

UNDERSTANDING THE RECORDS AND THE RECORD KEEPERS:

CORRUPTION IN LAW ENFORCEMENT AND CITY GOVERNMENT;

THE CULTURE OF LAWLESSNESS

Research questions related to the deconstruction and analysis of this time series must confront a series of conundrums: How to account for and evaluate what has been reported to be the dominating influence of organized crime, both the petty rackets and large scale organized crime,²²⁰ the influence of Prohibition and the sale of liquor,²²¹ the associated corruption of governmental officials,²²² including the elected judiciary,²²³ and the corruption of the police force it-

²²⁰ Sinclair writes,

For a long time, every man in Chicago who wanted his trousers pressed paid fifty cents to the racket, since gangsters controlled the cleaners' and dyers' trade. Crooks also controlled the Chicago bakers, barbers, electrical workers, garage men, shoe repairers, plumbers, garbage haulers, window cleaners, milk salesmen, confectionary dealers and undertakers. The cost of these sixty rackets to the people of Chicago was estimated at \$136,000,000 a year, while gangsters from all their illegal activities were thought to be earning \$6,000,000 weekly.

SINCLAIR, *supra* note 42 at 226 (internal citation to Wickersham Report omitted).

²²¹ Chicago had an earned reputation for lawlessness:

[In comparison to Boston] Chicago was "wide open." Regulations about the use of public places, from speed limits to peddler's rules, were largely ignored. The streets were filthy, and the same laissez-faire attitude prevailed about crime and liquor licensing. Permits were cheap and unlimited in numbers, at least until 1906, and officials made little effort to restrict locations and enforce ordinances. Because it became almost ubiquitous and its ranks grew to the thousands, the saloon assumed a much more important role in Chicago's everyday life than it did in tightly controlled Boston.

DUIS, *supra* note 8, at 8.

²²² Duis states,

The locus of authority in Chicago was in the mayor's office. He was a virtual dictator over which applicants would receive or lose licenses, where retailers and wholesalers would be located, and, by practical application, which state laws would be enforced or ignored. . . . [T]he chief executive had complete command over the enforcement of liquor laws. The desire to be reelected often canceled the intent of a state statute.

Id. at 12-13. The author goes on to comment that it was important that Springfield was far away and local control was always upheld by the courts, and "in Chicago there was nothing to prevent the worst criminals in the city from opening saloons except a veto by the mayor." *Id.* at 232.

²²³ The Constitution of 1870 established a system for electing judges and the structure of the Illinois Courts which would remain in effect for 94 years. Article VI created the Supreme Court of seven judges with the division into districts. The constitution created circuit courts with original jurisdiction in law and equity. The constitution provided for the election of the county judge and one clerk of the count, and Cook County was created with one judicial circuit, with the number of judges beginning at five to be increased as needed. The constitution [section 26] established the recorder's Court of the City of Chicago as the "Criminal Court of Cook County," with the jurisdiction in all cases of criminal and quasi-criminal nature. The Clerk of the Recorder's Court is the Clerk of the Criminal Court and was elected.

self,²²⁴ the official record keepers of this data set. The politics of reform and the frustration of reform efforts were very much tied to the corruption in the city administration and the police.²²⁵ There were African American police officers, although complaints about police treatment of African Americans were persistent throughout the period.²²⁶ The number of African Americans in the police force was another reflection of overall changes in the larger society.²²⁷ Although African Americans served as police officers they were a minority and often beleaguered.²²⁸

Documented reports of the extensive corruption of the police, especially in the segregated vice districts both before and after their “closing” in 1912, appear repeatedly in academic and popular ac-

HON. GEORGE FIEDLER, *THE ILLINOIS LAW COURTS IN THREE CENTURIES, 1673–1973* (1973). The criminal court was a wholly separate court. There was no organized central administration of the court system in Cook County. Each judge was largely autonomous. *Id.* at 227.

²²⁴Landesco comments:

These saloon-keepers had learned to take an active part in ward and precinct politics, to court and obtain the favor of bosses and the “ward heelers.” One of the results of these affiliations was the “let alone” policy toward them by the police department. To remedy this situation, the [White Hand] society recommended more Italian policemen be added to the force.

LANDESCO, *supra* note 218, at 110.

²²⁵ See *supra* note 219.

²²⁶ Gosnell explains,

[T]he first Negro policeman was appointed in 1872 by a Republican mayor some 23 years before the civil service law was passed. . . . Although a Democrat, Mayor [Carter H.] Harrison appointed four colored policemen and reinstated another. At first the colored officers were put in plain clothes, but in 1884 when the Democratic National Convention was held in Chicago and John Kelly came to the city with a New York delegation, Mayor Harrison put two of the Negro officers in uniform for the occasion.

GOSNELL, *supra* note 46 at 247 (internal citation omitted).

²²⁷Gosnell notes,

About 1905 conditions began to change and the number of Negro policemen again began to increase. . . . [T]he number of colored officers rose from 16 in 1905 to about 50 in 1914. . . . The number of colored policemen rose from about 50 when [Mayor William ‘Big Bill’] Thompson first took office in 1915 to a new level of 116 in 1922. . . . Negro officers reached the peak in number in 1930 during the third Thompson administration when there were 137 in the force.

