Indigenous persons were thus defined as "vagrants" and "disorderly,"

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<sup>57</sup> "Ordinance No. 907," *Morning Oregonian*, December 13, 1870. Section 3 notes that Ordinance 907 repeals "section ten of Ordinance No. 476, entitled 'An Ordinance concerning offenses and disorderly conduct.'"

<sup>58</sup> "At Last," *Morning Oregonian*, January 17, 1871.

and were subject to punishment. Described as an “unmitigated nuisance” to the city, Indian Superintendent Alfred B. Meecham authorized Major Joseph Magone<sup>59</sup> and O.A. Brown to “clear the Indians out.”<sup>60</sup> According to Portland arrest data from that year, police arrested 47 vagrants out of a total of 1,814 arrests. For comparison, in the previous year the police force had arrested two vagrants.<sup>61</sup> Read in conjunction with articles regarding the use of the vagrancy ordinance, this data suggests the large jump in arrests for vagrancy was directly related to the forced removal of Native persons from Portland. By August 16, 1871, a *Morning Oregonian* article noted that just a month after “the removal of the vagrant siwashes<sup>62</sup> from the city limits... a serenity...reigned supreme,” because the city was no longer subjected to “drunken revels.”<sup>63</sup>

Police also used the vagrancy ordinance to target Chinese residents. The following year, in April, the *Morning Oregonian* alerted readers to an “infestation” of thieves in Portland. The author included the unattributed claim that, “some assert...the majority of thefts committed are perpetrated by Chinamen.” In reference to the newly passed vagrancy ordinance, the author suggested that those without viable employment or whose employment cannot be accounted for, “should be uniformly treated as vagrants.” The use of the vagrancy ordinance to remove “the noxious presence of men of doubtful calling,” according to the author, would only benefit Portland.<sup>64</sup> While *The*

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<sup>59</sup> Major Joseph Magone was a veteran of the Indian Wars, and a 1908 *Quarterly of the Oregon Historical Society* article suggests that he was involved in the punishment of the Cayuse Indians for the murder of the Whitman family.

<sup>60</sup> “The Indians to be Removed,” *Morning Oregonian*, July 29, 1871; “The Indian Nuisance,” *Morning Oregonian*, May 16, 1871.

<sup>61</sup> “Criminal Records,” *Morning Oregonian*, March 28, 1874.

<sup>62</sup> *Siwash* is a Chinook Jargon word for Native American Indians used by colonizing forces, but is now largely considered to be derogatory.

<sup>63</sup> “Quiet,” *The Morning Oregonian*, August 16, 1871.

<sup>64</sup> “Infested,” *The Morning Oregonian*, April 10, 1872.

*Morning Oregonian* does not reference a specific number of arrests resulting from this supposed “infestation,” out of 1,654 arrests made in Portland in 1871, 16 vagrants were arrested. Both articles utilized language and rhetoric of contagion and deviance, like “infestation,” “noxious,” and “nuisance,” to evoke impressions of intrusion, danger, and contamination in reference to communities of color living in Portland. The newly passed vagrancy ordinance not only allowed law enforcement to forcibly removal of people of color from Portland based on assumed idleness. But it was an effectively tool in further justifying the exclusion of the “Other” because of fear of contagion and social aberrant behavior.

In the late 1800s, arrests were both a public and physical interaction between marshal or deputy and suspected criminal. Without communication systems and dedicated police transportation, these altercations relied on the ability of the officer to control the arrestee as they walked or took public transportation to the police department.<sup>65</sup> Actually describing the process of arrest during this period is difficult due to the lack of detailed rules and regulations for law enforcement officers. However, engrained behaviors from the fee-based system continued to influence methods in policing.<sup>66</sup> Vagrancy charges, like other violations of city ordinances, were misdemeanors. Upon arrest, defendants would appear before the Police Judge or Recorder, and enter a plea of guilty or not guilty. The Police Judge was the judicial officer of the Police Court, who oversaw violations of Oregon Law and Portland

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<sup>65</sup> Monkkonen, 541-542.

