Learning to Live with Crime

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Introduction


6. For these summaries, I am indebted to Michael W. Flamm, Law and Order: Street Crime, Civil Unrest, and the Crisis of Liberalism in the 1960s (New York: Columbia University Press, 2005); Frank J. Weed, Certainty of Justice: Reform in the Crime Victim Movement (New York: Aldine De Gruyter, 1995); Stuart Scheingold, The Politics of Street


14. For a class-based, left perspective on this crisis of governance as “counterinsurgency by other means” (167) moving from political crackdowns to control of “floating


16. Describing this “turn,” I mean to speak of a constellation of approaches, described by the scholars above, coming of age in the post-industrial moment in the United States. I mean to reflect, as well, the influence of classic work such as Stuart Hall, et al., *Policing the Crisis: Mugging, the State and Law and Order* (New York: Holmes & Meier, 1978). “Governing through crime,” Jonathan Simon wrote in the late 1990s, “… might be looked at as a response to this crisis, both a reaching back to real or imagined strategies for maintaining what appears to be a precarious social order, and reaching forward towards new platforms” to manage it (“Governing Through Crime,” 177). The awkward but necessary term “responsibleization,” which refers to cultivating citizen vigilance, comes from David Garland; see his “The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society,” *British Journal of Criminology* 35 (Autumn 1996): 445–71, esp. 452–55; and his *Culture of Control*. See also Stanley Cohen, “The Punitive City: notes on the Dispersal of Social Control,” *Contemporary Crises* 3 (1979), esp. 354–57.

17. Although my distinction of “neoconservatism” is relatively rare in cultural and literary criticism, it is a commonplace in criminological discourse. James Q. Wilson’s revised edition of *Thinking about Crime* (New York: Vintage, 1983) contains all of these themes and was the keynote neoconservative text of this era. But see also Rhodes, who cites Reinhold Niebuhr’s maxim about democracy in his book title and epigraph (3); and Ernest van den Haag, *Punishing Criminals: Concerning a Very Old and Painful Question* (New York: Basic Books, 1975). I have discussed Wilson’s importance in *Cop Knowledge*: see 177ff. Compare Cronin, Cronin, and Milakovich, *U.S. vs. Crime in the Streets*, 74; Scheingold, *The Politics of Street Crime*, 12ff.; and William Ker Muir, Jr., *Police: Streetcorner Politicians* (Chicago: University of Chicago Press, 1977), esp. 54–55, 122–23. Though she prefers the term conservative, I have also followed the argument in Rapping’s *Law and Justice as Seen on TV* that there has recently been a “blurring” of “left, right, and center” (78ff.) in cultural and political debates about prison penology. Rapping’s discussion of victims’ rights, like Seltzer’s, has also shaped my discussion in chapter 3.


22. I have expressed my concerns about some of the best work in this area; see my review in *American Literature* 76 (2004): 196–99.
26. Or, as Simon observes: “There is doubtless some link between the conservative ascendency and the trend toward governing through crime, but there are also reasons to doubt that the former explains the latter. For one thing contemporary liberals also find themselves drawn toward punishment as a locus for governments. Laws and institutional rules punishing racist speech, domestic violence, sexual harassment, and pornography, for example, have become major agenda items for some liberals. Likewise, 20th-century conservatives often embraced noncriminal approaches to governance as an alternative to social instability. It is interesting that in a period of conservative ascendancy during which the right has articulated aspirations to govern through patriotism, work, and family, as well as crime, it is largely with respect to crime and punishment that there has been significant legislative success” (“Governing Through Crime,” 175).
29. The animosity between Hoover and RFK is well described by Richard Gid Powers, *Secrecy and Power: The Life of J. Edgar Hoover* (New York: Free Press, 1987), 399ff; see also his discussion of Nixon’s attack on Clark, 445. But only by separating out the war on organized crime can Powers argue that RFK and Hoover had diametrically opposed approaches (400) to crime more generally.
35. See *Cop Knowledge*, 177ff.
36. See, in particular, Foucault’s formulation concerning Vidocq, discussed in my chapter 4.
38. My approach here has been influenced by the critique of realist ethnography; see,

39. I refer to “explanation forms” as the term is used in Gene Wise, *American Historical Explanations* (Minneapolis: University of Minnesota Press, 1980). In his discussion of the Kefauver Committee, similarly, Lee Bernstein has pointed out how the committee enlisted existing conventions of gangster narrative to make its work legible to the voting public. See Bernstein, *The Greatest Menace*, 137.


Chapter 1


3. For a typical example of such a history, see Thomas Repetto, *Bringing Down the Mob: The War Against the American Mafia* (New York: Henry Holt, 2006). For a treatment with a superb eye to the cultural context, see Bernstein, *The Greatest Menace*.


7. For Hoover’s repeated use of informants, see Potter, *War on Crime*, esp. 188ff.


ment,” *Boston Globe*, 5 March 1989. As an unidentified Boston officer told the *Globe*:
“It’s physically impossible to do the work required to get a warrant every day. So sometimes you have a nonexistent informant saying something that’s obvious.” As qtd. in Canellos.


16. I am drawing here on historian Alan Block’s argument that changes in organized crime commonly mirror changes in civil society and the political economy. As Prohibition would famously demonstrate, what the state declares illicit often only clears territory for the underground entrepreneur; put a tax on cigarettes in one locality, and a Mafia entrepreneur like Henry Hill is only too happy to bootleg them from another. Alan A. Block, *East Side-West Side: Organizing Crime in New York City* (New Brunswick, NJ: Transaction, 1994); Alan A. Block, “History and the Study of Organized Crime,” *Urban Life* 6 (January 1978): 455–74.