Id. at 250–251 (Tab. IX and Tab. X giving number and rank of Negro police officers, Tab. IX also includes the name and party of the Mayor for 1871–1931) (text altered).

²²⁸ Gosnell elaborates,

The early [African American] policemen were very uncertain as to their positions. Mayoralty elections came every two years and every new mayor made wholesale changes. Of all the administrations during this period, that of Mayor Washburne’s from 1891 to 1893 was the most liberal toward the Negroes. This Republican Mayor appointed eleven new colored officers and reinstated two others. . . . when civil service came in 1895, “things were a bit better.”

Id. at 249 (internal citation omitted).



counts of the times, in newspaper exposes, and in the official crime commission reports and other non-governmental reports on social issues. And yet in some sense government still functioned, and the police functioned as a social control force. Among their other duties, they continued to keep an ongoing record of homicides throughout this entire period.

The notorious Levee district, where brothels and saloons were allowed to operate openly in spite of state laws prohibiting gambling and prostitution,²²⁹ was only the most extreme example of flagrant violation of the law sanctioned and allowed by the city, the police and state and federal legal authorities. Blatant defiance of the law, exacerbated by extremes of poverty²³⁰ and financial insecurity which were especially acute in the periodic economic downturns and times of financial panic, contributed to a lack of civic morale.²³¹ Chicago's attitude towards itself was always schizophrenic: No city was more

²²⁹Reckless states.

Prostitution was never quite a legalized or even a tolerated institution in Chicago or in other American cities. It merely had been permitted to exist (in spite of statutory law) during a period when public discussion of it was tabu. [sic.]

Once this tabu was lifted there followed a period in which public discussion of the social evil was carried on with extraordinary freedom and candor. In newspapers, magazines, periodicals, and books, conditions were exposed and described with unusual freedom. The movement reached climax just prior to the closing of the red light district in Chicago.

RECKLESS, *supra* note 171, at 1–3.

²³⁰ The pervasiveness of poverty, and its intractable character, especially in times of economic depression, remained important to all aspects of the civic culture and especially law enforcement:

In Chicago, the need for lodging was so acute [in the decades between the depressions of 1873 and 1893] that the lodgers who could not fit on the “stone corridors” of the police stations were put into the city hall, with the usual newspaper mattresses. The rules at city hall were more lax than at the station house, and there was a constant threat of fire because of smoking.

MONKKONEN, *supra* note 1, at 97 (internal citation omitted).

²³¹ The triumph of the World's Columbian Exposition was followed by severe economic recession:

“With the end of the great Fair somehow the city had crumpled exhausted. Those specters of threatening disaster, unemployment and panic, that had haunted the imagination of its leaders during the summer of 1893 had arrived to take possession. Thousands of idle, starving people prowled the ice-cold streets and slept in the filthy alleys. Violence broke forth. Once more Chicago became the frontier village, unkept and unsafe.” But it is the city's external return to something primitive, its constant doubling back on its self, that finally defines Chicago, the American city that most expressively embodies the conflicting representations of modern life. The prosaic urban grid became the medium that appeared to organize these contradictions . . .

ROSS MILLER, *THE GREAT CHICAGO FIRE* 250 (Univ. of Ill. Press 2000) (1990).

given to boosterism and self promotion,²³² or to having its citizens decry it as the worst,²³³ the most corrupt, the most sinful city in the world.²³⁴

Descriptions of destitution and poverty especially at the turn of the century are shocking to anyone accustomed to the assumptions of the Great Society and the New Deal. And these conditions aroused the passions of reformers and Progressives at the time as well.²³⁵

The history of vice and its suppression was not unique to Chi-

²³² The city was called “the windy city” not for its climate, or the ferocious winds off the lake, but because of its boosterism and self congratulation.

²³³ A popular 1912 reformist book began with the proposition, carried through various rhetorical phases that Chicago was the wickedest city in the world. *See* ROBERT O. HARLAND, *THE VICE BONDAGE OF A GREAT CITY, OR THE WICKEDEST CITY IN THE WORLD* (1912). Its facts seem to be taken from the City Council Report of 1911. The cover page describes the tract as an:

Expose of the monstrous Vice Trust. Its Personnel. Graft by the Vice Trust from the Army of Sin for protection. . . . ALSO remedies to cure the Municipal Evil that in one city alone fills the pockets of not more than ten Vice Lords with \$15,000,000, annually, made from the sins of 50,000 unfortunate men and women; an evil that is blasting our nation’s decency and prosperity and is eating into the very vitals of our Republic.

Id. at 1.