<sup>66</sup> Voorhies, 28-31.

ordinances.<sup>67</sup> According to research done by Clarinèr Freeman Boston, most defendants pled guilty and paid fines, or if unable to pay their fine, served a jail sentence. If the defendant pled not guilty, they “were adjudicated, received a verdict, and if found guilty, paid a fine and/or was sentenced.”<sup>68</sup> Arrests for city ordinance violations would have resulted in a same-day hearing.<sup>69</sup>

The use of the vagrancy ordinance to forcibly remove communities of color in Portland did not subside, but changes in migratory patterns and economic stability altered the focus of fear and anxiety of local leaders. In September 1873, a Wall Street crash resulted in an economic recession that gripped the nation. Lay offs, wage cuts, strikes, and mass unemployment resulted in increased populations of itinerate, working class, white males.<sup>70</sup> While the international recession lasted only five years, the “tramp era” persisted until 1910.<sup>71</sup> Prior to the 1873 depression, the term “tramp” defined an “invigorating walking expedition.” With the increased population of itinerate, working class, white men, the term came to signify the extreme mobility of this growing population.<sup>72</sup> Because most tramps did not have a nuclear family, property, or permanent employment, they were seen to have rejected normalized notions of

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<sup>67</sup> Clarinèr Freeman Boston, “An Historical Perspective of Oregon’s and Portland’s Political and Social Atmosphere in Relation to the Legal Justice System as it Pertained to Minorities: With Specific Reference to State Laws, City Ordinances, and Arrest and Court Records During the Period— 1840-1895,” (Portland, OR: Portland State University, 1997), 82.

<sup>68</sup> Boston, 25-26.

The Recorder oversaw violations of Oregon Law committed within the city from 1851 to 1870. This position has the same authority as the Justice of the Peace. After 1870, the position of Recorder was repealed, and replaced with the Police Judge or Justice of the Peace.

<sup>69</sup> Boston, 118.

<sup>70</sup> DePatino, 4.

<sup>71</sup> Kelly Lytle Hernández, *City of Inmates: Conquest, Rebellion, and the Rise of Human Caging in Los Angeles, 1771-1965* (Chapel Hill: The University of North Carolina Press, 2017), 46.

<sup>72</sup> DePatino, 5.

masculine behavior.<sup>73</sup> Stable, domesticated, heteronormative family units were conceived of as bedrocks of a stable society. The resulting “Tramp Panic” is illustrative not only of the fear and anxieties middle class and elite Oregonians felt towards migratory populations of impoverished and unemployed laborers, but the possible societal disruptions this population posed.

Although the economic depression did not substantially affect Oregon until 1893, the ubiquitous anxiety and fear of the “tramp” took hold well before then. In an 1871 article, distinctions between “the steady man” and “the wanderer” are made as to their role in a society. The former described as “a public benefit,” while the latter “will always be poor, is generally a nuisance and what is known as a ‘tramp,’ which word is rapidly becoming synonymous with a thief and vagabond.”<sup>74</sup> In a brief report on the passage of a vagrancy ordinance in Seattle, Washington in 1872, the author included an advisory to readers to “keep their doors locked, for there will no doubt be quite a rush of vagrants from Seattle to this city in consequence” of the ordinance.<sup>75</sup> By 1878, writers at *The Oregonian* were urging law enforcement to “vigorously enforce” the vagrancy ordinance, noting that the police were “making it tropical for vags and bums.”<sup>76</sup> That same year, Governor S.F. Chadwick’s Biennial report called for the passage of vagrancy laws at the state level. He argued increased crime, the economic depression, and the continued influx of “tramps” and “vagabonds” from California necessitated a swift response from the state legislature. Governor Chadwick concluded: “In a State like ours, where any

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<sup>73</sup> DePatino, 25.

<sup>74</sup> “Rolling Stones,” *The Morning Oregonian*, February 4, 1871.

<sup>75</sup> “Coming Hither,” *The Morning Oregonian*, October 20, 1872.

<sup>76</sup> “Brief Notes,” *The Morning Oregonian*, August 28, 1878.

man who will work can make a living, it ought to be a crime for a healthy person to beg.”<sup>77</sup> The rhetoric employed by newspapers and politicians reinforced notions of itinerate, seasonal laboring communities as inherently different from, and dangerous to, populations with stable employment and a fixed residence. People who chose not to succeed in a land of opportunity like Oregon, did so because of personal, moral failings, and were a threat to the security and health of Oregon. These stories also reiterated fears of outsiders fast-approaching the city of Portland, which would necessitate increased surveillance and policing to ensure the safety of the community.