19. The FBI’s top echelon program signaled Hoover’s own understanding of the significance of this front to the larger public sentiment about crime. (He had already begun, as well, to embrace electronic surveillance for nefarious purposes.) On this animosity, see note 29 in my Introduction.

20. The renaming of Hoover’s division is mentioned in Repetto, *Bringing Down the Mob*, 71.


27. Potter, War on Crime, 78.


30. Although the formulation preceded him, this model is most famously used in Daniel Bell, “Crime as an American Way of Life,” in The End of Ideology (Glencoe, IL: Free Press, 1960); contrast Block, “History and the Study of Organized Crime,” 474, note 5.


34. Turkus and Feder, Murder, Inc., 68. The authors reserved the term Mafia for non-Americanized, more local mobs and also analogized the newer structure to a federation or “states’ rights” organization.


37. See Goldfarb, Perfect Villains, Imperfect Heroes, esp. 57–58, 72.


39. These problems are documented in Early and Shur, WITSEC, esp. 75–76, 88–89, 113, 164.

40. As qtd. in Goldfarb, Perfect Villains, Imperfect Heroes, 149.

41. See Early and Shur, WITSEC, esp. 32–33, 66–68. The RICO mandate is quoted on 91–92.


43. See, for example, the narrative stemming from Joseph Pistone’s undercover work: Donnie Brasco: My Undercover Life in the Mafia (New York: New American Library, 1987).


50. Initially, Maas achieved an agreement to publish Valachi’s story, overriding the Bureau of Prisons’ own restrictions. But under public pressure from Italian pride organizations, the government reneged and went to court to stop its publication. Maas then compromised: he agreed to use only materials gathered from in-person interviews with Valachi and not to include the gangster’s charges of double-dealing by the Bureau of Narcotics. In an undated letter to Maas after the publication of the book, Valachi writes, “I must tell you I was shocked to read and find out that you have left out all I said about the framing and corrupting narcotics agents. . . .” Peter Maas Collection, John F. Kennedy Library and Museum.


57. McDonald, as qtd. in “Gangbusters,” calls it “casualness” (23).

58. The Vario family was a branch of the Lucchese mob. See also Barbato, “Nicholas Pileggi.”


63. This central insight was best associated with Herbert Gutman, notably in *Work, Culture, and Society* (New York: Vintage, 1977).

64. I am thinking here of *Ragged Dick*'s thief and thug character Jim Travis, who is often mocked for blaming the social order rather than seizing his opportunities. “Maybe you was an innocent victim of oppression” (66), Dick sneers.


69. For example, these new guidelines prohibit the exchange of gifts, or engaging in any business transactions with an informant. And they say that “A Federal Law Enforcement agent shall not socialize with a CI”—“except to the extent necessary and appropriate for operational reasons” (emphasis mine). Contingency fees dependent upon the “conviction or punishment of any individual” are prohibited—though apparently, if one reads the news properly, contingency fees following asset forfeiture are not (in other words, creative bookkeeping). Of course it is said that an agent shall not “authorize a CI to engage in any activity that would constitute a misdemeanor or felony”—a guideline that certainly would seem to hinge on the definition of “authorize,” since the first way to blow an informant’s cover would be to prevent him, suddenly, from being a criminal.

70. These contradictions are not restricted to these guidelines. As defense lawyers such as Alan Dershowitz have complained for some time, the use of paid informants raises severe questions for criminal trials as such: imagine, he said, if the defense put paid witnesses on the stand. Dershowitz has also claimed that RICO statutes force informant cooperation: see his testimony in Curriden, “No Honor Among Thieves,” *American Bar Association Journal* 75 (June 1989): 52ff. See also The Honorable Stephen S. Trott, “Words of Warning to Prosecutors Using Criminals as Witnesses,” *Hastings Law Journal* 47 (July/August 1996): 1381–432. Earlier handbooks about the use of asset forfeiture similarly reprint boilerplate agreement contracts that are what the agency calls, somehow, “no deal deals.” *Asset Forfeiture: Informants and Undercover Investigations* (rpt. 1992; Washington, DC: Bureau of Justice Assistance, 1990).


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**Chapter 2**

1. On the centrality of *Police Story* to network planning, see Todd Gitlin, *Inside Prime Time* (New York: Pantheon Books, 1985). I have discussed Wambaugh’s vision in
Notes to Chapter 2


2. For one of the best discussions of the modern procedural, see Larry Landrum, “Instrumental Texts and Stereotyping in Hill Street Blues: The Police Procedural on Television,” MELUS 11 (Fall 1994): 93–100.

3. Toobin, “The ‘CSI’ Effect.”


6. Obviously, I am drawing on Elaine Scarry’s argument about torture in The Body in Pain (New York: Oxford University Press, 1985); “spectacle of power” is discussed on 27; see also 56.