²³⁴ Books such as the Harland book were probably widely circulated and are a window on the diction of the day, as well as heightened contemporaneous life stories. Occasionally they include fugitive factual information. *See, e.g.:*

Chicago possesses four ‘redlight’ districts: one on the South side, one on the West side, one on the North side and the Strand of South Chicago. . . . [The South side district] came into existence in 1905 when Mayor Carter H. Harrison, the present [1912] city executive, cleaned out the old Custom House place, Plymouth court and South Clark Street, the nest of vice, bounding the south end of the commercial district. It established a new territory and flourishes as prosperously today as it did in its old haunts. Within the zone described 250 houses of ill fame house the unfortunate women, lure men of all conditions in life, grow rich on sin and on the practice of every form of bestial degeneracy. There are 2,000 enslaved, scarlet women in these infectious prisons! They are of every nation in the world!

Id. at 87–89.

²³⁵ The minister and journalist William T. Stead again sets the scene:

Down this track [the track between the thousands of homeless men sleeping head to toe in rows on the floor of city hall] came reporters, messengers to the fire department and other offices, followed before many nights were over by curious philanthropists, university professors, ministers of religion, and then by the representatives of the Federation of Labor But after a time that narrow pathway was choked up, and even reporters could not elbow their way through the crowd; for the City Hall corridors were very warm; the midnight air was nipping keen, and when all sleeping room was filled men preferred to stand in the warm, close air, rather than shiver in the frost and snow. . . . There they were quiet enough, smoking, sleeping and doing a little talking in an undertone. But for a floating population with the reputation of the bum, the crowd was singularly quiet, patient and well behaved.

STEAD, *supra* note 32, at 28–29.



cago during this period, reform efforts in Chicago were paralleled elsewhere in the United States.²³⁶ And that larger story resonates in Chicago. In Chicago, however, civic reform efforts were especially passionate, serious, but sporadic.²³⁷ The profiteers in charge of illegal enterprises were making too much money to go quietly, and their influence was woven into the political web at every level, not to be cut away by a single Committee or Commission, no matter how distinguished the members or lofty its purpose.²³⁸

Changing racial patterns were part of the story of the Chicago vice districts, as well as part of the overall history of the city.²³⁹ With the large influx of black Americans before during and after World War I, the racial composition of the vice districts changed, from having almost entirely white inmates, or prostitutes, to being almost half black.²⁴⁰ This demographic shift in the character of the brothels of the city was reflected in the racial composition of the criminal justice system.²⁴¹ Segregated housing had always played a role in the city

²³⁶ Part of the hysteria over the anarchist's trial in the Haymarket bombing was the awareness of anarchist's activities in Spain, France, and Russia. See PAUL AVRICH, *THE HAYMARKET TRAGEDY*, 39—67 (1984).

²³⁷ Duis notes,

[E]lection reforms were an abysmal failure in Chicago. Midwestern reformers went through the motions, but the results were minimal. . . . On paper the Illinois enactments were impressive; in reality they never worked. . . . Brawls, bribes, and ballot stuffing were so visible to the public view that the trade papers began to call for saloons to shut their doors on election day so that the proprietors could be free to campaign for pro-liquor candidates. . . . Most political activities in saloons were relatively open and public, but the Grey Wolves, as the crooked elements in Chicago politics were called, planned their strategy in the back room [of the saloon].

DUIS, *supra* note 8, at 131–32.

²³⁸ Duis explains “the saloonkeeper–politician represented a stubborn parochialism that seemed to contravene the efforts of reformers to look to larger metropolitan goals. The bar-keep and his entourage seemed most interested in neighborhood issues and day-to-day survival of customer–constituents, while reformers constantly looked toward the future.” *Id.* at 142.

²³⁹ “In 1914 or 1915—in fact in any of those pre-war or early war time years—there were very few houses of prostitution with colored inmates [prostitutes].” RECKLESS, *supra* note 171, at 21. In the old houses African Americans found work as maids and porters. “That there was any well-developed Negro prostitution, for colored, white or both races, is not consistent with reports of pre-suppression times.” *Id.* at 25.

²⁴⁰ The Committee of Fifteen found that the inmates were exclusively colored in 44% of the resorts (houses of prostitution), whereas in the 1930 Census African Americans accounted for less than 7% of the total population. RECKLESS, *supra* note 171, at 25.

²⁴¹ The big increase was after 1920. “The fast-rising increase after 1920 might be expected in view of the fact that large numbers of Negro women were completing the cycle of immigration from the South already begun by the men in great numbers before 1920, especially during the war period.” RECKLESS, *supra* note 171, at 28 (internal citation omitted).

politics and in the location of the vice districts, and black politicians had long participated in city ward politics and sat on the city council.²⁴² The newspapers were active participants in reform efforts.²⁴³ Ward politics, grass roots organization, and political campaigning became highly developed in the vice districts of Chicago. The vice bosses could not have held on so long without controlling the electoral process, and without controlling large amounts of money and spreading it around. They understood political patronage.²⁴⁴ The very American system of ward politics and party control was solidified, if not created, by the city machines in Chicago, New York, Detroit, and a few other cities in America. Yet then, as now, holding on to political power was not automatic once it was obtained. It required constant attention, workers on the ground, a tyrannic enforcement of

Reckless attributes the disproportion in the Morals court to the fact that police are more likely to arrest African Americans than whites since police believe African Americans are more criminal than whites and there is little trouble in arresting African Americans, that is, the politically powerful will be less likely to complain.