As the population of undesirably mobile, impoverished laborers and unemployed white men continued to move into Portland, city officials sounded the alarm at the influx, suggesting that this could increase crime. In 1885, the Portland police warned of an impending “army of tramps” making its way into the city.<sup>78</sup> The specter of an unknown, advancing enemy nearing Portland built on existing fears swirling around increasing populations in the North End. Two years later, the Oregon State Legislature passed a state wide “Vagrancy Law.” This statute established a legal definition for “vagrant” to be any

idle or dissolute persons who have no viable means of living or lawful occupation or employment by which to earn a living; all persons who shall be found within the State of Oregon begging the means of support in public places, or from house to house, or who shall procure a child or

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<sup>77</sup> “Biennial Message of Gov. S.F. Chadwick to the Legislative Assembly of the State of Oregon, Tenth Regular Session— 1878,” (Salem, OR: Mart V. Brown, 1878), 40.

<sup>78</sup> “Dealing With Tramps and Beggars,” *The Morning Oregonian*, June 30, 1885.

children so to do, all persons who shall live in or about houses of ill-fame or ill repute, shall be deemed vagrants.<sup>79</sup>

The language used in the state law was almost identical to Portland's ordinance. With the passage this law, persons arrested as a vagrant were subjected to state courts and carceral facilities. The *Weekly Oregon Statesman* suggested that the state has declared "vagrancy an offense against the peace and dignity of the state."<sup>80</sup> The state-wide statute highlights the intersection of anxieties about poverty, mobility, and criminality in the States 'legal discourse. Oregon's vagrancy law was repealed two years later due to concerns about the additional cost arrests, prosecution, and confinement of offenders placed on tax payers. However, city and county vagrancy ordinances throughout Oregon were still largely still in effect.

Portlander's concerns about unemployed or underemployed populations did not decrease after the repeal of the state vagrancy law. The estimated population of itinerate, seasonal laborers in Portland's North End in 1890 was approximately 3,000. Just ten years later, that population increased to approximately 5,000 or 6,000.<sup>81</sup> In 1901, the Secretary of Police Commissioners sent a letter to the Portland city council addressing the "large number of 'Hobos' and tramps...crowding the city jail." He suggested that these prisoners "be employed in cleaning Streets or crushing rocks and repairing roads."<sup>82</sup> In that year, Chief of Police D.M. McLauchlan reported that 282

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<sup>79</sup>"The State Vagrancy Law," *Albany Democrat*, June 10, 1887.

<sup>80</sup>"Another Vagrant," *Weekly Oregon Statesman*, May 20, 1887.

<sup>81</sup>Aurand, 37.

<sup>82</sup>City Auditor, Annual Report of Police Chief from 1/1/1881 to 12/31/1914, AF/15490 and AF/15491, Portland City Archive, Portland, Oregon.

people were arrested for vagrancy, out of a total of 3,803 arrests.<sup>83</sup> Mayor H.S. Rowe's annual message from that year noted that while Portland had seen an increase in small pox cases in the last year, "many of these were indigent persons sent in from outside districts."<sup>84</sup> By identifying seasonal, highly mobile laborers as outsiders, city officials promoted notions of unknown and "foreign" populations as carriers of disease and immorality. City and state officials engaged rhetoric and discourse that perpetuated engrained medical theories that cast impoverished populations as inherently diseased, immoral, criminal, and foreign.

The prevalence of cases suggests that the vagrancy ordinance was policed heavily within the city, not only as a means of social control but also as a deterrent. On April 14, 1901, cases before the Police Court were the highest they had been in six weeks, with "fully one-half" of the cases consisting of "vagrants and inebriates." The likely punishment for these cases was a twenty to thirty day sentence at the city rock pile.<sup>85</sup> Two months later, Chief Daniel M. McLauchlan ordered patrolmen in the North End to "bring in all suspicious looking characters." As a result of this order, four vagrants were arrested, and despite sentencing in the Police Court, their punishment would be commuted if they left the city immediately.<sup>86</sup> In 1904, Chief Charles H. Hunt marched sixteen "hobos" from the police station to "the east side of the Burnside bridge" and told

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<sup>83</sup> "Mayor's Message and Municipal Reports for the Fiscal year Ending December 31, 1901," (Portland, Oregon: Schwab Brothers Printing and Lithography Company), 201-204. Arrests for "drunkenness" in 1901 eclipsed vagrancy arrests, totaling 1,346.