9. A fuller slice: “For me, democracy is a patent delusion. It’s an ideal, but this society is far from democratic, nor can it be . . . the reason I revile lawyers is they exploit the obvious and easily exploited difference between myth and fact . . . the Constitution victimizes people who are law-abiding by making available to lawyers these fictions. That everyone needs their Miranda rights, that everyone needs fair representation. That’s bullshit. Monsters don’t deserve any of that stuff. And cops are hired by society to gloss over that.” Milch, in his interview with Laura Schiff, “Maestro in Blue,” Creative Screenwriting 4 (Winter 1977): 6. Milch’s first script for Hill Street Blues, which earned a prior HUMANITAS prize, also concerned a coerced confession: see Gerald E. Foshey, “Trial by Fury: David Milch’s Breakthrough Spec-Script,” Creative Screenwriting (Winter 1977): 11–20. Simon’s Homicide also contains an excellent discussion of police deception in which he, too, calls Miranda “a symbol and little more, a salve for a collective conscience that cannot reconcile libertarian ideals with what must necessarily occur in a police interrogation room” (70).


11. Milch, in the Schiff interview, “Maestro in Blue.”


17. In one content analysis, NYPD Blue showed an average of 2.7 civil rights violations per episode. These violations were relatively evenly distributed: the failure to give a Miranda warning, physical abuse, and promises of leniency. See Sarah Eschholz, Matthew Mallard, and Stacey Flynn, “Images of Prime Time Justice: A Content Analysis of ‘NYPD Blue’ and ‘Law & Order,’” Journal of Criminal Justice and Popular Culture 10 (2003–4): 172. Compare Susan Bandes and Jack Beermann, who also focus on Miranda violations on this series. These law professors argue that the principal objective of an NYPD Blue interrogation is to have the suspect avoid “lawyering up”—as it were, getting “to” the “I did it.” “Lawyering Up,” Tarlton Law Library, Law in Popular Culture Collection, http://tarlton.law.utexas.edu/lpop/etext/bandes.htm (accessed 16 December 2009).


19. See my discussion of the film version of The Naked City that established the basis of these TV series, in Cop Knowledge, 57–93.


22. On police pay, see Fogelson, Big-City Police, 205ff., 278–79.

23. In the early 1930s, the “third degree” had been the subject of the famous Wickersham Report. Subsequently, in Richard Leo’s estimation, it appears to have declined through the 1940s and 1950s. See The National Commission on Law Observance and Enforcement, Report on Police, no. 14 (Washington, DC: U.S. Government Printing Office, 1931). For a fuller discussion of this historical context, see Richard A. Leo, Police Interrogation and American Justice (Cambridge, MA: Harvard University Press, 2008), esp. 41–77. Contrast, however, the depiction in a noir film like “Murder, My Sweet” (1944). In many episodes of The Naked City—see, for example, “The Sweetly Smiling Face of Truth,” airing 25 April 1962—suspects merely had “statements” taken with a stenographer present.


26. Contrast the Supreme Court ruling in Dickerson v. United States (2000), which suggested to many that the recitation of Miranda principles on TV had embedded the procedure in our national consciousness.

27. The Knapp Commission Report on Police Corruption (1972; rpt. New York: George Braziller, 1976); subsequent quotations in text. See also Murphy’s comments to Hayes, 92.


29. Part of the rationale against committing detective division resources to vice policing was that so few gambling or numbers “round ups” led to convictions, much less jail time. In 1970, for example, there were more than 9,000 arrests in New York for common gambling; only seventy people went to jail. See Jonathan Rubenstein, City Police (New York: Farrar, Straus and Giroux, 1973), 378. And in addition to the reaction against undercover work—which I discuss in chapter 3—eyewitnesses and confessions were, for a time, thought to be much more effective in leading to successful prosecutions than extensive detective work. See Peter W. Greenwood, The RAND Criminal Investigation Study: Its Findings and Impacts to Date (RAND Corporation, July 1979). On the long-term impact of the RAND findings and other social science investigations of these years, see Cop Knowledge, 141–48.

30. This corporate emphasis itself reinforced the idea of using internal informants, much as I have suggested (in chapter 1) that they were used for fighting organized crime. That is, the Knapp Report hoped to create a climate where police managers could more easily enlist a former offender’s help to break through the precinct-based code of silence. The report thus recommended against unduly punishing cooperating former offenders. The report argued, in fact, that they should be allowed to resign from the force in good standing (23–24).


33. See, again, Murphy’s comments to Hayes, The Knapp Commission Report, 103.


35. See Bratton, “The Legacy of Detective Sipowicz.”


37. On the centrality of “intelligence gathering” to Bratton’s approach, see George L. Kelling and Catherine M. Coles, Fixing Broken Windows (New York: Touchstone, 1997). See Scarry’s dismissal of the idea that torture is motivated by seeking information, The Body in Pain, 28ff.


40. That visit is described in True Blue, 136.

41. “Box in a box” as described in Bourdieu, The Field of Cultural Production, 37–38.

42. As one can see from Jimmy Breslin, I Want to Thank My Brain for Remembering Me (Boston: Little, Brown, 1996), 123–25, the columnist promoted Clark as the investigator who broke the Son of Sam case; the overlooked cop Dom Carillo in Breslin and Schaap’s fictional account of the case, 44, may well be based on Clark.

43. On these strategies in Lansky’s career, see Albert Fried, The Rise and Fall of the Jewish Gangster in America (New York: Holt, Rinehart and Winston, 1980), 238ff.


46. The repudiation of Vietnam-style militarization is a common theme of neoconservative advocacy of police reforms; see Wilson, Thinking about Crime, 84–85; Kelling and Coles.