²⁴² The history of African Americans in Chicago during this period has been the subject of many academic studies and much popular literature. See, e.g., E. FRANKLIN FRAZIER, *THE NEGRO FAMILY IN CHICAGO* (1932).

²⁴³It has been noted:

In January, 1876, the *Daily News* appeared as a four-page, five-column sheet with only a few thousand dollars in capital investment. [Meville E.] Stone [the founder of the *Daily News*] believed his first responsibility was to print news; his second responsibility was to guide public opinion; and his third, to provide entertainment. The paper did not reject sensational techniques; Stone's personal favorite was the newspaper's detection of criminals. . . . But by 1878 the *Daily News* had bought out the *Post and Mail*, obtaining its Associated Press news rights. A morning edition eventually named the *Record*, was begun in 1881, and by 1885 the combined circulation passed the 100,000 mark. When Stone sold his interest to Lawson in 1888 for \$350,000, only Pulitzer's *New York World* had a larger circulation among American newspapers than the *Daily News*' 200,000.

EMERY *supra* note 66.

²⁴⁴ McKinley explains the lingo of the day:

"Patronage" is an elastic term and in the lexicon of the lawless it means much more than mere "jobs," juicy morsels from the "pie counter" where public contracts are "cut" and inside information as to "sugar"—the legitimate little brother to boodle among predatory politicians Who is there in a police department persistently prostituted to the purposes of bad black and worse white politicians, bold enough to dispute the demands of gunmen, gangsters and grafters whose grip on government is so strong that criminals are the companions of county central committeemen and the confidants of party chieftains close to high police officials, prosecutors and other law enforcers? The partnership between politics and crime begins with the seizure of a city such as Chicago by bosses who have risen to power in their party on the backs of "the boys" in the bad lands of a town that has been the dumping ground for criminals of all classes from all over the country.

McKinley, *supra* note 72, at 11.



party discipline, and luck.²⁴⁵

Throughout this period, reform movements to root out corruption were tied to temperance, religion, and Christian evangelism, and they were accompanied by a ground bass of labor unrest. They generated widespread popular support as well.²⁴⁶ In response to a groundswell of public outrage, the question of whether to allow the segregated vice districts to continue was brought to the City Council. Voting on the measure were members of the council who were reputed to be heads of the Vice Trust. The vote was finally to close the districts, including the vote of those council members, followed by police raids especially in the notorious Twenty-second Street district.²⁴⁷

In Chicago, the strength and politically entrenched power of the Vice Lords and the passion, fervor, and education of the Reformers, both religious and otherwise, who sought to unseat them were perhaps more extreme than in other American cities.²⁴⁸ Reports of individual police officers who took bribes, were on the regular dole from gamblers, saloon owners, or houses of prostitution, or who did not prosecute, raid, or arrest, or who in other ways subverted the ostensible goals of law enforcement, appear regularly in all of the official reports.

²⁴⁵ The relationship between maintenance of political power and the calculated wielding of violence and terror, in the context of the rule of the vice lords and organized crime bosses in Chicago, is a subject beyond the confines of this paper and is addressed in depth in LANDESCO, *supra* note 9.

²⁴⁶ Nor were these movements for reform imposed from above without public support:

On October 12, 1909, Gipsy Smith, evangelist and reformer, led a band of 12,000 Christian men and women through the Twenty-second Street red light district of Chicago, in an attempt like the crusaders of old, to reclaim the region to Christianity. On September 29, 1912—only three days before the closing of Chicago's red light area—10,000 civic welfare paraders made a public demonstration and appealed for a "clean Chicago."

RECKLESS, *supra* note 171, at 3.

²⁴⁷ *Id.* at 6.

²⁴⁸ Reckless comments:

But commercialized vice was not as easily eliminated by a program of law enforcement as had been generally expected. . . . [C]hanges in the city administration as well as in the State's Attorney's Office have invariably affected the enforcement of vice suppression. The two notable examples of this are the Thompson rule (1915–23; 1927–31) which stood for the "open town" and the Dever regime (1923–27) which held out for the "closed town." In general, however, the history of commercialized vice in Chicago since the initial closing of the red light district is a repetition of "openings and closings." . . . [W]hile commercialized vice in Chicago has persisted in spite of "lids," closings and moral crusades, it has never returned in the flagrant form in which it existed in 1912 and it has not concentrated in an open accessible mart like that of the old Twenty-second Street district.

Id. at 6–8.

The connection between government corruption, elections, ward politics, and the sale of liquor was ubiquitous,²⁴⁹ but not necessarily causal.²⁵⁰ Yet during this period, enormous changes took place in the functioning of the police and the development of the police force as a bureaucratic institution as well.²⁵¹ And the police were themselves influenced by the vast economic and social forces.