<sup>84</sup> "Mayor's Message and Municipal Reports for the Fiscal year Ending December 31, 1901," 22-23.

<sup>85</sup> "Rock Pile Recruits: Police Gather in Many Vagrants and Drunks," *The Oregon Daily Journal*, April 14, 1902.

<sup>86</sup> "Punishing Vagrants," *The Oregon Daily Journal*, June 23, 1902.

them leave to city. Later in the day, eight more vagrants were “sent out and ordered to head from the city.”<sup>87</sup> Continued instances of vagrancy ordinance violations indicates that heavy policing to deter vagrancy was not successful. The reliance on forced removal in lieu of punishment suggests that leaders and law enforcement wanted to rid the city of undesirable populations, as a means of visible social control. The public enforcement and exclusion of vagrancy was integral to the employment of these laws to police union workers and labor activists.

At the turn of the century, increased immigration from Eastern and Southern European countries, expanded membership in labor unions like the Industrial Workers of the World (IWW), and the growth of leftist political parties, stoked fear and nativist sentiment amongst white, middle-class Oregonians.<sup>88</sup> Federal, state, and local authorities viewed the adoption of radical political ideologies as antithetical to American ideals, and argued that the genesis of those ideologies had “foreign” origins. Tensions between employers and labor unions, and labor strikes throughout the country increased the public’s fears of the perceived power of working-class radicals. Rising to prominence in 1907, the IWW offered union membership to the unskilled laborers who held seasonal positions in mines, lumber yards, and on farms, and would typically find themselves identified as “tramps” or “vagrants.” The IWW office was located in the heart of Portland’s North End on Burnside Street.<sup>89</sup> The union office was situated amongst the hotels, saloons, gambling houses, and brothels that elicited derision from middle and

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<sup>87</sup> “Two Dozen Hoboes Are Marched Out Of Town,” *The Oregon Daily Journal*, December 26, 1904.

<sup>88</sup> Andrew Nils Bryan, “The Response to Left-Wing Radicalism in Portland, Oregon, from 1917-1941,” (Portland, OR: Portland State University, 2002), 4-7.

<sup>89</sup> Aurand, 36.

upper class Portlanders, and subjected residents of the North End to surveillance and policing. Armed with a powerful critique of industrial capitalism and the detrimental effects of the wage labor system, the IWW embodied the fears and anxieties of Oregon's middle and upper classes.

In 1911, the Oregon State Legislature again passed a state-wide vagrancy law. The legal definition of vagrancy included in the new law was similar to the 1887 state law and Portland's ordinance. However, the 1911 definition was expanded to include persons with the "physical ability to work" who were unable to find employment within ten days or those who turned down work when offered. Although the newly passed law did not overtly target political activists, the portion of the definition that denoted persons engaging in "violent or riotous, or disorderly manner" or using "any abusive or obscene language in any street, highway, house, or place whereby the peace and quiet of the neighborhood or vicinity may be disturbed" allowed the newly passed law to be broadly applied to labor activists and political radicals.<sup>90</sup>

On July 15, 1913, an IWW demonstration resulted in the arrest of at least ten members and supporters of the organization on charges of vagrancy and disorderly conduct. Citing events that took place at the demonstration, including speeches that vilified public officials, desecration of the American flag, and "endeavoring to create a general strike," the mayor, sheriff, and police chief declared their intention to finish the "war" with the IWW.<sup>91</sup> An article in the same edition of *The Oregon Daily Journal*

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<sup>90</sup> *Oregon Laws: Showing All the Laws of a General Nature in Force in the State of Oregon, Including the Special Session of 1920*, (San Francisco: Bancroft and Whitney, 1920), 1234. The 1911 vagrancy law also included "prostitute" for the first time, a marked difference from the 1887 law. This state wide law was not repealed until 1971.

<sup>91</sup> "Start War to Finish on I.W.W.; No Further Insults to Flag, Indecent Talk on Streets to Stop," *The Oregon Daily Journal*, July 16, 1913.

included a quote from the secretary of the IWW in San Francisco, California, who asserted that an army of 100 IWW, Socialists, and Socialist Labor party members from California was making their way to Portland to lend support to the Portland chapter of their organization.<sup>92</sup> Like the frequent stories about armies of tramps destined to inundate the city in the late 1800s, the specter of an unknown, invading army of disruptive radicals incited fear amongst the general public, and officials responded by increasing the surveillance and policing of labor activists and political radicals.