47. By “un-alienating” I mean a narrative assertion of humanity and effectiveness that
restores the police’s place among a public or a political system that often disowns them. See Cop Knowledge, 57–93.

48. The impact of Clark’s own experience is evident here. As the New York Times told it, “He joined the police force in 1969; his first assignment—even before he attended the Police Academy—was to infiltrate the Young Patriots, an organization of white radicals who, he soon discovered, were planning to bomb several New York landmarks.” Andy Meisler, “Out of N.Y.P.D., Into ‘NYPD Blue,’” New York Times, 7 November 1995.

49. See my discussion of the con game and “belief” in chapter 4.

50. This impulse is famously described by Jerome H. Skolnick, Justice Without Trial (New York: Wiley, 1966).


53. See note 25 above.


55. The latter analogy is not mine; rather it comes from Nathanael West, “Some Notes on Violence,” Contact 1 (October 1932): 132.

56. When Milch took to illustrating in interviews what he meant by a cop’s “exclusionary rhetoric,” he pointed to those moments when detectives, describing perpetrators they had arrested, resorted to hand signals to identify the racial category of such suspects. Milch describes this technique in his interview with Schiff: “A lot of times they don’t speak at all. A cop will be telling a story and say, ‘I collared the perpetrator.’ [Milch passes the palm of his hand in front of his face as he speaks.] ‘What that means is he was black. That’s a gesture that means black, so the cop doesn’t have to be accused of being a racist. Or he’ll say—[Milch touches two fingers to his left shoulder.]—‘I collared the perpetrator.’ Two—putting two fingers on your body—is another way of saying black, because when you make out an arrest form, one is Caucasian, two is black, and three is Puerto Rican. So those are all protective gestures.” Schiff, “Maestro in Blue,” 6; brackets in original.

57. As qtd. in Schiff, “Maestro in Blue,” 10.


Chapter 3


4. On Stiehm’s background, see note 24 below.


6. As one example of this union, see John Ellement, “Boston’s Cold Case Squad Hails Mother’s Love in Breaking Case of Fugitive Who Fled Country,” *Boston Globe*, 31 October 1995. The victim Web sites are well known: see, for instance, the Web site for Martha Moxley at http://marthamoxley.com (accessed 29 December 2009). By “victim circle” I follow the conventional meaning, referring to those closely associated with and including the victim of crimes.


10. See my Introduction, 15–16.

11. The relevance of this idea to the extension of prison time is not at all coincidental: as I will argue in chapter 5, advocates of prison incapacitation made a similar argument about the supposed forseeable effects of confinement in the prison itself.

12. *CSI* and other shows, for instance, often feature a rapid fingerprint, DNA, or photographic database that “scans” available records and then almost instantaneously signals a “match.” In fact, many conservatives resist the integration (or federalization) of such records, particularly around firearms; the speed of return is greatly exaggerated; the word *match* is rarely used by such experts. See Toobin, “The ‘CSI’ Effect.”


21. And thus even in those early days, the Boston department was clearly cooperating with federal agencies such as the IRS or the FBI’s Violent Fugitive Task Force. A startup date of 1991 is used by Ellement in “Unsolved Crimes Get a Fresh Look.” See also the reference in “Fugitive Convicted after 13 Years,” *Boston Globe*, 10 November 1995, and John Ellement, “‘Cold Case’ Squad Finds Man Sought in ‘82 Killing,” *Boston Globe*, 12 April 1994; Brian McGrory, “Fugitive in ‘67 Murder Is Tracked to Md. by Cold Case Squad, Arrested,” *Boston Globe*, 29 April 1994.


27. For example, see Tatsha Robertson, “Cold Case Turns Up Suspect in ’76 Murder,” *Boston Globe*, 7 January 2000.
29. Ellement, “Unsolved Crimes Get a Fresh Look.”
30. The crime wave at the heart of 1960s affluence is a commonplace in neoconservative criminology: see Wilson, Thinking about Crime.
32. The divergent roots of the movement are well laid out in Weed, Certainty of Justice. See also Bruce Shapiro, “Victims and Vengeance: Why the Victims’ Rights Amendment Is a Bad Idea,” The Nation, 10 February 1997, 11–17.
34. See Weed, Certainty of Justice, following Lawrence Friedman, on victims and “rights consciousness,” 21ff. The preference for victimization surveys (over the Uniform Crime reports) in neoconservative criminology is again relevant here; see Wilson, Thinking about Crime, 66–68.
37. In Levingston’s story, for instance, the cold case squad in fact refuses to say how it broke the case (on the grounds it doesn’t want to show its methods to other fugitives).
38. See Kopenec, “High-Tech Heats Up Cold Case Trails.”
40. This reversal was underscored by the Boston detective Richard Nagle, quoted in MacQuarrie, “4 Years After Murder, Squad Makes a Cold Case Hot”: “We had to go out and re-interview a lot of people, some of whom weren’t as reticent as they once were.”
41. As quoted in Aïn, “Nassau’s Cold Case Squad Picks Up Chase.”
42. This is certainly the casting in Ellement, “Unsolved Crimes Get a Fresh Look.”
43. Regini, “The Cold Case Concept,” emphasis mine. This point was reaffirmed in the Bureau of Justice Assistance pamphlet, Cold Case Squads: Leaving No Stone Unturned (Washington, DC: BJA, 2003), 5. This pamphlet also makes clear that administrative “vetting” of resource management was central to the strategy, and that, as of 2003 the BJA no longer “helped police departments form Cold Case squads,” but directed its assistance to “cases that involve gangs and drugs” (4).
45. I am thinking here of the patterns in the drug war described in Michael Massing’s The Fix (New York: Simon & Schuster, 1996). And it should be added that, as Barnicle’s rendering shows, a racial subtext often present in the idea of a cold case squad “freed” from local political pressure.
46. On these conventions in True Crime, see Cop Knowledge, esp. 130–68. In one interview Gourevitch confesses to this parallel. Asked whether he identified with Detective Rosenzweig, he said that for all their differences, “there was a great deal in common in the sort of obsessive, investigative, needling, relentless nature of the work that we do . . .”; the author also compared A Cold Case to his own investigative work in Rwanda, resulting in the harrowing We Wish to Inform You That Tomorrow We Will Be Killed with Our Families (New York: Farrar, Straus and Giroux, 1998). The comparison is made in Sage Stossel, “A Tale of Two Murders,” Atlantic Unbound, 1 August 2001.
47. For these tastes on Serpico’s part, see Maas, Serpico, 22.