If the sheer number of vice commissions, crime commissions, and civic committees formed after the turn of the century is an indication, certainly the civic leaders and the business community, if not the governing officials of the city, were concerned about crime, poverty, immigration, illegal activities and enterprises and wanted to “do something” about them.²⁵² There was a disconnect, as we would say today, between the city government officials, who were elected with the support of grass roots, ward politicians, and aldermen, many of whom were alleged to be involved in illegal rackets themselves, and the civic and business leaders who wanted clean government for the promotion of economic activity and civic pride. And the illegal enterprises were and continued to be enormously profitable.²⁵³

²⁴⁹ As Duis notes,

During elections those with a vested interest in government wanted the voting under their personal supervision. And to insure the results they frequently had the polling place located right in their own saloon or in one owned by a trusted friend of lieutenant . . . [I]n Chicago, the Committee on Public Services of the Cook County Board bent to the wishes of the Democratic party leaders. Prior to 1886 voting booths appeared in the backrooms of saloons and sometimes directly in the front of the bar. This put the appropriate bribe of free drink only an arm's length away.

DUIS, *supra* note 8, at 131. Newspapers estimated that at least half of the polling places at the time were located in saloons. *Id.*

²⁵⁰ Duis indicates that,

In reality barkeepers were not that numerous in municipal legislative chambers, but the men behind the bar came to symbolize an era of American city politics. Their power was nothing grafted on the city by design, but instead political power grew naturally out of the barroom's social functions in the working-class neighborhoods that became their constituencies. The key was information, first-hand knowledge of the triumphs and tragedies of people living on the edge of dependency. In an oral society that de-emphasized written communication, the saloon's crucial role as a center of gossip armed the ambitious politicians with a shopping list of jobs, city services, and welfare help that he needed to bring to the ward in order to exchange for votes. The proper political connections in city hall meant municipal and state jobs for loyal workers, while the honored position of alderman might mean employment “voluntarily” offered by streetcar companies or major businesses enjoying city contracts.

Id. at 141.

²⁵¹ MONKKONEN, *supra* note 1, at 86–87.

²⁵² See *supra* note 30 for a description of Chicago's poverty.

²⁵³ As Rakove notes,



The growth of business and concentration of wealth in Chicago and the nature of the industries located in the city, railroads, meat packing, steel manufacturing, small manufacturing, and services connected with the principal industries also influenced the character of the city and its politics. This city was not the banking and financial capital of the country; that was New York. Nor was it a center for textile manufacturing, printing, or light industry; that was New England. The industries which formed the heart of the economy in Chicago required heavy duty, overwhelmingly male skilled and semi-skilled labor.

These were industries where labor battles were hard-fought for high stakes, where a strike in Chicago reverberated across the country. The growth of this population, its floating and impermanent character,²⁵⁴ its vulnerability, and the unavailability of affordable housing for workers all contributed to a culture in which prostitution,²⁵⁵ drinking and gambling flourished and were enormously profitable.²⁵⁶

Alcohol-related homicides in this data set, for example, may not necessarily be related to Prohibition or even associated with prostitu-

In a single year, during Thompson's mayoralty, gang boss John Torrio, who preceded Al Capone, Chicago's most famous gangster, grossed \$4,000,000 from his Chicago beer peddling, \$3,000,000 from gambling, \$2,000,000 from prostitution, and another \$4,000,000 from similar enterprises in the suburbs. . . . During Carter H. Harrison's term in office at the turn of the twentieth century, Chicago had 6400 saloons, 2000 gambling houses, 900 brothels and 3325 policemen for the 1,700,000 inhabitants.

RAKOVE, *supra* note 16, at 25.

²⁵⁴ Monkkonen notes that,

Migrants, the "floating proletariat," fitted into this new urban scene, both in fulfilling fluctuating labor demands and in creating cities with flexible, and adaptable work forces. The very flexibility and fluidity of population upon which the growing cities rested required visible, depersonalized, predictable social control in order to facilitate population movement from place to place and to ensure a truly stable and adaptable social structure. The uniformed police answered this need perfectly. They responded to service demands of the mobile Americans, yet exerted social control for the urban power holders, those people who stayed in town, not necessarily the same as the economic elites.

MONKKONEN, *supra* note 1, at 12.

²⁵⁵ See LANDESCO, *supra* note 9, at 110.

²⁵⁶ Landesco notes,

These saloon-keepers had learned to take an active part in ward and precinct politics, to court and obtain the favor of bosses and the "ward heelers." One of the results of these affiliations was the "let alone" policy toward them by the police department. To remedy this situation, the [White Hand] society recommended more Italian policemen be added to the force.

Id.

tion or other illegal behavior.²⁵⁷ The growing union movement, the creation of private security forces or armies by businesses, and the violence associated with the repression of unionization, often with the assistance of the police and the involvement of criminal agitators on both sides, all contributed as well to the culture of lawlessness. Newspapers reported murders as front page news and sensationalized murder cases, reinforcing gender stereotypes and arguably influencing the decision making of jurors and judges.²⁵⁸

The folklore surrounding the colorful mob figures in Chicago during the 1920's may be obscuring our understanding of crime and homicide during the period.²⁵⁹ For example, stolen automobiles were frequently used in the commission of other crimes, and were stolen for the purpose of facilitating the commission of other crimes.²⁶⁰ That

²⁵⁷ Many killings which took place in saloons had little to do with Prohibition, although they may have been related to a culture of drinking and violence associated with illegal drinking establishments and brothels:

The saloon in the tenement districts had to adjust to many changes in the neighborhood. It had to weather the shocks of unemployment and strikes. It had to adjust to the changing land-use patterns in some areas The character of the housing stock changed, usually undergoing a decline in quality. But most important of all, the ethnic character of the neighborhood was constantly changing.