Labor strikes and demonstrations throughout Oregon affected the ability of industries integral to the war effort to produce goods. Reactions to these events, and especially to the IWW, bolstered notions that labor union members and leftist political followers were treasonous and unpatriotic.<sup>93</sup> One day after President Woodrow Wilson proclaimed America's entrance into World War I, U.S. Attorney General Clarence L. Reames announced that the state of Oregon would vigorously prosecute "disloyal utterances and acts." Reames extolled the broad applicability of the Vagrancy Law, and how it could be used "in practically every instance where intemperate or violent language is used against the government." The article goes on to advise "aliens" to adhere to the recommendations made in the recent presidential address.<sup>94</sup> Like the justification used during the Portland IWW demonstrations in July 1913, language

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<sup>92</sup> "I.W.W. Start for Portland," *The Oregon Daily Journal*, July 16, 1913.

<sup>93</sup> Bryan, 22-23.

<sup>94</sup> "Government Is Ready to Suppress Disloyal Utterances and Acts," *The Oregon Daily Journal*, April 7, 1917.

Reames is referring to Proclamation 1364, made by President Woodrow Wilson on April 6, 1917 in which twelve regulations were established for the public safety, and were that are directed specifically at "alien enemies."

critical of the government would be specifically targeted, citing the section from the vagrancy ordinance which referenced disordered behavior and obscenities.

Anti-radical attitudes and actions in Portland in the years preceding and following America's entrance into World War I reflected larger, national trends. In 1917 and 1918, Congress passed the Espionage Act and the US Immigration Act. These federal laws imbued authorities with increased power and latitude to prosecute and imprison labor activists suspected of engaging in treasonous or seditious speech, and even the ability to deport foreign members of labor unions, notably the IWW.<sup>95</sup> Laws, policing, and societal attitudes cultivated during this era helped solidify an "American" identity linked with patriotism, capitalism, domesticated family ties, and stable employment. By discursively linking labor unions, labor activists, and certain political ideologies with foreign-ness and aberrant behaviors, state and local leaders effectively added a narrow interpretation of "Americanness" to the paradigm of poverty, health, and criminality. The broad use of vagrancy laws during the first Red Scare illustrates how government authorities in Portland manufactured notions of subversive or dangerous populations in the city that resulted in their increased surveillance, policing, and confinement.

Ordinances and state laws passed between 1851 and 1911 that targeted vagrancy, behavior, and health successfully criminalized poverty, mobility, and activism. The malleability of the legal definition of "vagrant," expanded police powers, and widespread societal anxieties during the "Tramp Panic," allowed law enforcement officers to apply ordinances and laws at their discretion. Normative social constructs about race, class, and political ideologies influenced how and when vagrancy laws were

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<sup>95</sup> Bryan, 9. Bryan, 41.

applied. Emphasis on the normativity of stable work and employment, especially in the context of an economic recession and limited social welfare institutions, meant seasonal labor and begging as a means of survival were perhaps the only option for some Portlanders during this era. However, city ordinances and state laws specifically precluded their mobility and visibility within the city limits.

The maintenance of social norms through public health reinforced the notion that health was synonymous with “‘Americanness,’ and health officers helped determine who was considered part of the body politic.”<sup>96</sup> Imbuing the Portland Police Force with the powers of public health officers solidified the connection of state power with preservation of Portland’s salubrity. Like the fluid and malleable interpretations of “vagrant,” health functioned as coded language to refer to societal and cultural norms that were used to deny access to those who exhibited behaviors that were outside of accepted norms.

*Author’s Note:*

*This essay represents a chapter of a larger thesis project that examines the intricacies of surveilling, policing, and documenting marginal communities in Portland, Oregon from 1851 to 1920. While this chapter focuses on issues of class and the policing of itinerate, white, male working class communities, my thesis as a whole will explore intersections of immigration status, gender, race, and disability as sources of contagion and danger to white, middle- and upper-class Portlanders.*

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<sup>96</sup> Natalie Molina, *Fit to be Citizens? Public Health and Race in Los Angeles, 1879-1939*, (Berkeley, CA: University of California Press, 2006), 14.

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