49. On this lament, see esp. Skolnick, Justice Without Trial.

50. I refer here to the no-doubt unintentional—unless the name is a fiction—allusion to Dan Cody in Fitzgerald’s novel. On the disruptions in police authority in the 1960s, and their mythologizing in recent criminology, see Samuel Walker, “‘Broken Windows’ and Fractured History: The Use and Misuse of History in Recent Police Patrol Analysis,” Justice Quarterly 1 (1984): 75–90.


52. See Kotre, White Gloves, 36.


55. However, as Ochoa and Wistrich write in comparing civil to criminal case remedies, “evidence regarding remedies sometimes improves as time passes. It is generally more difficult to predict the future than to reconstruct the past. In a personal injury case, the extent of the plaintiff’s impairment will be an important question.” Tyler T. Ochoa and Andrew J. Wistrich, “The Puzzling Purposes of Statutes of Limitation,” Pace Law Journal 28 (Spring 1997): 453–514; quote from 477. For the place of precisely this kind of reasoning in the victims’ rights movement, see Shapiro’s account of MADD proponent Janice Harris Lord’s testimony at a crime victims’ conference in 1996.

56. For the implementation of this “rational” choice-making model into the processes of law enforcement, see esp. Wilson, Thinking about Crime, 128–46; contrast Cop Knowledge, 179–81.


59. See, for instance, the cases discussed in Bai, “Cold Case Confidential.” And while Gourevitch ends by showing us the gratitude of Glennon’s daughter (173), a rumination of Officer Rosenzweig’s own seems to cut in a different direction. “What’s funny is I got into [this case]” the cop says, “because . . . I was thinking especially that I wanted to put it to rest for the victims’ families and survivors. The thing I didn’t think about was that many of them had long ago found their own ways of dealing with it. So while I was going
for closure, I was just re-opening it for these people. My idea of laying it to rest was their idea of an upheaval” (174).


Chapter 4


3. Typical examples: the ways that we see J. Edgar Hoover’s use of criminal informants as fully compatible with the style of the national security state, and the prison-industrial complex as akin to the military. On Hoover and mid-century national security, including COINTELPRO, see Powers, *Secrecy and Power*, 228–74. Potter is especially insightful on Hoover’s use of the New Deal’s ethos of centralized authority; see *War on Crime*, 118ff.


10. This dimension—that Hannatty was a surrogate father for Abagnale—runs through Spielberg’s comments in the filmbook of *Catch Me If You Can*, ed. Linda Sunshine (New York: Newmarket Press, 2002).


12. This was a story of an “innocent,” director Spielberg repeatedly said, in an “innocent” decade. See Spielberg’s comments in the filmbook of *Catch Me If You Can*.


14. Vidocq’s evolution from informant to detective was built around a realization much like Abagnale’s: that, as the Frenchman put it in his memoir, “the future was too dependent on the past”—that he must use his criminal associations as a police asset. Qtd. (in translation) in James Morton, *The First Detective: The Life and Revolutionary Times of Vidocq* (London: Ebury Press, 2004), 107. In *The Art of the Steal*, Abagnale writes, “In a certain sense, I’m still a con artist. I’m just putting down a positive con these days. . . . I’ve merely redirected the talents I’ve always possessed” (17).

15. Shearing and Stenning have been especially effective in showing how private security is focused upon “breaches” in existing security, and upon sustaining profit margins or competitive edges, rather than catching criminals in or after the act; moreover, this means preemptively sifting out employees that might contribute to such “breaches.” Cf. Shearing and Stenning, “Modern Private Security”; Stanko, “Victims R Us,” also credits the LEAA (15) for purveying a similar ethos.


19. I discuss this reciprocity between professional policing and con men in relation to Ed McBain’s *Con Man* (1956) in *Cop Knowledge*, 57–93.

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are Josiah Flynt, My Life (New York: Outing Publishing Co., 1908), hereafter as ML; and Josiah Flynt, Tramping with Tramps: Studies and Sketches of Vagabond Life (New York: The Century Co., 1899), hereafter as TWT.


24. In Hammett’s Red Harvest, for instance, the “op” carries a sheaf of cards that testify to a range of false identities. See Dashiell Hammett, Red Harvest (New York: Vintage Books, 1972), 7.