DUIS, *supra* note 8, at 143.

Chicago did nothing to compete with the semipublic places [in saloons] that provided the only existing toilet facilities in the downtown area. . . . This attraction brought many customers to the brass rail. The saloon restroom was free, usually clean, open on Sundays and at night, and it could be found almost everywhere. Most men followed the unwritten rule and bought a drink as a token of appreciation, a custom which disturbed temperance people.

Id. at 191.

²⁵⁸ Shannon Peterson, *Yellow Justice: Media Portrayal of Criminal Trials in the Progressive Era*, 1 STAN. J. LEGAL. STUD. 72 (1999). Although this article describes cases reported in the *New York Times* in 1905, the cases and their treatment are probably not very different from what would have been found in the Chicago press at the same time.

²⁵⁹ See Jeffrey Adler, *Halting the Slaughter of the Innocents*, 25 SOC. SCI. HIST. 1 (2001). Professor Adler points out in this essay that these case summaries are spot reporting by officers on the scene. An examination of trial records, coroner's records, and newspaper accounts amplifies the number of gang or prohibition-related homicides.

²⁶⁰ As Francis Hanna notes,

There were 317,433 licensed passenger automobiles in 1926. Of these, 11,713—one out of every twenty-seven—was stolen. . . . A very large proportion of the killings and injuries to citizens [were] by so-called vampire automobiles—those which fail to stop after killing or maiming their victims, among whom are many children. . . . In 1926 seventeen persons, several of them children, were run down and killed by automobiles whose drivers did not stop and whose identity was not learned. The verdict of the coroner's inquest in each case was murder, with the notation "Apprehend Unknown." In the same period coroner's juries held to the grand jury 128 persons charged with manslaughter, resultant from killings caused by automobiles.

complicates the analysis of the crime of automobile theft.

The police were critical to the maintenance of order and, perhaps as important, to the appearance of the maintenance of civil order.²⁶¹ Appointing the Chief of Police was one of the spoils of being elected Mayor. Reform administrations began by appointing a new Chief of Police and attempting to change the culture of corruption within the police administration.²⁶² Periodically, the criteria for selecting police became subject to scrutiny.²⁶³ The arming of the police in Chicago

Francis D. Hanna, *Automobiles as a Factor in Crime*, 18 J. AM. INST. CRIM. L. & CRIMINOLOGY 116, 117 (May 1927). Hanna argues that the "crook by choice," whose specialty is payroll, bank, and jewelry robberies, is particularly likely to use the automobile.

²⁶¹ Monkkenon states,

The police, I argue, controlled the 'dangerous class,' both through the negative power of arrest as well as through the positive ability to dispense lodging and sometimes food to the indigent. The social control scope of the police also extended to the control of the problem of anonymity in the growing cities, a problem that the poor probably faced to a greater extent than the wealthy, through several means, the most important being the returning of lost children to their parents The pressure to achieve uniform and uniformed law enforcement came from the efforts of newly powerful urban governments to legitimize themselves. As the English historian, Douglas Hay has pointed out, the rule of law, whether fair or not, depends upon its uniform application. In a sense, then, the legitimization of city government's new and growing bureaucracies depended upon the police system, from the appearance of officers in their uniforms to their regular enforcement or ignoring of laws. It comes as no surprise that the first thing urban reform governments did to police departments was to concentrate upon uniforms and martial drill—appearance and order within the police showed that the larger city government based its rule on appearance and order.

MONKKONEN, *supra* note 1, at 10–11 (citations omitted).

²⁶² Monkkenon further explains,

Although we can imagine police without arrests and criminal offenders without police, to do so is rather like discussing the sound of a tree falling unheard in the woods. . . . One wants to know about those offenses that did not meet with arrest. What about the arrests that were unjust, uncalled for, or fraudulent? What about police corruption? What about the behavior of police on the street, important for neighborhoods, yet hidden from official and unofficial records? . . . It usually seems to be the case that trivial questions can be answered completely and important questions only conditionally.

See id. at 13.

²⁶³ *See* August Vollmer, *A Practical Method for Selecting Policemen*, 11 J. AM. INST. CRIM. L. & CRIMINOLOGY 577 (1921) (discussing the criteria for selecting police officers, including the examination given to police officers, which examines "Physical," "Nervous," "Mental" and other characteristics, with a description of grades given and evaluations of eleven candidates).