26. The centrality of contract relations to this era has been emphasized by Amy Dru Stanley, From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation (Cambridge: Cambridge University Press, 1998).


28. For all his romanticizing of the hobo life, Flynt’s identifications were squarely with the business classes. Indeed, Flynt agreed with his employers that “the public is really the railroad company, and thus the sufferer” from tramp riders (TWT 308); compare TWT, 290.


31. On these statutes, see the discussion in Pastrikos, “Comment: Identity Theft Statutes,” and in Saunders and Zucker, “Counteracting Identity Fraud in the Information Age.”


35. See, for instance, the working assumptions in Graeme R. Newman and Megan M. McNally’s federally funded “Identity Theft Literature Review” (2005), http://www.ncjrs.
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gov/pdffiles1/nij/grants/210459.pdf (accessed 4 January 2010), esp. 38–39. By “opportunity crime,” the authors mean crimes where the “opportunity” presents itself—as when a credit card is left at a restaurant.


37. This redefinition was central, of course, to the neoconservative claim that American affluence and permissiveness had exacted a “cost” in greater crime and disorder; see Wilson, Thinking about Crime, 234–49.


40. Lardner, “CEO Cop,” 53


43. See the frank acknowledgment in Wilson, Thinking about Crime, 77ff.


46. Stanko, “Victims R Us,” 19

47. Scheingold makes a similar point about “the adjustments” urban dwellers make; see The Politics of Street Crime, 19.

48. In the film, emphasizing the central theme of Jeff Nathanson’s script, Abagnale (Leonardo DiCaprio) tells his dispossessed father (Christopher Walken) that he is going to get back everything the IRS had taken from the family. Abagnale’s father, however, was never in tax trouble; nor was Frank Jr. an only child; nor did his mother immediately remarry (see Schaefer, “Former Con Man Catches a Few Fallacies in Film Bio”).

49. As I write in chapter 1, in crime narratives like William Wellman’s The Public Enemy or Nicholas Pileggi’s Wise Guy, the child apprentice’s exemption from adult criminal justice is tied to his mobility, his nimble elusiveness as a go-between and errand boy. And Hill’s apprenticeship to the mob ethos of “getting over” on workaday stiffs begins with escaping his father’s own blue-collar world; see Pileggi, Wise Guy, 25–31.

50. Tzanelli, Yar, and O’Brien, in “Con Me If You Can,” are especially incisive on this point.


52. In one instance in the book version, Abagnale cons citizens trying to make late-night bank deposits. He dresses up in a uniform and puts an “out of order” sign on the night deposit box (recounted in Art of the Steal, 118–19). On “low hanging fruit,” see Cole and Pontell, “Don’t Be Low Hanging Fruit.”

53. Abagnale has admitted to practicing law in the Louisiana courts for about a year; see the interview on the DVD of Catch Me if You Can (Dreamworks SKG 2002).
Chapter 5

1. Ted Conover, Newjack: Guarding Sing Sing (2000; rpt. New York: Vintage, 2001), 171–209. All further citations in text. The Oxford English Dictionary tells us that “keep” has referred both to the care or responsibility over someone, and to an inner tower or stronghold. See also the meditation on “jail” and “cage” in John Edgar Wideman, Brothers and Keepers (1984; rpt. New York: Penguin, 1985), 34; all further citations in text.


4. And dismal they are. In 2009, the Sentencing Project reported that one out of five prisoners in California, and one in ten nationally, was serving a life sentence. Solomon Moore, “Study Finds Record Number of Inmates Serving Life Terms,” New York Times, 23 July 2009. This included 6,807 juveniles, 1,755 serving without the possibility of parole. For an overview of the literature on incapacitation as crime control, see Franklin E. Zimring and Gordon Hawkins, Incapacitation: Penal Confinement and the Restraint of Crime (New York: Oxford University Press, 1995).

5. Jonathan Simon’s point about the recent reciprocity of back to basics traditionalism and new strategies of control is thus, again, very much on point. See “Governing Through Crime,” 177. And Simon and Feeley themselves attach incapacitation to actuarialism; see “Actuarial Justice,” 174ff.


11. Since prison officials were often given the right to determine who was an “official” press representative, these practices often fell with particular force upon freelance journalists, who were often forced to invent ingenious counter-tactics. Rathbone, for instance, is often forced to broach her principal subject, guard-inmate sexual abuse, through the testi-


13. On budgets, see Hallinan, *Going Up the River*, 104–5; on families, see Rathbone, *A World Apart*, 107; and on Colgate’s tube, see Rathbone, 195.


15. This similarity has been recently noticed by Cecelia Tichi; see her *Exposés and Excess: Muckraking in America 1900/2000* (Philadelphia: University of Pennsylvania Press, 2004).

16. See also Lincoln Steffens’s famous formulations in his *Autobiography* (New York: Harcourt, 1931), as well as those in Lippmann’s “The Underworld: Our Secret Servant.”

17. Parenti describes a darker version of this cycle, where overcrowding produces more violence, and thus the requests for more funding (*Lockdown America*, 173). He also provides a useful left-critique of the “Prison-Industrial Complex” paradigm (213ff.).

18. Schlosser does point out the beginnings of a backlash, as has the Sentencing Project; see also Pam Belluck, “As Prisons Go Private, States Seek Tighter Controls,” *New York Times*, 15 April 1999. According to the Bureau of Justice Statistics, although the percentage of private facilities has been rising at an alarming rate, they still constituted only about 23 percent of all U.S. institutions as of 2005, and some states (notably California itself) reported declines in inmates housed in private facilities. Most private facilities were also small (about two in three housed fewer than 100 inmates). “Census of State and Federal Correctional Facilities, 2005” http://bjs.ojp.usdoj.gov/content/pub/pdf/cscfc05.pdf (accessed 7 January 2010).

Timothy Gilfoyle’s recent account of Sing Sing in *A Pickpocket’s Tale: The Underworld of Nineteenth-Century New York* (New York: Norton, 2006) makes clear that the isolation of the prison from the outside world was a byproduct of historical change in the 1870s, not something (as earlier accounts assumed) intrinsic to its design. See Gilfoyle, 160–61, 173ff. Meanwhile, the early-twentieth-century reforms experimented with integrating private capital and mass media, notably at Sing Sing itself: see Rebecca McLennan, “Punishment’s ‘Square Deal’: Prisoners and Their Keepers in 1920s New York,” *Journal of Urban History* 29 (July 2003): 597–619. Malcolm W. Feeley has also explored the history of entrepreneurial connections to Anglo-American prisons, notably transporting of prisoners, experiments with private prisons for convict-lease in the early nineteenth century, and “training” schools for juveniles and “community corrections” programs. See his “Entrepreneurs of Punishment: The Legacy of Privatization,” *Punishment and Society* 4 (2002): 321–44.

19. This is a point that DeParle himself discusses. But as he shows, recent studies have challenged this crime-control hypothesis. See Jason DeParle, “The American Prison Nightmare,” *New York Review of Books*, 12 April 2007, 33–36. On union resistance in the New York State context, see Monte Williams, “Down-and-Out-Town Sees Survival in


21. For one of the grimmer ways punishment was interpreted, see the discussion of LAPD Chief Darryl Gates, in John Gregory Dunne, “Law and Disorder in Los Angeles,” *New York Review of Books*, 10 October 1991 and 24 October 1991; see esp. the second installment, 65.


23. See the discussion by Thomas G. Blomberg and Karol Lucken, *American Penology:* A History of Control (New York: Aldine de Gruyter, 2000), which declares for similar reasons that incapacitation’s “effectiveness was guaranteed” (175). Ruth Wilson Gilmore makes a wonderful turn on claims like these when she writes, if “incapacitation . . . is not ambitious in a behavioral or psychological sense, it is, ironically, the theory that undergirds the most ambitious prison-building project in the history of the world. Incapacitation doesn’t pretend to change anything about people except where they are” (14). See also the discussion of sentencing grids in Hallinan, *Going Up the River*, 42–43; and Zimring and Hawkins, *Incapacitation*, 72ff.

24. Conover refers to Schlosser’s account implicitly; see *Newjack*, 232.


26. Conover’s first memoir, *Rolling Nowhere* (New York: Viking Press, 1984), presents itself as an ethnographic “adventure narrative” in the hobo underworld, very much akin to Josiah Flynn’s. Compare *Newjack*’s discussion of this method (18). In his interview with Boynton, Conover admits that his assignment to Sing Sing was accidental (13).

27. In my understanding of this *New Yorker* style, I have been influenced by the comments of Dwight MacDonald and Mary McCarthy on “naturalism” in John Hersey’s *Hiroshima*; see Michael J. Yavenditti, “John Hersey and the American Conscience: The Reception of ‘Hiroshima,’” *Pacific Historical Review* 43 (February 1974): 40–41.

28. Here, Conover’s reading (207) of *Soul on Ice* (New York: McGraw-Hill, 1968), Eldridge Cleaver’s famous rendering of black prisoners’ view of incarceration, is also relevant.


30. Barbara Ehrenreich makes a similar point at the start of *Nickel and Dimed:* “There’s no way,” she writes, “. . . to pretend to be a waitress: the food either gets to the table or not” (9).


33. Conover, for instance, invokes the trope of domestic return at the end of his book—as in Victorian travelogue, lamenting that he can go “home” when prisoners themselves cannot. And he compares his return to that of a foreign exchange student (317–18).
34. See Baldwin, “Black Like Who?” 118. Lutes’s incisive reading of Nellie Bly, likewise, argues that it was ultimately Bly’s resistance to inhabiting the identity of immigrant working girls—pointedly, the incompleteness of her transformation—that protected her readers from the dangers of over-identification with the urban underworld (232).

35. This is my point about Flynt; see pages 103–4 in chapter 4.

36. Conover’s follow-up to this quizzical moment is an attempt at sympathy. Extrapolating from the film of The Bird Man of Alcatraz, Conover speculates that visitors come to see prisoners because they are the “only life” they have (156). This view, however, needs to be contrasted with the Widemans’ reflections, discussed in following.


38. In my judgment, “passing” narratives of the mid-twentieth century often run this risk: in Black Like Me or Sprigle’s memoir, the unconscious mimicry of a “model minority,” the “Negro” who avoids trouble, clearly informs the experiment at hand.

39. Cf. Sheehan, A Prison and a Prisoner: on corruption following prison “frisks,” 72–73; on what she calls the “lumps and bumps’ school of behavior modification,” 74; on guards’ racism and nostalgia for the pre-Attica era, 134–40, 144–45.

40. In the novels of Joseph Wambaugh, street cops refer to the downtown office building of the LAPD as the “glass house.” See my discussion in Cop Knowledge, 110–23.