The author concludes:

Let the modern policeman typify the ideal American by his cheerful and kindly disposition; by his habits and industry, thoughtfulness, truthfulness, neatness and cleanliness; by his pride in rendering public service; by his earnest efforts to improve his knowledge that he may better serve human kind; by his courteous treatment and sympathetic knowledge of human beings, regardless of their stations in life; by his simple democratic tastes, healthy interests and strength of

took place in response to concerns about civil order and was similar to trends in other large cities, not particularly in response to the presence of dangerous, armed, organized crime rings.²⁶⁴ Attempts to eliminate corruption in the police force, as an institution, were part of a national movement to professionalize the police.²⁶⁵ The police professionalism movement was part of the progressive agenda generally, and, in Chicago at least, was an ongoing process subject to variations in local administrations.²⁶⁶

The Effect of Police Corruption on the Integrity of These Records

If a corrupt police officer wished to sabotage a criminal prosecution, then, as now, it would be easy to destroy evidence, arrest an innocent person, coerce a confession,²⁶⁷ refuse to testify against a guilty person, or postpone the case until it was no longer in the forefront of

character; and by his patriotic devotion to our nation, serve as a model for our future generations.

Id.

²⁶⁴ See Richard Marohn, *The Arming of the Chicago Police in the Nineteenth Century*, 11 CHI. HIST. 41 (“As in other American cities, the arming of the Chicago police took place informally rather than as the result of official local or national policy.”).

The arming of the police was influenced by concerns over civil unrest:

Depressed economic conditions in the wake of the Panic of 1873 fostered social and political unrest in many cities and combined with a rising crime rate to evoke fears of mob violence and property damage among the established classes. . . . [The riots prior to Haymarket in Chicago during the period of this study included:] the bread riot of 1873, the Bohemian Lumbershovers’ riot of 1876, the railroad strike and riots of 1877 [also known as “the Great Upheaval of 1877”], and the streetcar and McCormick riots of 1885.

See *id.* at 43–44 (citation omitted).

²⁶⁵ See MONKKONEN, *supra* note 1, at 156:

The founding in 1893 of the National Chiefs of Police Union, which quickly became the International Association of Chiefs of Police, formalized the national inter-communication of police administrators. . . . The new, post-1890s model of policing would march to the tune of crime control conceived on national, deliberately non-local terms, ultimately paving the way for the Federal Bureau of Investigation.

²⁶⁶ See *id.* at 153 (“The police professionalization movement had the multiple aims of ending police corruption, stopping their fledgling unionization attempts, and eliminating what had become the painfully apparent working-class nature of police values and attitudes.”).

²⁶⁷ See, e.g., Armstrong et al., *supra* note 64 at 20–21 (investigating corruption in the Cook County police force regarding the falsification of evidence and coercion of confessions in murder cases). The authors note:

The Tribune used computer records and court files to examine Cook County cases in which murder charges have been filed since 1991. In at least 247 cases, a person confessed to murder—but prosecutors dropped the charges, the courts threw out the confession or the defendant was acquitted. The Chicago Police Department handled all but 11 of these 247 cases.



public consciousness. Delay is always an effective way to suborn criminal prosecutions. Similarly, if a corrupt collusion between the police and the State's Attorney or the judiciary was the order of the day, the murder might well be reported and there would be simply be no disposition of the case, or repeated postponements, or an acquittal either by the coroner's jury or at trial.

At this stage, there is no reason to assume the administrative rules for recording the incidence of homicide changed during the period or were not followed with some consistency.²⁶⁸ There may have been periods of more or less corruption within the police force itself and periods when the police either under-reported or failed to report homicides in certain districts—in the vice districts, for example, or in the black wards, or in areas of recent immigration. The police may not have reported all gang murders or organized crime killings as such since such connections may only emerge upon investigation. These questions can only be determined from sources outside of this database. Similarly, there may have been murder cases where the police colluded with other government officials to subvert a legitimate prosecution for murder or manslaughter. That also can only be determined by further research outside of this database, by comparing these reports with coroner's records, newspaper reports of murders, court transcripts, or other sources.

If there were corrupt practices regarding the prosecution of murder or manslaughter, presumably not all murders would be subject to subvention, only those where a police officer, juror, or judge was corrupt, or a prosecutor had been persuaded not to prosecute. Indeed, as has been argued recently before the United States Supreme Court, a corrupt judge or decision maker might well engage in compensatory behavior and go out of his way to treat those cases in which there was no bribe more harshly in order to maintain the appearance of propriety.²⁶⁹ Without a great deal of research from outside of the data set, it is impossible to determine whether reports of contemporaneous homicide were suppressed, falsified, or omitted. There is research

²⁶⁸ Professor Jeffrey Adler has worked extensively with this data set and has found that the homicides tally closely with the public health department records for homicides in the period. See Adler, *supra* note 259.

²⁶⁹ See *Bracy v. Gramley*, 81 F.3d 684 (7th Cir. 1996), *rev'd*, 117 S. Ct. 1793 (1997) (discussing whether a judge convicted for the crime of taking bribes in one capital case should be considered biased in other capital cases in which he had not been found guilty of taking a bribe). That line of cases and the surrounding circumstances are discussed in Leigh Bienen, *The Quality of Justice in Capital Cases: Illinois as a Case Study*, 61 LAW AND CONTEMPORARY PROBLEMS 193, 209–212 (1998).

indicating felonies were not prosecuted, and cases did not result in convictions.²⁷⁰

The immediate concern of detecting evidence of corruption in individual cases in this data set is a different research problem from identifying or understanding the widespread corruption in the police force. There is no reason at this point to think that the police did not keep these records consistently; or that the reports of cases included are not accurate; or if the records contain omissions, that the omissions are systematic.²⁷¹

At this stage of research, the data set is being taken at face value: as a contemporaneous report on homicides in the jurisdiction which purports to be chronological, complete, comprehensive, and collected in a systematic and orderly fashion; a record of the incidence of homicide which can be used as the basis for an analysis of patterns in homicide during the period. At this point, we offer no conclusions about the completeness of these reports, but proceed cautiously and with qualifications, and flag these questions for further inquiry.

This database does not immediately confirm the large number of mob murders reported in the Illinois Crime Survey and elsewhere.²⁷² The Chicago police did not have the authority to go beyond the city limits. However, Chicago accounted for the largest number of homicides.²⁷³ During this period law, enforcement agents and police were strictly limited to their own territorial boundaries.²⁷⁴ The verification

²⁷⁰ See Willrich, *supra* note 13.

²⁷¹ See Adler, *supra* note 259.

²⁷² One explanation may be the geographical boundaries of the police log excluded homicides in Cicero or outside of the city limits, or homicides across the Indiana borders, and the reports of mob murders by the 1929 Illinois Crime Commission and others included those killings in their tally.

²⁷³ As Lashly notes:

The police of the City of Chicago, however, have no authority outside of the city. . . . The records of the Police Department of the City of Chicago, therefore, [this database] contain only those deaths which occurred within the city limits. . . . Very often the person killed in the city will be taken into the county, where the body is found. This is undoubtedly true of gang killings. The figures in this report were made up by fixing the scene of the crime as the place where the body was found, although it is possible, of course, that some of the killings ascribed to the county actually occurred in the city.

Lashly, *supra* note 167, at 595.

²⁷⁴ Only with the Lindbergh kidnapping and the subsequent passage of the Lindbergh Kidnapping Law by the United States Congress was that strong territorial jurisdiction relaxed. See Robert C. Finley, *The Lindbergh Law*, 28 GEO. L.J. 908 (1940). The Lindbergh case and the rivalries over jurisdiction between the national and state law enforcement agencies and bureaucracies are discussed in GEIS & BIENEN, *supra* note 68, at 88–125.

of the numbers of killings involving organized crime is of considerable interest and will be addressed in future research.²⁷⁵

STATISTICAL OVERVIEW: CHARACTERISTICS OF THE DATA SET,
AGGREGATE FREQUENCIES, TIME SERIES AND OTHER BASIC
INFORMATION

Understanding the Records and the Record Keepers, Continued

Several threshold questions arise when looking at these overall figures. First, does this data set comprise all homicides during the period? And if it doesn't represent all homicides in the period, what kinds of cases have been left out or omitted? And, is what is omitted or left out done so intentionally or consistently, or by design? Or, are the omissions simply random? Every database has errors and omissions. In this database there may be more systematic omissions.²⁷⁶

Another threshold question in this first reporting out of the aggregate data is whether these data can offer some simple explanation for the sharp increase in homicides in the 1920's. Is the sharp increase in the 1920's due to the fact that automobile cases began to appear in substantial numbers in the database in the 1920's, and those cases account for the large increase in deaths during the 1920's? All automobile cases are not included here, just some deaths by automobile cases.²⁷⁷

Another set of complicated and interesting questions remain to be addressed. Is the large increase in homicides in the post-1918 attributable to Prohibition or organized crime, to changing demographics, or to patterns in immigration? Is the presence of organized crime and the corruption of legal decision making affecting what is in-

²⁷⁵ See LANDESCO, *supra* note 9, at 845-863 (discussing well-known gangsters and their dates of death, including: James (Big Jim) Colosimo May 15, 1920; Don O'Banion, Nov. 10, 1924; Samuzzo Amatuna, shot Nov. 9, 1925; Nail Morton (died from a fall from a horse) May 9, 1923; Anthony D'Andrea, shot May 11, 1921; Angelo Genna, killed May 26, 1925; Mike Genna, shot June 13, 1925; Tony Genna, shot July 8, 1925; Hymie Weiss, shot Oct. 11, 1926; Vincent Drucci, big Jim Murphy, shot June 26, 1928). If this is a complete database, most of those persons should be listed in it as homicide victims.

²⁷⁶ For example, the police stayed out of the segregated vice districts prior to 1912, by admission, and they may not have regularly patrolled such districts later, as well. There were probably a number of racially and ethnically segregated neighborhoods where the predominantly Irish police were reluctant to enter.

²⁷⁷ There are more than 1500 automobile accidents in this data set, with the numbers rising steadily in the 1920's. See *supra* fig.1.; see Adler, *supra* note 259. This article offers a rationale for what kinds of automobile cases were included in the homicide data set.