41. Skolnick’s work on the artisanal outlook of police officers is again quite relevant here: see his Justice Without Trial.

42. See, for example, the emphasis on manipulative “eloquence” in the beat officer, in William Ker Muir Jr., Police: Streetcorner Politicians (Chicago: University of Chicago Press, 1977), 227ff.

43. Local prison unions, which have grown in political strength in the prison boom, tend to focus on bread-and-butter issues. And in the case of California’s guard union, it supported prison expansion, “three strikes” legislation, and victims’ rights. See Butterfield, “Political Gains by Prison Guards.” But this focus has sometimes also included advocacy for disability coverage following job-related stress or injury. Requesting improved training and greater psychiatric resources, especially in the face of cutbacks, is also not unknown: see, for example, “Connecticut Prison Union Asks Help to Handle Suicidal Inmates,” New York Times, 3 April 1999.

44. The quite sensational appeals process, which partly revolved around whether Robby could have murdered a crime victim whose family would successfully sue the responding hospital for malpractice, ran on for some two and a half decades. See Jim McKinnon, “Court Pulls Plug on Wideman Retrial,” Pittsburgh Post-Gazette, 23 May 2000. Though I have taken the Widemans at their word about prison experience, I have tried to make no judgment on the matter of Robby’s original guilt.

45. For the most pertinent of recent readings, see Michael P. Moreno, “The Last Iron Gate: Negotiating the Incarceral Spaces of John Edgar Wideman’s Brothers and Keepers,” University of Mississippi Studies in English 9 (2004): 54–70; Heather Andrade, “‘Mosaic Memory’: Auto/biographical Context(s) in John Edgar Wideman’s Brothers and Keep-

46. This view of an inward-turning, recursive history is also brilliantly rendered in the film by two brothers, Albert and Allen Hughes, *Menace II Society* (1993). In this movie we see a similar kind of doubling: to a brother named “Cain,” a name played off sugar cane, candy cane, “K-nine” dogs, cocaine—and, of course, the biblical killer. The film’s signature becomes the spiraling exit ramp from a parking garage, an image that calls up the historical re-visitations of the 1960s, and Watts history, throughout the film.


48. I discuss the Broken Windows theory above (5, 57–58) and in *Cop Knowledge*, 177–84; see also Harcourt, “Reflecting on the Subject.”


52. Airport profiling, of course, was central to the emergence of risk management tactics; see Cloud, “Search and Seizure by the Numbers.”


54. Peter Caster’s discussion of a similar motif in prison films is right on point. As Caster writes, “[t]he fundamental problem with the logic of the redemption narratives of these films is that they largely endorse the use value of the same judicial system they at least in part describe as unjust. These films largely posit prison as man-making, as a setting for personal transformation.” *Prisons, Race, and Masculinity in Twentieth-Century U.S. Literature and Film* (Columbus: The Ohio State University Press, 2008), 165.

**Epilogue**


2. In *A Cold Case*, Rosenzweig refers to this phrase as a personal truth; see 27.

3. This substitution is commonplace among the rhetorical and material practices described in this book—and not only by neoconservatives. While this might seem a claim reminiscent of Nixon’s “silent majority” rationale, in fact it was evident, just as forcefully, in the Clinton Justice Department’s support of community policing, what it called “democracy in action.” See, for instance, Bureau of Justice Assistance, *Understanding Community Policing* (Washington, DC: Department of Justice, 1995), 7.

4. I have discussed another instance of this reshuffling of community memory in “Lost Boys and Recovered Classics.”

5. Nicole Rafter calls this balancing motif a “double movement”; see her *Shots in the Mirror: Crime Films and Society* (New York: Oxford University Press, 2006), 3 and passim.
6. See my discussion of Stanko’s work, 114–15 above. Sebold’s character is cited in the epigraph to my Introduction.


8. See my discussion in chapter 5 for the byplay between Conover’s “participant observation” and these sensational inheritances (135–37), or the discussion concerning Pileggi’s notion of working on “wiseguys in Samoa,” 173n54. For the broader reservoir of literary antecedents, see Christopher Herbert, *Culture and Anomie: Ethnographic Imagination in the Nineteenth Century* (Chicago: University of Chicago Press, 1991).

9. Again, on these problems in realist ethnography generally, see George E. Marcus and Michael M. J. Fischer, *Anthropology as Cultural Critique*.

10. One of the ironies of the Whitey Bulger case—and the continuing prosecution of FBI agent John Connelly—is that many of these cases are built around other informants: a corrupt former agent and Whitey’s own partner. See my “Where’s Whitey?” The best-known treatment of some of these crosscurrents is Janet Malcolm, *The Journalist and the Murderer* (New York: Knopf, 1980).


14. It is sometimes said, for instance, that the recent movement to require videotaping of interrogations has limited police coercion and brutality. Assuming that some independent oversight of its use is in place, I am in favor of videotaping. But if the courts and prime-time TV sanction police deception, videotaping might soon seem superfluous. I make a parallel argument about federal guidelines on informants that attempt to regulate practices that intrinsically mimic criminal deception (45–46 above).


17. The neoconservative trek from rejecting “root causes” in crime theory to supporting the invasion of Iraq (because one feels democracy is a root cause) is not necessarily a logical one. On the genealogy of neoconservatism by a thinker recanting its influence, see Francis Fukuyama, “After Neoconservatism,” *New York Times*, 19 February 2006.
